

MAIDSTONE BOROUGH LOCAL PLAN EXAMINATION

<http://www.maidstone.gov.uk/residents/planning/local-plan/examination>

SESSION 4 – ENVIRONMENTAL CONSTRAINTS

Deadline for Statements: Thursday 15th September.

Please refer to the Inspector's Procedural Guidance Notes for information on the provision of hearing statements.

Inspector's Agenda with Matters, Issues, and Questions

1. Minerals Safeguarding

Issue (i) Whether the Local Plan is consistent with national policy for facilitating the sustainable use of minerals

- 1.1. On 14 July 2016 Kent County Council (KCC) adopted the Minerals and Waste Local Plan 2013-2030 as part of the development plan. In representation R19570 KCC objects that the Local Plan is silent on mineral safeguarding matters and therefore not consistent with Framework paragraph 143. A number of mineral deposits are identified as affected by Local Plan development allocations. KCC state that the Local Plan has not assessed the allocations that affect reserves and that there is potential for conflict with KWMLP Policy DM 7.
- 1.2. The Report to the Borough's Strategic Planning, Sustainability and Transportation Committee on 18 April 2016 commented on the KCC representations. It predated both the Inspector's Report on the KWMLP and its subsequent adoption. The Report points out that the KWMLP is a strategic document that has not assessed the deliverability of resources that overlap development allocations. It is to be followed by the Kent Minerals Sites Plan and Waste Sites Plan. Clarity was to be sought on precisely what resources need to be safeguarded and their potential to impact on the Local Plan development allocations.

Qn4.1 Would KCC and MBC please provide an update on their respective positions on minerals safeguarding and what if any modifications may be needed to the Local Plan for consistency with national policy?

2. Policies for Landscapes of Local Value and for the setting and separation of individual settlements

Issue (ii) Whether policies for Landscapes of Local Value and for the separation of settlements are justified and will be effective

- 2.1. Framework paragraph 109 provides amongst other things that the planning system should protect and enhance valued landscapes. Paragraph 113 seeks criteria based policies for landscape areas with distinctions to be made between the hierarchy of international, national and locally designated sites.
- 2.2. Policy ENV31 of the Maidstone Borough Wide Local Plan 2000 identified a strategic gap in accordance with a policy of the (now withdrawn) Kent Structure Plan. Most but not all of the gap was within the designated AONB. That did not permit significant extensions of the defined urban areas or of settlements within the gap. Policy ENV32 defined a southern anti-coalescence belt with similar objectives. The adopted Local Plan also included Areas of Local Landscape Importance and Special Landscape Areas. These policies would be superseded by the submitted Local Plan.
- 2.3. The proposed Policy SP17 – The Countryside – would limit development there to the limited list defined in SP17(1). The countryside is defined as all those parts of the plan area outside the settlement boundaries as depicted on the policies map. It is said to have an intrinsic character and beauty that should be conserved and protected for its own sake (paragraph 5.66). SP17(2) generally seeks that development meeting criterion (1) enhances local distinctiveness including landscape features and mitigates impacts on the appearance and character of the landscape.
- 2.4. SP17(6) provides that: *'The Greensand Ridge, Medway Valley, Len Valley, Loose Valley and Low Weald, as defined on the policies map, will be conserved, maintained and enhanced where appropriate as landscapes of local value.'* The reasoned justification is at paragraphs 5.83 to 5.87. These

areas differ from the previously defined landscape areas and are based on landscape character assessment.

- 2.5. SP17(7) provides more generally that: *'Development in the countryside will retain the setting and separation of individual settlements.'* However there is no further specific reasoned justification for SP17(7).

Qn4.2 What is the specific intention of SP17(7) and does it require additional justification?

Qn4.3 What if any development would Policy SP17 permit in the countryside which the previous Local Plan policies would not?

Qn4.4 In the policy wording what is the effective difference between 'conserved' and 'maintained'?

3. Policy for the Kent Downs AONB and its setting, the setting of the High Weald AONB, and the Metropolitan Green Belt

Issue (iii) Whether the policy for the AONBs and the Green Belt would be consistent with national policy and effective.

- 3.1. S85(1) of the Countryside and Rights of Way Act 2000 provides that: *'In exercising or performing any functions in relation to, or so as to affect, land in an AONB, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB'.*
- 3.2. The National Planning Policy Framework provides amongst other things at paragraph 115 that great weight should be given to conserving the landscape of AONBs and that the conservation of wildlife and cultural heritage are important considerations. Paragraph 116 sets out specific national policy criteria for major development in the AONB.
- 3.3. National policy for the Green Belt is set out at paragraphs 79-92.

- 3.4. Policy SP17(5) provides that: *'The distinctive character of the Kent Downs AONB and its setting, the setting of the High Weald AONB and the extent and openness of the Metropolitan Green Belt will be rigorously conserved, maintained and enhanced where appropriate.'* The reasoned justification in respect of the AONB is at paragraphs 5.77-5.82. There is no reasoned justification relating to Green Belt policy.
- 3.5. The Kent Downs AONB Unit (R19450) seeks numerous wording modifications to a wide range of Local Plan policies to include specific reference to the AONB and a reference to the AONB design guidance in policy rather than the reasoned justification.

Qn4.5 Does the reasoned justification at paragraph 5.81 and 5.82 accurately reflect the statutory duty and also that the National Planning Policy Framework is national policy and not guidance as stated?

Qn4.6 The Kent Downs AONB unit seeks that the relevant policy references be to 'conserved and enhanced' to be consistent with national policy and the statutory duty in respect of the AONB , why has the word 'maintained' been inserted and what is its purpose ?

Qn4.7 Is the policy consistent with national policy for the AONB and should there be a reference to national policy for major development in the policy or supporting text?

Qn4.8 Does Policy SP17(5) seek to provide exactly the same policy to the setting of the AONB as to the designated AONB itself and is that justified?

Qn4.9 How would the setting of the AONB be defined?

Qn4.10 If the intention is to rely on national policy for the Green Belt should there be wording to that effect in Policy SP17 and/or clarification in the reasoned justification?

Qn4.11 Is the SP17(5) reference to the Green Belt consistent with national policy?

- 3.6. Policy DM3 – Historic and natural environment – applies across the Borough and includes landscape criteria.

Qn4.12 Are the landscape criteria for the countryside in Policy SP17 inconsistent with the landscape criteria of Policy DM3 which apply throughout the Borough and would that undermine the effectiveness of the policies?

4. Development on Greenfield Land and on Best and Most Versatile Agricultural Land

Issue (iv) Whether the Local Plan is consistent with national policy in respect of prioritising brownfield development over greenfield development

- 4.1. A core planning principle of the Framework at paragraph 17 is to: *'encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided it is not of high environmental value'*. There is similar wording at paragraph 111 which also provides that: *'local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land'*.
- 4.2. Some Representors consider that there is excessive allocation of greenfield land for development.

Qn4.13 Can the Council demonstrate that the use of brownfield land has been accorded priority over the allocation of greenfield sites?

Issue (v) Whether the Local Plan is consistent with national policy in respect of development on agricultural land

- 4.3. Paragraph 112 of the Framework provides that account should be taken of the economic and other benefits of the best and most versatile land and that

where significant development of agricultural land is demonstrated to be necessary, poorer quality land is used in preference to higher quality.

- 4.4. Some Representatives are critical of the allocation of good quality agricultural land for development.

Qn4.14 Can the Council demonstrate that the development of poorer quality agricultural land has been accorded priority over the development of higher quality land and especially Grade 1, 2 and 3A best and most versatile land?

5. Policy for the Historic Environment

Issue (vi) Whether the Local Plan is supported by an adequate evidence base in relation to heritage.

- 5.1. Paragraph 9 of the National Planning Policy Framework amongst other things seeks positive improvements in the quality of the built, natural and historic environment. Paragraph 126 provides that the Local Plan should set out a positive strategy for the conservation and enjoyment of the historic environment and lists matters to be taken into account. Paragraph 156 includes that the strategic policies should deliver, amongst other things, '*conservation and enhancement of the natural and historic environment, including landscape.*' Paragraph 157 seeks amongst other things that Local Plans should; '*contain a clear strategy for enhancing the natural, built and historic environment ..*'. Paragraph 158 provides that the Local Plan is to be based on '*adequate, up to date and relevant evidence about the ... environmental characteristics and prospects of the area.*' Paragraph 169-170 provides amongst other things that local planning authorities should have up-to-date evidence about the historic environment and use it to assess the significance of historic assets and the contribution they make to the environment. Where appropriate landscape character assessments should be prepared and integrated with assessments of historic landscape character.
- 5.2. Historic England (R19449) initially declined to comment on the Local Plan owing to lack of time once they were aware of the consultation but their comments were sought subsequently by MBC and a letter of 9 June 2016 advises in summary that:
- the Local Plan heritage policies are not supported by robust evidence;

- the Plan lacks a positive or clear strategy or strategic policies for the historic environment; and
- there is no evidence in the plan that the assessment of impact on heritage of proposed development has been undertaken.

For these reasons the plan is said to be inconsistent with national policy in paragraphs 126, 156- 158 and 169 of the Framework. Further detailed and specific comments are also provided.

- 5.3. These matters are disputed by MBC in a letter of 17 June 2016 which draws attention to various sources of heritage evidence, to the landscape character assessment, and to the Maidstone Town Centre Study. MBC considers that Policy DM3 provides a strategy and that the allocation policies address impacts on heritage assets.
- 5.4. In a further letter dated 30 June 2016 Historic England notes some points made by the Council but otherwise restates its position and suggests that MBC contacts Swale BC which had similar issues with its Local Plan. Reference is also made to guidance in: *The Historic Environment in Local Plans (HE 25 March 2015)*.

Qn4.15. Has there been any previous contact with Historic England (or its predecessor English Heritage) during the preparation of the Local Plan since 2012?

Qn4.16 Was Historic England consulted at the Regulation 18 stage and did they submit comments?

Qn4.17 Does it matter if the Historic Environment Record comprises evidence in several places and would it be proportionate to require the evidence to be brought together in one place?

Qn4.18 How did Swale BC address the issue and could that approach be adopted in MBC?

Issue (vii) Whether the Local Plan includes the strategy for the historic environment that is sought by national policy

- 5.5. Policy DM3 is a portmanteau development management policy for the historic and natural environment. A reasoned justification is provided at paragraphs 17.12-17.14.

Qn4.19 Does the Local Plan need a separate policy for the Historic Environment that would include the strategy for the conservation and enhancement of the historic environment sought by the Framework and Historic England?

Qn4.20 Does the Local Plan clearly define its strategic policy on the historic environment to guide the preparation of Neighbourhood Plans?

Issue (viii) Whether the Local Plan is otherwise consistent with national policy for the historic environment

- 5.6. Baltic Wharf (Maidstone) Ltd (R19143) also assert that the Local Plan is inconsistent with national policy for reasons set out in their representations.
- 5.7. The Council has proposed a change to the first sentence of DM3(ii) to 'Avoid damage to an inappropriate development considered likely to have significant direct or indirect adverse effects on:'

Qn4.21 Does the merger in Policy DM3 of the criteria for natural and historic environment lead to inconsistency with national policy for the historic environment in Section 12 of the Framework in relation to matters such as the significance of heritage assets, the distinction between substantial and less than substantial harm, and the appropriate balancing of harm and benefits?

Qn4.22 Would the Council please respond to the specific Baltic Wharf representations in this regard?

Issue (ix) Whether there has been adequate assessment of the of impact on heritage of proposed development

- 5.8. The Council points to assessments of the impact on heritage including the SHEDLAA Report.

Qn4.23 What if any further assessment of the impact of development proposals on heritage is needed?