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30 October 2015

Dear Alison,

Re: Maidstone Borough Local Plan Regulation 18 Consultation 2015

I write to set out the position of Kent County Council (KCC) following the consultation on selected aspects of the emerging Maidstone Borough Local Plan. In summary it is the view of the County Council that the emerging Local Plan:

- **Fails** the tests of soundness as prescribed in the National Planning Policy Framework (paragraph 182);
- Wholly **disregards** the demonstrably constrained local highway network in the south east of Maidstone town where any further development would result in an **unacceptably severe cumulative** impact;
- Creates **significant challenges** to mitigating the impact of new development on local Education provision in a sustainable manner;
- Is based on a development strategy that is **not justified** by proportionate evidence and is **not consistent** with national planning policy; and
- Does not meaningfully contribute to the delivery of genuinely sustainable development that reflects the vision and aspiration of local communities across the Maidstone Borough.

For the avoidance of doubt unless otherwise stated this letter relates to those aspects of the emerging Local Plan which have been published for current consultation. This letter should be read alongside the County Council's response (dated 7 May 2014) to the previous Local Plan consultation and the extensive dialogue between both Authorities to which I will refer where applicable.

A schedule of general comments on emerging Local Plan policies is appended.

Chapter 3: 'Proposed new housing site allocations'

Education provision

In order to present a full schedule of the required infrastructure needed to accommodate the planned growth in the Maidstone Borough, an analysis of detailed data relating to both housing growth and general population forecasts is required. This analysis will be produced as part of the preparation of the Local Plan Infrastructure Delivery Plan. KCC's Commissioning Plan for Education 2016-20 will also be published before the end of the calendar year.

As the current Local Plan consultation relates only to the proposed deletion or modification of a limited number of housing site allocations and not to the total quantum or distribution of development, I set out below broad comment providing an update to the previous consultation response (pages 6-8 of the response dated 7 May 2014).

Since the 2014 Local Plan consultation KCC has secured sites for new primary schools at Langley Park and Hermitage Lane, each of which will ultimately provide two form entry provision to the north and south of Maidstone town. Land has also been secured through the planning system at Headcorn to enable the existing primary school to expand. However even with the additional pupil places that can be commissioned by securing these sites, the scale and distribution of proposed development in the Maidstone Borough remains challenging to accommodate.

The new schools in the town are forecast to provide places for children from development already consented and the existing nearby housing. They will have limited surplus capacity to accommodate pupils from potential further development. This is especially true of Langley Park in south east Maidstone where pressure from development has already been high. As a result significant development proposals in Maidstone town may therefore not be accommodated within commissioned nor currently planned further provision. The sustainability of such sites which cannot be accommodated within planned provision would diminish significantly unless those proposals also included the provision and full funding of appropriate education capacity.

Accommodating growth within the rural service centres and villages will remain challenging. Expansions of existing primary schools will be necessary but may not be able to accommodate the increased demand in all areas, especially where expansions are inappropriate or technically problematic.

Planning applications for development are likely to continue to be submitted ahead of Local Plan adoption, presenting further challenges to efficient provision planning. It is imperative that MBC continues ongoing discussions with KCC in relation to education provision to ensure that appropriate provision is accounted for over the short, medium and long term, and that proposals where adequate education provision cannot be provided are resisted.

H1 (63) Land at Boughton Mount, Boughton Lane, Boughton Monchelsea

The County Council supports the allocation of this site for residential use.

KCC notes that the policy stipulates built development should be confined to the existing developed area of the site to the north of the designated heritage assets (criterion 1). The policy also requires any proposal to enable the restoration of the parkland/ garden and the designated heritage assets within the southern parcel of the site (criterion 3), to be secured by an appropriate legal mechanism.

The County Council has begun to carefully assess the opportunities and constraints for redeveloping the site as part of the process of preparing a planning application, in accordance with the policy requirements of the emerging Local Plan.

KCC is generally supportive of the provision of public open space in the southern parcel of the site but would urge the Borough Council to reconsider the boundaries and in particular, the allocation of the land immediately north of the Ha-Ha. The County Council considers that there is strong merit in including this area of the site as 'private amenity space'. This would provide greater flexibility in the design process and would improve the long term opportunity to preserve and enhance the setting of the Ha-Ha. For the avoidance of doubt there is no suggestion that the 'Area to be Developed' should be increased beyond what is already stated in the policy.

Furthermore, the preamble to Policy H1 (63) recognises (at paragraph 3.59) that the, "... viability of any scheme will be a key consideration" in enabling the retention and restoration of the southern parcel of the site. By modestly redefining the proposed boundary of the public open space, the overall deliverability of a future scheme can be enhanced whilst continuing to meet the general aims and objectives of Local Plan policy.

Chapter 4: 'Housing site allocations proposed for deletion'

H1 (25) Tongs Meadow, West Street, Harrietsham

KCC notes that emerging Local Plan Policy H1 (25) is proposed for deletion following advice from Natural England regarding the probability that a European Protected Species Development License would not be issued because the site is a receptor site for a previous development.

Following the proposed deletion of the allocation it is requested that MBC safeguards land for educational purposes within the emerging Local Plan which is necessary to allow Harrietsham Primary School to expand and mitigate the impact of development in the area.

Development in the Harrietsham and Lenham area requires the County Council to commission an additional one form entry of primary capacity by 2018/19. To enable Harrietsham Primary School to accommodate this expansion, additional land would be required for the existing school site.

The previously proposed development at this site (planning application ref. 14/0208) incorporated this safeguarding of land for the school's expansion consistent with the Local Plan 2014 policy requirement (Policy H1 (25) criterion 7):

*"7. **Transfer of land for the provision of an expansion to the primary school and provision of new playing fields to the west of the site, nearest the existing school.**"*

[My **emphasis** added]

The required land extends 49 metres to the east of the existing school site and has an area of 0.48 hectares as shown on the plan appended (drawing no. 1004). Local Plan policy should reflect the need for this land to be used for educational purposes in the future and prevent its development for residential use unless the County Council - as Local Education Authority - has confirmed that the land is no longer required.

This safeguarding secures the ability for the school to physically expand. The commissioning of any expansion will be conducted through the statutory education process and it would ensure that appropriate levels of ecological mitigation are provided.

Chapter 5: 'Housing site allocation proposed for amendment'

KCC notes paragraph 5.2 (page 84) of the Local Plan 2015 consultation document:

"Following an assessment of the representations received through the consultation process, and consideration by the council's Planning, Transport and Development Overview and Scrutiny Committee in January 2015, the council's Cabinet on 2 and 4 February 2015, and finally the Strategic Planning, Sustainability and Transport Committee on 18 August 2015 the site [South of Sutton Road Langley] is recommended for re-consultation for the reasons indicated."

Background

KCC - as Local Highway Authority - has consistently expressed its **serious concerns** to MBC regarding the quantum and spatial distribution of development proposed in the emerging Local Plan which would have an **unacceptably severe** impact on the transport network.

These concerns were clearly articulated to MBC in January 2015¹. At that time, modelling work had been jointly commissioned by both Authorities to assess the impact of the quantum of development in the Local Plan 2014 (i.e. 17,100 dwellings to 2031) on the local highway network. The outputs were presented to the Joint Transportation Board (JTB) on 15 December 2014 and clearly demonstrated that there would be an average increase of over 38% in total travel time, if only the Bridge Gyratory improvement scheme was to be implemented. If the wider package of highway improvements agreed by the JTB in September 2014 was to be implemented, then this average increase would be in the order of 30%.

¹ See letters dated 20 January 2015 and 30 January 2015 from Barbara Cooper to Alison Broom.

It is the view of the County Council that the subsequent recommendations by Borough Council officers in February 2015 to amend Local Plan Policy H1 ('Housing allocations') and allocate 24 additional sites were wholly premature and clearly made against the advice of the Local Highway Authority. They also plainly disregarded the unanimity reached by the JTB in late 2014 which confirmed the need for further model tests to inform an emerging Integrated Transport Strategy to support the Local Plan. If these recommendations had been accepted by the former MBC Cabinet in February 2015, they would have produced even greater increases in travel times across the network than those reported to the JTB in late 2014.

The recommendations were **severely detrimental to the effective co-operation** between both Authorities on matters of strategic importance to the sustainable development of the Maidstone Borough.

At the 22 July 2015 meeting of the JTB the principles to be taken forward in the preparation of the Integrated Transport Strategy were unanimously agreed. The JTB made the following recommendation to the Strategic Planning, Sustainability and Transportation (SPS&T) Committee prior to its meeting on 23 July 2015:

“That this Board recommends to Kent County Council’s Cabinet Member for Highways, Transportation and Waste and to Maidstone Borough Council’s Strategic Planning, Sustainability and Transportation Committee that a combination of DS2 and DS3 form the basis of the Integrated Transport Strategy for Maidstone to underpin the Local Plan. This is with the exception of the following and subject to costing to ascertain affordability and the evaluation of feasibility, sustainability and deliverability:

- *Additional North/South Park and Ride removed from DS2;*
- *All references to percentage targets removed from DS2;*
- *That it is specified that with reference to parking costs, it refers to long-term car parks; and*
- *That frequent bus services are encouraged with appropriate junction improvements but at no detriment to existing traffic capacity.”*

In light of this the County Council - as Local Highway Authority - strongly objected to the allocation of any further housing sites by the Borough Council on the basis that this would be premature and cause an **unacceptably severe impact** on the local highway network without the certainty that mitigation could be provided and delivered². In recognising the imperative to progress the Local Plan the County Council provided an assurance to MBC that work would be undertaken in partnership to establish the viability of the transport package and crucially, that this would not take longer than 12 weeks.

At the 14 October 2015 meeting of the JTB the feasibility designs and cost estimates associated with the highway schemes proposed for inclusion in the package were presented, alongside a recommended approach to further modelling work. This modelling work had been identified as necessary in view of the increased housing numbers in the Local Plan and the need to demonstrate the impact of the 23 July 2015 JTB recommendation.

² See letter dated 23 July 2015 from Barbara Cooper to Alison Broom.

The JTB resolved that the modelling work, referred to as the '2031 Do Something 4' (DS4) scenario, should proceed and be reported back at a specially arranged meeting on 28 October 2015.

It is disappointing and indeed unfortunate that MBC chose to delay this meeting until 4 November 2015, given that this date is clearly beyond the closure of the current Local Plan consultation period. KCC now seeks urgent confirmation from the Borough Council that it will have full regard to the position reached by the JTB on 4 November 2015 in the preparation of the Local Plan. If MBC chooses not to take account of the JTB's conclusions on the 4 November, then KCC would express its strong concern that MBC is undermining the role of the JTB in the plan making process.

The DS4 modelling results for the AM peak identify the impact of the revised housing numbers in the context of assumptions on travel behaviour that are consistent with the 23 July 2015 JTB recommendation. They indicate that there would be a 20% increase in travel time on the network, which could be reduced to 13% in the event that a Leeds-Langley relief road is included within the package of transport interventions. The formal views of the JTB on this severity of impact are not yet known due to the forced rescheduling of the special JTB meeting to 4 November 2015. At the briefing on 28 October 2015 the initial indications are that JTB Members continue to have very serious concerns over this magnitude of impact in the context of the congestion already prevalent on the local highway network.

Known constraint to growth

It was clear from the July 2015 meetings of both the MBC SPS&T Committee and the JTB that the capacity of the local highway network to accommodate a level of housing growth aligned directly with the objectively assessed need for housing remains a major concern for all Members as well as the businesses and residents within the Maidstone Borough.

KCC took the opportunity prior to the 18 August 2015 of the SPS&T Committee to reaffirm its position on matters relating to both plan making and decision taking³.

The National Planning Policy Framework (NPPF) states at paragraph 32 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 the development. **Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.**”*

[My **emphasis** added]

³ See letter dated 13 August 2015 from Barbara Cooper to Alison Broom.

This has effectively prevented the County Council from objecting to planning applications unless there is clear and robust evidence to demonstrate a severe cumulative impact on the highway network. This evidence did become available in July 2015 following the completion of traffic modelling work undertaken by consultants Amey on behalf of both Authorities.

The modelling identified how conditions on the highway network would be adversely affected by the cumulative impact of traffic associated with planned new development. In particular, routes within south east Maidstone including the A229 and A274 have been shown to be **highly susceptible** to worsening levels of congestion.

This has been further evidenced through sensitivity testing to identify how an additional 2,250 houses in the south eastern part of the town could influence network conditions under the DS3 scenario (thereby achieving an overall total of 18,500 houses that is comparable to the other modelling scenarios). These tests were presented in full to the Borough Council⁴ identifying how this uplift in housing growth has a substantial bearing on the overall performance of the network as travel times would increase by a further 12% in the peak period. At the local level delays at the A229/ A274 Wheatsheaf junction would be increased by a further 83%, although this increase could be reduced to 28% by the provision of a Leeds-Langley relief road.

Role of the Joint Transportation Board (JTB)

The JTB comprises democratically Elected Members of both the local planning authority and Local Highway Authority. Its role and function in so far as is relevant to the Local Plan is to jointly agree the Integrated Transport Strategy for the Maidstone Borough. However over a period of two years the Borough Council's proposals for land use and transport measures have taken no account of the evidence presented to the Board, nor the recommendations it has subsequently made.

This is not in accordance with the plan making principles set out in the NPPF. Paragraph 155 of the Framework states:

*“Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. A wide section of the community should be proactively engaged, **so that Local Plans, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area, including those contained in any neighbourhood plans that have been made**”.*

[My **emphasis** added]

This has been most clearly exemplified in the continuing promotion of bus lanes by the Borough Council in Local Plan policies (i.e. DM14 and DM15) when these have been conclusively rejected by the JTB and the Local Highway Authority, and in the re-inclusion of additional housing sites in the south east of the town immediately following the presentation of evidence demonstrating that this part of the network is constrained. No weight is being attached in the plan making process to clear

⁴ See letter dated 13 August 2015 from Barbara Cooper to Alison Broom.

evidence which demonstrates a significant constraint to growth, nor is there any apparent understanding of the severe impact that growth will have upon the town's economy and air quality.

The position of the County Council - as Local Highway Authority - has been robustly justified and is entirely consistent with national planning policy. Kent County Council **strongly objects** to any further major development allocations (or speculative planning applications) on the southern approaches to Maidstone Town Centre (i.e. A229/ A274). This is on the basis that the cumulative impact of recently completed (or consented) development would have an **unacceptably severe impact** on the local highway network without there being sufficient certainty that mitigation can be provided and, most importantly, funded.

Any further development would be **wholly detrimental** to local residents, the travelling public and the ability of Maidstone's economy to function effectively.

Chapter 6: 'Proposed new employment site allocation'

I note that Policy EMP 1 (5) of the emerging Local Plan allocates land at Woodcut Farm for major commercial development.

KCC reiterates its consistent **strong objection** to major commercial development at M20 Junction 8. The County Council has already objected to the outline planning application submitted for major commercial development at this site (ref. 15/503288/OUT)⁵.

The Inspector who dismissed both appeals⁶ for development at land south of the A20/ M20 Link Road Roundabout ('Waterside Park') recognised that:

"Considerable environmental harm would result from the loss of this area of countryside to development through the combined impact on the landscape setting of the AONB and the heritage assets."

[My **emphasis** added]

The County Council recognises the need for employment land but does not consider that this need outweighs the demonstrable environmental (natural, built and historic) harm that would be caused by major commercial development in this highly sensitive location. Furthermore, it has already demonstrated that there are a range of alternative Employment sites within Kent where development of this type and quantum would be more suitably accommodated.

Chapter 11: 'Park and Ride site allocations for deletion'

The County Council fully recognises how Park and Ride has continued to provide commuters, shoppers and visitors with an attractive alternative to car use when

⁵ See letter dated 23 June 2015 from KCC Cabinet Member for Environment & Transport Matthew Balfour to Mr. R Timms.

⁶ Appeal references APP/U2235/A/14/2224036 and APP/U2235/A/14/2229271.

travelling to Maidstone town centre. The patronage of these services has helped to reduce the number of car journeys that might otherwise be on highway network, together with their consequential effects on road congestion and air pollution.

It is therefore regrettable that the Borough Council has proposed to delete the current Old Sittingbourne Road Park and Ride site in the absence of any alternative site that could be made available to maintain the current service. This will undoubtedly inconvenience many of the existing service users who will be forced to alter their travel arrangements and is expected to result in an increase in car journeys on the local highway network and higher levels of parking on nearby residential streets as users switch onto radial bus services.

It is understood that the Borough Council has already entered into dialogue with bus operators regarding potential upgrades to existing commercial bus services, but it remains unclear whether this will achieve a level of service that is attractive to current Park and Ride users.

Chapter 12: 'Policy DM15 Park and Ride'

The County Council has consistently and explicitly stated that the provision of bus priority measures, including bus lanes, will not be supported as the benefits they achieve do not represent good value when compared against highway capacity schemes that will deliver overall improvements in traffic flow. The reference to such provision in Policy DM15 is therefore directly at odds with the stated Highway Authority position. It also conflicts with the recommendation of the Joint Transportation Board on 22 July 2015 that 'frequent bus services are encouraged with appropriate junction improvements but at no detriment to existing traffic capacity'.

Other Matters:

KCC is the Mineral Planning Authority for Kent. The emerging Kent Minerals and Waste Local Plan (KMWLP) 2013-30 identifies important local and national economic minerals on the 'Maidstone Borough Council - Minerals Safeguarding Areas' sheet. Upon adoption, the KMWLP will form part of the statutory development plan for Kent. KMWLP Policy DM 7 will apply where development allocations in the emerging Maidstone Borough Local Plan coincide with identified important local and national economic minerals.

Policy DM 7 will only permit non mineral development that is incompatible with minerals safeguarding where it is demonstrated that the development proposal being determined by the Borough Council accords with the policy criteria. If this is considered not to be the case then the County Council - as Mineral Planning Authority - would object to the proposal on the grounds of conflict with the safeguarding of important local and national economic minerals in the County.

In summary it is the position of KCC that the emerging Maidstone Borough Local Plan:

- Wholly **disregards** the demonstrably constrained local highway network in the south east of Maidstone town where any further development would result in an **unacceptably severe cumulative** impact;
- Creates **significant challenges** to mitigating the impact of new development on local Education provision in a sustainable manner;
- Is based on a development strategy that is **not justified** by proportionate evidence and is **not consistent** with national planning policy; and ultimately,
- **Fails** the tests of soundness as prescribed in the Framework (paragraph 182).

KCC will continue to work with the Borough Council to establish consensus on the strategic priorities for the Maidstone Borough so that the Local Plan can meaningfully contribute to the delivery of genuinely sustainable development that reflects the vision and aspirations of local communities.

If you require further information or clarification on any matter in this response then please do not hesitate to contact me.

Yours sincerely



Barbara Cooper

Corporate Director – Growth, Environment and Transport

Cc. Mr. R Jarman, Head of Planning and Development, Maidstone Borough Council

Appendix 1: Schedule of general policy comments

Appendix 2: Drawing no. 1004 dated October 2015 'Harrietsham Primary School'