

### **Session 11 –Development Management Policies.**

#### **Inspector's Question 11.1**

Before any requested changes to the DM policies or their supporting text may be discussed, those Representors who have not already done so are requested to identify in writing:

- a) Why the criticism of the policy or text set out in their original representations means that the policy is unsound?
- b) Does the Representation seek the deletion of the policy and its supporting text?
- c) If not, what specific change to the wording or text is sought that would make the policy sound?

#### **Council's response:**

11.1.1 The Council understands that this is a question for Representors to set out why they consider DM policies to be unsound and what specific modifications that they are seeking.

#### **Inspector's Question 11.2**

Is Policy DM1 considered unsound and, if so, why?

#### **Council's response:**

11.2.1 The Council understands that this is primarily a question for both Downswood and Otham Parish Councils who are concerned that proposals will not be able to safely accommodate vehicular and pedestrian movements generated by a proposal on the local highway as the Council has not adopted a realistic Integrated Transport Strategy. In September 2016 the Council adopted the Integrated Transport Strategy and the Walking and Cycling Strategy which will play a key role in delivering a package of sustainable transport measures in support of the allocations set out in the Maidstone Borough Local Plan. These documents set out a range of measures that are needed to mitigate the transport impact of planned development and deliver modal shift away from reliance on the use of the private car promoting and improving usage of public transport.

#### **Inspector's Question 11.3**

Is Policy DM1 considered unsound, and if so, why?

#### **Council's response:**

11.3.1 The Kent Downs AONB Unit recommends the inclusion within the policy for a requirement for native vegetation to be extended around the site boundary rather than be limited to along a site frontage.

11.3.2 The Council recommends that Policy DM 1 criteria 5 be amended as follows (PC/109):

"... where the retention and addition of native vegetation appropriate to local landscape character ~~along the site frontage~~ around the site boundaries, should be used as a positive tool..."

11.3.3 At present the policy refers to the Kent Downs AONB Management Plan, the Kent Downs AONB unit has also recommended that the policy is amended to make reference to the associated AONB produced design guidance. The Kent Downs AONB Management Plan has been consulted upon by Kent Downs AONB Unit and has been adopted by the Borough Council. However, the Council does not feel it is appropriate to include a further reference within the policy to the further design guidance produced by the Kent Downs AONB Unit as this would accord undue weight to documents that have neither been examined or consulted on as part of the Local Plan nor adopted by the Borough Council.

#### **Inspector's Question 11.4**

Is Policy DM4 effective and consistent with national policy, and if not, what changes would make it so?

#### **Council's response:**

11.4.1 The Council has sought to identify all available previously developed sites land and to allocate those which are suitable for development before identifying greenfield sites. The Local Plan seeks to make effective use of brownfield sites as they come forward and has identified the Town Centre and Invicta Barracks Broad Locations as future substantial areas for regeneration.

11.4.2 The Council considers the policy is sound and consistent with NPPF Paragraph 111. The Council will support proposals for the development of previously developed land within Maidstone urban area, rural service centres and larger villages subject to the criteria set out within the policy. Furthermore the Council will seek to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in locations which are or can be made sustainable. The Council believes that this approach makes it appropriate to limit the use of brownfield sites, including residential gardens, where they are of high environmental value or are located in more remote locations where there would be a high dependency on the private car.

11.4.3 The Council believes that the policy is effective and consistent with national policy as it allows for brownfield sites within urban areas and sustainable brownfield sites within the countryside, such as H1(54) Boughton Mount, to be developed.

#### **Inspector's Question 11.5**

Should the policy address the issue of whether private gardens in the countryside or small villages qualify as brownfield land.

#### **Council's response:**

11.5.1 The Council acknowledges that there is recent case law in regards to the issue of whether residential gardens outside "built up areas" can be considered brownfield (*Dartford*

*Borough Council v Secretary of State for Communities and Local Government (CO/4129/2015)*. The Council will support proposals for the development of previously developed land within Maidstone urban area, rural service centres and larger villages subject to the criteria set out within the policy. The Council will seek to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in locations which are or can be made sustainable. The Council believes that this approach makes it appropriate to limit the use of brownfield sites in the more remote locations of the countryside including small villages/ hamlets where they would have a dependency on the private motor vehicle.

### **Inspector's Question 11.6**

To be effective, how would areas where air quality is an issue be defined other than as currently stated in the policy?

#### **Council's response:**

11.6.1 The Council understands that this is primarily a question for Otham and Downsod Parish Councils. The Council has identified through the Local Air Quality Management (LAQM) regime 6 areas currently exceeding EU guideline values to which the clearly expressed policy will apply.

### **Inspector's Question 11.7**

Who would undertake the mitigation and would the amended policy be effective?

#### **Council's response**

11.7.1 The Council understands this is primarily a question for Otham and Downwood Parish Councils. As set out in Policy DM5 criterion 2 and 3, the Council believes that proposals which would adversely affect existing Air Quality Management Areas should incorporate mitigation measures that are specific to the location and proportionate to the likely impact of the development. As stated in Local Plan Paragraph 17.40, the Council has committed to producing a Low Emission Strategy which will identify how the impacts of developments are responded to in a fair and proportionate way.

### **Inspector's Question 11.8**

Is the policy wording adequately clear and effective in its different reference to locations as: 'close to identified air quality exceedance areas', 'within or adjacent to Air Quality Management Areas', and 'in or affecting Air Quality Management Areas'.

#### **Council's response:**

11.8.1 There are currently 6 areas currently exceeding EU guideline values ([http://www.kentair.org.uk/documents/Maidstone\\_BC\\_AQAP\\_Quantitative\\_Appraisal\\_FinalV2.pdf](http://www.kentair.org.uk/documents/Maidstone_BC_AQAP_Quantitative_Appraisal_FinalV2.pdf); paragraph 2.2.1.1) and have an Air Quality Action Plan (AQAP) in place. These 'hotspots' are linked to traffic volume, behaviour and congestion and are located at key transport junctions, however the AQAP covers the wider Maidstone Urban Area designated by the Air Quality Management Area (AQMA). Policy DM5 acknowledges that there are different levels of

severity of air quality across the Maidstone Urban Area and sets a different requirement for assessment and mitigation dependant on the location of the proposal in relation to the specific air quality exceedance areas or if the proposal is located within the wider AQMA. It is not possible to define the proximity to an area as impact will depend on the scale and type of use proposed. Nevertheless, the Council sees value in clear, consistent policy wording and proposed the following amendments to the current wording of Policy DM 5. (PC/110)

*Policy DM 5*

*Air Quality*

*Proposals that have an impact on air quality that meet the following criteria will be permitted:*

- 1. Proposals located within or adjacent to, and potentially have a negative impact on, identified air quality exceedance areas as defined through the Local Air Quality management process will require a full Air Quality Impact Assessment in line with national and local guidance;*
- 2. Proposals within or adjacent to Air Quality Management Areas that are likely to have a negative impact on air quality should identify sources of emissions to air from the development and an Emissions Statement identifying how these emissions will be minimised and mitigated against must be provided; and*
- 3. Proposals in or affecting Air Quality Management Areas or of a sufficient scale to impact local communities should, where necessary, incorporate mitigation measures which are locationally specific and proportionate to the likely impact.*

**Inspector's Question 11.9:**

Is the policy wording sufficiently clear to be effective and, if not, how should it be modified?

**Council's response:**

11.9.1 The Council agrees that the Policy as currently worded is not sufficiently clear. To remedy this, a proposed new wording is provided below (PC/111).

*DM 6: Proposals for development which could create, intensify or expand noisy or noxious uses, or which could generate volume or types of traffic unsuited to the local area, will only be permitted where they do not, by way of their operation, cause nuisance to residents or users in the vicinity, and where impacts on the local road network can be mitigated in accordance with Policy DM24. Proposals will also be required to meet other requirements set out elsewhere in this plan.*

**Inspector's Question 11.10:**

The policy wording suggests that proposals may be permitted which would generate volumes or types of traffic 'unsuited to the local area' if they meet an exception created by another policy. In what circumstances could this arise?

**Council's response:**

11.10.1 The Council in its proposed change to DM6 (PC/111 above) believes this matter has now been addressed.

**Inspector's Question: 11.11:**

Is this a strategic policy and, if not, how can it be considered an appropriate strategy?

**Council's response:**

11.11.1 For clarity, the Borough Council is proposing to restructure policies to clearly indicate Strategic Policies in a new Chapter 4. This reflects an amended position from that set out in responses to sessions 1 – 6, and is a result of detailed consideration of the Inspector's letter to the Council dated 21 September (ED 011) and the Council's response dated 28 September (ED 012)

11.11.2 The Council considers Policy DM7 External Lighting a development management policy and not a strategic policy.

11.11.3 The intention of criterion 2 is to promote good design and to limit development and protect areas of nature conservation importance that can be affected by harmful lighting effects.

11.11.4 The Council believes that the policy is consistent with NPPF paragraph 125 in respect of local amenity and nature conservation.

**Inspector's Question 11.12**

Is reference to intrinsically dark landscapes necessary for Policy DM7 to be consistent with national policy?

**Council's response:**

11.12.1 The policy does not include reference to intrinsically dark landscapes. These are particularly values within the AONB. Policy SD7 of the Kent Downs Management Plan 2014 – 19 seeks *To retain and improve tranquillity, including the experience of dark skies at night, careful design and the use of new technologies should be used.*

11.12.2 It is proposed to modify Policy DM7 (1) (iii) as follows (PC/112):

*iii. The lighting scheme would not be visually detrimental to its immediate or wider setting, particularly intrinsically dark landscapes.*

**Inspector's Question 11.13**

What evidence is there to identify what may be an 'intrinsically dark landscape' in the terms of NPPF paragraph 125?

**Council's response:**

11.13.1 The Council understand that this is primarily a question for the Kent Downs AONB unit. Whilst there is no map which defines the location of dark skies in the Borough, it would be possible when determining a planning application to assess the presence of dark skies and to consider the impact of the proposal on this aspect of the environment.

**Inspector's Question 11.14**

What specific policy rewording is sought by those who have not suggested any and is it needed for the policy to be effective and consistent with national policy?

**Council's response:**

11.14.1 The Council understand that this is primarily a question for the Kent Downs AONB unit, Boxley Parish Council, Downswood Parish Council and DHA Planning. The Council considers that Policy DM7, as proposed to be amended, is sound.

**Inspector's Question 11.15**

Why is the suggested limitation on lighting hours necessary to soundness?

**Council's response:**

11.15.1 The Council understand that this is primarily a question for the CPRE Kent. The Council considers that the Policy DM7, as proposed to be amended, is sound.

**Inspector's Question 11.16**

Is the word 'if' missing from the end of the first sentence of the policy and is it needed for the policy to be effective?

**Council's response:**

11.16.1 Yes. The following amendment is proposed (PC/113):

*Policy DM8*

*1. Within the defined boundaries of the urban area, rural service centres and larger villages, proposals for the extension, conversion or redevelopment of a residential property which meet the following criteria will be permitted if:*

**Inspector's Question 11. (sic)**

In criterion (i) how would the phrase 'fit unobtrusively with' be interpreted and would it prevent or discourage appropriate innovation in the terms of NPPF paragraphs 58-64?

**Council's response:**

11.(sic).1 The policy is not intended to prevent innovation. The NPPF seeks designs which respond to local character and history, and reflect the identity of local surroundings and materials. In the case of extensions, there is an existing host building which provides an immediate context for development. An extension should fit unobtrusively with this immediate context by virtue of scale, form, height etc. An innovative design can still be achieved which meets these parameters.

**Inspector's Question 11.17**

How would the requirement for 'sufficient parking' be interpreted and should that be made clearer in the policy for it to be effective (eg by a cross reference to Policy DM27)?

**Council's response:**

11.17.1 The Council understands that this is primarily a question for the Boxley Parish Council.

11.17.2 Paragraph 1.3 of the Local Plan states:

In considering proposals for development, the Borough Council will apply all relevant

policies of the plan. It is therefore assumed that the plan will be read as a whole and cross-referencing between plan policies has been minimised.

11.17.3 Proposals requiring parking provision will automatically be considered against Policy DM27.

### **Inspector's Question 11.18**

Are criteria DM8(i) and (iii) consistent with the different wording of Policy DM1(iv) which would apply to all forms of development?

#### **Council's response:**

11.18.1 Criterion (i) which seeks a proposal to fit unobtrusively with the existing building is considered appropriate because of the immediate context of the host building. Criterion (iii) is particularly relevant to extensions in relation to outlook from an adjoining property. With specific reference to outlook, the adopted Residential Extensions SPD states: 4.79 The Borough Council is primarily concerned with the immediate outlook from neighbours' windows, and if a proposal significantly changes the nature of the normal outlook. For example, it would be unacceptable for the resulting outlook from a main window to be of a large wall of a residential extension.

### **Inspector's Question 11.19**

Why would a modification be needed for soundness?

#### **Council's response:**

11.19.1 The Council understand that this is primarily a question for the CPRE Kent. The Council considers that Policy DM9 is appropriate and that proposals for residential use above shops will be permitted where the criteria of the Policy are met. The proposed changes suggested by the representor are not considered to be necessary for soundness.

### **Inspector's Question 11.20**

What would that guidance say?

#### **Council's response:**

11.20.1 The Council understand that this is primarily a question for the CPRE Kent.

### **Inspector's Question 11.21**

Does the policy need a parking criterion for it to be effective , and if so what, or is that matter suitably addressed by Policy DM27?

#### **Council's response:**

11.21.1 The Council understand that this is primarily a question for the Boxley, Downswood and Otham Parish Councils.

11.21.2 Paragraph 1.3 of the Local Plan states:

In considering proposals for development, the Borough Council will apply all relevant policies of the plan. It is therefore assumed that the plan will be read as a whole and cross-referencing between plan policies has been minimised.

11.21.3 Proposals requiring parking provision will automatically be considered against Policy DM27.

**Inspector's Question 11.22**

When Policy SP17 includes the conservation and enhancement of the AONB (as discussed in Session 4) is it necessary to repeat this in all other policies?

**Council's response:**

11.22.1 Paragraph 1.3 of the Local Plan states:

In considering proposals for development, the Borough Council will apply all relevant policies of the plan. It is therefore assumed that the plan will be read as a whole and cross-referencing between plan policies has been minimised.

11.22.2 The Council does not believe it is necessary to repeat the wording of Policy SP17 criterion 5 in other policies.

**Inspector's Question 11.23**

Is a reference to the Management Plan and landscape character guidance produced by the Kent Downs AONB Unit necessary when it is already included in Policy SP17 and would the reference in either policy accord undue weight to documents that have not yet been examined or consulted upon as part of the Local Plan examination?

**Council's response:**

11.23.1 Paragraph 1.3 of the Local Plan states:

In considering proposals for development, the Borough Council will apply all relevant policies of the plan. It is therefore assumed that the plan will be read as a whole and cross-referencing between plan policies has been minimised.

11.23.2 The Kent Downs AONB Management Plan has been consulted on by Kent Downs AONB Unit, has been adopted by the Borough Council and is appropriately referred to in Policy SP17. However, the Council does not feel it is appropriate to include a further reference within the policy to the further design guidance produced by the Kent Downs AONB Unit as this would accord undue weight to documents that have neither been examined or consulted on as part of the Local Plan nor adopted by the Borough Council.

**Inspector's Question 11.24**

Would the Local Plan be sound without the changes sought by the AONB unit?

**Council's response:**

11.24.1 The Council understands this is primarily a question for the Kent Downs AONB Unit. The Council believes the policy is sound and does not require amendment.

**Inspector’s Question 11.25**

Why is the requested change necessary for soundness?

**Council’s response:**

11.25.1 The Council understands this is primarily a question for Mrs Taylor Maggio who is seeking an amendment to the policy to include a reference to the use of Local Amenity Trusts. The Council believes Policy DM22 and Policy OS1 are sound and not to require the proposed amendment. As outlined in paragraph 17.116 of the supporting text to Policy DM22

“The Council will expect future management and maintenance of new spaces to be appropriately secured to the satisfaction of the council”.

11.25.2 Furthermore, as part of the quality standards outlined for new housing or mixed use developments and the provision of open space, an Open Space Layout and Design Statement and a Management Plan should be produced.

11.25.3 Policy DM22 also indicates that an Open Space Supplementary Planning Document will be produced which will seek to provide further detail on the implementation of this policy. The Council therefore is confident that measures are in place to ensure successful management and maintenance of new open spaces and it is unnecessary to refer specifically to Local Amenity Trusts which are only one means of securing the future management of open space.

**Inspector’s Question 11.26**

Should any such reference be in a policy rather than supporting text and, if so, which policy?

**Council’s response:**

11.26.1 The Council understands this is primarily a question for Mrs Taylor Maggio. It is considered that paragraph 17.116 of the supporting text summarises the position of the Council. Future management and maintenance of new open spaces should be to the satisfaction of the Council and therefore a reference to the Local Amenity Trusts in either policy or supporting text is not required. The Council believes that the proposed Open Space Supplementary Planning Document could seek to address more specific forms of implementation and management. .

**Inspector’s Question 11.27**

What changes are sought and why are they needed in addition to the provision to Policy SP17?

**Council’s response:**

11.27.1 The Council understands this is primarily a question for the Kent Downs AONB unit who seek an additional criterion to Policy DM24 to address environmental impacts of new or improved transport infrastructure. The additional wording sought is as follows:

“2.xiii. Conserve and enhance the historic and natural environment”

11.27.2 Paragraph 1.3 of the Local Plan states:

In considering proposals for development, the Borough Council will apply all relevant policies of the plan. It is therefore assumed that the plan will be read as a whole and cross-referencing between plan policies has been minimised.

11.27.3 The Council does not feel it is necessary to repeat the requirements of Policy SP17 in other policies for the following reasons:

- the plan should be read as a whole;
- there is a danger that a policy without this caveat could not be applied to impact on the AONB when it may be relevant;
- there is a danger that other policies in relation to, for example, biodiversity; air quality and flooding should either be repeated in every development-related policy or appear to be less important than the AONB because of the absence of repetition.

### **Inspector’s Question 11.28**

Does the wording of Criterion 3(i) mean that all impacts of trips generated to and from a development would have to be fully mitigated (such that the residual impact would be zero) and would that be inconsistent with NPPF paragraph 32?

### **Inspector’s Question 11.29**

If so, does the alternative wording suggested by R19258 accurately reflect national policy and, if not, what alternative wording may be more appropriate?

### **Council’s response:**

11.29.1 The response to Qn11.28 and Qn11.29 have been combined.

11.29.2 The Council consider there is a need to better align Policy DM24 with the NPPF and propose the following amendment (PC/114):

“3.i. Demonstrate that the impacts of trips generated to and from the development limit the significant impacts of the development and are ~~remedied or~~ mitigated in order to prevent severe residual cumulative impacts of development, including where feasible an exploration of delivering mitigation measures ahead of the development being occupied;”

### **Inspector’s Question 11.30**

Should criterion 2 be concerned only with the impact of development within the AONBs

themselves and the impact of development within the setting of AONBs and not with the effect of development outside the setting on land within the setting?

**Council's response:**

11.30.1 Under PC/56 amendments to criterion 2 seek to correct a drafting error and clarify that proposals for renewable and low carbon energy schemes will be permitted if shown to consider the impact of development on the Kent AONB and its setting.

11.30.2 However the policy, as proposed to be amended, does not accurately reflect the NPPF in relation to the AONB. As redrafted, the policy appears to accept the principle of large scale development in the AONB which is contrary to Paragraph 116 of the NPPF. Rather than seek to replicate Policy SP17, the Council propose the following amendment to Policy DM28 which supersedes PC/56 (PC/115):

~~"2. The landscape and visual impact of development, with particular regard to any impact development within the on, or the setting of, the Kent Downs AONB or its setting or the setting of the High Weald AONB."~~

**Inspector's Question 11.31**

Why would any modifications be needed for soundness, particularly as Criterion DM28(8) already provides for the return of land to its previous use when the installations have ceased operation?

**Council's response:**

11.31.1 The Council understands that this is primarily a question for Boxley Parish Council which is seeking an amendment to the policy to include a statement that agricultural land used for renewable energy will not be classed as brownfield development should installations cease operation. As indicated criterion 8 of the policy seeks to return land to its previous use should installations cease operation. The Council believes the policy to be sound and not to require the proposed amendment in the representation from Boxley Parish Council.

**Inspector's Question 11.32**

Criterion DM8(2) requires account of the landscapes and visual impact of development which would necessarily include consideration of short and long distance views. Why is any modification needed for soundness?

**Council's response:**

11.32.1 The Council understands this is primarily a question for Otham Parish Council and Downswood Parish Council. As indicated in criterion 2, larger scale renewable energy or low carbon energy projects must demonstrate that they have considered the landscape and visual impact. This would implicitly include consideration of short and long distance views. The Council believes its policy to be sound and not to require the proposed amendment in the representation from Otham Parish Council and Downswood Parish Council.

### **Inspector's Question 11.33**

Neither national policy nor national guidance preclude renewable and low carbon energy development either in Areas of Outstanding Natural Beauty or in National Parks which benefit from equal status for their landscape qualities. Moreover the English National Parks Circular 2010 encourages such development in national parks. Why therefore would the Local Plan be unsound without the requested modification?

#### **Council's response:**

11.33.1 The Council understands this is primarily a question for the Kent Downs AONB unit.

11.33.2 Under PC/56 amendments to criterion 2 seek to correct a drafting error and clarify that proposals for renewable and low carbon energy schemes will be permitted if shown to consider the impact of development on the Kent AONB and its setting.

11.33.3 However the policy, as proposed to be amended, does not accurately reflect the NPPF in relation to the AONB. As redrafted, the policy appears to accept the principle of large scale development in the AONB which is contrary to Paragraph 116 of the NPPF. Rather than seek to replicate Policy SP17, the Council propose the following amendment to Policy DM28 which supersedes PC/56 (PC/115 as above):

*"2. The landscape and visual impact of development, ~~with particular regard to any impact development within the on, or the setting of, the Kent Downs AONB or its setting or the setting of the High Weald AONB.~~"*

### **Inspector's Question 11.34**

As CPRE expresses support for the policy, why would it be unsound without the proposed rewording?

#### **Council's response:**

11.34.1 The Council understands this is primarily a question for CPRE. The Council believes the policy, as proposed to be amended, to be sound and not to require the proposed amendments in the representation from CPRE. When determining applications for the installation of wind turbines, or other large scale renewable or low carbon energy projects, national policies and guidance should be considered. The National Planning Practice Guidance – Renewable and low carbon energy provides guidance on the delivery of wind farms and the impact on air traffic and safety, defence infrastructure, radar installations and electromagnetic transmissions.

### **Inspector's Question 11.35:**

Why is the policy unsound as worded?

### **Inspector's Question 11.36?**

Why would Government advice not take account of cumulative effects and what other objective evidence would be available to the decision maker?

### **Council's response to 11.35 and 11.36:**

11.36.1 The response to Qn 11.35 and 11.36 have been combined.

11.36.2 The Council understands that these are primarily questions for Downswood and Otham Parish Councils who are concerned with the cumulative health effects of telephone masts. The Council considers the issue of health effects due to exposure to radio waves is dealt with sufficiently by Policy DM 29, specifically criterion 4 which deals with current Government advice on the health effects or exposure to radio waves.

### **Inspector's Question 11.37**

Why is the landscape criterion needed when policy SP17 already includes landscape criteria?

### **Council's response to 11.37**

11.37.1 The Council considers that the amendment proposed by the Kent Downs AONB unit to include a landscape criterion is not necessary for the soundness of the Plan. When considering development proposals all relevant policies should be taken into account and the Local Plan should be read as a whole. Policy SP17 (ED:025), which as discussed in Session 4 is viewed as sound, specifically criterion 3 and 4 looks to conserve and enhance the Kent Downs Area of Outstanding Natural Beauty.

### **Inspector's Question 11.38:**

Why would the Local Plan be unsound without the requested limitation of permission for a 10 year period and does this have any support in national policy?

### **Council's response to 11.38 :**

11.38.1 The Council understands that this is primarily a question for the Kent Downs AONB Unit who have requested an amendment to Policy DM29 for a limit to planning permission of new telecommunication masts of 10 years. The Council wishes to facilitate telecommunications development to promote sustainable economic growth and to promote the provision of local community facilities and services, while ensuring as far as possible that any visual impact of the development on valued features of the borough's environment is minimised through criterion 3 of the policy and through the development plan policies as a whole. The Council therefore believes Policy DM 29 to be sound and consistent with NPPF section 5, specifically paragraphs 42-46 and does not support a limitation on permission of 10 years.

### **Inspector's Question 11.39:**

Why would the policy be unsound without this change?

### **Council's response to 11.39**

11.39.1 The Council understands that this is this is primarily a question for the Kent Downs AONB Unit who is seeking to include conservation areas and setting of listed buildings within

the policy. It is the Council's position that the policy, as proposed to be amended (ED 026) is sound. The issue of listed buildings and conservation areas is dealt with by separate policies and the Local Plan should be read as a whole.

**Inspector's Question:**

11. (sic) Is the issue adequately addressed elsewhere in the Local Plan including by Policy SP17(8) and Policy DM3?

**Council's response to 11 (sic)**

11.(sic).1 The Council understands that this is primarily a question for Boxley Parish Council who is seeking under criterion 2 a list of areas that need protecting, such as conservation areas and adjacent listed buildings.

11.(sic).2 Local Plan Paragraph 1.3 states: *"In considering proposals for development, the Borough Council will apply all relevant policies of the Plan. It is therefore assumed that the plan will be read as a whole and cross-referencing between plan policies has been minimised."*

11.(sic).3 The issue of protecting conservation areas is dealt with by newly proposed Policy DM X (see MBC Response to Session 4 Appendix A)

**Inspector's Question 11.40:**

Would a reference here to design guidance produced by the Kent Downs AONB unit accord undue weight to documents that have not been examined or consulted upon as part of the Local Plan examination?

**Council's Response to question 11.40:**

11.40.1 The Kent Downs AONB Unit is seeking an amendment to Policy DM 34 to incorporate additional documents that are produced by the Kent Downs AONB Unit.

11.40.2 The Kent Downs AONB Management Plan has been consulted upon by Kent Downs AONB Unit and has been adopted by the Borough Council. However, the Council does not feel it is appropriate to include a further reference within the policy to the further design guidance produced by the Kent Downs AONB Unit as this would accord undue weight to documents that have either not been examined or consulted upon as part of the Local Plan nor adopted by the Borough Council.

**Inspector's Question 11.41:**

Would the representor supply a relevant extract from the Sevenoaks Inspector's report?

**Council's response to question 11.41**

11.41.1 The Council considers that this is a request for the representor.

### **Inspector's Question 11.42**

Is the wording of Policy DM34 consistent with the policy tests in Policy SP17 and is cross referencing between the policies needed to make them more effective?

#### **Council's response:**

11.42.1 The CPRE supports Policy DM 34 but is seeking to reword paragraph 19.1. The Borough Council has previously acknowledged that there was not a clear differentiation between Policy DM 34 and Policy SP 17 and the Council has proposed changes to both Policy SP 17 (ED 25) and Policy DM 34 (ED 26), which the Council considers to be sound. There is now a clear differential between the two policies, Policy SP 17 now provides a clear strategic policy and Policy DM 34 sets out the detailed development management criteria for planning applications. The Council believes that these changes neglect the need for cross referencing between the two policies.

### **Inspector's Question 11.43**

Is a reference in the supporting text needed for the Local Plan to be sound?

#### **Council's response:**

11.43.1 The Council understands this is primarily a question for the Kent Downs AONB Unit. The Council believes the policy is sound and not to require the proposed amendments in the representation from the Kent Downs AONB Unit as paragraph 19.3 of the supporting text addresses the need to protect the quality of rural landscapes for their intrinsic value and openness by ensuring buildings of permanent and substantial construction are re-used and reflect local character. Furthermore, the premise of the Kent Downs AONB Farmstead Guidance is to provide applicants and local authorities with information on landscape qualities.

### **Inspector's Question 11.44**

How is Policy DM35 inconsistent with NPPF paragraphs 28 and 51?

#### **Council's response:**

11.44.1 The Council understands this is primarily a question for DHA Planning. The Council believes its policy to be sound and consistent with the NPPF. The Policy promotes the re-use and adaptation of existing rural buildings for business purposes as long as the development does not cause a detrimental impact to the rural character. Therefore, the policy can be seen to support economic growth in rural areas and national policy.

### **Inspector's Question 11.45**

Why should not support for rural business not include priority in the re-use of buildings particularly in circumstances where residential use may be more valuable and thus likely to outbid business or tourism uses?

**Council's response:**

11.45.1 Policy DM35 accords with the requirements set out in paragraph 28 of the NPPF in that it seeks to prioritise proposals for the re-use and adaptation of existing rural buildings for business uses. In addition it is the Council's view that prioritising businesses in rural areas will support the spatial objectives outlined on page 13 of the Plan and promote a strong, rural economy. Only in circumstances where the use of a rural building for business use is deemed unviable or it can be demonstrated that there is no reasonable prospect of its take up or its continued business use in the medium term will proposals for residential development be considered.

**Inspector's Question 11.46**

Why would TPO protection not continue in any event?

**Council's response:**

11.46.1 The Local Plan does not include a specific policy which seeks to protect TPOs but reference is made in Policy DM1 and Policy DM3 to the requirement to protect landscapes which include sensitive natural features such as trees. The protection of TPO trees is dealt with under the Town and Country Planning (Tree Preservation) (England) Regulations 2012. The preservation order will remain unless it is revoked.

**Inspector's Question 11.47**

Can the definition of garden land as greenfield or brownfield land be amended by policy given that the usual definition is contained in national policy and there is no separate definition in the Local Plan?

**Council's response:**

11.47.1 The Local Plan must be consistent with national policy as expressed in the NPPF and evolving case law. Brownfield land within national policy is defined as land that has been previously developed. Previously, garden land had been classified as brownfield, however was removed from the definition in 2010. The Council acknowledges that there is recent case law in regards to the issue of whether residential gardens outside "built up areas" can be considered brownfield (Dartford Borough Council v Secretary of State for Communities and Local Government (CO/4129/2015)). Nevertheless, the Borough Council is not able to redefine the meaning of the term brownfield in the Local Plan.

**Inspector's Question 11.48**

Why would deletion of the policy be necessary for soundness?

**Council's response:**

11.48.1 The Council understands this is primarily a question for the CPRE. The Council consider the policy to be sound and does not require the proposed changes as outlined by the CPRE.

**Inspector’s Question 11.49**

What provisions of Policy SP17 would apply to development of this type?

**Council’s response:**

11.49.1 Policy DM37 seeks to limit the harm to the character and appearance of the countryside and loss of best and most versatile agricultural land. This policy reflects the position of Policy SP17 The Countryside. The Council consider that the landscape criteria of Policy SP17 would apply to development of this type.

**Inspector’s Question 11.50**

Why is the policy unsound?

**Council’s response:**

11.50.1 The Council understands this is primarily a question for Otham Parish Council and Downswood Parish Council. The Council believe that Policy DM40 is sound and does not require the proposed changes as outlined by the respondents. The representors propose that criterion 4 be amended to include both the long- and short-distance impact of polytunnels, However, the criterion 3 seeks to mitigate against the visual impact of all new agricultural development by requiring buildings or structures to be located within or adjacent to existing groups of buildings.

11.50.2 When considering the cumulative effect of polytunnels it is important to consider the following. It is acknowledged in the supporting text of Policy DM40 that development should comply with the design principles for the countryside as listed in Policy DM34. The criteria in Policy DM34 seek to outline the additional design principles for protecting and enhancing the borough’s countryside. Criterion 3 of Policy DM34 demonstrates that development should “not result in harm to landscape of highest value and respect the landscape character of the locality”. Furthermore, Policy SP17 The Countryside in criterion 2.i. allows for development in the countryside if the “type, siting, materials and design, mass and scale of development and the level of activity maintains, or where possible, enhances local distinctiveness”. Thus, it is the Council’s view that the cumulative effect of development, particularly polytunnels, will be mitigated.

11.50.3 The Council believe that the suggestion of amending Policy DM40 to clarify that permission for polytunnels will only be temporary is not necessary. The nature of permission granted will be determined through the development management process.

**Inspector’s Question 11. (sic)**

What specific wording changes are sought?

**Council’s response:**

11. (sic). 1 The Council understands this is primarily a question for Otham Parish Council and Downswood Parish Council and is unable to comment on the specific wording changes that are sought.

**Inspector's Question 11.51**

Why would the additional criterion be necessary to soundness?

**Council's response:**

11.51.1 The Council understands this is primarily a question for the Kent Downs AONB unit. The Council believes its policy to be sound. Reference has been made in Policies SP17 and DM34 to the need for proposals to conserve and enhance the landscape and scenic beauty of the Kent Downs AONB and its setting. Therefore, the Council believe it is unnecessary to make the proposed amendments made by Kent Downs AONB unit.

**Inspector's Question 11.52**

Why would a reference to external lighting be needed when the matter is already addressed by Policy DM7?

**Council's response:**

11.52.1 The Council understands this is primarily a question for the CPRE and the Kent Downs AONB unit. The Council considers Policy DM41 appropriate and that the matters of external lighting have been covered sufficiently under Policy DM7.

**Inspector's Question 11.53**

Many AONBs and National Parks include caravan and camp sites, and they are not precluded by national policy, why should the Kent Downs AONB and its setting be different?

**Council's response:**

11.53.1 The Council understands this is primarily a question for the CPRE and the Kent Downs AONB unit. The Council considers Policy DM42 appropriate and that holiday and camp sites should be permitted where the criteria of the Policy are met.

**Inspector's Question 11.54**

Would lighting and landscape impacts already be addressed by other Local Plan policies such as DM7 DM34 and SP17?

**Council's response:**

11.54.1 The Council understands this is primarily a question for the CPRE. The Council considers Policy DM42 appropriate and that lighting and landscape impacts are addressed by Policies DM7, DM34 and SP17.

**Inspector's Question 11.55**

Does Criterion 2 require that screen planting matures before the use commences and if so, would that be practical and effective?

**Council's response:**

11.55.1 Criterion 2 of Policy DM42 does not require the maturing of screen planting. The Council's preferred approach is to approve developments with screening matching the indigenous population. The approach of waiting for maturity of screen planting would be impracticable in cases where the indigenous population take a long period of time to mature.

**Inspector's Question 11.56**

Which if any soundness test would justify the deletion of the policy?

**Council's response:**

11.56.1 The Council understands this is primarily a question for the CPRE. The Council considers Policy DM43 appropriate and that caravan storage in the countryside should be permitted where the criteria of the Policy are met.

**Inspector's Question 11.57**

Why would the Local Plan be unsound without this change?

**Council's response:**

11.57.1 The Council understands this is primarily a question for the Kent Downs AONB unit. The Council considers Policy DM44 appropriate and that retail units in the countryside should be permitted where the criteria of the Policy are met.

**Inspector's Question 11.58**

What does 'an appropriate design' mean?

**Council's response:**

11.58.1 The Council understands this is primarily a question for the Kent Downs AONB unit.  
11.58.2 The Council considers Policy DM44 1(i) appropriately worded and that no amended is required.

**Inspector's Question 11.59**

Is a definition of what may be a significant proportion required for the policy to be effective?

**Council's response:**

11.59.1 The Council understands this is primarily a question for the CPRE. The Council considers Policy DM44 1(i) appropriately worded and that no amended is required.

### **Inspector's Question 11.60**

What would be significant – 10%? 30% 50%? 75%?

#### **Council's response:**

11.60.1 The Council understands this is primarily a question for the CPRE. The Council considers Policy DM44 1(i) appropriately worded and that no amended is required.

### **Inspector's Question 11.61**

How would light pollution be defined and why would it differ here from other external lighting covered by Policy DM7?

#### **Council's response:**

11.61.1 The Council understands this is primarily a question for the Kent Downs AONB unit. The Council considers Policies DM45 and DM7 appropriate and equestrian development should be permitted where the criteria of both Policies are met.

### **Inspector's Question 11.62**

Would a reference in this or other Local Plan policies to the guidance produced by the Kent Downs AONB Unit accord undue weight to documents that have not been examined or consulted upon as part of the Local Plan examination?

#### **Council's response:**

11.62.1 The Kent Downs AONB unit *Management Plan* is not a statutory Local Plan document and it has not been consulted on or examined as part of the Local Plan process. To reference the document would give it undue weight.