

**LAND OFF PUMP LANE  
RAINHAM  
KENT  
ME8 7TJ**

**TOWN AND COUNTRY PLANNING ACT 1990  
APPEAL REFERENCE: APP/A2280/W/20/3259868**

**APPEAL BY A C GOATHAM & SON**

**INQUIRY DOCUMENT: Note On Transport Policy T1 and NPPF Paras 108-111**

**PREPARED BY: Duncan Parr**

**23/04/2021**

**INQUIRY DOCUMENTS REF: ID 46**

1. This note considers Policy T1 in the light of NPPF paragraphs 108-111 and, further to the Appellant's evidence, the compliance of the appeal with Policy T1 and also the NPPF.
2. The Appellant invites a correction to its contribution to the Policy Table, in respect of policy T1, which should instead have characterised the policy as being "out of date". It cannot be treated as "up to date" given the fact that the policy only addresses (in so far as relevant to the appeal) – at criteria (i) – traffic capacity generated by the development, and against this factor, it provides for a significantly lower threshold (than paragraph 109 of the NPPF) at which a policy conflict may be found. Policy T1(i) does not reflect the threshold or 'high bar' of (residual, cumulative) severity. Additionally, policy T1 does not even account on its face, for the consideration of residual or cumulative traffic impacts. It also does not import any obvious consideration of the wider traffic-related considerations arising under paragraph 108.
3. The comparatively far broader scope of NPPF paragraphs 108 – 111 is intended to encourage, to an appropriate level, the promotion of sustainable transport modes (NPPF para 108 a) and in this regard giving priority to pedestrian, cyclists and use of public transport (NPPF para 110 a and c). It also identifies the need to plan for the needs of the less mobile (para 110 (b)), servicing / emergency vehicles (para 110 (d)) and electric vehicles (para 110 (e)). Paragraph 111 advises on travel plans. Policy T1 does not incorporate or notably reflect any of these positive elements which allow for a residual cumulative assessment of traffic impacts.
4. Given the "out of date" characterisation, the material differences in policy, and the relative focus of the parties' on NPPF paragraph 109, there is no justification for giving policy T1 significant weight. Any conflict with policy T1 should be given modest weight only. There is additionally the point that if the policy is a "most important" policy in the determination of this appeal, it is one of the foremost development plan policies that should impede the grant of planning permission in the light of the Council's very poor position on housing land supply.

5. No reasons have been advanced in evidence as to why Policy T1 should be given substantial weight in determining this appeal.
6. Also, in the application of policy T1 and with regard to the “highway network”, I note that the Council has approached exclusively by reference to selective subnetworks. There is nothing in the policy or supporting text itself that allows for the selective consideration of one or more subnetworks 2, 3 and 7, and without any consideration of other subnetworks making up the wider Medway network. There is no prioritisation of subnetworks.
7. Neither policy T1 nor its supporting text define, or offer any explanation of, “adequate capacity” or advise how alternative transport modes should be considered. Again, this lends a very different, aged, emphasis to that alternatively provided for in paragraph 109 of the NPPF. The narrow consideration of “capacity”, in the assessment of the acceptability of development, obviously does not take account of the wider, important, issues arising in connection with harmful impacts that sometimes derive from capacity issues (but which do not arise in this appeal), such as air quality, amenity and safety, by example. Such important impacts naturally form part of the assessment of residual cumulative impact on the relevant section of highway network, the subject of assessment. Policy T1 also does not, on its face, acknowledge the opportunity for, or effect of, mitigations.
8. In this appeal, the impact of issues such as increased queuing and attendant delay should very much be considered in terms of the broader balance of highway issues that is allowed for under the NPPF, but disallowed under Policy T1(i). Ultimately, it should be assessed whether such increased queueing or delay in fact gives rise to any identifiable harm, and moreover harm to such a degree that it is severe, when viewed residually and cumulatively - and in relation to the appropriate network.

## **NPPF Paragraph 109**

9. In assessing whether the development would give rise to a (residual, cumulative) severe impact, the matters under NPPF paragraph 108 (a)-(c) are relevant. The development encourages sustainable travel and have safe and suitable access and therefore meet the requirements of 108 (a) and (b). Paragraph 108 (c) anticipates the impact of a proposal in terms of congestion and capacity, when mitigated. This resonates also with paragraph 109. The NPPF is purposely not constraining of how mitigation is to be taken account of, such that appropriate mitigation could be located adjacent to the development site or located within the wider network. It is simply that mitigation must be shown to be cost effective and it should address the congestion/capacity issue, to an acceptable degree by reducing any actual harm arising. It is considered that the transport mitigation proposed, both directly in relation the development site, and in respect of the wider local network, will ensure no 'severe' residual cumulative impacts on the road network, indeed whether the relevant network is treated as comprising subnetworks 2, 3 and 7, or more widely as to encompass other parts, or all, of the remaining Medway network.
10. The development is therefore in accordance with NPPF paragraphs 108 and 109.
11. There is similarly no basis for finding that there will be conflict with Policy T1 of the development plan. However, even were such a conflict to arise, given that this policy is "out of date" – and in any event, should be given only modest weight (on the basis of clear inconsistencies with up-to-date, NPPF policy, and separately, in light of the Council's housing land supply position and the paragraph 11 NPPF implications for "most important" policy) – a policy T1 conflict should not attract any significance in the overall planning balance.
12. Also, having now heard the Council's transport evidence (including their cross-examination of Mr. Tucker, who was not challenged on his appreciation of subnetworks 3 and 7) – upon which I do not comment at any length here - I understand the Council's emphasis now to be that subnetwork 2 is their

exclusive focus, against which they invite an assessment of a residual, cumulative severe impact. This reflects an extremely limited section of the relevant network. Indeed, the incorporation of subnetworks 3 and 7 in addition to subnetwork 2 would not alter this view. Moreover, in the cascading balance, as Mr. Tucker has explained, eight out of ten of the junctions of apparent concern to the Council, would be remedied by the implementation of proposed mitigations, on the basis of the Council's own modelled assessment, thereby leaving two junctions - on the A2 (where traffic should most appropriately be directed in any event, within this section of the network) - where capacity impacts would occur. The significance or otherwise of these remaining impacts must also be considered in the light of whether any actual identifiable harm would arise, as a result of (say) vehicle queuing or attendant delays, and also, the magnitude of any such harm.

13. It is considered that the level of any such harm arising would be (significantly) below the threshold contemplated by paragraph 109 of the NPPF. That is even if the Council's approach to configuring the relevant network' were to be adopted. This judgment is strongly reinforced by an appropriate, wider consideration of traffic impacts, as advocated by the NPPF – which are shown not to arise in this appeal.

14. Accordingly, it is considered that there is no basis for refusing permission on transportation grounds.

**23 April 2021**

**Duncan Parr  
Rapleys**