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# **Report on Marden Neighbourhood Plan 2017 - 2031**

**An Examination undertaken for Maidstone Borough Council with the support of the Marden Parish Council on the April 2019 Submission version of the Plan.**

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Date of Report: 14 October 2019

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## **Main Findings** - Executive Summary

From my examination of the Marden Neighbourhood Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – Marden Parish Council (the Parish Council);
- the Plan has been prepared for an area properly designated – the Neighbourhood Plan Area, the boundary of which is coterminous with the Parish Council boundary, as identified on the Map at Page 5 of the Plan;
- the Plan specifies the period to which it is to take effect – from 2017 to 2031; and,
- the policies relate to the development and use of land for a designated Neighbourhood Plan Area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Marden Neighbourhood Plan 2017-2031*

- 1.1 Marden is a village within Maidstone Borough. It lies 8 miles to the south-west of Maidstone at the centre of the Weald of Kent. The Plan area comprises the main village of Marden, the smaller settlement of Chainhurst and a number of small hamlets and farmsteads spread across the Parish. The Plan area is predominantly rural in character. It has a population of 3,724 residents (2011 Census). Marden is on the B2079 road linking northwards to Maidstone via the A229 which crosses the northern end of the Parish. Marden has an important rail link, with direct services to London and eastwards to Folkestone and Dover. The local economy is based largely upon agriculture with fruit growing being an important sector. Other local employment is within the retail and service sectors, together with a number of industrial and distribution businesses, which are concentrated at Marden.
- 1.2 The Plan area was once largely within the ancient Wealden forest, which has now virtually gone. Remnant ancient woodland can be found in the

south of the Parish whilst many other parts of the Plan area now contain orchards. The landscape around Marden has an extensive network of narrow lanes, many bounded by tall hedgerows, with a distinctive Wealden character.

### *The Independent Examiner*

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Maidstone Borough Council (MBC), with the agreement of the Parish Council.
- 1.4 I am a chartered town planner, with over 40 years of experience in planning. I have worked in both the public and private sectors and have experience of examining both local plans and neighbourhood plans. I have also served on a Government working group considering measures to improve the Local Plan system and undertaken peer reviews on behalf of the Planning Advisory Service. I therefore have the appropriate qualifications and experience to carry out this independent examination.
- 1.5 I am independent of the qualifying body and the local authority and do not have an interest in any of the land that may be affected by the draft Plan.

### *The Scope of the Examination*

- 1.6 As the independent examiner, I am required to produce this report and recommend either:
  - (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.7 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
  - Whether the plan meets the Basic Conditions;
  - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;

- it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development';
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
  - whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.8 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### *The Basic Conditions*

1.9 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations; and
- meet prescribed conditions and comply with prescribed matters.

1.10 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017<sup>1</sup>.

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<sup>1</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 At the date of this examination, the adopted Development Plan for this part of the Maidstone Borough, not including documents relating to excluded minerals and waste development, is the Maidstone Borough Local Plan 2011-2031, which was adopted on 25 October 2017.
- 2.2 The Basic Conditions Statement (at pages 11-26) provides a full assessment of how each of the policies proposed in the Plan are in general conformity with the relevant strategic policies and a number of development management policies in the adopted Local Plan. Having been adopted in October 2017, the Local Plan provides an up to date strategic planning context for the Neighbourhood Plan, and this has enabled the Neighbourhood Plan and its policies to be prepared.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019 (and updated on 19 June 2019). All references in this report are to that NPPF and its accompanying PPG.

### *Submitted Documents*

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Marden Neighbourhood Plan 2017-2031;
  - the Neighbourhood Designation Map (dated 14 January 2013), which identifies the area to which the proposed Neighbourhood Development Plan relates;
  - the Consultation Statement (dated April 2019);
  - the Basic Conditions Statement (dated April 2019);
  - the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report (dated June 2018) prepared by MBC; and
  - all the representations that have been made in accordance with the Regulation 16 consultation.

### *Site Visit*

- 2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 2 September 2019 to familiarise myself with it and visit relevant sites and areas referenced in the Plan, evidential documents and representations.

### *Written Representations with or without Public Hearing*

- 2.6 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation

responses clearly articulated the objections and comments regarding the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. I am satisfied that the material supplied is sufficiently comprehensive for me to be able to deal with the matters raised under the written representations procedure, and that there was not a requirement to convene a public hearing as part of this examination.

### *Modifications*

- 2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications in full in the Appendix.

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Plan has been prepared and submitted for examination by the Parish Council, which is a qualifying body. An application to MBC for the Parish Council area to be designated a neighbourhood planning area was made in August 2012 and was approved by the Borough Council's Head of Planning on 14 January 2013.
- 3.2 It is the only Neighbourhood Plan for Marden and does not relate to land outside the designated Neighbourhood Plan Area.

### *Plan Period*

- 3.3 The Plan specifies (on the front cover and on page 3) the period to which it is to take effect, which is between 2017 and 2031. This aligns with the end date of the adopted Maidstone Borough Local Plan.

### *Neighbourhood Plan Preparation and Consultation*

- 3.4 The Plan has been prepared in response to the Localism Act 2011. Work first commenced on the preparation of the Plan in 2012 when a Neighbourhood Plan Steering Group was established comprising members of the community and Parish Councillors to prepare the Plan. A variety of methods were used to communicate with the community and stakeholders during the Plan preparation period. This included Open Days in March and June 2013 and in June 2014 for residents to contribute suggestions and comments on the emerging Plan, a Workshop in September 2013 to carry out a more detailed appraisal of the Parish, meetings with key stakeholders such as Kent County Council, Southern Water and the Environment Agency and other community events. Evidence gathering work was undertaken by topic groups formed by the Steering Group during the period up to 2018, being informed by specific meetings and

consultation with many stakeholders, businesses and community organisations in the Parish.

- 3.5 It was an original intention that the Plan would make site-specific allocations for new residential development in the Parish. However, during the Plan preparation period, and in part due to delays in the preparation of the MBC Local Plan, planning permissions were granted for nearly 600 new dwellings on various sites in Marden. The submitted Plan takes account of these proposed developments but does not include any additional housing allocations for the period up to 2031. A specific 'call for sites' within the Parish has therefore not been undertaken, although a further borough-wide 'call for sites' has been undertaken by MBC during 2019.
- 3.6 Work on the preparation of the draft Plan continued during 2016 and 2017, culminating in the Regulation 14 consultation which was held from 9 June to 21 July 2018. The Regulation 14 consultation was accompanied by open sessions for residents, publicity material and a newsletter distribution across the Plan area. The Consultation Statement and its Appendices contain a comprehensive record of the various consultation activities that took place, including a full digest (at Appendix 3) of the responses received during the Regulation 14 consultation.
- 3.7 The outcomes from the Regulation 14 consultation were assessed, and a number of amendments and changes were made to the draft Plan in response to representations received during that consultation period. Further supporting documents were then prepared following the Regulation 14 consultation including the Basic Conditions Statement (April 2019) and the Consultation Statement (April 2019). A Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Screening Report to determine whether or not the Plan required SEA was prepared by MBC in June 2018.
- 3.8 The Neighbourhood Plan was formally submitted to MBC in May 2019. The Plan was subject to further consultation from 14 June 2019 to 26 July 2019 under Regulation 16 and I take account of the 160 responses then received in writing this report, as well as the Consultation Statement. I am satisfied that the Plan has been prepared with an appropriate level of community engagement and consultation at the key stages during its preparation. The consultation process has been open and transparent, has met the legal requirements for procedural compliance and has had regard to the guidance in the PPG on plan preparation and engagement.

#### *Development and Use of Land*

- 3.9 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

### *Excluded Development*

3.10 The Plan does not include any provisions and policies for “excluded development”. In this respect, I have considered the representations made by Kent County Council that the Plan fails to take full account of the mineral safeguarding constraints and waste management facility safeguarding constraints contained in the adopted Kent Minerals and Waste Local Plan 2013-2030 (KMWLP), with part of the Maidstone Mineral Safeguarding Area (MSA) being within the Plan area. Mineral and waste management safeguarding is not a matter to be addressed in neighbourhood plans, being quite properly a matter for the minerals and waste planning authority (i.e. Kent County Council). Any consideration of development proposals that fall within a MSA or within 250 metres of a waste management facility will fall to be considered against the policies of the Development Plan as a whole, which will include the KMWLP, the Maidstone Borough Local Plan 2011-2031 and this Plan.

### *Human Rights*

3.11 The Basic Conditions Statement states (at page 8) that the Plan is considered not to infringe on the human rights of any potential user and is compatible with EU obligations<sup>2</sup>. From my assessment of the Plan, its accompanying supporting documents and the consultation responses made to the Plan at the Regulations 14 and 16 stages, I am satisfied that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. I consider that none of the objectives and policies in the Plan will have a negative impact on groups with protected characteristics. Many will have a positive impact.

## **4. Compliance with the Basic Conditions**

### *EU Obligations*

4.1 The Regulation 15 Plan was screened for SEA and HRA by MBC on behalf of the Parish Council in June 2018. The Screening Report confirms that the Plan has been assessed against the Schedule 1 criteria contained in the SEA Regulations<sup>3</sup> for determining the likely significance of the effects on the environment. It notes that the assessment finds that no significant negative environmental effects are likely to occur as a result of the Marden Neighbourhood Plan. It further notes that the assessment also finds that the aims and objectives of the Neighbourhood Plan conform with the framework of the adopted Maidstone Borough Local Plan policies. As

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<sup>2</sup> Note: EU Obligations are entirely separate to the European Convention on Human Rights, which is derived from the Council of Europe.

<sup>3</sup> The Environmental Assessment of Plans and Programmes Regulations 2004, which implement the requirements of the [European Directive 2001/42/EC](#), are commonly referred to as the ‘SEA Regulations’.

such, the Screening Report concludes that the Plan will not have significant effects in relation to any of the criteria in Schedule 1 of the SEA Regulations, and that a full SEA is not required. I concur with that conclusion.

- 4.2 The Regulation 15 Plan has also been screened in accordance with the HRA screening tests in order to assess its likely effects on sites of European importance. The Plan area is within 20 kilometres of two sites of European importance, comprising the North Downs Woodlands Special Area of Conservation (SAC) and the Queendown Warren SAC. The HRA screening undertaken for the Maidstone Borough Local Plan also considered the impacts of new development in the borough (including Marden) on the Medway Estuary and Marshes Special Protection Area (SPA) and RAMSAR site. The HRA Screening assesses that the Plan is not likely to cause a significant effect on a European site and will therefore not require an assessment for future development under Article 6 or 7 of the Habitats Directive. I also concur with that conclusion.
- 4.3 I have also taken account of the consultation responses (set out at Section 6 of the Screening Report) received from the Environment Agency, Natural England and Historic England who have not raised any concerns regarding the SEA and HRA Screening Report. On the basis of the information provided and my independent consideration of the SEA and HRA Screening Report and the Plan, I am satisfied that the Plan is compatible with EU obligations in respect of the SEA Regulations and the Habitats Directive.

### *Main Assessment*

- 4.4 Having considered whether the Plan complies with various legal and procedural requirements it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.9 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies.
- 4.5 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's 26 policies, which deal with Natural Environment, Built Environment, Amenities, Infrastructure and Economy. As part of that assessment, I consider whether the policies in the Plan are sufficiently clear and unambiguous, having regard to advice in the PPG. A policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence<sup>4</sup>. I recommend some modifications as a result.

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<sup>4</sup> PPG Reference ID: 41-041-20140306.

- 4.6 I consider that overall, subject to the detailed modifications I recommend to specific policies below, that individually and collectively the policies will contribute to the achievement of sustainable patterns of development and meet the other Basic Conditions. I set out my detailed comments below.
- 4.7 The Plan is addressing a Plan period from 2017 to 2031. Its vision for the Plan area is to seek to ensure that Marden will continue to be a thriving parish and that it will maintain its individual character, heritage and community spirit. It aims to achieve this vision by managing the expansion of housing provision, employment, education and recreation opportunities, whilst retaining and enhancing the natural beauty and biodiversity of the surrounding rural area. Each section of the Plan contains supporting contextual information relevant to the specific policy themes.
- 4.8 The NPPF states (at paragraph 29) that "*Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan*" and also that "*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*".
- 4.9 The NPPF (at paragraph 11) also sets out the presumption in favour of sustainable development. It goes on to state (at paragraph 13) that neighbourhood plans should support the delivery of strategic policies contained in local plans; and should shape and direct development that is outside of these strategic policies.
- 4.10 The Vision for Marden up to 2031 is set out on page 4 of the Plan. The broad strategy for the Neighbourhood Plan is set out on pages 5-8, and I am satisfied that the key issues arising from the NPPF and the strategic policies in the adopted Maidstone Borough Local Plan covering the period up to 2031, as they affect Marden, are appropriately identified within the Plan and more fully at Appendix 2 in the Basic Conditions Statement. In particular, I also note that the Basic Conditions Statement (at page 5) describes how the Plan has regard to the aim that the Plan's policies contribute to the achievement of sustainable development.
- 4.11 However, there are a number of detailed matters which require amendment to ensure that the policies have the necessary regard to national policy and are in general conformity with the strategic policies of MBC. Accordingly, I recommend modifications in this report in order to address these matters.

### *Natural Environment*

- 4.12 Policies NE1-NE6 in the Plan address matters concerning the natural environment in the Plan area. The main objectives for this section of the Plan are to seek to protect and enhance valued landscapes, sites of

biodiversity value and soils, recognise the intrinsic character and beauty of the countryside, provide net gains for biodiversity and protect irreplaceable habitats. I have considered each of the policies in the context of national policy, the strategic policies of the adopted Local Plan and the representations received at the Regulation 16 consultation stage. With regard to the general supporting justification for the policies, I have taken account of the representations received, and consider that a modification is necessary to one of the stated aims of the NPPF as set out on page 9 of the Plan, to ensure it has due regard to national policy. I recommend modification **PM1** accordingly.

- 4.13 Policy NE1 (Surface Water Management) – this policy seeks to ensure that new development makes provision for sustainable drainage systems, which also assist in creating new wildlife habitats and promoting biodiversity. I am satisfied that the policy is appropriately drafted and is clearly related to its specific objective.
- 4.14 Policy NE2 (Water Quality) - this policy seeks to ensure that the water quality within the catchment areas covering the Parish is protected and maintained. I consider that the policy is broadly clear and related to its objective. However, I consider that the word “*downstream*” within the first sentence of the policy is rather imprecise, bearing in mind that there are two principal rivers (the Rivers Beult and Lesser Teise) within the Parish together with many drainage ditches and streams. I therefore recommend as **PM2** a modification to amend the first sentence of the policy to provide clarity for users of the Plan.
- 4.15 Policy NE3 (Landscape Integration) – this policy seeks to conserve and enhance the natural environment and landscape of the Parish, and takes account of the Borough Council’s Landscape Character Assessment (2012) and consultation with Natural England. A minor amendment is necessary to the supporting text (on page 13) to this policy to replace the term “*heritage hedgerows*” with the correct term of “*historic hedgerows*”, again for accuracy, and I recommend **PM3** accordingly.
- 4.16 Policy NE4 (Biodiversity and Habitats) – this policy seeks to protect and enhance wildlife habitats and prevent the loss of habitats and species through new development. The policy embodies the principles of biodiversity net gain, which is to be commended, and seeks to support the aims of the Kent Biodiversity Strategy. The Qualifying Body have suggested an addition to the supporting text for this policy. I consider that the proposed amendment is helpful, and I recommend **PM4** accordingly.
- 4.17 Policy NE5 (Landscape Planting) – this policy seeks to encourage landscape planting that incorporates traditional, native species of local provenance, which also provide food and shelter for wildlife. I am satisfied that the policy meets its fundamental objective. However, taking account of representations received, I consider that there is insufficient clarity in the text of the policy for users of the Plan, and particularly for

those parties considering and assessing new development proposals. I therefore recommend as **PM5** a modification to amend the text of the policy for that reason.

- 4.18 Policy NE6 (Soil Conservation) – this policy seeks to ensure that the structure and quality of the soils found across the Plan area are maintained and conserved in order to support fauna and flora, and to prevent the spread of invasive plant material and diseases. I am satisfied that the policy is clear and precise.
- 4.19 Subject to recommended modifications PM1-PM5 inclusive, I consider that the policies for the Natural Environment are in general conformity with the strategic policies of the Local Plan, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### *Built Environment*

- 4.20 Policies BE1-BE6 in the Plan address matters concerning the built environment within the Plan area, and to encourage development that reflects the historic architectural styles and materials that can be seen in many buildings in Marden and elsewhere in the Parish. I have considered each of the policies in the context of national policy, the strategic policies of the adopted Local Plan and the representations received at the Regulation 16 consultation stage. I have also taken account of the relevant background documents such as the Marden Design Statement that address aspects of the built environment in the Parish.
- 4.21 Policy BE1 (Local Character) – this policy seeks to ensure that proposals for new development are designed to be sympathetic to the existing architectural styles and materials found in Marden, in order to maintain and enhance its sense of place. Whilst the purpose of the policy is clear, I do consider that a cross-reference to the Marden Design Statement and also a specific reference to the illustrations of traditional materials and features shown on pages 21 and 22 of the Plan is necessary. Accordingly, I recommend **PM6** as a modification to the second sentence of the policy to reflect those points.
- 4.22 Policy BE2 (Residential Amenity) – this policy seeks to ensure that new residential development proposals provide adequate amenities for occupiers of those developments. Whilst the objective of the policy is clear, I do consider that the text of the policy should be redrafted to provide clearer guidance on its scope, in order to enable users of the Plan to better understand its implications. I therefore recommend as **PM7** a modification to amend the text of the policy to secure clarity.
- 4.23 Policy BE3 (Sustainable Construction) – this policy seeks to promote the sustainable construction of all new development, in accordance with the latest guidance and best practice. This is in accordance with the objectives of national policy which seeks to support the transition to a low

carbon future, as part of the overall objective to achieve sustainable development.

- 4.24 Policy BE4 (Conversion of Rural Buildings) – this policy seeks to support proposals for the conversion of rural buildings subject to appropriate criteria to safeguard the character of the rural area and amenities of neighbouring properties. I am satisfied that the policy is clearly related to its specific objective. I have taken note of the representations that have been made to this policy, and in particular those made by Historic England. In view of the considerable number of listed buildings and heritage assets within the Plan area, I do consider that the suggested additional text proposed by Historic England is very largely appropriate. Therefore, I recommend as **PM8** a modification to the second sentence of the policy and new third and fourth sentences in order to make clear the scope of the policy and ensure clarity.
- 4.25 Policy BE5 (New Farm Buildings) – this policy addresses the design and siting requirements for those new agricultural buildings that require planning permission. Whilst many agricultural buildings benefit from permitted development rights, I am satisfied that this policy is justified and is appropriately drafted.
- 4.26 Policy BE6 (Seasonal Worker Accommodation) – this policy reflects the importance of the Marden area for fruit production, and the need for large numbers of seasonal workers at specific times of the year. I consider that the policy is a pragmatic response to this need and allows for the provision of suitable temporary accommodation that is designed and sited to minimise any visual impact on the countryside.
- 4.27 Therefore, with the recommended modifications PM6, PM7 and PM8, I consider that the policies for the Built Environment are in general conformity with the strategic policies of the Local Plan, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### *Amenities*

- 4.28 Policies A1-A4 are concerned with the community facilities and amenities in the Plan area, including the Primary School, community buildings and public open spaces. This section of the Plan seeks to ensure that existing facilities and amenities are protected and, where possible, enhanced. I address each of the policies as below.
- 4.29 Policy A1 (Community Facilities) – this policy seeks to support the existing community facilities in the Plan area and create new facilities either through planning obligations linked to new development proposals or indirectly by increased economic demand. Whilst it is not possible for planning policies to intervene in market economics, I am satisfied that this element of the policy is expressly stated to be an indirect outcome of the broader objective to retain and enhance community facilities

- 4.30 Policy A2 (Open Space) - this policy addresses the provision of open space as part of proposals for major new development in the Plan area, with "major development" being appropriately defined as a footnote to the policy. The policy contains criteria for the categories of open space to be provided, with a requirement for management plans for ongoing responsibilities. I am satisfied that the policy meets its objective of seeking to secure additional open space for community use.
- 4.31 Policy A3 (Primary Education) – this policy states that support will be given to developments that provide Kent County Council with funding to ensure that Marden Primary School has the additional capacity and resources to meet its educational needs. Whilst the objective of the policy is clear, the current policy wording does not constitute an effective planning policy and is more in the form of a statement. I consider that the policy should be redrafted to provide clarity, and accordingly I recommend as modification **PM9** revised wording for this policy.
- 4.32 Policy A4 (Healthcare Facilities) – this policy states that support will be given to proposals which help to maintain and enhance existing healthcare provision in Marden and encourage the expansion of facilities. As with Policy A3, the objective of the policy is clear but, as drafted, it does not constitute an effective planning policy. Therefore, I recommend modification **PM10** to replace the wording of the policy text with revised wording together with a corresponding amendment to the supporting text in order to provide clarity for users of the Plan.
- 4.33 With the recommended modifications PM9 and PM10, I consider that the Amenities policies are in general conformity with the strategic policies of the Local Plan, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### *Infrastructure*

- 4.34 Policies In1-In7 address a range of issues within the Plan area, which include affordable housing and housing for older people. The title of this section of the Plan is therefore very broadly based, and I have given consideration as to whether it should be re-titled to reflect the breadth of issues considered. On balance, I have concluded that the generic title of "Infrastructure" is satisfactory and in line with the approach taken in the Plan as a whole.
- 4.35 Policy In1 (Water Supply/Water Supply and Sewerage) – this policy seeks to secure the provision of new and improved utility infrastructure to meet the needs of the Marden community. I am concerned that the policy, as drafted, does not provide sufficient clarity for planning purposes, and as with a number of other policies in the Plan is more in the form of an aspiration. Accordingly, I recommend modification **PM11** to replace the

wording of the policy text with revised wording in order to provide clarity for users of the Plan.

- 4.36 Policy In2 (Sustainable Travel) – this policy defines a range of requirements to support sustainable modes of travel as part of proposals for new development in the Plan area. I consider that the policy requirements have regard to national policy and generally conform with local strategic policy objectives for promoting sustainable transport measures.
- 4.37 Policy In3 (Additional Traffic) – this policy seeks to address the issue of additional traffic generation arising from development within the Plan area by defining the measures necessary to accommodate or mitigate the impacts of such additional traffic. In this respect the policy covers, in part, the responsibilities of the highways authority (Kent County Council). Thus, whilst the objective of the policy is clear and in line with the community’s expectations, the policy does require amendment in order that it is an effective planning policy for development management purposes. I therefore recommend **PM12** in order to modify the title and text of the policy accordingly.
- 4.38 Policy In4 (Station) – this policy concerns Marden Railway Station and supports proposals which would enhance facilities at the station. I am satisfied that the policy is appropriately drafted and meets its objective, but I do recommend a minor modification (**PM13**) to amend the title of the policy. I also note from the response by Network Rail that improvements at Marden Station are planned by Southeastern Railway, and the Parish Council may wish to consider those planned improvements in light of the Further Action listed at page 35 in the Plan.
- 4.39 Policy In5 (Affordable Housing) – this policy provides support for the provision of affordable local needs housing on rural exception sites within the Plan area. In that respect, the policy has regard to national policy and generally confirms with local strategic policy objectives. I recommend a minor modification (**PM15**) to amend the title of the policy to clarify that it relates to rural exception sites. Additionally, the supporting text to this policy requires a minor amendment to clarify that the MBC Local Plan policy requirement relates to a borough-wide need, and not to rural exception sites which meet a local need. I therefore recommend modification **PM14** accordingly.
- 4.40 Policy In6 (Housing for Older People) – this policy provides support for development which provides housing suitable for older residents, where such development conforms with other policies in the Plan. This policy is consistent with both recently updated national planning guidance and with strategic local policies
- 4.41 Policy In7 (Housing for Gypsies and Travellers) – this policy supports the provision of small-scale Gypsy and Traveller sites that provide adequate levels of residential amenities for occupants, and do not result in

unacceptable harm to the amenities of existing neighbours, the character of the countryside or the biodiversity of the wider area. Although the term “small-scale” is not defined, the objectives of the policy are clear and are to be welcomed in seeking to support the provision of suitable new Gypsy and Traveller sites. I recommend as **PM17** some minor modifications to the text of the policy, to ensure clarity. However, references in the supporting text that sites should be for Gypsies and Travellers with local connections or with established links to the Parish should be removed, as this does not have regard to national policy which does not allow such a restriction, and I therefore recommend **PM16** to delete such references.

- 4.42 Overall, with the recommended modifications PM11 – PM17 inclusive, I consider that the Infrastructure policies are in general conformity with the strategic policies of the Local Plan, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### *Economy*

- 4.43 Policies E1-E3 address matters concerning the local economy in the Plan area. The Plan supports the strategic and site-specific employment proposals contained in the adopted Maidstone Borough Local Plan and in the Borough Council’s Economic Development Strategy.
- 4.44 Policy E1 (Business and Employment) – this policy provides support for the establishment of new and existing employment-generating businesses in the Plan area, subject to the necessary criteria for satisfactory access and the avoidance of unacceptable impacts on residential amenity or the character of the surrounding area and wider countryside. I consider that the policy is appropriately drafted and meets its objective of seeking to support the growth and expansion of the local economy.
- 4.45 Policy E2 (Retail – Eat, Meet and Greet) – this policy seeks to support the creation, retention and enhancement of shops and other uses that serve the community of Marden. As drafted, the policy is not an effective planning policy and is simply a statement of broad support. Therefore, I consider that the policy requires redrafting in order to provide appropriate criteria for development management purposes. Accordingly, I recommend modification **PM18** to replace the title and text of the policy with revised wording in order to provide clarity for users of the Plan.
- 4.46 Policy E3 (Business Signage) – this policy seeks to address issues relating to business signage in the Plan area, and overall to seek an improvement to the quality of such signage commensurate with the character and appearance of the buildings concerned, including the Conservation Area. Whilst advertisement control is a function of the Borough Council, I am satisfied that the policy is appropriate for the Plan and does not put in place constraints that are unreasonable.

4.47 Therefore, with the recommended modification PM18, I consider that the policies for the Economy are in general conformity with the strategic policies of the Local Plan, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### *Monitoring and Review*

4.48 Pages 44/45 of the Plan set out the future issues that are likely to need to be addressed in Marden, and notes that the Plan will need to be reviewed and updated at regular intervals together with a review of the allocation of land for development. The Parish Council and the Neighbourhood Planning Steering Group state their intention to work alongside MBC in the next review of the Local Plan due in 2021-2022. I have taken account of the many representations expressing concern at some of the possible future issues that are identified, notably any potential future allocations of land for housing to the north of the railway line. However, in due course, any review of the Plan which might lead to such allocations will involve further public consultation, at which time appropriate representations can be made and considered.

4.49 The Annexes to the Plan include at Annex 1, a Planning Policies and Further Actions Map. There are three errors on this Map which require correction<sup>5</sup>. Amongst these, the Claygate distribution warehouse is already included within the Marden settlement boundary in the adopted Local Plan and thus Further Actions FA3 and FA4 listed on pages 42, 47 and 49 can be deleted. I recommend **PM19** in order to make the necessary corrections.

4.50 The Qualifying Body have also suggested that the map of Ancient Woodland and SSSIs contained at Annex 3 be replaced by web-site links to the Kent County Council 'Kent Landscape Information System' and to the Defra/Natural England 'MAGIC' map, in order to provide the latest available mapping data. I agree with this suggestion and recommend **PM20** accordingly.

#### *Concluding Remarks*

4.51 I consider that, with the recommended modifications to the Plan as summarised above and set out in full in the accompanying Appendix, the Marden Neighbourhood Plan meets the Basic Conditions for neighbourhood plans. As an advisory comment, when the Plan is being redrafted to take account of the recommended modifications, it should be re-checked for any typographical errors and any other consequential changes, etc.

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<sup>5</sup> Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

## 5. Conclusions

### *Summary*

- 5.1 The Marden Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the supporting documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and other matters to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Marden Neighbourhood Plan, as modified, has no policies or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### *Overview*

- 5.4 It is clear that the Marden Neighbourhood Plan is the product of much hard work undertaken since 2012 by the Parish Council, the Neighbourhood Plan Steering Group and by the many individuals and stakeholders who have contributed to the preparation and development of the Plan. There is no doubt in my view that the Plan reflects the aspirations and objectives of the Marden community for the future development of their community up to 2031. The output is a Plan which should help guide the area's development over that period, making a positive contribution to informing decision-making on planning applications by Maidstone Borough Council.

*Derek Stebbing*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 9	Amend 7 <sup>th</sup> stated aim of the NPPF to read:  <b>“Promoting the conservation, restoration and enhancement of priority habitats and species;”</b> .
PM2	Page 12	<u>Policy NE2 (Water Quality)</u>  Amend first sentence of policy to read:  <b>“Development proposals that seek to protect the water quality in the Rivers Beult, Teise and Lesser Teise and their respective catchment areas by strict controls on the potential release of contaminants, both during construction and in subsequent use will be supported. Sustainable drainage networks should be designed for ease of long-term maintenance, as well as lifetime efficiency. Best sustainable on-site use should be made of materials arising from maintenance.”</b>
PM3	Page 13	<u>Paragraph 1 – 4<sup>th</sup> sentence</u>  Delete <b>“heritage hedgerows”</b> and replace with <b>“historic hedgerows”</b> .
PM4	Page 15	<u>Paragraph 6 – Add new 2<sup>nd</sup> sentence</u>  New 2 <sup>nd</sup> sentence to read:  <b>“An agricultural survey of the parish dating from 1817/19 shows field boundaries, later updated for the Tithe Map of 1841.”</b>
PM5	Page 17	<u>Policy NE5 (Landscape Planting)</u>  Amend text of policy to read:

		<p><b>“New landscape planting in Marden must be selected from native species of local provenance for landscape and visual effects and to maintain the natural rhythms of the vegetation in the surrounding area. Priority should be given to species that provide food and shelter to wildlife. Development proposals within the Plan area must ensure that appropriate and adequate space is available within the development site to allow landscape planting to reach maturity without any detriment to the amenities of the development itself and to neighbouring properties, for example by excessive shading of gardens or by the interruption of external views.”</b></p>
PM6	Page 19	<p><u>Policy BE1 (Local Character)</u></p> <p>Amend second sentence policy to read:</p> <p><b>“New development must be both visually and functionally sympathetic to the existing styles and materials, which are illustrated at pages 21/22 in this Plan and also described in the Marden Design Statement (2001), in order to maintain and enhance Marden’s sense of place.”</b></p>
PM7	Page 20	<p><u>Policy BE2 (Residential Amenity)</u></p> <p>Replace the existing text of the policy with the following text:</p> <p><b>“Proposals for new residential development in the Plan area, including extensions and alterations to existing properties, should ensure that adequate amenities are safeguarded for residents including neighbouring residents, particularly in respect of privacy, daylight, car parking,</b></p>

		<p><b>external lighting and outlook. Development proposals should also provide or retain adequate private amenity space, and where appropriate make provision for new pedestrian routes, cycleways and bridleways within the development with linkages to the existing such routes in the vicinity of the site. In this respect, applicants should take account of Kent County Council’s Rights of Way Improvement Plan (ROWIP).”</b></p>
PM8	Page 24	<p><u>Policy BE4 (Conversion of Rural Buildings)</u></p> <p>Amend second sentence of policy to read:</p> <p><b>“Proposals should be sympathetic to the original form of the building and be designed to retain and respect the character of the building.”</b></p> <p>Add new third sentence to the policy to read:</p> <p><b>“Proposals should also have no adverse impacts upon wildlife habitats in the vicinity of the site or upon the amenities of any neighbouring residential properties.”</b></p> <p>Add new fourth sentence to the policy to read:</p> <p><b>“Where buildings are identified as heritage assets or contribute to the significance of a wider heritage asset it will be necessary to demonstrate that conversion would contribute to the conservation of the asset’s significance or, otherwise, that any harm resulting from conversion is unavoidable and is justified by the benefits of the proposal.”</b></p>
PM9	Page 30	<p><u>Policy A3 (Primary Education)</u></p>

		<p>Delete existing text of policy and replace with the following text:</p> <p><b>“Developments which lead to a requirement for additional capacity and resources at Marden Primary School will be supported where such development conforms with other policies in this Plan. Appropriate funding will be sought through planning obligations linked to planning permissions in accordance with the policy requirements of Maidstone Borough Council and Kent County Council.”</b></p>
PM10	Page 31	<p><u>Policy A4 (Healthcare Facilities)</u></p> <p>Delete existing text of policy and replace with the following text:</p> <p><b>“Developments which lead to a requirement for additional or enhanced primary health care services and facilities in Marden will be supported where such development conforms with other policies in this Plan. Appropriate funding will be sought through planning obligations linked to planning permissions in accordance with the policy requirements of Maidstone Borough Council and the relevant National Health Service providers.”</b></p> <p>Delete the text in the 1<sup>st</sup> sentence of the 1<sup>st</sup> paragraph on this page, and replace with the following text:</p> <p><b>“In addition, the NHS Long Term Plan published in January 2019 and the developing Kent and Medway Sustainability and Transformation Plan call for a co-ordinated and holistic approach to health and social care delivered locally.”</b></p>
PM11	Page 32	<p><u>Policy In1 (Water Supply/Water Supply and Sewerage)</u></p> <p>Amend title of policy to read:</p>

		<p><b>“Water Supply and Sewerage”</b></p> <p>Delete existing text of policy and replace with the following text:</p> <p><b>“The provision of new and improved water supply and sewerage infrastructure to serve the needs of existing and new developments in the Plan area will be supported, subject to other Policies in the Plan.”</b></p>
PM12	Page 35	<p><u>Policy In3 (Additional Traffic)</u></p> <p>Amend title of policy to read:</p> <p><b>“Traffic Generation”</b></p> <p>Delete existing text of policy and replace with the following text:</p> <p><b>“Developments within the Plan area which lead to additional traffic generation will be required to ensure that safe vehicular access arrangements are incorporated within the design of the development and be provided before the use commences. Where appropriate, traffic impact studies will be required for proposed developments and any off-site traffic mitigation measures as deemed necessary by the highways authority will be secured by agreements linked to planning permissions.”</b></p>
PM13	Page 35	<p><u>Policy In4 (Station)</u></p> <p>Amend title of policy to read:</p> <p><b>“Marden Station”.</b></p>
PM14	Page 37	<p><u>Paragraph 3</u></p> <p>Add <b>“to meet a borough-wide need.”</b> after the existing text in this paragraph.</p>
PM15	Page 37	<p><u>Policy In5 (Affordable Housing)</u></p> <p>Amend title of policy to read:</p>

		<b>"Affordable Housing on Rural Exception Sites"</b> .
PM16	Pages 38 and 39	Delete the references in the supporting text for Policy In7 to Gypsies and Travellers <b>"with established links to the parish"</b> and <b>"with local connections"</b> in the 3 <sup>rd</sup> and 8 <sup>th</sup> paragraphs respectively on Page 38, and <b>"and any proven links with Marden Parish"</b> in the 2 <sup>nd</sup> paragraph on Page 39.
PM17	Page 39	<u>Policy In7 (Housing for Gypsies and Travellers)</u>  Amend the policy text to read:  <b>"Support will be given to the development of small-scale Gypsy and Traveller sites within the Plan area, which provide adequate amenities for occupants and which do not result in unacceptable harm to the amenities of existing residents in the vicinity of the site, the character of the countryside or the biodiversity of the wider area."</b>
PM18	Page 42	<u>Policy E2 (Retail – Eat, Meet and Greet)</u>  Amend title of policy to read:  <b>"Retail Development"</b>  Amend the policy text to read:  <b>"Support will be given to the development of new or extended retail premises within Marden where there are no adverse impacts upon the amenities of neighbouring properties and the wider area, and subject to other policies in the Plan."</b>
PM19	Pages 41, 42, 47 and 49, and Planning Policies and Further Actions Map at Annex 1	Delete references to Further Actions (FA) 3 and 4, and re-number FA 5 and 6 to FA3 and FA4 respectively with corresponding amendments to the Planning Policies and Future Actions Map.

		<p>Amend Planning Policies and Further Actions Map to include the Claygate distribution warehouse site within the Marden Settlement Boundary to reflect the Local Plan Policies Map.</p> <p>Amend Planning Policies and Further Actions Map to correctly show the relevant policy boundaries for the Local Plan Policy EMP1(3) concerning the Wheelbarrow Industrial Estate, Pattenden Lane, Marden to reflect the Local Plan Policies Map.</p> <p>Amend policy notation on Planning Policies and Further Actions Map for Marden Station to Policy <u>In4</u>.</p>
PM20	Page 51	<p><u>Annex 3 – Ancient Woodland and SSSIs Map</u></p> <p>Delete the map at Annex 3 and replace with web-site links to the Kent County Council 'Kent Landscape Information System' and to the Defra/Natural England 'MAGIC' map.</p> <p>Amend the entry on the Contents page (Page 2) accordingly.</p>