

EXAMINATION OF THE MEDWAY COUNCIL LOCAL PLAN 2041

HEARING STATEMENT

THE INDEPENDENT GROUP (TIG) ON MEDWAY COUNCIL

MATTER

Matter 1 - Legal and Procedural Requirements

ISSUE

Whether the relevant legal and procedural requirements have been met in the preparation of the Plan and whether the Plan is legally compliant.

Representor	The Independent Group (TIG) on Medway Council
Representor ID	E.37
Relevant MIQs	1.4, 1.5, 1.6, 1.8, 1.9, 1.10, 1.12 and 1.16
Hearing session	15 September 2026 - AM session (10.00 am - 1.00 pm)
Statement date	27 August 2026
Word count	2,809 substantive words

Submitted on behalf of The Independent Group (TIG) on Medway Council
Councillor Michael Pearce, Planning Spokesman

1. PURPOSE AND STATUS OF THIS STATEMENT

- 1.1 This Hearing Statement is submitted by The Independent Group (TIG) in relation to Matter 1 - Legal and Procedural Requirements. It addresses only the Inspectors' Matters, Issues and Questions (MIQs) identified below and should be read alongside TIG's Regulation 19 representations listed in section 6.
- 1.2 This statement does not introduce new evidence or new arguments. It focuses and, where necessary, clarifies TIG's existing Regulation 19 concerns concerning SA/SEA and reasonable alternatives, HRA and mitigation certainty, and consultation. Later examination material is referred to only insofar as it bears upon those existing issues.

2. TIG'S POSITION AT A GLANCE

Overall answer to the Matter / Issue

- 2.1 TIG considers that the Plan cannot presently be found legally compliant and sound on the matters identified below. The Submission HRA undertakes Appropriate Assessment but leaves the North Downs Woodlands SAC air-quality integrity conclusion outstanding. For recreational pressure, TIG considers Bird Wise/SAMMS ineffective for the scale and location of growth proposed, while additional Hoo Peninsula mitigation remains uncertain and incomplete.
- 2.2 For SA/SEA, TIG's concern is not that an urban-focused alternative was omitted altogether, but whether the materially evolved submission strategy was transparently justified against the reasonable strategic alternatives after significant changes to the preferred package of sites.

Soundness / legal test engaged

- 2.3 The principal requirements engaged are the Environmental Assessment of Plans and Programmes Regulations 2004, the Conservation of Habitats and Species Regulations 2017, the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Council's Statement of Community Involvement. Insofar as the assessment of reasonable alternatives bears upon the selected spatial strategy, TIG also relies on the test that the Plan should be justified.

Main Modification / action sought

- 2.4 TIG's primary position is that the identified deficiencies must be satisfactorily resolved before the Plan can be found legally compliant and sound. If they can genuinely be remedied through limited further work and Main Modifications without materially recasting the submitted strategy, TIG accepts that course may be available.
- 2.5 If, however, lawful remediation requires substantial new SA/SEA or HRA work, significant reconsideration or redistribution of strategic development, or changes which would in substance amount to preparation of a materially different Plan, TIG considers that the Plan should not be adopted and withdrawal and re-preparation would be appropriate.

3. RESPONSES TO THE INSPECTORS' MIQs

- 3.0 The changes identified below are without prejudice to TIG's position at paragraphs 4.2-4.3. If any defect cannot be remedied by limited further work and Main Modifications without materially recasting the submitted Plan, TIG seeks non-adoption, withdrawal and re-preparation.

3.1 MIQ 1.4 - SA and HRA assessment

TIG's answer: Not fully demonstrated.

Reasoning...

- 3.1.1 A3.1-A3.3 comprise the Council's SA exercise and A4.1-A4.3 materially advance the HRA beyond the interim document available at Regulation 19. However, A4.1 paragraph E9 states that further evidence is required before a no-adverse-impact-on-site-integrity (no-AIOSI) conclusion can be reached for air-quality effects on the North Downs Woodlands SAC; paragraph 9.2.1 repeats that position.
- 3.1.2 The Inspectors also asked whether the SA required updating because it pre-dated later key evidence (MLP/ED5, Q15). The Council responded that a proportionate review of the evidence base was required (MLP/ED6, Q15). MLP/ED12 subsequently reviewed updated SFRA evidence and concluded that no SA update was required in relation to flood risk. TIG asks the Council to identify whether, and where, the SA implications of the other significant post-Regulation 19 evidence identified by the Inspectors, including the Submission HRA and updated transport evidence, have similarly been reviewed.

Regulation 19 basis: TIG Main Representation, Chapters 1.2-1.3, 6 and 7; E.37, particularly SDLP 112, 113 and 117.

Change necessary: Complete the HRA integrity process and provide any supplementary SA/SEA explanation or assessment necessary to address later evidence.

3.2 MIQ 1.5 - International nature sites and the evidence trail

TIG's answer: Not yet fully demonstrated.

Reasoning...

- 3.2.1 TIG's Regulation 19 objection concerned an interim HRA. A4.1-A4.3 now provide screening and Appropriate Assessment, so TIG does not rely merely on the former HRA's interim status. The issue is whether the current evidence supports the required integrity conclusions with sufficient certainty.
- 3.2.2 For the North Downs Woodlands SAC, A4.1 expressly leaves the air-quality conclusion outstanding. Natural England's 6 July 2026 representation (MLP/ED16A, E.17, pp.136-137) likewise records that further evidence is required and that Natural England will continue working with the Councils on mitigation.
- 3.2.3 For recreational pressure, A4.1 relies upon Bird Wise/SAMMS and the emerging Hoo Peninsula Strategic Environmental Programme. Paragraph 7.2.13 states that Bird Wise may not completely address impacts from allocations close to the North Kent Marshes. MLP/ED6 points to 2021/22 monitoring and Bird Wise annual reports. Consistent with its

Regulation 19 objection that reliance on SAMMS was not fully evidenced, secured or funded, TIG considers Bird Wise/SAMMS ineffective for the scale and location of growth proposed and considers that reliance on it does not provide sufficient certainty for the HRA's no-AIOSI conclusion. MLP/ED16A E.13, submitted by Richard Buxton Solicitors for the Save the Hoo Peninsula Campaign, separately challenges the evidential basis for the scheme's claimed effectiveness and whether monitoring demonstrates the mitigation outcome relied upon by the HRA. MLP/ED16C responds that Bird Wise/SAMMS is an established mitigation mechanism developed with Natural England and environmental organisations. TIG does not dispute the scheme's existence; its objection concerns effectiveness. Establishment or endorsement does not itself demonstrate sufficient effectiveness for the integrity conclusion.

- 3.2.4 The additional Hoo Peninsula programme also remains emerging. B22.2 paragraphs 3.1.3 and 3.2.1 envisage a partnership group, an updated evidence base, a review of the earlier SEMS work, a costed programme for developer contributions, and agreement of terms of reference and a work programme. MLP/ED16C describes the programme as being in development, while Natural England's July 2026 response records continuing work on the programme and policy wording.

Regulation 19 basis: TIG Main Representation, Chapters 1.2, 6 and 8; E.37, particularly SDLP 113 and 117.

Change necessary: Do not conclude legal compliance until the outstanding integrity work and policy safeguards are complete and the mitigation relied upon is sufficiently evidenced and secured.

3.3 MIQ 1.6 - Reasonable alternatives

TIG's answer: Not fully demonstrated.

Reasoning...

- 3.3.1 A3.2 does identify an 'Urban Regeneration Focus' alternative. Table 5.5 states that it sought to maximise brownfield development in urban and waterfront areas, applied an additional 25% densification assumption and could accommodate up to 23,710 homes. TIG therefore does not contend that no urban-focused alternative was considered.
- 3.3.2 The concern is how the preferred strategy was compared as it evolved. A3.2 states that the full assessments and rankings of the three spatial growth options are in the Regulation 18 Interim SA. It then records material changes before Regulation 19, including reduced anticipated delivery at Mill Fields and Chatham Docks, rejection of East of Rainham, additional land east of Ropers Lane and at Lower Rainham, and reconsideration of Green Belt sites west of Strood. The final selection is nevertheless described as still reflecting the Blended Strategy.
- 3.3.3 Table 5.6 records that the Urban Regeneration Focus performed best against several objectives, including climate-change mitigation and transport/accessibility. TIG asks whether the materially revised submission package was itself transparently compared on an equivalent basis against the reasonable strategic alternatives.

Regulation 19 basis: TIG Main Representation, Chapter 1.3 and Chapter 7.3-7.10; E.37, particularly SDLP 112.

Change necessary: If the existing SA does not provide that comparison, require proportionate supplementary SA/SEA explanation or assessment.

3.4 MIQ 1.8 - HRA process and Appropriate Assessment

TIG's answer: Appropriate Assessment has been undertaken, but the integrity process is not complete for every relevant pathway.

Reasoning...

- 3.4.1 The second limb of MIQ 1.8 refers to a Council conclusion that a comprehensive Appropriate Assessment is not required. That does not appear to reflect A4.1 as submitted. Paragraph E7 expressly states that Likely Significant Effects triggered Stage 2 Appropriate Assessment, and MLP/ED6 confirms Appropriate Assessments for air quality, water quality and quantity, recreational pressure and urbanisation. TIG therefore does not contend that Appropriate Assessment was absent.
- 3.4.2 The issue is completeness. The North Downs air-quality conclusion remains outstanding. For recreational pressure, A4.1 reaches no AIOSI while relying on Bird Wise/SAMMS and additional Hoo Peninsula mitigation, despite acknowledging that Bird Wise may not completely address certain higher-risk allocations. TIG considers Bird Wise/SAMMS ineffective for the scale and location of development proposed and the evidence insufficient to demonstrate the mitigation effectiveness and certainty needed for that integrity conclusion.

Regulation 19 basis: TIG Main Representation, Chapters 1.2 and 6; E.37, particularly SDLP 113 and 117.

Change necessary: Complete the outstanding assessment and demonstrate the necessary mitigation certainty.

3.5 MIQ 1.9 - Policies and the Submission HRA

TIG's answer: Partly, but not yet fully.

Reasoning...

- 3.5.1 A4.1 paragraphs 7.2.22-7.2.24 recommend amended Policy S2 wording concerning the Hoo Peninsula Strategic Environmental Programme, developer contributions and ongoing management and monitoring. Natural England's July 2026 response records continuing discussion over Policy S2/SA8 wording.
- 3.5.2 MLP/ED6 also states that the Council wishes to modify Policy SA7 and potentially SA2 and SA3 because of the North Downs Woodlands SAC air-quality issue. Although the Council says the policies are reflective of the Submission HRA, these consequential changes show that the submitted policy framework is not yet the final framework upon which the integrity conclusions are intended to depend.

Regulation 19 basis: TIG Main Representation, Chapter 6; E.37, particularly SDLP 113 and 117.

Change necessary: Amend the relevant policies as required by the completed HRA and Natural England's advice.

3.6 MIQ 1.10 - Natural England's views

TIG's answer: Yes, Natural England's views have been sought, but its latest representation does not record full resolution.

Reasoning...

- 3.6.1 Natural England's 6 July 2026 response, MLP/ED16A E.17 (pp.136-137), agrees with the designated sites and impact pathways screened into assessment and agrees with the water quantity and water quality conclusions.
- 3.6.2 However, it records that further evidence is required before no AIOSI can be concluded for the North Downs Woodlands SAC. For recreational pressure it refers to continuing work on Policy S2/SA8 and the Strategic Environmental Programme and is hopeful agreement can be reached; its urbanisation position is similarly subject to agreement on revised policy wording.
- 3.6.3 Natural England does not expressly endorse or reject the separate Bird Wise efficacy challenge advanced by Richard Buxton Solicitors in E.13. TIG does not attribute that argument to Natural England.

Regulation 19 basis: TIG Main Representation, Chapters 1.2 and 6; E.37, particularly SDLP 113 and 117.

Change necessary: Ensure the completed HRA and final policy wording reflect Natural England's latest and any subsequent agreed advice.

3.7 MIQ 1.12 - Preferred strategy and reasonable alternatives

TIG's answer: Not fully demonstrated, insofar as this question concerns the SA/SEA explanation for selection of the preferred strategy.

Reasoning...

- 3.7.1 TIG relies on its answer to MIQ 1.6. A3.2 explains the Blended Strategy and records the relative sustainability strengths of the strategic options. However, the detailed assessment and ranking of those options remained in the Regulation 18 Interim SA while the component sites of the preferred strategy changed before Regulation 19.
- 3.7.2 TIG does not ask the Inspectors to substitute their own preferred strategy through Matter 1. It asks that the statutory assessment trail transparently demonstrate why the final submitted strategy was selected over reasonable alternatives after the preferred package changed.

Regulation 19 basis: TIG Main Representation, Chapters 1.3 and 7; E.37, particularly SDLP 112.

Change necessary: Provide proportionate supplementary explanation and, if necessary, further SA/SEA assessment.

3.8 MIQ 1.16 - Consultation and the SCI

TIG's answer: The formal six-week Regulation 19 period was undertaken, but the adequacy and effectiveness of consultation requires consideration in light of material evidence changes during and after that period.

Reasoning...

- 3.8.1 TIG's letter to the Council dated 6 August 2025 recorded that the Strategic Transport Assessment Proportionality Assessment originally comprised 14 pages and that a revised version published during the consultation introduced a new Junction Mitigation Analysis and expanded the document to 523 pages. TIG requested an effective extension/restart of consultation.
- 3.8.2 A10.1 confirms that Regulation 19 nevertheless ran from 30 June to 11 August 2025. MLP/ED9 later identified documents produced or updated after Regulation 19, including the Submission HRA, SFRA and transport material, and directed a four-week supporting-evidence consultation. MLP/ED10 identified 35 documents for that exercise.
- 3.8.3 TIG does not contend that the mere fact of a later supporting-evidence consultation is, by itself, determinative of whether Regulation 19 was lawful. The question is whether, viewed as a whole, the process provided an adequate and effective opportunity to address material evidence underpinning the submitted Plan and whether any procedural prejudice has been cured.

Regulation 19 basis: TIG letter to Dave Harris dated 6 August 2025, pp.1-2; TIG Main Representation, Chapter 1.4.

Change necessary: Take the consultation history into account and ensure appropriate consultation on any further HRA/SA work and consequential Main Modifications.

4. OVERALL CONCLUSION ON THIS MATTER

- 4.1 TIG acknowledges that the evidence base has materially advanced since Regulation 19 and has refined its case accordingly. Nevertheless, the North Downs Woodlands SAC integrity conclusion remains expressly outstanding; HRA-driven policy wording and Hoo Peninsula-specific mitigation remain subject to further work or agreement; and Natural England's latest representation does not record full resolution. TIG considers Bird Wise/SAMMS ineffective for the proposed growth, while E.13 separately challenges the evidential basis for its claimed effectiveness. For SA/SEA, TIG considers that the comparison of the materially evolved submission strategy against reasonable strategic alternatives has not yet been transparently demonstrated.
- 4.2 TIG's primary position is that the Plan cannot presently be found legally compliant and sound on these matters. If the deficiencies can be remedied through genuinely limited further work and Main Modifications without materially recasting the submitted strategy, TIG accepts that route may be appropriate.
- 4.3 If, however, lawful remediation requires substantial new SA/SEA or HRA work, significant reconsideration or redistribution of strategic development, or changes which would in substance amount to preparation of a materially different Plan, TIG considers those deficiencies beyond the proper scope of Main Modifications. In those circumstances the Plan should not be adopted and should be withdrawn and re-prepared. This preserves

TIG's Regulation 19 position that defects incapable of lawful cure through Main Modifications require withdrawal or re-drafting.

5. MAIN MODIFICATIONS / CHANGES SOUGHT

- 5.1 These changes are without prejudice to TIG's position at paragraphs 4.2-4.3 and apply only if the defects can be remedied without materially recasting the submitted Plan. For the purposes of this table, 'EX' denotes an examination action sought rather than proposed Main Modification wording.

Ref	Plan policy / text	Defect identified	Modification / change sought	Why necessary
MM-TIG-M1-01	Policies S2 / SA8 and related ecological provisions	The submitted policy framework does not yet fully secure all mitigation and implementation requirements arising from the HRA and Natural England's advice.	Amend the relevant policies in accordance with the completed HRA and Natural England's agreed advice so that necessary Hoo Peninsula mitigation is clearly secured, funded, implemented, monitored and maintained.	Necessary to secure mitigation relied upon by the HRA.
MM-TIG-M1-02	Policy SA7 and, if required, SA2 / SA3	The Submission HRA identifies a potential air-quality effect on the North Downs Woodlands SAC for which the mitigation evidence and consequential policy response are not yet complete.	Insert the HRA-driven mitigation requirements identified by the Council, with final wording informed by the completed assessment and Natural England's advice.	Necessary to support the required integrity conclusion.
EX-TIG-M1-03	SA/SEA evidence	The evidence does not yet transparently demonstrate an equivalent comparative appraisal of the materially evolved submission strategy against reasonable strategic alternatives.	Require supplementary explanation and, if necessary, proportionate further SA/SEA assessment of the final submitted strategy against reasonable alternatives, with any legally required consultation.	Necessary to demonstrate legal compliance and justification.
EX-TIG-M1-04	HRA recreational mitigation evidence	TIG considers Bird Wise/SAMMS ineffective for the scale and distribution of growth proposed. The additional Hoo Peninsula mitigation remains insufficiently established, and the combined mitigation package is not demonstrated to be sufficiently effective and certain to support the HRA integrity	Require the Council to demonstrate that the mitigation package is sufficiently effective, certain and secured to support the relevant integrity conclusions.	Necessary to enable the required Habitats Regulations conclusions to be reached on an adequately evidenced basis.

		conclusions.		
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6. TIG REGULATION 19 REPRESENTATIONS AND EXAMINATION DOCUMENTS REFERRED TO

Reference	Document	Where relevant
TIG Reg 19	TIG Main Representation responding to the Regulation 19 Local Plan	Chs 1.2-1.4, 6-8; p.34 conclusion
TIG letter	Letter to Dave Harris concerning consultation extension, 6 August 2025	pp.1-2
E.37	TIG Regulation 19 representation entries	SDLP 112, 113 and 117
A3.2	Sustainability Appraisal - Volume 2 of 3 - Regulation 19 Report	Tables 5.5-5.6; pp.31-33
A4.1	Submission Habitats Regulations Assessment	E7-E17; paras 7.2.13-7.2.40; 9.1.4-9.2.3
A10.1	Consultation Statement	Regulation 19 period; p.62
B22.2	Hoo Peninsula Strategic Environmental Programme Topic Paper v2	paras 3.1.3; 3.2.1
MLP/ED5	Inspectors' initial questions to the Council	Q4-Q6 and Q15-Q16
MLP/ED6	Council's response to the Inspectors' initial questions	Responses to Q4-Q6 and Q15-Q16
MLP/ED9 / ED10	Supporting-evidence consultation correspondence	Post-Regulation 19 supporting-evidence consultation
MLP/ED12	Review of updated SFRA data and implications for the Regulation 19 SA	Flood-risk SA review
MLP/ED16A	Supporting Evidence consultation representations	E.13 pp.121-126; E.17 pp.136-137
MLP/ED16C	Council consideration of Supporting Evidence consultation representations	Council responses to E.13 and E.17

7. APPENDIX

7.1 No appendix is proposed.

**SUBMITTED ON BEHALF OF THE INDEPENDENT GROUP (TIG)
ON MEDWAY COUNCIL**

Councillor Michael Pearce

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Planning Spokesman
27 August 2026

**For the avoidance of any doubt, Councillor Michael Pearce is an Independent Councillor representing Hoo & High Halstow Ward on Medway Council, which is also the Local Planning Authority (LPA). He serves as the Leader and Planning Spokesman for The Independent Group (TIG) on Medway Council - an unwhipped group of Independent councillors representing the Hoo Peninsula (Strood Rural Ward, Hoo & High Halstow Ward, All Saints Ward), formed for administrative purposes and committee entitlement. While Councillor Pearce is a Medway Councillor and member of the LPA's Planning Committee, he does not speak or act on behalf of Medway Council or the LPA, either generally or at formal planning inquiries.*