



The Planning Inspectorate

Report to Maidstone Borough Council

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an Inspector appointed by the Secretary of State for Communities and Local Government

Date 27 July 2017

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Maidstone Borough Local Plan

The Plan was submitted for examination on 20 May 2016

The examination hearings were held between 4 October 2016 and 24 January 2017

File Ref: PINS/U2235/429/8

Abbreviations used in this report

AONB	Area of Outstanding Natural Beauty
DCLG	Department for Communities and Local Government
dpa	dwellings per annum
DtC	Duty to Co-operate
GTTSAA	Gypsy and Traveller and Travelling Showpeople Accommodation Assessment
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
KCC	Kent County Council
KMWLP	Kent Minerals and Waste Local Plan
LDS	Local Development Scheme
LP	Local Plan
MBC	Maidstone Borough Council
MM	Main Modification
MSA	Mineral Safeguarding Area
NPPF	National Planning Policy Framework
OAN	Objectively assessed need
OAHN	Objectively assessed housing need
ONS	Office of National Statistics
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
PSED	Public Sector Equality Duty
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SFRA	Strategic Flood Risk Assessment
SHEDLAA	Strategic Housing and Economic Development Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SNPP	Sub National Population Projections
WMS	Written Ministerial Statement

Non-Technical Summary

This report concludes that the Maidstone Borough Local Plan provides an appropriate basis for the planning of the Borough, provided that a number of main modifications [MMs] are made to it. Maidstone Borough Council has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal of them. The MMs were subject to public consultation over a seven week period. In some cases I have amended their detailed wording where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- **Strategy**
The creation of a Strategy Chapter in order to: incorporate strategic objectives that are present in various parts of the submitted Local Plan; fill gaps in the strategy; and to more clearly identify which are the strategic policies of the Local Plan.
- **Natural and Historic Environment**
A revised strategy for the natural environment and the historic environment to include the demerging of relevant development management policies on these matters for greater consistency with national policy.
- **Minerals Safeguarding**
The identification of minerals safeguarding areas in the recently adopted Kent Minerals and Waste Local Plan and the addition of requirements for minerals assessments where appropriate for consistency with national policy for minerals safeguarding.
- **Transport and Air Quality**
Modified policies to confirm and strengthen the use of sustainable transport measures as well as highway improvements in order to mitigate the potential impacts of additional movements on congestion and air quality. The development management policy on air quality is modified for clarity and effectiveness to include updated reference to other measures that are being pursued.
- **Housing Need and Supply**
The objectively assessed housing need is reduced and the backlog is to be addressed over 10 years in order to smooth the trajectory with a further review of housing needs to form part of the intended review of the Local Plan as set out in the submitted plan but with a target adoption date brought forward to April 2021.
- **South East Maidstone Strategic Development Location**
Modified policies in relation to transport mitigation, infrastructure provision, the setting of listed buildings, and open space.
- **Other South Maidstone Allocations**
Delete housing allocations H1(29) New Line Learning, Boughton Lane and H1(53) Boughton Lane due to their adverse traffic impacts on Boughton

Lane and the A229.

- **Policy H2 Broad Locations for Housing Development**

Modify the Broad Location policies to: increase housing provision in Maidstone town centre and further define its location within the town centre; reduce the proportion of the housing at the Invicta Barracks site that is likely to be delivered within the Local Plan period ending 2031; reduce the amount of housing that is likely to be delivered at Lenham and provide that its location is to be determined by the Lenham Neighbourhood Plan or, by default, the Local Plan Review.

- **Other Housing Supply**

A series of modifications to individual housing allocations and the windfall housing allowance to reflect new evidence.

- **Other Relevant Development Management Housing Policies**

Moving the Housing Mix Policy to the Strategy chapter whilst providing that Neighbourhood Plans can provide flexibility and local context in determining the appropriate housing mix.

Modifying the housing density policy for reasons of clarity and effectiveness.

Modifying the policy on Affordable Housing for consistency with modified national policy to exempt smaller developments.

Modifying the policy on Local Needs Housing in the interests of clarity and effectiveness.

- **Gypsies, Travellers and Travelling Showpeople**

Modifying Policy DM16 in the interests of effectiveness and consistency with national policy

- **Employment**

Modify the requirements for employment floorspace in the interests of clarity and effectiveness. To address viability issues it is necessary to modify where provision is to be made to meet the identified need for office floorspace allocations as well as including windfall provision. Modifying the policy for the strategic employment site at Woodcut Farm to reduce its impact on the landscape and on heritage assets whilst safeguarding office provision. Modifying policy for employment development in economic development areas in the countryside and for development involving the expansion of existing rural businesses.

- **Retail and Mixed Development**

Modifying relevant policies to clarify when retail impact assessments are or are not required for consistency with national policy. Remove the residential and employment allocation at the former Syngenta Works in Yalding for reasons of flood risk whilst retaining a policy to allow for other uses that can be shown to be compatible with that location. Add a new policy for the Baltic Wharf site to address a policy vacuum concerning the comprehensive approach to the future use of the site that has regard to the listed status of the principal building. Redefine the Mote Road site in Maidstone as a mixed use residential led allocation with a reduced requirement for office floorspace in order to address viability issues.

- **Other Development Management and Open Space Policies**

Allowing for the redevelopment of qualifying brownfield sites in the countryside with revised transport criteria whilst clarifying that residential gardens in the countryside do not qualify as brownfield land. Modifying policy for non-conforming uses in the interests of clarity and effectiveness. Modifying policy on external lighting to protect intrinsically dark landscapes

and wildlife. Providing that proposals for renewable and low carbon energy developments in the AONB would be addressed by AONB policies and not precluded which would be inconsistent with national policy. Modifying some open space allocations as a consequence of changes to housing allocations or where the original allocation is not justified.

- **Infrastructure Delivery**

Modifying misleading wording in the interests of effectiveness and providing that sufficient infrastructure is to be available in order for new development to be supported.

- **Implementation, Monitoring and Review**

Comprehensively modifying the monitoring provisions with new more specific and measurable targets and triggers for review.

Introduction

1. This report contains my assessment of the Maidstone Borough Local Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements.
2. The National Planning Policy Framework (paragraph 182) makes it clear that in order to be sound, a Local Plan should be:
 - **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
 - **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
 - **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework'.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Maidstone Borough Local Plan, submitted in May 2016, is the basis for my examination. It is the same document as was published for consultation in February 2016.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearing(s), are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2, MM3** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them. The MM schedule was subject to public consultation for seven weeks (allowing extra time for bank holidays). I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the main modifications. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.

Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans in A3 format identified as one of the documents entitled 'Maidstone Borough Local Plan Publication (Regulation 19) February 2016' as set out in Document SUB 001 Maidstone Borough Local Plan 2011-2031.
7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
8. These further changes to the policies map were published for consultation alongside the MMs in Document ED 155 'Schedule of Minor Changes Plus Maps'.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in 'Maidstone Borough Local Plan Publication (Regulation 19) February 2016' and the further changes published alongside the MMs .

Consultation

10. I am satisfied that the consultation carried out has been in accordance with the regulatory provisions and the Statement of Community Involvement.

Assessment of Duty to Co-operate

11. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty to cooperate imposed on it by section 33A in respect of the Plan's preparation.
12. S33A of the Planning and Compulsory Purchase Act 2004 sets out a statutory 'Duty to Cooperate' (DtC) which here applies to Maidstone BC and other local planning authorities, to Kent County Council, and to other persons prescribed by Regulation 4 of the Town and Country Planning (Local Planning) England Regulations 2012 (the Regulations).
13. The duty requires Maidstone Borough Council to cooperate with other persons to '*maximise the effectiveness*' with which named activities are undertaken. Those activities include the preparation of development plan documents (such as this local plan) and activities that support that activity '*so far as relating to a strategic matter*'. A strategic matter is defined by S33A(4) in summary as: (a) '*sustainable development or use of land that has or would have a significant impact on at least two planning areas*' (a planning area in this case is the area of a borough or district council); and (b) '*sustainable development or use of land in*

a two tier area' (as this is) 'if the development or use (i) is a county matter, or (ii) has or would have a significant impact on a county matter'. County matters broadly relate to minerals and waste and associated developments as defined by Paragraph 1 of schedule 1 to the Town and Country Planning Act 1990 (as amended).

14. S33A(7) requires Maidstone Borough Council (MBC) (and persons subject to the DtC) to have regard to any guidance issued by the Secretary of State about how the duty is to be complied with. In that regard Paragraph ID 9-004-29140306 of the Government's Planning Practice Guidance (PPG) confirms amongst other things that the duty to cooperate is not a duty to agree albeit that local planning authorities should make every effort to secure the necessary cooperation on strategic cross border matters before they submit local plans for examination.
15. In this case the strategic matters at issue are:
 - Cross border housing needs and supply
 - Cross border provision for economic development and employment
 - Cross border provision of strategic infrastructure, especially transport
 - Cross border strategic gaps in development
 - Minerals planning issues
16. MBC has issued a 'Duty to Cooperate Compliance Statement' [SUB 008] as recommended in paragraph ID 9-011-20140306 of the PPG. This was published after the closing date for representations on the submission plan and thus was not available when Representors were preparing their representations. It lists the relevant bodies and the forms and methods of cooperation undertaken over many years. This demonstrates that there has been extensive engagement notwithstanding that the minuting of meetings and their outcomes is sometimes incomplete.
17. The DtC Statement sets out the 4 strategic areas where there has been active cooperation under the following headings:
 - The homes needed in the area
 - The provision of employment, retail and commercial development
 - The provision of infrastructure (includes transport)
 - The natural and historic environment
18. There has not been agreement between MBC and all the persons with which there has been engagement under the DtC and that has impaired the ultimate effectiveness of cooperation. However the above national guidance confirms that there is not a duty to agree. Whether a lack of agreement raises an issue of soundness may be of relevance to other findings.
19. The evidence of the DtC Statement and supplementary written and verbal evidence provided during the examination in relation to cross border strategic

gap and landscape issues, employment development, and minerals planning issues supports my conclusion that MBC has engaged with neighbouring authorities and prescribed bodies to address strategic matters and has sought maximum effectiveness. It has therefore met the statutory duty set out in section 33A of the 2004 Act.

Assessment of Soundness

Background

20. The Maidstone Borough Local Plan covers the period from 2011 to 2031. It would replace the saved policies of the Maidstone Borough-wide 2000 Local Plan, the Affordable Housing DPD 2006, the Open Space DPD 2006 and the Sustainable Construction SPD. The Local Plan would include strategic, development management and development allocation policies.
21. Other parts of the development plan in Maidstone would include adopted Neighbourhood Plans (of which several have either been adopted or are in preparation) and the Kent Minerals and Waste Local Plan 2016 which was recently adopted by Kent County Council.

Main Issues

22. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings I have identified 36 main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness and legal compliance rather than responding to every point raised by Representors.

MATTER 1 – STRATEGY

Issue 1 – Whether the Plan is positively prepared in that it has a clearly identified strategy

23. Paragraph 156 of the NPPF includes the provision that local planning authorities should set out the strategic priorities for their area in the Local Plan.
24. The submitted Local Plan includes strategic objectives and a spatial strategy set out in the single Policy SS1. However it also includes other spatial policies that are strategic in nature. Some of the site allocation and development management policies are also wholly or partly strategic but are not clearly identified as such. This makes it difficult for those preparing Neighbourhood Plans to identify whether they are in general conformity with the strategic policies of the Local Plan in order that they are consistent with national policy at paragraph 184 of the NPPF. The plan is consequently not clearly demonstrated to be positively prepared based on a strategy and risks being ineffective in that regard and consequently unsound.
25. The strategic policies in the Local Plan can and should be more clearly identified and distinguished from the non-strategic policies. Because these changes are necessary for soundness **MM3** and **MM61** reorder and amend the relevant policies so that the strategic policies are more readily identifiable. There are also consequential modifications to these and other policies throughout the Plan that are included in other main modifications.

Issue 2 - Whether the plan is the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence

26. A core planning principle of the National Planning Policy Framework at paragraph 17 is that planning should: '*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable*'.
27. The spatial strategy set out in Policy SS1 of the submitted Local Plan appropriately seeks that Maidstone town is the principal focus of development. This includes: making best use of available sites within the urban area; for the town centre to be the primary office and retail location; and with two strategic development locations to the north west and south east of the urban area. Five rural service centres are identified as second tier locations for development. Five large villages are identified as third tier locations and there are policies to restrain development elsewhere, with exceptions.
28. The physical layout of the Borough includes the existing distribution of settlements, the location of rail and road routes, and landscape, flood risk and other environmental constraints. These all limit the reasonable alternative development strategies that are available.
29. Maidstone town has the most services and facilities and is the logical focus for most development. Accessibility to services and facilities by sustainable modes will inevitably vary between locations across the Borough. However distance to facilities cannot be the only consideration. Other matters include infrastructure capacity, congestion, and site specific considerations such as the conservation of the natural and historic environment.
30. The Sustainability Appraisal [Document SUB 002] appraised 5 alternative strategies for the distribution of housing development of between 18,600 and 19,600 dwellings. Two strategies involved a new settlement to the east of Maidstone. These were rejected because of the need for extensive new infrastructure and the harm to the area's character. The other rejected alternatives involved differing amounts of development at the villages, including whether or not there should be major development at Lenham. I consider that the alternatives have been appropriately assessed.
31. The spatial strategy set out in the Local Plan for housing development is consistent with national policy to manage growth patterns that favour sustainable means of travel whilst also having due regard to environmental protection and other relevant factors.
32. The spatial strategy for employment is consistent with national policy to support town centres. Some modifications are needed in relation to its support for rural businesses and to allow for redevelopment on existing employment sites in the countryside (**MM51 & MM56**). In relation to the identified quantitative and qualitative needs for employment development the strategy is consistent with national policy to seek to meet such needs locally within the Borough and thereby reduce the need for increased out commuting. Considerations of space, traffic capacity and viability all support the decision to allocate the main strategic employment site adjacent to Junction 8 of the M20. Whilst this has some drawbacks in terms of landscape impact and public transport accessibility, no more appropriate site has been identified within the Borough.

33. Overall and subject to the above modifications the Local Plan has the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence.

Issue 3 – Whether the plan is based on effective working on cross-boundary strategic priorities

34. The urban area of Maidstone town is close to neighbouring urban areas in Tonbridge and Malling Borough. There are strong functional relationships across the Borough boundary. To the north of the Kent Downs, other urban parts of Maidstone Borough closely adjoin the Medway urban area. Road and rail connections allow significant cross-border commuting in both directions between the 3 districts to access work, shops and other facilities. There is also significant commuting to and from Swale and Ashford and by road and rail from Maidstone's town and villages to more distant locations including central and South East London. These movements have implications for the location of new employment, housing and other facilities, as well as for travel volumes. The adjoining boroughs also have their own cross-border relationships with other areas in North, West, and East Kent, and with Sussex and London.
35. There has been cooperation between Maidstone and the adjoining Boroughs of Tonbridge & Malling and Ashford in the identification of housing needs. This has included jointly commissioned Strategic Housing Market Assessments which have identified where the housing market areas overlap between these areas. An earlier suggestion from Swale that some of their housing needs might be met in Maidstone was resolved after additional development sites were identified within Swale in their emerging Local Plan. There are no outstanding requests for housing needs to be met outside the boundaries of any of the neighbouring authorities.
36. Transport modelling has taken account of the committed and emerging proposals for housing and employment development in the adjoining Boroughs where relevant, and based on current travel patterns.
37. In relation to employment provision, each of the neighbouring Councils is seeking to meet its own identified employment needs and none has requested additional provision within Maidstone. The future scale of cross border movements is difficult to predict. However, the broad distribution of planned employment growth across the defined economic area of Maidstone and its adjoining Boroughs would still allow either that people could be employed within their own Boroughs and close to their own homes or that the existing pattern of commuting could continue.
38. High levels of commuting risk increased congestion, particularly if movement is by car. Where people actually choose to live and to work and how they move between them is likely to be affected, as now, by considerations of travel time/reliability, cost, and comfort. However this underlines the need to make adequate provision for employment within each Borough, and preferably in or near the main settlements, in order to provide choice and to reduce reliance on long-distance commuting by car.
39. There is evidence of cross border working between the neighbouring planning authorities. The submitted Statements of Common Ground confirm that this has

been effective in avoiding significant disagreements between the Boroughs on the main strategic priorities.

40. Whereas there was joint working with Kent County Council during the preparation of the plan this was not followed by agreement on a transport strategy within the Borough for the full plan period. However that is not a cross boundary strategic matter. The County Council has agreed a series of interim transport improvements for the period up to 2022. Following the refusal of the County Council to agree to other measures the Borough has adopted its own Integrated Transport Strategy with supporting evidence [Document TRA 038]. The Council has also adopted a separate Maidstone Walking and Cycling Strategy 2011-2031 [Document TRA 039].
41. The Borough Council's strategies are consistent with national policy to take up opportunities for sustainable travel modes, to cost effectively limit the significant impacts of development, and to avoid severe residual cumulative impacts of development. They are also broadly consistent with the objectives of the County Council's Local Transport Plan 3 (2011-2016) and with the ambition, outcomes and supporting policies of the County Council's consultation draft Local Transport Plan 4 (2016-2031).
42. I conclude that the plan is based on effective working on the cross-boundary strategic priorities.

MATTER 2 – NATURAL AND HISTORIC ENVIRONMENT

Issue 4 - Whether the Local Plan is supported by an adequate evidence base in relation to heritage and whether there has been adequate assessment of the impact on heritage of proposed development

43. Following initial representations from Historic England concerning the evidence base on heritage matters I conclude that the Council has submitted satisfactory supplementary evidence which has demonstrated what account has been had to heritage matters in the development strategy.

Issue 5 - Whether the Local Plan includes the strategy for the historic environment that is sought by national policy and is otherwise consistent with national policy

44. Amongst other things Paragraph 126 of the NPPF seeks that local planning authorities should set out in their local plan a positive strategy for the conservation and enjoyment of the historic environment.
45. The submitted Local Plan is inconsistent with that national policy as it lacks a clearly expressed strategy for the historic environment. Whilst it does include a relevant development management policy in Policy DM3 'Historic and natural environment', the attempts of that latter policy to provide merged policy criteria for the treatment of both the natural environment and heritage assets mean that the policy is inconsistent with relevant national policy and statutory provisions which differ as between these subject areas. That would also harm the effectiveness of the policy and make it unsound.
46. These soundness issues can be addressed by creating a new strategic policy SP18 'Historic Environment' (**MM12**) and by removing heritage matters from Policy DM3 to a new Policy DM4 'Heritage Assets' (**MM57**). The policy text would then

be consistent with national policy for the historic environment in the NPPF and with statutory provisions for heritage assets. However as pointed out by Kent County Council in representations on the proposed modifications the reference in the second paragraph of Policy SP18 to 'historic parks and gardens' should be amended to 'registered parks and gardens' for consistency with national policy. I have therefore included that slight modification to the wording as part of **MM12**.

Issue 6 – Whether the policies for the countryside, natural environment, Areas of Outstanding Natural Beauty, the Green Belt and Landscapes of Local Value would be justified, effective, and consistent with national policy

47. The Local Plan strategy for the natural environment is set out primarily in Policy SP17 'The Countryside'. It is supplemented by relevant parts of Policy DM3 'Historic and Natural Environment', by DM34 'Design Principles in the Countryside' and by a number of other development management policies concerning particular forms of development that may be acceptable in the countryside.
48. Policy DM3 seeks to employ hybrid criteria for the natural and historic environment which are not consistent with national policy for the protection of natural assets and would be ineffective in that regard and thus unsound.
49. The necessary separation of DM3 into two distinct policies for the natural environment and for the historic environment respectively allows that DM3 can be more readily amended in respect of criteria to protect sites of biodiversity value. This includes making the distinctions that national policy requires according to the hierarchy of international, national and locally designated sites. Wording amendments are also needed for effectiveness where the wording of Policy DM3 is inconsistent with overlapping criteria for landscape protection in Policy SP17 (**MM40**).
50. Policy SP17 seeks to list the forms of development that will be permitted in the countryside. However that list is incomplete as other plan policies allow for different types of development subject to more comprehensive criteria. This risks confusion and consequent ineffectiveness. However that can be remedied by deleting the partial list from Policy SP17 and substituting a cross reference to the other plan policies. It makes clear that development which does not accord with relevant policies will not be permitted in the countryside (**MM11**).
51. Policy SP17 and its reasoned justification misinterpret the statutory duty regarding Areas of Outstanding Natural Beauty. In particular there is no statutory duty to conserve and enhance the AONB. The statutory requirement as set out in the Countryside and Rights of Way Act 2000 may be summarised as for public bodies to have regard to the purpose of conserving and enhancing the natural beauty of an AONB and for a local planning authority to take such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of an AONB. National policy allows for the weighing of these considerations with other matters.
52. The Plan is also unclear as to the policy which is to apply to development proposed in the Green Belt. The merged criteria for the Green Belt and the AONB contributes to consequent inconsistency with national policy and a risk of ineffectiveness. The further wording changes proposed in **MM11** would also rectify these matters.

53. SP17(6) sets the policy criteria for Landscapes of Local Value but is vaguely worded which would risk its effectiveness. This can be addressed by modifications to the wording and to the reasoned justification at paragraph 5.88 as also included in **MM11**.
54. DM34 Design Principles in the Countryside (to be renumbered as DM30 on the appended schedule) includes criteria for landscape protection that unnecessarily overlap with criteria in Policies SP17 and DM3. Moreover the varied wording would be confusing and ineffective. This can be addressed by modifications to the wording and the reasoned justification (**MM55**).

MATTER 3 - MINERALS SAFEGUARDING

Issue 7 - Whether the Local Plan is consistent with national policy for facilitating the sustainable use of minerals

55. The NPPF provides at paragraph 145 that minerals planning authorities (MPA) should plan for a steady and adequate supply of aggregates, and at paragraph 146 that they should plan for a steady and adequate supply of industrial minerals. More specifically, there are requirements to maintain aggregates landbanks of at least 7 years for sand and gravel and 10 years for crushed rock. For industrial minerals there are specific requirements for a stock of permitted reserves for silica sand sites, primary and secondary materials and for brick clay. For minerals used in industrial and manufacturing processes the MPA is to cooperate with neighbouring and more distant authorities to ensure adequate provision to support their likely use in industrial and manufacturing processes [my emphasis].
56. The MPA is Kent County Council (KCC). On 14 July 2016 KCC adopted the Kent Minerals and Waste Local Plan 2013-2030 (the KMWLP) as part of the development plan. This event post-dated the submission of the Maidstone Borough Local Plan for examination. Policy CSM5 of the KMWLP provides for the safeguarding of economic mineral resources from unnecessary sterilisation by other development. This is to be achieved by the identification of Mineral Safeguarding Areas (MSA), sites identified for mineral working in an Appendix to the KMWLP, and sites to be identified in a proposed Minerals Sites Plan.
57. KMWLP Policy DM 7 provides that when proposing non-minerals development within a Mineral Safeguarding Area (MSA) a series of criteria need to be addressed. One provision is that adopted Local Plan allocations within an MSA may be excluded from other requirements of the policy. However the position is less clear with regard to emerging Local Plan sites which have not previously been subject to individual minerals assessments, as is the case with sites in the submitted Local Plan. In particular the KMWLP states at 5.5.14 that:

"The allocation of land within an MSA [Mineral Safeguarding Area] will only take place after consideration of the factors that would be considered if a non-minerals development were to be proposed in that location, or in proximity to it, as set out in Policies DM7, DM8, CSM5 and CSM6."

But the KMWLP does not require that proposed allocations must be subject to a prior Minerals Assessment, as is the case for other types of sites, and Policy DM7 (7) specifically exempts allocations in adopted Local Plans from being subject to this requirement.

58. Maidstone BC and KCC have agreed a Statement of Common Ground on Minerals Matters [Document SUB 018]. That Statement provides that for a number of site allocations where permission has not yet been granted, there would be a need for a minerals assessment regarding the practicality and viability of extracting the minerals before development goes ahead. However, whilst MBC agrees to apply such a relevant policy criterion in respect of most minerals subject to a MSA, it does not agree that the requirement for a minerals assessment should be applied for allocated sites within the MSA in respect of ragstone or Sandgate formation industrial sands.
59. In this matter MBC reasonably relies on the evidence of an Information Note produced by Kent CC itself in May 2016 [Document R19570 Appendix 2]. Ragstone underlies much of the developable land around Maidstone. The note acknowledges that a landbank of crushed rock is only required by the NPPF to be maintained for a 10 year period and that ragstone is a plentiful material with a landbank of 61 years supply. It is also concluded in the note that to attempt to extract the mineral would result in significant difficulty in viably delivering the allocated sites for non-mineral development. The probability of significant adverse effect on NPPF objectives by sterilisation of this resource is reasonably assessed by the Mineral Planning Authority as low.
60. The Sandgate formation industrial sand is assessed in the same KCC note as potentially important for industrial applications. It has previously been quarried in West Sussex for use as moulding sand in iron casting. However it has not been quarried in Maidstone in recent times and KCC's own evidence note concludes that this is unlikely to reoccur in Maidstone Borough. There is no evidence to support what quantum of reserve would be required and the material would appear to be economically marginal. Any potential sterilisation is therefore reasonably assessed by KCC as unlikely to be material.
61. In September 2016 KCC published for consultation a draft Supplementary Planning Document entitled '*Minerals and Waste Safeguarding.*' MBC has made representations on this document [Document ED 119] and has highlighted that the approach to emerging site allocations has not yet been clarified. It remains unclear what type of minerals assessment is needed for such sites.
62. In these circumstances I conclude that the absence of a policy requirement for a minerals assessment in respect of allocated non-minerals development within the ragstone or Sandgate formation MSA would not result in material inconsistency with national policy since these minerals are not likely to be needed. However such a policy criterion to require an assessment of whether other minerals can be extracted prior to sterilising development in other MSA areas is required for consistency with national policy if the plan is to be sound and consistent with the KMWLP. **MM16** would add a minerals safeguarding criterion to relevant allocations. Where there is already a full or outline planning permission for non-minerals development on these sites it is too late to require a minerals assessment. The criterion would however apply to relevant new development proposals. The Borough Council however agrees with the representations of Kent County Council insofar as **MM16** should not apply to updated policy numbers H1(34), (36), (44), (50), (63) and H2(2) which were included in error in the proposed modifications and these have therefore been deleted from **MM16**. These modifications are necessary for soundness.

MATTER 4 - TRANSPORT AND AIR QUALITY

Issue 8 - Whether the Local Plan is consistent with national policy for the avoidance of severe traffic impacts on the strategic road network resulting from development and whether it is supported by proportionate evidence in that regard

63. Following representations from Highways England, further modelling work has been undertaken during the examination to test the cumulative impacts of planned development in Maidstone and adjoining Boroughs on the strategic road network and especially the M20.
64. A Statement of Common Ground [Document ED 103] has been agreed between Highways England and Maidstone Borough Council which concludes in summary that proposed junction improvements at M20 junctions 5-8 can adequately mitigate development but that timely implementation and continued monitoring are necessary as well as the possibility of Plan B mitigation if the planning permissions that would provide mitigation are not implemented in a timely fashion. Changes to the Policies DM24 and ID1 are recommended in the Statement including the use of Section 278 agreements under the Highways Act 1980.
65. Where the proposed mitigation involves works at the motorway junctions to reduce congestion these typically involve either signalisation or carriageway alterations that are below the threshold for the nationally significant infrastructure projects to which the National Policy Statement for National Networks applies.
66. I conclude that with the additional evidence that has been provided during the examination the Local Plan is now supported by adequate proportionate evidence. I further conclude that severe traffic impacts on the strategic network are capable of avoidance through mitigation. However for the Plan to be sound main modifications **MM52** and **MM58** include the necessary changes to Policies DM24 (renumbered as DM21) and Policy ID1 to ensure that the mitigation measures are effective and that severe traffic impacts are avoided in line with national policy in the NPPF at paragraph 32. Moreover, because the policy applies to all types of road **MM52** now includes reference to Highways England guidance alongside the existing reference to Kent County Council guidance on Transport Assessments and Travel Plans. Additional text has been added for this purpose.

Issue 9 – Whether the plan is consistent with national policy for sustainable travel, for the assessment of transport impacts and for managing air quality

Sustainable Travel and Transport Impacts

67. Under the heading 'Promoting sustainable transport', Paragraph 32 of the National Planning Policy Framework provides amongst other things that:

'Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- safe and suitable access to the site can be achieved for all people; and*

- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*'.

68. The Local Plan's transport strategy is not easily identifiable because it is set out in 2 development management policies as criteria 1 & 2 of Policy DM24 and criterion 1 of Policy DM25. These criteria set out actions to be taken by the Borough Council and its partners and are consistent with national policy. Main modification **MM13** is needed: to clarify that these are part of the plan's strategy; to demonstrate consistency with national policy; and to improve their effectiveness. This would be achieved by combining these criteria in a new policy SP23 'Sustainable Transport' within the strategy chapter. This would include changes to the text and reasoned justification in relation to: the timing and implementation of mitigation; the role of the Integrated Transport Strategy; and the opportunity to review and improve the functionality and effectiveness of Park and Ride services.
69. Subject to the removal of those strategic criteria by **MM13**, Policies DM24 Sustainable Transport and DM25 Public Transport (as renumbered and modified as Policy DM21 'Assessing the transport impacts of development') would be effective as a development management policy. **MM52** is needed to reduce the risk of severe residual congestion and air quality impacts on the local and strategic highway network that would contravene the above national policy. Those parts of Policy DM24 Sustainable Transport which relate to assessing the transport impacts of development would remain.

Air Quality

70. Paragraph 110 of the National Planning Policy Framework provides amongst other things that in preparing to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment.
71. An issue that has come to the fore during the Examination is that of air quality, especially in relation to road traffic emissions and their associated health impacts. This follows the intended quashing by the High Court of the National Air Quality Plan (AQP)¹ and the direction from the Court that the Government should urgently replace it with a new plan by 31 July 2017 to replace the AQP. An Air Quality Plan for Nitrogen Dioxide was published by the Government on 26 July 2017.
72. The national PPG on Air Quality provides in summary at paragraph ID 32-002-20140306 that the Local Plan may need to consider:

¹ ClientEarth v SoS EFRA [2016] EWHC 2740 (Admin)

- the potential cumulative impact of a number of smaller developments on air quality as well as the effect of more substantial developments;
 - the impact of point sources of air pollution (pollution that originates from one place); and,
 - ways in which new development would be appropriate in locations where air quality is or likely to be a concern and not give rise to unacceptable risks from pollution. This could be through, for example, identifying measures for offsetting the impact on air quality arising from new development including supporting measures in an air quality action plan or low emissions strategy where applicable.
73. Maidstone town as a whole and including the M20 corridor is designated as an Air Quality Management Area, not because the entire town has substandard air quality but because Nitrogen Dioxide emissions at a series of locations within the town exceed air quality target limits set by an EU Directive and national regulations. These locations are mainly along the busiest roads and they include The Wheatsheaf junction (A274/A229) and Upper Stone Street which is part of the town centre gyratory and which carries high volumes of traffic towards the A274, A229(S), A20(E) and B2010.
74. An Air Quality Action Plan was adopted for Maidstone in 2010 and its measures were referred to in the national AQP published in 2015. One notable measure is Measure M6 'Improvements to Public Transport' which cites as an example an extension of the existing bus lane on the A274 Sutton Road to create bus capacity for new bus routes, to improve public transport uptake and to reduce traffic entering the Air Quality Management Area. That and many other measures in the AQAP have not been implemented (or only in part) and the Plan has not yet succeeded in bringing emissions within the limits in all parts of the AQMA. However there are many areas within the extensive AQMA where air quality is within national guidelines. The Council is now reviewing the AQMA with a view to consulting on a more focussed approach that concentrates on areas of genuinely poor air quality. This relates mainly to the radial roads and the M20.
75. Whilst some have argued that the air quality issue warrants a moratorium on new development in the town, that would not solve the existing problem. Neither would it be consistent with national policy to also meet development needs. A solution is therefore needed that both addresses the existing air quality problem and which also allows that the identified need for housing and other development can still be met whilst minimising pollution in accordance with the above aim of paragraph 110 of the NPPF. Part of the solution lies within the Local Plan and its policies but support is also needed from other measures outside the Local Plan. The Local Plan will also need to be kept up to date as the technical and policy environment changes.
76. The amount of emissions from road vehicles is affected both by the number of vehicles and also by the means of propulsion. A twin track approach is therefore essential to maximise the chances of meeting the emissions limits at the earliest possible date having regard to the urgent need for legal compliance. Such an approach needs to encourage the use of alternative means of propulsion such as electricity and engines with cleaner emissions. However it would inevitably take a number of years to materially change the overall composition of the vehicle

fleet in use in the Borough. Therefore it is essential to renew and reinforce measures to encourage a reduction in the number of polluting vehicles.

77. The number of vehicles is unusually high in Maidstone because of high levels of car use relative to other modes such as public transport, walking and cycling. Measures are therefore needed to encourage modal shift in the interests of both air quality and congestion.
78. In relation to the means of propulsion and their associated emissions, the proportion of diesel vehicles has grown in recent years and is likely to have arrested what was previously a downward trend in emissions. As the range of electric vehicles improves and their costs reduce a switch away from older diesel vehicles towards electric vehicles might help to achieve overall reductions in emissions .
79. Heavy diesel vehicles such as lorries and buses also make a significant contribution to emissions although the introduction of low emission vehicles can achieve reductions. Electric buses are being introduced in London and elsewhere. Encouragement of low emissions vehicles is a matter best addressed through the emerging low emissions strategy.
80. Moreover one bus can carry as many people as a large number of cars, resulting in less emissions overall. This further supports the need for a bus lane on Sutton Road to encourage modal shift in South East Maidstone, including by existing residents when travelling to and from the town centre and the railway stations.
81. **MM6** is needed to modify the strategic Policy SP3 as part of the mitigation which is necessary for consistency with national policy to minimise pollution. This includes the extension of the existing bus lane in Sutton Road to support the South East Maidstone development. Several site allocation policies in the vicinity (and existing permissions and S106 agreements) already make provision to support bus prioritisation measures on this road. They also support improving the frequency and routing of bus services, including better connections to railway stations.
82. Because many of Maidstone's roads are within closely built-up areas the opportunities for road widening and other physical capacity improvements are limited. Where they are physically possible, road capacity improvements may reduce congestion and pollution from stationary traffic. A series of road capacity improvements at junctions are already included in site allocation policies. There is agreement between KCC, MBC and Highways England on a number of the shorter term capacity measures which are included in the MBC Integrated Transport Strategy 2011-2031 [Document TRA 038]. However capacity improvements alone are unlikely to minimise pollution as they can also facilitate or encourage more vehicle movements with their associated emissions. Also further work is needed to cover the later local plan period (including additional site allocations) and to implement measures which are as yet only outlined in the emerging KCC Local Transport Plan 4. These need to be included in the Local Plan Review and at an earlier date than proposed in the submitted Local Plan in order that there is timely provision of necessary measures. Main modification **MM1** sets a target adoption date for the Review of April 2021.

83. The need to reduce emissions supports the aims of the Borough Council's adopted Integrated Transport Strategy and the Walking and Cycling Strategy [Document TRA 039] to encourage modal shift.
84. To further reduce emissions, additional measures are likely to be needed including:
- the designation of low emission zones or clean air zones,
 - additional bus priority elsewhere in the urban area to encourage modal shift,
 - replacing or retrofitting existing buses to reduce emissions from diesel engines,
 - encouraging the use of electric cars and electric bicycles by requiring charging places and storage provision at homes, and
 - a review of the amount of parking provision in the town centre and its costs relative to other travel modes, especially bus travel. In that regard the commitment in the Integrated Transport Strategy to increase long stay parking costs 50% by 2031 lacks sufficient urgency. It is unlikely to prompt the necessary early shift to other transport modes that is needed to reduce congestion and improve air quality, particularly if bus and train fares rise at a similar or greater rate, cancelling any price advantage.
85. Park and Ride (or Park and Train) may also be part of the solution if it results in fewer vehicles entering the town centre. It would be of most benefit to those travelling from locations outside Maidstone with poor public transport connections. However careful siting and pricing policies are needed if park and ride sites are not to encourage passenger transfer from service buses to cheaper park and ride services that depend on subsidy, especially if this would harm the frequency or viability of service buses. Whereas there has been a recent reduction in park and ride provision for reasons of cost, **MM13** is needed to ensure that MBC continues to review and improve the functionality and effectiveness of park and ride services.
86. That significant modal shift is possible is demonstrated by the experience of other towns in the south including Brighton, Poole and Oxford. Concentrating development in or adjacent to the town on high frequency bus routes (as proposed in the Local Plan at South East Maidstone and North West Maidstone) and in those rural service centres with railway services, makes modal shift more likely to be achieved than if development were to be more dispersed or located in new settlements with fewer facilities or public transport services and which consequently still relied heavily on access to Maidstone town by car for employment, services and facilities.
87. A land use plan like the Local Plan can only partially address the wider air quality issues. Other available measures include the emerging Low Emissions Strategy, the intended review of the Maidstone Air Quality Action Plan, and a review of the parking strategy. The final version of the national Air Quality Plan may propose other specific measures for local implementation. However it is not known at this time what measures would require local policies for their implementation. The necessary solution to achieve consistency with current and emerging national

policy is to prepare a separate Development Plan Document to address air quality. This is included in main modification **MM42**. Such a document would have regard to other measures in preparation such as an update to the Air Quality Action Plan, the emerging Low Emissions Strategy and likely revisions to national policy.

88. The Council's Draft Low Emissions Strategy (June 2017) indicated that the timescale for delivery of the DPD would be 3-5 years in which case it would overlap with the proposed review of the Local Plan. However in subsequent correspondence [ED 156 and ED 157] the Council has confirmed its commitment to adopting the Air Quality DPD before the adoption of the Local Plan review. The Council now intends to submit the DPD for examination in January 2019 with adoption targeted by September 2019. In the meantime the Council intends to approve as a material consideration Planning Guidance that has already been produced by the Kent and Medway Air Quality Partnership to include some Maidstone-specific amendments such as additional text to illustrate when the criteria of emerging Local Plan policy DM6(1) Air Quality will apply.
89. The need to address poor air quality within the Air Quality Management Area and especially at the exceedance locations would not justify a moratorium on development. However it does emphasise the need for mitigation measures for individual developments. Many of the site allocation policies already make provision for mitigation measures. To achieve satisfactory air quality is likely to require a range of measures to address the existing problem whilst also allowing for necessary growth. In the submitted Plan, Policy DM5 'Air Quality' sets out criteria for development proposals that would have a potential impact on air quality. It seeks to provide for the assessment of impacts and the means whereby they may be minimised and mitigated. However, as worded, the criteria and the reasoned justification are unclear and are therefore likely to prove ineffective in some circumstances and consequently make the plan unsound in that regard. Main modification **MM42** would reword the policy to make it clearer and renumber it as Policy DM6. Minimisation and mitigation may include encouraging use of sustainable travel modes, amongst other things. The associated amendments to the reasoned justification expand on the issue.

MATTER 5 – HOUSING NEED AND SUPPLY

Housing Need

Issue 10– Whether the plan is positively prepared in that it is based on a strategy which seeks to meet an objectively assessed need for market and affordable housing including any unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

90. That England as a nation has for a number of years been building many fewer houses than are needed by a growing population and growing household numbers has been widely reported. The resulting pressures on the housing stock and associated issues of affordability are particularly acute in London and the South East. As one of the main urban areas in Kent, Maidstone town cannot be insulated from these pressures, including those arising from migration from other areas, and must have a role in addressing them. The spatial strategy appropriately considers the role that the Borough's other settlements can play, particularly those that already have supporting services and infrastructure, such

as the railway stations that provide connections to London and other parts of the region.

91. Paragraph 159 of the NPPF provides amongst other things that local planning authorities should prepare a Strategic Housing Market Assessment (SHMA) to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries.
92. The Housing Topic Paper [Document SUB 005] describes the action taken which includes the SHMA that was first published in January 2014 and updated in June 2015.
93. The SHMA and its update are based on the appropriate housing market area and reasonably use the DCLG population and 2012-based household projections as the starting point. The Local Plan was submitted for examination on 20 May 2016. Four days later on 25 May 2016 the Office for National Statistics (ONS) published 2014-based population projections. On 12 July 2016 the DCLG published 2014-based household projections. In the national Planning Practice Guidance paragraph: 016 Reference ID: 2a-016-20150227 confirms that previous assessments are not automatically rendered out of date simply by the publication of new projections. An analysis by the Council concluded that whilst the projected housing growth is 3.6% stronger in the 2014-based projections, that is moderated by evidence of reduced vacancy rates and that the scale of difference between the 2012 and 2014 based projections is well within the error margins associated with long term projections. I agree with that conclusion. Moreover it would be counter-productive to delay the adoption of the Local Plan pending a review based on the revised projections when there will be the opportunity to review and update housing needs during the intended first review of the Local Plan.
94. There are no outstanding requests to accommodate unmet housing needs from neighbouring authorities. The submitted Local Plan seeks to meet the full Objectively Assessed Housing Need (OAHN) for housing in Maidstone that was identified in the SHMA update, including a 5% uplift for market signals.

Relating Employment Needs to Housing Provision

95. The national PPG provides at paragraph ID 2a-018-20140306 that plan makers should make an assessment of the likely change in job numbers and also have regard to the growth of the working age population in the housing market area. Caution is advised where the supply of working age population that is economically active is less than the projected job growth. That is not the case here.
96. The 2012-based Office for National Statistics Sub National Population Projections (SNPP) result in growth in the workforce of 17,300 persons over the plan period (HOU 004 Table 13). The 14,400 jobs target derived from the Council's Economic Development strategy is less than the projected increase in the workforce but is nevertheless acknowledged as ambitious.
97. Currently there are an estimated 1.3 jobs per household in Maidstone. If the same rate is maintained in both new and existing housing then that jobs target could fall short of the numbers of employed persons that might be accommodated by the new dwellings proposed in the Local Plan. Some increase

in net out-commuting is likely to occur in any event (see below in relation to economic development considerations). However it does not follow that the current ratio of jobs to households will necessarily persist for either the new housing stock or the existing stock during the remainder of the local plan period.

98. Relevant factors in the ratio of jobs to household numbers could include changes in average household size including more single person households, and an increase in the proportion of retired persons and other households no longer participating in the labour market. These trends would affect existing as well as new households such that the average number of employed persons in all households in the Borough would change and probably reduce such that there would be a closer balance between housing provision and employment.
99. I conclude that employment considerations do not warrant an adjustment of the OAHN from that defined by the SHMA and its update.

Market Signals

100. In the first 5 years of the Local Plan period from 1 April 2011 to 31 March 2016 there were 2,860 completions in Maidstone Borough – an average of 572 dwelling completions per annum. Subtracting those completions from the Objectively Assessed Housing Need of 17,660 dwellings (excluding any market signals uplift) would leave 14,800 dwellings to be delivered over a 15 year period or an average of 987 dwellings per annum (dpa).
101. If the rate of delivery is increased to address the shortfall in 10 years then the annual average rate of delivery in the first 5 years would need to rise to 1091 dwellings (including a 5% buffer). That represents a near doubling of delivery compared to the previous 5 years.
102. The national PPG provides at paragraph ID 2a-020-20140306 that plan makers *'should increase planned supply by an amount that, on reasonable assumptions and consistent with the principles of sustainable development, could be expected to improve affordability.'*
103. In the submitted Local Plan an approximate 5% uplift for market signals was added to the base OAHN figure of 17,660 dwellings That increased the total housing need figure by 900 to 18,560 dwellings. That equates to an extra 45 dwellings per annum (dpa) over the full plan period.
104. At the examination hearings it was acknowledged by participants that the 5% figure is arbitrary and lacks a scientific basis. The Home Builders Federation acknowledged that a 5% uplift would be too modest to make a difference to affordability. The HBF sought a higher uplift of 10% but that also lacks any scientific basis and has not been shown to be consistent with the principles of sustainable development in the Borough. This report has identified that there are challenging issues of housing delivery including flood risk, congestion and realistic delivery rates for the Broad Locations. A 10% uplift would require the identification of sites for a further 1,766 dwellings before the plan could be adopted and the associated delays would risk significant delays in the short term delivery of housing.
105. I acknowledge that higher market signals uplifts of 10% or more have been applied in some other local plan areas in the South East. However there is a lack

of evidence before me as to what rate of uplift (assuming it could be delivered in practice) would have a significantly greater effect on the market in Maidstone when compared to the proposed near doubling of the building rate that would in any event be needed to meet the OAHN even without any market signals uplift.

106. I conclude that the 5% market signals uplift would not be effective and is not justified in this case. Moreover as I conclude elsewhere in this Report that some of the housing sites proposed in the submitted plan would not be deliverable, it would be necessary to delay the adoption of the plan in order to identify additional sources of supply in order to achieve either that 5% uplift or a higher uplift figure. That delay in itself would reduce the supply of housing in the short term with the opposite effect on affordability to that intended. The OAHN figure should accordingly be reduced by 900 dwellings. However consideration of any need for a market signals uplift for delivery later in the plan period would necessarily form part of the intended Local Plan review.

Migration

107. A large proportion of the identified need for housing is accounted for by migration from other areas within the UK and, to a lesser extent, from abroad. Some Representors have suggested that the assessed need underestimates future migration from London, or from West Kent which is itself subject to its own migration pressures from London. Others consider that housing needs will decline because of reduced net international migration when the UK leaves the European Union.
108. As the London Plan is under review and the Local Plans for some West Kent authorities remain at an early stage, it remains uncertain whether future plans for those areas will be successful in providing for their full needs for housing over the period of this plan. There has been no request from the Greater London Authority or any other authority to accommodate any unmet needs. It is possible that a future increase in migration from West Kent or London would place pressure on areas beyond the Green Belt such as Maidstone which have transport links to those areas. However this is a matter which should be considered as part of overall housing needs at the first review of the Local Plan when policy provisions for housing supply in London and West Kent will be clearer.
109. In relation to international migration, the national population projections which underlie the SHMA already assume that net in-migration will be only about half the rate experienced in recent years (which include in the first 5 years of the Local Plan period). That is a reasonable assumption. There has only been a modest decline in the net migration figure over the last year. The Secretary for Exiting the European Union has also indicated that some continued migration from the EU is anticipated to meet continuing workforce needs. Even if the present net in-migration rate falls by half that is already built into the projections. Moreover about half of net in-migration currently comes from countries outside the EU and is already subject to border controls. It is unclear how or when such non-EU migration would reduce or what effect that would have in Maidstone. In this context it is reasonable for the SHMA not to depart from the assumptions on international migration which underlie the DCLG population projections.
110. I conclude that the migration assumptions that underlie the OAHN figure are reasonable at present but that the position will require review as part of the

housing needs consideration in Local Plan Review for which the submitted Local Plan makes provision. Further detail and a target date for adoption are needed for the plan to be sound and this is provided by main modification **MM60**.

Affordable Housing Need

111. Paragraph 47 of the NPPF includes the provision that local planning authorities should use their evidence base to meet the full objectively assessed need for affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework.
112. The SHMA identifies an affordable housing need for 5,800 dwellings from 2013 to 2031. The Housing Topic Paper 2016 [SUB 005] identified a supply of 5,350 affordable dwellings from completions, commitments, allocated sites, broad locations and local needs housing on exception sites. In the Erratum [Document SUB 005(A)] that figure has already required downward revision to 4,961 because of the effect of the recent reintroduction of revised Government policy to raise the threshold for the size of developments where affordable provision is to be required.
113. The figure will require further downward revision to reflect other changes in supply including a reduced supply of housing from the 'Broad Locations' within the Local Plan period. In particular, the reduced supply from the Lenham and Invicta Park Barracks Broad Locations later in the plan period would significantly reduce the number affordable dwellings from this source within the Local Plan period (from 1,182 to about 550). That alone would reduce the anticipated supply of affordable dwellings from 4,961 to 4,411. However there will be an opportunity at the plan review stage to identify further provision from alternative allocations. Moreover additional supply is also expected from the activities of registered providers of social housing.
114. What effect a redefinition of affordable housing to include starter homes may have is uncertain and awaits further Government guidance. The SHMA Update also refers to the significant role of the private rented sector in Maidstone. Those who cannot obtain a mortgage sufficient to purchase in the open market are likely to resort to private rented housing and will pay a market rent. Housing benefit may be available to some of those renting in the open market. However this is correctly not relied upon in the plan as part of the supply of affordable housing.
115. The reduced supply from the Broad Locations would be felt mainly in the final years of the plan period when overall housing supply will also reduce. However this is a matter that can be addressed at the Local Plan review stage by further allocations. In the meantime the reduced figure includes the maximum amount of affordable housing that can be expected from sites taking into account national policy on thresholds and development viability.
116. The national Planning Practice Guidance advises that an increase in the total housing provision in the plan should be considered where it could help deliver the number of affordable homes that is needed. However to delay the adoption of the Local Plan whilst additional site allocations were sought would risk harming the delivery of both market and affordable homes. Moreover the Local Plan already makes provision for an upward step change in delivery in the early years of the Local Plan period and any additional delivery would be unlikely to come

forward until later in the Local Plan period. Any such increase in provision is thus a matter that would be better addressed as part of the overall assessment of housing need for the proposed review of the Local Plan.

117. As councils and housing associations are limited in their ability to borrow to fund direct provision of affordable housing, there is heavy reliance on the private sector to deliver affordable housing as part of a mixed development with market housing for which provision is made in the plan. One consequence that was pointed out by some Representors at the hearings is that provision of affordable housing in rural settlements may exceed current identified needs within those settlements. Those from other parts of the Borough who are in need of affordable housing would need to relocate to those rural settlements in order to access it. Moreover the plan seeks a higher proportion of affordable housing in rural areas where property values are higher and the inclusion of affordable housing is more viable. Where affordable housing is defined as that with a 20% discount on market rents or house prices then it may be as expensive as housing in other parts of the Borough such as in Maidstone town where market values are lower.
118. However the viability evidence shows that a greater proportion of affordable dwellings cannot be achieved on developments in Maidstone town. Moreover affordability is a more pressing issue in the higher value rural settlements. To reduce provision there would likely reduce overall provision across the Borough as well as preventing the rural settlements from being balanced communities.

Conclusions on Housing Need

119. In relation to the issue identified above it is concluded that:
- the objectively assessed need for housing has been appropriately assessed;
 - the plan is positively prepared in that it is based on a strategy which seeks to meet that objectively assessed need for housing and there is not at this time a need to provide for unmet requirements from neighbouring authorities - although that position will require review during the life of the Local Plan as provided for in **MM60**;
 - the likely shortfall in affordable housing provision against identified needs would occur in the later part of the plan period and is capable of being addressed at the review stage against an updated OAHN assessment (**MM60**) insofar as it relates to housing allocations and measures within the control of the local planning authority;
 - whereas the overall boost to supply compared to past delivery rates would be likely to improve affordability, the addition of a further 5% to supply as a response to market signals is unlikely to be effective and is not justified or the most appropriate strategy given the environmental and infrastructure constraints and would make the plan unsound;

Housing Supply

Issue 12 – Whether the proposed supply of market and affordable housing would be deliverable over the plan period (including the maintenance of a 5 year supply of housing land) and is otherwise justified, effective, and consistent with national policy

Issue 13 – Whether there are constraints on the supply of suitable sites that would justify a lower housing requirement which would not meet or exceed the OAHN

120. Paragraph 159 of the NPPF provides amongst other things that local planning authorities should prepare a Strategic Housing Land Availability Assessment (SHLAA) to establish realistic assumptions about the availability, suitability and likely economic viability of land to meet the identified need for housing over the plan period.
121. The Housing Topic Paper [Document SUB 005] describes the action taken which includes the SHLAA that was incorporated in the Strategic Housing and Economic Development Land Availability Assessment (SHEDLAA) published in January 2016.

Housing Land Availability and Constraints

122. The submitted Local Plan seeks to meet the identified housing need in full. That would be positive and consistent with the aims of national policy to seek such provision of housing where reasonable to do so and consistent with achieving sustainable development according to policies set out in the National Planning Policy Framework.
123. Many representations on the submitted Plan have alleged that the Borough lacks the capacity to meet the identified housing need. Reference is made both to earlier draft versions of the Local Plan which sought to make provision for a lesser amount of housing and to previous policy to avoid housing development on greenfield land.
124. It is true that at a time when the policy requirement for housing in Maidstone Borough was significantly lower than the currently assessed Objectively Assessed Housing Need, and when there was an increase in the development of apartments on urban sites, the Council was able to operate a moratorium on greenfield development which prevented the release of some greenfield sites that had been allocated in the previous Local Plan. However that position is no longer sustainable if the identified need for housing is to be addressed.
125. The submitted Local Plan still includes significant redevelopment of brownfield land, especially in the town centre. However the SHEDLAA demonstrates that the amount of such brownfield land that is available for redevelopment falls well short of the assessed housing needs and means that development on greenfield sites is also needed.
126. Maidstone town is the main settlement with the most facilities including the best transport connections. However there are physical constraints on its expansion which include the proximity to the Borough boundary to the west, the presence of the River Medway, and the physical barrier created by the M20 motorway to the north.

127. Unlike in much of West Kent, the Green Belt covers only a small part of Maidstone Borough. It therefore does not represent a significant constraint on development across the Borough. Outside Maidstone town the main potential constraints of relevance to national planning policy are rather:

- landscape (especially the Kent Downs AONB and its setting);
- transport and other infrastructure;
- agricultural land quality;
- flood risk; and
- the natural and historic environment.

In some instances national policy provides for a sequential approach to site selection (such as where there is a flood risk or where land is of agricultural value). Other policy tests also provide in various ways for the weighing of any adverse impacts with any public benefits.

128. Whilst development constraints are relevant considerations in Framework policies, they do not in this case preclude all housing development or create a fixed capacity limit for the Borough. Rather it is necessary to assess locations individually and to apply judgements as to the impact of development including whether any significant adverse impacts can be adequately mitigated to allow development to proceed.

129. Because consideration of the relevant constraints involves judgements, there have been inevitable disagreements in the assessments of impacts as between the Council and those making representations on the Local Plan including those participating at the hearings. In some case this Report has identified constraints which would prevent or limit the contribution of particular sites to housing supply unless satisfactory mitigation can be identified. Some issues remain to be addressed at the review stage. However the overall aim to meet the identified housing need in full remains sound and achievable.

130. In order to maintain a supply of housing and other land to meet identified needs, a significant proportion of the sites proposed for allocation in the submitted Local Plan are already the subject of either a full or outline planning permission or are the subject of resolutions to grant planning permission subject to the completion of a legal planning obligation.

The Housing Trajectory and the 5 Year Housing Land Supply

131. The revised housing need figure of 17,660 dwellings over the plan period would equate to 883 dwellings each year on average. As delivery in the first 5 years of the plan from 2011 to 2016 was at a lower rate there is an existing supply shortfall which needs to be made up. The national Planning Practice Guidance advises that, where possible, this backlog should be made up in the first 5 years of the plan period (also known as the Sedgefield Method). The trajectory on page 291 of the submitted Local Plan seeks to reflect this.

132. That trajectory also takes account of the 5% buffer sought by paragraph 47 of the National Planning Policy Framework whereby supply is brought forward from

later in the plan period. Some have argued for the application of a higher 20% buffer on the basis of alleged persistent under delivery of housing in the past. I disagree. Past delivery overall has exceeded the previous housing targets set out in the South East Plan and it would be unreasonable to apply retrospectively to earlier years the higher housing need figures that were only identified as recently as 2014.

133. Nevertheless, the combination of:

- a much higher housing need figure than the previous housing target;
- the Sedgefield method of addressing the backlog over only 5 years; and
- the 5% buffer

together lead to a trajectory which oscillates from a past low rate of delivery against currently assessed needs to a short term very high and likely unachievable rate before reverting to a low rate of delivery later in the plan period. The latter low rate is exacerbated by a heavy and unrealistic reliance on high rates of delivery over a short period from 2 identified Broad Locations for housing development. There is also some evidence of likely slippage in the delivery of some allocated sites earlier in the plan period.

134. There is therefore a strong case for seeking a smoother and more realistic rate of delivery over the plan period. That would also provide more regular local employment in construction as a contribution to the identified need for additional employment in the Borough to accompany the uplift in housing provision. Such a smoothing of the trajectory would be most readily achieved by addressing the existing backlog over a 10 year period from April 2016 rather than over 5 years as proposed in the submitted plan. To reflect the recommended main modifications to the housing allocations and broad locations the Council has prepared a revised housing trajectory. This indicates the anticipated relative smoothing of housing delivery in the 10 year period from 2016 to 2026 which results in part from spreading the existing backlog over the 10 years from 2016 to 2026.

135. However should an updated SHMA show an increased need for housing by the time of the Review of the Local Plan then there would be an opportunity for additional allocations on a greater variety of sites in the latter part of the plan period and the opportunity to address the identified shortfall in affordable housing provision. If sufficient sites cannot be identified then the matter would need to be pursued through the duty to cooperate.

136. The recommended smoothing of the trajectory would strengthen the 5 year supply position as at 1 April 2016. Document ED 116 indicates that there would have been a five year supply of 6,666 dwellings at that date which would represent a surplus of 1,211 dwellings over the 5 year land supply target or 6.11 years of supply. That many additional planning permissions have been granted since that date indicates that the 5 year supply should also be strong at 1 April 2017 and in subsequent years. Indeed the Council has subsequently calculated that the 5 year housing land supply position at 1 April 2017 equated to 6.3 years [Document ED145]. The 20 year supply from 2011-2031 is also calculated by the Council to be in surplus based on the figures at 1 April 2017 [Document ED146] whereas there was a small deficit at 1 April 2016. Nevertheless I am not in a

position to endorse the calculations at that 1 April 2017 date which have not been tested in the examination. The Local Plan should therefore continue to use the 1 April 2016 base date as set out in **MM1** to include the modifications that are made necessary by the revised approach to housing land supply that is recommended in this report.

137. If the predicted delivery rates from allocated and windfall sites are realised, and if the 5% allowance for non-implementation is included, the overall supply of housing across the plan period (after the recommended modifications) would fall just short of the revised need figure of 17,660 dwellings. That should not present problems for maintaining a five year supply in the early years of the plan. However the more realistic delivery rates for the broad locations mean that the trajectory indicates a reduced rate of house building and supply in the final 5 years of the plan period. Before then there would need to be a revised assessment of housing needs which would be likely to require additional allocations at the review stage of the Local Plan.

Conclusions on Housing Supply

138. In relation to the issues identified above it is concluded that:

- the submitted plan is unsound in that it is unlikely to be effective in delivering the proposed supply of market and affordable housing owing to the dramatic fluctuations in delivery that the trajectory indicates and which arise from the attempt to deal with the delivery backlog in 5 years;
- there are specific issues with individual housing allocations and the broad locations which are addressed elsewhere in this report and which would reduce the overall supply of housing; however the acknowledged constraints on the supply of suitable sites are not such as to justify a lower housing requirement than the objectively assessed housing need;
- with the recommended modifications the total supply of housing in the Local Plan would be 17,575 which would represent only a negligible deficit against the revised OAHN of 17,660. That deficit does not need to be addressed now by selecting additional sites from amongst those alternative or omission sites that Representors have put forward as there is an adequate 5 year supply of housing. However the OAHN should be reviewed as part of the recommended review of the Local Plan and when the position on housing supply will be clearer in the surrounding area and in London. There is likely to be an increased need for housing in the latter years of the Local Plan period including a need to address the shortfall in affordable housing against needs, a need to increase supply in those years to address affordability issues, and to avoid over-reliance for delivery on only 2 broad locations.

139. The main modifications issued for public consultation included modifications to the text at paragraph 4.3 to update the figures for the number of homes that had been built by 1 April 2016 and the number with planning permission. The Council has since acknowledged that the latter figure includes some sites with a resolution to grant planning permission but where the permission had not been issued at that date. This needs to be clarified by additional wording which is now included in **MM1**.

140. A typographical error in the final sentence of paragraph 4.3 also requires correction and would clarify that the target for adoption of the Local Plan Review is April 2021 as also set out in **MM60**.
141. In conclusion the plan can be made sound by dealing with the delivery backlog over 10 years instead of 5, removing the 5% uplift for market signals, and by providing for a review of the plan by 2021. That review would include issues of housing need and supply in the later years of the plan period such as : consideration of the latest housing projections; the need for affordable housing; any newly identified needs arising under the duty to cooperate; whether market signals then indicate a need for additional housing delivery; and the maintenance of a 5 year supply of housing land. These measures are included in main modifications **MM1** and **MM60**.

MATTER 6 - SOUTH EAST MAIDSTONE STRATEGIC DEVELOPMENT LOCATION

Issue 14 – Whether the strategic development location is justified as part of the most appropriate strategy

142. Policy SP3 of the submitted Local Plan proposes a Strategic Development Location in South East Maidstone as a major contribution to the overall supply of housing. This would comprise 6 housing sites on either side of the A274 Sutton Road. A key issue for these sites concerns highways and transport infrastructure. Some Representors including Kent County Council consider inadequate transport infrastructure to be a constraint that makes this location unsuitable for that development.
143. The Local Plan needs to be consistent with national policy in the NPPF where paragraph 32 provides amongst other things that plans and decisions should take account of whether *'the opportunities for sustainable travel modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'*.
144. The Local Plan is also required to have regard to the Kent County Council Local Transport Plan. The Local Transport Plan for Kent 2011-2016 [Document ORD 013] (LTP3) provides that the Maidstone Transport Strategy and an Integrated Transport Programme: *'will be driven by the desire to preserve and enhance the accessibility of Maidstone town centre by sustainable means. The proposed level of development will be underpinned by a package containing a number of traffic management measures including the enhanced provision and priority of bus services through the Maidstone Quality Bus Partnership involving the County and Borough Councils along with the town's principal bus operator, Arriva. These priorities will drive scheme delivery irrespective of the future development scenario, with the detail and phasing dependent on the specific sites that come forward through the Local Development Framework'*.
145. The Implementation Plan for the LTP3 theme of a *'Safer and Healthier County (2011-2016)'* identifies as the sole method of air quality management proposed in LTP3: *'Provision of bus priority and traffic management measures to reduce congestion and improve traffic flow in Air Quality Management Areas.'*

146. Whilst the LTP3 Local Transport Plan refers to the then draft target of 10,080 dwellings in Maidstone Borough, that figure referred only to a plan period ending in 2026, not 2031. The submitted Local Plan seeks to provide housing for a further 5 years. In any case the LTP3 Local Transport Plan states that the priorities will be retained irrespective of the future development scenario.
147. It is acknowledged that the Local Transport Plan 2011-2016 (LTP3) is due to be replaced by the Local Transport Plan 4 2016-2031 (LTP4) which is currently at draft consultation stage [Document TRA 034]. The draft LTP4 plan contains much less detail than LTP3. Nevertheless it does set out outcomes which include measures to:
- improve air quality;
 - reduce congestion and improve journey time reliability; and
 - to promote affordable, accessible and connected transport.

A relevant Countywide priority in LTP4 is to provide: *'Increased access to jobs, education and health by public transport, providing opportunities to Kent's residents without the need for a private car and therefore reducing road congestion'*. An integrated transport package remains a priority for Maidstone in LTP4.

Traffic Congestion

148. Maidstone as a whole currently experiences unusually high rates of car ownership and use. Car use is encouraged by the town's close proximity to the motorway network with 4 motorway junctions along the town's northern edge. The radial routes that converge on the town centre gyratory system from all directions (including from the motorway) already experience congestion, particularly in the peak hours. These routes include the A229 to the south of the town centre and the A274 which diverges from the A229 to serve South East Maidstone and the rural area beyond. In South East Maidstone there is also congestion in the side roads that connect the A274 and to the A20 and M20 to the north of the town, avoiding the town centre. Congestion on the A274 also affects bus services including the high frequency bus route that already connects South East Maidstone to the town centre and which is to be improved with direct connections to the railway station. Congestion hampers the reliability and attractiveness of that bus service to both existing and potential users. Peak hour congestion here also affects the bus services used by school pupils and others who travel into Maidstone from the rural areas to the south and east.
149. The NPPF seeks cost effective mitigation of the significant impacts of development and the taking up of opportunities for sustainable travel modes to reduce the need for major transport infrastructure.

Sustainable Travel Modes

150. The issue of congestion in the A274 Sutton Road is not new. When the current Local Plan (ORD 048) was adopted in 2000 it included 2 large greenfield sites (H3 and H8) for development adjoining Sutton Road. Those sites are similar to sites H1(5) and H1(6) in the submitted Local Plan and which are part of the SP3 strategic site allocation. To address congestion in the area the 2000 Local Plan

included both a proposed bus lane along Sutton Road and an improved road link from the A274 to the A20, bypassing the villages of Langley and Leeds. Neither measure has been implemented apart from a very short bus lane close to The Wheatsheaf junction. In promoting bus priority measures the 2000 Local Plan at paragraph 6.12 noted the success of the bus priority measures which had then recently been introduced on the A20 London Road corridor.

151. Planning permissions for the H1(5) and H1(6) sites were granted in 2014. Both sites are now under construction and they will together provide some 886 dwellings. Following a Transport Assessment each planning permission gave effect to a unilateral planning obligation under Section 106 of the Town and Country Planning Act 1990. This included a financial contribution to highway mitigation works on the A274 which included both road capacity improvements and measures to encourage sustainable travel modes. The works included:

- bus stops;
- highway widening;
- bus prioritisation measures on the A274 between the Willington Street Junction and the Wheatsheaf junction; and
- junction capacity improvements in the vicinity of Willington Street and Wallis Avenue.

The need for such works had been identified in the adopted Local Plan and in Transport Assessments for each site.

152. Those works include an identified opportunity for sustainable transport which is consistent with paragraph 32 of the National Planning Policy Framework. Bus priority on the A274 Sutton Road would accord with those LTP3 priorities.

153. Bus prioritisation by means of an extension of the existing short bus lane on the A274 Sutton Road would improve the reliability and speed of the bus service during congested periods and make it a more attractive mode of travel to the town centre and the railway stations as an alternative to car use. Bus priority on Sutton Road has been included in the adopted Local Plan since 2000 under saved Policy T2. The planning obligations would have been taken into account as highways mitigation when the planning permissions were granted.

154. The installation of an extended bus lane in Sutton Road would certainly qualify as a sustainable transport mode which has previously been identified as suitable in this location. Its installation would be cost effective in that developer funding is already available. It would accord with the objectives of the adopted Local Plan and both the current and emerging Local Transport Plans. It has been relied upon as mitigation for the already permitted developments.

155. Similar existing bus lanes have previously been installed by Kent County Council on the A20 London Road (and on part of the A274 itself). As is already the case with the London Road bus lanes, a lack of space on the highway network means that the extended A274 bus lane would not extend all the way into the town centre. However the main local bus company confirmed to the examination that the existing and proposed bus lanes are, and would be, effective in making bus

journeys faster and more reliable, thereby encouraging the use of buses as an alternative to cars and making more efficient use of road space.

156. The Examination was informed that payments for the works specified in 2014 in the above S106 obligations have already been made to Kent County Council as the local highway authority. However the County Council has stated that, whilst it supports the junction capacity improvements it will not implement the bus prioritisation measures on the grounds that they would disadvantage other road users. The County Council is seeking instead to divert the relevant funds from the provision of bus priority measures as set out in the relevant Section 106 obligations to instead pay for exploratory work to develop a case for a new road from the A274 to the A20, which it would join in the vicinity of Junction 8 of the M20 and which is known as the Leeds-Langley Relief Road.
157. Of the remaining 4 sites in the SP3 allocation, H1(9) has planning permission and sites H1(7) and H1(10) are the subject of resolutions by the Borough Council to grant planning permission subject to the completion of S106 planning obligations which would also include transport mitigation payments. These would include:
- additional contributions to bus priority measures,
 - the provision of new bus services connecting South East Maidstone to railway stations (including the main Maidstone East station which is to be a Thameslink terminus), and
 - various junction capacity works including signalisation to address congestion at Junction 7 of the M20.

There is no application as yet on the fourth housing site - H1(8).

158. Kent County Council has not objected to the allocation of sites H1(5) and H1(6) which in any event are already committed on the basis of the above mitigation measures which I am satisfied would be effective and which would accord with:
- long-standing saved policies of the adopted Local Plan;
 - the Borough Council's adopted Integrated Transport Strategy 2011-2031 (September 2016);
 - the sustainable travel objectives of the County Council's own Local Transport Plan 3 - 2011-2016;
 - the similar objectives of the County Council's emerging Local Transport Plan 4; and
 - paragraph 32 of the National Planning Policy Framework.

159. To divert those funds to a study of a relief road would at best delay mitigation by up to 10 years and at worst may result in no mitigation if that road does not go ahead. Neither would that road promote sustainable travel or provide significant transport capacity for movements between South East Maidstone and the town centre.

160. The County Council has suggested that a bus lane would disadvantage other road users but has not produced substantive evidence to that effect. Not to implement bus priority measures on these grounds would be to prioritise other road users, and specifically motorists, over bus users which would contravene declared LTP3 or LTP4 priorities whilst failing to achieve the reduced congestion and improved air quality which are objectives of those local transport plans. In any event the A274 Corridor Study prepared for the Borough Council demonstrates that a bus lane can be provided almost entirely within the existing highway land whilst maintaining one running lane in each direction for other traffic as at present. A bus lane would enhance the speed and reliability of bus services and provide a strong incentive for modal shift from car to bus use that would benefit all road users including other car drivers. The A274 Corridor Study also considered additional bus priority measures to the north of The Wheatsheaf junction. However by reducing the number of lanes available for other traffic there those measures would risk greater congestion and the benefits are less certain. They are not recommended here.
161. The County Council has objected to the allocation of the remaining four sites within the SP3 Strategic Development Location. This is on the grounds that their interpretation of transport modelling is that after mitigation the residual cumulative impacts of development would remain 'severe'. That modelling included a series of junction improvements but did not include any bus priority measures. The Borough Council disagrees that the impacts would be severe.
162. There is no national definition of what may constitute a severe impact. The Secretary of State's decision in relation to the New Line Learning appeal in Boughton Lane (see below) does not provide such a definition. That decision related to a particular development with access to the A229 and where adequate mitigation had not been identified. The decision has in any event been quashed. New transport evidence was to be presented to the Secretary of State when the appeal was redetermined. However the appeal was withdrawn in March 2017.
163. Whilst the various Sutton Road developments would generate additional traffic movements, some mitigation measures have been agreed by the County Council to increase junction capacities, including at the junctions of Sutton Road with Willington Street and Wallis Avenue, as well as measures elsewhere in the town including at the north end of Willington Street and at Junction 7 of the M20. These should at least partially mitigate an increase in car traffic. However additional measures are needed to encourage sustainable alternatives to car use within Maidstone, and especially bus use, if the Local Plan is to be consistent with national policy in paragraph 32 of the NPPF to take up the opportunities for sustainable travel modes. In particular **MM18** would add bus access to allocation H1(5) and **MM6** would again provide for the Sutton Road bus lane to support all of the Policy SP3 allocations including those which have already been granted planning permission on the basis that bus priority would be provided.

Leeds-Langley Relief Road

164. The County Council again wishes to develop a case for constructing a new road between the A274 and the A20 which would by-pass the villages of Leeds and Langley and provide relief to existing roads (including Willington Street and the B2163) with potential environmental benefits as well as reduced congestion in those roads. Modelling suggests it may also reduce the number of cars heading

through the town centre to destinations beyond the town. However it would not otherwise increase the capacity of routes for journeys between South East Maidstone and the town centre.

165. Such a new road was included in the adopted Local Plan 2000. Policy T18 had expected that a Leeds Langley Heath Bypass would be implemented during the period of that Local Plan, but that has not happened. Such a road was also considered subsequently in the context of a proposed new settlement outside the town to the south east. However proposals for a new settlement with that road were later abandoned for reasons which included the difficulty of identifying funding for the road, which remains an issue today.
166. The Leeds-Langley Relief Road has yet to be justified or designed and it is not included as a proposal in the submitted Local Plan. The road is referred to at paragraphs 17.125 and 17.126 which however point out that the case for justification and delivery lies with the County Council as the highway authority. KCC estimate the cost at £50-£80 million pounds. The scale of the road scheme would qualify it as an item of major transport infrastructure in the terms of paragraph 32 of the NPPF. The matter is to be reconsidered as part of the first review of the Local Plan. Whereas paragraph 17.126 referred to that review commencing by 2022, I recommend below that it should be completed by April 2021 to address a number of issues of which the Relief Road is one.
167. Several alternative routes have been proposed in the past and no route for a road has been selected. The Borough Council is generally supportive but funding the road would remain a significant challenge even if there were to be a contribution from further major development that is not included in the submitted Local Plan.
168. Even with sufficient funding, the County Council advised the examination that the earliest date at which such a road could be brought into use would be 2027. In any event it would be unlikely to be delivered until very late in the plan period or even outside the plan period. It would thus not mitigate the transport impacts of development that has already been permitted or otherwise support the provision of housing that is needed in the shorter and medium terms. To delay that housing on the basis that a new road could be a possibility would not be justified when other measures (including those to encourage more sustainable travel) are already available to mitigate transport impacts within a much shorter time frame for implementation.

Conclusion on Transport in South East Maidstone

169. The development proposals in the submitted plan already incorporate measures to mitigate the travel impacts. These include highway capacity improvements and improved bus services (including direct links to railway stations). If these measures are further supported by the bus access and bus priority measures, the impacts on congestion need not be severe. Air quality issues are capable of being addressed by these and other measures, including by action at national level.
170. In conclusion the Policy SP3 South East Maidstone Strategic Development Location will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective. However the concentration of development close to the town does allow alternative and more sustainable means of travel to be made available.

That is less likely to be the case were the housing to be located away from the town in another part of the Borough where residents would still need access to employment and services in the town.

Other Matters

171. In addition to the traffic issue, Representors have raised a number of other concerns about the Policy SP3 strategic allocation. These include:

- the loss of greenfield agricultural land and countryside;
- the reduced separation of Maidstone from rural settlements; and
- associated impacts on the area's character, appearance and biodiversity.

172. Greenfield allocations in the countryside are needed in order to meet the identified needs for development that cannot be accommodated only on brownfield urban sites. An expansion of the urban area inevitably will reduce the distance to other settlements but the proposed allocations maintain suitable separation. The other impacts have been suitably assessed by the Council. However for the allocations to be justified as part of the most appropriate strategy and consistent with national policy for the provision of infrastructure and the protection of heritage assets, some modifications are needed to the site allocations. In particular these relate to some infrastructure, education and open space provision and to the setting of a listed church in Church Road which adjoins H1(8). The necessary changes are included in main modifications **MM18** and **MM19**.

MATTER 7 - OTHER SOUTH MAIDSTONE ALLOCATIONS (ALSO INCLUDING BOUGHTON MONCHELSEA)

Issue 15 - Whether the Boughton Lane housing allocations are justified as part of the most appropriate strategy and would be consistent with national policy on transport impacts.

173. Traffic congestion is also a key issue for housing allocations that would rely on access to the A229 road which joins the A274 at The Wheatsheaf junction. In particular this relates to allocations H1(29) New Line Learning and H1(53) Boughton Lane. Both sites would be served from the northern end of Boughton Lane which joins the A229 at its junction with Cripple Street (also known as The Swan junction) to the south of The Wheatsheaf junction. In the submitted Local Plan these sites are proposed for allocation for 220 and 75 dwellings respectively.

174. In 2014 the H1(29) site was the subject of a refused planning application for 220 dwellings. The appeal Inspector recommended, and the Secretary of State agreed in early 2016, that the appeal should be dismissed for reasons which included that the proposed development would have a severe adverse impact on the highway network in terms of congestion and inconvenience to local residents and other road users and on the strategic transport planning of the area generally, contrary to the aims of paragraph 32 of the National Planning Policy Framework (APP/U2235/A/14/2227839). That decision was subsequently quashed for unrelated reasons. As Highway Authority, Kent County Council did not object to the original application but has stated that it would have objected to the proposal when the appeal was redetermined. However, following the

publication of my interim findings (which proposed the deletion of this allocation for similar reasons to those set out here), the appeal was withdrawn and the Inquiry has been cancelled.

175. Compared to that appeal scheme the H1(29) allocation including the proposed changes would reduce the dwelling numbers and amend the access arrangements within Boughton Lane. A scheme to alter The Swan junction has also been investigated as a means of improving its capacity. The Borough Council has also proposed the addition of a policy criterion relating to capacity improvements at The Wheatsheaf junction. However one scheme to improve capacity by restricting access to the Cranborne Avenue arm of that junction has already been rejected. The alternatives would require acquisition of private land to extend the highway, road widening, and the relocation of services - which measures have not been agreed by the highway authority. Kent County Council as Highway Authority now objects to the proposed allocation on the basis that the mitigation would not be sufficient to avoid a severe impact and it has particular safety concerns about the proposed Swan junction improvements.
176. The A229 already carries more traffic than the A274 and is also likely to attract additional movements due to development at villages to the south of Maidstone and the withdrawal from the Local Plan of proposals for a park and ride site at Linton Crossroads which would have diverted some trips. Unlike the A274 road there is insufficient room within the highway to create bus priority measures that would encourage modal shift. A lack of capacity at The Wheatsheaf junction is likely to contribute to queues backing up and obstructing the Swan junction. Moreover Boughton Lane is itself already anticipated to carry significantly more traffic due to school expansion.
177. In all of these circumstances I do not consider the allocation of the H1(29) site to be sound. The H1(53) site is proposed for 75 dwellings which would also generate significant movements in the northern part of Boughton Lane. Without adequate identified mitigation that allocation is also unsound and that site allocation should also be deleted.
178. The H1(54) Boughton Mount site is a brownfield site for only 25 dwellings. It was included on a list of sites in South Maidstone to which the Highway Authority objected in its letter of 16 December 2016. However it would generate fewer traffic movements than the H1(53) site to which the Highway Authority did not then object and some movements would have been generated by the site's previous use. The allocation should be retained but renumbered as H1(52).
179. Another site H1(55) for 40 dwellings at the junction of Church Road and Heath Road in Boughton Monchelsea may also generate additional movements on Boughton Lane. However traffic from that site has the opportunity to disperse to other routes and is likely to do so depending upon congestion levels on each route. Its development has not been objected to by the highway authority in relation to traffic impacts. This allocation should also be retained.

Conclusions

180. Having regard to the previous conclusions of the Secretary of State concerning development in Boughton Lane and because adequate mitigation measures for the impact on the A229 have not been demonstrated, I conclude that allocations H1(29) and H1(53) are not justified as part of the most appropriate strategy and

their severe highways impacts would not be consistent with national policy in paragraph 32 of the NPPF. The allocations would make the plan unsound and should be removed from the Local Plan in accordance with main modifications **MM22** and **MM26**.

181. As the development proposed in the deleted allocation H1(53) is also part of Policy SP12 Boughton Monchelsea there would be a consequential change to the housing numbers and open space provision as set out in main modification **MM9**.

MATTER 8 - POLICY H2 BROAD LOCATIONS FOR HOUSING DEVELOPMENT

Issue 16 – Whether the broad locations housing developments would be consistent with national policy in that there is a reasonable prospect that they are in a suitable (broad) location and could be viably developed at the point envisaged.

182. Paragraph 45 of the National Planning Policy Framework provides amongst other things that local planning authorities should identify a supply of specific deliverable sites sufficient to provide five years' worth of housing and to '*identify a supply of specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15*'. Footnote 12 provides that: '*To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged*'.
183. The submitted Local Plan relies on 3 Broad Locations for the delivery of 3,500 dwellings. However there are issues relating variously to the suitability, availability and viability of these locations for the amount of development proposed.

H2(1) Town Centre Broad Location

184. The submitted Local Plan defines the whole of Maidstone town centre as a Broad Location for approximately 700 dwellings. During the examination the Council clarified that this figure would not include the other specific housing allocations proposed within the town centre and that neither would it include all windfall development. Following more detailed investigation the Council has also proposed a change which would reasonably increase the estimated number of dwellings from 700 to 990 such that the total delivery from all 3 Broad Locations would rise from 3,500 to 3,790 dwellings.
185. The town centre covers a large area and development could take a variety of forms, including high density and mixed development schemes. There is thus some uncertainty about how and where this housing would come forward if its location is not further defined. It thus has not been demonstrated that this Broad Location is developable in the terms of the NPPF and it is thus not consistent with national policy.
186. In further evidence to the examination the Borough Council has agreed that the policy should be modified so that delivery is concentrated firstly on 2 locations where change is anticipated in the plan period – The Mall and the Riverside Quarter. Both were previously identified in the Town Centre Study [Document CEN 002]. For consistency with paragraph 157 of the NPPF the Broad Location should be indicated on the key diagram as proposed by **MM2**. The other main source of supply of town centre housing would be through office to residential

conversions. These would typically come forward through the prior notification process as permitted development. The scope for such development has previously been identified in Document ECON 002 and has already been demonstrated by a stream of prior notification applications. The residual 50 dwellings on unidentified sites in the town centre should be removed from the Broad Location and added to the windfall allowance. That would avoid the risk of double-counting.

187. I conclude that for the H2(1) Town Centre Broad Location to be shown to be developable and consistent with national policy it should be modified in accordance with **MM30** to:

- increase the amount of housing to 940 dwellings from the 700 proposed in the submitted Local Plan; and
- focus on the 2 areas of The Mall and the Riverside Quarter within which redevelopment is expected to deliver additional housing together with an allowance for office to residential conversions elsewhere in the town centre; and
- 50 units should be added to the Borough wide windfall allowance in respect of other development on unidentified sites in the town centre that was previously part of the Broad Location allowance.

H2(2) Invicta Park Barracks Broad Location

188. The second Broad Location identified for housing development in the submitted Local Plan is the Invicta Park Barracks site which at present remains in operational use. At the date of submission it remained uncertain whether the Invicta Barracks site would become available for development within the plan period. However the Ministry of Defence has since announced that the Barracks are to close in 2027. This is a brownfield site in a sustainable location. However it is improbable that all 1,300 dwellings proposed on the site could then be delivered between 2027 and the end of the plan period in 2031. A more realistic figure would be 500 dwellings for which a detailed site allocation policy can be left to the Local Plan Review. However there is likely to be additional delivery on that site beyond 2031. The amount and timing of that development would be a matter for the review of the Local Plan, should that review extend the plan period beyond 2031.

189. For consistency with paragraph 45 and Footnote 12 of the NPPF and for effectiveness in housing delivery, I conclude that the H2(2) Invicta Park Barracks Broad Location should be amended in accordance with main modification **MM31** as only 500 of the anticipated 1,300 dwellings are likely to be delivered within the Local Plan period. For consistency with paragraph 157 of the NPPF, the Broad Location should also be indicated on the Key Diagram in accordance with MM2.

H2(3) Lenham Broad Location

190. Lenham is unusually well provided with services and facilities including shops, primary and secondary schools, a railway station and direct access to the A20. It is also in a housing market area which overlaps with that of Ashford. The submitted Local Plan consequently proposed Lenham as a Rural Service Centre and as a Broad Location to deliver 1,500 dwellings in only 5 years between 2026

and the end of the plan period in 2031. Nevertheless development on that scale would represent a very substantial increase in the size of the village. Whilst there are direct rail services to Maidstone, Ashford and London, the speed and frequency of the rail service is inferior to that on other lines. The village is relatively distant from both Maidstone and Ashford where there would be competing housing developments. Whilst there is some evidence of demand for housing at both Lenham and neighbouring Harrietsham, I nevertheless consider it improbable that housing could be delivered in Lenham at a rate as high as the 300 dwellings per annum implied by the policy.

191. There is no reason to delay delivery until 2026 as was proposed in the submitted Local Plan. However, as there is an available supply of planning permissions and proposed allocations in both Lenham and nearby Harrietsham to address short term needs, neither is it necessary or appropriate to bring development forward sooner than 2021, particularly as there are expected to be infrastructure constraints to be addressed including sewerage and waste water treatment capacity and the need for a new primary school.
192. To avoid double-counting the Council has agreed that 2 existing permissions for sites that were recently granted on appeal at Ham Lane and the Old Goods Yard should be deducted from the Broad Location figure since they represent committed development that would otherwise have come forward later within the Broad Location. That would still leave a need to identify sites for 1,350 dwellings. However I consider that it would remain unrealistic in this village location to deliver even 135 dwellings each year for 10 years. I therefore consider that the Broad Location should be further reduced to 1,000 dwellings, equivalent to delivering 100 dwellings per annum from the Broad Location between 2021 and 2031.
193. There is controversy over where development should be located around Lenham and especially what effect housing development at Lenham would have on the Kent Downs AONB which borders parts of the village to the north. If development is to come forward after 2021 that would allow that the emerging Lenham Neighbourhood Plan can determine what sites should be allocated. In particular it can examine the scope for development south of the railway which the Borough Council no longer opposes in principle.
194. Paragraph 157 of the National Planning Policy Framework provides that Broad Locations are to be identified on the key diagram. In this case the OS-based plan on page 169 includes 2 stars to the east and west of the village which are identified in the key as the Broad Location for development. That is not shown on the plan of the village on page 50. Neither is it indicated on the 'Key Diagram' on page 23. For consistency with national policy and to reflect the Council's revised position **MM2** is needed to modify the Key Diagram to indicate that the village would be a Broad Location but without further identifying where land would be developed and to also include the Town Centre and Invicta Barracks Broad Locations.
195. The above reduction in total numbers would also create more flexibility for the allocation of sites and there is sufficient land available around the village. A Neighbourhood Plan is required to generally conform with the strategic policies of the Local Plan and should not deliver less housing than the strategic policies. Should for any reason the Neighbourhood Plan not progress in identifying suitable

sites it would fall to the review of the Local Plan to make the necessary allocations.

196. Landscape capacity assessments have recommended that sites around Lenham and especially to the east have a low capacity for housing development. However such an assessment by its nature can only consider landscape character impacts within the identified areas and not also the many other considerations that need to be weighed in the planning balance.
197. The Countryside and Rights of Way Act requires that due regard be had to the purposes of the AONB designation when considering development that may affect an AONB. In this case it should not be necessary to develop housing within the AONB boundary. Whilst the duty would require consideration of the effect of relevant development within the setting of the AONB, as would be the case at Lenham, it does not constitute an overriding duty to conserve or enhance all views to and from the AONB without regard to other considerations.
198. Evidence at the examination was that the main concern relates to views to and from the scarp and the Pilgrims Way long distance footpath which passes close to a memorial cross on the hillside. The outward views from here already include the built up area of Lenham, where not screened by trees, and especially the prominent industrial estate to the east of the village. There are also wide and distant views beyond the village as well as across the open foreground within the AONB which would be retained.
199. In that context the identified low landscape capacity east of Lenham means that more housing development can be expected to result in some change to landscape character adjacent to the village and some adverse effect on outward views from the AONB - albeit mitigated by the design and landscaping of the development. Some views towards the AONB and towards the Memorial Cross may also be affected. However views are already restricted in places by buildings and vegetation and important viewpoints can be protected in the design and layout of schemes. Neither does the ability to see development from within the AONB necessarily harm the purposes of the AONB.
200. The H2(3) Lenham Broad Location should be reduced from 1500 to 1000 dwellings to be delivered between 2021 and 2031. That would be a more realistic delivery rate. The reduced total development within the Plan period would also allow more flexibility for the individual site allocations. These allocations would be determined by a Neighbourhood Plan or, by default, in a Local Plan review before April 2021. The plans would need to address any infrastructure constraints. An additional 146 dwellings which would have been part of the Broad Location will now come forward before 2021 as commitments following appeal decisions at Ham Lane and the Old Goods Yard.
201. For the above reasons and to make the Local Plan strategy sound and consistent with national policy, I conclude that main modification **MM32** is needed to comprehensively amend Policy H2(3) Lenham Broad Location and its reasoned justification, including in relation to the timing of development, the role of the Neighbourhood Plan and/or the Local Plan Review in allocating sites, revised dwelling numbers and infrastructure measures.
202. For the same reasons main modification **MM8** is needed to similarly revise Policy SP8 and its reasoned justification.

Overall Position Regarding the 3 Broad Locations

203. The necessary changes to the scale and delivery of the 3 broad locations would have significant implications for their contribution to overall housing delivery as set out in Policy H2 and Table 9.1 of the submitted Local Plan. These need to be addressed by main modification **MM29**. The Broad Locations also need to be identified on the Key Diagram (**MM2**).
204. The overall number of dwellings anticipated at the 3 locations within the plan period would fall from 3,500 to 2,440. However this would not materially affect housing land supply early in the plan period. Whether, as a consequence of this and other modifications, additional allocations would be needed later in the plan period is a matter that can be left to the local plan review.

Lenham Housing Allocations

Issue 17 – Whether the Lenham Housing Allocations are justified as part of the most appropriate strategy

205. Whereas the final siting and allocations for the Lenham Broad Location development would be a matter for the Neighbourhood Plan, or by default the Local Plan Review, the submitted Local Plan also includes proposed housing allocations at H1(42) Tanyard Farm and H1(43) Glebe Gardens.
206. The small H1(43) site is already the subject of planning permission and does not require further consideration here.
207. The H1(42) site is separated from the AONB only by the A20 road. It straddles a right of way that leads from Old Ashford Road up and across the A20 to the Memorial Cross on the Pilgrims Way long distance footpath and from which long views are available. Parts of the proposed site allocation have also been affected by ground water and surface water flows during periods of high rainfall.
208. The H1(42) site would be visible from the AONB, just as the adjacent industrial estate is already visible. However there is scope for mitigation in the design and landscaping of the development to soften the edge of the built development. The site is sufficiently distant from the Pilgrims Way and set at a lower level such that its impact on the wider available views beyond the village would be limited. Views towards the AONB and the Memorial Cross would continue to be available from the right of way that leads through the site and development can be set back from this route to allow broader views. Whilst there would remain some residual effects on views to and from the AONB I consider that these would be outweighed by the benefits of early provision of needed market and affordable housing in a sustainable settlement. The ground water and surface water issues would require detailed assessment through the development management process but there is likely to be a suitable engineering solution.
209. I conclude that the H1(42) Tanyard Farm allocation should be retained in the Local Plan to support housing delivery before 2021. However in order to retain an important vista towards the Kent Downs AONB and the Memorial Cross from the public right of way across the site, development needs to be set back from that route with an associated reduction in dwellings numbers from 155 to 145. Main modification **MM25** would make these changes and is required for consistency with national policy in paragraph 115 of the NPPF to accord great

weight to conserving the landscape and scenic beauty of an AONB. This would here include the appreciation of that landscape when viewed from outside the AONB. The allocation would be renumbered as H1(41).

MATTER 9 – OTHER HOUSING SUPPLY

Issue 18 – Whether the other policies for the supply of housing are justified, effective, and consistent with national policy

Maidstone

210. Several policies for the supply of housing in and around Maidstone town are addressed above. There are also site-specific issues with several of the other proposed H1 housing allocations in and around Maidstone.
211. Policy H1(2) East of Hermitage Lane would not be effective in maintaining an open gap as the relevant land is outside the Borough boundary where the Local Plan has no effect and where decisions concerning development on that land are a matter for the adjoining local planning authority. Main modification **MM17** would accordingly delete that reference.
212. Policy H1(11) Springfield, Royal Engineers Road and Mill Lane proposes a development of approximately 500 dwellings at an average density of 132 dwellings per hectare. Further work has demonstrated that the site could be more efficiently and effectively developed at a higher density. In order for the Local Plan to be effective as the most appropriate strategy, main modification **MM20** would revise the density whilst also drawing attention to the need to avoid development within that part of the site which is in Flood Zone 3a where development would be inconsistent with national policy.
213. In Policy H1(23) North St, Barming, criterion (5) would be ineffective as an incorrect figure was included for open space. Main modification **MM21** would accordingly delete criterion (5). Provisions for open space would remain subject to other policy requirements in the Local Plan.
214. For Policy H1(30) West of Eclipse, Sittingbourne Road, Maidstone the Borough Council has revised its assessment of the site's capacity having regard to the relationship of the site to the adjacent M20. To make more effective and efficient use of the site main modification **MM23** would amend the anticipated number of dwellings from 35 to 50.
215. All of these necessary modifications to relevant H1 and RMX policies for housing allocations in Maidstone Town would marginally reduce the supply of housing from 1,859 dwellings in the submitted Local Plan to 1,846 dwellings. A consequential change to Policy SP1(3) Maidstone urban area is set out in main modification **MM5**. This does not include the recommended modifications of the H2 Broad Locations or the windfall allowances.

Rural Service Centres

216. The situation at the Lenham Rural Service Centre is addressed above.

217. In general the other Rural Service Centres are appropriately identified and the amount of development is suitably related to the existing services and facilities which they possess.
218. At Headcorn, Policy H1(37) Ulcombe Road and Millbank, Headcorn has been subject to an updated assessment of the access and infrastructure requirements including education provision. Changes are needed if the policy is to be effective in housing delivery and are set out in main modification **MM24**.

Larger Villages

219. The other Larger Villages are also appropriately identified as part of the plan's spatial strategy. The amount of development is suitably related to the existing services and facilities which they possess. Where for example Coxheath is proposed for more development than Sutton Valence, it also possesses a wider selection of services and facilities, rivalling the Rural Service Centres (apart from the lack of a railway station but benefitting from closer proximity to Maidstone with reduced travel distances).
220. Nevertheless, the RMX1(4) Syngenta site in the Larger Village of Yalding should be deleted as an allocation for housing or for specified employment use. The site is in a Zone 3a flood risk area and, in addition to the associated risk to the future occupiers, it has not been demonstrated that development would avoid increasing the risk of off-site flooding. The allocation would thus be inconsistent with national policy for addressing flood risk in the NPPF. This would remain a large derelict brownfield site and an eyesore in the countryside. Alternative uses should be sought that would be more compatible with its location in a flood risk area. Accordingly main modification **MM36** would amend Policy RMX1(4) to include deletion of the 200 dwelling housing allocation and 8,600 sq m of employment floorspace whilst still providing that other development which addressed and mitigated the identified flood risk may be possible. Consequential amendments to Policy SP16 would be made by main modification **MM10** which also refers to a need to improve health infrastructure in order for the plan to be positively prepared.
221. The loss of that allocation for 200 dwellings at Yalding does not require immediate replacement as there would be an adequate supply of housing pending the review of housing needs in the intended Review of the Local Plan. However the loss of this site locally emphasises the need to retain the only other housing allocation in this Larger Village in order to maintain a suitable contribution to local and wider housing needs. It is acknowledged that Yalding experiences congestion at peak hours due to the narrowness of the river bridge and because the railway station is on the far side of the river and some distance from the main village. However the limited improvements to transport infrastructure that would have been needed to support the original large scale RMX1(4) housing and employment allocation cannot be justified as essential to support the remaining more modest allocation. Whether any additional housing allocations are needed in the parish later in the Local Plan period is a matter that can be addressed by the emerging Neighbourhood Plan and/or a Local Plan review.
222. The Policy H1(53) Boughton Lane housing allocation at Boughton Monchelsea should also be deleted for traffic impact reasons (see above).

223. Main modification **MM14** is needed as a consequence of the above deletion of the Syngenta and Boughton Lane housing allocations which would be deleted from Table 6.1.

Windfall

224. Windfall housing development concerns housing development that is permitted on sites which have not been allocated in the development plan. Paragraph 48 of the NPPF provides that: *'Local planning authorities may make an allowance for windfall sites in the five year supply of housing if they have compelling evidence that such sites have consistently become available in the area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens.'* It is accordingly reasonable for the Borough Council to allow that windfall may contribute to housing delivery. However the allowance may require adjustment in subsequent reviews according to up to date monitoring information and expected trends.

225. The Borough Council has provided suitable evidence to support its estimate of the contribution to housing supply of windfall development on brownfield sites. It has reasonably excluded a windfall allowance for the early years of the plan as this would risk double counting with existing commitments. It has also reasonably concluded that the number of anticipated windfalls should be reduced in the middle years of the plan period as many sites which in the past could have come forward as windfall development have already been identified through the SHEDLAA and subsequent allocation processes.

226. There is evidence that more development could come forward later in the Local Plan period on sites that have yet to be identified. The effectiveness of the Local Plan and its monitoring is at risk in that there would then be an overlap between the windfall allowance and delivery on small unidentified sites within the town centre which are included in the Broad Location figure. Main modification **MM1** includes 50 windfall units that were previously included in the Town Centre Broad Location figure. The modification also includes an increase in the potential contribution anticipated from dwellings on windfall sites in the final 5 years of the plan period. However, as the Local Plan is to be reviewed at an earlier date, some sites that might have been considered as windfall are likely to be identified in that review process when the intentions of the landowners are known. In that case the windfall allowance for that period would need to be adjusted as part of the review.

227. It is concluded overall on this issue that the above main modifications are necessary for the relevant policies for the supply of housing to be effective and consistent with national policy.

MATTER 10 – OTHER RELEVANT DEVELOPMENT MANAGEMENT HOUSING POLICIES

Issue 19 – Whether the development management policies for housing are justified, effective, and consistent with national policy

Housing Mix

228. Paragraph 156 of the NPPF provides amongst other things that Local Plans should include strategic policies to deliver the homes needed in the area. Paragraph 50 of the NPPF provides amongst other things that local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Paragraph 184 of the NPPF provides that Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area.
229. Policy DM11 'Housing Mix' seeks to give effect to the objective to meet different housing needs. It is strategic in that it sets out matters to be taken into account by the Council and developers to meet the various needs for housing but does not prescribe particular mixes. However it is not clearly identified as part of the plan's strategy and it would consequently not be clear whether Neighbourhood Plans would need to be in general conformity with it. That would risk the effectiveness of the Local Plan in meeting overall housing needs across the Borough. Criterion (5) is also unclear as to what is meant by the Council's role to 'facilitate' the provision of specialist and supported housing for the elderly.
230. Main modification **MM45** would move Policy DM11 into the proposed Strategy chapter of the Local Plan and renumber the policy as SP19. It includes a revision to the reasoned justification to clarify that Neighbourhood Plans can provide flexibility and local context in determining the housing mix whilst still contributing to wider strategic needs which would necessarily include the needs of people moving into the area as well as those of existing residents. In criterion (5) the word 'facilitate' would be replaced by the more readily understood term 'support.' The modification is needed to ensure that the plan does adequately address the needs for all types of housing and the needs of different groups as required under the Public Sector Equality Duty. Any further identified needs are capable of being addressed as part of the proposed review process.

Housing Density

231. Paragraph 59 of the NPPF provides amongst other things that design policies should amongst other things guide the overall scale and density of new development in relation to neighbouring buildings and the local area more generally. Other national policies and the recent Housing White Paper seek that land is used efficiently and that development is concentrated in locations where there are opportunities for sustainable travel, such as in town centres.
232. Policy DM12 'Density of housing development' seeks to provide guidance on what density of development should be sought in different locations in order that it should be sustainable. However its effectiveness is undermined by unclear wording including the relationship of the numerical expected densities in different locations to the criteria on character and efficient land use. Locations 'close to'

the town centre are not clearly defined. Neither is there any guidance on density in urban locations that are not close to the town centre. An apparently fixed density for development in settlements in the countryside would be difficult to apply as such settlements are not defined in the plan and there are likely to be overriding issues of character and appearance.

233. Main modification **MM46** would address the above issues of ineffectiveness and of inconsistency with national policy by bringing together the overriding considerations of character and efficient land use, replacing the term 'close to' with 'adjacent to', include a single guidance density for development elsewhere within or adjacent to defined settlements, and remove the density guide for developments elsewhere in the countryside which would be assessed on the character and efficiency criteria alone.

Affordable Housing

234. Since the Local Plan was submitted for examination, the courts have reinstated a Written Ministerial Statement which seeks to exempt developments of 10 dwellings or less (or which have less than 1000 sq m of gross internal floorspace) from a requirement to provide affordable housing. It also includes a 'vacant building credit' which would reduce the need to provide for affordable housing in circumstances where a development site already contains vacant buildings. Policy DM13 is no longer consistent with this national policy and requires modification to be sound.

235. The NPPF at paragraphs 50 and 159 provides that local planning authorities should assess the need for affordable housing and set policies to meet this need. Much of the provision for meeting the need is necessarily as part of mixed developments with market housing such that it will have a similar distribution across the Borough, including within Neighbourhood Plan areas. To be effective the provision of adequate affordable housing should therefore be part of the strategy of the Local Plan with which Neighbourhood Plans are expected to generally conform. This requires that Policy DM13 Affordable housing is clearly identified as part of the Local Plan strategy and included in the proposed strategy chapter.

236. For the above reasons main modification **MM47** is needed for the modified and renumbered Policy SP20 Affordable Housing to be both effective and consistent with revised national policy.

Local Needs Housing

237. Policy DM14 Local Needs Housing refers to what is more commonly described as the provision of housing on 'Exception Sites' in the countryside where a local need for housing would not otherwise be met. The provision of such housing would be consistent with paragraph 54 of the NPPF. However, whilst the policy is seeking the provision of affordable housing on these sites the Policy is not consistently worded in that regard and it requires main modification **MM48** to be effective. Further wording changes may be needed when Government policy has been finalised as indicated in the Housing White Paper.

238. It is concluded overall on this issue that the above main modifications are necessary for the relevant development management policies for housing to be effective and consistent with national policy.

MATTER 11 - GYPSIES, TRAVELLERS AND TRAVELLING SHOWPEOPLE

Issue 20 – Whether the plan would be effective in seeking to meet the assessed needs and would be consistent with national policy

239. The Government's document Planning Policy for Traveller Sites (PPTS) sets out national policy. Paragraph 7 requires local planning authorities to use robust evidence to plan positively and manage development. Paragraph 9 requires them to work collaboratively when setting targets for pitches. In preparing their local plans, local planning authorities should undertake an objective and up-to-date assessment of need. That need should be translated into a policy confirming pitch requirements over the full plan period. There should be a realistic assessment of supply (including whether potential sites are achievable / deliverable). Where there is a gap between need and supply, there should be proposals to meet that gap, including achieving a deliverable 5 year supply of pitches and identifying developable sites or broad locations beyond that period (paragraph 10).
240. According to paragraph 11.1 of the Local Plan, the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (2012) (GTTSA) [HOU 001] revealed a need during the Local Plan period for 187 permanent Gypsy and Traveller pitches to be provided in the Borough together with 11 plots for Travelling Showpeople which includes 7 existing unauthorised plots and future household growth between 2016 and 2031.
241. The NPPF seeks that Local Plans should use a proportionate evidence base and be based on adequate up to date and relevant evidence. The GTTSA exercise predated the PPTS that was issued in August 2015. The PPTS provides for the exclusion from the needs assessment of those who had ceased to travel. However the GTTSA had already asked those surveyed whether they had ceased to travel. The Council told the examination that if the exercise were to be repeated the only difference would be to add a question concerning whether there was an intention to start travelling again. Moreover Section 124 of the Housing and Planning Act 2016 imposes a statutory duty to make provision for those people residing in or resorting to their district with respect to sites on which caravans can be stationed. Those who have no intention to travel again are not precluded from that consideration even though they are now excluded from the PPTS definition. The likelihood is thus that a new assessment would result in relatively small changes in the needs figures.
242. I conclude that the submitted needs evidence is adequate. To pause the examination to undertake a new survey would be disproportionate and would cause unnecessary delay in the adoption of the Local Plan. Moreover other evidence could become out of date during this pause.
243. Paragraph 7a of PPTS also states:
- '7. In assembling the evidence base necessary to support their planning approach, local planning authorities should:*
- a) pay particular attention to early and effective community engagement with both settled and traveller communities (including discussing travellers' accommodation needs with travellers themselves, their representative bodies and local support group).'*

I do not consider that this amounts to a mandatory requirement to consult the settled community about the needs assessment. That was not done in this case. However the parish councils and others in the settled community have been included in the overall consultation on the Local Plan itself including in the identification of sites.

244. The Report of Findings of the Gypsy & Traveller Site Assessment is Document HOU 006. Policies GT1 and GT1(1) to GT1(16) would allocate sites for approximately 41 pitches for Gypsy and Traveller accommodation with site specific criteria. Policy DM16 provides for development either on the allocated sites or that meets specified criteria elsewhere.
245. MBC has issued a Gypsy and Traveller and Travelling Showpeople Topic Paper [Document SUB 004]. Amongst other things the Topic Paper records that planning permissions were granted for 92 pitches for Gypsies and Travellers between 1 October 2011 and 13 May 2016. 21 pitches are also expected to become available on public sites during the Local Plan period leaving a residual need for 33 pitches to be delivered on unidentified sites under policy DM16. The Paper claims that there is therefore a 5.6 years supply of pitches. The Topic Paper provides that the need for plots for travelling showpeople can best be addressed through the development management process.
246. The identification of more sites for allocation would be desirable but has been constrained in that the repeated calls for sites did not result in more suggestions of suitable sites from landowners, parish councils or others. To delete any of the proposed allocations would exacerbate the problem. The relatively large extent of the need for sites in Maidstone Borough and the landscape, flood risk and other constraints make it inevitable that there will be a concentration of sites in some parts of the Borough and they will not be spread evenly across the whole area. If sufficient windfall sites do not come forward then it may be necessary to seek additional allocations when the Local Plan is reviewed in order to maintain a sufficient supply to meet needs.
247. Policy DM16 'Gypsy, Traveller and Travelling Showpeople Accommodation' is the criteria-based policy which would apply to planning applications for accommodation on sites that have not been identified in the Local Plan. Some of the wording is unclear and would thus be ineffective. In particular the term 'inappropriate harm' in criterion 2 is not readily understandable as it lacks any criteria for judging what harm may or may not be appropriate. Also in criterion 2 the references to the Kent Downs AONB and the Metropolitan Green Belt do not accord with the national statutory or policy tests for those areas which are better reflected in other policies of the Local Plan as proposed to be modified. Those references should therefore be deleted. The necessary modifications for effectiveness and consistency with national policy (and thus soundness) are set out in **MM49**. These include the replacement of 'inappropriate harm' with 'significant harm' and the deletion of references to the AONB and the Green Belt.

MATTER 12 – ECONOMIC DEVELOPMENT AND EMPLOYMENT

Issue 21 - Whether the plan is positively prepared in that it is based on a strategy which seeks to meet an objectively assessed need for economic development, including any unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

Economic Development Needs

248. The NPPF provides that local planning authorities should use their evidence base to assess the needs for land or floorspace for economic development including both the quantitative and qualitative needs for all foreseeable types of economic activity over the plan period.
249. Paragraph 4.7 of the submitted Local Plan explains that the plan seeks a balance of sustainable housing and employment growth and that a forecast of 14,394 jobs growth across all employment sectors includes 3,732 jobs in the office, industrial and warehousing sectors and 4,200 at the Maidstone medical campus at Junction 7 of the M20. The other employment would come from sectors such as construction, retailing, leisure, care services, tourism and transport.
250. The Employment and Retail Topic Paper 2016 [Document SUB 003] explains that the Local Plan anticipates the creation of 14,400 jobs in Maidstone Borough by 2031 in accordance with the aims of the Maidstone Economic Development Strategy 2011-2031 (2015) (EDS) [Document ORD 005]. This figure is derived from the Economic Sensitivity Testing and Employment Land Forecast Final Report (February 2014) [Document ECON 001] (the ESTELF). This may be compared with the projected workforce growth of 17,300 persons over the plan period in the 2012-based ONS Sub National Population Projections. That suggests that there is headroom for additional employment provision within the Borough above the identified floorspace needs. If this is not delivered then there will be additional out-commuting, whether to neighbouring Boroughs within the functional economic area or further afield, including to London.
251. The jobs forecast was converted into a land requirement for those sectors that require new office, industrial or warehousing and distribution space between 2011 and 2031. However there are errors in Table 4.4 which seeks to set out the net floorspace requirement for offices, industry and warehousing.
252. Main modification **MM1** would include a corrected version of Table 4.4 which sets out an identified net quantitative requirement at 1 April 2016 for 24,600 sq m of office floorspace (Net Internal Area) and 7,965 sq m of warehousing space (Gross Internal Area) but a negative requirement for -18,610 sq m of industrial floorspace (GIA). However these figures do not translate directly into the amount of business floorspace required to be met by Local Plan allocations for reasons which are explained in the **MM1** modifications to the reasoned justification for Policy SS1. Specifically there is a qualitative need for new office, industrial, and storage floorspace which is additional to the identified quantitative needs. Supporting evidence for that conclusion includes the Economic Sensitivity Testing and Employment Land Forecast [Document ECON 001], the Qualitative Employment Site Assessment [Document ECON 002] and the Council's Economic Development Strategy 2015-2031 [Document ORD 005]. If floorspace provision exceeds the quantitative need then that should reduce the out-commuting that is otherwise likely to occur.

Functional Economic Market Area

253. Some representations query what account has been taken of the need for and supply of employment land in adjoining districts having regard also to commuting patterns.
254. National Planning Practice Guidance advises that the assessment of economic development needs should relate to the functional economic market area. The Economic Sensitivity Testing and Employment Land Forecast Final Report (February 2014) [Document ECON 001] (the ESTELF) concluded that it is reasonable to define the functional economic area of Maidstone as including the immediately surrounding districts.
255. In its assessment of needs the ESTELF referred to a selection of plans and proposals in the adjoining districts. It also included some of their targets for jobs and housing growth. However it acknowledged that the plans and proposals in those areas were being revised or finalised and could be subject to change. However the document did not arrive at any overall assessment of employment needs or of provision across the neighbouring districts.
256. The Council's Economic Development Strategy acknowledges that Maidstone Borough has moved from being a slight net importer of labour to a net exporter. Information provided to the examination on commuting patterns in the 2011 census indicates that the net daily outward flow from Maidstone to London is 5,834 persons and that there is a net daily inflow to Maidstone from other mid and West Kent authority areas of 3,844 persons. The strongest net daily flows include 2,008 persons from Maidstone to Tonbridge and Malling and 3,413 persons from Medway to Maidstone.
257. Table 33 of the Strategic Housing Market Assessment (the SHMA) [Document HOU 002] acknowledged that employment growth in Maidstone could partly support housing demand in the Medway Towns, Tonbridge and Malling, Tunbridge Wells, Maidstone and Swale. It might have also referred to Ashford from which there is also a significant net daily inflow of commuters to Maidstone.
258. Table 33 of the SHMA also sets out what was then known about Housing and Employment Growth policies in the nearby authorities (including Ashford). However 3 of the 6 authorities then had no employment growth target. The only recent targets for the period ending in 2031 were then in the Swale Draft Local Plan of 2013. The Swale housing target has since been increased.
259. My Interim Findings published in December 2016 [Document ED 110] advised that further work was then needed to:
- update the position on job targets and employment land provision in Maidstone and the adjoining Boroughs/Districts within the same functional economic area relative to the anticipated housing and population growth in those areas;
 - establish what effect there may be on travel patterns, including net flows to London or elsewhere; and to
 - establish whether there is likely to be sufficient land overall to accommodate the employment needs.

260. In response Maidstone Borough Council has since prepared an Employment Update [Document ED 118].

261. Some of the plans of the neighbouring authorities remain at an earlier stage and they relate to different time periods. Nevertheless there is evidence that where the adjoining authorities have assessed their employment needs they consider that they can meet their needs within their own areas. Most of the authorities are proposing new employment allocations to that end. Amongst other things the Employment Update concludes that:

- if the Local Plan housing and employment proposals are implemented, and if in-commuting to Maidstone remains constant as a proportion of employment, then there would be a deficit of about 1,300 jobs in Maidstone Borough which would potentially increase the level of out-commuting from the Borough by 4% over the plan period.
- across the functional economic area which comprises Maidstone and the adjoining boroughs there would be a 1% increase in out-commuting. This is likely to be absorbed by a continued increase in out-commuting to London and to other locations in Kent where significant jobs growth is expected.

Employment and Housing

262. The Employment Update Assessment was based on the housing requirement of 18,560 dwellings set out in the submitted Plan. As other main modifications would reduce this target by 900 dwellings to 17,660, the local jobs deficit should also reduce. But as an overall deficit is likely to persist with an associated increase in out-commuting the recommended reduction in dwelling numbers does not justify any reduction in the provision for employment within the Borough.

263. The Employment Update assumes that commuting patterns across Borough/District borders will remain the same notwithstanding the conclusion that there will be a modest overall increase in out-commuting. In practice individuals may make different choices about where they live and work and how they travel between home and work. This will be influenced by variable factors that include journey time, journey reliability, cost, and comfort or convenience.

264. The transport modelling that has been undertaken includes much of the development that is planned on both sides of the borders. But it cannot precisely predict changes in these choices which are based on too many variables. For example, people may move house, opt to work from home, or change jobs - whether to avoid a congested or expensive commute or in response to a change in public transport services or to changes made by their employers in working practices. In that respect the modelling should represent a worse case than that which would actually occur when people adapt their behaviour to react to changed conditions.

Conclusions on Economic Development Needs

265. I conclude that:

- The Local Plan is based on an appropriate and objective assessment of economic development needs and of the associated land and floorspace

requirements including both quantitative and qualitative needs. However for the plan to be sound main modification **MM1** is needed to correct errors in the tabulated figures and to amend the reasoned justification.

- The plan is positively prepared in that it is based on a strategy which seeks to meet an objectively assessed need for employment and associated infrastructure where it is reasonable to do so and consistent with achieving sustainable development.
- There is at present no identified requirement to address unmet needs from any adjoining authority and the Plan would make an appropriate contribution to identifying and addressing needs across the functional economic area.
- Employment trends have been appropriately taken into account when assessing housing and employment needs.
- The Plan has had regard to evidence of current commuting patterns but future changes may occur which cannot be reliably predicted.

Issue 22 – Whether the EMP employment allocations are justified and consistent with national policy and whether they would be effective in terms of deliverability

EMP1(1) Mote Road, Maidstone Town Centre

266. Policy EMP1(1) in the submitted plan proposes a site within the town centre at Mote Road for development of 8,000 sq m of office space in a building not exceeding 9 storeys in height. The town centre is the sequentially preferable location for office development and already has a substantial stock of office space. However much of the existing stock is unsuitable for modern needs. Whilst new modern stock is needed, the oversupply of older offices has contributed to the suppression of rental values. This should improve as older stock is converted to other uses, particularly flats, as envisaged by Policy H2(1).
267. The Council has accepted evidence that a purely office development would not currently be viable at Mote Road and is thus unlikely to be delivered. The allocation would thus be ineffective and unsound. The landowners have stated that the schemes most likely to be viable would be either 100% residential or a predominately residential development on the upper floors with a commercial element (retail, leisure or offices below). However the site is not within the defined shopping area. Moreover there is an identified need for offices and the town centre is the preferred location. Offices should therefore be the priority but mixed with sufficient residential accommodation for a viable scheme. Unless a minimum amount of office space is required then office space is likely to lose out in a mixed scheme to more profitable uses and the identified need would not be met.
268. Main modification **MM38** would therefore substitute new Policy RMX1(6) Mote Road, Maidstone for EMP1(1) in the submitted plan. The revised policy would allocate the site for mixed development to include at least 2,000 sq m office floorspace in a residential-led development. It would also delete a specific height limit. Height would instead be determined under general design policies in the Local Plan that apply to all development. The revised policy also allows for the inclusion of leisure uses in the mixed development.

EMP1(5) Woodcut Farm

269. EMP1(5) Woodcut Farm is identified in the submitted Local Plan as a strategic site that is critical to address both a qualitative and a quantitative need for high quality business space.
270. Policy EMP1(5) would allocate this site of 18.71ha by Junction 8 of the M20 on Ashford Road, Bearsted for up to 49,000 sq m of mixed employment (B1a; B1c; B2; B8) and a possible 'element' of hi-tech and or research and development B1(b).
271. Notwithstanding the proposed allocation, and contrary to the recommendation of its officers, in July 2016 the MBC Planning Committee resolved by 7 votes to 6 to refuse an application for planning permission for a similar development on the site as that proposed for allocation. This was an outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, maximum floor space 46,623 square metres (access being sought at this stage) [Reference 15/503288]. The outline scheme did not require approval of details such as scale, layout, external appearance or landscaping.
272. The reason for refusal dated 6 July 2016 is:
- 'The proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits are not considered to outweigh this harm. It would also cause less than substantial harm to the setting of the Grade II listed building "Woodcut Farm" and any public benefits are not considered to outweigh this harm. The development would therefore be contrary to saved policies ENV21, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and advice within the National Planning Policy Framework 2012'.*
273. Notwithstanding that decision (which is the subject of a current appeal to the Secretary of State) the Council has confirmed during the Examination that the allocation should be retained.

Woodcut Farm Development Mix

274. The Employment and Retail Topic Paper had suggested that the identified need for 24,000 sq m of office floorspace would be met with 16,000 sq m of offices at Woodcut Farm and 8,000 sq m at Mote Road in Maidstone Town Centre. However there are evident viability issues with both sites such that neither site is now expected by the Council to deliver this much space.
275. The indicative scheme for which planning permission was refused by the Council would have included only about 5,360 sq m of offices. That would have left a substantial shortfall against the 16,000 sq m of office space anticipated by the Topic Paper.
276. The **MM39** modifications to the Woodcut Farm allocation policy include amended reasoned justification. Whilst the need for additional high quality office space is supported by the strongest evidence of quantitative need and by evidence of qualitative need, there is also evidence to the Examination that there are significant viability issues with developing stand-alone office space. That is especially true in the town centre but also applies at other sites on the edge of

the urban area. Thus it is unlikely that development would come forward at this location for a development that is mainly or exclusively for office use. A mixed development of business space stands a better chance of supporting such development by sharing the costs of landscaping, access, and other infrastructure provision, whilst also providing floorspace to address the quantitative and/or qualitative needs for different types of employment. Following negotiation with the site agents the Council now concludes that a minimum of 10,000 sq m (NIA) of office floorspace can be expected to be provided at Woodcut Farm during the Local Plan period.

277. The remainder of the allocation would be available for industrial and storage uses. In that regard there is an identified qualitative need for new sites in locations with good access to the motorway network. This is notwithstanding that there is anticipated to be a net loss of industrial floorspace across the Borough as older sites in less functionally suitable locations are redeveloped for other purposes.
278. That need for employment floorspace here has been exacerbated by the need to delete the RMX1(4) Former Syngenta site at Hampstead Lane, Yalding as a mixed residential and employment allocation owing to flood risk issues (see below). That site would have provided 8,600 sq m of employment floorspace. Whilst the **MM36** modifications to Policy RMX1(4) would not preclude some employment development coming forward on that site in the future, the flood risk constraints and the absence of residential development make its development much more challenging such that it cannot be relied upon. Viability issues have also reduced the potential contribution of office development at the EMP1(1) Mote Road, Maidstone site from 8,000 sq m to 2,000 sq m (see above).

Woodcut Farm Landscape

279. The submitted Local Plan deletes from this and other parts of the Borough the former Special Landscape Area designation that was referred to in the 2016 refusal. The site lies close to but outside the Kent Downs AONB boundary. It is within the setting of the AONB. However in important views from the scarp it would lie beyond both the M20 motorway and the HS1 high speed railway line. Those features already intrude into the rural landscape and have their own visual and noise impacts on the setting of the AONB such that the impact of the development would be more marginal than if those features were not present.
280. The Kent International Gateway (KIG) was an earlier development scheme for a Strategic Rail Freight Interchange with 374,000 sq m of floorspace on a very much larger (112ha) site that included the 18.7ha of the proposed allocation. That site extended much further to the west towards the built up area of Bearsted. Permission was refused by the Secretary of State, partly on the grounds of substantial harm to the landscape and to the setting of the Kent Downs AONB [Document ORD 029]. As the development would not have functioned well for its intended purpose as a Strategic Rail Freight Interchange the Secretary of State concluded that the identified harm would not have been outweighed. However the scale of development now proposed in the allocation is very much reduced. It would consequently have a much lesser impact in the landscape. Moreover, unlike the KIG, the Woodcut Farm development would serve a different and more local identified need.

281. My attention has also been drawn to the more recent appeals at Waterside Park [Document ORD 011]. That site lies to the south of the A20 and is closer to Leeds Castle. Two planning applications for alternative industrial developments were refused and the subsequent appeals dismissed. This was also in part because the harm to the landscape, to visual amenity and to the setting of the AONB again was not outweighed by the economic benefits of that scheme. However that proposal would have required considerably more site excavation on a more sloping site and there would have been less opportunity for landscape mitigation than at Woodcut Farm.
282. The 2016 refusal of planning permission for the scheme on the proposed allocation site was partly on the grounds of landscape impact. I conclude that additional design and layout measures are needed in Policy EMP1(5) to further mitigate the landscape and visual impacts of the development. The modifications recommended below would include such measures.
283. As mitigation would be unlikely to negate all of the adverse impact the development would still have adverse landscape impacts. That residual impact needs to be accorded substantial weight when weighed with the economic benefits of the scheme.

Woodcut Farm Heritage Assets

284. There is Grade II listed farmhouse at Woodcut Farm. The SHEDLAA acknowledged that development could potentially affect its setting and the MBC Planning Committee cited less than substantial harm to its setting as a reason to refuse outline planning permission for a development similar to that proposed in the allocation.
285. In relation to heritage assets, the Secretary of State also accorded some weight to the effect of that larger KIG scheme on heritage assets at Bearsted. However the proposed allocation is well removed from those assets and would not have such effects. Notably the Secretary of State did not identify any harm to the setting of Leeds Castle and its Park of that scheme. The current proposal would be of much smaller scale than the KIG scheme and no closer to that heritage asset.
286. The Waterside Park appeals were dismissed in part because of expected harm to the setting of heritage assets including the Registered Park which surrounds the nearby Grade 1 listed Leeds Castle and which contributes to its setting. However the identified harm to the heritage assets related mainly to direct views of the Waterside Park development from the Registered Park and from the entrance to the Grade II* Registered Park. The Waterside Park development would have been on raised ground to the south of the A20. However the Woodcut Farm site is set further from both Leeds Castle (3km) and its Park (1.5km) on lower land north of the A20 and south of the M20. The engineering works and land uses associated with the A20, the M20 and the HS1 railway line have all radically affected and eroded the historic landscape. Improved screening means that it would be unlikely to feature prominently in direct views.
287. The Waterside Park Inspector was not persuaded by arguments that visitors to Leeds Castle would be deterred because they may be driving past an industrial park on their way to the Castle (if approaching from the west). Neither do I consider that visitors would be deterred by passing a business park development

at Woodcut Farm, further to the west and beyond the junction between the A20 and the M20. Nor do I consider that the setting or significance of any designated or undesignated heritage assets other than Woodcut Farmhouse would be materially affected.

288. I conclude that design and layout modifications to Policy EMP1(5) are needed to minimise the potential for harm to the setting and heritage significance of Woodcut Farm House. Any residual harm to setting merits considerable weight and importance when it is weighed with the public benefits of the development.

Alternative sites for a strategic economic development

289. A number of Representors have argued during the examination that there are alternative sites which they would prefer to Woodcut Farm and that the Woodcut Farm site is consequently not part of the most appropriate strategy.
290. Some consideration was previously given to alternative sites during the Waterside Park Inquiry. In particular, the Waterside Park appeal Inspector considered whether that industrial development proposal could be located elsewhere either within the Borough or (under the duty to cooperate) within the wider local area.
291. She acknowledged that there did appear to be a need for more employment land allocations but was unable to then conclude on the evidence before her that it would be necessary to allocate land in the countryside. The Inspector noted that she had been referred to both the Detling Aerodrome site (also known as Binbury Park) and to the Aylesford Print Works site (in Tonbridge & Malling Borough) as potential alternative development locations. However she did not endorse those locations.
292. Further evidence has been provided during the examination in relation to those alternative site locations which was not before the Waterside Appeal Inspector. This includes the Sustainability Appraisal of the submitted Local Plan and the proposed modifications, the conclusions of the Strategic Housing and Economic Development Land Availability Assessment (SHEDLAA), the Employment and Retail Topic Paper, and also subsequent evidence concerning sites in other Boroughs. In particular, Tonbridge & Malling has made its own assessment of employment land needs arising in that Borough and has not identified any surplus to meet needs arising in other areas such as Maidstone. Moreover the owners of the Aylesford Print Works are promoting a mixed development which would reduce the land available for employment there and that is said to be justified on viability grounds.
293. Detling Aerodrome lies within the Kent Downs AONB where national policy (NPPF Paragraph 116) provides that planning permission for major development should be refused except in exceptional circumstances. In particular there should be an assessment of the scope for developing outside the designated area. Whilst that text refers to planning permission rather than a development allocation the impact of development on the special qualities of the AONB would be the same. In this case there is obvious scope to develop instead at Woodcut Farm which lies outside the AONB. Whilst Woodcut Farm lies within the setting of the AONB, the impact on the landscape and scenic beauty of the AONB would be less than if the development were instead to be located within the designated area. The Woodcut Farm site is thus to be preferred.

294. I agree with the conclusions of the Council that Woodcut Farm remains the most appropriate strategic location to address the objectively assessed quantitative and qualitative need for additional employment land, notwithstanding the residual harm (even after mitigation) to the landscape (including to the AONB setting), to visual amenity and to the setting of the listed Woodcut Farmhouse. There is a lack of evidence that any alternative development site of comparable scale, or multiple sites, would have less impact in these regards and still deliver comparable benefits.

Benefits

295. The principal public benefits are economic and in particular the provision of significant local employment opportunities for a growing population within the Borough, thereby reducing the need to travel outside the Borough for work. The associated economic activity would also have significant economic benefits and there would be opportunities for businesses to relocate from locations and premises that are less suitable for their needs. This would accord with national policy objectives to create economic growth by planning proactively to meet the development needs of business.

Conclusions on Woodcut Farm

296. I conclude that the public economic benefits merit considerable weight and that they outweigh the residual harm after mitigation to the landscape (including the setting of the Kent Downs AONB) and visual amenity and the less than substantial harm to the setting of Woodcut Farm House that could result, depending on the final scheme design.

297. However the recommended main modifications to EMP1(5) Woodcut Farm in **MM39** are needed to: ensure that sufficient office floorspace is effectively delivered; to minimise the landscape and visual amenity impacts of development on this green field site in accordance with national policy to protect the character and landscape of the countryside and the AONB; and to reduce the potential for harm to the setting of the listed Woodcut Farmhouse, also in accordance with national policy for the protection of heritage assets. **MM39** also includes the minerals assessment criterion requested by the Minerals Planning Authority as a safeguarding measure for consistency with national policy.

298. Those modifications are necessary for the Woodcut Farm employment allocation to be justified and consistent with national policy and to be effective in terms of deliverability.

Issue 23 – Whether the plan is otherwise consistent with national policy and positively prepared and effective so as to make adequate provision for development for employment

299. The NPPF includes objectives to seek to meet identified needs for development, including employment, and to secure economic growth and a prosperous rural economy.

300. In the submitted plan, in addition to the site allocations, Policy DM21 'Retention of Employment Sites' lists a number of established sites to be designated as 'Economic Development Areas' which are to be protected for employment use. It also sets out criteria for changes to other uses within these areas. However it

fails to provide criteria for new development for business on these sites or to clarify that such development can in some circumstances be permitted on Economic Development Area sites that are in the countryside where development may otherwise be more restricted. This would hamper the provision of necessary development for business including small businesses and would fail to support the rural economy. The plan would therefore neither be positively prepared nor consistent with Government policy.

301. Main modification **MM51** would make specific provision to permit redevelopment for business use and infilling within Economic Development Areas (whether in the countryside or otherwise) and adds design criteria for developments in the countryside so as to mitigate their impacts. This would allow such areas to make an appropriate contribution to the economy.
302. In the submitted plan Policy DM41 'Expansion of existing businesses in rural areas' is a criteria-based policy for development at rural businesses in the countryside. It provides in summary that where there would be significant adverse impacts on the rural environment and amenity from the expansion of rural businesses they should instead relocate to a designated Economic Development Area or to within the Maidstone Urban Area or a Rural Service Centre. However it goes on to provide that where there are no significant adverse impacts or relocation 'cannot be achieved' then expansion will be permitted subject to stated criteria. However the policy is vaguely worded and is likely to be difficult to interpret and consequently ineffective. A more logical and effective sequence would be to allow limited expansion subject to criteria and then, if these criteria cannot be met, to encourage relocation to an Economic Development Area or to within a defined settlement. Other alternatives would need to be argued on the basis of an exception to policy.
303. Main modification **MM56** would modify Policy DM41 on the above lines in order for it to be consistent with national policy and positively prepared and effective and thereby sound.

Overall Provision for Business Floorspace

304. With the necessary modifications to the EMP policies above and the RMX policies below, the Plan would make adequate provision to meet or exceed the identified net requirements for business floorspace. The provision for industrial and warehousing floorspace would comfortably exceed the requirement and would provide developers and employers with a choice of locations. Meeting the identified need for office floorspace is likely to be more difficult for reasons of viability. However with the recommended modifications adequate provision of office floorspace can be met by provision at Woodcut Farm, Maidstone East, Mote Road (subject in each case to revised floorspace figures) together with an allowance for windfall provision on unidentified sites.
305. The provision for windfall office development is supported by evidence included in the Employment Update (ED 118) which examined past provision from this source. It excludes existing commitments and thus provision for the first 3 years from 2016-2019 and would approximate to 717 sq m for each of the remaining 12 years of the plan period.
306. With the recommended modifications office provision in the Borough would comprise:

- 10,000 sq m at EMP1(4) Woodcut Farm (renumbered from EMP1(1));
- 4,000 sq m as part of allocation RMX1(2) Maidstone East and Royal Mail Sorting Office);
- 2,000 sq m at updated policy number RMX1(6) Mote Road (as part of a mixed housing-led development and renumbered from EMP1(1));
- and the remaining 8,600 sq m as windfall development on unidentified sites.

MATTER 13 – RETAIL AND MIXED DEVELOPMENT/TOWN CENTRES

Retail and Mixed Development

Issue 24 - Whether the plan strategy seeks to meet an objectively assessed need for retail and mixed development and is effective and consistent with national policy for town centres

307. The National Planning Policy Framework provides amongst other things at Section 2 that local planning authorities should define a network and hierarchy of centres and also define the extent of town centres and primary shopping areas (based on a clear definition of primary and secondary shopping frontages in designated centres). They should then apply a sequential approach to the location of 'main town centre uses' (which are defined in the Glossary, as is edge of centre development). However this approach is not to be applied for applications for small scale rural offices or other small scale rural development.
308. Outside of town centres an impact assessment for retail, office and leisure developments should be required when they are not in accordance with an up to date local plan. A locally set threshold should exclude smaller developments from that requirement and, in the absence of such a local threshold, the default is 2,500 sq m of floorspace.
309. Policy DM17 - Town Centre Uses seeks to apply a sequential approach to the location of main town centre uses. There is no provision in the policy to exempt small scale rural offices or other development. Policy DM17 also requires an impact assessment for retail, office or leisure proposals outside of an existing centre. However no local threshold is included. Additional accessibility criteria are included for edge of centre or out of centre development.
310. Main modification **MM50** is needed for effectiveness and for consistency with national policy. It would modify Policy DM17 Town Centre Uses and its reasoned justification to include a 2,500 sq m threshold below which the sequential test would not apply. Small scale rural offices and other development would also be excluded under set criteria. Policy DM17 would be renumbered due to other changes.

RMX1(1) Newnham Park, Bearsted

Issue 25 – Whether the RMX1(1) allocation would be justified as the most appropriate strategy and consistent with national policy for town centre uses, the protection of Areas of Outstanding Natural Beauty and the mitigation of environmental and transport impacts.

311. The policy concerns a mixed allocation of strategic scale comprising retail development and specialist medical facilities. The site is already occupied in part by a garden centre with associated retail facilities. Planning permission has previously been granted for the medical development elsewhere within the proposed allocation. A renewal of that permission has recently been sought.
312. The retail part of the proposed allocation seeks the replacement of the retail facilities and to allow for their modest expansion. However the site owner's evidence is that the modest expansion of retail floorspace would not allow for a viable redevelopment if the existing businesses had to close whilst it is carried out. Moreover this is an out of centre site and the retail development has not been subject to the sequential or impact tests that are usually required by national policy when creating new retail floorspace. As the allocation would not be effective or consistent with national policy in respect of the impact test main modification **MM33** would delete the provision for additional retail floorspace and revisions to the reasoned justification would refer to the need for a sequential and impact test in the event that additional retail space were to be proposed.
313. The site is in a sensitive location within the setting of the Kent Downs AONB and the scale of the development would risk an adverse effect on the AONB if not sensitively designed. For consistency with national policy **MM33** therefore also includes a number of necessary changes to the policy and the reasoned justification to mitigate the environmental and transport impacts of the development including with regard to the effect on the setting of the nearby Kent Downs AONB.
314. The site lies within a Minerals Safeguarding Area as defined in the recently adopted Kent Minerals and Waste Local Plan in accordance with national policy. But the policy does not include a relevant criterion for minerals safeguarding such as a requirement for a Minerals Assessment to establish if prior extraction would be feasible and viable before the minerals are sterilised by other development. Such a criterion is therefore included in **MM33**.
315. The existing retail floorspace is said not to be subject to controls on the type of goods to be sold. In that context Representors have pointed out that the revised wording of paragraph 13.8 set out in the consultation version of **MM33** is unclear as to whether any restrictions on the goods to be sold and the operation of Class A and D2 uses would apply only to any additional floorspace. Some clarification of the wording is needed in this regard and the Council does not object to the Representor's suggestion that the words 'in relation to additional retail floorspace above 14,300 sq m and leisure uses' be inserted in that paragraph. That is also included in **MM33** in the interests of clarity and effectiveness.

RMX1(2) Maidstone East and Former Royal Mail Sorting Office, Sandling Road, Maidstone

Issue 26 - Whether the RMX1(2) allocation is justified and consistent with national policy for town centre uses

316. In the submitted plan this policy allocation provides for 10,000 sq m of comparison and convenience retail floorspace and approximately 210 dwellings.
317. The site lies within the town centre but outside the shopping area. It qualifies as an edge of centre site. According to the Employment and Retail Topic Paper (Document SUB 003) a planning application (MA/14/500483OUT) was submitted for a mixed use development on this site to include residential development and an 8,296 sq m foodstore but was withdrawn in January 2017. No sequential or retail impact assessment accompanied the planning application, as would be required by national policy in the NPPF. Neither does the submitted Local Plan policy address that matter. The Council has confirmed to the examination that the sequential test has already been applied to the proposed allocation in relation to retail use but as yet no retail impact test has been applied.
318. The policy in the submitted plan allows for up to 10,000 sq m of comparison and convenience floorspace but does not specify the proportion of each and would allow for developments with reduced retail floorspace as this is a mixed allocation. There are uncertainties in relation to what impact retail development would have on the town centre by the time that this site is developed. In particular there is an extant consent for an out of centre foodstore nearby at Baltic Wharf (see below) which may or may not be implemented. A further foodstore has been permitted for Waitrose at an out of centre site adjacent to Junction 7 of the M20 which would itself address the identified need for convenience floorspace. Retailing is undergoing a period of change due not least to an increase in internet shopping. In these circumstances, and because retail development could take a variety of different forms and at different scales, a retail impact test should also be applied when a planning application is made to support the amount and type of retail floorspace that is included in the mixed development of this site.
319. Office development on the site would be consistent with national policy for town centres. It is referred to in the reasoned justification to the allocation policy as part of a mixed development but is not referred to in the policy itself. That would result in confusion. Neither is office development likely to come forward if it is in competition with more profitable uses unless it is included as a policy requirement. Owing to viability issues with a standalone office allocation at Mote Road (see above) and with large scale office provision at Woodcut Farm (see above), there is a need for additional office space to meet the need identified in the evidence base for the Plan.
320. Since the Local Plan was submitted for examination MBC and KCC have jointly purchased the site from Royal Mail in September 2016 and they have formed a partnership to progress the project. Network Rail owns the southern element of the site surrounding Maidstone East Station and have engaged in discussion. The establishment of a masterplanning process is being actively discussed. The resulting work will help establish design parameters and proposed uses for the site.

321. The allocation is not consistent with national policy in that the impact of the retail development on the town centre has not been assessed. Whilst this is a suitable location in the town centre for office development for which there is an identified need, the reference to office provision in the reasoned justification alone and not in the policy would be ineffective in providing for office employment. The policy is therefore unsound but this can be rectified by the proposed main modification.
322. Main modification **MM34** would clarify the amount of office development that is expected to be provided in the policy and which is required to meet an identified need. The modification would also require a retail impact test in relation to the retail component of the mixed development, once that has been identified.

RMX1(3) King Street Car Park and Former AMF Bowling Site

Issue 27 - Whether the RMX1(3) retail development is would be consistent with national policy

323. Like the RMX1(2) allocation, this site lies within the town centre but outside and immediately adjacent to the defined shopping area. The site is to be allocated for 1,400 sq m comparison and/or convenience retail and approximately 53 dwellings.
324. The Employment and Retail Topic Paper (document SUB 003) explains that the site, which is in the ownership of the Borough Council, is a well-used car park which is not being actively marketed for development at this point in time. This will be kept under review and the Council, as landowner, has indicated that it would respond positively to approaches at any time from retail developers.
325. Comparison and convenience retail would each be likely to have different impacts on the town centre shopping area. Those impacts have not been tested. As an edge of centre site and for consistency with national policy and the recommended approach to the RMX1(2) site, retail development here should also be subject to a retail impact test. As there has been no such assessment and because it is not currently a policy requirement the policy is unsound. Main modification **MM35** would remedy this by amending criterion (1) of the policy.

RMX1(4) Former Syngenta Works, Hampstead Lane, Yalding

Issue 28 - Whether the allocation is consistent with national policy for addressing flood risk

326. The former Syngenta site at Yalding is a large flat brownfield site that was previously used for agro-chemical production. The site has been mainly cleared of buildings and remediated for land contamination. It was identified in the submitted Local Plan for 8,600 sq m of business space and 200 dwellings. However the site is wholly within Flood Zone 3a and is at high risk of flooding. The national policy aims for Flood Zone 3a in the NPPF are to relocate development to areas with a lower probability of flooding. The Environment Agency therefore objects to residential development on the site. The deletion of a housing allocation is necessary for reasons of flood risk. However as the housing was needed to assist development viability of the mixed use scheme the site is also unlikely to be developed for the proposed business use.

327. The site nevertheless remains unsightly and it detracts from its surroundings. It would be desirable to find an alternative use for it if the flood risk issues can be overcome using a less sensitive form of development.
328. Main modification **MM36** would modify Policy RMX1(4) by deleting the residential and business allocation whilst substituting a policy to support alternative forms of development that addressed the flood risk issue and could potentially include B class employment, leisure use, commuter car parking (associated with the adjacent railway station) and open space. Other site specific policy criteria would also be modified. The policy would then be more consistent with national policy but the site would not be relied upon to deliver strategic housing and employment space.

Alternative Site – Baltic Wharf, Maidstone Town Centre

Issue 29 - Whether the national policy support for heritage assets would require a modification of the Local Plan

329. National policy in the NPPF provides amongst other things at paragraph 126 that the Local Plan should have a positive strategy for the conservation and enjoyment of the historic environment including heritage assets most at risk through neglect, decay or other threats.
330. This site includes a listed building built in 1917 as a multi-storey factory but which has been vacant for several years. Elsewhere on the site the owners have secured certificates of lawfulness and planning permission for open A1 retail use of 2,600 sq m of what are described by the owner and MBC as 'sheds'.
331. In April 2014 the site was the subject of a successful appeal against the non-determination of a planning application for mixed development including 7,430 sq m (Gross Internal Area)/4,194 sq m (Net Sales Area) retail in one unit. A planning condition provides that not more than 1,045 sq m of the net sales area was to be used for comparison goods. That would allow for a large foodstore of 3,149-4,194 sq m. This would use parts of the existing listed building (with alterations and extensions) and with offices on the upper floors. [Appeal Refs: APP/U2235/A/13/2299693 & APP/U2235/A/13/2209695].
332. On the evidence before him the Appeal Inspector concluded amongst other things that retail development was then the only viable use for the listed building. He also pointed to a 'policy vacuum' surrounding this site. This was contrasted to then draft proposals for comparison and convenience retailing at the RMX1(2) location at Maidstone East on the opposite side of the River Medway.
333. In the Employment and Retail Topic Paper at paragraph 64 it is stated that there is a requirement for 6,100 sq m net sales area of convenience floorspace in Maidstone by 2031; and at paragraph A12 that there are existing commitments for 6,754 sq m of such space including the extant Baltic Wharf permission. In November 2016 the Borough Council also resolved to permit a new Waitrose foodstore of 3,901 sq m (4,105 GEA) at Eclipse Park adjacent to Junction 7 of the M20.
334. The sequential assessment for the Waitrose development excluded the Baltic Wharf site for various reasons including that it would similarly be an out of centre

site. Baltic Wharf is more than 300m from the primary shopping area and thus not within or on the edge of centre in terms of the Framework Glossary definition.

335. There is no evidence of active interest in implementing the appeal permission for a large convenience food store. Moreover there has been a weakening of demand for large scale food stores in recent years. A number of proposed schemes by the main supermarket operators have been abandoned around the country. The foodstore consent is unlikely to be implemented in its current form. Also to seek to prioritise the development of this site with a foodstore over a sequentially preferable site such a Maidstone East would not be consistent with national policy for town centres.
336. National policy at paragraph 126 of the NPPF does nevertheless require account in policy making of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The submitted Local Plan is inconsistent with this national policy in that it lacks any policy to help secure the future of the listed building at Baltic Wharf. In particular there is a risk that in the absence of any site specific policy, the area would be developed in a piecemeal fashion by its several owners without securing the future of the listed building or adequately protecting its setting.
337. For the above reasons main modification **MM37** would insert a new policy RMX1(5) for Baltic Wharf in Maidstone. This would seek a comprehensive approach to the development of the listed buildings and adjoining premises. It provides in principle support for a variety of uses including housing, offices, leisure, cafes/restaurants and retail. In relation to retail development it would require a sequential test and impact test only if the retail floorspace were to exceed that currently on site.

MATTER 14 – OTHER DEVELOPMENT MANAGEMENT AND OPEN SPACE POLICIES

Issue 30 – Whether the other development management policies not addressed above are justified, effective, and consistent with national policy

Design

338. Having regard to the Public Sector Equality Duty I find the Plan to be generally consistent with national policy including: the provision in Policy DM 1(i) that the design and layout of developments should be accessible to all; that Policy DM11 seeks a sustainable range of house sizes and types to reflect the needs of those living in the Borough; and that Policy DM 15 makes provision for nursing and care homes.

Development on brownfield land

339. Policy DM4 'Development on brownfield land' is generally supportive of development on previously-developed land (brownfield land) within the defined settlements of Maidstone, the rural service centres and the larger villages, subject to stated criteria. Residential gardens within settlements do not qualify as previously-developed land according to the definition in the glossary to the NPPF.

340. Policy DM4 as drafted would also 'exceptionally' allow residential development on brownfield sites in the countryside, including in smaller undefined settlements elsewhere, subject to the same criteria, but also to other criteria on location and environmental improvement that are not clearly defined. As worded, this would include development in residential gardens in the countryside which the courts have recently confirmed as qualifying as previously developed land according to the NPPF definition because this is not 'land in built-up areas'. There are many such gardens of a wide range of types and sizes. That and the loose definitions of location and environmental improvement would potentially open the way to considerable development in unsuitable locations and with significant adverse cumulative impacts.

341. Main modification **MM41** would accordingly amend Policy DM4 so as to disqualify gardens in the countryside as previously developed land for the purposes of this policy whilst still exceptionally allowing development on other brownfield land in the countryside with reasonable accessibility by sustainable modes to the defined settlements with their services and facilities. Where there are no more sustainable alternatives regard would be had both to past traffic generation by the site's previous use and to the number and length of car movements that would be generated by the new development. However the bullet points proposed to follow paragraph 17.34 need to be brought into line with the revised policy wording and with national policy by ensuring that consideration is given both to what sustainable modes of transport are currently available at a brownfield site in the countryside and what opportunities may be available to facilitate the use of sustainable modes. An additional bullet point has been added to this end with the following wording '*What sustainable travel modes are available or could reasonably be provided.*'

Non-conforming uses

342. Policy DM6 'Non-conforming uses' is poorly drafted and would in consequence be ineffective in that it would permit development which the policy itself describes as '*unsuited to the local area*'. The policy does not identify what other plan policies may warrant exceptions and does not justify why development defined as unsuitable would nevertheless be acceptable.

343. Main modification **MM43** would modify the policy wording and create criteria to protect local amenities, to mitigate adverse impacts on the local road network, and to otherwise meet other policy requirements. As such it would create a policy that is both justified and effective.

External Lighting

344. Paragraph 125 of the NPPF provides that planning policies should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Policy DM7 External Lighting sets criteria for external lighting but omits reference to protecting intrinsically dark landscapes. Neither does it seek to protect Special Areas of Conservation or Local Wildlife Sites. Main modification **MM44** would rectify these matters and make the policy consistent with national policy.

Renewable and Low Carbon Energy

345. Policy DM28 Renewable and Low Carbon Energy sets out criteria for such development. However its specific reference to impacts on the Kent Downs or High Weald AONB and its setting is unnecessary as this is covered by other plan policies. National policy does not preclude development of renewable or low carbon energy within an AONB or its setting. The wording risks creating a test that would not be consistent with national policy and the statutory duty in respects of such areas. Main modification **MM54** would remove this reference. Proposals would still be judged against other relevant plan policies relating to the AONB.

Open Space

346. Policy OS1 sets out specific open space allocations. A series of modifications are needed for consistency with other main modifications. These relate to the deletion of the RMX1(4) and H1(53) housing allocations with their related open space allocations and the modification of the open space provision related to the H1(8) and H1(42) housing allocations. The necessary modifications are set out in main modification **MM28**.

MATTER 15 - INFRASTRUCTURE DELIVERY

Issue 31 – Whether the plan is positively prepared and effective in respect of infrastructure delivery

347. The National Planning Policy Framework provides amongst other things at paragraph 162 that local planning authorities should work with other authorities and providers to assess the quality and capacity of infrastructure and its ability to meet forecast demands. The Local Plan is accompanied by an Infrastructure Delivery Plan.

348. NPPF Paragraphs 203-204 provide for the use of planning agreements and planning obligations and include tests for their use which are also included in the Community Infrastructure Levy Regulations.

349. Policy ID1 is the main Local Plan policy concerned with Infrastructure Delivery. As worded the policy misleadingly refers to the use of S106 agreements as relating only to the provision of site specific facilities when they can have a wider role in mitigating impacts on infrastructure. Neither does the policy make clear that the use of such obligations is subject to national policy tests. There are circumstances where infrastructure would be more appropriately provided by Community Infrastructure Levy payments or Section 278 agreements. To meet development needs new residential and commercial development should be supported if it is provided with sufficient infrastructure capacity.

350. Without wording changes to address these matters the Plan is not positively prepared and there is a risk of ineffectiveness. Main modification **MM58** would suitably address these matters.

Specific Infrastructure Issues

351. After the Local Plan was submitted, the Council has accepted that there is inadequate reference in a number of spatial policies to the need for enhanced

health facilities to support new development. For the Plan to be positively prepared in that regard, main modification **MM4** would modify spatial policies SP1-3, 6-7, 9-10, and 13 - 15.

352. At Headcorn specific reference to capacity issues in the sewerage network and wastewater treatment is also needed for the Plan to be positively prepared and would be provided by main modification **MM7** to policy SP7.

353. For the Plan to be positively prepared and effective, many of the individual development allocations would also necessitate works to ensure that adequate sewerage capacity is available. Main modification **MM15** would address this by adding a sewerage infrastructure criterion to most Policy H1 housing allocations.

MATTER 16 – IMPLEMENTATION, MONITORING & REVIEW

Issue 32 – Whether the implementation and monitoring arrangements would be effective

Monitoring

354. The submitted Local Plan includes a series of 11 Key Monitoring Indicators (KMI) which incorporate some targets. The numerical targets are typically expressed in 5 year periods whereas an annual report would need annual assessments.

355. The Annual Monitoring Report published in July 2016 makes reference to the KMI indicators. It also cross refers to a number of Topic Papers and other evidence submitted for the Local Plan examination.

356. In general the Key Monitoring Indicators would not include a number of important matters which should be monitored. They perform poorly when considered as 'SMART' objectives (Specific, Measurable, Attainable, Realistic and Timely) and would thereby undermine the effectiveness of the Local Plan. However the Council has prepared a rewritten chapter with new performance targets that would remedy these deficiencies and which are incorporated in main modification **MM59**.

Review

357. During the examination, consideration has been given to when the Local Plan should be first reviewed and whether the timing of such a review should be adjusted to address particular issues that have arisen. The national PPG on Local Plans provides amongst other things at paragraph ID12-008-20140306 that: *'Most Local Plans are likely to require updating in whole or in part at least every five years. Reviews should be proportionate to the issues in hand. Local Plans may be found sound conditional upon a review in whole or in part within 5 years of the date of adoption.'*

358. In this case there are some issues which do need to be resolved before the plan is first adopted. However there are other issues, especially in relation to housing delivery at the end of the Local Plan period, which are less urgent because they do not impact on strategy in the first 5 years of the Local Plan. To delay the adoption of the Local Plan to resolve all of these matters would have other disbenefits including prolonged uncertainty about the 5 year housing supply position later in the plan period.

359. The submitted Local Plan indicated at paragraph 17.126 that a first review of the Local Plan '*will commence in 2022*'. A change had been proposed by the Borough Council (PC/59) to amend this to '*will commence by 2022*.' However there is no commitment to how quickly such a review would progress and no timetable for the necessary work. Moreover that would be too late to address the need to identify specific development site allocations in the Broad Locations (including any need to address a failure of the Lenham Neighbourhood Plan to make such allocations).
360. A review would also be needed in association with any decision by Kent County Council to go ahead with the Leeds-Langley Relief Road. Additional allocations will also be needed for the latter part of the plan period to supplement supply from the Broad Locations in order to provide necessary choice and to offset a reduced rate of delivery from those sites whilst maintaining an adequate supply of housing.
361. The Local Plan should therefore include a policy commitment to a review with a target adoption date by April 2021. That review process would accordingly need to start much earlier. The plan could then be rolled forward to extend the Plan period.
362. A plan review within 5 years of its submission for examination in 2016 would accord with proposals in the recent government Housing White Paper to require plan review at least every 5 years.
363. Main modification **MM60** accordingly makes provision for a new Policy LPR1 which includes a target adoption date for the review of the Local Plan in April 2021. It sets out a list of candidate matters that may need to be addressed. This is not an exclusive list and it could be added to, particularly to address issues raised in annual monitoring.

Assessment of Legal Compliance

364. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Local Plan has been prepared in accordance with the Council's LDS December 2015 [Document SUB 012].
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in 2013. Consultation on the Local Plan and the MMs has complied with its requirements.
Sustainability Appraisal (SA)	SA has been carried out on the submitted Local Plan and the Main Modifications and is adequate.
Habitats Regulations Assessment (HRA)	A Habitats Regulations Assessment has been undertaken (February 2016). It recommends minor wording changes to the Local Plan which have been incorporated in Policy DM3 and a commitment by Maidstone Borough Council to ensure funding continues at an appropriate level to ensure existing management measures at North Downs Woodlands

	SAC are suitably maintained (such as fencing, gateways etc and entrance points) thus ensuring existing and future levels of residential development do not result in likely significant effects upon the North Downs Woodlands SAC as a result of increased recreational pressure. [Document ENV 016]. Natural England considers the assessment reasonable subject to its recommendations being incorporated in the Plan. Document ED 148 provides evidence of the Council's intentions in this regard. As the main modifications would result in a reduction in the amount of development proposed in the Local Plan any relevant effects should be reduced as compared to the Regulation 19 plan.
National Policy	The Local Plan complies with national policy except where indicated and MMs are recommended.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and the Regulations.

Overall Conclusion and Recommendation

365. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

366. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Maidstone Borough Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Robert Mellor

Inspector

This report is accompanied by an Appendix containing the Main Modifications.