

LOCAL PLAN REVIEW

Main Modifications Consultation –
Representation form



Part 1: Personal Details

All responses must contain your full name and postal address for your response to be processed as part of this consultation.

Your name will be published alongside your representation on our consultation portal. All demographic and contact data will be removed. Please note, if you under 18 we will not publish your name, only your representation, please do specify your age if this is the case.

****If you are representing another person or organisation, please complete the title, name and organisation (where relevant) boxes below in the personal details column and complete the agent details column.***

	Personal Details*	Agent Details (if applicable)
Title	Mrs	
First Name	Wendy	
Last Name	Licence	
Organisation (where relevant)	Bredhurst Parish Council	
Address	c/o 14 Trapfield Close, Bearsted, Maidstone, Kent	
Post Code	ME14 4HT	
Email address	clerk@bredhurstpc.org.uk	

Part 2: Your representation

Please use a separate sheet for each representation.

For help on how to complete this questionnaire please see guidance notes located at the end.

1. Please state which proposed Main Modification you are making a representation on (e.g. MM1)

(Please use a separate form for each proposed Main Modification you wish to make a representation on)

LPRSP4(B) - MM16 and LPRSP14(A) - MM58

2. Do you consider the Local Plan Review Main Modifications to be legally compliant?

(Please tick appropriate box and include any relevant comments / reasons in the comments box below)

Legally compliant? Yes No

3. Do you consider the Local Plan Review Main Modifications to be sound?

(Please tick appropriate box and include any relevant comments / reasons in the comments box below)

Sound? Yes No

If you answered 'NO' to sound (question 3) please tick below why you consider that the Local Plan Review Main Modifications are not sound?

(please tick all that apply).

Not positively prepared

Not justified

Not effective

Not consistent with national policy

If you have answered 'No' in Questions 2 - 3 please set out your reason and what precise change to the proposed Main Modification will make it sound / legally compliant.

Please add your representation here:

(Continue on a separate sheet if required)

Please see attached.



Please tick this box if you wished to be kept informed about the Inspector's Report and/or Adoption of the Local Plan Review

Representations must be received by **5pm on Monday 13th November 2023**. Late representations cannot be accepted.

Representations can be submitted:

(1) Online using the Council's web based consultation portal at:

<https://maidstone.objective.co.uk/kse/>

(2) By email using this form to: ldf@maidstone.gov.uk

(3) By post using this form to: Strategic Planning, Maidstone Borough Council, Maidstone House, King Street, Maidstone, ME15 6JQ

EXAMINATION OF THE MAIDSTONE BOROUGH LOCAL PLAN REVIEW

MAIN MODIFICATIONS

SUBMISSIONS ON BEHALF OF BREDHURST PARISH COUNCIL

13 NOVEMBER 2023

LIDSING PROPOSED ALLOCATION

Introduction

1. These written submissions address the proposed Main Modifications (“MMs”) relating to the Lidsing proposed allocation (LPRSP4(B)) in the Maidstone Local Plan (“the Plan”).
2. In summary, Bredhurst Parish Council (“BPC”) does not consider that the proposed MMs sufficiently mitigate the impact of the proposal on the village of Bredhurst and the surrounding areas. Further MMs are required, to either:
 - a) remove LPRSP4(B) from the Plan, or alternatively,
 - b) to mitigate the impact of the proposal on Bredhurst and the surrounding areas.

Applicable law and guidance

3. The purpose of an independent examination is to determine whether a development plan document such as the Plan is ‘sound’: s.20(5) Planning and Compulsory Purchase Act 2004 (“PCPA 2004”).
4. The term ‘sound’ is not defined in the PCPA 2004. However, the National Planning Policy Framework (“NPPF”) provides as follows:

“Plans are ‘sound’ if they are:

 - a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs²¹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.”

5. Paragraph 11a) of the NPPF provides that the presumption in favour of sustainable development means, in the context of plan-making (emphasis added):

“all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects.”

6. NPPF paragraph 110 provides that (emphasis added):

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

7. When the examination has reached the MM stage, the Inspector may consider that, following the consultation on the MMs, further MMs are necessary to make the plan sound: see the PINS Procedural Guide, paragraph 6.12. BPC submits that this is what should happen in the present case.

BPC’s response to MM16

8. MM16 is the main MM concerning Lidsing Garden Village. It inserts a number of amendments into Policy LPRSP4(B).

The modifications

9. MM16 inserts as follows (emphasis added):

“The impact of new development on the integrity of the North Downs Woodlands SAC requires careful consideration, with reference to Policy LPRSP14(A). Traffic modelling of the proposed development will be required to quantify the predicted nitrogen

deposition on roads passing the SAC. If nitrogen deposition exceeds the screening criteria set out in IAQM guidance (1% of the SAC's critical load for nitrogen deposition), then mitigation will be required. Mitigation measures must be set out in a Mitigation Strategy, to be agreed by the Council and Natural England. Applications must clearly demonstrate through project-level HRA that the Mitigation Strategy is appropriate, can be feasibly implemented and will be sufficient to fully mitigate any identified adverse effects on the SAC. Mitigation measures may be provided on and/or off-site as appropriate and necessary.

In preparing the Mitigation Strategy, applicants should have regard to the following package of mitigation measures which may be deployed, either in isolation or in-combination, as and when necessary and appropriate for air quality. The mitigations, which are in no particular order and are not exclusive, are as follows:

- i. Green Travel Planning focussed on employment facilities, commercial facilities, schools and the use of transport connections within and adjacent to the development.
- ii. Traffic calming to discourage access/egress via Boxley and Bredhurst.
- iii. Provision of cycle and pedestrian facilities to encourage sustainable modes of transport via Boxley and Bredhurst.
- iv. On-site measures to encourage/increase take up of low emission vehicles, such as EV charging points.
- v. HGV and other vehicle "site servicing" and "delivery route" management strategies.
- vi. Strategic road signage strategy.
- vii. Off-site planting at agreed locations and species.
- viii. The design of residential layouts and configuration of estate roads in a manner which discourages access/egress via Boxley and Bredhurst.
- ix. Typologies of development located at the southern sector of the site which generate lower car ownership levels of trip rates, i.e.: higher density apartment type accommodation, older persons accommodation.
- x. Home and flexible working supported by broadband infrastructure to encourage and enable people to drive less.
- xi. Low emission strategy at south of site and through Boxley/Bredhurst."

10. Under "Transport Connections," MM16 inserts (strikethrough in original):

~~"A new orbital bus service: linking Lordswood & Hempstead, and linking to the Medway town centres will be created;~~

- i. Linking Lordswood & Hempstead, and linking to the Medway town centres;
- ii. Serving Boxley and Bredhurst, including exploring the potential for diversion through the site;"

11. MM16 does not amend the existing text "Measures to prevent rat-running in local roads, including through Bredhurst and Boxley." Instead, it adds the following:

"Routes identified as sites for potential mitigations will be subject to further assessment, and this will be undertaken via the Supplementary Planning Document. This may

include mitigations in Boxley, Bredhurst and on the A229 and A249 corridors as well as at M2 Junction 3 in accordance with the Monitor and Manage process set out in the IDP. Off-site highway improvements, some of which may be necessary in the Medway area, will be subject to further assessment and delivered in accordance with the development phasing provisions set out in (1)(a) above.”

SAC implications of MM16

12. BPC agrees that the impact of new development on the integrity of the North Downs Woodlands SAC requires careful consideration, as is acknowledged in MM16.
13. However, that careful consideration must take place at the earliest possible planning stage, before the principle of development is established in the Plan.
14. The new text in MM16 provides that “*Applications must clearly demonstrate through project-level HRA that the Mitigation Strategy is appropriate, can be feasibly implemented and will be sufficient to fully mitigate any identified adverse effects on the SAC.*”
15. It is therefore clear from the new MM wording that it cannot be shown, at this stage, that the impacts of the development can be mitigated. That is why a further Mitigation Strategy is required.
16. If the promotor cannot show that the impacts on the SAC can be mitigated at this stage:
 - a) the proposal is not ‘justified’ in the sense of being ‘based on proportionate evidence’:
 - b) the proposal is therefore unsound, applying the definition in the NPPF.
17. BPC also notes the importance of the precautionary principle:
 - a) The precautionary principle is a legal principle intended to prevent scientific uncertainty being used to justify inaction in the face of potentially serious threats to the environment. It is also a policy principle in ministerial decision-making: see s.17 of the Environment Act 2021.
 - b) Applying the precautionary principle, development should not proceed where it cannot be ruled out that environmental harm will occur.

- c) In the present case, the negative environmental impact of Lidsing on the SAC cannot be ruled out, as MM16 recognises in terms.
- d) Until this impact can be ruled out, through a realistic and deliverable mitigation plan, then it should not be allocated.¹ To establish the principle of the development before deciding whether its impacts can be mitigated is putting the cart before the horse and is contrary to the precautionary principle.

The 'green bridge'

- 18. There is no certainty as to what the proposed 'green bridge' over the motorway linking to the M2 junction 4 will look like, or indeed whether it will ever be provided (MM16: Masterplanning and design parameters). It is therefore not justified or effective and calls into question the soundness of the entire allocation. It is not appropriate to leave this to the SPD when insufficient evidence has been provided to establish the principle of development at this stage.

Traffic implications of MM16

- 19. BPC emphasises the following points that relate to the traffic impacts on Bredhurst specifically and the surrounding areas.
- 20. Firstly, no explanation is given as to why these modifications are optional and can be deployed "as and when necessary":
 - a) The promotor's own evidence is that Bredhurst suffers from localised rat-running.² That is the experience of local residents in Bredhurst and neighbouring areas.
 - b) This existing problem will only be made worse unless mitigation measures are put in place well in advance of a significant nearby development that places more cars on the roads. The route between Lidsing and Maidstone is several miles shorter than any alternative route, including the proposed East-West Route. Unless a more

¹ It is noted also that the entirety of the Lidsing garden settlement falls within the SPZ 3 water protection zone: see p 19, Maidstone Local Plan Review Sustainability Appraisal (September 2023).

² See e.g. Technical Note on Impact for rural road network (prepared by Charles & Associates) – March 2023, 4.2.5 ("Bredhurst is already understood to suffer from localised 'rat-running' and therefore it might be reasonable to assume that without further infrastructure intervention, this would increase in the future") In fact it is not just reasonable: this is common sense.

attractive alternative is in place prior to development, detrimental route habits are likely to form before the required mitigation is in place, ultimately rendering that mitigation ineffective.

- c) The latest modelling work referred to in ED123 paragraphs 3.14 and 3.15 relies on both unspecified traffic calming works in Boxley Road/Lidsing Road and the delivery of the proposed new link to the M2 at junction 4. However, even following the amendments inserted by MM16, it is clear that no traffic calming is in fact required under the Plan: it remains optional. There is no justification for this.
21. Secondly, it is inappropriate for the required assessment of what measures are required to be carried out at the SPD stage, where the principle of development has already been established. Paragraph 110 of the NPPF is clear that it is the *allocation stage* where it should be ensured that the significant impacts of the scheme can be cost-effectively mitigated.
22. Thirdly, and perhaps most importantly, the Plan is still unsound with these modifications:
- a) As set out above, paragraph 110 of the NPPF provides that in assessing sites for allocation, it should be ensured that significant impacts can be cost-effectively mitigated. The failure to even identify what the impacts are amounts to a failure to ensure those impacts can be mitigated, contrary to the NPPF.
 - b) As set out above, paragraph 11a) of the NPPF also directs plans to “align growth and infrastructure.” The failure to ensure infrastructure comes forward at the same time at growth is a *positive misalignment*, contrary to the NPPF.
 - c) Because these provisions of the NPPF have been breached, the allocation fails the test of consistency with national policy and, accordingly, it is unsound.
23. If the allocation is to remain, the list of mitigation measures should not be optional for the promoter. The mitigation measures need to be specific at this stage of the process, and they need to be mandatory.

Phasing and delivery under MM16

24. BPC also disputes the soundness of the phasing plan set out by MM16.

25. MM16 inserts a phasing table which provides as follows for Phase 1 (start date no later than 2028):

“During this stage the West-East link road will be completed and will facilitate the full orbital bus route.

Subject to Transport Assessment and Monitor and Manage Strategy, implement delivery of other supporting transport infrastructure that is necessary for this stage, including off-site junction mitigations”.

26. Phase 2 (2033-2038) provides as follows:

“Subject to Transport Assessment and Monitor and Manage Strategy, implement delivery of off-site mitigations in Bredhurst and Boxley following consultation with local communities”.

“Completion of the M2 J4 spur, with possible interim utilisation of existing Maidstone Road bridge crossing to allow the employment development to commence early in this stage”.

27. This phasing proposal is unsound for a number of reasons:

- a) The ‘monitor and manage’ approach is not justified, essentially for the reasons given above. The NPPF requires growth to be aligned with infrastructure, not infrastructure to trail after growth. There is a clear risk that traffic impacts will be felt by Bredhurst and its neighbours well before the required mitigation is put in place.
- b) The design of the interim junction has not been approved by the Highway Authorities, nor has it been subject of Transport Modelling to confirm whether it could be an appropriate Primary Access to the completed development. Under the ‘monitor and manage’ approach, there is a clear possibility that the interim solution will become the only solution: and it should therefore have been assessed on that basis.
- c) Bringing forward substantial employment development before the necessary infrastructure is in place to support it does not represent a justifiable or evidence-based approach. It has not been demonstrated that such an approach would not have a severe residual cumulative impact on the road network. There is a clear risk that the planned later residential development could fail to come forward after the employment development. In those circumstances there would be a lack of funds to pay for the main infrastructure requirements and the mitigation needed to protect

Bredhurst. See, in that regard, the letter from A.M. Leahy to Councillor Vanessa Jones dated 4 May 2023 and attached to BPC's Stage 2 submissions.

28. It follows that the Phasing Plan in MM16 is not justified and should be removed.

Deletion of open space requirement by MM16

29. MM16 deletes, under the heading 'Infrastructure', "*v. 31 Ha natural/semi natural open space*".

30. The only explanation for this deletion is "*To reflect that requirements on provision of natural and semi-natural open space are addressed elsewhere in the plan.*" However, the provision of 31 hectares of open space at Lidsing is a fundamental part of the proposal and its removal minimises this important requirement. It also amounts to departure from Garden Village principles and the basis on which the proposal was originally planned. See, in particular, examination document LPR 1.97 (Lidsing Garden Community Regulation 19 Vision Document Masterplan Framework), which provides at p 83 that:

"The open space requirements... will be met in full, including over 31 hectares of natural/semi-natural open space, as well as a significant amount of other open space provision."

31. While BPC maintains its overall position that the allocation must be removed, if Lidsing does go ahead then it is clear that it must proceed on Garden Village principles with the open space requirement front and centre. BPC is strongly opposed to any amendment, such as this one, which minimises the open space requirement, as this may ultimately lead to more development on the site and even greater traffic impacts on Bredhurst and surrounding areas. If the open space requirement is ultimately reduced in importance this could also threaten the 20% BNG requirement.

BPC's response to MM58

32. MM58 amends the introductory text to LPRSP14(A) and provides as follows (emphasis added):

"The Local Plan Review makes provision for a new garden community at Lidsing, where the impact of new development on the integrity of the North Downs Woodlands SAC requires careful consideration. Provided that the air pollution mitigation specified by Policy LPRSP4(B) is delivered then adverse effects on the SAC due to air quality from

the plan as a whole, alone or in-combination, can be ruled out. In the event that the Lidsing garden community is not delivered, the Council will agree a proposed approach with Natural England, and no further development contributing to an increase in traffic to roads within 200m of the SAC (A229, A249 or Boxley Road) will be permitted until mitigation has been agreed, unless applicants can demonstrate that they will not have an adverse effect on the integrity of the SAC, alone or in-combination.” This MM is significant because it acknowledges the multiple challenges facing the development at Lidsing coming forward. In particular, it specifically acknowledges the possibility that Lidsing may never come forward.

33. BPC agrees that there is a significant risk that this proposal will never come forward. Indeed, BPC has little confidence that it will. As was noted in BPC’s previous submissions, the completion of the East/West link depends entirely on Medway Council selling land to the promoter adjacent to North Dane Way. The leader of Medway Council has confirmed that the Council has not been approached to sell this land. Given the severe impacts of the proposal on Medway Council, it has little incentive to do so.
34. The NPPF provides that a proposal is ‘sound’ if it is ‘effective’: that is, deliverable over the plan period and based on effective joint working on cross-boundary strategic matters.
35. By correctly accepting that Lidsing may never come forward, this MM shows little confidence in the allocation’s effectiveness. The inescapable conclusion is that given the uncertainties surrounding the deliverability of Lidsing, the allocation is ineffective and therefore unsound.

Conclusion

36. In these submissions BPC has shown that despite the MMs, the Lidsing allocation remains unsound for a number of reasons. BPC’s primary submission is that, in order to make the Plan sound, Policy LPRSP4(B) must be deleted.
37. If the Inspector disagrees, it is vital that sufficient mitigation measures for Bredhurst village and surrounding areas are set out at this stage as a mandatory requirement. Without that mandatory requirement, there can be little confidence that the impacts of the proposal can be sufficiently mitigated. The NPPF is clear that this needs to be established at the *allocation* stage, not at a later stage when the principle of development has already been established.