



Mr R. Mellor
Maidstone Local Plan Inspector
C/O Louise St John Howe
Programme Officer
PO Services
PO Box 10965
Sudbury
Suffolk
CO10 3BF

BY EMAIL ONLY

Growth, Environment & Transport

Room 1.62
Sessions House
Maidstone
Kent
ME14 1XQ
Phone: 03000 415981
Ask for: Barbara Cooper
Email: Barbara.cooper@kent.gov.uk
Your ref:
Our ref: GT/BC/JAC
Date: 20 January 2017

Dear Mr Mellor

RE: Maidstone Borough Local Plan Examination - Interim Findings

I refer to your Interim Findings report dated 22 December 2016, which provides helpful insight on a number of key issues pertinent to the soundness of the emerging Maidstone Local Plan.

Kent County Council has consistently expressed its strongest concerns regarding the application of a demonstrable planning constraint (transport) in the suitability assessment of locations for planned residential growth in the Maidstone Borough. The County Council has carefully considered the detail of the Interim Findings issued and expresses its utmost disappointment in the initial conclusions reached, on both matters of legal compliance and soundness. As the Local Highway Authority, Kent County Council is resolute in its position that the policies and allocations in the Maidstone Local Plan will be severely detrimental to the day-to-day quality of life experienced by communities across the Maidstone Borough, and do not represent the Government's vision of sustainable development.

I appreciate your reluctance to accept further material at this stage, however as paragraph 5.31 of The Planning Inspectorate Guidance¹ establishes, you do have discretion to do so. It is appropriate to exercise that discretion in this case because there are clearly fundamental issues that are not resolved, both in relation to the Duty to Cooperate and the soundness of the Plan.

This letter is intended to provide a number of factual clarifications in order to assist your preparation of a Final Report following completion of the Examination process.

¹ The Planning Inspectorate (June 2016) *Procedural Practice in the Examination of Local Plans* 4th Edition

Matter 1: Duty to Cooperate

In summarising your interim findings on the levels of engagement with key parties (including Kent County Council) on strategic matters, you express the view that Maidstone Borough Council (MBC), “*has sought maximum effectiveness*” in meeting its statutory duties.

The County Council has consistently expressed concerns over the extent to which engagement on transport related matters has informed the plan content. In particular, we have highlighted how the Borough Council chose to disregard the resolutions made by the Joint Transportation Board (JTB) on an Integrated Transport Strategy (ITS) covering the period to 2022 in favour of publishing their own version of an ITS covering the whole plan period of 2011 - 2031. We have also drawn attention to the Borough Council’s use of independently commissioned consultants to develop transport mitigation proposals, without seeking the involvement of the County Council as local Highway Authority.

Such actions appear designed to fit the Borough Council’s own pre-determined conclusions and show an apparent disregard for the compelling findings of the jointly commissioned VISUM traffic modelling. This has undermined the spirit of cooperation in how the Borough Council has sought to impose flawed assumptions on modal shift and mitigation of traffic impact that have not been agreed by the County Council.

The Borough Council’s rationale for this course of action appears to be founded on the status of the JTB as a non-decision making body. The JTB nonetheless represents the established mechanism through which elected members of both the County Council and Borough Council identify how the future transport infrastructure needs of the Borough should be met. The Borough Council’s total disregard of the JTB resolutions means that there is no robust evidence to demonstrate that the joint working has achieved effective outcomes in the future planning of transport infrastructure which is so fundamental in the preparation of Local Plans.

Against this context the County Council is unclear as to how your conclusions regarding the effectiveness of the engagement can be substantiated, particularly as you acknowledge that, “... the minuting of meetings and their outcomes is sometimes incomplete” (paragraph 5). The County Council raised this issue in its Written Statements², stating that the *Duty to Cooperate Compliance Statement* [SUB 005] is inadequate, failing to provide comprehensive and robust evidence to enable a conclusion to be reached on whether engagement has been *constructive*.

The impairment of the effectiveness of cooperation which you acknowledge to have taken place in this case (paragraph 7) does not arise from the failure to agree. The failure to reach agreement in this case is itself a direct consequence of MBC’s unilateral decision to totally disregard the JTB on which its own Members were

² KCC Written Statement, Session 1A – Question 1.8

represented. It is also highly notable that this course of action has been taken by MBC in the face of considerable public opposition.

Matter 3: Housing Supply

South East Maidstone/Other South Maidstone Allocations

In paragraph 37 of your interim report you acknowledge that transport represents one of the main potential constraints to development within the Borough. The evidence made available through the jointly commissioned VISUM traffic modelling has demonstrated how such constraints are most pronounced within the south eastern sector of the Maidstone urban area, due to extensive traffic congestion on the A229 and A274 corridors.

In paragraphs 44 and 61 of your interim report you acknowledge the extent of congestion already prevalent on both of these routes. Furthermore, in paragraph 65 you highlight how the lack of capacity at the Wheatsheaf junction, the point where the two roads converge, will contribute to queues backing up and obstructing other junctions. This point has relevance to highway safety in how worsening delays will increasingly result in traffic diverting onto unsuitable alternative routes through the communities of Otham and Downswood.

The County Council notes that, despite these commonalities, your interim recommendations are founded on different sets of conclusions regarding the A274 and A229 routes. It is noted that you have deemed allocations H1 (29) and H1 (53) to be unsound and recommended that they are removed from the Local Plan due to no adequate mitigation measures on the A229 having been identified. However, illogically, you consider the cumulative impact of all of the allocated sites included within Policy SP3 on the A274 to be appropriately mitigated.

The distinction you have drawn between the two routes appears to be founded on your view that there is evidence to demonstrate that the capacity constraint on the A274 can be overcome through the provision of a bus lane and improvements to junctions. This appears to disregard the reality that neither MBC nor KCC wish to pursue a bus lane scheme, as highlighted in our letter submission³ to the Examination. Our letter drew attention to the resolution made by the Borough Council's Strategic Planning, Sustainability and Transportation Committee on 14 December 2015 to delete the references to the "*widening of the inbound carriageway of the A274 Sutton Road between the junctions of Wallis Avenue and Loose Road*" from the Draft Integrated Transport Strategy. We are not aware of any subsequent MBC decision to reverse their position. The County Council is therefore uncertain why you should seek to impose a form of mitigation that is not proven and not supported by either authority, given the uncertainties this raises over future delivery.

In paragraphs 52 and 54 you refer to S106 monies that have already been secured in relation to bus priority measures on the A274 and express the view that the position of the County Council is unreasonable. This implies that the County

³ ED 076:KCC letter dated 16 November 2016 – see Question 4

Council, as Local Highway Authority, should proceed with the scheme irrespective of its significant concerns regarding the effectiveness of the measure in mitigating congestion and delivering value for money. Such an approach would not serve the best interests of the public and ignores the practical constraints to delivery. Furthermore, the legal advice obtained by the County Council has confirmed that the S106 monies can be lawfully diverted to an alternative form of transport mitigation, namely a study to investigate the Leeds-Langley Relief Road, and are not prejudicial to the planning permissions already granted and implemented. The County Council maintains the view that the S106 monies can be used to identify more effective forms of strategic transport infrastructure that will have a demonstrable impact on travel patterns in this area.

In your findings, you also assert that the diversion of S106 monies to a study investigating the Leeds-Langley Relief Road would, “... *at best delay mitigation by up to 10 years*” (paragraph 55). Notwithstanding the significant concerns that the County Council, as Local Highway Authority, has already expressed about the effectiveness of the proposed bus lane, there are significant issues regarding its deliverability. Namely, the County Council does not own or control all of the land required to widen the A274, which lies within multiple ownerships. Where landowners are unwilling to enter sale negotiations, the process of compulsory acquisition has to be triggered and this routinely incurs significant timing delays. In addition, your view that the bus lane would be “*cost effective*” (paragraph 55) appears to be founded on the argument that S106 monies have already been collected for this purpose, rather than a fuller appreciation of the total cost of implementation and certainty of funding. It also remains unclear how delivery of the bus lane could be expedited, given that neither authority has any desire to pursue such a scheme.

The above practicalities mean that there is no distinction to be drawn from the Leeds-Langley Relief Road as, in the absence of local support, a bus lane is likely to involve a similar or greater delivery timeframe. This uncertainty, coupled with the lack of a robust justification for the bus lane as an effective form of strategic mitigation, is highly relevant to the soundness of the Local Plan.

Paragraph 56 of your report indicates that your preference for a bus lane has been influenced by the Borough Council’s A274 Corridor Study⁴ and the view that the County Council has not provided evidence to demonstrate that a bus lane would disadvantage other road users. It is a fundamental point of principle that when seeking to bring forward bus priority measures in support of planned development, the onus is on MBC, as local planning authority, to establish the soundness of its Local Plan policies and development allocations.

The Corridor Study represents the only evidence provided by the Borough Council in support of such proposals. The County Council provided comments on the study in our letter submission⁵ to the Examination and drew attention to its shortcomings in terms of level of detail and demonstration of benefits. The high-level theoretical analysis within the study does not provide robust or compelling evidence in support

⁴ TRA 028: A274 Corridor Study, Mott MacDonald (2016)

⁵ ED 076: KCC letter dated 16 November 2016 – see Question 5

of this form of mitigation. Therefore the Local Plan fails the tests of soundness on the basis that the identified transport mitigation is not justified and not effective. This in turn raises significant doubts over the soundness of site allocations H1 (7), H1 (8), H1 (9) and H1 (10) included in Policy SP3.

KCC has successfully delivered bus priority measures, including bus lanes, elsewhere in the County in locations, where such provision is known to achieve demonstrable evidence-based benefits for public transport users. A notable example is the innovative Fastrack scheme in Kent Thameside. The critical deficiency associated with the A274 proposals is that they do not provide a continuous and prioritised route for buses between the SP3 allocation sites and Maidstone town centre, where the key trip-end destinations and transport interchanges are located. Any potential journey time advantages for passengers are therefore limited to only a section of the route and buses will still be subject to significant delay on the A229 between the Wheatsheaf junction and the town centre. As such, the 'door-to-door' journey times will not be improved sufficiently to encourage residents to use the bus in preference to the private car.

Case study examples of successful bus priority schemes were referenced in the examination hearings, including Brighton, Poole and Oxford. The fundamental difference is that the local authorities in these locations placed bus travel at the heart of their transport strategies and provided extensive and continuous routes for buses that incentivise bus travel, alongside a package of other complementary measures. It is evident that MBC has not adopted any such approach, given the recent decisions to close the Park & Ride site near M20 J7 and delete the proposed Park & Ride site allocation at Linton. The 2031 timeframe attached to the MBC commitment to increase long-stay parking charges also illustrates the lack of appetite for urgent, co-ordinated action.

The Borough Council has provided no evidence in relation to the complementary measures that would need to support bus priority. These include a car parking strategy for the town, a commercial/pricing strategy for bus travel, enhancements to waiting facilities/information provision and connectivity with other travel modes. Such measures are essential to achieving meaningful levels of modal shift and their absence from the submitted proposals reinforces the lack of a coherent evidence base.

The County Council maintains the view that the benefits of the proposed bus priority measures have not been robustly evidenced and, in the absence of an entire route extending into the town centre, will not realise the level of modal shift required to mitigate the significant additional traffic associated with the proposed development on an already heavily congested network.

With regard to the arising traffic impact from the Sutton Road developments, paragraph 59 of your report states that "*some mitigation measures have been agreed by the County Council to increase junction capacities*". It is important to note that this agreement, made by the JTB, merely identifies those key junctions that require improvements to be implemented. Specific schemes, which will provide strategic rather than piecemeal forms of mitigation, are yet to be developed in the majority of cases, although the County Council is advancing the investigative design

work as evidenced by the feasibility work undertaken on the A229 Loose Road corridor⁶.

In view of the known physical constraints at key junctions in the south eastern sector of Maidstone, such as at the Wheatsheaf and Loose Road/Armstrong Rd/Park Way junctions, it is uncertain whether strategic improvement can be achieved that will mitigate the impact of development. This uncertainty is relevant to the planned developments on both the A229 and A274 corridors. It is therefore unclear why you have drawn seemingly inconsistent conclusions in relation to development on each of these corridors.

The “*transport mitigation payments*” that you refer to in paragraph 53 in relation to sites H1 (7), H1 (9) and H1 (10) are representative of the Borough Council’s piecemeal approach to development and infrastructure planning. The County Council has consistently highlighted how strategic forms of mitigation will be required if plan-led development is to come forward in this already congested part of the town. Accordingly, the County Council maintains the view that site allocations H1 (7), H1 (8), H1 (9) and H1 (10) cannot be regarded as sound.

Matter 6: Monitoring and Plan Review

The County Council welcomes the recommendation that there should be a policy commitment to undertake a review of the plan, with a target adoption date by April 2021. It is essential however, that the components of the plan requiring review are clearly identified within the policy so that the substance of this process is understood by all.

As noted above, the County Council maintains the view that the suitability of site allocations H1 (7), H1 (8), H1 (9) and H1 (10) should be assessed as part of the review. This is to enable further investigative work to be completed within defined timescales (and ideally jointly with MBC) on options for strategic mitigation that will prevent the unacceptable worsening of severe congestion on the A229 and A274 corridors. This approach will enable the outline business case and indicative funding model supporting a Leeds-Langley Relief Road to be reviewed against other alternative transport options, having regard to the potential implications on modal shift, traffic flow conditions and air quality.

Yours sincerely



Barbara Cooper
Corporate Director
Growth, Environment & Transport

⁶ ED 043B: Maidstone Integrated Transport Phase 2 A229 Loose Road feasibility report