



**Maidstone Borough Council**  
**Local Plan Review – Stage 1**

**Submission for Matter 1 from Lenham Parish Council**

## **MATTER 1: Legal and Procedural Compliance.**

### **Issue 1: Whether the Council has complied with the Duty to Cooperate in the preparation of the Local Plan Review.**

#### **Q1.6 Overall, has the Council engaged constructively, actively and on an on-going basis in maximising the effectiveness of the preparation of the Local Plan Review?**

Twelve Statements of Common Ground are included within the evidence base. Of these, only two, Tunbridge Wells Borough Council (26/10/21) and Ashford Borough Council (22/10/21) area are agreed, signed and dated. There are no draft Statements from four statutory consultees, Historic England, South East Local Enterprise Partnership, Office of Rail Regulation and Kent and Medway Clinical Commissioning Group, bodies prescribed for the purposes of s.33A(1)(c) of the Planning and Compulsory Purchase Act 2004.

Lenham Parish Council has a number of fundamental concerns regarding the potential delivery of the Heathlands project:

- Whether there is adequate highway capacity along the A20 corridor between M20 Junction 8 and M20 Junction 9 and whether it is practical, feasible, and viable to deliver appropriate improvements to serve 5000 homes and 5000 jobs including at least 14 hectares of employment land. The issue of whether there is or is not going to be a new motorway junction has yet to be resolved. Without that resolution there can be no certainty as to the nature, cost and viability of the transportation mitigation which is needed. This matter should by now have been the subject of an agreed Statement of Common Ground with the relevant highway authorities
- Whether it is practical, feasible and viable to deliver appropriate public transport improvements, including a potential new railway station. This matter should by now have been the subject of an agreed Statement of Common Ground with the relevant transportation authorities.
- Whether it is practical, feasible and viable to deliver an appropriate new or improved wastewater treatment works incorporating provision for nutrient neutrality in a timely manner in accordance with Natural England and Environment Agency requirements. Appendix 1 is an engineer's report which details the practical difficulties associated with the Heathlands project.
- Whether it is practical, feasible and viable to deliver a development comprising 5000 homes and 5000 jobs, including at least 14 hectares of employment, in a manner which is compliant with AONB policy contained within the NPPF at paragraph 176 in accordance with the views expressed by Natural England and the Kent Downs AONB unit. Appendix 2 is a Landscape Sensitivity Report which details the visual harm generated by the Heathlands project. Appendix 3 is a drawing which shows the combined effect of the Lenham Neighbourhood Plan proposals together with Heathlands.

- Whether it is practical, feasible and viable to provide 5000 homes and 5000 jobs, including at least 14 hectares of employment land within the site and within programme whilst addressing the mineral safeguarding issues identified by KCC.

These are fundamental concerns regarding the suitability of Heathlands as a strategic location which need to be addressed **NOW** at this formative stage in the plan making process. It is not acceptable to defer resolution of these fundamental concerns to a subsequent stage such as through the preparation of a development brief, for example. It appears to the Parish Council that effective decision making on strategic matters has been deferred rather than dealt with, contrary to the NPPF at paragraphs 25 and 35 (c), rendering the plan unsound, in the Parish Council's view. It is also critical that the first phase of the project, should not be released in this Local Plan Review until it can be demonstrated that proper provision can be made for the essential infrastructure to serve the entire development.

It is clear to the Parish Council that the necessary agreement has **NOT** been reached with Kent County Council (as highway authority), National Highways or the various drainage and environmental authorities, including Natural England and the Environment Agency.

## **Issue 2: Whether the Council has complied with relevant procedural and legal requirements.**

### Procedural

#### **Q1.9. How does the Plan Review relate to existing Neighbourhood Plans and, in broad terms, how would they be affected by the adoption of the submitted Plan Review document?**

Lenham Neighbourhood Plan was 'made' on 14<sup>th</sup> July 2021 and thus forms part of the development plan for Maidstone Borough. Appendix 4 is a drawing which shows Heathlands in combination with Lenham as extended by the Neighbourhood Plan allocations.

Lenham Neighbourhood Plan contains Countryside Protection policy CP1. Policy CP1 stipulates five criteria against which development proposals in the countryside should be assessed. So far as Lenham Parish Council is concerned the Neighbourhood Plan has been ignored in the production of the Review, and this is contrary to the Plan Making PPG at para 006 Ref:<sup>1</sup>. The Parish Council is not aware of any published analysis of the Heathlands proposal in terms of the criteria contained in policy CP1.

So far as Lenham Parish Council is concerned if Heathlands is assessed in terms of the five criteria contained within policy CP1, the analysis would demonstrate overwhelmingly severe

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<sup>1</sup> <https://www.gov.uk/guidance/plan-making>

negative impacts which cannot be mitigated. As such, the Heathlands proposal is not supported by the current development plan.

There has been no engagement by Maidstone Borough Council with Lenham Parish Council as regards the impact on the trajectory for delivery of the Lenham Neighbourhood Plan sites.

The 2017 Plan contains a Broad Location at Lenham for the delivery of 1000 additional dwellings Post 2021 [MBLP2017 Policy H2 (3)].

The Broad Location policy was taken forward by Lenham Neighbourhood Plan which was made on 14<sup>th</sup> July 2021 and allocates 1000 dwellings on 7 sites in the years up to 2031 [LNP 2021 Policy SHDS1]. Policy LNP SHDS1 (6) contains a requirement to demonstrate that adequate capacity will be provided at Lenham Wastewater Treatment Works to accept foul drainage flows arising.

The Local Plan Review Water Environment Supplementary Paper (LPRWESP) [LPR 1.44] establishes the need for a combined solution for the proposed Garden Community and Lenham broad location. Paragraph 7.18 of the LPRWESP reads as follows:

*“7.18 In summary however, additional capacity could be built into the new WWTW at Heathlands, which could serve the broad location. Additional residual nutrients can then be accommodated by onsite wetlands. The cost of this would be borne by Lenham broad location developments, however delivery of these sites has been pushed back in the trajectory to coincide with the deliver (sic) of the first units at the Heathlands Garden community.”*

The net result of the adoption of the submitted Borough Plan Review document would, therefore, be to prevent the timely delivery of the homes within Lenham Neighbourhood Plan which need to drain to Lenham WTW until such time as a new joint facility can be constructed to serve both Lenham and Heathlands.

The existing Lenham WTW is excluded from the site allocation at Heathlands. There is no evidence that the land at Lenham WTW, or the outfall from the small stream nearby which takes the discharge, will have sufficient capacity to accommodate all the flows arising from Lenham, the broad location and Heathlands.

There is no evidence as to the timescale and cost for the delivery of the new WWTW at Heathlands. It is not clear whether a satisfactory legally compliant mechanism exists, whereby the Lenham broad location developments could contribute to the cost of the new WWTW to serve Heathlands.

It is by no means certain that a new WWTW at Heathlands, which complies with all the regulatory requirements can be provided by 2029, let alone 2031 or 2037. Further detail on the practical difficulties of providing an effective wastewater treatment system to serve Lenham is given in Objection LPC TEN (Delivery of Wastewater Treatment).

The overall conclusion, therefore, is that the adoption of the submitted Local Plan Review document would serve to prevent the delivery of the Lenham broad location developments

within the timescales envisaged by LNP. The identification by the government of a potential new credit based system for securing the delivery of combined nutrient filtration systems only serves to create more doubt and uncertainty as to whether and how this is to be achieved and funded in practice.

**Q1.11 Given the significance of the Garden Settlement proposals at Heathlands and Lidsing, in terms of their location and scale, has there been appropriate engagement with affected communities as part of the plan-making process?**

Objection LPC SIXTEEN explains how the Council failed to engage constructively with the local community at Lenham.

The Stantec Report 'Maidstone Garden Communities, Suitability Assessment (April 2020)' gives an analysis of 9 potential garden community proposals. (LPR 2.51)

Section 4 of the Report considers Heathlands. Under the heading 'Information Provided' paragraph 4.1.2 reads as follows:

*"A limited amount of information is provided and more detail is required to understand why this location was chosen, the logic for it, how it will realistically work and specifically how the infrastructure benefits, which are essential to the scheme, are to be delivered." (Writer's emphasis.)*

The question 'why here?' has never been addressed to the satisfaction of Lenham Parish Council. Attempts at public consultation have been very rare and have amounted to a telling exercise rather than genuine canvassing of local opinion. This is not in accordance with para 12 of the Statement of Community Involvement (2020 Edition) which appears to envisage that appropriate engagement with the Parish Council and Local Residents Groups (such as Save Our Heathlands) would be carried out by the Council.

As such, Lenham Parish Council believes there has not been appropriate engagement with affected communities. The Council believes the way the Heathlands project has been developed is contrary to the provision of the NPPF, specifically at paragraphs 25 and 73.

The Parish Council would also like to raise at this point that it is very clear that the plan, as submitted, was clearly not ready for submission. The points that the Parish Council wishes to make in that regard are clearly set out in the letter of 15<sup>th</sup> July 2022 from Counsel acting on behalf of the Parish Council [ED11A], the letter of 15<sup>th</sup> July 2022 from CPRE [ED12A] and Save Our Heathlands [ED27A].

Further, [ED28] purports to set out some draft terms of reference relating to a "Political and Key Stakeholder Steering and Delivery Group" dealing with the Heathlands Garden Community. These were prepared in June 2022 and list the Parish Council as a member of the group. The Parish Council met with MBC and Homes England on 6<sup>th</sup> July 2022. It did not have sight of these terms of reference before or during that meeting (indeed no agenda for

the meeting was provided by either MBC or HE for the meeting), however, what is set out in [ED28] appears to follow discussion points that HE outlined in part during the meeting. The Parish Council at the time informed HE and MBC that the discussion being proposed by HE at the meeting was presumptuous and premature. A note of the meeting was circulated to MBC following the meeting – a copy is appended to this Matter Statement as Appendix 4. The meeting on 6<sup>th</sup> July 2022 and these draft terms of reference are clear, further, examples of MBC's failures to engage constructively with the Parish Council over the issue of Heathlands – it presents an example of MBC's "it is going to happen" approach to Heathlands. No meaningful discussions are ever held, MBC and now HE just set out (in their own words and actions) a sense of inevitability that the Heathlands development will be coming forward.

## Sustainability Appraisal

### **Q1.13 Has the Sustainability Appraisal [SUB002] adequately assessed the likely environmental, social and economic effects of the Local Plan Review? Does the Sustainability Appraisal meet the relevant legal requirements in relation to Strategic Environmental Assessment (SEA) as per NPPF paragraph 32?**

The legal submission submitted on behalf of Lenham Parish Council as a representation on the Sustainability Appraisal gives the reasons why the Review does not meet the relevant legal requirements. The submissions made there are still valid and Lenham Parish Council continues to submit that the Council has not carried out a legal sufficient SA. In particular the assessment of reasonable alternatives is not legally sufficient (this point is addressed further below).

### **Q1.14 Does the Sustainability Appraisal: (i) systematically appraise reasonable alternatives? (ii) give clear reasons for the preferred approach, (iii) take a proportionate approach to explaining why unreasonable options/alternatives have been discounted and not systematically appraised? and (iv) where significant adverse impacts are unavoidable, have suitable mitigation measures to prevent, reduce, and as fully as possible, offset them, been identified?**

Objection LPC ONE identifies significant adverse impacts arising from the selection of Heathlands and suggests that these adverse impacts could have been mitigated within the Plan by the selection of a more sustainable distribution of development sites.

Objection LPC THREE gives reasons why increased capacity at Invicta Barracks should have been included as a reasonable alternative in the Review.

Objection LPC FOUR gives reasons why the development of a sustainable mixed-use extension to Marden should have been included in the Review, either as a garden community or as a village expansion project.

Objection LPC SIX explains in detail why the Leeds Langleigh corridor should have been included as a reasonable alternative in the Review.

Objection LPC NINE examines why the Sustainability Appraisal does not give clear reasons for the selection of the preferred approach.

The conclusion of Lenham Parish Council is that the original Sustainability Appraisal failed on all four of the above criteria. This conclusion has not been altered by the publication of any subsequent material.

## Habitat Regulations Assessment (HRA)

**Q1.18 In light of nutrient impact assessment and mitigation screening work to date, notably in relation to proposals in Lenham, including Heathlands, is there a reasonable prospect of an update to the appropriate assessment of the Local Plan Review confirming a deliverable mitigation package and, as a consequence, a conclusion of no adverse effect.**

Objection LPC TEN considers the delivery of wastewater treatment, including nutrient neutrality, for Lenham. None of the subsequent work has convinced the Parish Council that a workable, deliverable and viable mitigation package has been developed.

## Climate Change

**Q1.20 Does the Plan accord with s19(1A) of the Planning and Compulsory Purchase Act (2004) (as amended) by including policies that are designed to secure the development and use of the land in the Borough contribute to the mitigation of, and adaption to, climate change?**

Objection LPC ONE explains why the Heathlands project is directly contrary to local and national policies which seek to mitigate against the harmful effects climate change.

Objection LPC ONE also suggests how an alternative, more sustainable, distribution of development could be included within the Plan to provide for essential development requirements.

Objection LPC EIGHT gives an analysis of the most likely pattern of in and out commuting likely to be generated by the implementation of the Heathlands Project. Because of the site's relative isolation from the main urban areas in mid-Kent, Heathlands will not be able to generate the necessary levels of self-containment to comply with climate change policy as set out in the NPPF and elsewhere.

## APPENDICES

Appendix 1: Engineer's Report

Appendix 2: Landscape Sensitivity Report

Appendix 3: Drawing showing Lenham Neighbourhood Plan Proposals with Heathlands

Appendix 4: Note of meeting held on 6<sup>th</sup> July 2022