



# Report to Tonbridge and Malling Borough Council

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PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

**REPORT ON THE EXAMINATION INTO THE TONBRIDGE AND MALLING  
BOROUGH COUNCIL 'MANAGING DEVELOPMENT  
AND THE ENVIRONMENT'  
DEVELOPMENT PLAN DOCUMENT**

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## Abbreviations

AAP	Area Action Plan
BREEAM	Building Research Establishment Environmental Assessment Method
CLG	Department for Communities and Local Government
CS	Core Strategy
DEFRA	Department for Environment, Food and Rural Affairs
DLA DPD	Development Land Allocations Development Plan Document
DPD	Development Plan Document
LDD	Local Development Document
LDF	Local Development Framework
LDS	Local Development Scheme
LNR	Local Nature Reserve
LWS	Local Wildlife Site
MDE DPD	Managing Development and the Environment Development Plan Document
PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPG2	Planning Policy Guidance Note 2: Green Belts
PPS4	Planning Policy Statement 4: Planning for Sustainable Economic Growth
PPS9	Planning Policy Statement 9: Biodiversity and Geological Conservation
PPS12	Planning Policy Statement 12: Creating Strong, Safe and Prosperous Communities Through Local Spatial Planning
PPG13	Planning Policy Guidance Note 13: Transport
PPG17	Planning Policy Guidance Note 17: Planning for Open Space, Sport and Recreation
PPG24	Planning and Noise
RIGS	Regionally Important Geological Site
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SCI	Statement of Community Involvement
SEP	South East Plan
SPD	Supplementary Planning Document

## **1 Introduction and Overall Conclusion**

- 1.1 Under the terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004, the purpose of the independent examination of a development plan document (DPD) is to determine:
  - (a) whether it satisfies the requirements of s19 and s24(1) of the 2004 Act, the regulations under s17(7), and any regulations under s36 relating to the preparation of the document
  - (b) whether it is sound.
- 1.2 This report contains my assessment of the Tonbridge and Malling Borough Council Managing Development and the Environment DPD in terms of the above matters, along with my recommendations and the reasons for them, as required by s20(7) of the 2004 Act.
- 1.3 I am satisfied that the DPD meets the requirements of the Act and Regulations. My role is also to consider the soundness of the submitted Managing Development and the Environment DPD against the advice set out in paragraphs 4.51-4.52 of PPS12. In line with national policy, the starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The changes I have specified in this binding report are made only where there is a clear need to amend the document in the light of the legal requirements and/or to make the document sound in accordance with PPS12. None of these changes should materially alter the substance of the overall plan and its policies, or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.4 Partly as a result of representations made on the pre-submission DPD the Council held a further round of public consultation on an Addendum of proposed changes (RD 5.37). These were mainly in relation to a number of technical errors, principally on the Proposals Map. The DPD as submitted to the Secretary of State incorporates the changes included in the Addendum and it is that amended document that I have considered. In addition to the representations made on the post publication, pre-submission DPD I have also taken account of the further representations made on the Addendum.
- 1.5 After the hearing sessions had concluded but prior to the submission of my report the Government published a new PPS4. This is mainly relevant to the Development in the Countryside chapter and I therefore sought written submissions on this from those who had made representations on that part of the DPD. I have taken account of the further comments in this report.
- 1.6 The Council submitted to the examination a Schedule of Proposed Changes (RD 7.10a) all of which it regarded as minor in that in its view none of them were necessary to make the plan sound. I have attached two Annexes to this report. Annex 1 contains those minor changes proposed by the Council, including those to correct typographical errors or reflect factual changes as the document

progressed. They include minor updating to reflect the publication of PPS4. Although these changes do not address key aspects of soundness, I endorse them on a general basis in the interests of clarity and accuracy. Where a suggested change does not appear in the Annex it is not endorsed by me and I have explained why this is the case in the report. Annex 2 contains a list of those changes required to make the DPD sound.

- 1.7 My report firstly considers the legal requirements, and then deals with the relevant matters and issues considered during the examination in terms of justification, effectiveness and consistency with national policy. **My overall conclusion is that the DPD is sound, provided it is changed in the ways specified. The principal changes which are required are, in summary:**

- a) Amendments to Policies CC1, NE1, NE4, SQ7, DC2 and OS4 and Annex D*
- b) Some amendments to supporting text.*

- 1.8 The report sets out all the detailed changes required to ensure that the plan meets the legal requirements and is sound.
- 1.9 References to core documents in the examination library are shown in this report as (RD..).

## **2 Legal Requirements**

- 2.1 The Tonbridge and Malling Managing Development and the Environment DPD is contained within the Council's Local Development Scheme, the updated version being approved in May 2009 (RD 5.32). It is shown as having a submission date of July 2009 and there has been no material slippage. The content of the DPD is in accordance with the LDS.
- 2.2 The Council's Statement of Community Involvement (SCI) (RD 5.46) has been found sound by the Secretary of State and was formally adopted by the Council in July 2005 before the examination hearings took place. However, the production of the DPD was affected by new Regulations in 2008 that vary the stages for preparing the document from those envisaged in the SCI. Nonetheless, the transitional arrangements set out in the 2008 Regulations enable work previously undertaken under the original 2004 Regulations to count towards the new arrangements introduced in 2008.
- 2.3 As the DPD was not submitted before 1 September 2008 it must comply with new Regulation 25. The CLG Plan Making Manual indicates that the extent of what will be required for the purposes of complying with the new Regulation depends on the type and extent of public consultation that has already been undertaken. It may be that a narrower, more targeted consultation is needed than that fully required under new Regulation 25 to fill any gaps. In this

case, the Council had published an Issues and Options Report (RD 5.14) under old Regulation 25 and undertook public consultation on it between March and May 2008 in accordance with the SCI. A subsequent targeted consultation with key stakeholders took place on a preliminary officer draft of the submission DPD. Full public consultation on that draft did not occur. Nonetheless, given the wide consultation that had taken place on the Issues and Options Report and having regard to the documents submitted by the Council, including the Regulation 30(1)(d) and 30(1)(e) Statements (RD 5.25 and RD 5.26) and its Self Assessment document (RD 5.43), I am satisfied that the Council has met the requirements as set out in the Regulations.

- 2.4 Alongside the preparation of the DPD it is evident that the Council has carried out a parallel process of sustainability appraisal which resulted in the publication of a final report in January 2009 (RD 5.27) relating to the pre-submission DPD. The Council did not update the SA in the context of the Addendum and as such the submitted DPD was accompanied by the January 2009 SA. The changes made in the Addendum relate to errors in the pre-submission DPD and the Proposals Map. They do not affect the substance of any of the policies. In my view, none of the changes are significant. They would not have required a further SA. As such, I consider that the requirement to submit a SA report has been met.
- 2.5 In accordance with the Habitats Directive, I am satisfied that an Appropriate Assessment (RD 5.45) has been undertaken and that there would be no significant harm to the conservation of Peter's Pit SAC and North Downs Woodlands SAC as a result of the policies and proposals within this DPD.
- 2.6 Subject to my recommended changes I am satisfied that the DPD has had regard to national policy.
- 2.7 The South East England Regional Assembly (now the South East England Partnership Board) has indicated that the DPD is in general conformity with the approved Regional Spatial Strategy (the South East Plan, RD 3.04) and I am also satisfied that it is in general conformity.
- 2.8 I am satisfied that the DPD has had regard to the Sustainable Community Strategy for the area (RD 5.09 and RD 5.10) and, subject to my recommended changes, is in conformity with the Core Strategy (RD 5.01).
- 2.9 I am satisfied that the DPD complies with the specific requirements of the 2004 Regulations (as amended) including the requirements in relation to publication of the prescribed documents; availability of them for inspection and local advertisement; notification of DPD bodies and provision of a list of superseded saved policies.

- 2.10 Accordingly, I am satisfied that the legal requirements have all been met.

### **3 General Considerations**

- 3.1 The DPD must be read in the context of the three DPDs already adopted by the Council, namely the Core Strategy (RD 5.01), Development Land Allocations DPD (RD 5.02) and an AAP for Tonbridge Central Area (RD 5.03). Nevertheless, it contains 31 policies and is some 187 pages long. Several of the policies are detailed and lengthy, containing lists of criteria by which planning applications would be assessed. Together they read as a set of traditional development control policies rather than as a limited suite for the purposes of development management.
- 3.2 However, about half the document comprises appendices which include the various designated sites, the details of the approach to open space provision and performance indicators. The DPD has largely avoided the repetition of national policy. Although I consider that there are shortcomings in the Council's approach, my concern is only the soundness of the plan and not to recommend changes that I might regard solely as improvements. I consider that the document could have been more succinct and focused. In that regard it should not be seen as a model for development management DPDs. However, of itself this does not mean that the document should be regarded as unsound.
- 3.3 Individually many of the policies have a general quality that could be applied in other authorities. However, the particular mix of policies here does reflect the mainly rural characteristics of the Borough and to that extent is locally distinctive. I recognise that it is good practice for policies to be clearly expressed, either positively or negatively, setting out the circumstances under which planning permission would either be granted or refused. In that regard there is a mixture of both kinds of policy in the DPD and, while I have identified particular issues with particular policies, I find that overall the DPD is not unduly negative and broadly reflects national policy and the CS.
- 3.4 In the context of the Issues and Options Report consultation and my conclusion on the Council's approach to the transitional arrangements for taking forward the DPD, I am satisfied that the consultation process has allowed for effective engagement of all interested parties.
- 3.5 As this is a development management document I accept that the scope for identifying alternative options is more limited than for other DPDs such as a CS where there may be choices as to the scale and location of development. The Issues and Options Report (RD 5.14) nonetheless did identify alternative approaches, albeit in some cases simply asking whether or not a new policy was necessary or whether the saved policies in the Structure or Local

Plan should be carried forward. In the context of that Report I am satisfied that sufficient consideration of reasonable alternatives took place.

- 3.6 The DPD contains a series of objectives that are clearly based on those in the CS. They are generally expressed and lack local distinctiveness but in that regard are in the same vein as the CS objectives. Given the nature of the document with its emphasis on development management I am satisfied that the DPD would not be less effective as a result of this. A number of representations have sought the addition of further objectives. However, I consider that these are covered by existing objectives or key priorities in either the CS or the MDE DPD.
- 3.7 Subject to the particular matters which I address below, I conclude that in overall terms the DPD is justified, effective and in accordance with national policy. I now turn to each of the main chapters of the DPD. In each case the main issue is whether the policies in that chapter are sound in accordance with the advice in PPS12. In my consideration of that, more detailed questions concerning individual policies and proposals were discussed at the hearings.

#### **4 Climate Change**

- 4.1 Policy CC1 includes the Council's approach to climate change through the sustainable design of buildings. While the policy includes a list of the design measures that could be used to achieve this, they would only be introduced as practicable. As such, I consider that the policy would not be unduly onerous or inconsistent with national policy in that regard.
- 4.2 Policy CC1 does not permit proposals for new residential development unless they achieve at least Code Level 4 of the Code for Sustainable Homes. In meeting Level 4 water efficiency measures should be included. The Code covers a range of environmental issues but it is the Government's intention to improve the energy/carbon performance of new dwellings set in Building Regulations in 3 steps with zero carbon achieved by 2016. The Code Level 4 equivalent is the target for 2013. The Climate Change Supplement to PPS1 ('the Supplement') indicates that there could be situations where levels of building sustainability could be anticipated in advance of those set out nationally. However, it is necessary to demonstrate clearly the local circumstances that warrant and allow this. This approach is reflected in SEP Policy CC4.
- 4.3 The Borough is located in one of the driest, sunniest and warmest parts of the country. There is potential overall for energy from renewable sources, including solar and biomass, and there are some issues relating to water abstraction. Policy CC1 is supported by a detailed evidence base document (RD 5.16). This takes

account of the types of development likely to occur within the Borough, having regard to past planning permissions and the types of sites identified in the adopted DLA DPD. In general terms therefore I am satisfied that there are local circumstances that warrant consideration of more rapid progress than the national target.

- 4.4 The PPS1 Supplement indicates that when proposing a local requirement for sustainable buildings this should focus on development area or site specific possibilities. In my view, by applying Level 4 across the Borough which has both urban and rural characteristics across a wide geographic area, Policy CC1 goes well beyond such a focus.
- 4.5 The Council's latest data (RD 7.08) show that the housing land supply is well in excess of the requirement to 2021 in CS Policy CP15. The house completion rate for the first 3 years of the plan period has significantly exceeded the requirement with almost one third of the dwellings already built. Over half the land supply has planning permission. The Borough is therefore well ahead of its housing trajectory. However, the Council estimates that a significant proportion of the sites that it anticipates planning applications for in the next few years would be in urban areas. Most of those on allocated sites would be above the trigger threshold of 15 dwellings (0.5ha) where 40% of provision should be affordable housing.
- 4.6 The Policy CC1 evidence base (RD 5.16) is in my view a robust assessment of the additional costs that may be imposed by building homes to the Code 4 standard in the context of the likely dwelling types that would be brought forward here. However, the Supplement indicates that regard must be had to the overall cost of bringing sites to the market, including the costs of any necessary infrastructure. The Council has not shown that it has factored into its assessment the costs of affordable housing and supporting infrastructure, which are more straightforward to address on a site or development area basis as recognised by the Supplement. The Council has indicated that its top priority in any negotiations over a site would be for affordable housing but this intention is not built in to any development plan policy. As such, in my view it has not been demonstrated that the provision of affordable housing would not be inhibited.
- 4.7 Policy CC1 does indicate that the Council will have regard to the impact on the viability of development. However, in setting out its policy in a DPD, the Supplement requires the planning authority to ensure that what is proposed is viable. In the light of the above, I conclude that this has not been demonstrated and therefore the requirement for Code 4 has not been justified. However, sustainable building should still be supported and I therefore recommend a change to Policy CC1 that encourages attainment of Code 4. I am not persuaded that this change would necessitate a

review of the SA as the outcomes in the life of the DPD would not be significantly different and the impact on its objectives would not be adverse. The relevant target in Annex F would need to be changed to reflect my conclusion on Code 4.

- 4.8 Representations have been made that seek more radical approaches to climate change or a greater commitment to the achievement of Code 6 and particularly those aspects of the Code that are outside the Building Regulations. However, whatever is proposed must be justified by the evidence base in the specific circumstances that apply here. As I have not been persuaded by the Council's evidence on a more modest requirement I cannot endorse these other proposals.
- 4.9 SEP Policy NRM11 requires new developments of more than 10 dwellings or 1,000 sqm of non-residential floorspace to secure at least 10% of their energy from decentralised and renewable or low-carbon sources unless this is not feasible or viable. MDE DPD Policy CC1 would in essence extend this requirement to all residential, office and retail development. As the main focus of new housing is likely to be in the urban areas, the principal impact on residential development would therefore be on smaller schemes where no affordable housing would be required. The evidence base (RD 5.16) has examined thoroughly the implications for small scale proposals and on that basis I am satisfied that the extension of the 10% target to all residential development has been justified.
- 4.10 I have considered the evidence base document in relation to office and retail development for both the 10% decentralised and renewable energy target and the requirement for schemes over 1,000 sqm to achieve the BREEAM 'Very Good' standard in Policy CC1. In my view, with the size threshold in relation to the latter and with the impact on viability incorporated in the policy these would both be justified and accord with national policy. Taking Policy CC1 as a whole therefore, I find it to be sound subject to changes in respect of the Code for Sustainable Homes.
- 4.11 Policy CC2 sets out how development proposals should minimise waste. Where demolition forms part of a new build process and for new build proposals the policy requires that the Institution of Civil Engineers' Demolition Protocol (RD 2.12) should be followed. On the evidence before me the Code is widely used (RD 5.33, RD 5.40, RD 5.41) and would not be unduly onerous for developers. I therefore conclude that the incorporation of the Code in the policy is justified.
- 4.12 National policy generally promotes the use of sustainable drainage systems. SEP Policy NRM1 indicates that LDDs should set out the circumstances under which sustainable drainage solutions should be incorporated into development. In the context of flood risk management, SEP Policy NRM4 indicates that LDDs should require sustainable drainage systems unless there are practical or

environmental reasons for not doing so. I therefore find that the more detailed approach in MDE DPD Policy CC3 develops rather than duplicates national and regional policy and accords with it.

- 4.13 I have considered whether the DPD would be unsound if there was not a specific policy relating to sustainable travel, or alternatively whether there is a need for an additional reference to this in another policy. In my view, in this regard CS Policy CP2 provides adequate guidance on new development that is likely to generate a significant number of trips. In terms of other development the spatial strategy in CS Policy CP1 and the location of sites identified in the DLA DPD are generally consistent with sustainable travel objectives. Taken also with national planning policy, particularly PPG13, and the SEP I am satisfied that a separate sustainable travel policy is not necessary and that the DPD is sound in this respect.
- 4.14 Subject to the detailed changes in Annex 2, I conclude that Chapter 4 of the DPD is sound. In summary the main changes necessary to make the document sound are:

- **Amend wording to Policy CC1, supporting text and the target in Annex F in relation to the Code for Sustainable Homes**

## 5 The Natural Environment

- 5.1 Policy NE1 sets out the basis on which development affecting a local designation as a LWS, RIGS or LNR will be considered. Paragraph 9 of PPS9 indicates that such criteria based policies should be established in LDDs. Policy Annex NE1 lists the sites to which the policy applies and these are shown on the Proposals Map.
- 5.2 In the great majority of cases no representations have been made in relation to the designated sites; which increases confidence that they have been identified in accordance with a robust process as set out in the background documents (including RD 2.22, RD 2.24, RD. 4.05 and RD 4.31). I have seen no evidence that would lead me to any conclusion other than that the incorporation of these unopposed sites is justified.
- 5.3 The Council has proposed a change to the Proposals Map to remove those areas of Hale Street Ponds and Pastures LWS that are subject to resurvey. On that basis I am satisfied the inclusion of the site in Policy Annex NE1 in its amended form is justified. In the case of Oaken Wood LWS on the evidence submitted as to the number of ancient woodland indicators, including on land owned by Gallagher Aggregates Limited, the LWS designation is justified.
- 5.4 The Council has also proposed suggested changes to add Holborough Quarry to the list of LWSs in Policy Annex NE1 and to the Proposals Map as this was omitted in error from both the

published and submitted versions of the DPD. The site was previously included in the Local Plan. It was also listed in the Issues and Options Report and was not subject to any representations. The site was notified in 1991. On that basis I endorse the Council's minor change in that regard.

- 5.5 On the basis of the submitted evidence (including RD 4.28) I do not doubt that there is geological interest in the Hale Street Quarry/Clubb's Sand and Gravel site. However, having regard to both the RIGS Handbook (RD 2.22) and the DEFRA guidance (RD 2.24) I am not clear as to how and to what extent each of the selection criteria for designation apply in this particular case. There is also some uncertainty over the appropriate boundaries for the site. I therefore conclude that the RIGS designation of this site in Policy Annex NE1 has not been justified and should therefore be deleted. Furthermore, to make Policy NE1 sound the Council's proposed change to the Proposals Map to designate the site should not be made.
- 5.6 The Council has put forward a suggested change to separate the treatment of RIGS from the other designations in Policy NE1. I agree that the policy as submitted is not entirely clear in terms of its approach to RIGS and that a change of this kind is necessary for the policy to be effective. For the policy to be sound therefore I am recommending a revised form of words but this does not include some of the factors in the Council's amended text which are new and have not been subject to public consultation.
- 5.7 Woodland is a significant feature of the area and I am satisfied that the Council is justified in setting out in Policy NE4, amongst other things, its approach to development that might affect it. The inclusion of matters such as archaeology and historical importance in the policy is in my view supported by the joint DEFRA and Forestry Commission policy statement (RD 2.23) which identifies cultural heritage as a factor for consideration.
- 5.8 Clause 3 of Policy NE4 seeks to protect ancient woodland. Although it is in the process of being updated, the extent of ancient woodland in the Borough is based on an inventory undertaken as a desk-top exercise in 1994 (RD 4.10). However, where this has been tested in other Council areas by new surveys it has been shown to have a high degree of accuracy and I consider it to be a reasonable basis to support and justify the policy. The Council has suggested an amendment to this part of the policy for clarification in response to a representation. I consider that this does not fully reflect national policy in paragraph 10 of PPS9 as the amendment does not refer to the benefits of development. I therefore propose a further change to reflect PPS9 for the policy to be sound.
- 5.9 Subject to the detailed changes in Annex 2, I conclude that Chapter 5 of the DPD is sound. In summary the main changes necessary to make the document sound are:

- **Amend wording to Policy NE1**
- **Amend Hale Street Ponds and Pastures LWS designation on Proposals Map**
- **Delete Hale Street Quarry/Clubb's Sand and Gravel RIGS from Policy Annex NE1 and do not designate site on Proposals Map**
- **Amend Policy NE4 to accord with national policy**

## 6 Spatial Quality

- 6.1 Policy SQ1 refers to the need for development to reflect the local distinctiveness, condition and sensitivity to change of local character areas as defined in Character Area Appraisals SPD which has not yet been published. PPS12 indicates that SPD may be prepared to provide greater detail on the policies in DPDs but not with the aim of avoiding the examination of policy which should be examined. In this case the general principles by which development would be assessed in this regard are set out in Policy SQ1 and CS Policy CP24. In my view, the criteria would permit innovative design solutions in appropriate circumstances. I am satisfied that the reference to the SPD in the policy is appropriate and complies with the requirements of PPS12.
- 6.2 Policy SQ4 is set in the context of PPS23 and SEP Policy NRM9 as well as separate legislation on air quality. It adds further detail to that in national and regional policy. Policy SQ5 reflects the importance attached to water supply and quality in the Borough and is justified in that context. Some additional clauses to the policy have been suggested by respondents but these are not essential to the soundness of the plan.
- 6.3 Policy SQ6 deals with the effect of noise on development and cross refers to Policy Annex SQ6 which includes noise exposure categories (NECs). Some of the NECs in the Annex are defined such that they would result in tighter noise standards than those in PPG24. Paragraph 9 of PPG24 indicates that in some cases it may be appropriate for local planning authorities to determine the range of noise levels which they wish to attribute to each of the NECs. In this case the standards are a carry forward of a saved policy, P3/17, in the former Local Plan (RD 5.39) which has evidently been supported by Inspectors and the Secretary of State on appeal. This would be superseded by the MDE DPD.
- 6.4 The policy would accord with SEP Policy NRM10 which is expressed in a more general fashion. The Council points to the major transport corridors that are a significant source of noise and run through an otherwise tranquil rural area. Some of the housing allocations in the DLA DPD (RD 5.02) are located in close proximity to industrial areas and these transport corridors. I note that a number of the DLA DPD policies cross refer to the saved Local Plan policy and noise is therefore a material factor in their potential for

development. In the light of the local circumstances here I am satisfied that Policy SQ6 is both necessary and justified. The Council has suggested an amendment to the wording of the policy for clarity which I endorse but this does not have implications for soundness.

- 6.5 The Council has suggested an amendment to its submitted DPD Policy SQ7 to introduce a threshold for the size of proposed developments above which it would be necessary to demonstrate that the healthcare needs generated by the proposals had been addressed, with a developer contribution if necessary. The submitted policy applied to all residential development and I consider that this blanket application had not been justified. However, in the light of the evidence of the West Kent Primary Care Trust I am satisfied that for residential development the Council's proposed threshold of 10 or more dwellings is acceptable. The proposed change would also introduce a similar requirement in respect of commercial developments over 1,000 sqm. Commercial development was not included in the submitted DPD. While I was informed that such a threshold had been adopted by other local planning authorities it has not been subject to public consultation in this DPD and in my view that aspect of the suggested change has not been justified.
- 6.6 Policy SQ8 includes the approach to addressing the impacts of new development on transport infrastructure. Some specific concerns have been raised about the effectiveness of the policy in achieving particular transport schemes which may require developer contributions from a number of proposals. Any contribution sought must comply with the requirements of Circular 05/2005 and be fairly and reasonably related in scale and kind to the proposed development. It cannot be used solely to resolve existing deficiencies. However, the Circular allows the pooling of contributions in some circumstances. The policy must be read in the context of other DPD policies, including CS Policies CP2, CP25 and CP26. In my view, Policy SQ8 does not preclude consideration of cumulative effects but each case must be considered on its own merits. I conclude that the policy would be effective in delivering necessary transport infrastructure in accordance with the Circular.
- 6.7 Subject to the detailed changes in Annex 2, I conclude that Chapter 6 of the DPD is sound. In summary the main change necessary to make the document sound is:

- **Amend criterion (c) of Policy SQ7 to introduce a threshold for developers of residential development to demonstrate that healthcare needs have been considered.**

## **7 Development in the Countryside**

- 7.1 This chapter of the DPD focuses on that part of the Borough that has been defined in the CS as countryside. I have considered

whether it is too narrowly focused on development outside rural settlements. However, community services and rural settlements are already addressed in a number of CS policies, including CP12, CP13 and CP26. While there are some existing references to rural communities within the chapter, I consider that any changes would be unnecessary replication and that broadening its scope would not be justified.

- 7.2 Although the policies in this chapter are in some cases a response to the requirements of national policy, a number of the criteria are common to several policies. Taking the LDF as a whole this has resulted in duplication of wording and contributed to its length. However, I consider that this does not harm the effectiveness of the policies and, accordingly, does not prejudice the soundness of the DPD.
- 7.3 The Borough is part of the traditional fruit-growing area in Kent. In recent years there has been some increased use of polytunnels by growers and at the time of the hearings the Council was considering a significant planning application. There is only a brief reference to polytunnels in paragraph 7.1.8. In this context, I have considered whether the DPD would be effective in dealing with proposals for polytunnels or whether an additional specific policy or section is required.
- 7.4 The DPD does contain specific policies for some types of development such as that related to equestrian activity or tourism and leisure facilities. In the absence of a polytunnels policy, proposals that required planning permission would be assessed against generic policies such as those relating to the character of the area, transport infrastructure or drainage. Although such developments can have significant local impacts, on the evidence before me I am not persuaded that the number and extent of polytunnel developments is likely to be such that an additional policy is justified in order for the DPD to be effective. The DPD would therefore be sound in this regard.
- 7.5 I note that some Councils have produced SPD to give specific detailed guidance on polytunnels. This is not proposed in the LDS here and would be a matter for the Council to consider in the light of experience and future demand for such development. The Council has proposed a replacement paragraph 7.1.8 which is intended to provide greater clarity on the approach to polytunnels. However, this includes a new list of the factors which the Council would have regard to when considering an application which in my view are more appropriately included in a policy. In any event, the Council considers that the DPD is sound without this change and I agree.
- 7.6 Policy DC1 seeks to address in more detail the requirements of paragraphs EC6.2 and EC12.1 of PPS4 for local planning authorities to support the conversion and re-use of appropriately located and

suitably constructed existing buildings in the countryside for economic development and, in some circumstances, residential use. I am satisfied that Policy DC1 accords with national policy in this regard.

- 7.7 PPS4 paragraph EC6.2 indicates that local planning authorities should set out the permissible scale of replacement buildings in rural areas and the circumstances where this would not be acceptable. Paragraph EC12.1 of PPS4 favours replacement where this would result in a more acceptable and sustainable development than might be achieved by conversion. This is not reflected accurately in the supporting text for Policy DC2 in paragraph 7.3.3. Furthermore, criterion (f) of Policy DC2 makes it a requirement that a replacement building must support the local economy. This would be an advantage that would weigh in favour of such a proposal but in the context of national policy I am not persuaded that there is local justification for this to be a requirement in every case, for example for replacement dwellings in accordance with CS Policy CP14. As such, I consider that an amendment to paragraph 7.3.3 and the deletion of criterion (f) are necessary to bring the DPD in line with national policy in this regard.
- 7.8 DPD paragraph 7.3.4 requires that prior to the re-use or replacement of rural buildings, surveys should be carried out to ensure that there are no protected species in the buildings. This is in conflict with paragraph 99 of Circular 06/2005 which indicates that developers should not be required to introduce surveys for protected species unless there is reasonable likelihood of the species being present and affected by the development. A change to the wording as proposed by the Council is therefore required for consistency with national policy.
- 7.9 A significant part of the countryside in the Borough is Green Belt. However, in terms of proposals for replacement buildings or extensions to dwellings in the countryside the DPD makes no distinction as to whether or not the site is within the Green Belt. I am satisfied that, in accordance with PPG2 and in the context of my recommended change, Policy DC2 makes clear the approach the Council will take towards replacement dwellings.
- 7.10 CS Policy CP14 permits appropriate extensions. However, no further guidance is given either in the CS or the MDE DPD as to how a proposed extension or alteration would be assessed in terms of whether it would be inappropriate development in the Green Belt. The Council would rely on the test in PPG2 that, provided it does not result in disproportionate additions over and above the size of the original building, an extension or alteration would not be inappropriate. The Council gave cogent reasons as to why an approach based on a percentage increase was not favoured and indicated the factors they would take into account, but these have not been included in any of the DPDs. The LDS indicates that the Council may prepare SPD relating to residential extensions.

However, in my view in the case of such extensions in the Green Belt the relevant factors are a matter for the development plan in accordance with paragraph 3.6 of PPG2. Although this is not so significant an omission that it would render the DPD unsound in terms of conformity with national policy, the Council should seek to redress this at the first review.

- 7.11 Policy DC3 sets out criteria against which proposals for farm diversification will be assessed. This is in accordance with paragraph EC6.2 of PPS4. Policy DC3 is positively worded and, taken with the strategic direction given by CS Policy CP14, I consider that it is in accordance with national policy.
- 7.12 Policy DC4 places a requirement on all proposals for equestrian related development that they should be accompanied by a Land Management Plan. This would aim to show how the various impacts of a proposal, including the management of grassland, would be addressed and would be consistent with the requirement of PPS4 to support such enterprises where they maintain environmental quality and countryside character. This approach is supported by a Draft Equine Pasture Management Plan Good Practice Guide (RD 2.21) funded by the South East Economic Development Agency. While the Guide is in draft form, I regard the production of a Management Plan as a reasonable requirement and, as such, is justified.
- 7.13 I conclude that subject to the detailed changes in Annex 2 Chapter 7 of the DPD is sound. In summary the main changes necessary to make the document sound are:

- |   |
|---|
| <ul style="list-style-type: none"><li>• <b>Delete criterion (f) of Policy DC2 for consistency with national policy.</b></li><li>• <b>Amend paragraphs 7.3.3 and 7.3.4 for consistency with national policy.</b></li></ul> |
|---|

## 8 Open Space

- 8.1 Policy OS1 sets out the basis on which development proposals that would affect existing areas of open space would be considered. These areas are defined in Policy Annexes OS1A and OS1B and shown on the Proposals Map. The open spaces are derived from the Council's Open Space Strategy (RD 5.05) which was prepared in accordance with PPG17 and Assessing Needs and Opportunities: A Companion Guide to PPG17. I consider that in general terms this is a robust basis for the policy.
- 8.2 Representations were made in relation to some of the open spaces shown on the Proposals Map, mainly in that they did not accurately reflect the situation on the ground. The Council has suggested changes to the Proposals Map, on the basis of which the representations have been withdrawn. As the principle of these sites was not at issue I consider these to be minor changes which I endorse.

- 8.3 Policy OS3 includes the requirement on residential developments of 5 units or more for there to be open space provision in accordance with the standards and approach set out in Policy Annex OS3 and Annex D. Where provision cannot be made directly on or off site the policy provides for developer contributions. I have considered these aspects of the DPD in the context of the tests in Circular 05/2005. The open space standards in Annex OS3 are in my view justified by the adopted Open Space Strategy and the Technical Studies that underpin it (RD 5.28 and 5.29).
- 8.4 The methodology for calculating the open space implications of proposed development is set out logically in Annex D. This takes account of existing open space deficiencies and would ensure that generally any quantitative requirements were reasonably related in scale and kind to the proposed development. However, the submitted DPD would always require a contribution towards qualitative needs, irrespective of whether there was a deficiency in this regard. The Council has suggested amendments to Annex D (Figure 2, paragraphs 19 and 21 and a new paragraph 22) that would clarify the circumstances in which no developer contribution would be required. I consider that these changes are necessary in order for the DPD to accord with Circular 05/2005 and are therefore essential to the soundness of the plan.
- 8.5 PPG17 defines open space as all open space of public value and this has been adopted in the DPD. While some open space may not be publicly accessible, the DPD does not contain standards for on site private amenity space and concerns that it might be unacceptably prescriptive in this regard are unfounded.
- 8.6 Annex D identifies those forms of development that will or will not generate an open space requirement. Sheltered accommodation is shown as development that will give rise to such a need, with the exception of children's play space. Paragraph 8.18 of Assessing Needs and Opportunities: A Companion Guide to PPG17 indicates that some types of development may justify exceptions to policy or a flexible interpretation of it. It gives the example of the residents of sheltered housing which it considers will not require access to most forms of sports facilities or provision for children and young people.
- 8.7 Sheltered housing can cover a range of provision from lifestyle housing for the active newly retired through to warden assisted housing and facilities which fall short of being a registered care home but nevertheless offer a considerable amount of on-site support to residents. While people may stay fitter longer this may also defer a decision to move into sheltered accommodation. Evidence submitted to the examination does not suggest that there is significant use of outdoor recreational facilities by residents of sheltered housing. In my view, the application of Annex D to sheltered housing needs to be more flexible in order to ensure that

any contributions to open space provision are reasonably related in scale and kind to the type of sheltered housing that is being proposed. For the DPD to accord with Circular 05/2005 and be sound in this regard I am recommending a change to this part of the Annex.

- 8.8 In areas deficient in open space provision Policy OS4 supports parish councils, landowners and developers who wish to provide publicly accessible open space. The supporting text in paragraph 8.3.7 suggests that such sites are most likely to come forward in the countryside outside the confines of settlements. While the policy itself refers to accessibility I have considered whether this would accord with national policy to ensure that open spaces are easily accessible by walking and cycling. I accept that it is likely that new opportunities for significant areas of open space within the built-up areas of settlements would be limited. The provision of open space in conjunction with development would have to meet the accessibility requirements of Policy OS6. Policy OS7 permits the provision of publicly accessible open space in urban fringe areas and it seems to me that these are where they are most likely to come forward rather than in open countryside, albeit outside the settlement boundary. In this context, I consider the reference to countryside in paragraph 8.3.7 to be somewhat misleading. For the DPD to be clear and effective I am recommending a change to this supporting text.
- 8.9 Policy OS4 identifies only one named site as a publicly accessible open space, The Freehold in Hadlow. This is included in Policy Annex OS2 and on the Proposals Map as an allotment site, subject to the provisions of Policy OS2. No objections have been raised to that designation. However, at the hearings and in its final list of suggested changes the Council proposed that it should be changed to an amenity green space under Policy OS1. On visiting The Freehold I found it to be a small parcel of open land containing some allotments, areas for informal recreation and some overgrown areas of scrub. The Council accepts that its historic use was as allotment gardens associated with nearby houses. The Freehold was identified as allotments in the Technical Study underpinning the Open Space Strategy (RD 5.28). No public consultation has taken place on the proposed change. I was advised that since the survey of sites was undertaken the area of allotments has reduced. However, I am not persuaded on the evidence put forward that the case for amending the designation has been made.
- 8.10 The Open Space Strategy records Hadlow as having no amenity green space or natural green space. The identification of The Freehold as formal publicly accessible open space in Policy OS4 is to contribute towards addressing these deficiencies. However, the site is in a number of different ownerships. A number of different options for possible enhancement of the site have been drafted but I have seen no cost estimates or assessment of the likelihood of funding, including future maintenance costs. It is not clear whether

some of the potential open space uses would be appropriate here in close proximity to surrounding houses. Other options to remedy the deficiencies have not been explored. I recognise that there is some local support for the proposal, including from the Parish Council. However, on the evidence before me I am not convinced that as publicly accessible open space the proposal is currently deliverable or justified. I stress that were my reservations about the site to be overcome, this would not preclude the possibility of The Freehold being taken forward as a publicly accessible open space in the context of the general provisions of the policy.

- 8.11 The site may have intrinsic qualities in terms of its amenity and historic value that warrant the retention of its open character. These factors would no doubt be assessed in the forthcoming Character Area Appraisals SPD. I conclude, however, that the identification of The Freehold in the policy has not been justified. For the DPD to be sound in this respect the references to it as publicly accessible open space should be deleted. The allotments designation would nevertheless remain.
- 8.12 SEP Policy C5 requires that, amongst other things, LDDs should identify issues and opportunities that require action to deliver a sustainable multi-functional rural-urban fringe. DPD Policy OS7 seeks to relate this to proposed development at the urban fringe, including the role played by open spaces. The key functions of the fringe are identified in the SEP, based on underpinning research which provides a definition of this area. Policy OS7 requires as a minimum that the functions of the fringe are maintained and on that basis I consider that it is not unduly onerous. I am satisfied therefore that Policy OS7 has been justified.
- 8.13 Subject to the detailed changes in Annex 2, Chapter 8 of the DPD is sound. In summary the main changes necessary to make the document sound are:

- **Amend Annex D for consistency with Circular 05/2005**
- **Amend Policy OS4 and paragraph 8.3.7 to exclude references to The Freehold**
- **Further amend paragraph 8.3.7 for consistency with other parts of the DPD**

## **9 Implementation and Monitoring**

- 9.1 The main issue is whether the policies and proposals of the DPD have clear mechanisms for delivery, implementation and monitoring. There are few specific proposals in the DPD. Where other organisations are involved in the delivery of policies they are identified in general terms in Chapter 9. The main thrust of the document relates to the exercise of the Council's development management powers and its policies would be delivered accordingly on a responsive basis. In terms of resources the main emphasis is therefore on developer actions, including financial contributions

where appropriate, which would be determined on a case by case basis. As such, I consider that over the plan period as a whole there would be resources to deliver the policies and the main mechanisms for delivery are clear.

- 9.2 DPD Annexes E and F contain a range of performance indicators and targets which will be used to assess the effectiveness of its policies. In some instances baseline data is not yet being collected. This relates particularly to those indicators concerned with the climate change policies. I accept that this is a new area for the Council which it is seeking to address in the Annual Monitoring Report which is in preparation. There are a few indicators for which a target has not been set. However, taken in the round I consider that the range and number is appropriate. Most do not lend themselves readily to the setting of milestones. The gaps in baseline data and target setting will need to be addressed promptly by the Council. Nonetheless, I am satisfied that overall the arrangements for monitoring the DPD are adequate.

## **10 Minor Changes**

- 10.1 In addition to the minor changes to the submitted DPD in Annex 1 suggested by the Council, I also endorse the correction of any other spelling or grammatical errors or any minor formatting/numbering changes that do not affect the sense or meaning of the document.
- 10.2 Some representations raised matters that are not directly related to soundness or are not central to my conclusions on the overall soundness of the DPD. However, in some cases these have resulted in minor changes suggested by the Council in Annex 1.

## **11 Overall Conclusions**

- 11.1 I conclude that, with the amendments I recommend in Annex 2, the Tonbridge and Malling Borough Council Managing Development and the Environment DPD satisfies the requirements of s20(5) of the 2004 Act and meets the criteria for soundness in PPS12.

*M J Moore*

INSPECTOR

## **Annex 1**

### **Schedule of minor changes put forward by the Council**

- 1.1 The attached Schedule contains suggested minor changes put forward by the Council which are endorsed on a general basis in the interests of clarity and accuracy.
- 1.2 The changes in the Schedule are expressed either in the conventional form of ~~striketrough~~ for deletions and underlining for additions of text, or by specifying the nature of the change in *italics*. The page numbers and paragraph numbering refer to the submission version of the DPD, and do not take account of the deletion or addition of text.

Page	Policy/ Paragraph	Suggested Change
6	Map 1 The Context	<i>Insert revised map (see revised Map 1 attached)</i>
25	Para 4.2.15	<p><i>Revise last sentence to read:</i></p> <p>...Regard must also be paid to the Council's guides on Water Efficiency <u>and Sustainable Drainage Systems (SUDS)</u>, directing planning applicants to technical advice and identifying and explaining in more detail <u>ways of saving water at home and</u> the different forms of SUDS and when they are appropriate (see also Policy CC3).</p>
29	Para 4.3.6	<p><i>delete footnote number 13:</i></p> <p><sup>13</sup><del>To be prepared</del></p>
37	<b>Policy NE3</b>	<p><i>Revise Part 1 to read to read:</i></p> <p><b>1. Development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall <u>betterment enhancement</u>.</b></p>
41	Para 6.2.1	<p><i>Revise first sentence to read:</i></p> <p>6.2.1 In addition to the Areas of Outstanding Natural Beauty in the Borough, there are other broad areas of landscape which are of <del>national</del> or strategic importance either because they provide a setting to settlements and/or because they have landscape value in their own right as part of the wider historic landscape of the Borough.....</p>
51	<b>Policy SQ6</b>	<p><i>Revise part 2. of policy to read:</i></p> <p><b>2. Proposals for noise sensitive developments (including offices, hospitals, schools, outside</b></p>

Page	Policy/ Paragraph	Suggested Change
		<p>amenity space within and adjacent to residential areas and, <u>with in-respect to noise from non-transport related sources housing), must not be adversely affected by the impact of existing noise sources through the positioning of the buildings (and noise-sensitive rooms within the buildings) away from the noise source; through specific detailed design features; and through the appropriate use of noise barriers. The applicant will be required to demonstrate that the proposal is not exposed to unacceptable levels of noise relative to the proposed use, having regard to relevant guidance including BS 8823: 1999 will be required to demonstrate that noise levels are appropriate for the proposed use. Proposals for built development should incorporate design measures (e.g. positioning of buildings within the proposed site, positioning of noise sensitive rooms on quiet facades, consideration of appropriate ventilation and the appropriate use of barriers) such that internal noise levels are demonstrated to meet criteria levels in relevant guidance, including BS 8233:1999 and Building Bulletin 93.</u></p>
52	Para 6.4.16	<p><i>Revise second sentence to read:</i></p> <p>...It can deliver the physical infrastructure as well as providing opportunities for healthier lifestyles through improved access to <u>natural green spaces as well as formal leisure and recreation facilities open spaces.</u></p>
52	<b>Policy SQ7</b>	<p><i>Revise section (b) to read:</i></p> <p><b>(b) access to <del>natural green space (see also Policy OS3)</del> <u>open spaces.</u></b></p>
53	Para 6.4.19	<p><i>Revise first part of paragraph to read:</i></p> <p>"Transport infrastructure related to new</p>

Page	Policy/ Paragraph	Suggested Change
		<p>development should provide for all travel modes and encourage the use of sustainable modes of transport as set out in Core Strategy Policy CP2. <u>The health benefits of using green space for travelling are well documented.</u> Policy CP2 sets out criteria against which..."</p>
55	<b>New Para</b>	<p><i>Revise to include an additional section and paragraph at the end of the Chapter:</i></p> <p><b>Advertisement Control</b></p> <p>6.4.27 The Council aims to ensure that outdoor advertisements and signs do not harm the quality of the built and natural environment, both in terms of amenity and public safety. Advertisements on highway verges are a matter for the Highway Authority to remove. Many advertisements and signs are exempt from control or may have deemed consent under the Control of Advertisements Regulations. Where express consent is required, the Council will seek to ensure that amenity and public safety, including that of highway users, is not harmed to an unacceptable degree. In all areas, the Council will require the number and size of signs to be limited to a reasonable level and will ensure that the overall scale, design, colour, materials and, where relevant, the method and level of illumination are appropriate to the surroundings and are not detrimental to highway safety. A careful choice can usually achieve the advertiser's objectives without causing undue harm to the appearance, amenity or safety of the area. SPD may be prepared at a later date to provide more detailed guidance.</p>
57	Para 7.1.2	<p><i>Revise the first sentence to read:</i></p> <p>7.1.2 The policies in this Chapter are predominantly framed nationally by PPS1 Delivering Sustainable Development, PPG2 Green Belt, <u>PPS 4 Planning for Sustainable Economic Growth</u>, PPS7 Sustainable Development in Rural Areas and PPG17 Sport and Recreation and its Good Practice Guide.....</p>

Page	Policy/ Paragraph	Suggested Change
57	Para 7.1.3	<p><i>Revise paragraph to read:</i></p> <p>7.1.3 The Government aims to protect and enhance rural communities and the countryside, setting out its approach through guidance primarily contained in <u>PPS4 and PPS7</u> but also in PPS1 and, in the Green Belt, PPG2. Activities such as the retention, reuse, replacement, expansion and new development of rural and related buildings, farm diversification, rural tourism, the maintenance of environmental quality and countryside character and dealing with equestrian activities and a broad range of other rural land uses, are explicitly dealt with in <u>PPS4 and PPS7</u>. The guidance in <u>PPS4 and PPS7</u> identifies the need to include policies in Local Development Documents to sustain, enhance and revitalise rural communities and the countryside, while maintaining local character and a high quality environment.</p>
57	Para 7.1.4	<p><i>Revise the second sentence to read:</i></p> <p>.....In line with the Rural White Paper, Rural Strategy 2004, <u>PPS4</u> and PPS7 there will be a general presumption against new development in the open countryside.....</p>
60	Para 7.3.1	<p><i>Revise paragraph to read:</i></p> <p>7.3.1 The re-use of appropriately located and suitably constructed buildings in the countryside is supported by Core Policy CP14 clauses (b) and (e) where this meets the sustainable development objectives set out in Core Policy CP1 and is supported by a full structural survey <del>in line with PPS7</del>. In line with <del>PPS7</del> <u>PPS4</u>, re-use for economic development purposes will be <del>preferable supported</del> as this can assist with diversification of the rural economy, but residential conversions may be more appropriate in some locations and for some types of building.</p>
63	Para 7.4.2	<p><i>Revise second sentence to read:</i></p> <p>.....The diversification of the rural economy is</p>

Page	Policy/ Paragraph	Suggested Change
		<p>advocated through national policy in <u>both PPS4</u> and PPS7 as an appropriate response to the changing levels of agricultural production and to support the viability of farm businesses subject to transport, landscape and other planning considerations.</p>
64	Para 7.5.1	<p><i>Revise paragraph to read:</i></p> <p>7.5.1 The keeping of horses and horse riding is an increasingly popular recreational pursuit <u>and is one form of farm diversification</u>. PPS7 PPS4 requires Local Authorities <u>to support equine enterprises that maintain environmental quality and countryside character set out in their Local Development Documents their policies for supporting equine enterprises and recognises that equestrian activity is one form of farm diversification</u>. Core Policy CP14(i) supports development in the countryside where a rural location is necessary which could include equestrian activities.</p>
65	Para 7.5.4	<p><i>Revise first sentence to read:</i></p> <p>7.5.4 Applicants should refer to the Character Area Appraisals SPD and for proposals within the Kent Downs, the <b>Kent Downs AONB Landscape Design Handbook</b> <u>and the Kent Downs AONB Equine Guidance</u> should also be considered when locating, siting and designing development.....</p>
66	<b>Policy DC4</b>	<p><i>Revise clause (c) and the final para. of the Policy to read:</i></p> <p><b>(c) the specific form, design, siting, layout and materials of any necessary development are in keeping with, and do not individually or cumulatively detract from the character of the area in which it is located as defined in the Character Area Appraisals SPD;</b></p> <p><b>Proposals should be accompanied by a Land Management Plan setting out proposals for good pasture management (including</b></p>

Page	Policy/ Paragraph	Suggested Change
		<p><b>stocking density), waste management for the storage and disposal of manure, bedding and other waste, <u>all</u> fencing details, access routes to bridleways and lighting proposals. In addition, where a proposal is located on a water gathering area, details of foul sewerage disposal (stable washings) must also be provided.</b></p>
66	<b>Policy DC4</b>	<p><i>Insert a new clause (h) and renumber the remaining clauses.</i></p> <p><b><u>(h) suitable provision is made for the protection and, where practicable, the enhancement of the existing rights of way network which may be affected by the proposals, with full regard to the safety of users.</u></b></p>
66	Para 7.6.1	<p><i>Revise first sentence to read:</i></p> <p>7.6.1 The importance of the countryside in providing for <del>sport, recreation and tourist facilities</del> <u>tourism and leisure facilities, including sport and recreation</u> is recognised in PPS4, PPS7 and PPG17, but only if those facilities are compatible with the character of the areas and the nature conservation interests of the countryside <u>with preference being given to the re-use of existing buildings.....</u></p>
70	Para 7.9.2	<p><i>Revise to read:</i></p> <p>7.9.2 The reuse or conversion of existing rural buildings within or adjacent to existing service centres and villages for small-scale community uses is supported and will be considered against Core Policies CP12.2 and CP14 and Policy DC1 and against PPG2 where proposals are located within the Green Belt. Where existing buildings are to be replaced, reference should be made to Policy DC2. <del>Such 'community uses' are not appropriate in the Green Belt and thus any proposals for new development for such facilities within the Green Belt will, in accordance with PPG2, need to be justified on the basis of very special circumstances. Not all community uses are appropriate in the</del></p>

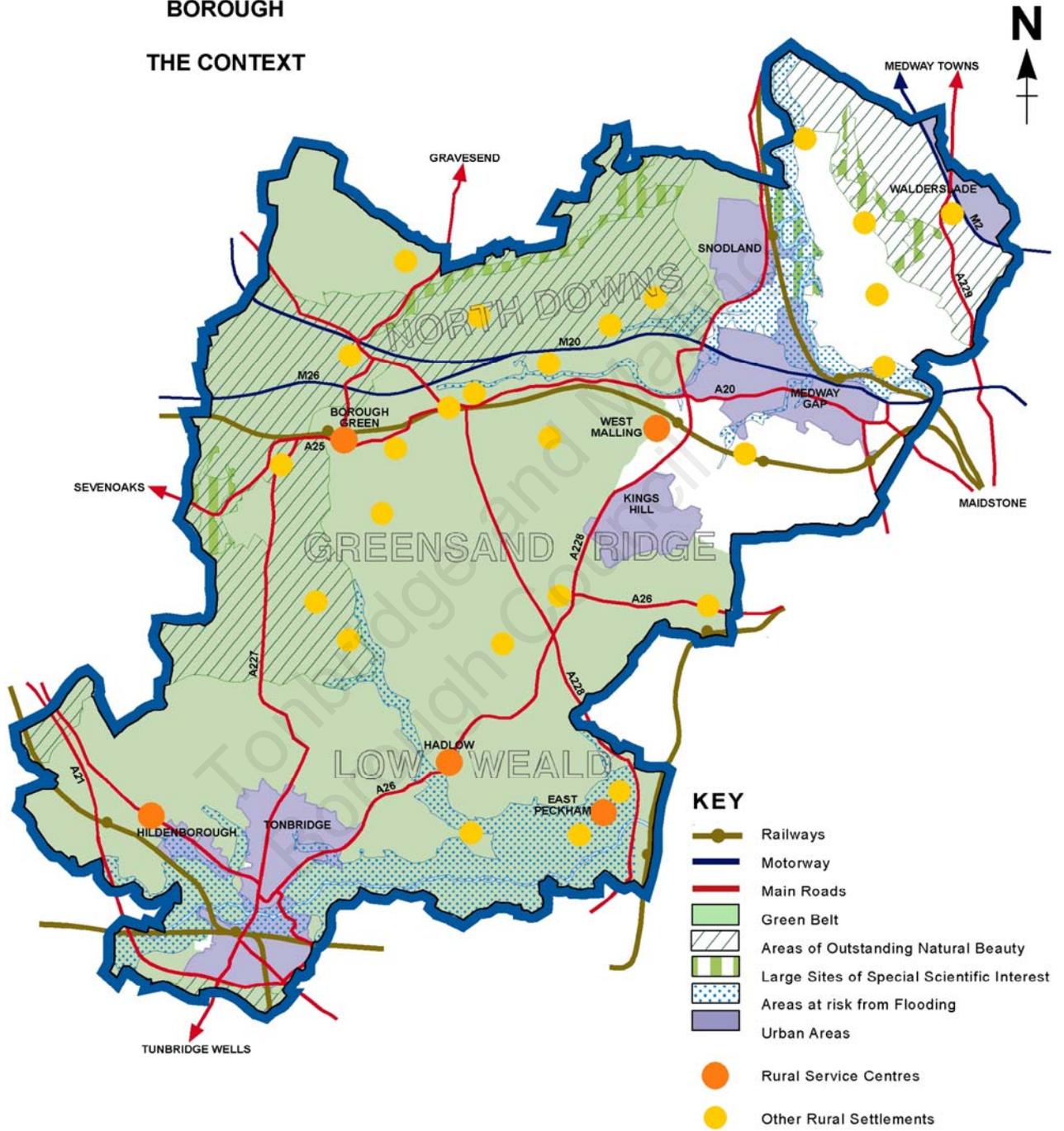
Page	Policy/ Paragraph	Suggested Change
		<p><u>Green Belt and therefore any proposals for new development should be considered against PPG2.</u></p>
74	<p>Table 1  Definition of Open Spaces</p>	<p><i>Revise the third and fourth bullet points under the definition of <b>Green Corridors</b> to read:</i></p> <ul style="list-style-type: none"> <li>• Off road cycle, <u>equestrian</u> and pedestrian routes</li> <li>• Long distance footpaths, <u>bridleways and restricted byways</u></li> </ul> <p><i>Revise the wording in the brackets after School playing fields under the definition for <b>Outdoor Sports Facilities</b> to read:</i></p> <ul style="list-style-type: none"> <li>• School playing fields (where <del>accessible to the public</del> <u>there are local agreements for community use or where the field is crossed by a public right of way</u>)</li> </ul>
98	<p><b>Policy Annex NE1</b></p>	<p><i>Add the following Local Wildlife Site under <b>Snodland</b></i></p> <p><b>(xx) Holborough Quarry</b></p> <p>Rough chalk grassland surrounded by lime-loving shrubs, potentially supporting good invertebrate and bird fauna. (KWT Ref TM39)</p> <p><i>(see extract from revised Map 5 attached)</i></p>
115	<p><b>Policy Annex OS1A</b></p>	<p><i>Amend the presentation of the listing of the outdoor sports facilities in the Policy Annex so that the following school sites that are not publicly accessible, i.e. where there is currently no form of agreement in place for community use, are identified in italic text, with the following footnote explaining why.</i></p> <p><u>School sites in <i>italic script</i> are not publicly accessible, i.e. there are no local agreements in place for community use of the facilities.</u></p> <p><i>(i) Aylesford Primary School (r) St Mark's Junior School (bq) Lunsford Primary School (cr) Hadlow County Primary School (dc) Stocks Green County Primary School</i></p>

Page	Policy/ Paragraph	Suggested Change
		<p><i>(de) Foxbush Sackville School Tennis Courts</i>  <i>(df) Foxbush Sackville School Tennis Courts</i>  <i>(dl) Ightham Primary School</i>  <i>(dt) Kings Hill School</i>  <i>(et) Offham Primary School</i>  <i>(fj) Plaxtol Primary School</i>  <i>(gf) St Katherine's County Primary School</i>  <i>(hm) Tonbridge School Sports Ground</i>  <i>(hn) St Margaret Clitherow Primary</i>  <i>(hr) Slade Primary School</i>  <i>(hs) Cage Green School</i>  <i>(ht) Woodlands Primary School</i>  <i>(hv) Hugh Christie Technology College</i>  <i>(hx) Hilden Grange School</i>  <i>(ib) The Judd School</i>  <i>(id) Hillview Secondary School</i>  <i>(if) St Stephen's Primary School</i>  <i>(ig) Weald of Kent Grammar School</i>  <i>(ih) Tonbridge County Grammar School</i>  <i>(im) Tonbridge School Tennis Courts</i>  <i>(in) Tonbridge County Grammar Tennis Courts</i>  <i>(ip) Hilden Oaks School Tennis Courts</i>  <i>(kb) Wateringbury Primary School</i>  <i>(kh) West Malling Primary School</i>  <i>(kx) St George's Primary School</i></p>
124	<p><b>Policy Annex OS1A</b></p>	<p><i>Amend the following description for the outdoor sports facilities at Holborough Park:</i></p> <p><b>(gh) Holborough Cricket Pitch &amp; Football Pitch</b></p>
134	<p><b>Policy Annex OS1B</b></p>	<p><i>Add the following caveat to site (am):</i></p> <p><b>(am) Holborough Road – <u>subject to the adequate provision of rear access to residential properties in Holborough Road</u></b></p>
147	<p><b>Annex A</b></p>	<p><i>Add the following:</i></p> <ul style="list-style-type: none"> <li>• <b>PPS4: Planning for Sustainable Economic Growth</b> – this sets out the Government's policies on economic development, including industry, offices, retail and tourism development. Of specific interest to the MDE DPD are its policies on economic development in rural areas which deal with</li> </ul>

Page	Policy/ Paragraph	Suggested Change
		<p>conversions and replacement buildings, farm diversification, equestrian development and tourism in the countryside.</p>
147	<b>Annex A</b>	<p><i>Revise PPS7 to read:</i></p> <ul style="list-style-type: none"> <li> <p>• <b>PPS7: Sustainable Development in Rural Areas</b> – this sets out the Government’s policy for rural areas, <del>including country towns and villages and the wider undeveloped countryside.</del> It aims to protect the countryside for the sake of its intrinsic character and beauty, with the highest level of protection for the most valued landscapes <del>such as Areas of Outstanding Natural Beauty.</del> In consequence It seeks to <del>prevent urban sprawl and</del> focus any necessary development in, or next to, existing towns and villages. <del>It also accepts that some development such as rural diversification is necessary in the countryside.</del></p> </li> </ul>
<b>Changes to the Proposals Map</b>	Map 5	<p><i>Amend the boundaries of open spaces <b>OS1A(fy) – Holborough Park</b> and <b>OS1A(gh) Holborough Cricket Pitch &amp; Football Pitch</b></i></p> <p><i>(see Revised Map 5 extract attached)</i></p>
<b>Changes to the Proposals Map</b>	Map 17	<p><i>Amend the boundary of open space <b>OS1A(t) – London Road</b></i></p> <p><i>(see Revised Map 17 extract attached)</i></p>
<b>Changes to the Proposal Map</b>	Map 35	<p><i>Amend the boundary of Local Wildlife Site <b>NE1(m) – Hale Street Ponds and Pastures</b> to remove those parts of the Local Wildlife Site within the ownership of J Clubb.</i></p> <p><i>(see Revised Map 35 extract attached)</i></p>

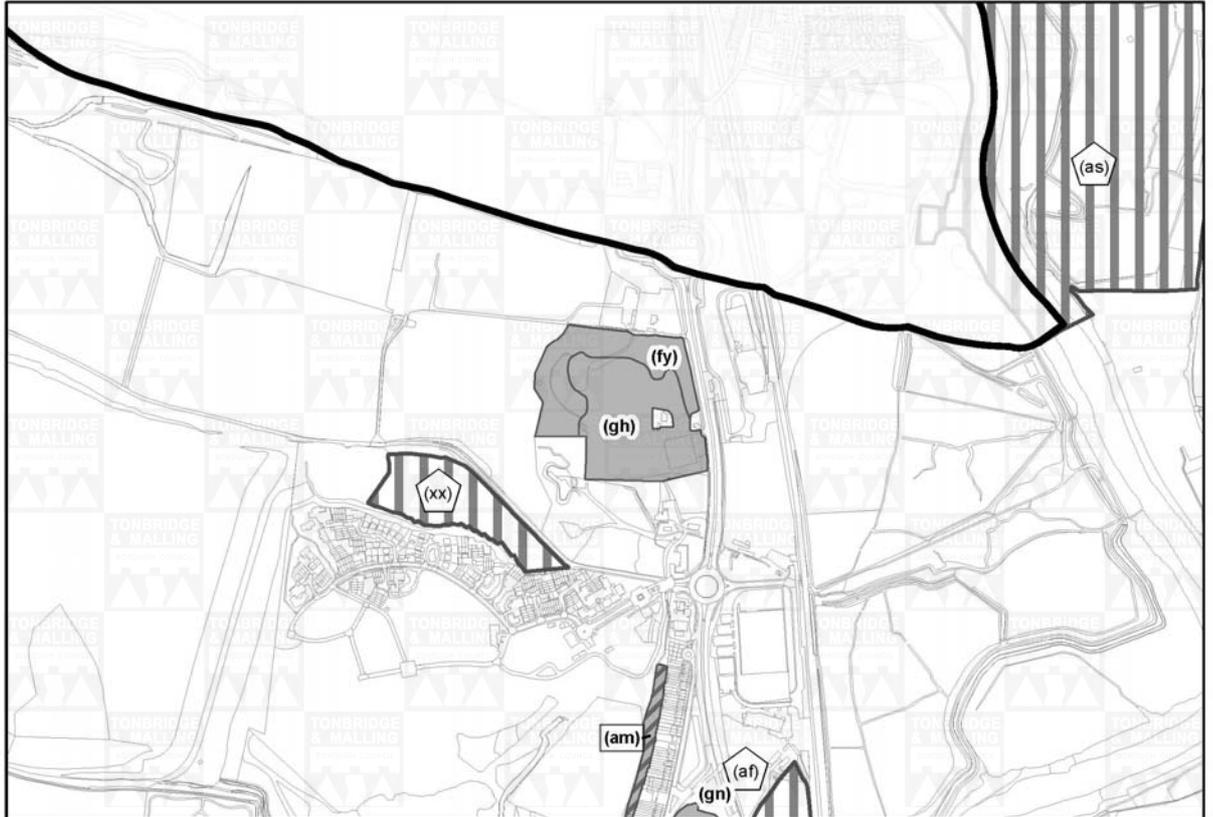
**MAP 1  
 TONBRIDGE AND MALLING  
 BOROUGH**

**THE CONTEXT**



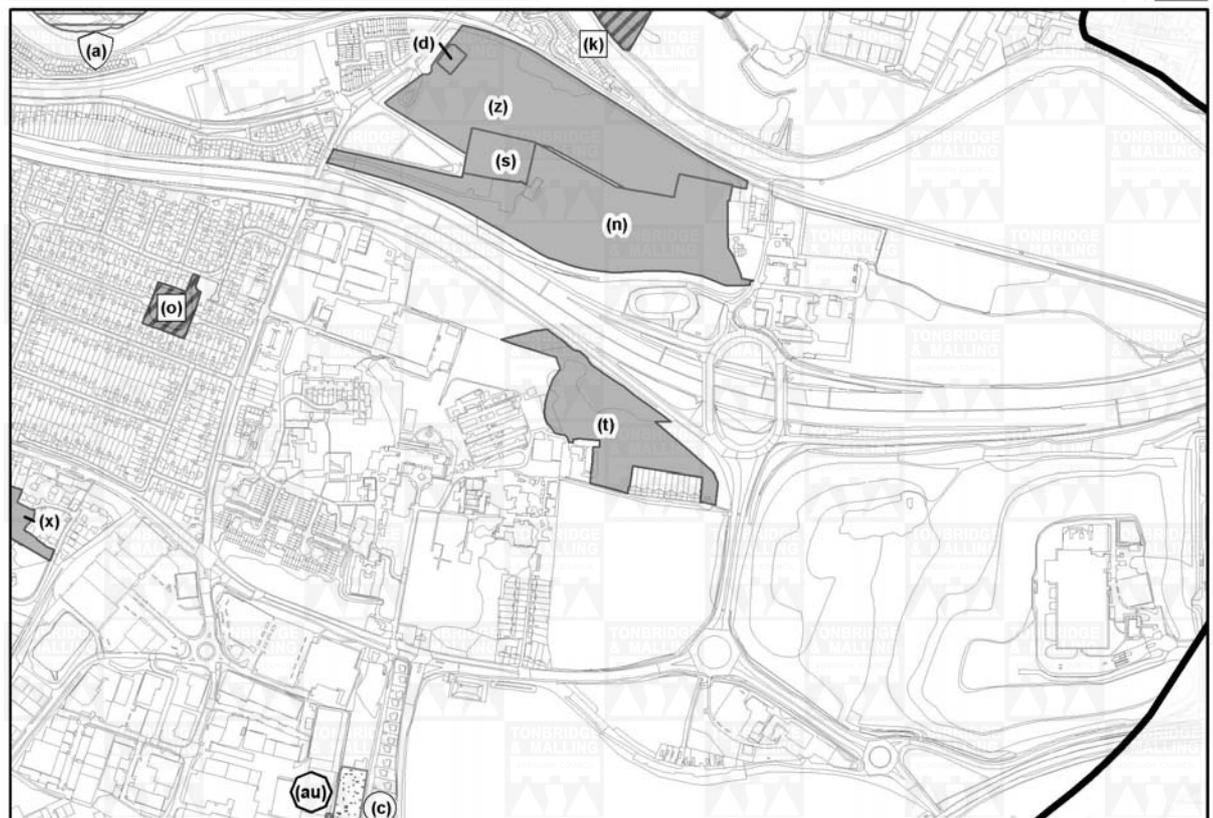
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*Not to Scale*



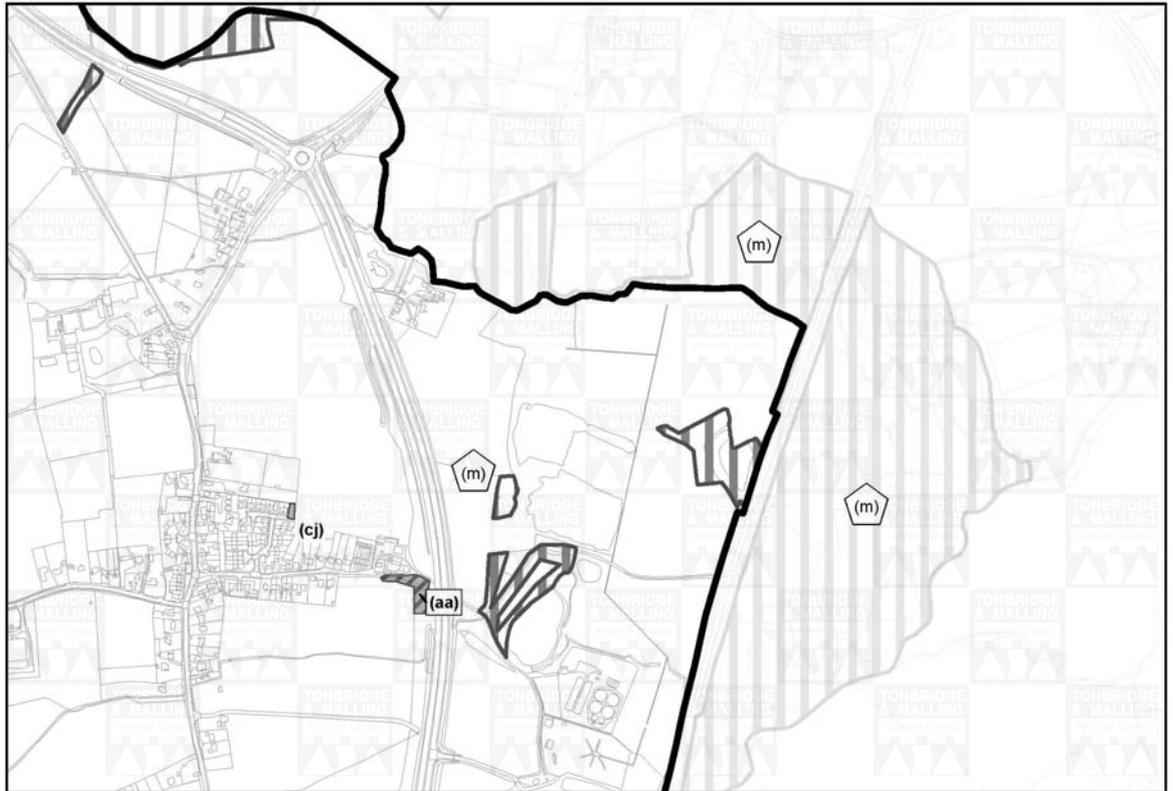
**Changes to the Proposals Map**  
 Extract From Map 5 (revised)  
 Date: December 2009

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**Changes to the Proposals Map**  
 Extract From Map 17 (revised)  
 Date: December 2009

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**Changes to the Proposals Map**  
Extract From Map 35 (revised)      Date: February 2010

0      125      250      500 Metres      N

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## **Annex 2**

### **Schedule of changes required for the DPD to be sound**

- 1.1 The attached Schedule contains those changes referred to in the Report that are necessary for the DPD to be sound.
- 1.2 The changes in the Schedule are expressed either in the conventional form of ~~striketrough~~ for deletions and underlining for additions of text, or by specifying the nature of the change in *italics*. The page numbers and paragraph numbering refer to the submission version of the DPD, and do not take account of the deletion or addition of text.

Page	Policy/ Paragraph	Recommended Change
22	Para 4.2.9	<p><i>Revise 6<sup>th</sup> sentence to read:</i></p> <p>Given these local circumstances and there being potential in the Borough to harness energy from a number of renewable sources including solar and biomass, the Council considers that <u>the achievement of Level 4 of the Code for Sustainable Homes should be encouraged</u> <del>there is scope to set more stringent standards, particularly in relation to energy and water efficiency.</del></p> <p><i>Delete rest of paragraph</i></p>
24	Policy CC1	<p><i>Revise Part 2 to read:</i></p> <p><b>2. <u>The achievement of Code Level 4 of the Code for Sustainable Homes will be encouraged in all Pproposals for new residential development (excluding extensions and conversions) will not be permitted unless they achieve at least Code Level 4 of the Code for Sustainable Homes.</u> Water efficiency measures including the installation of storage facilities for the harvesting of rainwater for external and internal water use should be included in meeting Level 4.</b></p> <p><i>Revise the first sentence of Part 3 to read:</i></p> <p><b>3. <del>In achieving Code Level Standard,</del> P Proposals for new residential development will not be permitted unless at least 10% of the estimated CO<sub>2</sub> emission savings for each new dwelling are achieved from installed low or zero carbon technologies.</b></p>
33	Policy NE1	<p><i>Revise to read:</i></p> <p><b>1. Development that adversely affects either directly, indirectly or cumulatively a Local Wildlife Site (LWS), <del>Regionally Important Geological Site (RIGS)</del> or Local Nature Reserve (LNR), as identified on the Proposals Map and listed in Policy Annex NE1, will not be permitted unless it can be demonstrated that</b></p>

Page	Policy/ Paragraph	Recommended Change
		<p>the benefits of the development override the need to safeguard the nature conservation value <del>or particular geological or geomorphological interest</del> of the site and that adverse impacts can be adequately compensated.</p> <p>2. Where development may exceptionally be justified, <del>development</del> <u>it</u> must minimise harm to the nature conservation interest of the site, and re-establish and enhance the habitat, or nature conservation features lost.</p> <p><u>3. Development that would adversely affect a Regionally Important Geological Site (RIGS) as identified on the Proposals Map and listed in Policy Annex NE1, will not be permitted unless it can be demonstrated:</u></p> <ul style="list-style-type: none"> <li>• <u>that the benefits of development override the need to safeguard the particular geological or geomorphological interest of the site, and</u></li> <li>• <u>that any adverse impacts can adequately be mitigated.</u></li> </ul> <p>4. Planning conditions or obligations will be used to protect the site's nature conservation, <u>geological or geomorphological</u> interest, and to provide <u>appropriate mitigation or</u> compensatory measures and site management.</p>
39	Policy NE4	<p><i>Revise Part 3 to read:</i></p> <p>3. Ancient Woodland will be protected, and where possible, enhanced <u>through improved management, unless it can be demonstrated that there are exceptional reasons in the public interest for the development that clearly override</u> <u>Development that would adversely affect ancient woodland will not be permitted unless the need for, and benefits of, the development in that location can be demonstrated to override the harm that would be caused to the ecological and</u></p>

Page	Policy/ Paragraph	Recommended Change
		<p><b>historical importance of the ancient woodland.</b></p>
52	Policy SQ7	<p><i>Revise section (c) to read:</i></p> <p><b>(e) <u>For development proposals of 10 or more dwellings developers must demonstrate that the healthcare needs (primary and acute) of the residents that will occupy the new residential development likely to be generated by the development have been considered in consultation with the Primary relevant Health Care Trusts and Kent Adult Social Services as appropriate and that, provided it can be demonstrated that there is a deficiency in provision that cannot be addressed through normal NHS funding procedures, a developer contribution is secured, before the development is occupied, to ensure the most appropriate (on or off-site) provision is available or will be made available to serve the development by a developer contribution if necessary before the development is occupied.</u></b></p>
62	Para 7.3.3	<p><i>Revise the first part of the paragraph to read:</i></p> <p>7.3.3 In the interests of sustainable development the Council will <del>always</del> seek the re-use of rural buildings where possible, in preference to their replacement. The Council will consider any proposals for the replacement of suitably located, existing buildings of permanent design and construction in the open countryside for economic development purposes <del>in line with the benefits listed in PPS7. However, in line with PPS7 any such proposal will need to</del> <u>Replacement of buildings will be favoured where this would</u> result in a more acceptable and sustainable form of development than would be achieved by the conversion of an existing building and bring about an environmental improvement in terms of the impact of the development on its surroundings. Core Policy CP14.....</p>

Page	Policy/ Paragraph	Recommended Change
62	Policy DC2	<p><i>Delete section (f) as follows:</i></p> <p><del>(f) It will support the local economy.</del></p>
63	Para 7.3.4	<p>Revise the first sentence to read:</p> <p>7.3.4 <del>In all instances of</del> <u>Where there is a reasonable likelihood of protected species being present and affected by the re-use or replacement of rural buildings, surveys should be carried out to ensure there are no protected species in the buildings, and any necessary measures should be put in place through conditions or planning obligations to safeguard such species. will be imposed on a planning permission as appropriate.</u></p>
80	Para 8.3.7	<p><i>Delete first 6 sentences and amend rest of paragraph to read as follows:</i></p> <p>8.3.7 <del>Elsewhere,</del> Proposals are most likely to come forward in <del>the countryside outside the confines of settlements</del> <u>urban fringe areas or in locations close to settlement boundaries</u>. Any proposals would be considered on their merits but would be likely to be acceptable in principle (see Policy OS7).</p>
80	Policy OS4	<p><i>Delete Part 3 as follows:</i></p> <p><del>3. The Freehold, Hadlow, as identified on the Proposals Map, is identified as a site suitable for the provision of formal publicly accessible open space to address local deficiencies, as identified in the Open Space Strategy.</del></p>
101	Policy Annex NE1	<p><i>Delete as follows:</i></p> <p><del>East Peckham Parish</del></p> <p><del>(ay) Hale Street Quarry/Clubb's Sand and Gravel</del></p> <p><del>Has important access to Weald Clay,</del></p>

Page	Policy/ Paragraph	Recommended Change
		<p><del><b>Pleistocene and Holocene sediments and fossils and study of environmental (climate) change during the late Pleistocene (T&amp;M1 RIGS)</b></del></p> <p><i>For Policy NE1 to be sound the Proposals Map would need to be amended at adoption of the DPD by removing designation (ay)</i></p>
164 & 168	<b>Annex D</b>	<p><i>Replace Figure 2: 'Methodology for Calculating Open Space Provision' and amend text in Step 6 – see revisions to Annex D at the end of this Schedule.</i></p>
165	<b>Annex D</b> Para 9	<p><i>Delete 3<sup>rd</sup> bullet point as follows:</i></p> <ul style="list-style-type: none"> <li>• <del>Sheltered accommodation (with the exception of children's playspace)</del></li> </ul> <p><i>Add at end of the paragraph after the bullet points:</i></p> <p><u>Proposals for sheltered housing may generate an open space requirement, depending on the type of accommodation and the likely characteristics of residents. They will be considered on their own merits but in all cases they will not generate a requirement for children's play space.</u></p>
177	<b>Annex F</b> Performance indicator 1.1	<p><i>In <b>Target and Date</b> column revise as follows:</i></p> <p><del>Zero during the lifetime of the DPD</del> <u>Not established</u></p>
	Proposals Map	<p><i>While I cannot recommend changes in this regard, the DPD would be unsound unless the Proposals Map were changed on adoption as follows:</i></p> <ul style="list-style-type: none"> <li>• <i>Amendments to Hale Street Ponds and Pastures LWS (m) in accordance with Annex 1</i></li> <li>• <i>Deletion of Hale Street Quarry/ Clubb's Sand and Gravel RIGS (ay)</i></li> </ul>

**DPD Annex D**

**Figure 2: Methodology for Calculating Open Space Provision**

<b>STEP 1</b>	Q. Will the type of development generate a demand for open space?			
	⇓Yes⇓		No. Decision – No provision required.	
<b>STEP 2</b>	Q. What level of demand of open space will be generated by the development proposal?			
<b>STEP 3</b>	Q. Is the development site within an area of quantitative open space deficiency? (See Figure 5)			
<b>STEP 4</b>	⇓Yes⇓			
	Q. Can new on-site open space provision be made, fit-for-purpose (See Figure 6), in accordance with the standards (See Policy Annex OS3)?		⇓No⇓	
	⇓Yes⇓			
Decision – Provide open space on-site in accordance with the standards.				
<b>STEP 5</b>	Q. Can new off-site open space provision be made, fit-for-purpose, within the relevant accessibility threshold (See Policy Annex OS3)?		⇓No⇓	
	⇓Yes⇓			
	Decision – Provide open space off-site (directly or indirectly via developer contributions) in accordance with the standards.			
<b>STEP 6</b>	Q. Are there existing open spaces within the relevant accessibility threshold of the development site in need of enhancement? (See Policy Annex OS1B for priority sites and also have regard to the Council's Capital Plan)		Q. Are there existing open spaces within the relevant accessibility threshold of the development site in need of enhancement? (See Policy Annex OS1B for priority sites and also have regard to the Council's Capital Plan)	
	⇓Yes⇓		⇓No⇓	
	Decision – Secure developer contributions to enhance the quality of existing open spaces within the accessibility threshold of the development site.		Decision – Secure developer contributions to enhance the quality of existing off-site open spaces beyond the accessibility threshold of the development site but reasonably accessible to it.	
			Decision – Secure developer contributions to enhance the quality of existing open spaces within the accessibility threshold of the development site.	
		Decision – No developer contributions will be required.		

## Annex D: Revisions to Step 6

19. If the development site is within an area of quantitative open space deficiency where and it is not practicable to provide additional new open space off-site, or where the proposed development is not within an area deficient in quantity of open space provision, a developer contribution will be required to enhance the quality of existing open spaces within the accessibility threshold of the development proposal (see Policy Annex OS3 for accessibility standards).
21. If it this is not practicable, to enhance the quality of existing open spaces within the accessibility threshold of the development proposal where the development site is within an area of quantitative open space deficiency, then the developer contribution will be invested in enhancing the quality of open spaces beyond the accessibility threshold of the development site but reasonably accessible to it.

*Insert new paragraph after para.21:*

22. If the development proposal is not within an area of quantitative open space deficiency and there are no existing open spaces within the accessibility threshold of the development site in need of enhancement, then **no** developer contributions will be sought by the Council.

*Amend the numbering of the remaining paragraphs in Annex D to reflect the insertion of the new text.*