

# **Response by Headcorn Parish Council to the Original Examiner's initial comments on Headcorn's Neighbourhood Development Plan**

Headcorn Parish Council would welcome the opportunity to discuss with the new Examiner any concerns or questions that he may have about Headcorn's Neighbourhood Plan, in order to allow him to successfully complete the examination process.

Headcorn Parish Council considers that if requested, it is appropriate for any hearing to take place as quickly as possible, to allow future planning applications in Headcorn to be determined in a way that reflects the needs and aspirations of the Headcorn community, in line with the Government's policy on Localism.

In contrast to the original Examiner, Headcorn Parish Council does not consider that it would be appropriate to delay any hearing until after the examination of Maidstone's Local Plan is concluded, particularly as the scale of unresolved objections to Maidstone's Local Plan makes it likely that this process could take a considerable time. Headcorn Parish Council notes that imposing such a delay would be outside the scope of an examiner's remit.

## **I. Overarching comments**

### ***I.a. Impact of changes to Planning Practice Guidance***

The Basic Conditions that a Neighbourhood Plan needs to meet in order to pass examination are set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, as applied to Neighbourhood Plans by Section 38A of the Planning and Compulsory Purchase Act 2004. The conditions are that:<sup>1</sup>

8 (2)A draft order meets the basic conditions if—

- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order,
- (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order,
- (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order,
- (d) the making of the order contributes to the achievement of sustainable development,

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>. Note that conditions (b) and (c) only apply where the order grants planning permission.

(e) the making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),

(f) the making of the order does not breach, and is otherwise compatible with, EU obligations, and

(g) prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.

Since November 2015 when Headcorn Parish Council submitted the Neighbourhood Plan to Maidstone Borough Council under Regulation 15, some of the Planning Practice Guidance covering Neighbourhood Plans set out by Government has been amended. This has the potential to impact the ability of Headcorn's Neighbourhood Plan to meet condition 8(2)(a) set out above, namely to have regard to guidance issued by the Secretary of State. From the original Examiner's comments, it is clear that the key pieces of amended guidance that concerned her are the guidance on evidence. The Planning Practice Guidance has a section that covers evidence requirements:

***"What evidence is needed to support a neighbourhood plan or Order?"***

*While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no 'tick box' list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.*

*A local planning authority should share relevant evidence, including that gathered to support its own plan-making, with a qualifying body. Further details of the type of evidence supporting a Local Plan can be found here [Local Plan](#).*

*Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.*

*In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making."<sup>2</sup>*

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<sup>2</sup> Paragraph: 040 Reference ID: 41-040-20160211

The Planning Practice Guidance also contains guidance on whether a Neighbourhood Plan can come forward before an up-to-date Local Plan is in place:

***"Can a Neighbourhood Plan come forward before an up-to-date Local Plan is in place?"***

*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its [Local Plan](#).*

*A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the [basic condition](#). Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, [up-to-date housing needs evidence](#) is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development.*

*Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

*the emerging neighbourhood plan*

*the emerging Local Plan*

*the adopted development plan*

*with appropriate regard to national policy and guidance.*

*The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination.*

*The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because [section 38\(5\) of the Planning and Compulsory Purchase Act 2004](#) requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help*

*minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.*"<sup>3</sup>

The key difference between the new guidance and previous versions is the greater weight placed on the use of up-to-date evidence on housing needs. Headcorn Parish Council does not consider that these updates represent a difficulty for Headcorn's Neighbourhood Plan.

The approach taken in preparing Headcorn's Neighbourhood Plan has been evidence driven (see Appendix 2, Headcorn's Evidence Base in the Headcorn Neighbourhood Plan). Therefore, considerable effort has been made to ensure that the evidence base underpinning the Plan is as up-to-date as possible, drawing both from new national and local sources at every iteration. The extent to which Headcorn's Neighbourhood Plan team continued to update its evidence as the Plan progressed can be seen by comparing the references given in the Regulation 14 and Regulation 16 versions of the Plan.

In total 13 additional references were added between the two drafts. This included updating the Neighbourhood Plan between the Regulation 14 Consultation version and the version submitted under Regulation 15 to take account of the publication of *GL Hearn (2015) "SHMA Update – implications of 2012-based household projections: Final Report", June 2015, Maidstone Borough Council*. This report is the most up-to-date housing needs assessment that has been conducted for Maidstone Borough Council and is the one that has been used to underpin the Regulation 19 version of Maidstone's emerging Local Plan. Similarly, the most up-to-date evidence on affordable housing was also considered, which is given in *Maidstone Borough Council (2015) "Strategic Planning, Sustainability and Transport Committee, Adjourned Meeting July 23 2015: Urgent Update Report: Item 8 Affordable housing (DM24)", Maidstone Borough Council*.

Therefore, although the guidance has changed, Headcorn Parish Council does not consider that these changes impede Headcorn Neighbourhood Plan's ability to meet the basic condition of having regard for guidance issued by the Secretary of State.<sup>4</sup> While the guidance may have changed, the behaviours and evidence needs in the updated guidance are fully met through the approach taken by Headcorn Parish Council.

Headcorn Parish Council notes that case law demonstrates that whether an objectively assessed need has been calculated influences the policies that can be applied through a Neighbourhood Plan, but that the option of calculating need for an individual neighbourhood (not just at Borough level) has been recognised. For example, the judgement in a High Court Case before Mr Justice Holgate ([2015] EWHC 1173 (Admin)) stated that:

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<sup>3</sup> Paragraph: 009 Reference ID: 41-009-20160211

<sup>4</sup> Even if Headcorn had not used the most recent evidence, it should be noted that "having regard for" is a less stringent test than "must comply with". The evidence driven approach adopted by Headcorn would clearly have regard for the Secretary of State's guidance on the use of evidence, even if in the six months that have elapsed since Headcorn Parish Council submitted the Plan under Regulation 15 some new evidence had been provided. This is particularly true as the approach taken was to calculate an upper bound for need (which was why estimated need was not reduced following the publication of GL Hearn (2015)), meaning new, higher estimates of need could be absorbed without the need for any recalculation.

*"82. The legal errors in the decision do not end there. In the Claimant's post-inquiry representations to the Secretary of State it was submitted that in the absence of any objective assessment of housing need, whether for the district or for the parish, the neighbourhood plan should not attempt to fix an overall quantum of new homes for the parish or Sayers Common, following the conclusions in the Examiner's Report into the Ascot, Sunninghill and Sunningdale Neighbourhood Plan. It was said, therefore, that the amount of new housing in Sayers Common should not be capped at 30-40 dwellings (see paragraph 47(iv) above). That was a substantial point which the Secretary of State was obliged to deal with in the decision letter."*<sup>5</sup>

In other words, Neighbourhood Plan policies setting housing numbers are only possible where there is a calculated Objectively Assessed Need, which could be either at a Borough, or Parish level. In the case of Headcorn, the policies within the Neighbourhood Plan are based on an explicit calculation of the Objectively Assessed Need for Headcorn Parish that is based on the evidence compiled for Maidstone Borough Council. The Plan policies will more than deliver this need over the Plan period. As the Ascot, Sunninghill and Sunningdale Examiner's report states:

*"There is no legislative requirement for neighbourhood plans to set their own housing numbers, to allocate land for development – or to cease progress until such matters are determined by the development plan"*<sup>6</sup>

That is to say, it is permissible for a Parish to produce this evidence and to use it when defining policy, even if this has not yet been done at Borough level, or adopted as part of the Development Plan.

Although Maidstone Borough Council has chosen not to use the calculated Objectively Assessed Need for individual neighbourhoods in producing their emerging Local Plan, the necessary data to calculate these are available from the area breakdown in the original SHMA report for Maidstone produced by G L Hearn. These data have been explicitly used to produce an Objectively Assessed Need for Headcorn – a calculation that has also been tested against calculations using Census data and the Headcorn housing needs survey contained in the Resident's survey for Headcorn.

Furthermore, as noted in Footnote 100 on p66 of Headcorn's Regulation 16 Neighbourhood Plan, using the 2015 G L Hearn estimates used for Maidstone's Regulation 19 Local Plan would lead to a reduction in the estimated housing numbers required for Headcorn to meet its share of the Objectively Assessed Housing Need for Maidstone Borough, because the Borough-level estimate of need is lower.<sup>7</sup> As Headcorn Parish Council believed it was important to minimise risk that the policies would not deliver the Objectively Assessed Housing Need for Headcorn, the earlier, higher estimate of housing need was used, but this was not because the new evidence had not been considered.

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<sup>5</sup> See paragraph 82 of the judgement. [2015] EWHC 1173 (Admin).

<sup>6</sup> Ascot, Sunninghill and Sunningdale – Examiner's Report, page 16, first paragraph.

<sup>7</sup> See Footnote 100 on page 66 of Headcorn's Regulation 16 Neighbourhood Plan.

Therefore, while Maidstone Borough Council's emerging Local Plan has made different policy judgements to those in Headcorn's Neighbourhood Plan, the high-level evidence being used in both cases is the same. This difference arises because Headcorn's Neighbourhood Plan looks explicitly at the evidence on housing numbers for Headcorn, while this has not been considered as part of Maidstone's planning process, which instead is based purely on a site allocation policy.

Headcorn Parish Council notes that that an assessment of the Sustainability Appraisal provided for Maidstone's emerging Local Plan would lead to a similar site allocation as the one underpinning Headcorn's Neighbourhood Plan.<sup>8</sup> Sites that were excluded from Headcorn's Neighbourhood Plan (such as HO-7 and HO2-174) received more red and amber scores than green scores in Maidstone's Sustainability Appraisal, calling into question their sustainability. Indeed, Headcorn Parish Council notes that the findings of Maidstone's Sustainability Appraisal reveal a significant disconnect between those sites that score well or badly in the appraisal and those sites that have been allocated as part of Maidstone's emerging Local Plan.

Headcorn Parish Council notes that while two sites with net negative scores were allocated in Headcorn, at least 11 sites in Maidstone (or on the edge of Maidstone) were rejected from inclusion in the emerging Local Plan despite receiving more green scores than red and amber scores and that these sites had a potential yield of 708 houses.<sup>9</sup> In fact, four of these sites, with a combined yield of 121, scored significantly better than the best site allocated in Headcorn judged using Maidstone's own Sustainability Appraisal.<sup>10</sup>

Headcorn Parish Council notes that the Planning Practice Guidance makes clear that Neighbourhood Plans should have the power to shape where development goes, even if a Planning Authority had considered allocating sites in that Neighbourhood – it is the Local Planning Authority that is required to avoid duplicating effort, not the neighbourhood area:

*"If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process."<sup>11</sup>*

Finally, Headcorn Parish Council notes that although Planning Practice Guidance is clearly important, in legal terms it is the statute and regulations that are crucial and these have not changed. Headcorn Parish Council notes that the distinction between statute and guidance has made recently by Lord Justice Richards in a Court of Appeal judgement, which stated that:

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<sup>8</sup> This Appraisal was conducted for Maidstone by URS, which is now part of Aecom.

<sup>9</sup> These sites were HO-95, HO-50, HO-67, HO-140, HO-137, HO-112, HO-99, HO-127, HO-49, HO-139 and HO-82. This listing excludes HO-123, which was only part allocated.

<sup>10</sup> These sites were HO-67, HO-140, HO-137 and HO-127.

<sup>11</sup> Planning Practice Guidance, Paragraph 043 Reference ID: 41-043-20140306.

*"In reaching his conclusion on this issue, Collins J took into account governmental policy guidance contained in the National Planning Policy Framework and the Planning Practice Guidance. I have not found it necessary to refer to the guidance, which is not a permissible aid to construction of the statute or the regulations made under it. It is fair to observe, however, that the guidance is fully in accordance with the conclusion reached by Collins J, and endorsed by me, as to the proper construction of the relevant provisions. The Secretary of State's intervention in support of the judge's conclusion is therefore unsurprising."*<sup>12</sup>

***I.b. Impact on plan policies of the fact that Maidstone's emerging Local Plan has not been adopted***

Headcorn Parish Council notes that in paragraph 18 of the original Examiner's initial comments, she suggests that one option would be to drop policies relating to the scale and location of new housing. Headcorn Parish Council does not consider that this would be necessary in order for Headcorn's Neighbourhood Plan to meet the Basic Conditions.

It is well established from case law and the Planning Practice Guidance that Neighbourhood Plans can come forward before an emerging Local Plan becomes the statutory development plan and that this does not curtail the benefits that a Neighbourhood Plan should be able to provide to the local community, which include, for example, the ability to decide where and what gets built.<sup>13</sup> Furthermore, any conflicts with an emerging Local Plan are not a consideration for the examination of the plan, providing the evidence gathered has been properly considered.<sup>14</sup> For example, the Planning Practice Guidance clearly states that:

*"a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan"*<sup>15</sup>

Conflicts with an emerging Local Plan have been shown not to be a consideration for Neighbourhood Plans through case law. For example, the judgement in a High Court Case before the Honourable Mr Justice Supperstone ([2014] EWHC 1470 (Admin)) stated that:

*"82. Further, I accept Mr Sauvain's submission that the only statutory requirement imposed by Condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted Development Plan as a whole. Whether or not there was any tension between one policy in the Neighbourhood Plan and one element of the eventual emerging Local Plan was not a matter for the Examiner to determine..."*<sup>16</sup>

Furthermore, the principle that a Neighbourhood Plan can both emerge before a Local Plan and set policies determining the location and scale of housing development was

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<sup>12</sup> [2015] EWCA Civ 597. This judgement was endorsed by Lord Justice Moore-Bick and Lady Justice Sharp.

<sup>13</sup> Planning Practice Guidance, Paragraph 001 Reference ID: 41-001-20140306.

<sup>14</sup> Planning Practice Guidance: Paragraph: 009 Reference ID: 41-009-20160211, [2014] EWHC 1470 (Admin) and [2014] EWHC 4323 (Admin).

<sup>15</sup> Planning Practice Guidance: Paragraph: 009 Reference ID: 41-009-20160211.

<sup>16</sup> See paragraph 82 of the judgement. [2014] EWHC 1470 (Admin).

established in a High Court case before Mr Justice Lewis ([2014] EWHC 4323 (Admin)), where the case for the claimant, Gladman Development Limited, was summarised as:

*“53. The basic premise underlying the claimant’s first three grounds of challenge is that it is impermissible for a neighbourhood development plan to include policies which determine issues such as the amount of housing required and the location of that housing in circumstances where there is no development plan document in place setting out strategic polices on those issues.”<sup>17</sup>*

However, Mr Justice Lewis rejected this claim, noting that:

*“58. In my judgment, a neighbourhood development plan may include policies dealing with the use and development of land for housing, including policies dealing with the location of a proposed number of new dwellings, even where there is at present no development plan document setting out strategic polices for housing. The examiner was therefore entitled in the present case to conclude that the Neighbourhood Plan satisfied basic condition 8(2)(e) of Schedule 4B to the 1990 Act as it was in conformity with such strategic policies as were contained in development plan documents notwithstanding the fact that the local planning authority had not yet adopted a development plan document containing strategic polices for housing. Further, the examiner was entitled to conclude that condition 8(2)(d) of Schedule 4B to the 1990 Act was satisfied. That condition requires that the making of the neighbourhood development plan “will contribute to the achievement of sustainable development”. The examiner was entitled to conclude that a neighbourhood plan that would provide for an additional 455 dwellings, in locations considered to be consistent with sustainable development, did contribute to the achievement of sustainable development notwithstanding that others wanted more growth and development plan documents in future might provide for additional growth. Similarly, the examiner was entitled to conclude that having regard to national guidance and advice, including the Framework, it was appropriate to make the neighbourhood plan even though there might, in future, be a need for further growth.”<sup>18</sup>*

Therefore, Headcorn Parish Council considers that any decision to drop policies within Headcorn’s Neighbourhood Plan purely because of a conflict between Headcorn’s Plan and the emerging Local Plan would exceed the scope of the examination, which is simply to determine whether the Plan meets the Basic Conditions. As Mr Justice Lewis makes clear, in cases where there is no Local Plan, the key test for examination will be whether the proposed development is sustainable, as opposed to unsustainable, not whether additional growth might be needed in future.

Furthermore, Headcorn Parish Council notes that even at Local Plan level case law is clear that plans can come forward and be incorporated as part of the Development Plan, even

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<sup>17</sup> See paragraph 53 of the judgement. [2014] EWHC 4323 (Admin).

<sup>18</sup> See paragraph 58 of the judgement. The full reasoning underpinning this ruling is set out in paragraphs 59-79 of this judgement. [2014] EWHC 4323 (Admin).

if a final decision on housing numbers has not been agreed. As Lord Justice Lindblom stated in a judgement given on April 29, 2016 in a case before the Court of Appeal:

*"32. Secondly, the relevant policies in the NPPF, properly understood, do not require every development plan document within its broad definition of a "Local Plan" to fulfil all the requirements described in paragraph 47. Where one of the necessary purposes of a particular development plan document is to identify the level of housing need that requires to be met in the relevant area, "as far as is consistent with the policies set out in [the NPPF]", the provisions of the NPPF bearing on that purpose, including paragraphs 158 and 159 as well as paragraph 47, will be engaged. However, as Lewis J. aptly put it, "[properly] read, ... [the NPPF] does not require a development plan document which is dealing with the allocation of sites for an amount of housing provision agreed to be necessary to address, also, the question of whether further housing provision will need to be made" (paragraphs 63 to 65)."*<sup>19</sup>

Headcorn Parish Council considers that if it is permissible for Local Plan documents to be added to the Development Plan, even where additional future housing provision might be needed, then it is inconceivable that this judgement would not also still hold for Neighbourhood Plans. Therefore, while any judgement by the Inspector appointed to examine Maidstone's emerging Local Plan might result in the need for further housing allocations in Headcorn, it was not within the role of the original Examiner of Headcorn's Neighbourhood Plan to anticipate this. Indeed, to do so would require a judgement to be made relating to the dispersal policies for housing within Maidstone's Local Plan and this is outside the scope of the examination.

Headcorn Parish Council is confident that its evidence is robust. However, Headcorn Parish Council notes that if additional allocations are needed then this can easily be accommodated within planning law, because as set out in Section 38(5) of the Planning and Compulsory Purchase Act 2004, where conflicts arise between a Neighbourhood Plan and a Local Plan that conflict must be resolved in favour of the policy which is contained in the last document to become part of the Development Plan. Furthermore, Headcorn's Neighbourhood Plan itself explicitly allows for reviews of housing need to take place in 2021 and 2026.

Therefore, by allowing Headcorn's Neighbourhood Plan to progress in its existing form, the Examiner would not be curtailing the options available to the Inspector of Maidstone's Local Plan (or the options to increase housing allocations through the Neighbourhood Plan if deemed necessary).

In contrast, curtailing the policies in Headcorn's Neighbourhood Plan on the basis of a perceived conflict with the emerging Local Plan is not only outside of the scope of the examination process, which simply needs to determine whether the Plan meets the Basic Conditions, but would also unfairly deprive Headcorn Parish of the rights and protections

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<sup>19</sup> See [2016] EWCA Civ 414. Lord Justice Lindblom's judgement was upheld by both Lord Justice Jackson and Lord Justice Patten.

set out in the National Planning Policy Framework, which should allow local communities to shape development in their area.

## **Specific Issues Raised under paragraph 1.5<sup>20</sup>**

### ***II.a. Question 1.***

Headcorn Parish Council notes that the National Planning Policy Framework (NPPF) sets out in paragraph 14 sets out that sustainability “*should be seen as a golden thread running through both plan-making and decision-taking*” and the definition of sustainability is set out in paragraph 7 of the NPPF. Contributing to sustainable development is also one of the basic conditions that Neighbourhood Plans need to meet.

The report produced by Analytically Driven Ltd for Headcorn Parish Council uses as the basis for its assessment the concepts of sustainability set out in the NPPF. The conclusions the report reached were that in the case of Headcorn, sustainable development equated to small scale development that was phased over time. Headcorn Parish Council notes that the approach taken by Analytically Driven in its assessment of the meaning of economic sustainability is not only based on robust academic evidence, but has since been completely vindicated by the Government’s decision to place the need for houses to be located close to employment opportunities at the core of its policy to promote economic growth.

Headcorn Parish Council considers that following the approach to development suggested in Analytically Driven’s report, namely that it should be small scale and phased, is key to ensuring that Headcorn’s Neighbourhood Plan meets the requirement of contributing to sustainable development. Without this approach, Headcorn Parish Council believes that the Neighbourhood Plan would fail to meet this key condition.

However, although Headcorn Parish Council considers that the approach set out in Analytically Driven’s report is the right one, it is important to recognise that the evidence underpinning these conclusions was both reviewed and updated for the examination version of Headcorn’s Neighbourhood Plan. As detailed above, the evidence on housing numbers used in producing Headcorn’s Neighbourhood Plan and Maidstone’s Regulation 19 Local Plan is the same. Furthermore, the policies set out in Headcorn’s Neighbourhood Plan will be more than capable of delivering the Objectively Assessed Need for Headcorn and as such will meet what should be Maidstone’s most important strategic need, which is to deliver its Objectively Assessed Need in a way that will promote sustainable development.

The differences in policies between Headcorn’s Neighbourhood Plan and Maidstone’s Regulation 19 Local Plan arise (as set out above) because Headcorn has conducted a specific analysis of sustainability for Headcorn, something that is missing from Maidstone’s emerging Local Plan for its rural settlements. Headcorn Parish Council considers that it is unfortunate that Maidstone Borough Council has not paid attention to this important evidence and considers it a failing in the emerging Local Plan that means that in its current

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<sup>20</sup> For ease of reference, Appendix 1 contains the details of the questions raised by the Examiner.

form it will not meet the definition of “sound” set out in the NPPF. Furthermore, as already noted, Planning Practice Guidance makes clear, it is the Local Authority that should be working to avoid conflicts with a Neighbourhood Plan.<sup>21</sup>

However, as set out above, considerations of Maidstone’s proposed dispersal policy for housing in its rural settlements are beyond the scope of this examination. Furthermore, updated Planning Practice Guidance is explicitly clear that the test of whether a Neighbourhood Plan meets the Basic Conditions does not include whether it is in general conformity with an emerging Local Plan. Therefore, while the difference in approach between Headcorn’s Neighbourhood Plan and Maidstone’s Regulation 19 Local Plan are regrettable, this is not something that precludes Headcorn’s Neighbourhood Plan being accepted in its current form. As noted above, the approach to housing numbers and site allocations set out in Headcorn’s Neighbourhood Plan could be adjusted by the Local Plan Inspector if that were deemed necessary. Therefore, there is no need for the Neighbourhood Plan to be adjusted at this stage, particularly as doing so would pre-empt the Inspector’s role in deciding on how the definition of “sound” should be interpreted.

### **II.b. Questions 2 and 3**

Headcorn’s Neighbourhood Plan explicitly uses the up-to-date SHMA evidence used for Maidstone’s emerging Local Plan to calculate an objectively assessed housing need for Headcorn. Headcorn Neighbourhood Plan policies would be more than capable of delivering this housing need. As such, Headcorn Parish Council considers that the Neighbourhood Plan more than meets the requirement to do this. As noted above, Maidstone’s emerging Local Plan’s housing numbers for Headcorn are based on site allocations, rather than an assessment of need for Headcorn and there are examples of sites that were rejected from the Local Plan that scored better in Maidstone’s Sustainability Appraisal than some sites that were allocated in Headcorn in the emerging Local Plan.

Headcorn Parish Council is surprised and confused why the original Examiner, in her final paragraph 1.6, had asked about Maidstone’s five-year land supply and why questions relating to the objectively assessed need also link to references about how planning applications should be determined in the absence of a five-year housing supply.

As set out in paragraph 49 of the NPPF, whether a local planning authority can demonstrate that they have a five-year land supply has a direct impact on the process for deciding on an individual planning application. However, having a five-year land supply is not one of the Basic Conditions required for a Neighbourhood Plan to pass examination. As such, five-year land supply considerations are irrelevant in determining whether Headcorn’s Neighbourhood Plan meets the Basic Conditions, but might determine whether an individual planning application was accepted, even if it was contrary to a “made” Neighbourhood Plan.

Headcorn Parish Council notes that no individual neighbourhood could absorb all the housing necessary for an entire Borough to achieve a five-year land supply. Nonetheless,

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<sup>21</sup> “The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans.” Planning Practice Guidance Paragraph: 009 Reference ID: 41-009-20160211.

Headcorn Parish Council notes that the scale of planning applications accepted in Headcorn since 2011 means that Headcorn can easily demonstrate that it has a five-year land supply relative to the Objectively Assessed Need for Headcorn Parish, as planning permission has been given for 220 new houses since 2011, relative to a maximum assessed need for the entire Plan period of 277 new homes. In other words, Headcorn can demonstrate more than a 15-year housing supply.<sup>22</sup>

### **II.c. Question 4**

It is well established that Neighbourhood Plans can determine site allocation policies, even where the emerging Local Plan originally proposed a different provision of sites. For example, in the case of the Uppingham Neighbourhood Plan, the right of the Neighbourhood Plan to allocate sites was upheld not only in the High Court, but also in the Court of Appeal.<sup>23</sup>

However, assessing whether development is sustainable involves two calculations: what volume of development is sustainable; and which sites are most suitable to deliver sustainable development. Both calculations are needed. In particular, economic, social and environmental sustainability considerations all suggest that there can be considerable downsides to overdevelopment in rural parishes.<sup>24</sup> This means that managing the flow of development is as important for sustainability as managing the location.

Headcorn's Neighbourhood Plan therefore considers both these questions and then creates a policy framework that will best deliver sustainable development. As such the Site Assessment Exercise that was conducted for Headcorn by Levett-Therivel is an important part of Headcorn's approach to achieving sustainability. It determines which sites are most suitable for development and therefore which sites can come forward for development under the Plan. The need for developments of more than two houses to take place on the sites that have been designated as sustainable through this site assessment exercise is set out in Policy HNP12.

However, recognising that overall development in Headcorn will only be sustainable if it is small scale and phased over time<sup>25</sup>, rather than making arbitrary choices about which parts of sites should come forward, or in what order, Headcorn's Neighbourhood Plan uses the policies in HNP6 and HNP7 to manage if these sites can come forward over the Plan period. Over the longer term, any parts of these sites that have not been developed will represent the most sustainable options available for development in future. However, such

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<sup>22</sup> This calculation excludes the Hazelpits development of 220 houses, as this development is currently subject to judicial proceedings. Including this development would mean Headcorn had over a 31-year housing supply.

<sup>23</sup> See [2014] EWHC 4095 (Admin) and [2015] EWCA Civ 597. The background to this case was that Rutland County Council had originally proposed allocating sites in Uppingham, as part of its emerging Local Plan, but decided to allow Uppingham Neighbourhood Plan to determine which sites were allocated through the Neighbourhood Plan process. Rutland shared with Uppingham the options considered and consultation responses for their consideration. The case was brought by a developer whose site had originally been allocated by Rutland, but was not taken forward by Uppingham for inclusion in its Neighbourhood Plan.

<sup>24</sup> Technically the sustainability of development in a rural parish will depend on its location relative to employment centres and key services such as schools and hospitals.

<sup>25</sup> On the importance of phasing, it is worth noting that Planning Practice Guidance suggests that "*Neighbourhood Plans should consider providing indicative delivery timetables*" [Planning Practice Guidance Paragraph 009 Reference ID: 41-009-20160211].

development will only be sustainable if the Parish is able to absorb it at the time when it is proposed. This is why Policy HNP12 should be seen as complementary and mutually supported by policies HNP6 and HNP7.

### **II.d. Question 5**

The definition of whether a plan has been positively prepared is set out in paragraph 182 of the NPPF as part of the test for whether a Local Plan should be judged as “sound” at examination. The requirement is that:

*“**Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development”*

As set out above, Headcorn’s Neighbourhood Plan is based on both an explicit assessment of the Objectively Assessed Need for Headcorn, which uses the most up-to-date evidence available, and an assessment of the level of sustainable development. Headcorn’s Neighbourhood Plan policies will more than deliver this assessed need over the plan period, with the option for further development curtailed by the need to consider sustainability.

In addition, Headcorn’s Neighbourhood Plan has explicitly considered infrastructure requirements and put in place policies to deliver the necessary infrastructure. Therefore, Headcorn Parish Council considers that Headcorn’s Neighbourhood Plan meets the definition of having been positively prepared set out under the test for soundness.

However, Headcorn Parish Council notes that meeting this requirement is only actually a requirement for Local Plans. In contrast, Neighbourhood Plans are not judged on whether they meet the definition of soundness set out in the NPPF. Therefore, even though it meets the test, whether Headcorn’s Neighbourhood Plan has been positively prepared should not be one of the tests considered at examination stage. This is set out clearly in Planning Policy Guidance, which states:

#### **“What is the independent examiner’s role?”**

*When considering the content of a neighbourhood plan or Order proposal, an independent examiner’s role is limited to testing whether or not a draft neighbourhood plan or Order meets the [basic conditions](#), and other matters set out in [paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 \(as amended\)](#). **The independent examiner is not testing the [soundness](#) of a neighbourhood plan or examining other material considerations.**”<sup>26</sup>*

### **II.e. Questions 6 and 7**

As set out above, Planning Practice Guidance and legislation is explicit that general conformity with an emerging Local Plan is not one of the Basic Conditions that a Neighbourhood Plan needs to meet in order to pass examination.

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<sup>26</sup> Planning Practice Guidance, Paragraph: 055 Reference ID: 41-055-20140306, emphasis added.

Thus, while it is clearly desirable that Neighbourhood Plans and emerging Local Plans have complementary policies, it is not a requirement. Headcorn Parish Council recognises that there may be consequences if, at the examination of the emerging Local Plan, it cannot persuade the Inspector that Local Plan proposals for Headcorn do not meet the definition of "sound". However, it strongly considers that bringing Headcorn's Neighbourhood Plan in line with the emerging Local Plan would jeopardise its ability to meet the basic condition of contributing to sustainable development in Headcorn Parish. Therefore, it is willing to address these consequences if required at the Local Plan examination stage. As the way in which conflicts are resolved through planning legislation means that the most recent plan added takes precedence; even if the Neighbourhood Plan passes examination, this will not act to dictate outcomes for the Inspector of the Local Plan.

In addition, it is worth recognising that even if general conformity with the strategic policies in the emerging Local Plan were a condition (which it is not), the need for "general conformity" is not as strict a condition as being consistent with, meaning some deviations would be permissible. This conclusion is reinforced by the language used in setting out the Basic Conditions a Neighbourhood Plan, compared to the language used in setting the conditions under which a Local Plan is judged sound. A Neighbourhood Plan has to: "have regard to national policies and advice"; and be "in general conformity with the strategic policies in the development plan for the area". In contrast a Local Plan has to be "consistent with national policy".<sup>27</sup> These linguistic differences have been recognised in case law:

*"84. Whereas a local plan needs to be "consistent with national policy", by contrast the function of an examiner, most importantly, in relation to a Neighbourhood Plan is to determine whether the plan meets the "basic conditions". In that regard the Examiner has a discretion to determine whether or not it is appropriate that the Plan shall proceed "having regard to" national policy and guidance and has to make a judgment whether or not the Neighbourhood Plan is "in general conformity with the strategic policies contained in the development plan"."*<sup>28</sup>

Therefore, even to the extent that there are differences, these are not a bar to passing examination. Furthermore, as the guidance cited above indicates, the onus on achieving complementary policies is on the Local Authority, who should be working with the qualifying body, rather than dictating to it.

## **II.f. Question 8**

The village boundary used in Headcorn's Neighbourhood Plan (as set out in Figure 24) is the one provided by Maidstone Borough Council. It provides a framework for distinguishing between different types of development (for example countryside versus village) depending on its location. Combined with the policy HNP12, which sets out the sites outside the village boundary where new housing developments (of more than two houses) would be considered, it works to ensure that developments take place where they are most sustainable and to ensure that significant gaps between new developments and the

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<sup>27</sup> See paragraph 182 of the NPPF.

<sup>28</sup> Paragraph 84 [2014] EWHC 1470 (Admin).

existing village envelop are avoided. In and of itself the village boundary is not a tool for promoting development. Instead it reflects the current size of the village. However, Headcorn Parish Council considers that the way that this boundary is used in setting policies is fully consistent with the delivery of housing growth and that it is a helpful tool in shaping where this growth occurs.

### ***II.g. Questions 9 and 10***

The reasons for setting the maximum size of an individual development to 30 units are set out in Section 5.1 of Headcorn's Neighbourhood Plan as the background to Policy HNP6. Headcorn Parish Council considers that this policy, combined with policy HNP7 on the phasing of development, represents a key part of Headcorn's Neighbourhood Plan. This policy framework will ensure development: is sustainable; is in keeping with its village setting; matches the aspirations of local residents; and will make it easier for new residents to be absorbed into the local community. It also matches the maximum size of developments that local estate agents consider are of interest to potential buyers in Headcorn, who tend to be looking to buy in developments that match a rural village setting, not large urban developments.

This policy will not prevent the delivery of Headcorn's objectively assessed need. As documented in the Plan, the only recent example of a larger development was one for 44 houses on a brownfield site, yet despite no large developments being consented 200 additional homes were built between 2001 and 2011. As such, it is perfectly possible for smaller developments to deliver significant housing growth. Furthermore, as set out in the answer to Question 2 and 3 above, based on existing planning permissions Headcorn can demonstrate that it already has a 15-year housing supply. Combined with the scale of micro developments envisaged (with around 70 additional dwellings expected over the remainder of the plan period in light of the evidence on the volume of these developments that take place over time), this means that no additional small or larger developments (as defined under Policy HNP6) would be needed in order to meet Headcorn's Objectively Assessed Need.

Headcorn Parish Council does not consider that the aims underpinning Policy HNP6 could be achieved in any other way. It is not possible to ensure that the scale of development is appropriate, without a policy that sets this out, because developers think in terms of field boundaries to maximise yield, not what scale of development is needed within the parish. Furthermore, sustainability considerations reinforce the idea that small-scale development is best. Headcorn Parish Council considered alternative policy frameworks as part of the Plan developments, but concluded that this policy framework maximised the benefits of development over the plan period and would help ensure that development was sustainable.

Although a recent examiner's report for Sandbach NP rejected the plan's proposal to limit developments to 30 dwellings, the report made clear that this was because of the size and scale of Sandbach and explicitly stated that such a restriction could be appropriate in a village setting. It is very clear that the Sandbach case is not comparable to Headcorn: Sandbach is classified by the ONS as an urban area and is roughly five times the size of

Headcorn; it has direct access to the M6 motorway, as well as four A roads (including part of the Primary Road Network); and it has a train station which gives excellent access to surrounding employment centres, including Manchester and Crewe.

As such any assessment of the sustainability of development in Sandbach would be very different to that of Headcorn. In contrast, to Sandbach, the examiner of Tattenhall Neighbourhood Plan saw no problem with limiting the number of dwellings in individual developments, despite the fact that it was designated as a strategic service centre in Cheshire West. The reason is because context is important for sustainability considerations, and like Headcorn, Tattenhall is a rural village.

### **II.h. Question 11**

Planning Practice Guidance explicitly recognises the right for Neighbourhood Plans to put in place policies to deliver necessary infrastructure provisions.<sup>29</sup> In Headcorn, the need to improve sewerage provision stood out, not just from the evidence provided by residents and the physical evidence of sewerage overflows every time there is heavy rain, but also because local businesses identified it as a key threat to the expansion of the local economy.

Headcorn Parish Council notes that significant development has taken place in Headcorn over many years without any of the necessary upgrades in key sewerage pipes taking place, meaning more sewerage is entering a system that already cannot cope in periods of heavy rain. As such, the “developing-in-parallel” route (which is the current *status quo*) is clearly and demonstrably not delivering the necessary changes. Furthermore, the likely scale of the necessary upgrades to allow key sewerage pipes in the village to cope during periods of heavy rain are likely to exceed the amount that any individual developer could reasonably be expected to provide. Indeed, many developers expressed concern that they would be required to pay for sewerage upgrades in their consultation responses to Headcorn’s Neighbourhood Plan (including those provided at Regulation 14), stating that the need to make sufficient upgrades to the existing system for it to be fit-for-purpose would undermine the viability of developments in Headcorn.

As the current system is not working, Headcorn Parish Council considers that it is right and proper to use the opportunities provided by creating a Neighbourhood Plan to introduce policies to ensure that the upgrades take place, or at a minimum additional development is not imposed that would make the current situation worse. This necessitates the introduction of an alternative policy framework.

Headcorn Parish Council notes that the issues in Headcorn are clearly complex. For example, the promised report on surface water drainage and sewerage that is being produced by Kent County Council (in consultation with organisations such as Southern Water) has been delayed. Headcorn Parish Council considers that it is prudent to wait until both a solution and the necessary funding to amend existing problems have been identified, before further development (with the associated sewerage needs) is introduced. Headcorn Parish Council notes that under planning law developers cannot be expected to fund changes necessary to overcome existing problems, they can only be expected to

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<sup>29</sup> See Paragraph: 045 Reference ID: 41-045-20140306 and Paragraph: 046 Reference ID: 41-046-20140306.

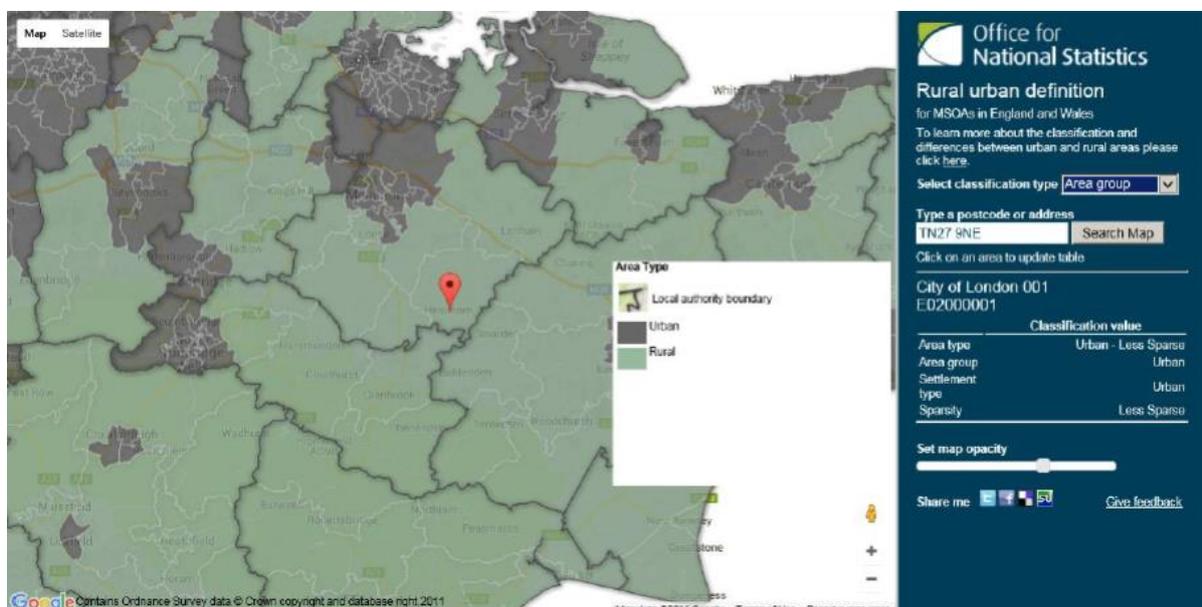
mitigate problems caused by their own development. However, depending on the identified solution, delaying permission for further development until a solution is found would potentially enable new development to become part of the solution, rather than part of the problem.

### **II.i. Question 12**

The NPPF, NPPG and DCLG do not explicitly define “remoteness” in connection with planning in England. However, distance is clearly important for the definition of economic sustainability set out in the NPPF, as demonstrated by the Government’s decision to emphasize the importance of providing housing close to where the jobs are its policy to promote economic growth. Furthermore, government evidence demonstrates that productivity in rural areas is significantly lower than productivity in urban areas, again making rural areas a less sustainable location for development. Therefore, there is no need for an official definition of remoteness for the approach to sustainability taken by Headcorn’s Neighbourhood Plan to be appropriate.

The Office for National Statistics provides a mapping tool that allows checking of the classification of different areas.<sup>30</sup> The results for Maidstone are shown in Figure 1 below, with the location of the centre of Headcorn village marked by the red arrow. It is clear from this that using official government statistics, Headcorn is not only a rural area itself, but it is totally surrounded by rural areas.<sup>31</sup> Indeed, its rural village status is a key part of Headcorn identity, when viewed from the perspective of residents in the Parish.

**Figure 1: Urban versus rural areas in Maidstone Borough**



Given its rural status, proposed development in Headcorn needs to be compatible with NPPF policy in rural areas and in particular the requirement that:

<sup>30</sup> <http://www.neighbourhood.statistics.gov.uk/HTMLDocs/urbanrural.html>

<sup>31</sup> Note the white lines mark the outline of Headcorn ward, which is significantly larger than Headcorn Parish.

*“In rural areas, exercising the duty to cooperate with neighbouring authorities, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate.”<sup>32</sup>*

In addition, NPPF Paragraph 37 explicitly recognises the importance of reducing distances travelled:

*“Planning authorities should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.”<sup>33</sup>*

This requirement to minimise journey lengths is independent of any requirement linked to the provision of public transport. It purely concentrates on distance. Headcorn’s Neighbourhood Plan contains extensive evidence on why development in Headcorn does not meet this requirement, as development in Headcorn would result in significantly above average journeys to reach employment locations, secondary schools and hospitals. However, to illustrate why this is a problem, Headcorn Parish Council notes that only around 2.5% of pupils travel more than 9.4km to secondary school, yet Headcorn’s closest school is 11.4km away.

### **II.j. Question 13**

Policy HNP9 reflects the up-to-date evidence of housing need for Headcorn Parish and will more than deliver any affordable housing needs for Headcorn Parish. Headcorn Parish Council considers that the decision to reduce the target to 20% is necessary in order for Headcorn’s Neighbourhood Plan to meet the definition of sustainability.

Headcorn Parish Council notes that recent evidence published by the British Retail Consortium makes clear that for workers on low pay, living close to where they work is extremely important – much more important than any other consideration in assessing job options. Again this new evidence reinforces the importance of Headcorn’s approach. Headcorn’s distance from local employment centres would therefore place lower paid workers with no connection to the Parish at a very significant disadvantage, making it important that affordable housing provision is provided close to where the jobs are, not in rural areas.

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<sup>32</sup> From Paragraph 54 of the NPPF.

<sup>33</sup> NPPF Paragraph 37.

**CHART 6: Most important reasons to work in Retail**  
**% OF RESPONDENTS CHOOSING THESE AS TOP 3 REASONS**



Source: Tooley Street Research of front line retail employees (October 2015)

**Note:** Taken from “Retail 2020: fewer but better jobs”, February 2016, British Retail Consortium. Results are based on a survey of retail employees earning less than 20% above the minimum wage. When asked to pick their top three reasons for working in retail, by far the most popular choice, picked by almost 60% of those on low pay, was “working near where I live”, with the next most popular category (flexibility in hours) being picked by only around 40% of respondents.

**II.k. Question 14**

The spaces that are to be designated as Local Green Spaces are set out in Section 4.3. As set out in policy HNP4, the spaces that are designated as Local Green Space are shown in Figure 18 on p50 of the Neighbourhood Plan. However, these are marked in blue and Headcorn Parish Council recognises that these markings might be hard to see. Therefore, Headcorn Parish Council proposes updating Figure 18 to show the designated Local Green Spaces more clearly.

The definition of which assets should be given the Community Assets designation is set out in the sentence immediately preceding policy HNP4, which states that these assets are: the village hall, primary school, library, doctors’ surgery, public houses and the many churches and chapels that serve the Parish.

Rather than adding a policy, Headcorn Parish Council recommends that the first bullet of Policy HNP4 is redrafted to read:

*“Will not be permitted where it would result in the loss of a Local Green Space or a Community Asset that serves Headcorn Parish. For the purposes of Headcorn’s Neighbourhood Plan the spaces designated as Local Green Spaces are shown in Figure 18 and Headcorn’s Community Assets are the village hall, the primary school, the library, the doctors’ surgery, the public houses in the Parish and the many churches and chapels that serve the Parish.”*

**II.l. Question 15**

Headcorn Parish Council notes that, since Headcorn’s Neighbourhood Plan was submitted under Regulation 15 in November 2015, planning permission has been granted for two

large planning applications in the village on sites HO-65A and HO3-238. This means that 220 new houses have been granted planning permission since the start of the Plan period (2011-31). Combined with the scale of micro developments envisaged (with around 70 additional dwellings expected over the remainder of the plan period in light of the evidence on the volume of these developments that take place over time), this means that no additional small or larger developments (as defined under Policy HNP6) would be needed in order to meet Headcorn's Objectively Assessed Need.

This has implications for policy HNP7, as it suggests that it would be appropriate to lower the maximum development to take place in smaller and larger development in later sub-periods. However, Headcorn Parish Council notes that Policy HNP7 explicitly allows for the option of reviews in 2021 and 2026. Therefore, it considers that it is not necessary to make these revisions at examination stage. It will, however, update Figures 27 and 39 to reflect these changes.

Headcorn Parish Council does not consider that it would be appropriate to add policies that have not been consulted and that were not included as part of the extensive consultations that have taken place to support Headcorn's Neighbourhood Plan.

# **Appendix 1: Headcorn Neighbourhood Development Plan: Examination Version**

Report to Maidstone Borough Council of the Examination into the Headcorn Parish Council Neighbourhood Development Plan

## Initial comments of Independent Examiner

Independent Examiner, Clare B. Wright MA PG Dip (BRS) MRTPI MILM

Member of NPIERS

3 May 2016

- 1.1. As you are aware I have been appointed to carry out the examination of the Headcorn Neighbourhood Plan and I have now completed my initial assessment of the plan. I have also carried out an unaccompanied site visit to the village and parish.
- 1.2. One of the Examiner's first tasks is to determine whether the examination should proceed via the normal route, namely through an examination of the written material and the representations or whether a public hearing is required should I feel the need to call for further submissions to allow me to adequately examine matters in greater detail.
- 1.3. I have been mindful that since the Steering Group for the Headcorn NDP began their plan, several changes have been made to neighbourhood planning guidance that has resulted in HNBP coming to Examination without attention to the most up to date guidance and case law. This now presents HNBP with some difficulties in its current form in terms of meeting the Basic Conditions. The changes in guidance and impacts on the plan relate, briefly, to the greater weight afforded to the need for up to date evidence supporting a neighbourhood plan where there is only an emerging local plan.

1.4. I have completed my initial assessment and concluded that it will be necessary to call a public hearing to hear further submissions on a number of issues. I set out the questions I wish to explore in this paper. I will prepare an additional note when the arrangements for the hearing have been agreed, setting out how I will conduct the hearing and identify the parties to be invited and the format of the examination.

1.5. The following deals with the matter or questions that I wish to examine further at the public hearing:

1. Bearing in mind national advice which seeks to ensure that neighbourhood plans and emerging local plans have complementary policies, do the findings of the report 'Analysing the Sustainability of Housing Development in Headcorn: How much development would be sustainable?', Analytically Driven, December 2014' support the strategic development needs<sup>34</sup> for the area which forms the basis for the emerging Local Plan as identified in its uptodate evidence base?

2. In what way does the HNDP support the delivery of the objectively assessed need and the housing numbers set out in the uptodate evidence base for the emerging local plan<sup>35</sup>?

3. In what way does the HNDP Sustainability Assessment, predicated on a lower amount of housing figures, support the deliver the objectively assessed housing need<sup>36</sup> set out in the evidence base for the emerging Local Plan?

4. In what way is the HNDP's Sustainability Assessment for proposed sites to be used in the HNDP if these do not form a land allocation in the Plan?

5. Has HNDP been prepared in a positive manner?

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<sup>34</sup> NPPF 16

<sup>35</sup> Planning Practice Guidance: Paragraph: 009 Reference ID: 41-009-20160211, NPPF 49 and 14

<sup>36</sup> Planning Practice Guidance: Paragraph: 009 Reference ID: 41-009-20160211, NPPF 49 and 14

6. How much weight should be afforded to an emerging Local Plan<sup>37</sup> when developing a neighbourhood plan in terms of meeting the guidance set out in the NPPF and delivery of sustainable development?
7. Is it appropriate for the HNDR to challenge the strategic policies<sup>38</sup> of the emerging Local Plan?
8. How would the proposed development boundary facilitate delivery of housing?
9. What is the aim of a policy seeking dispersment of development to 30 units at a time? Could this policy frustrate the Plan from delivering the level of housing required to meet the objective assessment of housing need?
10. Could the aim you have identified in q.9 above be achieved by other means?
11. What is the argument against the Southern Water advice of development proceeding in parallel with agreed improvements to sewerage infrastructure?
12. What guidance exists in the NPPF, NPPG or other CLG related advice to inform decisions on 'remoteness' of a rural area and corresponding appropriateness of development?
13. Does HNDR 9 relating to delivery of 20% of affordable housing deliver the requirements of Adopted policy 'Affordable Housing DPD 2006' that comprises the adopted Borough wide strategic framework for decisions on affordable housing?
14. Policies seem to be missing from HNP relating to allocation of Local Green Space and Community Asset designation upon which HNP 4 is predicated as it seeks to manage these assets. Do you wish to add these policies in or remove HNP 4?

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<sup>37</sup> NPPG Paragraph: 007 Reference ID: 41-007-20140306

<sup>38</sup> NPPF 16

15. Are there any other areas of the HNBP that would benefit from its updating?

In terms of next steps, I will ask at the Hearing: -

16. Would it be appropriate for me to be asked to adjourn the HNBP Examination until after the MBP 2016 has been the subject of its public examination and the Inspectors findings published? This will provide the Parish with the opportunity to place their arguments before the Local Plan Inspector at the Examination In Public, or;

17. Should I be asked to Allow the examination of the Plan to proceed in its current form if my conclusion was that I could not recommend that it does not proceed to Referendum, or;

18. Should I be seeking to amend the Plan to inform the shape of further development, perhaps by removing the policies relating to the scale and location for new housing so that it can proceed to Referendum.

## **Other Matters**

1.6. In addition to identifying the above questions I have also asked Maidstone Borough Council for the following additional information, which with the responses to the above questions will assist my examination. This information along with this note should be put on both the Borough Council's and the Parish Council's website:

- The current position regarding the 5-year housing land supply
- Which are the strategic policies of the emerging Local Plan and their general location in the document. Whether the Rural Service Centre policy comprises a strategic policy and whether the individual, designated Rural Service Centres, that include Headcorn comprise strategic policy?

**Clare B. Wright** MA PG Dip (BRS) MRTPI MILM  
Independent Examiner, Member of NPIERS  
3 May 2016