



The countryside charity Kent

Tunbridge Wells Borough Local Plan

Schedule of Proposed Main Modifications for consultation

Comments from CPRE Kent

MM96 &97

These Modifications concern Policy AL/CRS 3, which allocates Turnden Farm, Hartley Road, Cranbrook for residential development, and the related paragraphs of the Local Plan.

MM96 correctly records that on 22 November 2024 the Secretary of State granted permission for a proposed development on this site which is substantially consistent with the terms of Policy AL/CRS 3. It does not record that, on 30 December 2024 CPRE Kent applied to the Court for permission to challenge the Secretary of State's decision, or that, on 2 April 2025, Mould J. (the Planning Liaison Judge, essentially the head Judge on the Planning Court) granted CPRE Kent permission to apply for statutory planning review and the case is listed to be heard on 18 June. In granting permission the judge observed that the issue is of some general significance to the operation of the town and country planning system and the claim therefore merited some expedition. The Council, as a party to the proceedings, is aware of these developments.

In deciding whether to include Policy AL/CRS 3 in the Plan, the Council (and the Inspectors examining the Plan) must perform their statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of the High Weald National Landscape (HWNL). As we explain in our comments on MM200, there is no evidence that the Council has done this and, indeed, every indication that it has not. This relatively new statutory duty has been the subject of much discussion and informal guidance has been issued by certain bodies, most recently "Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes" issued by DEFRA on 21 December 2024. The equivalent and similarly-worded new duty in respect of national parks has been the subject of judicial interpretation in *New Forest National Park Authority v Secretary of State for Housing Communities and Local Government & Mr Simon Lillington*, judgment of Mould J dated 27 March 2025. Paragraphs 51-97 of the judgment, dealing with the Ground 2 of the Park Authority's application, are of particular relevance to the Council's consideration of whether to include Policy AL/CRS 3 in the Plan.

The Council in retaining Policy AL/CRS 3 in the Plan, has failed to discharge its duty under section 85(A1) CROW 2000, failed to have regard to the DEFRA Guidance referred to above and failed to have regard to the judgment in *New Forest National Park Authority*. A proper consideration of all these matters should, in our view, lead to the conclusion that the Policy be omitted from the Plan. It is therefore our view that the Council's approach to this Policy has been legally incorrect and prevents the Plan from being sound. We trust that the Council

The Kent branch of the Campaign to protect Rural England exists to protect the beauty, tranquillity and diversity of the Kent countryside

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will reconsider the matter, in the light of recent and ongoing relevant legal developments, before the Plan is adopted.

MM97 introduces a qualification which would require hedge boundaries to be reinstated only “where appropriate”. Since this criterion only applies to areas of the site shown in green on the plan (ie those not to be built on) and to other areas only where relevant, the Modification seems unnecessary and potentially weakens the obligation to reinstate and increases the risk of harm to the High Weald National Landscape.

MM200

This Modification amends paragraphs 6.234 and 6.238 Local Plan by reference to the redesignation of AONBs as National Landscapes, the current Management Plan for the High Weald National Landscape (HWNL) and amendments to the duties of, inter alia, local planning authorities concerning the conservation and enhancement of national landscapes, made by section 245 Levelling Up and Regeneration Act 2023. So far as we can ascertain, this is the only Modification which deals with the last of these matters, which represents a significant strengthening of the Council’s duties, when taking decisions on planning matters which may affect the HWNL. The amended statutory provision, which is contained in section 85(A1) of the Countryside and Rights of Way Act 2000 (CROW) came into force in December 2023 and now requires the Council, when taking such decisions, to seek to further the purpose of conserving and enhancing the natural beauty of the HWNL. Previously, the duty was to have regard to the purpose of conserving and enhancing the natural beauty of the AONB.

The Local Plan was prepared by reference to the law as it stood before these amendments to section 85 CROW 2000 were made, or came into force. MM200 simply notes, in the briefest possible terms, this change in the law applicable to AONBs and makes a substantive change to paragraph 6.238, requiring LVIAs in future to be provided for major and other developments, either in the HWNL or its setting, where they are expected to significantly impact the HWNL. Paragraph 6.238 previously required LVIAs only for major developments in the AONB. Paragraph 6.237, which is unamended, makes clear that LVIAs were undertaken only for Plan allocations which were deemed to be major developments in the AONB. Policy EN19, which concerns the HWNL, follows immediately after paragraphs 6.234-6.238 and is unaltered.

The adoption by the Council of the Local Plan is a matter to which section 85(A1) has applied since December 2023. The inclusion of each Policy in the Plan, which may affect the HWNL or its setting, including both strategic and specific allocation policies, must be considered by reference to the duty contained in this provision. The Main Modifications provide no evidence that the Council has done this. Indeed, they strongly suggest that the Council has not done so. In our opinion this represents a significant legal shortcoming in the Plan, as amended, which prevents it from being sound.

We comment further on the nature of this statutory duty by reference to MM96 & 97, concerning Policy AL/CRS3 Turnden Farm, Hartley Road, Cranbrook.

MM214

While we welcome the proposed modification to the wording of policy H2 (housing density) with regard to seeking to optimise the use of land where it is located in town centres and other locations that are well served by public transport, we remain concerned that this amendment does not go far enough.

We have commented at every stage of the emerging Local Plan that higher densities need to be encouraged within all the borough's towns and villages and across sites which are allocated for residential development.

Not only will this reduce pressure for more greenfield sites to be released, but it has been well documented by research undertaken by CPRE and Place Alliance (which we have previously referred to in our representations, Matters Statement and the relevant examination hearing sessions) which shows that higher density schemes are more successful, including in terms of quality of design.

Failure to set out specific expectations in terms of density runs the risk that development (in all locations) will result in little more than suburban density levels. While an uplift might result in the town centres and villages as a result of the proposed modification, low density greenfield development will not result in sufficient yields with regard to aspirations in terms of the delivery of affordable housing and to support to active travel and public transport.

As a minimum the amendment to H2 should be set in the context of the National Model Design Code which states that density is an essential component of an effective design code. This means that town centre developments should be at over 120dph and urban neighbourhoods at 60-120dph.

Greenfield sites once development are not, of course, countryside anymore. This should therefore mean that greenfield allocations should be developed at urban densities and certainly at more than 20-40dph.

These comments are also applicable to the following proposed Main Modifications:

MM17 – amended yields (table 4, paragraphs 4.53, 4.54 and table 5)

MM21 – STR4 (comprehensive development)

MM79 – strategic sites (Paddock Wood and east Capel)

MM81 – STR/SS1 (Paddock Wood and east Capel)

CPRE Kent
25 April 2025