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BY EMAIL ONLY

13 June 2023

Dear Sir/Madam,

Re: Maidstone Borough Council Design and Sustainability Development Plan Document – Preferred Approaches Regulation 18 Consultation

Thank you for consulting Kent County Council (hereafter referred to as the County Council) on the Maidstone Design and Sustainability Development Plan Document (DPD) and the Interim Sustainability Appraisal.

The County Council has reviewed the documents and for ease of reference has provided comments structured under the chapter headings within the DPD and the Interim Sustainability Appraisal.

Design and Sustainability DPD - Preferred Approaches Document

Chapter 1 Introduction

1.3 Purpose of the D&S DPD

Heritage Conservation: The County Council considers that the goal of the DPD is to build attractive and sustainable communities. It is the view of the Heritage Conservation Service that, in order to do this, the document will need to draw on Maidstone's heritage to be successful. The historic buildings, archaeological sites and monuments and historic landscape provide a range of opportunities that can serve to enhance life in the Borough. However, they also have vulnerabilities that must be recognised to prevent new growth from negatively impacting on them and reducing the attractiveness of Maidstone. The County Council would therefore advise Maidstone Borough Council to develop a Heritage Strategy to support the DPD.

The goals of a Heritage Strategy are:

- To identify and describe the key themes of relevance of the heritage in the Borough and the heritage assets that represent them.
- To assess the role that these can play in regeneration and tourism.
- To identify heritage assets' vulnerabilities and the opportunities they provide.
- To inform site allocations within the Borough.
- To support policy development.

The County Council would advise Maidstone Borough Council to have a strategy which would also be compliant with paragraph 190 of the National Planning Policy Framework (NPPF) which requires local authorities to have a "*positive strategy for the conservation and enjoyment of the historic environment.*" This would greatly support the placemaking and design work at the heart of this DPD.

1.6 Justification and Evidence Base

Highways and Transportation: The County Council, as Local Highway Authority, is supportive of the DPD as a means of ensuring full weight is given to high quality design and sustainability in the decision-making process on planning applications for new development.

The County Council is also supportive of the evidence underpinning the DPD which is important in achieving layout designs that are suitable for adoption by the County Council as publicly maintainable highway.

Chapter 2 The Maidstone Design & Sustainability Approach

2.4 Maidstone's Priority Outcomes for Good Design

Public Rights of Way (PRoW): The County Council is keen to ensure its interests are represented with respect to its statutory duty to protect and improve PRoW in the County. The County Council is committed to working in partnership with local and neighbouring authorities, councils and others to achieve the aims contained within the [KCC Rights of Way Improvement Plan](#) (ROWIP) and the KCC [Framing Kent's Future](#) strategy for 2022-2026. The County Council intends for people to enjoy, amongst others, a high quality of life with opportunities for an active and healthy lifestyle, improved environments for people and wildlife, and the availability of sustainable transport choices.

The County Council provided comments on the Scoping, Themes and Issues Regulation 18 consultation in November 2022 (Appendix A), with the hope for these to be positively addressed to promote active travel and the PRoW network within the Borough. It is therefore disappointing that there is little reference to either the PRoW network (with only one reference to Rights of Way specifically) and minimal reference to active travel. The County Council notes this consultation and the DPD seek to complement the emerging Maidstone Local Plan and without specific reference to the opportunities that the PRoW network can offer, the duty to improve and protect, together with funding opportunities, will not be met. It

is noted that there is also no reference to the objectives of the KCC ROWIP, which contributes towards more sustainable development, delivers active travel options, and provides opportunities for exercise, leisure, and open-air recreation. The County Council is therefore concerned with the omission of any reference to this statutory document.

The County Council recommends that the 'Movement' section references all routes, including off-road routes and Rights of Way, rather than just a "*connected network of streets*". This will ensure overall connectivity and sustainability in the Borough.

Chapter 3 Maidstone's Places

3.1 Approach to Characterisation of Maidstone Borough

PRoW: The County Council advises that all descriptions of the areas within Maidstone Borough, from Urban and Town to Villages and Settlements, should specifically include reference to the PRoW network. The significance of PRoW should also be referenced and included within the "*landscape characteristics, which should form the basis of design cues*".

3.2 Maidstone Town Centre

Highways and Transportation: The County Council notes that Figure 5 contains errors in the railway station locations, the labelling/colour coding of the railway lines and the labelling of the A249. It is advised that these are amended accordingly.

3.3 Maidstone Urban Area

Highways and Transportation: It is recommended that the second paragraph on page 40 is revised, as it contains an error in describing the radial corridors and should reference the A274.

The County Council also notes that Figure 6 contains errors in the colour coding of the railways and should therefore be modified to accurately represent Maidstone Urban Area.

Heritage Conservation: The County Council recognises that the current text rightly highlights the importance of Maidstone's historic parks and gardens. However, if this resource is to play its full role, there is a clear need to ensure this approach is evidence based. At present, the main information resource for the local (as opposed to Registered) historic parks and gardens of Maidstone is the 1996 Compendium of Historic Parks and Gardens (KCC and the Kent Gardens Trust). The Compendium needs reviewing in order to ensure that it is brought up to date and that the significance of the Borough's gardens is properly assessed. Only then can it be used to manage and, where possible, enhance this extremely important resource. The County Council has recently been working on a number of such reviews with the Kent Gardens Trust and welcomes the opportunity to discuss an update for Maidstone with Maidstone Borough Council.

3.5 Settlements in the Wealden Greensand – 3.6 Villages in the Low Weald

Highways and Transportation: The County Council notes that references to the number of bus services serving each settlement may quickly become outdated due to the ever-changing nature of the bus network. These are therefore recommended to be removed from the DPD.

3.5.7. Sutton Valence

Highways and Transportation: The County Council would recommend that the text on page 72 is revised as Sutton Valence does not have a rail station.

Chapter 4 Maidstone Borough Design and Sustainability Requirements

4.1 Overarching Design & Sustainability Principles

PRoW: The County Council recommends that the 'Open Space and Nature' section references PRoW, as it is a key component of green infrastructure and provides the means for people to exercise active travel choices in making connections within their community and with neighbouring communities. The 'Movement' section would also benefit from the inclusion of PRoW, to encourage local journeys on foot or bicycle.

4.2 Placemaking

PRoW: The County Council is disappointed with the omission of how PRoW opportunities can provide benefits to sustainability, health and access, and would advise that these are included in this section. It is also recommended that point (1) '*Understanding the Context, Character and Identity*' should include specific reference to the PRoW network in terms of landscape, character, open space and accessibility, as previously advised.

Heritage Conservation: The County Council recognises that the Maidstone Borough has been shaped and influenced by a long history, the legacy of which is a strong and rich cultural heritage. In addition to an extensive and important archaeological heritage from prehistory, Roman, Anglo-Saxon and Medieval and later periods, the Borough contains highly visible built heritage. A range of industries have shaped the Borough, including paper-making, brewing, extraction and transportation. Buildings have been constructed from local materials in the form of ragstone, clay and timber. The wider landscape of the Borough is also historic in nature, containing numerous ancient routeways as well as historic woodland, farms and farmsteads. There is a rich resource to draw on when placemaking. However, Maidstone does suffer from a lack of placemaking tools. As mentioned above there is, as yet, no Heritage Strategy for Maidstone. The [Historic Landscape Characterisation](#) (2001) for Kent needs to be refined and detailed for Maidstone as has happened in Tunbridge Wells and the Hoo Peninsula - many of the Conservation Areas in Maidstone borough still lack appraisals. The Local List of Heritage Assets seems to have been added to since the 1970s. These tools have the potential to contribute to placemaking by helping integrate new development into what is already there and the County Council would recommend that they are further developed and enhanced through this document.

Policy D&S DPD PM1: Placemaking

Highways and Transportation: The County Council considers that Policy PM1 would benefit from greater clarity on how a 20-minute neighbourhood is intended to represent the upper limit of a two-way journey on foot. The text is also recommended to include definitions to confirm what is meant by large and small scale development.

4.3 Streets and Buildings

Policy D&S DPD S1: Built Form

Highways and Transportation: The County Council advises that Policy S1 should highlight the need for street trees and lighting to be co-ordinated together to ensure that foliage does not impact light exposure in new development.

Sustainable Urban Drainage Systems (SuDS): The County Council, as Lead Local Flood Authority, has reviewed the documents and is generally supportive. However, it is recommended that section 4(e) of this policy could also consider the utilisation of SuDS within the green infrastructure areas in order to maximise the multiple benefits that these areas can provide.

Policy D&S DPD S5: High Quality Public Realm and Streetscene

Highways and Transportation: It is recommended that Policy S5 acknowledges that areas of public realm forming part of the publicly maintained highway will need to accord with the County Council's requirements in terms of layout, design and materials.

Policy D&S DPD S6: Off-Street Parking

Highways and Transportation: The County Council would advise that the following points are considered in respect of this policy:

- parked vehicles overhanging the footway should be avoided;
- garages are not normally counted as part of the parking provision;
- tandem parking is generally under-utilised and should be discouraged;
- unallocated visitor parking is usually more efficient than allocated provision;
- the scope for shared parking, which optimizes parking capacity by allowing complementary land uses to share spaces, rather than producing separate spaces for separate uses;
- the need for dedicated disabled, motorcycle, van and delivery/servicing parking; and
- the need for a mix of active and passive EV charging.

Policy D&S DPD S7: On-Street Parking

Highways and Transportation: The County Council does not currently allow private Electric Vehicle Charging Points to be installed on the highway or charging cables to be brought from a private property onto the highway. Any Borough Council application to place an Electric

Vehicle Charging Point on the highway is the subject of an application process, and this is recommended to be included within the policy.

4.4 Open Spaces and Nature

PRoW: The County Council recommends that reference is made to the PRoW network with regard to either development or public amenity and enjoyment of landscape.

Sport and Recreation: The County Council notes that the previous Scoping, Themes and Issues Regulation 18 consultation document mentioned that Sport England was reviewing its Active Design guidance - this [guidance](#) has now been published and should be considered accordingly.

Heritage Conservation: The County Council refers to its previous comments made in relation to Placemaking which are also applicable in the 'Open Spaces and Nature' section - in particular, the suitability of Historic Landscape Characterisation for informing decision-taking at the landscape level and the role it can play in connecting urban centres with the surrounding countryside.

Policy D&S DPD ON1: Landscape and the Setting of Places

PRoW: The County Council recommends that this policy refers to PRoW, to ensure that development proposals consider the views of the local landscape on the PRoW network.

Policy D&S DPD ON2 Open Spaces

PRoW: The County Council would advise that reference is made to PRoW within this policy, as they provide routes for more sustainable transport, be it for leisure purposes or for providing access to places of work, education or facilities.

SuDS: The County Council notes that this policy is in conflict with the supporting policy guidance, in that 1(b) states "To optimise their environmental, social and recreational potential by providing multifunctional all year-round activity useable space for a range of activities," with the supporting guidance stating that (as per the [National Design Guide](#)) green spaces should take into account "their potential to contribute to a strategic green infrastructure system, and to water management." The County Council requests clarification on whether Maidstone Borough Council considers it acceptable for an area of open space to be utilised for water management if it prevented all year round use.

Policy D&S DPD ON3: Biodiversity, Geodiversity and Nature Recover

Biodiversity: The County Council considers that this policy is well-worded and includes reference to key aspects such as biodiversity net gain and enhancement, connectivity and protection of designated sites. In respect of point (g), the County Council acknowledges that this aligns with the wording of the NPPF. In practice, however, it is advised that the protection of locally designated sites requires more support and the County Council requests that the following wording is also included, which details the minimum level of protection to be afforded to any designated site:

*“g) Protects designated sites and gives them appropriate weight according to their importance and the contribution they make to wider ecological networks and nature recovery; **Development which has potential to lead to the loss or deterioration of any designated site in the Borough, will be avoided. Where avoidance is not possible, full justification for impacts and provision of an appropriate mitigation and compensation strategy will be required.**”*

Supporting Policy Guidance for Policy D&S DPD ON3: Biodiversity, Geodiversity and Nature Recover

Biodiversity: The County Council welcomes the guidance in the ‘Enhancing Biodiversity’ section, which helps new developments in supporting wildlife. In other paragraphs of this chapter, there is repeated reference to areas for nature and wildlife providing space for recreation, sport and fitness. There is capacity within spaces such as urban parks to achieve both undisturbed areas for wildlife and more public areas for recreation. However, the County Council advises that under Biodiversity Net Gain, areas used for recreation will need to be separate from those where Biodiversity Net Gain has been stipulated if target habitats are to be achieved. For example, dog-walking areas are not conducive to the development of low nutrient grassland habitat. Similarly, breeding birds, mammals and reptiles are highly sensitive to human disturbance.

Policy ON4: Biodiversity Net Gain

Biodiversity: The County Council notes the sentence in point 1(c) of this policy: *“Consideration should be given to landscape character when developing proposals for biodiversity net gain”*. The County Council is not aware of the reference to *“landscape character”* within existing Biodiversity Net Gain legislation or guidance. Habitat type within the site and surrounding area, and creation of connected areas at landscape scale, will be the principal focus of Biodiversity Net Gain. This may include elements of landscape character, however, heritage and historical land use are not considered within Biodiversity Net Gain. The County Council would therefore ask that this policy is amended.

The County Council would recommend the following amendment to point 3(a) of this policy, to distinguish between mitigation and compensation required for Biodiversity Net Gain and that required for other purposes, such as protected species and designated sites:

*“a) All development required to provide biodiversity gain must provide appropriate mitigation and compensation **for habitat loss** in accordance with the mitigation hierarchy.”*

4.4.5 Sustainable Drainage Systems (SuDS)

Heritage Conservation: The County Council notes that SuDS may have both direct and indirect impacts on the historic environment. Direct impacts could include damage to known heritage assets – for example, if a historic drainage ditch is widened and deepened as part of SuDS works. Alternatively, they may directly impact on unknown assets such as when SuDS works damage buried archaeological remains. Indirect impacts are when the ground conditions are changed by SuDS works, thereby impacting on heritage assets. For example, using an area for water storage, or improving an area’s drainage can change the moisture

level in the local environment. Archaeological remains are highly vulnerable to changing moisture levels which can accelerate the decay of organic remains and alter the chemical constituency of the soils. Historic buildings are often more vulnerable than modern buildings to flood damage to their foundations.

When SuDS are planned, it is important that the potential impact on the historic environment is fully considered and any unavoidable damage is mitigated. This is best secured by early consideration of the local historic environment following consultation with the Kent Historic Environment Record (HER) and by taking relevant expert advice. The County Council has produced advice for SuDS and the historic environment (Appendix B), which provides information about the potential impact of SuDS on the historic environment, the range of mitigation measures available and how developers should proceed if their schemes are believed likely to impact on heritage assets. The County Council would advise that this guidance is taken into consideration.

Policy D&S DPD ON6: Green Infrastructure

PRoW: The County Council recommends that reference is made to PRoW and the ROWIP in this policy, as they provide a significant role in facilitating active travel, improving access to amenities and providing opportunities for leisure and recreation.

Supporting Policy Guidance for Policy D&S DPD ON6: Green Infrastructure

Biodiversity: The County Council notes the following sentence in the supporting policy guidance: *“Native trees and shrubs and longer-lived species should be selected where possible and appropriate as they support a greater variety of wildlife, are often more suited to local conditions and better reflect the character of the wider countryside”*. The County Council welcomes the preference for native species but would advise that stronger wording is used to replace *“where possible”*. Non-native plant species growing in the wild are now known to outnumber native species (Botanical Society of Britain and Ireland, Plant Atlas 2020) and the County Council would advise that planting of native species should be seen less as an option and more as an imperative. Under Biodiversity Net Gain, native species accrue higher unit values than non-native species (usually at least doubling the unit value), and incorporation of native species landscaping as standard will therefore become increasingly important as part of viable Biodiversity Net Gain proposals.

Relationship with Landscape Strategy

Biodiversity: The County Council would recommend that the last paragraph under this heading is revised to include reference to insect and pollinator diversity:

*“Creating avenues of a single species normally helps to deliver the necessary formality for main streets and spaces, applicants should nevertheless avoid over-long stretches of the same species to safeguard against the risk of tree losses through disease. **Planting a diverse range of native species will also result in increased diversity of insects and subsequently birds, bats and other foraging species.**”*

Tree species

Biodiversity: The County Council welcomes the inclusion of the most suitable native species for street tree planting. However, the following non-native species are recommended to be removed from the list as they provide negligible biodiversity value:

- Italian alder
- Pin Oak
- Maidenhair tree
- Turkish Hazel
- Sweet Gum tree
- Strawberry tree
- Lavelle Hawthorn
- Chinese Privet

Tailoring Choice of Species

Biodiversity: The County Council notes the following paragraph in this section: “*Areas of the ubiquitous, ‘estate’ planting of ornamental ground-cover shrubs (such as Berberis, Pyracantha, Photinia and Mahonia) are not appropriate in developments within villages. Locally non-native or invasive species such as laurel, leylandii, buddleia, European bluebells, rhododendron and cotoneaster should also be avoided, as should imported topsoil and other mechanisms which could introduce pests and diseases.*” It is recommended that, in terms of protection and enhancement of biodiversity and achievement of Biodiversity Net Gain, planting of ornamental shrubs is similarly inappropriate within more urban areas. Given that most development occurs within urban sites, planting of native species within urban areas will have a proportionately greater impact on the increased provision of native species landscaping and provide further benefits for biodiversity.

Policy D&S DPD ON7: Protection of Dark Skies

PRoW: The County Council considers that this policy should include the effect of light pollution and glare on rural PRoW, to ensure that development does not adversely affect the amenity of the PRoW network.

Biodiversity: The County Council recommends that the policy wording is amended as follows:

*“c) as well as managing luminosity levels, lower temperature levels, **automatic timers and dimmers** should be used ~~and where possible automatic timers and dimmers used~~ **unless justification is provided in the form of health and safety or other relevant risk.***

*g) Where lighting of a landmark or heritage feature is proposed, the level and type of illumination used would enhance the feature itself, **and will not impact on wildlife throughout the night.***

*Development proposals will need to take into account the Institute of Lighting Professionals guidance, **the Bat Conservation Trust Guidance Note 08/18 Bats and Artificial Lighting in the UK (or later amendments), A Review of the Impact of Artificial Lighting on Invertebrates (Buglife, 2011)** and other relevant guidance such as that from the International Dark-Sky Association and AONB Units.”*

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Biodiversity: The County Council proposes the following modifications to the second paragraph on this page:

*“Applicants should consider the environmental zone of the development when designing external lighting. The following limits should be used as a guide in designing external lighting. **Where maximum values are reached the duration of the lit period should be limited to reduce impacts on biodiversity in both urban and rural areas.**”*

Maximum values of vertical illuminance on premises

Biodiversity: The County Council welcomes the wording of the first paragraph on this page, but would recommend this is strengthened as proposed below:

*“It is not expected that any external lighting would be required in Natural areas, and in Rural areas it should only be used where it is absolutely necessary, and should conform to the Institute of Lighting Standards **and listed guidance under Policy ON7, and be restricted to night time switch-off.** Site-specific solutions should be created that minimise light pollution and glare in context. Where lighting is needed, the suburban impact of street ‘clutter’ of a proliferation of lighting columns, uncharacteristic in many of Maidstone’s villages, can be minimised through a more place-sensitive product selection; a combination of Passive Infrared lights on building access points (e.g. porch lights), low level bollard lighting on key public routes, and **downward facing only** wall-mounted lighting within parking courts.”*

4.5 Movement

Policy D&S DPD MO1: Layout and Movement

Highways and Transportation: The County Council would advise that Policy MO1 highlights the need for street trees and lighting to be co-ordinated together to ensure that that foliage does not impact light exposure in new development.

PRoW: The County Council recommends that this policy references PRoW to avoid the risk of losing opportunities for funding through development for upgrades and improvements to the network. The reference to “*footpaths*” is incorrect and requires amendment to the below:

*“The movement network (streets, public transport network, cycleways and ~~footpaths~~ **the Public Rights of Way Network, including Public Footpaths, Bridleways, Restricted Byways and Byways Open to all Traffic**) should:”*

The reference at point (g) to “*carefully integrate rights of way*” is positive, however the County Council would recommend that this point is expanded on. The County Council has a duty to protect and enhance the network and PRow should be positively incorporated into development, the surrounding area connectivity should be taken into account and new links by means of upgrading rights or creation of new routes should be included.

Policy D&S DPD MO2: Design for All

PRow: The County Council would advise that reference is made to [Paths for All - Outdoor Accessibility Guidance](#) within this policy, which aims to make outdoor spaces, routes and facilities more accessible, and outdoor experiences more inclusive.

4.5.3. Active Travel

PRow: The County Council notes that the priority for active travel should not just be cycling. Active Travel England has cited Central Government’s “[strategy and vision for walking and cycling where half of all journeys in towns and cities are walked and cycled by 2030.](#)” It is therefore recommended that the DPD includes reference to how PRow routes can be used for both commuting/active travel and leisure purposes. The County Council would highlight that investment in these routes can help to realise this strategy.

Policy D&S DPD MO3: Plan for cyclists

Highways and Transportation: The County Council would recommend that this policy incorporates parking for adaptive bicycles and, at non-residential developments, to encourage the provision of showering/clothing storage facilities.

PRow: The County Council would advise Maidstone Borough Council to prepare a Walking and Cycling Strategy, particularly for links within and from new developments to existing community facilities.

Supporting Policy Guidance for Policy D&S DPD MO3: Plan for cyclists

Highways and Transportation: It is noted that the proposed cycle parking standards differ from [Supplementary Planning Guidance \(SPG4\): Vehicle Parking Standards](#) in requiring higher levels of cycle parking. The principle of encouraging greater uptake of cycling through increased parking is supported, however, the County Council would welcome further dialogue with the Borough Council on the standards as part of ensuring that a consistent approach across the county can be achieved.

4.6 Sustainable Buildings

Historic Assets

Heritage Conservation: Historic England has produced a range of guidance on the role that heritage can play in mitigating climate change and historic building adaptation, including the [Climate Change Adaptation Report](#) (2016). The guidance demonstrates that historic structures, settlements and landscapes can at times be more resilient in the face of climate

change, and more energy efficient than more modern structures and settlements. This has also been updated in the Historic England report [There's no Place Like Old Homes: re-use and Recycle to Reduce Carbon](#) (2019). This could usefully be highlighted in the text which, at present, suggests that energy efficient housing must only be exhibited by new buildings.

4.7 Design Quality

4.7.2 Masterplanning

PRoW: The County Council would recommend that the PRoW network is included on all Masterplans to show the wider area context for connectivity purposes.

Heritage Conservation: The County Council would advise that new layouts should complement existing historic settlement patterns and be undertaken sensitively, and existing patterns should be retained as much as possible. It is expected that planners will ensure that developments respect the existing settlement in terms of scale, layout and orientation so that the pre-existing historic settlement is not diminished by the new development.

Detailed Historic Landscape Characterisation can greatly assist with this by revealing the underlying pattern of tracks and lanes, hedgerows and planting that has developed in an area over centuries. This can be drawn upon to help create sustainable communities with appropriate linkages and through routes, as well as by identifying historic features that can help give a sense of place to new development. The County Council would suggest that the DPD commits the Borough Council to revising the 2001 Historic Landscape Characterisation and would welcome further discussion on this matter.

Policy D&S DPD DQ2: Masterplanning

PRoW: The County Council recommends inclusion of the PRoW network in this policy to ensure positive incorporation and area connectivity.

4.7.5. Materials and Detailing and Policy D&S DPD DQ5: Materials and Detailing

Minerals and Waste: The County Council, as Minerals and Waste Planning Authority, does not consider that section 4.7.5 'Materials and Detailing', and Policy D&S DPD DQ5: Materials and Detailing demonstrate an appropriate understanding of how local minerals have historically been used. The County Council would recommend that the DPD is more explicit in this regard, by stating that the area's safeguarded minerals will play an important part in maintaining the fabric of historical structures and play an important role in maintaining the local architectural vernacular in new built structures and dwellings.

Interim Sustainability Appraisal

Chapter 3 Sustainability Appraisal Findings

3.3.3 Policy ON3: Biodiversity, Geodiversity and Nature Recovery

SuDS: The County Council, as Lead Local Flood Authority, is surprised to note that Policy ON3 is rated neutral for water (Objective SA10) in the Interim Sustainability Appraisal, given the supporting guidance references that it supports water management. Similarly, Policy ON6 specifically references flood mitigation, however, it scores neutral in the Sustainability Appraisal findings. The County Council would therefore request clarification on these points.

Biodiversity Net Gain Topic Paper

Chapter 2 Legislative Requirements

Page 2

Biodiversity: The County Council recommends that paragraphs 1 and 2 of this page are amended. Words such as “*common*” when referring to habitats detract from the point that biodiversity is experiencing widespread decline. The national decline in biodiversity for several decades means that no habitat loss can be considered as insignificant. Furthermore, the County Council disagrees with the statement that the current system likely avoids the most severe impacts on biodiversity and protects the best sites for wildlife. Approved development is resulting in the continual loss and degradation of such sites and habitats. The potential value of Biodiversity Net Gain in reversing biodiversity decline in the long term and all associated benefits for human and social health, cannot be overstated.

Managing off-site enhancements

Biodiversity: The County Council would advise that this paragraph is amended to remove the negative term “*onerous*” in relation to the Biodiversity Metric scoring. There is an urgent need to slow the widely evidenced decline in biodiversity and to retain ecosystem services. Biodiversity Net Gain provides the only consistent approach to this for the majority of development and the current extent of often-associated net habitat loss. The suggested amendment is as follows:

~~“The Biodiversity Metric scoring is onerous and many development~~ **Due to the proposed size of the developed area within many sites, development may need to offset its impacts off-site, since to rely on on site provision may reduce the developable area so significantly that development could become unviable..... such that both the development and achievement of Biodiversity Net Gain in accordance with the requirements of the metric can be viably achieved....”**

Biodiversity: The County Council acknowledges that the consultation is considering if exemptions should also be made for the creation of biodiversity gain sites, self-builds and custom housebuilding. It is noted that recent guidance provided by DEFRA confirms the following exemptions: Development affecting very small areas of habitat (<25m² or 5m linear habitats); householder applications; small scale self/custom house builds; sites being enhanced for wildlife. Brownfield, change of use and temporary applications are not exempt. Regarding smaller sites, the County Council notes that there will be a delay to Biodiversity Net Gain requirements to April 2024, and for Nationally Significant Infrastructure Projects, this requirement will be no later than November 2025.

Chapter 3 National Policy and Guidance

3.3 Other National Guidance - Natural England's Biodiversity Metric

Biodiversity: The County Council proposes the following modifications to this chapter:

3rd paragraph: *"The relative value in biodiversity units 'post development' is then deducted from the 'baseline' to give a value for the extent of change. If a **minimum 20%** 'net gain' is achieved on-site, there is no need to consider off site measures."*

4th paragraph: *"The total change in units needs to be sufficient to ensure a **minimum 20%** 'net gain' is achieved."*

6th paragraph: *"The Metric also lists a variety of habitats that are specifically found or could be provided as BNG within an urban context. This includes allotments, biodiverse green roofs, green walls, shrubs, urban trees and sustainable urban drainage features. **While not always specified within the metric, the use of native species over non-native will be recommended to achieve actual biodiversity net gain. Unit values for native habitats achieve greater unit values than non-native/ornamental due to the higher value for the distinctiveness multiplier.** Some of these habitats and measures may be more achievable for proposals situated within the built-up area of Maidstone. The assumption is that all proposed measures should be appropriate to the development, site location and surroundings, **and provide adequate compensation relative to the habitat types being lost.**"*

7th paragraph: *"Although species-based measures such as swift bricks do not count as measurable BNG, these types of measures **are still required for biodiversity enhancement (additional to BNG) in accordance with the NPPF.**"*

Chapter 6 Discussion and Conclusions

6.2 Conclusions for DPD policies

Biodiversity: The County Council notes the last two bullet points in this section and would advise that there is a need to distinguish between the term “*enhancement*” under the NPPF and “habitat enhancement” (or creation) as achieved under Biodiversity Net Gain.

In relation to the last paragraph regarding biodiversity compensation, the County Council notes that under the Environment Act 2021 and subsequent Biodiversity Net Gain guidance produced by DEFRA, appropriate management, monitoring and retention of all onsite and/or offsite Biodiversity Net Gain will need to be secured for a minimum 30-year period. This will be agreed through an appropriate legal agreement (Section 106 or similar) between the landowner/developer and Local Planning Authority as part of the planning application process.

KCC would welcome continued engagement as the DPD progresses. If you require any further information or clarification on any matters raised above, please do not hesitate to contact me.

Yours sincerely,



Stephanie Holt-Castle
Director for Growth and Communities

Encs:

Appendix A: 15.12.2022 KCC Response to Maidstone Design and Sustainability DPD Regulation 18 Consultation

Appendix B: KCC Guidance on the Historic Environment and Sustainable Drainage