

**MAIDSTONE BOROUGH LOCAL PLAN EXAMINATION
WRITTEN SUBMISSION BY CPRE KENT &
MAIDSTONE DISTRICT COMMITTEE OF CPRE KENT**

SESSION 11 - DEVELOPMENT MANAGEMENT POLICIES

2. DEVELOPMENT MANAGEMENT POLICIES FOR MAIDSTONE BOROUGH

DM4 Development on Brownfield Land

Qn11.5 Should the policy address the issue of whether private gardens in the countryside and small villages qualify as brownfield land?

The coalition government in June 2010 took gardens out of the Brownfield category as a means of enabling councils to prevent unwanted development on gardens where local people object and protect the character of their neighbourhood.

It would be contrary to government guidance to identify gardens as brownfield land.

DM5 Air Quality

Qn11.8 Is the policy wording adequately clear and effective in its different references to locations as: 'close to identified air quality

NPPF paragraph 124 requires that *'Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. ...'*

The DEFRA report on Improving air quality in the UK *Tackling nitrogen dioxide in our towns and cities* UK overview document December 2015 in section 7.1. Infrastructure and land use planning at paragraph 231 states that *'New infrastructure and other developments need to be sensitively planned to ensure they do not add to, or cause, significant additional air quality issues.'*

A recent Planning Opinion of Robert McCracken QC for Clean Air in London on Air Quality and emissions¹ sets out that:

'65 Because of the admitted, serious, and ongoing breaches by the UK of the limit values of the Air Quality Directive 2008/50/EC planning authorities have a duty in their decision making to seek to achieve compliance with the Directive's limit values.

66 Where a development would cause a breach in the locality of the development they must refuse permission.

67 Where a development would in the locality either make significantly worse an existing breach or significantly delay the achievement of compliance with limit values it must be refused.

68 Where limit values are not exceeded in the locality planning authorities must try to prevent developments from worsening air quality and to achieve best air quality, only permitting the former if the development can be justified by the principle of sustainable development as understood in a European Union (not English) sense. ...'

The policy as worded is not clear.

¹ Air Quality and emissions. Clean Air in London; Air Quality Directive 2008/50/EC and Planning Opinion of Robert McCracken QC, Frances Taylor Building. E-law January/February 2016

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There is no guidance on how an application will be determined if air quality in the AQMA already exceeds the legal compliance level.

There is no guidance on how an application will be treated if, either individually or collectively, it would result in a worsening of air quality in the AQMA, or on roads outside the AQMA which experience higher levels of air pollution, such that air quality exceeds the legal compliance level.

In bullet 3 the use of the wording 'where necessary' is unhelpful as it could result in proposals that result in levels of air pollution that exceed the legal compliance level being permitted and not incorporating any mitigation measures. The phrase should be deleted.

DM7 External Lighting

Qn11.13 What evidence is there to identify what may be an 'intrinsically dark landscape' in the terms of NPPF paragraph 125?

CPRE as part of their campaign for reclaiming our dark skies have prepared a map showing the areas with the brightest and darkest skies. This can be found at: <http://nightblight.cpre.org.uk/maps/>

Qn11.14 What specific policy rewording is sought by those who have not suggested any and is it needed for the policy to be effective and consistent with national policy? and Qn11.15 Why is the suggested limitation on lighting hours necessary to soundness?

NPPF paragraph 125 deals with light pollution and sets out that by encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. It would be reasonable and consistent with the NPPF for the policy to include a new criterion 3 that reads along the following lines: *'Where lighting would have an adverse impact on residential areas or properties, or the countryside the Council will include conditions on the hours of operation.'*

Proposed change PC/51 is welcomed. It does not however address our concern set out above.

DM8 Residential extensions, conversions and redevelopment within the built up area

Qn11.17 How would the requirement for 'sufficient parking' be interpreted and should that be made clearer in the policy for it to be effective (eg by a cross reference to Policy DM27)?

The policy should require development to meet the relevant car parking standards.

DM9 Residential premises above shops and businesses

Qn11.19 Why would a modification be needed for soundness? and Qn11.20 What would that guidance say?

Where a shop, including upper floors, are in the ownership of the shop keeper they are unlikely to seek a change of use on the upper floors if the space is required to serve the continuing viability of operation of the shop. On the other hand, where the shop is rented the landlord may seek to change the use of upper floors to the detriment of the retail unit. To safeguard such retail units it is suggested that a third

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criterion is included to read along the following lines: *‘Proposals for change of use of upper floors to non-retail use will be refused where this would impact on the continued viability or operation of the shop.’*

DM24 Sustainable transport

Parts 1 and 2 of Policy DM24 seem to be expressions of strategy. We suggest that they are moved to a strategy section of the plan.

DM28 Renewable and low carbon energy schemes

Qn11.33 Neither national policy nor national guidance preclude renewable and low carbon energy development either in Areas of Outstanding Natural Beauty or in National Parks which benefit from equal status for their landscape qualities. Moreover the English National Parks Circular 2010 encourages such development in national parks. Why therefore would the Local Plan be unsound without the requested modification? and Qn11.34 As CPRE expresses support for the policy, why would it be unsound without the proposed rewording?

The policy relates to larger scale renewable or low carbon energy projects.

The Kent Downs AONB Management Plan is supportive in principle of local renewable and sustainable energy initiatives. Policy SD5 of the Management Plan states:

‘Local renewable and sustainable energy initiatives will be pursued where they help conserve and enhance the natural beauty and landscape character of the AONB and bring environmental, social and economic benefits to local people. Proposals will be opposed where they do not conform with the Kent Downs Energy Position Statement.’

NPPF paragraph 116 states that planning permission should be refused for major developments in an AONB except in exceptional circumstances and where it can be demonstrated they are in the public interest. Large scale renewable or low carbon energy projects would have a detrimental impact on the environment, landscape and recreational opportunities of the AONB and due to the nature of the development it is very unlikely that such impacts could be moderated.

CPRE Kent considers that it would not be compliant with the NPPF for larger scale renewable or low carbon energy projects to be permitted within the AONB. We suggest that a new final paragraph is included to read:

‘Applications for larger scale renewable or low carbon energy projects in the North Downs AONB will not be permitted.’

DM29 Electronic communications

Qn11. Why is the proposed modification necessary for soundness? and Qn11. Would the proposed wording conflict with the different policy tests for the natural and historic environment elsewhere in the Local Plan and in national policy?

CPRE Kent withdraws its representation.

3. DEVELOPMENT MANAGEMENT POLICIES FOR THE COUNTRYSIDE

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DM34 Design principles in the countryside

Qn11.42 Is the wording of Policy DM34 consistent with the policy tests in Policy SP17 and is cross referencing between the policies needed to make them more effective?

Policy SP17 The Countryside includes development control criteria as does DM 34 Design Principles in the countryside. This is confusing and it would be helpful for the policies to be merged.

DM37 Change of use of agricultural land to domestic garden land

Qn11.49 What provisions of Policy SP17 would apply to development of this type?

The plan at paragraph 19.11 recognises that *'The change of use of agricultural land is also, in principle, contrary to the objective of safeguarding the open, rural character of the countryside, which is advocated by the National Planning Policy Framework.'*

In view of this statement the policy should be deleted as it is not in conformity with the NPPF.

DM41 Expansion of existing business in rural areas

Qn11.52 Why would a reference to external lighting be needed when the matter is already addressed by Policy DM7?

CPRE Kent would be happy to withdraw this objection if our suggested change for DM7 is accepted.

DM42 Holiday caravan and camp sites

Qn11.53 Many AONBs and National Parks include caravan and camp sites, and they are not precluded by national policy, why should the Kent Downs AONB and its setting be different? and Qn11.54 Would lighting and landscape impacts already be addressed by other Local Plan policies such as DM7 DM34 and SP17?

NPPF paragraph 28 supports sustainable rural tourism developments where they respect the character of the countryside. At paragraph 113 local planning authorities are required to set out distinctions between the hierarchy of international, national and locally designated sites so that protection is commensurate with their status and gives appropriate weight to their importance. Paragraph 115 states that great weight should be given to conserving the landscape and scenic beauty in AONBs.

Paragraph 19.30 states that holiday caravan and camp sites should be located outside the borough's most sensitive landscape areas, in particular outside the Kent Downs AONB. It would be helpful for the policy to make this point clear. It is suggested that a new criterion 3 is included to read: *'3. Proposals for sites for the stationing of holiday caravans and / or holiday tents should not be located within the Kent Downs AONB.'*

If our suggested change to Policy DM7 External Lighting is accepted there would be no need to include a criterion on restricting lighting.

DM43 Caravan storage in the countryside

Qn11.56 Which if any soundness test would justify the deletion of the policy?

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The policy repeats much of the guidance set out in policies SP17 and DM34. As written it may be interpreted that the guidance in these policies do not apply to caravan storage in the countryside. It may be possible to include criterion 3 and 4 in an amalgamated SP17 and DM34.

DM44 Retail units in the countryside

Qn11.59 Is a definition of what may be a significant proportion required for the policy to be effective? and Qn11.60 What would be significant - 10%? 30% 50%? 75%?

It would be helpful to provide guidance on what is a 'significant proportion' and given that such retail units would sell produce primarily from the farm holding rather than importing produce for sale it is suggested that significant would need to be in the order of 60%.