

# LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE MEETING

Date: Wednesday 24 August 2022  
Time: 9.00 am  
Venue: Room 6B, Maidstone House, King Street, Maidstone

Membership: Councillor Cooper

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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<b><u>AGENDA</u></b>	<b><u>Page No.</u></b>
1. Minutes of the Meeting Held on 17 June 2022	1 - 9
2. To consider whether any items need to be taken in private due to the possible disclosure of exempt information	
3. Draft Statements of Common Ground	10 - 19

## **PART II**

**To move that the public be excluded for the items set out in Part II of the Agenda, because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.**

	<b>Head of Schedule 12A and Brief Description</b>	
4. Exempt Appendices 1 and 2 to Item 3: Statements of Common Ground	Paragraph 3 – Information relating to the financial or business affairs of any particular individual (including the authority holding that information)	20 - 50

## **INFORMATION FOR THE PUBLIC**

If you require this information in an alternative format please call us on **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

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**Issued on 16 August 2022**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

## MAIDSTONE BOROUGH COUNCIL

### LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

#### MINUTES OF THE MEETING HELD ON FRIDAY 17 JUNE 2022

**Present:** Councillor Cooper

1. LEVELLING UP BID JUNCTION 7 M20 SIGNALISATION

That the submission of a joint Levelling Up Round 2 bid with KCC to fund improvement works to Junction 7 M20, as set out at paragraph 3.3 Option 2, be approved.

(See Record of Decision A)

2. LOWER THAMES CROSSING – LOCAL REFINEMENT CONSULTATION

That the content of the Lower Thames Crossing Local refinement consultation be noted and the Council's response, as set out in Appendix 1, be approved for submission.

(See Record of Decision B)

3. DURATION OF MEETING

9.00 a.m. to 9.15 a.m.

**MAIDSTONE BOROUGH COUNCIL**

**RECORD OF DECISION OF THE LEAD MEMBER FOR PLANNING AND  
INFRASTRUCTURE**

Decision Made: 17 June 2022

**Levelling Up Bid Junction 7 M20 Signalisation**

**Issue for Decision**

Kent County Council would like to submit a Levelling Up Round 2 bid on Maidstone Borough Council's behalf for the signalisation of Junction 7 M20.

**Decision Made**

That the submission of a joint Levelling Up Round 2 bid with KCC to fund improvement works to Junction 7 M20, as set out at paragraph 3.3 Option 2, be approved.

**Reasons for Decision**

- 1.1 The Levelling Up Fund is a £4.8b Government programme to support investment in infrastructure across the three themes of town centre and regeneration, culture and transport. A grant of up to £20m is available per project with a minimum of 10% match funding. One submission is allowed in each MP's constituency area over the life of the Fund. Funding is targeted towards places with the most significant need, as measured by an index. Three categories have been created with category 1 representing places with the highest levels of identified need. Bids from categories 2 and 3 will still be considered for funding if they are of "exceptionally high quality". Maidstone is in category 2. County Councils can only bid for one large scale Transport project for their County but can work with Districts and Boroughs to submit proposals for smaller transport improvement projects. Districts and Borough's need the approval of the Highway Authority to submit their own transport bids.
- 1.2 The first round of the Levelling Up Fund (LUF) was announced in 2020 and supported £1.7 billion of projects. Levelling Up Round 2 was announced earlier this year with a submission deadline of 6<sup>th</sup> July 2022.
- 1.3 Key to a successful bid is to be able to demonstrate deliverability by 2024/25. Maidstone Borough Council does not have a large capital project sufficiently advanced yet to merit a submission.
- 1.4 However Kent County Council (KCC) would like to submit a project, jointly with MBC, that partially signalises the M20 Junction 7, widens

some slip roads and improves walking and cycling. Significant queueing is a regular occurrence on the A249 at M20 J7, especially in the morning peak. At times, queueing on the roundabout can affect the M20. The improvement works would:

- Increase the capacity of the junction
- Reduce congestion and delay on the A249
- Improve pedestrian and cycle facilities
- Improve access to existing development for all modes, including buses
- Support new development and local economic growth
- Help reduce carbon emissions, through reducing queueing and vehicle emissions

1.5 The same project was submitted in Round 1 but was not successful. This first bid requested just over £4.1m from LUF with match funding of just over £1m from developer contributions – a total cost of £5.1m.

1.6 The Council accommodated KCC's proposition to submit this project in Round 1 as it had explicit support in the approved Integrated Transport Strategy under Action H1: Targeted implementation of highway improvements at key strategic locations to relieve congestion and in the action plan under "Maidstone Urban Area – M20 Junction 7 Strategic Area". Moreover, there was no obvious alternative competing project Levelling Up could fund.

1.7 Feedback from DLUHC and the DfT suggests the bid was strong and would be well received if re-submitted with some changes. In summary it stated that the case for investment was well set out, although it would benefit from further engagement evidence. It provided good evidence of congestion and would benefit from further options assessment report. The bid showed good alignment with local and national context but needs more evidence on reduction in co2 and link to LTN 120 compliance. The Benefit Cost Ratio was strong but requires further evidence as to how KCC got there:

1. Undertake further analysis on current conditions, outlining high level data on existing congestion. Reflected to what extent this is on development traffic.
2. Rerouting beyond immediate corridor, trip generation assumed by development and included in each scenario
3. Provided more analysis in modal results, delays, volume over capacity and overall traffic throughput.
4. Assessment of do minimum scenario
5. Further detail on how model outputs converted into benefits.
6. Provide more detail on smart technology and how it is modelled.

- 1.8 The Financial element of the bid was clear in what it asked for and what is coming from 3rd parties, but it would benefit from inserting extracts from S106 agreements. The risk management and track record and delivery schedule were strong. Project governance could not be faulted. In terms of monitoring and evaluation this needed to be more specific to the scheme and
- 1.9 KCC need time to commission this work and make these changes and would like a decision from Maidstone by the 13th June in order to do so.
- 1.10 The Junction 7 work is critical to enable the full delivery of Kent Medical Campus and residential development to the south of Maidstone. National Highways has stated:
- “Without the improvement in place, we may soon be at the point where both congestion and safety led capacity is reached and we start to have to object to or Grampian condition (no occupations until opening to traffic of the J7 improvement) all applications. This would have major implications for Maidstone’s aspirations and their ability to meet their 5-year housing supply requirements, and hence the achievement of Government short-term post-pandemic recovery and longer-term housing delivery”.
- 1.11 National Highways have insisted that three residential schemes in the southeast of Maidstone wholly fund the work through developer contributions (S106).
- 1.12 Up to £4.8m is available from these three developments to fund the works. However, the issue is that these improvements are needed now but the S106 monies will not be received in full for perhaps another 5 or more years. KCC who will be the deliverer of the works are extremely keen to progress them now.

Table 1: Residential Developments and their contributions

Site & Local Plan Policy	Developer	Contributions (£4.8m)	Trigger for Payment
Land North of Bicknor Wood – H1(7)	Bellway	£792,000 index linked	125 occupied dwellings
Land West of Church Rd – H1(8)	Bellway	£1,106,142 + £390,000 to cover scheme design and contract costs	230 occupied dwellings
Land South of Sutton Rd – H1(10)	Countryside	£2,534,327	300 occupied dwellings

- 1.13 In addition, KCC is about to start delivering a nearby highways project at Kent Medical Campus, for widening the Bearsted Road and Newnham Court roundabouts and creating a dual carriageway between them. These works will start in the summer 2022. Owing to

the proximity of these works KCC have already designed the J7 improvements in case monies became available sooner, with the prospect of the same contractor delivering them. So, the J7 improvements are genuinely shovel ready.

1.14 If the Levelling Up Fund pays for the majority of the works, then the developer contributions would not be needed in full, and the developers' liability to fund it would be reduced.

1.15 However this approach is being considered because:

1. The S106 agreements for these three sites explicitly state that Maidstone Borough Council, working in cooperation and collaboration with KCC, are obliged to use reasonable endeavours to obtain external funding to pay for the J7 works. Any external funding obtained is then deducted from the developer contribution. By submitting this Levelling Up bid MBC/KCC are doing what was intended when the S106 agreements were negotiated.
2. The costs of the works will have risen again since the original S106s were signed, above £4.8m. About £1m of developer contributions are likely to be available for KCC to use as match funding in the period that the Levelling Up grant needs to be spent i.e. by 2024/25.
3. There is a risk that in 5 to 10 years time the cost of these works will be even higher and there might not be external grant sources available to gap fund the works.
4. Notwithstanding in bullet point 1, if Levelling Up could provide loan funding to pay for the works, the developer contributions could still be claimed once their trigger points were reached. Unfortunately Levelling Up is non-repayable grant fund and cannot be used as a loan fund. In any event it has already been established that the cost of these works is greater than available developer contributions so some gap funding would be needed anyway.

## 2.1 **Policy Advisory Committee Consultation**

At its meeting on 8 June 2022 the Planning and Infrastructure Policy Advisory Committee considered this issue and agreed the following recommendation:

"That the Lead Member for Planning and Infrastructure be recommended to approve the submission of a joint Levelling Up Round 2 bid with KCC to fund improvement works to Junction 7 M20 as set out at paragraph 3.3 Option 2 of this report."

## **Alternatives considered and why rejected**

- 3.1 Option 1: Not to support the bid.
- 3.2 If the Council were not to support the bid, then Kent County Council could not submit it and the improvements would be significantly delayed. Queuing is already a problem and further serious queueing on a key approach to Maidstone will cause delay and journey time uncertainty for all road users, including commuters, business users and deliveries. Buses will also be affected. The costs of delay will have an adverse economic impact. It will also inhibit access to the Kent Medical Campus and other development immediately south of J7. It will discourage investment in the NKEZ.
- 3.2 However, by not supporting the bid, the Council would retain its option to submit a different bid in Helen Whatley's constituency area in later rounds. That said the Government has made no promises regarding the timing or format of future rounds. A major project that may come forward in this area concerns the future of the Leisure Centre. However, at this time no decision has been made regarding whether the Leisure Centre should be refurbished or a new one built, in full or in part. There is no way of knowing whether a project like this in a category 2 area would be supported by the Government. This project may not be advanced enough by the time a Round 3 bid is possible to have a chance of being successful.
- 3.3 Option 2 to jointly resubmit the bid with KCC - APPROVED

The feedback from DLUCH and DfT is positive and subject to making the changes set out in this report will be well received if re-submitted. The bid will be submitted with a similar LUF request of circa £4m to £5m, with developer contributions in the region of £1m. The benefits of this approach are that congestion is alleviated now and environmental benefits are delivered earlier and barriers to development are removed now. This approach does however reduce the developer's obligations to fund the improvement works, but the S106 agreements always envisaged that MBC and KCC would work together to obtain external funding. This option is recommended.

## **Background Papers**

None

I have read and approved the above decision for the reasons (including possible alternative options rejected) set out.

Signed: \_\_\_\_\_  
(Lead Member for Planning and Infrastructure – Paul Cooper)

Full details of the report for the decision can be found online at [17 June 2022 Agenda](#)

Should you be concerned about this decision and wish to call it in, please submit a call-in form signed by any three Members to the Head of Policy, Communications and Governance by: **5pm Friday 24 June 2022**

**MAIDSTONE BOROUGH COUNCIL**

**RECORD OF DECISION OF THE LEAD MEMBER FOR PLANNING AND  
INFRASTRUCTURE**

Decision Made: 17 June 2022

**Lower Thames Crossing – Local Refinement Consultation**

**Issue for Decision**

To consider the response to the Lower Thames Crossing Local Refinement Consultation.

**Decision Made**

That the content of the Lower Thames Crossing Local refinement consultation be noted and the Council's response, as set out in Appendix 1, be approved for submission.

**Reasons for Decision**

- 1.1 National Highways is currently consulting on proposed local refinements to the Lower Thames Crossing highway infrastructure improvements. The consultation runs from 12 May to 11.59pm on the 20 June 2022.
- 1.2 This report summarises the consultation and the proposed response from Maidstone Borough Council. National Highways has provided a standard template to collect responses; a draft version of the Council's response is attached in Appendix 1.

**Background**

- 2.1 National Highways is proposing a new road and tunnel, approximately 23km long, the A122 Lower Thames Crossing.
- 2.2 It would connect to the A2 and M2 in Kent, passing through a tunnel under the River Thames, before linking to the A13 in Thurrock and junction 29 of the M25, north of the Thames.
- 2.3 Prior to this consultation there have been five previous consultations. These include:
  - 2.3.1 Route Consultation 2016
  - 2.3.2 Statutory Consultation 2018
  - 2.3.3 Supplementary Consultation 2020
  - 2.3.4 Design Refinement Consultation 2020, and;
  - 2.3.5 Community Impacts Consultation 2021.



## Consultation content

2.4 National Highways is consulting on the following elements as part of the present consultation:

- More public open space to the east of the tunnel entrance in Kent,
- The redesign of Tilbury Fields
- Modifying the emergency and maintenance access to the northern tunnel entrance, providing safer operation of the tunnel facilities and better access for emergency services
- Replacing a slip road on the A13 junction with a new link from the Orsett Cock roundabout to the A1089 to reduce traffic impacts on local roads
- A new footbridge over the A127 and further improvements for walkers, cyclists and horse riders including improved bridleways
- Further refinement of utility works to enable the project to be built
- Additional environmental compensation and mitigation with potential woodland and green open space

2.5 Further details of the consultation can be found on the specific National Highways website for the consultation that can be located via the link in Background Paper 1.

2.6 Most of the proposals outlined in this consultation do not directly affect Maidstone Borough however the proposals relating to additional environmental compensation and mitigation do. These proposals relate to further traffic enforcement between M2 junctions 3 & 4 (Background paper 2 pp.144-145) and the creation of a new compensation site in the M2 corridor at Blue Bell Hill (Background Paper 2 pp.150-151).

2.7 The Lower Thames Crossing proposal could have an impact on borough's road network especially the A229 corridor, however at this point in time it is difficult to ascertain the extent of any impacts until further information on the transport modelling and proposed mitigations are published. Both are expected in due course as National Highways undertake further work.

2.8 The purpose of these environmental interventions is to reduce nitrogen and ammonia deposition levels on designated habitats caused by traffic using the Lower Thames Crossing. Summary of responses

2.9 The Council's full proposed response is set out in Appendix 1 to this report and uses the standard template provided by National Highways. In summary:

- 2.9.1 The Council has no comments to make on sections 1,2, and 5
- 2.9.2 In principal Maidstone Borough Council is supportive of the proposed environmental compensation measures proposed (sections 3 and 4)

### **3. Policy Advisory Committee Feedback**

3.1 At its meeting on 8 June 2022 the Planning and Infrastructure Policy Advisory Committee agreed the following:

“That the Lead Member for Planning and Infrastructure be recommended to note content of the Lower Thames Crossing Local refinement consultation and approve for submission the Council’s response as set out in Appendix 1.”

#### **Alternatives considered and why rejected**

- 4.1 The consultation response could be approved. This would allow the response to be sent by the submission deadline.
- 4.2 The consultation response could be approved and subject to further comments and changes. This would allow the response to be sent by the submission deadline.
- 4.3 It could be decided not to approve the consultation response. However, this would mean the response would not be sent and the Council’s views would not be factored into the Lower Thames Crossing proposals.

#### **Background Papers**

None

I have read and approved the above decision for the reasons (including possible alternative options rejected) set out.

Signed: \_\_\_\_\_  
(Lead Member for Planning and Infrastructure – Paul Cooper)

Full details of the report for the decision can be found online at:

[17 June 2022 Agenda](#)

**Call-In Waiver:** This is an urgent decision due to the consultation response deadline of 20 June 2022. This decision will therefore not be subject to call-in and will be implemented immediately.

# Agenda Item 3

## Lead Member for Planning and Infrastructure

24 August 2022

### Draft Statements of Common Ground

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Planning and Infrastructure PAC	15 August 2022
Lead Member on the Executive for Planning and Infrastructure	24 August 2022

<b>Will this be a Key Decision?</b>	No
<b>Urgency</b>	Not Applicable
<b>Final Decision-Maker</b>	Lead Member on the Executive for Planning and Infrastructure
<b>Lead Head of Service</b>	Phil Coyne (Interim Director, Local Plan Review)
<b>Lead Officer and Report Author</b>	Mark Egerton (Strategic Planning Manager)
<b>Classification</b>	<p>Public Report with Exempt Appendices</p> <p>Exempt Appendices</p> <p>Appendix 1: Draft Statement of Common Ground between Maidstone Borough Council &amp; The Defence Infrastructure Organisation.</p> <p>Appendix 2: Draft Statement of Common Ground between Maidstone Borough Council &amp; Kent County Council Minerals.</p> <p>The appendices contain exempt information as classified in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining this exemption outweighs the public interest in their disclosure. The Statements of Common Ground are draft documents and are currently</p>

	unsigned and contain sensitive cross boundary matters. The draft documents contain information affecting the business affairs of other authorities. The Statements of Common Ground will be published once agreed and signed by both parties.
<b>Wards affected</b>	All

### **Executive Summary**

The draft Statements of Common Ground appended to this report summarise the key strategic matters including matters of agreement and disagreement between Maidstone Borough Council and two other bodies regarding the Local Plan Review. The bodies are The Defence Infrastructure Organisation (Exempt Appendix 1) and Kent County Council Minerals Team (Exempt Appendix 2). The report recommends that members recommend for approval these new Statements of Common Ground as set out in the Exempt Appendices. The report has required additional meetings to be called of the Planning and Infrastructure Policy Advisory Committee and Lead Member on the Executive for Planning and Infrastructure, in order that the current protocol for signing off new Statements of Common Ground may be followed. This report also seeks to delegate authority to the Interim Director (Local Plan Review) to approve new Statements of Common Ground and changes to published Statements of Common Ground, for the duration of the Local Plan Review Independent Examination.

### **Purpose of Report**

To provide background to and current versions of the Draft Statements of Common Ground between Maidstone Borough Council and the Defence Infrastructure Organisation, and between Maidstone Borough Council and Kent County Council Minerals Team. To seek views from Planning and Infrastructure Policy Advisory Committee on the Draft Statements of Common Ground as appended to this report (Exempt Appendix 1 and Exempt Appendix 2) prior to a decision being sought from the Lead Member on the Executive for Planning and Infrastructure. To seek views from Planning and Infrastructure Policy Advisory Committee on giving delegated authority to the Interim Director (Local Plan Review) to approve both new and updated SoCG for the duration of the Local Plan Review Independent Examination.

### **This report makes the following recommendations to the Lead Member for Planning and Infrastructure:**

1. That draft Statements of Common Ground, attached at Exempt Appendices 1 and 2 to this report, be approved.
2. That the process for agreeing amended and new Statements of Common Ground as set out at Appendix A be noted.

# Draft Statements of Common Ground

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>Accepting the recommendations will materially improve the Council's ability to achieve the corporate priorities.</p>	Interim Director (Local Plan Review)
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The report recommendations support the achievements of the cross cutting objectives by supporting the Local Plan Review.</p>	Interim Director (Local Plan Review)
<b>Risk Management</b>	<p>The Statements of Common Ground and associated protocol have been produced as part of the Local Plan Review, which takes into account the key requirements and therefore addresses associated risks.</p>	Interim Director (Local Plan Review)
<b>Financial</b>	<p>There are no financial implications to note, any costs will be accommodated within existing budgets.</p>	Senior Finance Manager (Client)
<b>Staffing</b>	<p>We will deliver the recommendations with our current staffing.</p>	Interim Director (Local Plan Review)

<b>Legal</b>	Accepting the recommendations will fulfil the Council's duties (particularly evidencing the duty to co-operate) under Planning and Compulsory Purchase Act 2004 (as amended), the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the National Planning Policy Framework.	Mid Kent Legal Services (Planning)
<b>Information Governance</b>	The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.	Information Governance Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
<b>Crime and Disorder</b>	The recommendation will not have a negative impact on Crime and Disorder.	Interim Director (Local Plan Review)
<b>Procurement</b>	N/A	Interim Director (Local Plan Review)
<b>Biodiversity and Climate Change</b>	The implications of this report on biodiversity and climate change have been considered and are; <ul style="list-style-type: none"> <li>• There are no implications on biodiversity and climate change.</li> </ul>	Biodiversity and Climate Change Officer

## **2. INTRODUCTION AND BACKGROUND**

- 2.1 Pursuant to s.33A of the Planning and Compulsory Purchase Act 2004 (as amended) Local planning authorities and county councils (in two-tier areas) are subject to a legal duty to cooperate with each other, and with other prescribed bodies (as set out in regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)), on strategic matters that cross administrative boundaries. In order to demonstrate effective and on-going joint working, the National Planning Policy Framework (NPPF) requires strategic policymaking authorities to prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and to describe progress in cooperating to address these.
- 2.2 Statements of Common Ground (SoCG) are written records of the progress made by strategic policy-making authorities during the process of planning for strategic cross-boundary matters. It documents where effective cooperation is and is not happening throughout the plan-making process, and is a way of demonstrating at examination that plans are deliverable over the plan period, and based on effective joint working across local authority boundaries. In the case of local planning authorities, it also forms a key part of the evidence required to demonstrate that they have complied with the duty to cooperate.
- 2.3 A SoCG may also be used as an effective tool for demonstrating co-operation between the Local Planning Authority and those who play a part in helping deliver the Plan.
- 2.4 This report brings before the committee two SoCG documents. The first has been produced by Maidstone Borough Council in conjunction with the Defence Infrastructure Organisation (DIO) regarding the site allocation at Invicta Barracks. This is attached to this report as Exempt Appendix 1.
- 2.5 This SOCG sets out information on the evidence underpinning the delivery of this site, provides details of the development proposals and sets out a future programme of joint work which will be undertaken. The Statement then sets out the matters of common ground between the Council, as the plan making authority, and DIO as owner and the lead developer of the site. This SoCG also sets out those limited matters that currently remain unresolved but are being worked on by the parties to find the most appropriate way forward.
- 2.6 The second SoCG is with Kent County Council Minerals Team and details the key issues that have been addressed through ongoing Duty to Cooperate discussions in regard to the Local Plan Review and specifically the proposed Heathlands Garden Settlement. This is attached as Exempt Appendix 2.
- 2.7 This SoCG sets out the role of the respective authorities with particular regard to minerals safeguarding at Heathlands Garden Settlement, with other Kent County Council responsibilities and strategic issues being addressed through a separate (published) SoCG.

- 2.8 Among other matters, this SoCG provides a shared position that, based upon all activities associated with the development of the Heathlands Garden Community, it remains in accord with the KCC Minerals and Waste Local Plan (KMWLP) 2013-30, partially reviewed and adopted in 2020 and the Minerals Sites Plan (KMSP) 2020.
- 2.9 Maidstone has an agreed protocol that includes a sign off procedure for SoCG. The protocol was agreed by the then Strategic Planning and Infrastructure Committee at the 9<sup>th</sup> March 2021 meeting. Details of the protocol are given as a background document to this report.
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### **3. AVAILABLE OPTIONS**

#### Recommendation 1

- 3.1 Option 1: That the draft SOCG (Exempt Appendices 1 and 2) are approved by the Lead Member on the Executive for Planning and Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that it may be submitted to the Inspector appointed by the Secretary of State
- 3.2 Option 2: That the draft SOCG (Exempt Appendices 1 and 2) be approved by the Lead Member on the Executive for Planning and Infrastructure, subject to further comments and changes. While this would allow the Statement of Common Ground to be finalised and signed, in accordance with the agreed protocol (in order that it may be submitted to the Inspector appointed by the Secretary of State), it would potentially delay the process, meaning that the finalised versions were not signed off by both parties prior to relevant examination hearing sessions.
- 3.3 Option 3: That the draft SOCG (Exempt Appendices 1 and 2) are not approved by the Lead Member on the Executive for Planning and Infrastructure. However, this would mean the documents could not be finalised and signed, thus failing national requirements associated with the production of the Local Plan Review.

#### Recommendation 2

- 3.4 Option 1: That delegated authority be given to the Interim Director (Local Plan Review) to approve new Statements of Common Ground and changes to published Statements of Common Ground, for the duration of the Local Plan Review Independent Examination. This would ensure that future, new and updated SoCG could be signed off in a timely manner that would not be of detriment to the Independent Examination of the Local Plan Review.
- 3.5 Option 2: That delegated authority not be given to the Interim Director (Local Plan Review) to approve new Statements of Common Ground and changes to published Statements of Common Ground, for the duration of the Local Plan Review Independent Examination. However, this would mean that future, new and updated SoCG could not be signed off in a timely manner with the likelihood of detriment to the Independent Examination of the Local Plan Review.



- 3.6 Option 3: That the Lead Member for Planning and Infrastructure approve new Statements of Common Ground and changes to published Statements of Common Ground, for the duration of the Local Plan Review Independent Examination. The process for these approvals would depend on timescales available and is set out in Appendix A.
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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

##### Recommendation 1

- 4.1 That Planning and Infrastructure PAC recommend that the draft SOCG (Exempt Appendices 1 and 2) are approved by the Lead Member on the Executive for Planning and Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that it may be submitted to the Inspector appointed by the Secretary of State in a timely manner and help ensure they are considered for the relevant Local Plan Review examination hearings.

##### Recommendation 2

- 4.2 That the Lead Member for Planning and Infrastructure approve new Statements of Common Ground and changes to published Statements of Common Ground, for the duration of the Local Plan Review Independent Examination. The process for these approvals would depend on timescales available and is set out in Appendix A.
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#### **5. RISK**

- 5.1 The risk associated with these two recommendations, including the risks should the Council not act as recommended, have been considered in line with the Council's Risk management Framework.
- 5.2 The Planning Inspector appointed to examine the Local Plan Review will consider whether a council has complied with the duty to co-operate as set out in the NPPF and relevant legislation, including relevant Statements of Common Ground. Should the Inspector consider that the Council has not met this duty and associated requirements then the Local Plan Review may fail Independent Examination.
- 5.3 If agreement is secured, per the recommendations, then we are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

#### **6. CONSULTATION**

This issue was considered by the Planning and Infrastructure Policy Advisory Committee on 15 August 2022 and the Committee supported the recommendations of this report.

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## **7. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

Appendix A: Process for Lead Member for Planning and Infrastructure to determine new and amended Statements of Common Ground

Exempt Appendix 1: Draft Statement of Common Ground between Maidstone Borough Council and the Defence Infrastructure Organisation

Exempt Appendix 2: Draft Statement of Common Ground between Maidstone Borough Council and Kent County Council Minerals

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## **8. Background Documents**

[Report to SPI Committee, 9 March 2021: Practice & Procedure Protocol: Duty to Cooperate](#)

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Appendix A: Process for Lead Member for Planning and Infrastructure to determine new and amended Statements of Common Ground

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The process for agreeing Statements of Common Ground will change according to the length of time between the Inspector requesting an updated or new SoCG, and the deadline applied by the Inspector.

The definition of 'urgent' with regards to the call-in period is set out below:

'A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest.'

Different timelines are set out below, outlining the processes required for each.

More than 28 days (plus 7 working days to allow for call-in) – Standard Timescale

<u>Notice of Decision</u>	The Notice of Decision will be published (via the Forward Plan) at least 28 days in advance of the expected decision date, stating that part or all of the meeting may be held in private.
<u>Meeting of the Planning and Infrastructure Policy Advisory Committee</u>	The item will be presented at the next scheduled meeting of the PAC or, if necessary, an additional meeting of the PAC will be scheduled.
<u>Meeting of the Lead Member for Planning and Infrastructure</u>	The item will be considered by the Lead Member for Planning and Infrastructure at a public meeting, at least 10 working days before the decision is to be implemented, and the Record of Decision signed by the Lead Member.
<u>Decision implemented</u>	The decision would be implemented following the expiry of the 5-day call-in period unless called in.

Less than the standard timescale but more than 10 working days

<u>Agreement to waive 28-days-notice of a private meeting</u>	Where the report is likely to be exempt or part exempt, the Chairman of the Overview and Scrutiny Committee must agree that the decision is urgent, and that the requirement of 28-days-notice of a private meeting can be waived.
<u>Notice of Decision</u>	The Notice of Decision would be published and include the reason for urgency, and therefore the reason that the requirement

	for 28-days-notice for a private meeting cannot be met.  <i>(Continued over)</i>
<u>Meeting of the Planning and Infrastructure Policy Advisory Committee</u>	The item will be presented at the next scheduled meeting of the PAC or, if necessary, an additional meeting of the PAC will be scheduled.
<u>Meeting of the Lead Member for Planning and Infrastructure</u>	The item will be considered by the Lead Member for Planning and Infrastructure at a public meeting, at least 7 working days before the decision is to be implemented, and the Record of Decision signed by the Lead Member.
<u>Decision implemented</u>	The decision can be implemented following the expiry of the 5-day call-in period unless called in.

Ten working days or fewer

<u>Agreement to waive call-in</u>	The Chairman of the Overview and Scrutiny Committee and the political group leaders will be informed of the urgent decision and if, by simple majority, they do not disagree, call-in will be waived.
<u>Agreement to waive 28-days-notice of a private meeting</u>	Where the report is likely to be exempt or part exempt, the Chairman of the Overview and Scrutiny Committee must agree that the decision is urgent, and that the requirement of 28-days-notice of a private meeting can be waived.
<u>Notice of Decision</u>	The Notice of Decision would be published and include the reason for urgency, and therefore the reason that both the 28-notice for a private meeting and the call-in period will be waived.
<u>Meeting of the Lead Member for Planning and Infrastructure</u>	The SoCG will be considered by the Lead Member for Planning and Infrastructure at an urgent public meeting, and the Record of Decision signed by the Lead Member.
<u>Decision implemented</u>	The decision would be implemented immediately.

# Agenda Item 4

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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of the Local Government Act 1972.

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