



Nathaniel Lichfield
& Partners
Planning. Design. Economics.



Tonbridge and Malling Borough
Council

Development Capacity Study

December 2013



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1.0 Introduction

- 1.1 Tonbridge and Malling Borough Council (TMBC) commissioned Nathaniel Lichfield & Partners (NLP) to undertake an assessment of the development capacity of the Borough as part of its wider work looking at Economic Futures. This report considers the current evidence on the environmental capacity of the Borough as well minerals and waste and transportation factors. In considering this evidence it is important to distinguish between the following:
- a Constraints that would act to limit *how much* development the Borough as a whole could accommodate in accordance with the NPPF; and
 - b Factors that would shape the spatial priorities of the Borough in terms of *where* development should take place in order to deliver its strategy.
- 1.2 In terms of **a** above, the NPPF (paragraph 14) clearly establishes that Plans should meet objectively assessed needs unless “*any adverse impacts... would significantly and demonstrably outweigh the benefits.*” Consideration of this test is the focus of this section of the report. Issues regarding the spatial priorities of the Borough will be informed by the analysis in this report, but are matters for further consideration by the Council in due course.

Scope of works

- 1.3 This report looks at the current evidence on development constraints in Tonbridge and Malling Borough including the impacts of the following factors.
- 1 Environmental Capacity
 - i Archaeology and Heritage;
 - ii Ecology and Biodiversity;
 - iii Flood Risk;
 - iv Landscape;
 - v Agricultural Land.
 - 2 Minerals and Waste; and
 - 3 Transportation.
- 1.4 The report draws on relevant mapping layers supplied by TMBC or obtained from other publicly available sources.

2.0 Environmental Capacity Factors

2.1 The principal focus of the analysis in this section is on what are commonly referred to as ‘environmental capacity’ factors. In this regard, this section looks at the existing evidence for environmental designations in terms of their ability to potentially constrain to the ability of the Borough to accommodate development. It then draws conclusions, taking into account the provisions of the NPPF.

2.2 This analysis is distinct from the type of analysis that seeks to quantify a ‘carrying capacity’ of the Borough in eco-system terms or to measure the degree of ‘self-sufficiency’ of the Borough in terms of, for example, food production. Nor is it a Sustainability Appraisal.

2.3 The environmental supply-side factors considered are listed below and are considered in turn.

- 1 Archaeology and Heritage,
- 2 Ecology and Biodiversity
- 3 Flood Risk,
- 4 Landscape, and
- 5 Agricultural Land.

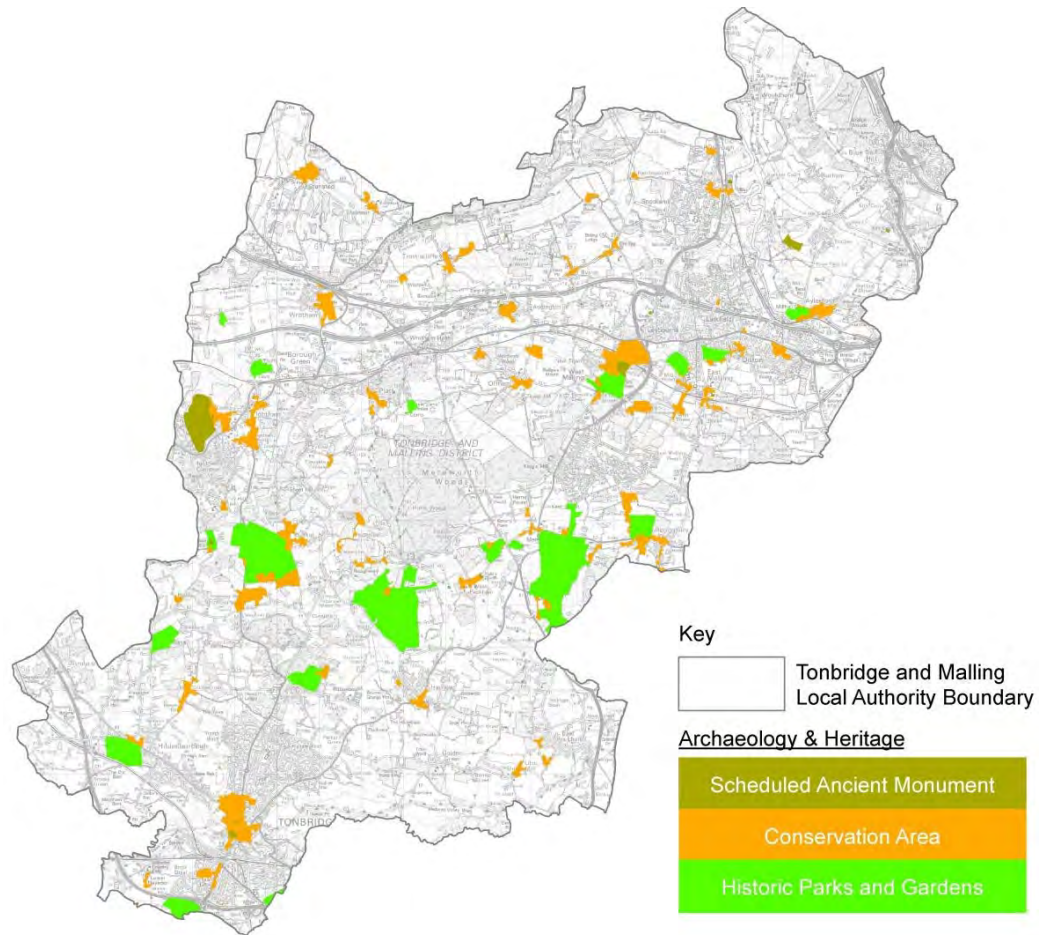
Archaeology and Heritage

2.4 There are a number of archaeological and heritage sites within the Borough, as illustrated in Figure 2.1 below. These include:

- Scheduled Ancient Monuments including the Medieval Hall at 186 High Street, Tonbridge Castle and the Town Banks (Fosse);
- Conservation Areas including Bullen Corner, Cobdown Farm, Hadlow, Hildenborough, Holtwood, Larkfield Church, Quarry Hill and Tonbridge Conservation areas; and
- Historic Parks and Gardens.

2.5 In addition there are some 1,400 Listed Buildings which are not mapped below, but could present site specific constraints to development and require sensitive planning solutions.

Figure 2.1 Archaeology and Heritage Constraints



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2.6 There are clear indications in the NPPF (paragraph 132) surrounding designated heritage assets (including Scheduled Ancient Monuments, Conservation Areas, Historic Parks and Gardens and Listed Buildings) and any development which would impact upon them or their setting.

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation ... Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”

2.7 However, it is also established that these heritage assets are not in themselves reasons for limiting the capacity for development that can in principle be accommodated in or around settlements through sensitive approaches to scheme design. Paragraph 134 of the NPPF states the following:

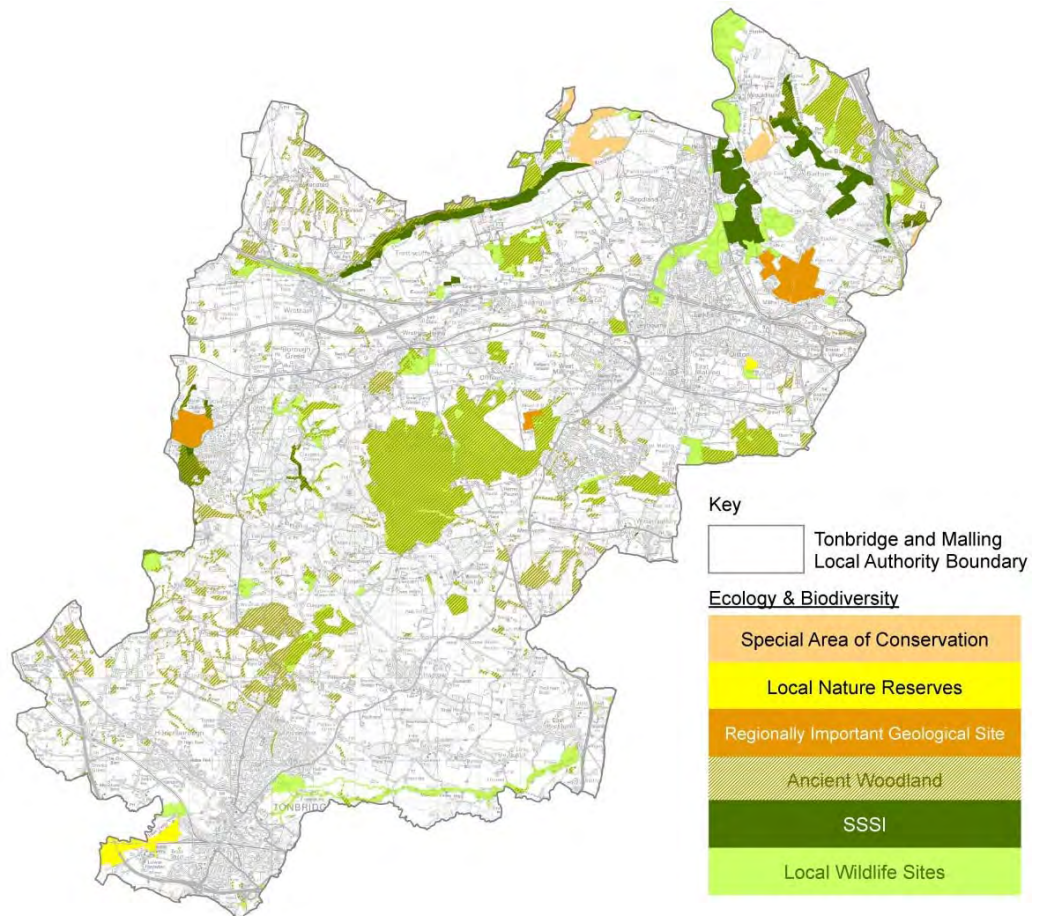
“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

- 2.8 This indicates that a blanket approach to restricted development in relation to heritage assets is not always suitable. There are examples of the planning system enabling historic settlements to expand through appropriate and well-designed sustainable urban extensions (e.g. Dorchester and York). This is not to undermine the importance of a spatial strategy that gives due consideration to historic buildings and settlements. However, as it stands there is no fundamental evidence which would suggest that the Borough's heritage assets, in themselves, would result in a particular threshold for development.

Ecology and Biodiversity

- 2.9 The Borough also hosts a number of areas of ecological importance which are illustrated in Figure 2.2. These comprise the following features:
- Local Nature Reserves;
 - A total of 43 Local Wildlife Sites;
 - Special Areas of Conservation (SAC) including Peter's Pit, parts of Halling to Trottiscliffe Escarping and the Woulden to Detling Escarpment in the North Downs Woodlands SAC;
 - Ancient Woodland which covers just under 11% of Borough at 2,621 hectares;
 - Regional Important Geological Sites; and
 - A total of 11 Sites of Special Scientific Importance (SSSI's) with the largest being the Halling to Trottiscliffe Escarpment and the Holborough to Burnham Marshes.

Figure 2.2 Ecology and Biodiversity Constraints



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SSSI's and SAC

2.10

It is reasonable to assume that a spatial strategy that seeks to achieve sustainable development in line with the NPPF would not involve development of (or direct adverse impact on) sites that carry an international or national designation (including SAC and SSSI's), unless it was clearly unavoidable and included relevant mitigation or compensation. Paragraph 118 of the NPPF states that Special Areas of Conservation should be given the same protection as European sites and as such, the following statement from paragraph 118 of the NPPF applies to development of both SAC's and SSSI's.

“Proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest”.

Regionally Important Geological Sites, Local Wildlife Sites and Local Nature Reserves

- 2.11 These types of site are all locally designated. In accordance with delivering NPPF compliant development of or affecting these sites must be given appropriate consideration by the Local Planning Authority, as these are not statutorily protected development affecting them should not automatically be refused. This is emphasised in paragraph 113 of the NPPF which states the following:
- “Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made 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 and the contribution that they make to wider ecological networks.”*
- 2.12 With regard to Regionally Important Geological Sites the NPPF puts the onus on the development of local planning policies to minimise impacts on geodiversity, stating in paragraph 117 that such policies should “*aim to prevent harm to geological conservation interests*”. The NPPF does not go as far as to say that development of these sites is restricted and in fact implies that local designations should have less protection commensurately than international and national designations. Overall, there is no evidence which would indicate a fundamental limit on the Borough’s capacity as a result of local nature reserves, wildlife sites and geodiversity designations.

Ancient Woodland

- 2.13 The NPPF (paragraph 118) makes specific reference to the refusal of development which would result in the loss or deterioration of ancient woodland, unless the benefits of a scheme would outweigh the loss.
- “planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss”.*
- 2.14 This identifies that a blanket refusal on the loss of ancient woodland is not an appropriate stance in all instances and as such, there is no evidence that the presence of ancient woodland creates a fundamental capacity on Tonbridge and Malling’s development potential.

Flood Risk

- 2.15 There is a policy emphasis in the NPPF to steer development away from areas with high flood risk. The Technical Guidance to the NPPF¹ states that:

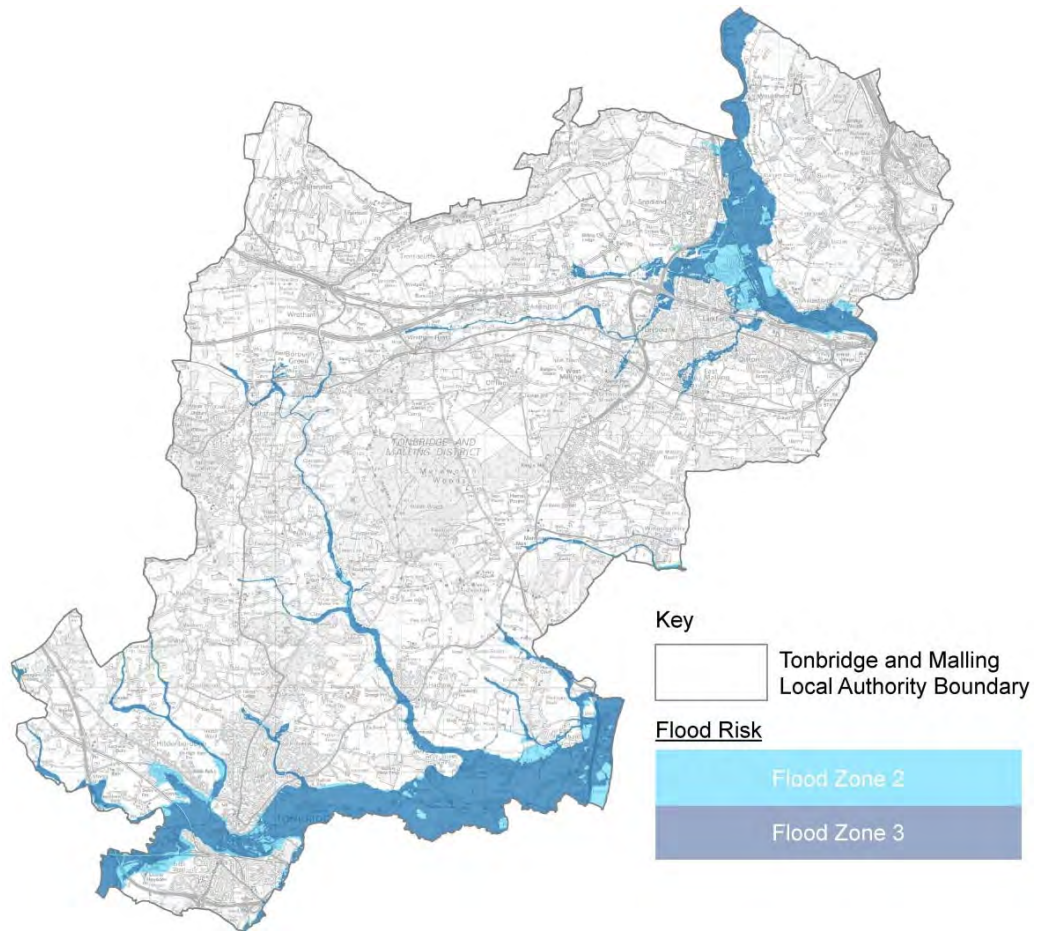
¹ Technical Guidance to the National Planning Policy Framework, March 2012

“The overall aim should be to steer new development to Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, local planning authorities allocating land in local plans ... should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 ... Only where there is no reasonably available sites in Flood Zones 1 and 2 should the suitability of Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.”

2.16

Housing is defined as a ‘More Vulnerable’ use in the Technical Guidance and this is stated to be an ‘Appropriate Use’ in Flood Zones 1 and 2. It is not regarded as an appropriate use in Flood Zone 3, unless it passes an ‘Exception Test’ (only in the case of Flood Zone 3a – *High Probability* – and not 3b – the *Functional Floodplain*). Flood Zone 3 should therefore be regarded as a significant constraint with Flood Zone 2 requiring consideration of the vulnerability of the land uses; these are mapped below in Figure 2.3. Flood Zone 3 takes up a very small proportion of the Borough and even Flood Zone 3a can be developed for housing if it passes the Exceptions Test. As such, Flood Zone 3 land does not fundamentally constrain the development capacity of Tonbridge and Malling.

Figure 2.3 Flood zones 2 and 3



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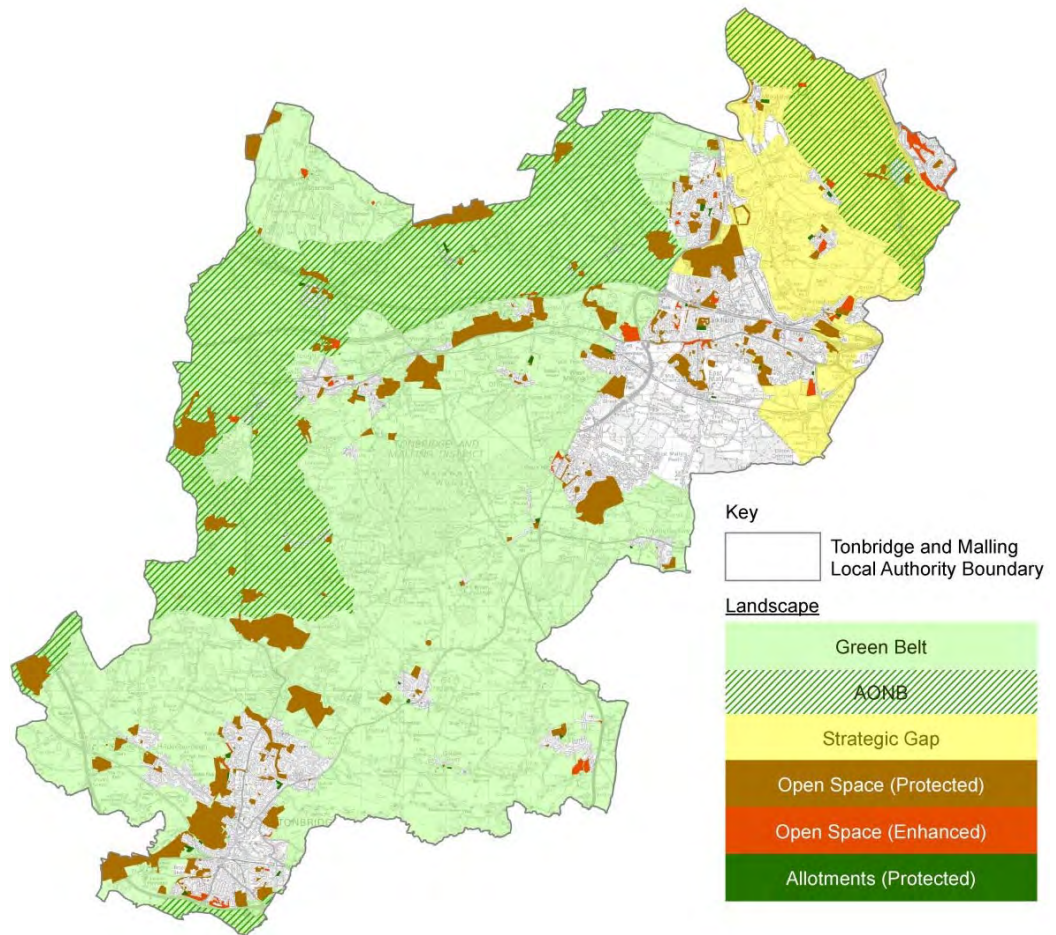
Landscape

2.17

Landscape constraints, including landscape policy constraints, are relevant in determining the approach to planning for development needs. Key components in the consideration of landscape issues are mapped in Figure 2.4 below and include the following:

- Parts of the North Downs and High Weald Areas of Outstanding Natural Beauty (AONB),
- Green Belt
- The Mid-Kent Strategic Gap, and
- Open spaces and Allotments protected by local policy.

Figure 2.4 Landscape Constraints



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Area Outstanding Natural Beauty

- 2.18 With regards to AONB's, the NPPF (paragraph 115) states the following.
“Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.”
- 2.19 The NPPF weighs against major developments in these designated areas except in exceptional circumstances, although it does not rule out sensitive development in or on the edge of settlements within the AONB, if that is part of a Local Plan strategy.

Green Belt

- 2.20 Section 9 of the NPPF, entitled Protecting Green Belt land, articulates that the aim of the Green Belt is to restrict urban sprawl and retain permanent openness. It does however list a number of types of development which may be suitable in the Green Belt, including buildings for agriculture and forestry and outdoor sport, recreation or cemeteries.

- 2.21 It should be noted that Green Belt is not an environmental constraint but a policy one and should not be considered as a fundamental barrier to development without first undertaking a Green Belt Review. It would be up to the Council to undertake such a review before fundamentally discounting Green Belt sites for development. Any assessment with regard to development needs would need to recognise policy provisions in the NPPF, namely paragraphs 84 and 85 which refer to the need to take account of the need to promote sustainable patterns of development, consider the consequences of channelling development towards locations inside or beyond the Green Belt, and ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development. In this context, this analysis does not conclude that Green Belt is a fundamental constraint to development in the Borough, although it would clearly be a relevant policy consideration.

Mid-Kent Strategic Gap

- 2.22 The mid-Kent Strategic Gap prevents the coalescence of settlements in order to retain their separate identities.

- 2.23 Policy CP5 of the Adopted Core Strategy for Tonbridge and Malling Borough (2007) states the following with reference to this gap.

“Unless justified by special circumstances, development will not be proposed in the LDF or otherwise permitted that would harm the function of the mid-Kent Strategic Gap as a physical break maintaining the separation and separate identities of the built-up areas of Maidstone, Medway Towns and the Medway Gap.”

- 2.24 The need and justification for a Strategic Gap in mid Kent was justified and tested through the Local Plan process and was at the time in conformity with the evolving policies of the South East Plan. The South East Plan has now been revoked, but the Adopted Core Strategy for Tonbridge and Malling still includes the above policy relating to the protection of this Strategic Gap. The Core Strategy was adopted post 2004 but as gaps of this nature are not mentioned in the NPPF the weight attached to this policy is limited and should not be considered as a fundamental environmental constraint. For the purposes of this analysis, it is assumed that it is not a potential constraint to development.

Open spaces and Allotments Protected by local policy

- 2.25 Policy CP24 of the Adopted Core Strategy for Tonbridge and Malling Borough (2007) states the following with reference to the protection of open spaces including allotments.

“The Council will seek to protect, and wherever possible, enhance, existing open spaces, including the provision of public art and ensure that new open space provision is made to meet the future needs of the Borough”.

- 2.26 As the Core Strategy was adopted post 2004 and the policy is consistent with the NPPF paragraph 74 the policy is attributed some weight. The following is stated in paragraph 74 of the NPPF.

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

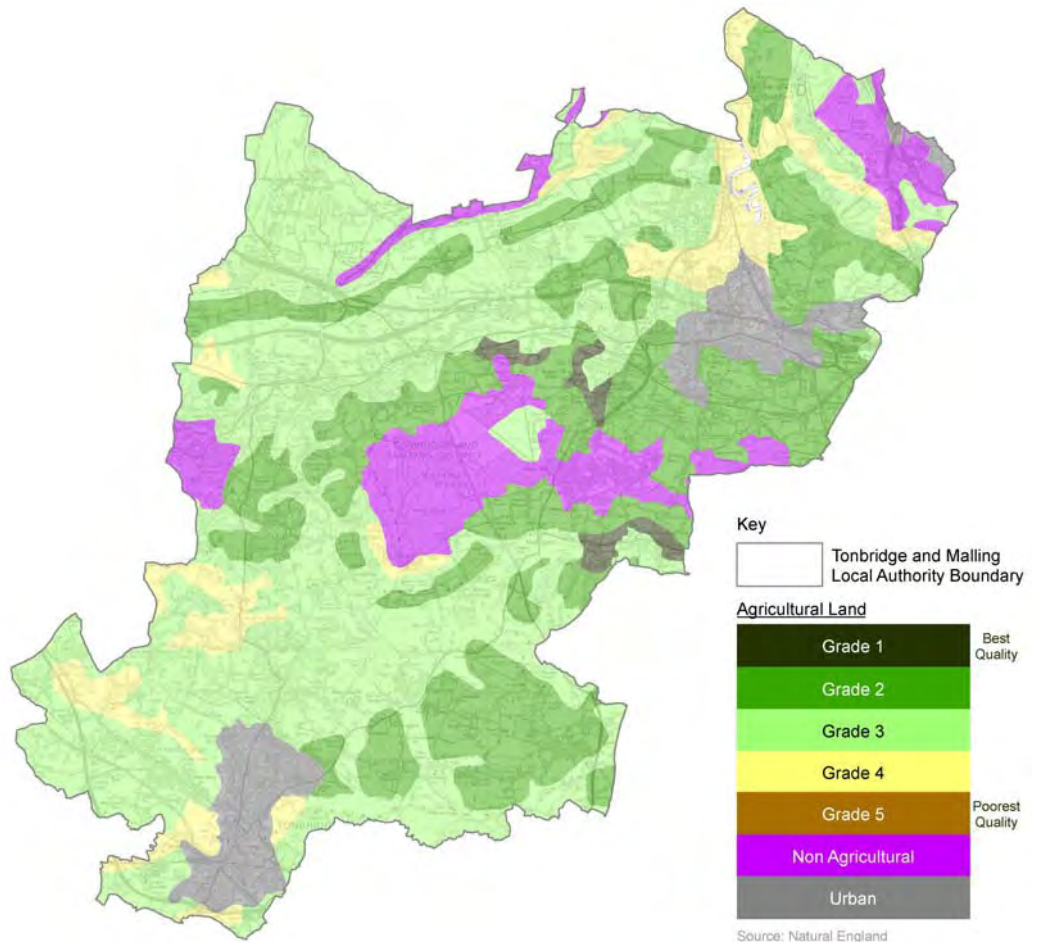
- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss”.*

Agricultural Land

2.27

Extensive areas of higher quality agricultural land along are found in Tonbridge and Malling including the foot of the North Downs, parts of the East Bank of the Medway and the Greensand Ridge. This is shown below in Figure 2.5.

Figure 2.5 Agricultural Land Quality



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- 2.28 The NPPF highlights the importance of agricultural land, However, paragraph 112 of the NPPF does not appear to show that it should be afforded a protection that means development necessary to meet needs is not delivered:
“LPA’s should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, LPA’s should seek to use areas of poorer quality land in preference to that of higher quality.”
- 2.29 This might indicate that agricultural land is a matter to be considered in terms of spatial distribution of development and/or balancing of agricultural issues against landscape and other factors in terms of how development needs are met. It may also be an issue for consideration across administrative boundaries with neighbouring authorities.
- 2.30 Although the Borough contains extensive areas of high quality agricultural land there appears to be no fundamental evidence that this quantum of high quality agricultural land would constrain development in the Borough to a given capacity.

3.0

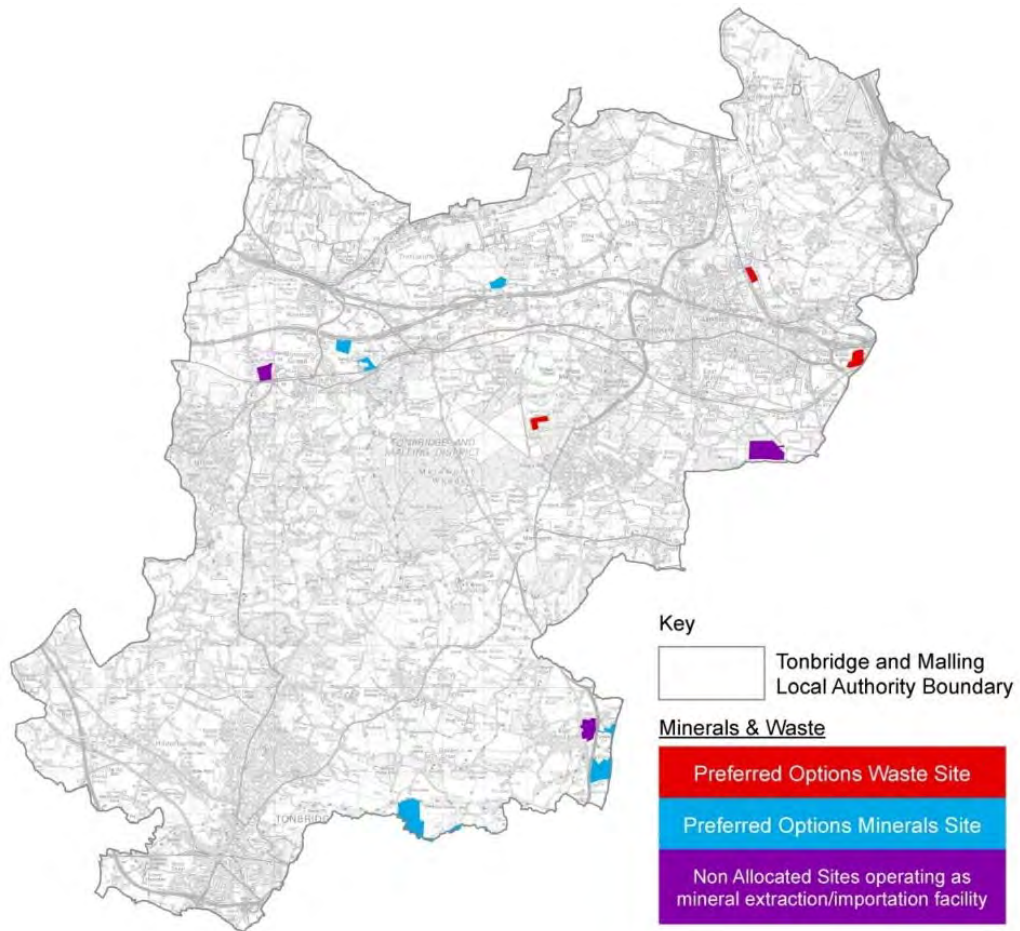
Minerals and Waste

3.1

The minerals and waste sites mapped in Figure 3.1 form the allocated preferred options sites from the Kent County Council from the Mineral Sites Plan Preferred Options Consultation (May 2012) and the Waste Sites Plan Preferred Options Consultation (May 2012). Three non-allocated minerals sites have also been mapped, this is because from research these sites are either currently operational or have a recent consent for importation facilities, see the full list below.

- Arnolds Lodge, Farm West - This site was withdrawn from the process by the operator as a permanent planning permission was granted for the East Peckham mineral importation railhead facility.
- Ightam Sand Pit - An existing quarry, but this proposed quarry extension is not allocated because it is situated within the Kent Downs AONB and parts of the site forms a part of a Historic Park and Garden.
- Hermitage Quarry – an operational quarry which has received a recent planning permission for extension. However, this site was not allocated because “*the landbank of consented reserves of ragstone is more than sufficient for the plan period; no site allocations for crushed rock sites are necessary*”.

Figure 3.1 Minerals and Waste Constrained Sites



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3.2 The NPPF provides guidance regarding the formation of appropriate policies and operational conditions for minerals sites and the states that specific waste polices will be published as part of the National Waste Management Plan, for which the consultation stage closed in September 2013. To establish the on-going position of the above sites it will be necessary to wait for the publication of the Draft Minerals and Waste Plan – Pre-Submission consultation document, which is yet to be released.

4.0 Transportation

4.1 Transportation issues in Tonbridge and Malling will be crucial in determining both the spatial distribution of development and the capacity of the transport network to absorb it.

4.2 An identified challenge in the Tonbridge Urban Transport Strategy Delivery report (August 2007) is the A21 Castle Hill to Pembury. The Highways Agency's intention is to dual this section of the A21 to reduce poor accident record and severe congestion as well as improving other smaller local roads with congestion and accident problems. These issues will need to be addressed on a site by site basis where relevant, in arriving at an appropriate Local Plan strategy the following will need to be addressed:

- the capacity of the road network to accommodate overall development as well as specific levels of growth at locations with current transport deficiencies in the Borough;
- the extent to which infrastructure improvements can be delivered to mitigate any negative impacts of a scheme on the transport network;
- the role of new development in supporting improvements to the transport network through Section 106 Agreements or CIL contributions; and
- the role of public transport and encouragement of its use.

4.3 As it stands, there is not yet the evidence in place to arrive at a definitive conclusion on these matters and the Council will need to work with its partners in the County Council and neighbouring authorities to carry out the relevant technical work. As such it is not possible to draw conclusions as to whether these matters would categorically impinge the ability of the Council to meet its development needs. It is also worth emphasising that the NPPF (paragraph 32) states that development should not be prevented on transport grounds unless impacts are 'severe'.

5.0

Conclusions

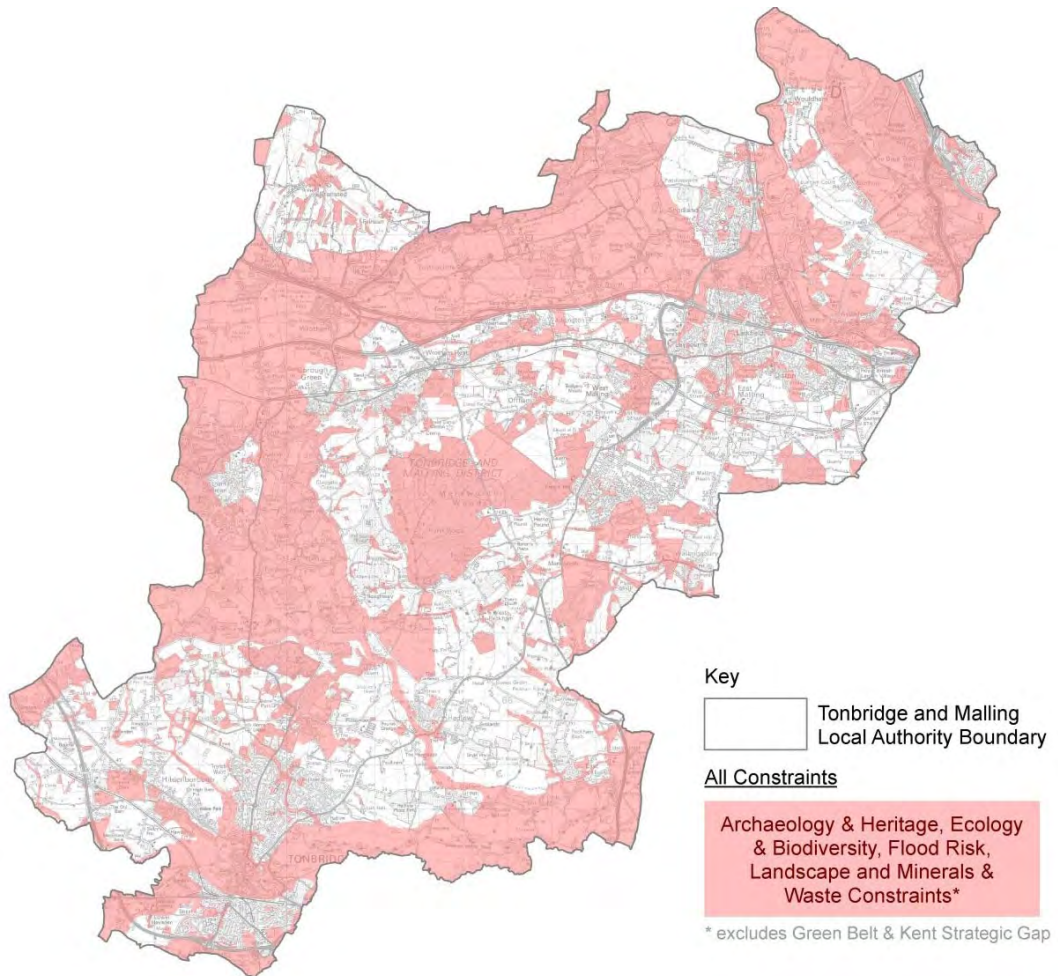
5.1

Taking account of all the information on environmental, transport and minerals and waste factors in the previous section of the report it is possible to synthesis all of the outputs together and show areas of the Borough where in principle constraints to development might apply.²

5.2

These are shown in Figure 5.1 (red shading).

Figure 5.1 Synthesis of Constraints



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² This is not an absolute assessment of constraints to determine what parts of the Borough or specific sites should or should not be appropriate for development. Individual sites and areas should be considered taking into account relevant guidance and assessments of their impact and mitigation in line with the NPPF.

- 5.3 The above areas of in-principle constraint do not include:
- agricultural land, because at present, evidence on the significance of agriculture in economic and planning terms is based on using agricultural land quality as a proxy for its relative importance to the Borough. There would be merit in further evidence on its economic and other benefits being available for when judgements are made on how the spatial strategy can best meet development needs.
 - Green Belt and the Strategic Gap, because although this is a policy factor in terms of where development might take place in the Borough, it is not in itself an environmental constraint, and can be reviewed in order to achieve consistency with meeting requirements for sustainable development
- 5.4 The assessment of current evidence highlights that Tonbridge and Malling does have some significant constraints which means that certain areas of the Borough have less capacity to accommodate development. Factors such as the Sites of Special Scientific Importance (SSSI's), Areas of Outstanding Natural Beauty (AONB) and areas of Flood Risk, may all limit the potential of certain areas of the Borough to accommodate higher levels of growth. However, equally there are significant parts of the Borough that are not constrained by any of these factors. In addition, there may also be individual sites or opportunities within areas of constraint that could deliver sustainable developments with appropriate siting, design, and measures to achieve avoidance and mitigation.
- 5.5 There is also some anecdotal evidence that infrastructure could limit the potential to accommodate growth, particularly in relation to traffic and the road network, however, this is not currently defined as a specific threshold, and future transport modelling and assessment work will be necessary to test different levels of growth.



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