

**MAIDSTONE BOROUGH LOCAL PLAN REVIEW**

**DRAFT PLAN FOR SUBMISSION (REGULATION 19)**

**OBJECTION ON BASIS OF SOUNDNESS AND LEGAL COMPLIANCE**

**ON BEHALF OF LENHAM PARISH COUNCIL**

**HAS THE PLAN ASSESSED ALL REASONABLE ALTERNATIVES AND GIVEN REASONS WHY THE REJECTED OPTIONS ARE NOT BEING TAKEN FORWARD?**

**REASONABLE ALTERNATIVES**

**LPC NINE**

**NATIONAL PLANNING PRACTICE GUIDANCE**

1. The National Planning Practice Guidance (the Guidance) gives the following advice on sustainability appraisal:

***What is a sustainability appraisal, and how does it relate to strategic environmental assessment?***

*A sustainability appraisal is a systematic process that must be carried out during the preparation of local plans and spatial development strategies. Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.*

*This process is an opportunity to consider ways by which the plan can contribute to improvements in environmental, social and economic conditions, as well as a means of identifying and mitigating any potential adverse effects that the plan might otherwise have. By doing so, it can help make sure that the proposals in the plan are appropriate given the reasonable alternatives. It can be used to test the evidence underpinning the plan and help to demonstrate how the tests of soundness have been met. Sustainability appraisal should be applied as an iterative process informing the development of the plan.*

2. The Guidance goes on to address how the sustainability appraisal should assess alternatives as follows:

***How can the sustainability appraisal assess alternatives and identify likely significant effects?***

*The sustainability appraisal needs to consider and compare all reasonable alternatives as the plan evolves, including the preferred approach, and assess these*

*against the baseline environmental, economic and social characteristics of the area and the likely situation if the plan were not to be adopted. In doing so it is important to*

- outline the reasons the alternatives were selected, and identify, describe and evaluate their likely significant effects on environmental, economic and social factors using the evidence base (employing the same level of detail for each alternative option). Criteria for determining the likely significance of effects on the environment are set out in schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004*
- as part of this, identify any likely significant adverse effects and measures envisaged to prevent, reduce and, as fully as possible, offset them*
- provide conclusions on the reasons the rejected options are not being taken forward and the reasons for selecting the preferred approach in light of the alternatives. Any assumptions used in assessing the significance of the effects of the plan will need to be documented. Reasonable alternatives are the different realistic options considered by the plan-maker in developing the policies in the plan. They need to be sufficiently distinct to highlight the different sustainability implications of each so that meaningful comparisons can be made. The development and appraisal of proposals in plans needs to be an iterative process, with the proposals being revised to take account of the appraisal findings*

*Paragraph: 018 Reference ID: 11-018-20140306*

3. Lenham Parish Council wishes to understand which reasonable alternatives were assessed, how they were assessed and whether the proposals selected for inclusion in the plan have been revised to take account of the appraisal findings.

## LEEDS / LANGLEY CORRIDOR

4. When carrying out the call for sites exercise in March 2019 Maidstone Borough Council indicated that it was interested in pursuing garden communities to accommodate future housing (Strategic Assessment (SA). para 7.70).
5. At that time the council ruled out further investigation of the Leeds / Langley corridor garden settlement option. (SA. para 4.22) on the basis that there was not a specific worked-up garden settlement proposal available at that time.
6. The council decided to consider the Leeds / Langley Corridor as a potential Broad Location (SA para 4.22). The capacity of the Leeds / Langley Corridor could have been assessed on the basis of further sustainable transport measures to reduce congestion and air pollution. (2017 Plan policy LPR1 (vi) and (vii)). In the end the capacity of the Leeds / Langley Corridor was not assessed in 2020 despite the clear indication that the additional development associated with the Leeds Langley Relief Road should have been addressed (2017 Plan policy LPR1 (v)).

7. A report “Leeds Langley Relief Road – Responding to LPR1’ was produced by Stantec in April 2021. This Report was only approved and published in September 2021. The report identifies 200 ha of land within Leeds / Langley area as ‘broadly developable’ (Stantec, September 2021, para 4.1.6). The report concluded that 4000 dwellings within this area could support the full cost of the relief road. (Stantec, September 2021, para 3.4.6).
8. The September 2021 Stantec report has never been subject to Sustainability Appraisal despite the fact that the development proposals contained within it are clearly a ‘reasonable alternative’ for consideration at this time.
9. Lenham Parish Council concludes it is highly likely that a proper analysis of the Leeds / Langley Corridor within the Sustainability Appraisal (if that had been done) would result in that option being identified as clearly preferable to the council’s own development proposal at Heathlands.

## INVICTA BARRACKS

10. Policy LPR1 (ii) in the 2017 plan suggests that matters the first review may need to address including the allocation of land at the Invicta Park Barracks broad location.
11. Maidstone town had ‘a generally high sustainability rating from the SA of the initial options.’ (SA para 4.21). Despite this initial conclusion the option of higher density development within Invicta Barracks was not identified or tested as a ‘reasonable alternative’.
12. The SA did not test Invicta Barracks for reasons given in the SA at paragraphs 7.172 – 7.174. This was because Invicta Barracks was contained within an existing policy in the 2017 plan. Paragraph 7.172 of the SA notes that it was now proposed to provide ‘a new through school at the site’. This change may of course have enhanced the attraction of the site as a potential candidate for a high-quality, high-density mixed use urban quarter.
13. The SA did not test the option of increased development at the Barracks despite the direction of travel of national planning policy. Paragraph 11 (a) of the National Planning Policy Framework (NPPF) has a policy to mitigate climate change ‘including by making effective use of land in urban areas.’
14. The reasons for choosing the strategy in the plan are given in the SA report at page 217 to 219. This includes reference to political preferences.
 

*“There is a preference for development in Maidstone town centre to focus on improving the local employment and infrastructure offer in preference to housing.”*
15. It seems to Lenham Parish Council that the process of site selection, including the selection of reasonable alternatives, has predetermined the eventual outcome. Lenham Parish Council believes it is highly likely that a proper analysis of the potential for higher density development at Invicta Barracks would lead to it being

identified as clearly preferable to the council's own development proposal at Heathlands.

## GARDEN COMMUNITIES

16. The plan does not explain why a site north of Marden was not selected as a Garden Community. The text at page 219 gives the perceived advantages of Lidsing and Heathlands but says nothing about land north of Marden.
17. Paragraph 4.21 of the SA indicates it was considered prudent by the Council in terms of risk management that the number of Garden Communities should be limited to two in the Local Plan Review. The risks of Garden Communities, including that they can often be car dependent, are clearly set out in paragraph 4.28 of the SA. Paragraph 4.28 states that one garden settlement approaches 'performed most strongly'. In spite of this conclusion the council did not opt for a one Garden Community strategy which would have reduced the acknowledged risk profile even further.
18. The SA (para 4.28) also concluded that two Garden Communities performed least well.
19. The SA (para 4.47) concluded that the Garden Community option that performed most strongly in sustainability terms was Lidsing followed by North of Marden. *'Heathlands performed least well across the range of sustainability objectives.'* From the way the above paragraph is written it can be concluded that this is a broad professional judgement made by the SA team, rather than a narrow reciting of the scores contained in the various sustainability colour charts.
20. Despite dropping land north of Marden as a Garden Community candidate at this stage, the council did not re-evaluate that option as a potential development candidate at a Rural Service Centre under the terms of policy LPRSS1. This is despite identifying Marden as a suitable location for some growth by making an allocation of 133 new houses at site reference LPRSA 295.
21. It seems to Lenham Parish Council that had Maidstone Borough Council either selected north of Marden as a site for a new garden community or as a location for development as a mixed-use sustainable village extension under the terms of policy LPRSP6 ((E) (page 83) as a reasonable alternative, then it is highly likely that this would have been identified as preferable to the Council's own development proposal at Heathlands.

## HEATHLANDS

22. The SA has assessed Heathlands on the basis that it can meet the Town and Country Planning Association (TCPA) guideline on the ratio of new jobs to residential units. (See SA report page 219.)
23. The Heathlands proposal includes a new District Centre and local centres. Lenham Parish Council believes these centres will support a maximum of 500 new jobs.

24. Heathlands will provide 14 hectares of new employment land, policy LPRSP4 (A) (4) (a). This is confirmed as the amount in the latest masterplan proposals produced by the proposer. Based on reasonable assumptions about site coverage and employment density, the most those 14 hectares could support would be 1,388 new jobs. The assessment made by Lenham Parish Council is that the most that Heathlands can support is a maximum of 1,888 new jobs against a policy 'aim' of 5000 new jobs (policy LPRSP4 (A) (4) (a)).
25. The entire SA report is predicated on the assumption that Heathlands will meet the TCPA guideline and provide 5000 new jobs. (See page 210.)
26. Because Heathlands can never be self-contained it will not in reality achieve the sustainability credentials expected of it in the SA.
27. Table 4.7 (page 45) of the SA states that Heathlands will provide a '*new train station*'. This is clearly the basis on which the SA was prepared. The same statement is made at page 219 of the SA report.
28. The reference to a new station is repeated at paragraph 7.80 as follows:
- 'Policy LPRSPS (A) sets out that heathlands garden community will be developed on the Ashford-Maidstone railway line and that this station will be the design focus of the district centre.'***
29. So not only will Heathlands have a new rail station but that facility will become the focus for the offer of a district centre which is, in turn, expected to provide local jobs, services and facilities.
30. Paragraph 7.107 of the SA refers to the new railway station at the district centre as the means to reduce dependency upon, and use of, private vehicles.
31. The reality of the situation at policy LPRSP4 (A) (6) (a) is somewhat less clear cut:
- 'A business case for a new rail station will continue to explored on the Maidstone-Ashford rail line, with suitable alternative connectivity to the existing station at Lenham if the case is not made.'***
- The only policy commitment is to explore a business case. The policy itself contains the fallback position should the business case not be supported.
32. A letter from network rail, dated 30<sup>th</sup> June 2021 is included within the evidence base supporting the plan. The letter casts severe doubt as to whether the case for a new station could ever be supported in reality.
33. One of the options being explored is the replacement of the existing Lenham station by a new station at Heathlands. Such a move would completely destroy the sustainability of Lenham village (1000) dwellings and its planned expansion under Lenham Neighbourhood Plan, also 1000 dwellings.

34. Paragraph 7.106 of the SA reports that superfast broadband will be incorporated at new garden settlements and this also is said to reduce the need to travel. Unfortunately, policy LPRSP4 (A) contains no policy commitment to the provision of superfast broadband.
35. There is no evidence within the SA or the plan itself that the policies of Lenham Neighbourhood Plan (LNP) have been taken into account in the plan making process. This is despite the fact that, as a ‘made’ plan, LNP is part of the development plan. LNP contains a policy CP1 (page 20) with distinct criteria for development in the countryside. There is no evidence that Heathlands has been assessed against these criteria.

## CONCLUSIONS

36. Government policy is very clear that all reasonable alternatives should be considered.
37. It is also policy that the reasons the alternatives were selected should be given. The plan should provide conclusions on the reasons the rejected options were not being taken forward.
38. In the case of the Leeds / Langley corridor much of the material on the location as a reasonable alternative was only published at the same time as the final SA report. This material is not subject to SA. This is despite abundant reasons why the potential of Leeds / Langley should have been considered in the review. It was decided that the Leeds / Langley sites did not amount to a worked-up garden community proposal. At that time the development potential of those sites could have been considered in some other way to meet the requirement that all reasonable alternatives should be considered and compared.
39. In the case of Invicta Barracks the site was not considered in the current SA because it was already considered and assessed within the existing 2017 policy in spite of nothing progressing from that original decision.
40. The site had changed, however, by the addition of a new “through school”. The context for the site had changed by a development of Maidstone Borough Council policy on housing densities at urban sites such as Maidstone Riverside. Government policy on density and making best use of urban land has also developed. The option of residential development at a significantly higher density was never tested. This was despite clear government guidance that all reasonable alternatives should be considered and compared.
41. Lenham Parish Council considers this omission to be a significant flaw in the plan and its appraisal.
42. In the case of Marden the SA gives no reasons why the location was not selected as a Garden Community.

43. When Marden was ruled out as a Garden Community option the site was never reintroduced and assessed as a sustainable mixed-use village extension as it could and should have been.
44. The plan fails to give reasons why this alternative was rejected and fails to fully assess its potential in accordance with guidance that all reasonable alternatives should be considered and compared.
45. In the case of Heathlands, the reasons given for its inclusion include (at page 219 of the SA report):

*'the Heathlands project will provide ..... a new railway station on the classic line...'*

This statement is simply not correct. The relevant policy refers only to a business case being explored.

46. The entire SA report is written on the basis that a new railway station will be provided.
47. The letter from network rail dated 30<sup>th</sup> June 2021 is included in the evidence base of the plan and raises some considerable doubt as to whether and when a new station could actually be provided in reality.
48. Despite being assessed on the basis that a new railway station is to be provided and that the TCPA guideline on jobs is to be met, the judgement of the SA report is that Heathlands performed least well across the range of sustainability objectives.
49. At page 219 the SA report states that political preferences were expressed during plan making. These included a clear political desire for growth to be limited both in Maidstone and in rural settlements. Lenham is such a rural settlement. The Heathlands proposal extends very close to Lenham village as it will be extended by the Lenham Neighbourhood Plan allocations.
50. Lenham Parish Council accepts that political preferences play an important role in the plan making process. Those political preference, however, need to be consistent with the evidence base of the plan. The evidence base given in the SA does not support the selection of Heathlands, all reasonable alternatives have not been considered and the reasons given for the selection of the preferred options do not match the reality of the evidence base within the plan and are, clearly, being "retrofitted" to meet the desired political outcome. Lenham Parish Council believes the plan is not sound for the above reasons. The Council also wishes to object on the basis that the SA is not legally compliant.