

# STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE MEETING

Date: Tuesday 9 March 2021

Time: 6.30 pm

Venue: Remote Meeting: The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.

Membership:

Councillors D Burton (Chairman), Clark, English, Garten, Mrs Grigg (Vice-Chairman), McKay, Munford, Parfitt-Reid and Spooner

*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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## **AGENDA**

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Notification of Visiting Members
5. Disclosures by Members and Officers
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
8. Minutes of the Meeting Held on 9 February 2021 1 - 11
9. Presentation of Petitions (if any)
10. Question and Answer Session for Members of the Public
11. Questions from Members to the Chairman (if any)
12. Committee Work Programme 12
13. Reports of Outside Bodies
14. Practice & Procedure Protocol: Duty to Cooperate 13 - 18

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**Issued on Monday 1 March 2021**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

15. Reference from Council - Motion - Maidstone Cycle Campaign Forum	19 - 21
16. Response to the Government's Consultation on Draft Revisions to the NPPF and a new draft National Model Design Code	22 - 38
17. Local Plan Review Regulation 18 Preferred Approaches Public Consultation Response	39 - 51
18. Statement of Common Ground between Maidstone Borough Council and Tunbridge Wells Borough Council	52 - 57

## **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.**

### **Head of Schedule 12 A and Brief Description**

20. Appendix 1: Draft Statement of Common Ground between Maidstone Borough Council & Tunbridge Wells Borough Council – to follow.	Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)
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## **INFORMATION FOR THE PUBLIC**

In order to ask a question at this remote meeting, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Friday 5 March 2021). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to make a statement in relation to an item on the agenda, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Friday 5 March 2021). You will need to tell us which agenda item you wish to speak on.

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

To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk).

Should you wish to refer any decisions contained in these minutes to the **Policy and Resources Committee**, please submit a Decision Referral Form, signed by **three** Councillors, to the **Head of Policy, Communications and Governance** by: **4 March 2021**

## **MAIDSTONE BOROUGH COUNCIL**

### **STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON TUESDAY 9 FEBRUARY 2021**

**Present:** Councillors D Burton (Chairman), Clark, English, Garten, Mrs Grigg, McKay, Munford, Parfitt-Reid and Spooner

**Also Present:** Councillor Naghi

304. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

305. **NOTIFICATION OF SUBSTITUTE MEMBERS**

There were no Substitute Members.

306. **URGENT ITEMS**

There were no urgent items.

307. **NOTIFICATION OF VISITING MEMBERS**

Councillor Naghi was present as a Visiting Member for Item 14 – Discounted Battery Electric Vehicle Parking, Item 15 – Virtual Permit Management in Maidstone and Item 19 – Local Plan Review Update.

308. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

309. **DISCLOSURES OF LOBBYING**

Councillors D Burton, Clark, Garten, Mrs Grigg, Munford, Parfitt-Reid and Spooner had been lobbied on Item 19 – Local Plan Review Update.

Councillor Munford had been lobbied on Item 18 – Boughton Monchelsea Neighbourhood Plan (Regulation 17A).

310. **EXEMPT ITEMS**

**RESOLVED:** That all items be taken in public as proposed.

311. MINUTES OF THE MEETING HELD ON 12 JANUARY 2021

**RESOLVED:** That the Minutes of the meeting held on 12 January 2021 be approved as a correct record and signed at a later date, subject to the following amendment to the third resolution, to read:

'That a basic record of the meeting would be published on the Council's Website'

A fifth resolution would be added, to read:

'The protocol be re-presented to the Committee, to include the changes requested, for ratification'.

312. PRESENTATION OF PETITIONS

There were no petitions.

313. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were eight questions from Members of the Public.

Question from Kate Hammond to the Chairman of the Strategic Planning and Infrastructure Committee

*'At the 9 November 2020 SPI meeting, in response to our question about whether sites included in your Local Plan Review Preferred Approaches had permission from landowners affected, you said:*

*"on the forms that were required to be submitted with site proposals, promoters were asked to confirm that the submission included confirmation from the landowner or the person in legal control of the site that the site will be available for development being proposed. I am not aware of any that do not meet these criteria."*

*Site 289 Heathlands Garden Community does not meet the criteria as a large majority of the landowners were not aware of the submission nor did they give their permission for their land to be developed on as set out in the promoter's masterplan. Do you wish to place on record that the officer advice you received to our question in November was factually incorrect?'*

The Chairman responded to the question.

Ms Hammond asked the following supplementary question:

*'Are you content for a site without landowner's permission being submitted to the planning inspector later this year as part of your proposed new local plan?'*

The Chairman responded to the supplementary question.

Question from John Hughes to the Chairman of the Strategic Planning and Infrastructure Committee

*'Many small sites will not have come forward as part of the Call for Sites. Why are no small-site windfalls allowed for during the first three years of the Local Plan Review Period, which, at historic rates, would amount to just under 350 dwellings?'*

The Chairman responded to the question.

Mr Hughes asked the following supplementary question:

*'Is it not that case that the windfalls in the future including the first three years of the local plan review period are likely to be even greater than in the past, particularly after recent major changes in 2020 to permitted development rights to allow upward residential extensions by two stories and to allow changes of use from commercial business and service uses to residential uses to be brought in by the Government later this year, specifically to increase housing delivery after the pandemic which will result in a significant number of small site windfalls over the first three years of the local plan review and beyond that?'*

The Chairman responded to the supplementary question.

Question from Geraldine Brown to the Chairman of the Strategic Planning and Infrastructure Committee

*'According to the Committee paper, in total there were in the region of 3,000 submissions to Reg 18b consultation. Of those, how many related to the proposed Lenham Heath and Lidsing Garden Communities and are they being collated together, rather than being dealt with individually?'*

The Chairman responded to the question.

Ms Brown asked the following supplementary question:

*'Why do we have to wait for the SPI meeting of the 9 March before your views on at least the non-garden community's submissions, which presumably contain a lot of repetition?'*

The Chairman responded to the supplementary question.

Question from Mr Peter Coulling to the Chairman of the Strategic Planning and Infrastructure Committee

*'Leeds Langley Relief Road. A piece of work is being commissioned to explore the related corridor, therefore indicating the possibility of this road being established. In the Local Plan Review, should an allowance be made for perhaps 1,500 new houses along that corridor to assist the road's funding, otherwise, if it does go ahead within the plan period, our Borough will have a plan with up to 1,500 homes in excess of the Government formula's requirement?'*

The Chairman responded to the question.

Mr Coulling asked the following supplementary question:

*'If Members think that the inspector would just dismiss any allowance linked to this possible road, why doesn't MBC just declare the corridor as a broad area with a figure against it, and then either flesh it out with detailed sites or remove it and replace it with other sites at the next review in a few years' time when the fate of the road may become clearer? Aren't we in the worst of all possible worlds by ignoring Leeds Langley relief road?'*

The Chairman responded to the supplementary question.

Question from John Horne to the Chairman to the Strategic Planning and Infrastructure Committee

*'As a matter of urgency, could we see copies of agenda, briefing papers and minutes for all Duty to Cooperate activities since 1st July 2020 that have taken place with Tonbridge & Malling to coordinate strategic matters, including planning of homes and employment around our common border?'*

The Chairman responded to the question.

Mr Horne asked the following supplementary question:

*'The last Minutes said that future updates from such meetings would be provided through the local plan review update agenda item. In the absence of any such update, can we therefore assume there have been no duty to cooperate meetings since your last meeting?'*

The Chairman responded to the supplementary question.

Question from Ms Gail Duff to the Chairman of the Strategic Planning and Infrastructure Committee

*'The Council's Strategic Plan commits to aiming to "deliver an eco and biodiversity net gain exemplar new community at Heathlands". Tonight's officer report on Heathlands also states that the new development aims "to support the council's wider air quality improvement aims and its declared climate change emergency," The Heathlands proposal is a car-dependent air-polluting dormitory town that is questionable on how it will integrate biodiversity net gains and air quality improvements in to the development other than by tagging a country park on the side of it. Air quality levels are already poor due to the proximity to the motorway and will be exacerbated by considerable further traffic generated by the 5,000 new homes in an unsustainable location. Why is the Local Plan Review accepting a proposal which clearly contradicts the Council's climate change declaration?'*

The Chairman responded to the question.

Ms Duff asked the following supplementary question:

*'Do you agree that the Council-led garden community at Lenham Heath contradicts the Council's own climate change policies and should be shelved as a preferred site in the local plan review?'*

The Chairman responded to the supplementary question.

Question from Mr Darren Hammond to the Chairman of the Strategic Planning and Infrastructure Committee

*'The Welwyn Hatfield Local Plan has recently hit the buffers with the Planning Inspector accusing the authority of 'unjustified bias' in the selection of its housing development sites, favouring less sustainable locations over other locations with better access to public transport for example. The same could be suggested of the Maidstone Local Plan Review that chooses unsustainable car-dependent locations like Heathlands over other locations which have better existing access to a rail station. If the Council still believes Garden Settlements is the right spatial approach, do you think you need to review the original nine proposed settlements again and look for sites that are genuinely the most sustainable?'*

The Chairman responded to the question.

Mr Hammond asked the following supplementary question:

*'SOHL, Lenham Parish Council and Borough Councillors have all asked for the Council to publish its study that looked for the right location for a new council-led garden community before it settled on Heathlands. This was repeatedly refused by officers. How are you going to prove that there is no bias in your garden community selection?'*

The Chairman responded to the supplementary question.

Question from Mr Steve Heeley to the Chairman of the Strategic Planning and Infrastructure Committee

*'The Council's independent Sustainability Appraisal states that "Heathlands performed least well across the range of sustainability objectives". Other proposals for garden settlements such as the one in Marden, scores considerably more favourably than others yet appeared suspiciously silent in your Preferred Approaches recently consulted on. Is this therefore a politically motivated Local Plan Review rather than one based on sound sustainable development planning?'*

The Chairman responded to the question.

Mr Heeley asked the following supplementary question:

*'Can you tell us how the findings of your sustainability appraisal informed the selection of your preferred garden settlements in your preferred approaches?'*

The Chairman responded to the supplementary question.

The full responses were recorded on the webcast and made available to view on the Maidstone Borough Council website.

To access the webcast recording, please use the link below:  
<https://www.youtube.com/watch?v=qCxxIjP-KZI>

314. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

315. COMMITTEE WORK PROGRAMME

The Committee were informed that the Access to Biodiversity and Climate Change Funding and the Anti-Idling Policy would be removed from the work programme; the former would be presented to the Policy and Resources Committee at its next meeting and the latter would be presented to the Communities, Housing and Environment Committee.

The Council's response to the Government's consultation on the proposed changes to the National Planning Policy Framework would be presented during the 9 March 2021 Committee meeting.

The Conservation Area Appraisal and Management Plans Work Programme Update would be delayed until the April 2021 Committee meeting. A report on Cycling Infrastructure Alternatives – funded through the Business Rates Retention Pilot Schemes would be presented to the April 2021 meeting.

**RESOLVED:** That the Committee Work Programme be noted.

316. REPORTS OF OUTSIDE BODIES

There were no reports of Outside Bodies.

317. DISCOUNTED BATTERY ELECTRIC VEHICLE PARKING

The Parking Services Manager introduced the report and stated the proposed scheme was intended to support the Council's air quality improvement aims within the Low Emissions Strategy, by increasing Battery Electric Vehicle (BEV) ownership. Over 1 million parking events took place within Council car parks each year, with 0.52% of transactions made with BEVs, which was likely to increase to 5% within the next three years based on data predictions.

The proposed discount would be linked to cashless transactions processed through RingGo and PodPoint. As BEV ownership was like to increase over

time, in part due to the fact that no new diesel and petrol vehicles would be sold in the United Kingdom after 2030, the discount applied would be reviewed annually as part of the Fees and Charges review. The number of transactions would be recorded and monitored.

The risks associated with providing free parking were outlined. The cost of the electricity used during vehicle charging sessions would no longer be recovered by the Council through a parking tariff, which would lead to a net loss. There could be unnecessary enforcement actions and reputational harm to the Council if BEV owners did not register their vehicle on either the RingGo or PodPoint apps to prove their eligibility for free parking.

The Committee felt that providing free parking to BEVs, rather than the 50% discount proposed, would better demonstrate the Council's commitment to improving air quality, tackling climate change and act as a greater incentive to increase BEV ownership.

In response to questions, the Parking Services manager confirmed that BEV owners would still have to register their vehicle as parked, regardless of a free parking tariff, as access to the DVLA database to check the vehicles eligibility could only be achieved through the RingGo App. This would allow accurate data collection on the amount of parking transactions made by BEVs. A further potential income loss was highlighted, through any BEV owners that would have purchased a parking season ticket.

There were concerns expressed concerning the equality impact of the scheme given that the BEV parking had to be registered through RingGo or PodPoint only.

**RESOLVED:** That

1. A 100% discount to parking tariffs as set out in the Council's Fees and Charges schedule be applied to parking transactions relating to battery electric vehicles (BEVs) when purchased through RingGo cashless parking or PodPoint electric vehicle charging points at Council controlled car parks;
2. The discount be reviewed annually as part of the Fees and Charges process to manage financial risk as demand from battery electric vehicle increases over time; and
3. The Committee request that further work be carried out to seek a means to ensure that the application of the policy is further enhanced for fairness and equalities, for user that may have problems with the current form of access.

318. VIRTUAL PERMIT MANAGEMENT IN MAIDSTONE

The Service Analyst introduced the report and stated that the current computer system being used to operate the parking permit system was no

longer supported by the supplier, leading the Council to upgrade the system in place. A virtual permit system was the preferred option which would replace the paper permits in use. Residents would have to apply online for a permit, which would reduce the application timescale by around 2-3 days, reduce emissions from postage and provide the foundations to consider emissions-based charging in the future.

It was highlighted that visitor permits were often misused; through use on a third vehicle or having been sold to local businesses and commuters, particularly in Maidstone Town Centre. Through a virtual permit system, visitor permits could be activated through a token system and registered to a vehicle to prevent misuse. A Member workshop would take place, with a representative from each political party alongside the Chair and Vice-Chair of the Committee, to assess the best options for visitor permits moving forward. The findings would then be presented to the Committee before a procurement exercise was undertaken.

In response to questions, the Service Analyst confirmed that the existing paper-based system required an online application to be completed, but that residents could telephone the Council if assistance was needed. Parking Services would seek to maintain the access options currently in place for residents when an alternative system was implemented. A full Equality Impact Assessment would be completed as part of the procurement process.

Group leaders would be consulted for nominations to the Member Focus Group.

**RESOLVED:** That

1. The existing paper-based resident parking scheme be updated with a virtual resident permit scheme;
2. Members nominate a representative from each Political Party along with the Chair and Vice-Chair of the Committee to attend a Member Focus Group hosted by Parking Services officers addressing the issue of Visitor Permit Misuse; and
3. Following the Member focus group recommendations, a report be presented to the Committee specifically relating to the management of Visitor Permits in Maidstone.

319. 3RD QUARTER FINANCIAL UPDATE & PERFORMANCE MONITORING REPORT 2020/21

The Head of Finance introduced the financial update of the report and stated that the net income shortfall for the Committee was £1.9 million with significant adverse variances in development control and parking. The income received through the Sales, Fees and Charges Scheme had not been included within the figures presented.

The Head of Finance highlighted the increased forecast overspend on the Local Plan Review (LPR) due to increased spending on sustainability appraisal's and transport modelling, the volume of consultation responses to the Regulation 18 public consultation, the extensions required for specialist contractors and the accelerated LPR timescale. The overspend would be closely monitored by finance and planning officers.

It was stated that whilst the Medway Street Flood Prevention Works were ongoing, these were likely to be delayed, with the remaining budget for the works to be carried into the next financial year.

The Senior Business Analyst introduced the performance update, stating that three of the six Key Performance Indicators (KPIs) did not meet the third quarter target, with one having missed the target by more than 10%; the percentage of priority 1 enforcement cases dealt with in time. This was due to Covid-19 restrictions having prevented Officers from carrying out a site visit within the allotted time.

The percentage of priority 2 enforcement cases dealt with in time missed the target by 3.45%, due to the service area experiencing reduced staffing levels. A new staffing structure had been agreed, with additional resources to be in place before the fourth quarter. The affordable homes as a percentage of all new homes had achieved 180% of the set target.

It was noted that the Policy and Resources Committee would be considering the requests made by the Committee at its last meeting, concerning the Medium- Term Financial Strategy and Budget Proposals, the following day.

**RESOLVED:** That

1. The Revenue position at the end of Quarter 3 for 2020/21, including the actions being taken or proposed to improve the position, where significant variances have been identified, be noted;
2. The Capital position as at the end of Quarter 3 be noted; and
3. The Performance position as at Quarter 3 for 2020/21, including the actions being taken or proposed to improve the position, where significant issues have been identified, be noted.

320. STRATEGIC PLAN - PROPOSED AREAS FOR FOCUS 2021-2026 AND KEY PERFORMANCE INDICATORS FOR COVID-19 RECOVERY

The Policy and Information Manager introduced the report and reiterated that the Policy and Resources Committee had agreed that the Strategic Plan would undergo a refresh in July 2020.

The proposed areas of focus relating to the Committee had been drafted in accordance with the Member feedback received during the Summer of 2020 and were shown at Appendix C to the report. The proposed Key Performance Indicators (KPIs) shown in Appendix D to the report would

replace the current KPI set and assist in monitoring the Council's progress in recovering from Covid-19.

In discussing Appendix D, the Committee requested that an additional KPI to monitor vacant office space within the Borough and in the neighbouring areas, be included. This was due to the potential impact of Covid-19 on the Council's employment strategy which affected the Local Plan allocations.

It was felt that a concept of analysing a plateau point within the recovery column figure be considered, rather than focusing purely on reaching close to pre-Covid-19 levels, to give an indication on whether further economic recovery was likely.

**RESOLVED:** That

1. The Committee's feedback and recommendations on the proposed refreshed areas of focus for the Council's Strategic Plan for the period 2021-2026, set out in Appendix C to the report, be provided to the Policy and Resources Committee; and
2. The Committee's feedback and comments on the proposed Key Performance Indicators for Covid-19 Recovery set out in Appendix D to the report, be considered provided to the Policy and Resources Committee.

321. BOUGHTON MONCHELSEA NEIGHBOURHOOD PLAN (REGULATION 17A)

The Planning Policy Officer introduced the report and stated that the examiner's report was received for the Boughton Monchelsea Neighbourhood Plan on 17 December 2020, which recommended that the neighbourhood plan proceed to referendum. The modifications proposed by the examiner were outlined and it was noted that Boughton Monchelsea Parish Council had implemented the changes recommended.

It was highlighted that if the referendum was successful, the Boughton Monchelsea Neighbourhood Plan would become part of the Development Plan and be given significant weight in decision making. Post-examination Neighbourhood Plans were of significant material consideration in decision making.

**RESOLVED:** That

1. The modifications to the Boughton Monchelsea Neighbourhood Development Plan, as set out in the Examiner's report, be agreed; and
2. The Boughton Monchelsea Neighbourhood Development Plan proceeds to local referendum.

322. LOCAL PLAN REVIEW UPDATE

Prior to the report's introduction Ms Geraldine Brown and Mr Peter Coulling addressed the Committee.

The Strategic Planning Manager introduced the report and stated that the responses received during the Regulation 18 preferred approaches consultation were being processed and analysed. A significant number of responses had been received, with an analysis of the responses to be presented to the Committee during its March 2021 meeting.

It was confirmed that there had been no material change in the circumstances that the Council used to calculate windfall allowances, which had proved robust in the examination of the Local Plan and at Planning Appeals. This would be reviewed by Officers prior to the Regulation 19 draft Local Plan Review consultation.

The Strategic Planning Manager confirmed that a piece of work was being commissioned to establish whether a business case exists for development along the Leeds-Langley corridor, that would support a realistic funding package to deliver the necessary infrastructure. This had been undertaken in discussion with Kent County Council, as Highway Authority.

**RESOLVED:** That the report be noted.

323. DURATION OF MEETING

6.30 p.m. to 8.35 p.m.

## 2020/21 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Consultation on the Swale pre-submission draft plan	SPI	13-Apr-21	Officer Update		Mark Egerton	Helen Garnett
Conservation Area Appraisal and Management Plans Work Programme Update	SPI	13-Apr-21	Officer Update		Rob Jarman	Paul Robertshaw
Kent Downs AONB Management Plan	SPI	13-Apr-21	Officer Update		Rob Jarman	Deanne Cunningham
Local Plan Review Update	SPI	13-Apr-21	Officer Update		Phil Coyne	Mark Egerton
KCC 20mph Speed Limit Pilot - Summary of Conclusions	SPI	Awaiting Date for Pilot Information to be Released by KCC	Cllr Request	?	TBC	TBC
Cycling Infrastructure Alternatives funded through the Business Rates Retention Pilot Scheme	SPI	TBC	Officer Update		William Cornall	William Cornall
Virtual Permit Management - Visitor Permits	SPI	TBC	Officer Update		Jeff Kitson	Alex Wells
Non-Spatial Policies	SPI	TBC	Cllr Request	?	Rob Jarman	Rob Jarman
Overview of the Draft Building Safety Bill and the Implications for the Council	SPI	TBC	Officer Update		William Cornall	Robert Wiseman
Revised Integrated Transport Strategy	SPI	TBC	Officer Update	Yes	TBC	TBC
Referenced from Economic Regeneration and Leisure Committee - Review of the use of Section106 - McDonalds Planning Approval, 2-8 Hart Street	SPI	TBC	Officer Update		ERL Committee	Oliviya Parfitt
KCC 20mph Speed Limit Pilot Scheme - Hale Road	SPI	TBC	Cllr Request		TBC	TBC

## STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

**9 March 2021**

### Practice & Procedure Protocol: Duty to Cooperate

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	Rob Jarman
<b>Lead Officer and Report Author</b>	Helen Garnett
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

This report provides an update to the duty to co-operate procedures which reflect the changes to the proposed protocol as endorsed by members at the meeting of the 12 January 2021. It outlines the protocol to be established in order that the council can meet the relevant national requirements in respect to duty to cooperate.

#### **Purpose of Report**

To inform members of and to seek agreement on the proposed framework.

#### **This report makes the following recommendations to this Committee:**

1. That members agree the framework for future duty to cooperate processes, and summarised in paragraph 2.16 of this report with further detail outlined in the following paragraphs: meeting levels as detailed in paragraphs 2.7-2.10; the sign off procedure for minutes as detailed in paragraphs 2.11-2.12; and the sign off procedures for statements of common ground as detailed in paragraph 2.13-2.15.

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Strategic Planning and Infrastructure Committee	9 March 2021

# Practice & Procedure Protocol: Duty to Cooperate

## 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 each of the corporate priorities.</p>	Rob Jarman
<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 four cross cutting objectives by ensuring that the Local Plan Review is successful at examination.</p>	Rob Jarman
<b>Risk Management</b>	<p>The recommendations seek to reduce the risk associated with the production requirements for the Local Plan Review.</p>	Rob Jarman
<b>Financial</b>	<p>Funding has been set aside for the Local Plan Review in the Medium Term Financial Strategy. This includes funding for the specific work described in this report.</p>	Section 151 Officer & Finance Team
<b>Staffing</b>	<p>We will deliver the recommendations with our current staffing.</p>	Rob Jarman
<b>Legal</b>	<p>Accepting the recommendations will fulfil the Council's duties under Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations</p>	Cheryl Parks and Russell Fitzpatrick (Mid Kent

	(2012). Officers from Mid Kent Legal Services have been involved in discussions that have underpinned the formulation of the framework for DtC proposed in this report.	Legal Services (Planning)
<b>Privacy and Data Protection</b>	Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with our retention schedules.	Policy and Information Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Senior Policy and Engagement Officer
<b>Public Health</b>	No implications identified	[Public Health Officer]
<b>Crime and Disorder</b>	The recommendation will not have a negative impact on Crime and Disorder.	Rob Jarman
<b>Procurement</b>	N/A	[Rob Jarman & Section 151 Officer]

## 2. INTRODUCTION AND BACKGROUND

- 2.1 At the SPI committee on the 12 January 2021, a report was brought before members which outlined the council's obligation to cooperate with neighbouring boroughs and other prescribed bodies, as required by the Planning and Compulsory Purchase Act 2004; the Town and Country Planning (Local Planning) (England) Regulations (2012); and the NPPF.
- 2.2 That report set out a proposed process for duty to cooperate engagement going forward, and sought to establish a framework for internal procedures which will ensure that duty to cooperate activities were undertaken in a robust and accountable way. The report sought committee approval for meeting procedures, the recording of engagement with prescribed bodies, and the signing off of statements of common ground.
- 2.3 At that committee, it was agreed that that the protocol should be amended to include the following:
- a greater degree of involvement of members at officer level meetings through these being undertaken in consultation with the Chair and Vice-Chair;
  - the precise nature of member involvement at level 3 meetings;
  - the procedure to sign off urgent changes to an agreed statement of common ground and;
  - the publication of meeting records on the Council's website.
- 2.4 It was also agreed that the procedure be brought back to the committee for final ratification.

2.5 Additionally, this report seeks to update the procedure to include provision for the handling of statements of common ground where these might be brought forward for signing by neighbouring authorities outside of our own timetable.

### **Duty to Cooperate Procedures.**

2.6 This section sets out the proposed procedures, as amended by the committee of the 12 January 2021:

#### Duty to cooperate with neighbouring authorities

- 2.7 Planned DtC activity with neighbouring authorities will follow a tiered approach in order that strategic matters can be considered in further detail, and any issues may be escalated where required. Escalation is as follows:
- Level 1: Officer level to discuss strategic matters in more detail and consider a broad range of issues. These have been ongoing since inception of the plan. Going forward, these meetings will take place in consultation with the Chair and Vice-Chair of this committee.
  - Level 2: More complex issues and matters of agreement will be discussed at senior officer level. This may involve relevant directors and/or Chief Executive, and will take place in consultation with the Chair and Vice-Chair of this committee.
  - Level 3: Any unresolved issues and key matters of agreement and disagreement will be escalated to member level meetings. Member level meetings may involve some or all of the Chair and Vice-Chair of SPI and Policy and Recourses Committee.
- 2.8 Once key matters of agreement or disagreement are identified by officers, these will be set out in a draft statement of common ground. These draft statements of common ground will form the basis for duty-to-cooperate meeting agendas going forward.

#### Duty to cooperate with other prescribed bodies

- 2.9 Other prescribed bodies include such organisations as infrastructure providers and regulatory bodies. Meetings with these bodies are currently taking place at officer level (level 1), and for the majority of organisations it is expected that they will continue to be undertaken at this level to their conclusion. Where there may be a particularly complex set of issues to deal with in relation to prescribed bodies, there may be a need for meetings to be escalated to senior officer level (level 2).
- 2.10 Where particular issues arise that need formal agreement, or where disagreement remains then Maidstone will enter into a statement of common ground with that organisation.

#### Recording and reporting future meetings

- 2.11 Meeting agendas will be set by the contents of the draft statements of common ground and these as informed by previous discussions and meetings.
- 2.12 As agreed at the SPI committee of the 12 January 2021, a broad outline of these discussions will be provided on the council's website. As these discussions are often at an early stage, it is considered that the release of information will constitute a basic record limited to the topics that were discussed at the meeting.

#### Statements of Common Ground

- 2.13 Statements of common ground may result from either discussions with neighbouring authorities (or potentially with other bodies). In the case of other local authorities, these discussions may emanate from either Maidstone's planning documents, or those of the other authorities. These will culminate in the signing of the statement of common ground. Draft statements of common ground have already been prepared in respect of neighbouring authorities and these will be updated as discussions progress. Whilst the statements reflect matters that have already been discussed with the chair and vice chair through the meeting protocol, these statements will be brought before committee at the appropriate time in order that their content can be agreed.
- 2.14 To accommodate any urgent changes to statements of common ground that may arise after this committee has agreed a statement, any such changes made subsequent to SPI committee agreement will be done in consultation with the Chair and Vice-Chair of the SPI committee.
- 2.15 There may be cases where neighbouring authorities bring forward their Local Plan in advance of Maidstone, and in these instances a statement of common ground will need to be signed earlier than programmed. This has recently occurred with Tunbridge Wells Borough Council are preparing to consult on its Regulation 19 plan. As with standard MBC led procedures, these will be brought before the committee for formal agreement. It should be noted that as these statements are iterative documents, they will continue to develop and will be agreed and signed again when MBC reaches Regulation 19 stage of its plan.
- 2.16 In summary, the recommendations agreed at the committee of the 12 January 2021 are set out below:
1. Officer Duty to Co-operate (level 1 & 2) meetings will take place in consultation with the Chair and Vice-Chair of the Committee;
  2. Member meetings (Level 3) would involve some or all of the Chair and Vice-Chair of Policy and Resources Committee and the Strategic Planning and Infrastructure Committee, as required;
  3. Whilst we wish to promote open and constructive conversations , a basic record of the meetings would be published on the Council's website. This will contain the headline topics discussed in the meeting only.

4. Statements of common ground, whether being brought forward by MBC or another council, will be held in draft form and then brought before the Committee when ready for agreement, with any urgent subsequent changes to be in consultation with the Chair and Vice-Chair of the Committee.
  5. Where the timescales of other authorities do not permit this and where there are no major issues, authority to sign off the Statement of Common Ground will be sought from the Head of Planning and Development in consultation with the Chair and Vice Chair of Strategic Planning and Infrastructure Committee and.
  6. A Statement of Common Ground is a record of duty to cooperate at a point in time, and as such it will continue to be reviewed and updated as the plan making processes progress.
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### **3. AVAILABLE OPTIONS**

- 3.1 The Strategic Planning and Infrastructure Committee are asked to agree the framework for future duty to co-operate, the sign-off procedure for future meeting minutes and the arrangements for statements of common ground, as set out in this report.
  - 3.2 Alternatively, Members may choose not to accept the proposed arrangements. This will mean officers will continue with the duty to co-operate process in order to meet national requirements and will do so using the powers set out in Maidstone Borough Council's constitution.
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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 That members agree the framework for future duty to co-operate, the sign-off procedure for future meeting minutes and the arrangements for statements of common ground, as set out in this report.
- 

### **5. RISK**

- 5.1 The risk associated with these proposals, 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. Should the Inspector consider that the Council has not met this duty then the examination will not proceed to hearings. This will delay the review of the Local Plan.
- 5.3 If agreement is secured on all recommendations, then we are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

## MAIDSTONE BOROUGH COUNCIL

### STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

9 MARCH 2021

#### REFERENCE FROM COUNCIL

#### **MOTION – MAIDSTONE CYCLE CAMPAIGN FORUM**

At the meeting of the Council held on 24 February 2021, the following motion was moved by Councillor Harper, seconded by Councillor Adkinson:

*Maidstone Council has previously agreed to work in partnership with Maidstone Cycle Campaign Forum (MCCF). This is also reflected in the adopted Local Plan and Walking and Cycling Strategy. However, the Planning Department has continually failed to follow Council policy and does not work with MCCF. Maidstone Borough Council (MBC) today instructs Officers across all departments to implement MBC policy with respect to working in partnership with MCCF, and to that end will in March 2021 organise a round table of MBC Officers, MBC Chairs and Vice-Chairs, and Representatives of MCCF to agree new working protocols to ensure proper partnership working takes place in future.*

During the discussion, with the agreement of the mover and the seconder, the fourth sentence of the motion was amended as follows:

*Maidstone Borough Council (MBC) today instructs Officers across all departments to implement MBC policy with respect to working in partnership with MCCF, and to that end will ~~in March 2021~~ **at the earliest opportunity** organise a round table of MBC Officers, MBC Chairs and Vice-Chairs, and Representatives of MCCF to agree new working protocols to ensure proper partnership working takes place in future.*

It was also suggested that the Chairman and Vice-Chairman of the Planning Committee should be involved in the discussions.

In accordance with Council Procedure Rule 18.5, the motion, as amended, was referred to the Strategic Planning and Infrastructure Committee.

A copy of the briefing note which was prepared to assist Members in their consideration of the motion is attached as Appendix A.

**RECOMMENDED: That the Committee consider the motion, as amended, relating to the Maidstone Cycle Campaign Forum.**

Notice of Motion - Maidstone Cycle Campaign Forum

Notice of the following motion has been given by Councillor Harper, seconded by Councillor Adkinson:

Maidstone Council has previously agreed to work in partnership with Maidstone Cycle Campaign Forum (MCCF). This is also reflected in the adopted Local Plan and Walking and Cycling Strategy. However, the Planning Department has continually failed to follow Council policy and does not work with MCCF. Maidstone Borough Council (MBC) today instructs Officers across all departments to implement MBC policy with respect to working in partnership with MCCF, and to that end will in March 2021 organise a round table of MBC Officers, MBC Chairs and Vice-Chairs, and Representatives of MCCF to agree new working protocols to ensure proper partnership working takes place in future.

*Maidstone Borough Council (MBC) has an adopted Integrated Transport Strategy (ITS) and a Walking & Cycling Strategy (W&CS) in place, both of which reference that a greater and safer uptake of cycling within the borough would be beneficial on several levels.*

*The W&CS itself contains several desired actions and outcomes, but one that is particularly pertinent is as follows:*

***Action C5: Support the Maidstone Cycle Campaign Forum as a group to promote the cycling cause in the borough; in order to ensure the Walking and Cycling Strategy and the Integrated Transport Strategy provide a coherent strategy for the promotion of Active Travel in the borough.***

*Prior to the pandemic there had been ad hoc meetings between MBC's Planning Officers and Members of the MCCF.*

*The MCCF do submit representations in respect of some Planning applications, which Planning Officers do take due regard of. Furthermore, Kent County Council (KCC) acting as the Highway Authority, does through the pre-application process give design advice in respect of all transport matters as they relate to scheme proposals, to include the provision and betterment of cycling infrastructure too.*

*To bolster the delivery of the ITS more broadly, MBC and KCC do co-fund a shared Transport Planning Officer, and this role has generated some very positive progress in respect of all transport matters. This new post has been instrumental in accessing COVID-19 recovery monies from central government to instal the temporary cycle lanes in King Street, and the micro green spaces in Earl Street too. Furthermore, the outcome is awaited for a further bid to government for monies to fund adult cycling training and refresher courses for borough residents too.*

*Also, MBC's Strategic Planning & Infrastructure (SPI) Committee has been awarded £60k from the MBC Business Rates Retention Pilot Scheme for investment in cycling infrastructure. A report on this matter will come to SPI in the coming months setting out different options as to how these monies could be*

*invested. MCCF will be consulted for their views on this investment too and these will be referenced within the report. Indeed, one of the emerging options for this investment is the provision of infrastructure to support a cycle hire scheme.*

*To conclude MBC does have a track record of working positively with MCCF and there are obvious examples of success in more recent times. However, it should be noted that in respect of Planning applications, especially in the urban area, transport matters are often of high importance and scrutiny, and not just in relation to cycling. I.e., the space available for all infrastructure is both fixed and limited and there is usually competition for it from; greenspace (to include hedgerows and trees), cycling infrastructure, walking infrastructure, public transport, and conventional road space too, so invariably compromises need to be made.*

*However, decision makers perhaps would benefit from a more clearly defined travel hierarchy to aid the decision-making process in the allocation of what space is available. Both the ITS and W&CS are being refreshed as part of the ongoing Local Plan Review and so there is potential to establish this hierarchy within these documents. Furthermore, the Manual for Streets and the NPPF do set a clear hierarchy nonetheless.*

*To conclude, it would be possible to establish half-yearly meetings between key officers within MBC's Planning Service and the MCCF and this might be one of the actions that is decided upon at the proposed round table event were it to go ahead.*

## Strategic Planning and Infrastructure Committee

9 March 2021

### Response to the Government's Consultation on Draft Revisions to the NPPF and a new draft National Model Design Code

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	Rob Jarman, Head of Planning and Development
<b>Lead Officer and Report Author</b>	Rob Jarman (Head of Planning and Development), Tom Gilbert (Principal Planning Officer)
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### Executive Summary

On 8th February 2021, the Ministry of Housing, Communities and Local Government launched a public consultation on draft revisions to the National Planning Policy Framework (NPPF) and draft National Model Design Code. The consultation closes on 27<sup>th</sup> March 2021.

The proposed changes to the NPPF focus on the following general areas:

- Sustainable development
- Plan making
- Decision making
- Infrastructure
- Design
- Climate change and flood risk
- The environment
- Heritage; and;
- Minerals

This consultation is also seeking views on the draft National Model Design Code, which provides detailed guidance on the production of design codes, guides and policies to promote successful design.

#### Purpose of Report

For decision. That the Committee approve the Council's response to the Government's 'A consultation on draft revisions to the National Planning Policy Framework and a new draft National Model Design Code'

**This report makes the following recommendations to this Committee:**

1. That the content of the national Government consultation ('A consultation on draft revisions to the National Planning Policy Framework and a new draft National Model Design Code') are noted.

2. The draft responses to the consultation as shown in Appendix 1 be submitted (as may be amended by the Head of Planning & Development following consideration of the Committee's comments (if any) by 19<sup>th</sup> March 2021 in consultation with the Chair and Vice-Chair of this committee) to the Ministry of Housing, Communities and Local Government before 11h45 on 27 March 2021.

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Strategic Planning & Infrastructure Committee	9 March 2021

# Response to the Government's Consultation on Draft Revisions to the NPPF and a new draft National Model Design Code

## 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>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 3</p> <ul style="list-style-type: none"> <li>• </li> </ul>	Rob Jarman (Head of Planning and Development)
<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 recommendation(s) supports the achievement(s) of the four cross cutting objectives.</p>	Rob Jarman (Head of Planning and Development)
<b>Risk Management</b>	<p>Already covered in the risk section – if your risk section is more than just a paragraph in this box then you can state 'refer to paragraph ... of the report'</p>	Rob Jarman (Head of Planning and Development)
<b>Financial</b>	<p>The changes in the NPPF will have to be accommodated within existing budgets for Planning Policy work.</p>	Section 151 Officer & Finance Team

<b>Staffing</b>	If the consultation on design codes is carried through, then will be resource implications particularly around skill sets.	Rob Jarman (Head of Planning and Development)
<b>Legal</b>	This report does not raise any specific legal implications.	Russell Fitzpatrick (Mid Kent Legal Services (Planning))
<b>Privacy and Data Protection</b>	No privacy or data issues identified	Policy and Information Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Policy & Information Manager
<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.	Rob Jarman (Head of Planning and Development)
<b>Procurement</b>	N/A	Rob Jarman (Head of Planning and Development)

## 2. INTRODUCTION AND BACKGROUND

2.1 The Ministry of Housing Communities and Local Government is currently consulting on revisions to national planning policy through the NPPF and a draft Model National Design Code.

2.2 The report will highlight the proposed changes to the NPPF and proposals of the National Model Design Code and then set out proposed Council responses in appendix 1. The full consultation documents are set out in background papers 1 & 2 and should be referred to for full details.

### Revisions to the NPPF

2.3 The proposed revisions to the NPPF cover the following parts:

- Chapter 2: Achieving sustainable development
- Chapter 3: Plan-making
- Chapter 4: Decision making
- Chapter 5: Delivering a wide choice of high quality homes
- Chapter 8: Promoting healthy and safe communities

- Chapter 9: Promoting sustainable transport
- Chapter 11: Making effective use of land
- Chapter 12: Achieving well-designed places
- Chapter 13: Protecting the Green Belt
- Chapter 14: Meeting the challenge of climate change, flooding and coastal change
- Chapter 15: Conserving and enhancing the natural environment
- Chapter 16: Conserving and enhancing the historic environment
- Chapter 17: Facilitating the sustainable use of minerals
- Annex 1: Implementation; and;
- Annex 2: Glossary

2.4 The Government has suggested the following reasons for the proposed amendments to the NPPF; including:

- Response to Government reviews, reports and ministerial statements;
- Clarifications to address legal issues and use of policies; and
- The removal or amendment of out-of-date material.

2.5 There are a number of subtle changes to the NPPF. Set out below is a summary of the main proposed changes to the NPPF by theme that are perceived as relevant to Maidstone Borough Council.

### **Plan making**

2.6 The main proposed changes focus on the following areas of plan making: infrastructure, strategic developments, and the tests of soundness.

2.7 Infrastructure is being brought into the presumption in favour of sustainable development in paragraph 11. Specifically, that growth and infrastructure are aligned; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects.

2.8 Larger scale strategic developments, such as new settlements, will be expected to set out a long-term vision (at least 30 years).

2.9 The proposed revisions to the tests of soundness refer to paragraph 35 part (d). The consistency to national policy now includes statements of national planning policy as well as the NPPF.

2.10 A clarification has been made to the wording relating to Neighbourhood Plans. It has been made clearer that these plans can allocate large sites as well as just small and medium sites.

### **Decision making**

2.11 It is proposed to restrict the use of Article 4 directions. It is proposed that the use of these directions will be to small geographical areas and will need to be more extensively justified than previously was the case.

2.12 Policy wording has been made clearer that there is a requirement for 10% of all units in major housing schemes having to comprise affordable home ownership. This also applies to planning policies also.

## **Infrastructure**

2.13 Chapters 8 and 9 have been amended to encourage the development of more walking and cycling routes.

2.14 Access to open spaces and opportunities for sport and physical activity has also been enhanced to create healthier places.

## **Design**

2.15 Chapters 5, 11 and (principally) 12 have been amended to encourage the use of masterplans, design codes, and tree planting.

2.16 The role of neighbourhood planning groups is proposed to be enhanced with them having a role in the production of design policy, guidance, and codes of the local planning authority as well as neighbourhood plans.

2.17 There is proposed a new requirement for local planning authorities to prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, which reflect local character and design preferences immediately if the proposals are adopted. These documents are proposed to also carry weight in decision making. As a result, there would be a requirement on LPAs to reject proposals that are not 'well designed' reflecting the local design guidance and supplementary planning documents which use visual tools such as design guides and codes.

2.18 It is proposed to increase tree planting and their protection. The changes propose requirements for tree lined streets and incorporation of trees elsewhere in developments. This will now be a requirement in decision making and planning policy. Appropriate maintenance measures will also be required to secure these new assets.

2.19 If the consultation on design codes is carried through, then there will be resource implications, particularly around skill sets. This will also impact on the work programme due to the need to develop these documents immediately.

## **Climate change & flood risk**

2.20 Chapter 14 has been amended to reflect to include:

- That the sequential test for flood risk applies to all sources of flooding;
- Further clarity for the flood risk exception test; and;
- Encourage plans to manage flood risk through green infrastructure.
- A new Annex 3 setting out a flood risk vulnerability classification is now included.

## **Natural environment**

2.21 Chapter 15 has been amended to clarify that the scale and extent of development within the setting of National Parks and Areas of Outstanding Natural Beauty should be sensitively located and designed to avoid adverse impacts on the designated landscapes. This restriction only applies to the development management part of the planning process.

2.22 A new paragraph has also been added to reinforce that development should 'conserve and enhance' biodiversity.

## **Heritage**

2.23 Chapter 16 has been amended to clarify that authorities should have regard to the need to retain historic statues, plaques, or memorials, with a focus on explaining their historic and social context rather than removal, where appropriate.

## **Draft National Model Design Code**

2.24 The draft National Model Design code is a result of the Building Better, Building Beautiful Commission. The commission was created to advise National Government about how to increase the use of high-quality design. As a result of the work of the commission in 2019 the National Design Guide was published as the first step to help improve design in planning. The Draft National Model Design Code is the next step.

2.25 The purpose of the Draft National Model Design Code is to set out a national benchmark to help shape and guide local design codes based at the Local Planning Authority level. As set out in the draft local codes are expected to adhere to a checklist of 10 characteristics and 64 criteria – see background paper 2 page 7.

2.26 The development of a code is proposed to be a 3 staged process (analysis, vision, and code) with consultation in between these. In the 3 stages are 7 substages. For further details please see page 5 of background paper 2.

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## **3. AVAILABLE OPTIONS**

3.1 Option A: Do not provide a response to the consultation.

3.2 Option B: To submit a response to the consultation based on that outlined in appendix 1 (as may be amended by the Head of Planning & Development following consideration of the Committee's comments (if any) by 19<sup>th</sup> March 2021 in consultation with the Chair and Vice-Chair of this committee) to the Ministry of Housing, Communities and Local Government before 11h45 on 27 March 2021.

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## **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 Option B: To submit a response to the consultation based on that outlined in appendix 1 (as may be amended by the Head of Planning & Development following consideration of the Committee's comments (if any) by 19<sup>th</sup> March 2021 in consultation with the Chair and Vice-Chair of this committee) to the Ministry of Housing, Communities and Local Government before 11h45 on 27 March 2021.

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## **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 N/A
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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 If the recommendations are agreed, then officers will work to include members feedback by the 19<sup>th</sup> March 2021 and then submit an amended response in consultation with the Chair and Vice-Chair of the Strategic Planning and Infrastructure Committee by the consultation deadline of the 27<sup>th</sup> March 2021.
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## **8. REPORT APPENDICES**

- Appendix 1: Draft responses to the MHCLG Consultation: 'National Planning Policy Framework and National Model Design Code: consultation proposals'
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## **9. BACKGROUND PAPERS**

- Background paper 1: MHCLG – NPPF proposed changes - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/961769/Draft\\_NPPF\\_for\\_consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/961769/Draft_NPPF_for_consultation.pdf)
- Background paper 2: MHCLG – Draft National Model Design Code - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/957205/National\\_Model\\_Design\\_Code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/957205/National_Model_Design_Code.pdf)

# Appendix 1 – Draft Response to MHCLG Consultation: ‘National Planning Policy Framework and National Model Design Code: consultation proposals’

## Proposed changes to Chapter 2: Achieving sustainable development

The revised text reflects the Government’s response to the Building Better Building Beautiful Commission, and makes a small number of other minor changes:

The wording in paragraph 7 has been amended to incorporate the 17 Global Goals for Sustainable Development which are a widely-recognised statement of sustainable development objectives, to which the UK has subscribed.

Paragraph 8(b) has been amended in response to the Building Better Building Beautiful Commission recommendations to emphasise the importance of well-designed, beautiful and safe places in achieving social objectives of sustainable development.

The wording in paragraph 8(c) has been strengthened to emphasise the role of planning in protecting and enhancing our natural, built and historic environment.

The wording of the presumption in favour of sustainable development (paragraph 11(a)) has been amended to broaden the high-level objective for plans to make express reference to the importance of both infrastructure and climate change.

The final sentence in footnote 8 (referred to in paragraph 11(d)) has been removed as the transitional arrangements for the Housing Delivery Test no longer apply.

1. Do you agree with the changes proposed in Chapter 2?

Yes  No

**Please provide comments:**

**The Council supports the changes proposed as it clarifies the position of sustainable development in plan making especially. In principle the Council supports the alignment of infrastructure and growth, however it should be noted that the Local Planning authority is not an infrastructure provider and so these organisations need to be better held to account for delivery of schemes identified through the Local Plan making process in a timely manner and engagement the development of Local Plans.**

## Proposed changes to Chapter 3: Plan-making

The revised text reflects the Government’s response to the Building Better Building Beautiful Commission, and recent legal cases:

In response to the Building Better Building Beautiful Commission recommendations, paragraph 20 has been amended to require strategic policies to set out an overall strategy for the pattern, scale and design quality of places.

Paragraph 22 has also been amended in response to the Building Better Building Beautiful Commission recommendations to clarify that councils who wish to plan for new settlements and

major urban extensions will need to look over a longer time frame, of at least 30 years, to take into account the likely timescale for delivery.

Paragraph 35(d) has been amended to highlight that local plans and spatial development strategies are 'sound' if they are consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the Framework, and other statements of national planning policy where relevant. This ensures that the most up to date national policies (for example, Written Ministerial Statements) can be taken into account.

2. Do you agree with the changes proposed in Chapter 3?

Yes  No

**Please provide comments**

**The spirit of the changes proposed are supported by Maidstone Borough Council.. In relation to paragraph 20 the inclusion of the word design is supported..**

**The aspiration of paragraph 22 to create certainty in the outcomes of major developments is supported. However, such schemes also need to be deliverable and to prove this to be the case at any examination stage, this will be difficult to do for a 30-year period. Therefore, the criteria for deliverability needs to be amended to reflect this.**

**The reflection of national policy statements is in principle supported. However, further guidance is needed to define where they will be relevant.**

#### **Proposed changes to Chapter 4: Decision making**

The revised text aims to clarify the policy intention for Article 4 directions:

In order to ensure Article 4 directions can only be used to remove national permitted development rights allowing changes of use to residential where they are targeted and fully justified, we propose amending Paragraph 53, and ask for views on two different options.

We also propose clarifying our policy that Article 4 directions should be restricted to the smallest geographical area possible. Together these amendments would encourage the appropriate and proportionate use of Article 4 directions.

3. Do you agree with the changes proposed in Chapter 4?

Yes  No

**Which option relating to change of use to residential do you prefer and why?**

**The Council disagrees with the approach set out as it will remove local flexibility to deal with issues of importance at a local level and reduces the control that Local Planning Authorities must have to regulate development in their areas.**

#### **Proposed changes to Chapter 5: Delivering a wide choice of high quality homes**

The revised text aims to clarify the existing policy and reflects the Government's response to the Building Better Building Beautiful Commission and recent legal cases:

New paragraph 65 has been amended to clarify that, where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. This is to address confusion as to whether the 10% requirement applies to all units or the affordable housing contribution.

New paragraph 70 has been amended to remove any suggestion that neighbourhood plans can only allocate small or medium sites. This was not the policy intention, so the wording has therefore been amended to clarify that neighbourhood planning groups should also give particular consideration to the opportunities for allocating small and medium-sized sites (of a size consistent with new paragraph 69a) suitable for housing in their area.

New paragraph 73 has been amended to reflect Chapter 9: “Promoting sustainable transport” in ensuring that larger scale developments are supported by the necessary infrastructure and facilities including a genuine choice of transport modes. New paragraph 73(c) has also been amended in response to the Building Better Building Beautiful Commission’s recommendations to clarify that when planning for larger scale development, strategic policy making authorities should set clear expectations for the quality of the places to be created and how this can be maintained (such as by following Garden City principles) and ensure that masterplans and codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community.

Footnote 40 (referred to in new paragraph 74(c)) has been updated to reflect that the Housing Delivery Test has now come into effect.

New paragraph 80(d) has been amended in response to legal cases in order to clarify that the curtilage does not fall within the scope of this policy.

New paragraph 80 (e) has been amended in response to the Building Better, Building Beautiful Commission’s policy proposition 1 e) that it opens a loophole for designs that are not outstanding, but that are in some way innovative, and that the words ‘or innovative’ should be removed. This change is not proposed to rule out innovative homes, rather that it will ensure that outstanding quality can always be demanded, even if an innovative approach is taken.

4. Do you agree with the changes proposed in Chapter 5?

Yes  No

**Please provide comments**

**The Council welcomes the clarity brought by the proposed changes. However, there are still concerns as to the to the implications of the paragraph 65 on Maidstone Borough. The latest Strategic Housing Market Assessment undertaken by the Borough indicates that the affordable housing need is mainly for rental products (89% of the total) and so a requirement of 10% of total housing on major developments may mean that the Council loses out on needed rental stock to meet local demand.**

**Proposed changes to Chapter 8: Promoting healthy and safe communities**

The revised text seeks to clarify existing policy:

New paragraph 92(b) includes minor changes to help to clarify Government’s expectations for attractive pedestrian and cycle routes. This supports the Building Better Building Beautiful Commission’s recommendations on supporting walkable neighbourhoods.

New paragraph 97 has been amended to emphasise that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and efforts to address climate change.

5. Do you agree with the changes proposed in Chapter 8?

Yes  No

**Please provide comments**

**The Council supports the ambition of the NPPF to improve the health and wellbeing of communities having embedded a commitment to reduce health inequalities within its own corporate plan (The Maidstone Strategic Plan 2019-45). However, it is unsure what the expectation is to be in regard to ‘attractive’ pedestrian and cycle routes. It feels that this within supporting guidance is too subjective and should be deleted. However, there is support for the inclusion of cycling infrastructure.**

**The Council is also supportive of amendments to paragraph 97 for the inclusion of climate change. It has been working to address this issue through the Local Plan Review and also the development and publication of a Biodiversity and Climate Change Strategy and Action Plan in 2020.**

**Proposed changes to Chapter 9: Promoting sustainable transport**

The revised text reflects the Government’s response to the Building Better Building Beautiful Commission:

New paragraph 105(d) has been amended to support the Building Better, Building Beautiful Commission’s recommendations on encouraging walking and cycling.

New paragraph 109(c) and supporting footnote 45 has been amended to prevent continuing reliance by some authorities on outdated highways guidance. Our amended wording states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that the design of schemes and standards applied reflects current national guidance, including the National Design Guide and National Model Design Code.

6. Do you agree with the changes proposed in Chapter 9?

Yes  No

**Please provide comments**

**The Council supports the amendments proposed.**

**Proposed changes to Chapter 11: Making effective use of land**

The revised text reflects the Government’s response to the Building Better Building Beautiful Commission:

New paragraph 124 has been amended to include an emphasis on the role that area-based character assessments, codes and masterplans can play in helping to ensure that land is used efficiently while also creating beautiful and sustainable places.

7. Do you agree with the changes proposed in Chapter 11?

Yes  No

**Please provide comments**

**In principle the Council supports the proposals to use the additional tools listed to help it achieve appropriate densities. However, it needs to be noted that this will add to the plan making and development management burden as extra evidence base documents will need to be created and then interpreted in decision making. This will need extra resourcing for Local Planning Authorities to provide the expertise to undertake such work.**

**Proposed changes to Chapter 12: Achieving well-designed places**

The revised text reflects the Government's response to the Building Better Building Beautiful Commission:

New paragraphs 125 and 127 have been amended to include the term "beautiful" in response to the Building Better Building Beautiful Commission's findings. This supports the Building Better Building Beautiful Commission's recommendation for an overt focus on beauty in planning policy to ensure the planning system can both encourage beautiful buildings and places and help to prevent ugliness when preparing local plans and taking decisions on planning applications

New paragraph 126 has been amended to clarify the role that neighbourhood planning groups can have in relation to design policies.

New paragraph 127 has been amended to emphasise that all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code and which reflect local character and design preferences.

A new paragraph 128 has been added in response to the Building Better Building Beautiful Commission's recommendations and our manifesto commitment to give communities greater say in the design standards set for their area. This reflects the Government's proposals for a National Model Design Code, which will include a model community engagement process, and will create a framework for local authorities and communities to develop a more consistent approach which reflects the character of each place and local design preferences. It also clarifies that the National Design Guide and the National Model Design Code should also be used to guide decisions on planning applications in the absence of locally produced guides or codes.

A new paragraph 130 has been added to reflect the findings of the Building Better Building Beautiful Commission and the Government's ambition to ensure that all new streets are tree-lined, and that existing trees are retained wherever possible.

New paragraph 132 and footnote 50 have been updated to refer to Building for a Healthy Life.

New paragraph 133 responds to the Building Better Building Beautiful Commission's recommendations to make clear that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. In addition, it clarifies that significant weight should be given to development which reflects local design policies and government guidance on design.

8. Do you agree with the changes proposed in Chapter 12?

Yes  No

Please provide comments

**The Council does have concerns with the amendments to this chapter. The introduction of the word beautiful is felt to be too subjective and needs definition in paragraph 125. The amendment of paragraph 126 from Neighbourhood Plans to Neighbourhood Planning Groups is felt to be inappropriate as there is no guidance as to what weight these groups have in the decision-making process and how this should be exercised?**

**The Council is however supportive of the move towards more tree lined streets. This will be a positive environmental step.**

**The Council supports the prominence of design brought about by amended paragraphs 127, 128 and 133. It does question what the weight of design will be when compared to the need for housing as per paragraph 11 of the NPPF.**

### **Proposed changes to Chapter 13: Protecting the Green Belt**

The revised text seeks to clarify existing policy:

New paragraph 149(f) has been amended slightly to set out that development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order, is not inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it.

9. Do you agree with the changes proposed in Chapter 13?

Yes  No

Please provide comments

No comment

### **Proposed changes to Chapter 14: Meeting the challenge of climate change, flooding and coastal change**

The revised text seeks to strengthen environmental policies, including clarifying some aspects of policy concerning planning and flood risk.

The changes proposed are in part, an initial response to the emergent findings of our joint review with the Department for Environment, Food and Rural Affairs (Defra) of planning policy for flood risk. The government's [Policy Statement on flood and coastal erosion risk management](#) sets out a number of actions to maintain and enhance the existing safeguards concerning flood risk in the planning system. Informed by this, we will consider what further measures may be required in the longer term to strengthen planning policy and guidance for proposed development in areas at risk of flooding from all sources when our review concludes.

On planning and flood risk, new paragraphs 160 and 161 have been amended to clarify that the policy applies to all sources of flood risk.

New paragraph 160(c) has been amended to clarify that plans should manage any residual flood risk by using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management).

The Flood Risk Vulnerability Classification has been moved from planning guidance into national planning policy (set out in Annex 3 and referred to in paragraph 162). It is considered that this classification is a key tool and should be contained in national policy.

New paragraph 163 has been amended to clarify the criteria that need to be demonstrated to pass the exception test.

New paragraph 166(b) has been expanded to define what is meant by “resilient”.

10. Do you agree with the changes proposed in Chapter 14?

Yes  No

**Please provide comments**

**No comment**

#### **Proposed changes to Chapter 15: Conserving and enhancing the natural environment**

The revised text seeks to clarify existing policy and reflects the Government’s response to the Building Better Building Beautiful Commission:

New paragraph 175 has been amended in response to the [Glover Review of protected landscapes](#), to clarify that the scale and extent of development within the settings of National Parks and Areas of Outstanding Natural Beauty should be sensitively located and designed so as to avoid adverse impacts on the designated landscapes.

New paragraph 176 has been separated from the preceding paragraph to clarify that this policy applies at the development management stage only.

New paragraph 179(d) has been amended to clarify that development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around other developments should be pursued as an integral part of their design, especially where this can secure measurable net gains for biodiversity and enhance public access to nature.

11. Do you agree with the changes proposed in Chapter 15?

Yes  No

**Please provide comments**

**The Council supports amendments to paragraphs 176 and 179(d). However, we are concerned as to the impact amendments to paragraph 175 as there is no clear definition of ‘setting’. The concern is that this could cause unnecessary sterilization of land against development.**

#### **Proposed changes to Chapter 16: Conserving and enhancing the historic environment**

The revised text seeks to reflect a change made to national planning policy by a Written Ministerial Statement on protecting our nation’s heritage dated 18 January 2021.

New paragraph 197 has been added to clarify that authorities should have regard to the need to retain historic statues, plaques or memorials, with a focus on explaining their historic and social context rather than removal, where appropriate.

12. Do you agree with the changes proposed in Chapter 16?

Yes  No

Please provide comments

**The Council supports the retention of those statues, plaques or memorials that have heritage value and thus this has been reflected in a heritage designation status or within a heritage designation.**

**Proposed changes to Chapter 17: Facilitating the sustainable use of minerals**

Minor changes have been made to clarify existing policy.

New paragraph 209(c) has been amended to refer to Mineral Consultation Areas in order to clarify that this is an important mechanism to safeguard minerals particularly in two tier areas, and to reflect better in policy what is already defined in Planning Practice Guidance.

New paragraph 210(f) has been amended to reflect that some stone extraction sites will be large and serve distant markets.

13. Do you agree with the changes proposed in Chapter 17?

Yes  No

Please provide comments

**Maidstone Borough Council supports the clarity and the proposed intention of creating quicker decision making that these proposals would bring about.**

**Proposed changes to Annex 2: Glossary**

The definition of “green infrastructure” has been updated to better reflect practice, as already set out in Planning Practice Guidance, published evidence reviews and the new national framework of green infrastructure standards.

The definition of the “Housing Delivery Test” has been amended to reflect the rulebook. This clarifies that the test measures homes delivered in a local authority area against the homes required, using national statistics and local authority data.

The definition of “minerals resources of local and national importance” has been amended to include coal derived fly ash in single use deposits.

Definitions of “mineral consultation area”, “recycled aggregates” and “secondary aggregates” have been added to reflect the changes in chapter 17.

14. Do you have any comments on the changes to the glossary?

Yes  No

Please provide comments

**National Model Design Code**

15. We would be grateful for your views on the National Model Design Code, in terms of a) the content of the guidance b) the application and use of the guidance c) the approach to community engagement

Please provide comments

**The Council's comments are designed to seek practical clarification of the following:**

- **How will design codes be assessed?**
- **Do they need to be tested for their impact on viability?**
- **Will consultation need to be held by the Council or will this be done by the coding body?**

**It is also concerning that there is a lack of any reference to health and the influence that good design can have on improving health and well-being.**

**16. We would be grateful for your comments on any potential impacts under the Public Sector Equality Duty.**

Please provide comments

**No comment**

## STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

**9 March 2021**

### Local Plan Review Reg. 18 Preferred Approaches Consultation

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	Phil Coyne, Interim Local Plan Review Director, and Rob Jarman, Head of Planning and Development
<b>Lead Officer and Report Author</b>	Mark Egerton, Strategic Planning Manager Tom Gilbert, Principal Planning Officer
<b>Classification</b>	Public
<b>Wards affected</b>	All wards

#### **Executive Summary**

As part of Maidstone’s Local Plan Review, a Regulation 18 Preferred Approaches Consultation document was produced and published for a 6-week consultation period between December 2020 and January 2021. This was the second consultation on the Local Plan Review following the Regulation 18 Scoping Themes & Issues Consultation in 2019.

A particular purpose of the consultation was to set out a proposed spatial strategy to meet the level of growth identified by National Government guidance and review the existing development management policies. This report provides the Committee with headline findings from the consultation. This information will be used to inform future stages of the Local Plan Review as outlined in the report.

#### **Purpose of Report**

For Noting.

#### **This report makes the following recommendations to this Committee:**

1. That the content of this report is to be noted

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Strategic Planning & Infrastructure Committee	9 <sup>th</sup> March 2021

# Local Plan Review Reg. 18 Preferred Approaches Consultation

## 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>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 3.</p>	Rob Jarman (Head of Planning and Development)
<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 recommendation supports the achievement of the four cross cutting objectives.</p>	Rob Jarman (Head of Planning and Development)
<b>Risk Management</b>	Already covered in the risk section of the report	Rob Jarman (Head of Planning and Development)
<b>Financial</b>	There has been a high volume of responses to the Reg. 18 consultation. If this is greater than anticipated when setting budgets for work on the Local Plan, and is likely to give rise to additional expenditure, then additional budget provision will need to be requested.	Section 151 Officer & Finance Team

<b>Staffing</b>	The inputting of representations has incorporated the use of Museum staff, members of the Mayoral Team in addition to the Strategic Planning Team.	Rob Jarman (Head of Planning and Development)
<b>Legal</b>	There are no legal implications. The report is simply for noting and reports back on a consultation process pursuant to the Town and Country Planning (Local Planning) (England) Regulations 2012.	Russell Fitzpatrick (Mid Kent Legal Services (Planning))
<b>Privacy and Data Protection</b>	No privacy or data issues identified	Policy and Information Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Policy & Information Manager
<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.	Rob Jarman (Head of Planning and Development)
<b>Procurement</b>	N/A	Rob Jarman (Head of Planning and Development)

## **INTRODUCTION AND BACKGROUND**

- 2.1 In July 2018 the Council agreed to undertake a Local Plan Review. The current Maidstone Borough Local Plan, adopted in October 2017, includes Policy LPR1 setting out matters which such a review should consider. The National Planning Policy Framework has subsequently been revised (2018 and 2019) and introduced amended requirements which the Local Plan review will need to address. Notable amongst these is the introduction of the standard methodology for calculating housing requirements and the need for local plans to be reviewed on a 5-yearly cycle.
- 2.2 The first Regulation 18 consultation on the Local Plan Review took place on the 'Scoping, Themes and Issues' in 2019. The second Regulation 18 consultation was on the Local Plan Review Preferred Approaches. A key purpose of the document was to invite feedback on the proposed spatial strategy for growth and updates to the development management policies. The draft document was considered by this Committee at its meeting on 9 November 2020 and was agreed, with amendments, for public consultation. This public consultation took place between 1<sup>st</sup> December 2020 and 8<sup>th</sup>

January 2021. This was extended from the agreed 3 weeks because of issues experienced by some stakeholders, including because of increasing rates of Covid-19 infections at that time.

- 2.3 This report provides the Committee with a summary of the main responses to the consultation. The representations to the consultation are published on the Council's website. This information will inform future stages of the Local Plan Review as outlined in the report. Members should also be aware that detailed analysis is ongoing and will be reported as part of the evidence base and Regulation 19 proposals.
- 2.4 The report is structured to highlight the following elements:
- The number of responses
  - A summary of responses relating to the Garden Community proposals at Heathlands and Lidsing
  - A summary of responses from statutory consultees and infrastructure providers; and
  - A summary of responses from neighbouring Local Planning Authorities.
- 2.5 It should be noted that the information provided below is a summary only and should not be taken as a definitive breakdown of all matters raised.

### **The Number of Responses**

- 2.6 In total the Council received approximately 3,281 responses to the consultation. These were divided into the following groups:
- 3,001 Residents
  - 22 Cllrs (Borough & County) and MPs
  - 183 Developers/land promoters
  - 3 Local businesses
  - 30 Parish Councils
  - 19 Pressure groups
  - 23 Statutory consultees and infrastructure providers

### **Garden Communities**

- 2.7 The consultation document identifies two garden community proposals: Heathlands (Policy SP4(a)) and Lidsing (Policy SP4(b)). Cumulatively these could potentially deliver approximately 7,000 new homes, of which it is proposed that 2,700 homes will be delivered in the plan period to 2037.

## **Lidsing**

2.8 There were approximately 1,700 responses to the Lidsing proposal. The majority of those representations were from adjacent residents within Medway. Other parties such as infrastructure providers, Parish Councils, Councillors, MPs and statutory consultees also commented on the proposal.

2.9 The main issues raised by those representations comprise:

- A lack of capacity and impact on social infrastructure (healthcare facilities and education)
- Increased congestion
- Increased air pollution
- Loss of green space
- Impact on the Kent North Downs AONB
- Negative impact on wildlife
- Negative impacts on surrounding ancient woodland.
- Coalescence of Lordswood and Hempstead
- Negative landscape impact
- Impact on protected environment habitats (e.g Medway estuary SPA & Ramsar and Purple Hill SSSI)
- Negative impact on surrounding heritage
- Availability of the site due to landownership issues; and;
- Potential flood risk issues

## **Heathlands**

2.10 There were approximately 500 responses to the Heathlands proposal. The majority of those representations were from adjacent residents within Maidstone, but with comments from those within Ashford Borough. Other parties such as infrastructure providers, Parish Councils, Councillors, and statutory consultees also commented on the proposal.

2.11 The main issues raised by those representations comprise:

- Other better alternative sites and that this site is not deliverable
- There is a lack of local employment to support the site
- Impact on the mineral safeguarding areas
- Housing density inappropriate

- A lack of capacity and impact on social infrastructure (healthcare facilities and education)
- Impact on the Kent North Downs AONB
- Negative landscape impact
- Impact on archaeological significance of the site
- Negative impact on heritage assets
- Availability of the site
- Contrary to evidence in the Strategic Housing Market Assessment and Employment Development Needs Assessment
- The site has marginal viability
- Increased congestion
- Negative impact on biodiversity
- Loss of agricultural land
- Capacity issues in utilities infrastructure

### **Statutory Consultees and Infrastructure providers**

2.12 Prior to and during the consultation the Council endeavoured to engage with statutory consultees and infrastructure providers through stakeholder briefings to explain and clarify the proposals contained within the Preferred Approaches consultation document.

2.13 In response to the consultation the Council received representations from key infrastructure providers, including:

- Kent County Council
- Highways England
- South East Water
- Southern Water
- Southern Gas Networks (SGN)
- National Grid
- Network Rail
- South Eastern Railways
- Kent & Medway Clinical Commissioning Group

- Environment Agency
- Openreach
- Nu-venture

2.14 Engagement with statutory consultees and infrastructure providers is ongoing. Below is summary of the responses from each provider listed above, plus statutory consultees Natural England and Historic England.

### **Kent County Council**

2.15 Kent County Council (KCC) are the infrastructure provider for a range of services in the Borough, including highways, education, and waste disposal etc. It is also the minerals and waste planning authority.

2.16 KCC have raised highways concerns as regards highways impact. These are focused on the lack of capacity on the road network in the south east of Maidstone along the A274 where they have severe concerns on delivery of sites. However, KCC are supportive of the use of Garden Communities and town centre.

2.17 In the Garden Communities sites, it is felt of the impact on the road network can be minimised due to the proposed level of jobs and facilities within them leading to a good level of self-containment of journeys.

2.18 The impact on education provision it is felt can be mitigated by the expansion of existing schools mostly. However, new provision of primary schools will be needed in both Garden Communities. Heathlands will also, in time, require a new secondary school. Further secondary provision will also be needed in the Maidstone urban area.

2.19 As the waste authority, KCC has also proposed the need for new projects to meet the growth proposed. In the short-term the Household Waste Recycling Centre at Tovil needs to be expanded and in the longer-term relocated.

2.20 Some concerns are raised with regards to minerals safeguarding and the proposed spatial strategy and the council has been pointed towards relevant planning policies produced by KCC. Of particular concern was the sterilisation of mineral reserves caused by Heathlands (SP4(a)).

### **Highways England**

2.21 Highways England ("HE") are the statutory body for maintaining the strategic road network ("SRN"). In Maidstone Borough this relates to impacts to the M20, M2 and A21.

2.22 HE generally welcomed a strategy that places growth within the existing urban area as this will more easily enable sustainable travel options. They have concerns with regards to the impacts on the M20 at junctions 5, 6, 7 & 8. The proposed growth to the south and east of Maidstone would have an impact on M20 junction 7 & 8 and HE suggest that a Leeds Langley Relief Road is advisable.

2.23 Regarding the Garden Settlements, HE is concerned that Heathlands is not of a suitable size to be able to support a new junction on the M20. Further work is still required to assess the impact of the Lidsing proposal on the M2 at junctions 3 and 4.

### **South East Water**

2.24 South East Water ("SEW") are the statutory water supply provider for Maidstone Borough.

2.25 No specific concerns were raised by SEW in relation to the proposals in the consultation document. However, SEW would like to see water efficiency standards included within the proposed development management policies of 110 litres/person/day.

### **Southern Water**

2.26 Southern Water ("SW") are the drainage and wastewater sewage operator within the Borough.

2.27 The response provided by SW included detailed comments on specific proposed sites of concern within the consultation document. Upgrades to their network would be required if the following allocations are progressed:

- LPRSA362 (Police HQ, Sutton Rd),
- LPRSA196 (Land at Willow Farm),
- LPRSA216 (Rochester Meadow),
- LPRSA172 (land at Sutton Road, South East of Maidstone),
- LPRSA310 (land at Mote Rd),
- LPRSA260 (Ashford Rd),
- LPRSA295 (land at Copper Ln),
- LPRSA314 (Land east of Albion Rd),
- LPRSA066 (land east of Lodge Rd),
- LPRSA248 (North of Kenward),
- LPRSA273 (Land between Maidstone Rd and Whetsted Rd),
- LPRSA303 (IS Oxford Rd),
- SP4(b) (Lidsing), and
- SP4(a) (Heathlands).

### **Southern Gas Networks (SGN)**

- 2.28 SGN is a utility company maintaining the gas distribution network to properties in the Borough.
- 2.29 The spatial distribution of growth was generally supported. However, depending on the timing of development, additional infrastructure improvements may be needed around Marden and Lidsing to support the level of growth planned for in the timescales proposed.

### **National Grid**

- 2.30 National Grid maintain the strategic electricity and gas transmission network from the points of generation or import to local distribution networks.
- 2.31 National Grid do not object to the consultation but highlighted that there were overhead powerlines in the proximity of the proposed development at Lidsing (SP4(b)).

### **Network Rail**

- 2.32 Network Rail are the owner and maintenance body for rail infrastructure.
- 2.33 They have raised concerns on the impact of growth at various level crossing points across the Borough associated with areas of proposed growth.
- 2.34 In regard to Heathlands (SP4(a)) Network Rail supported the development of a masterplan that considered a station but did not support the development on a station in this location until further work had been completed.

### **South Eastern Railway**

- 2.35 South Eastern Railway is the current rail operator for Maidstone Borough.
- 2.36 The comments provided were for various station access improvements across the district and to maximise opportunities for integrated travel with other alternative travel options (i.e. bus and bicycle).

### **Kent & Medway Clinical Commissioning Group**

- 2.37 The Clinical Commissioning Group ("CCG") focuses on the delivery of healthcare through GPs practices.
- 2.38 Based on the proposed growth identified in the consultation, the CCG has the following infrastructure requests:
- New healthcare provision in Maidstone town centre.
  - New healthcare provision in south/south east Maidstone with the potential to expand.
  - A new healthcare practice within the Heathlands development.

- Expanded healthcare provision in the surrounding facilities adjacent to Lidsing (SP4(b)) to accommodate growth.

### **Environment Agency**

2.39 The Environment Agency made the following representations:

- Object to site allocation LPRSA273 (Land between Maidstone Road and Whetsted Road) due to flood risk concerns.
- All new homes should meet higher water efficiency standards.
- Wastewater infrastructure must be fit for purpose to deal with issues, such as nitrate neutrality rather than just providing capacity.
- The Water Cycle study for Maidstone is dated and they questioned if there was to be an update.
- In the Stour catchment Environment Agency regulations need to be complied with as well as those of Natural England (who have as yet to respond).
- Updates to the Environment Topic paper are needed to better reference policy and legislation.

### **Openreach**

2.40 Openreach is an internet connection provider maintaining the physical infrastructure that connects homes to the internet rather than a provider of services.

2.41 They are happy to provide services to the meet the need identified.

### **Nu-Venture**

2.42 Nu-Venture is one of the bus operators working within the borough, mainly within the rural parts.

2.43 The main issue raised is width of roads and therefore the accessibility for buses to use them. Town Bridge in Yalding was of particular concern.

### **Natural England**

2.44 Natural England raised concerns on the following issues: impact on the Kent Downs AONB, River Beult SSSI and Turtle Dove Friendly Zone Marden.

2.45 Natural England had concerns that the following areas of development may have an impact on the AONB; including Heathlands Garden Community (SP4(a)), Lidsing Garden Community (SP4 (b)), development at Harrietsham (SP6(a)), Lenham (SP6(c)), Sutton Valence (SP7(d)) and Woodcut Farm (EMP1(4)).

2.46 There was concern that development proposed in Headcorn (SP6(b)), Staplehurst (SP6(e)) & Yalding (SP7(e)) may have an impact on the River Beult SSSI.

2.47 Concerns were raised as to the impact of development in Marden (SP6(d)) on the Turtle Dove Friendly Zone and that this will need to be considered.

### **Historic England**

2.48 Historic England has provided a range of comments with regards to the spatial strategy and the development management policies proposed in the consultation document.

2.49 Regarding the spatial strategy Historic England have commented on range of sites and broad growth locations proposed highlighting the potential impacts on heritage assets and the need in certain locations for a heritage assessment (Heathlands (SP4(a)), Lidsing SP4(b) and Leeds-Langley Corridor (SP5(a))).

2.50 Historic England would like to see changes to the development management policies proposed. Specifically, they would like more detail as to how the impacts of development on the following heritage would be managed: scheduled monuments, registered parks and gardens and locally significant heritage.

### **Neighbouring Local Planning Authorities**

2.51 In addition to Kent County Council (noted above), the Council has engaged with, up to and following the consultation, its neighbouring planning authorities under its duty to cooperate. It will also continue to do so between now and Regulation 19 stage of consultation.

2.52 The following neighbouring Local Planning Authorities responded to the consultation:

- Medway Council
- Tonbridge and Malling Borough Council
- Tunbridge Wells Borough Council; and;
- Ashford Borough Council

2.53 No response was returned from Swale Borough Council. This has been explored and it is confirmed that no response is to be provided.

2.54 Below is a summary of responses received from each of the LPAs listed.

#### **Medway Council**

2.55 Medway Council's response focused on the proposed Garden Community at Lidsing (Policy SP4(b)) adjacent to its boundary. It has objected to that proposal on transport, environmental and social infrastructure grounds.

2.56 In relation to transport it was felt that the site is unsustainable for the following reasons:

- The scheme has not yet been fully tested to conclude that it is appropriate.

- It would create transport issues in Medway.
- It would not promote sustainable travel due to its proximity to the motorway.

2.57 In relation to the environmental impact of the proposal they have concerns about:

- The impact on protected sites near the Lidsing (SP4(b)) proposal, particularly the Kent Downs AONB, Purple Hills SSSI, and Medway Estuary SPA & Ramsar.
- infilling of the strategic gap between Lordswood and Hempstead.

2.58 In relation to the impact on social infrastructure, the main concern relates to education and lack of secondary school provision to support the proposal at Lidsing (SP4(b)).

### **Tonbridge and Malling Borough Council**

2.59 Tonbridge and Malling Borough Council are generally supportive but have raised the following concerns:

- Impact on landscapes of local value.
- The lack of a contingency within the housing supply.
- The failure to identify Gypsy and Traveller need.
- The impact on both the local and strategic highway network.

### **Tunbridge Wells Borough Council**

2.60 Tunbridge Well Borough Council's (TWBC) is generally supportive save that they have the following specific concerns:

- the proposed allocation LPRSA273 (Land between Maidstone Road and Whetsted Road) needs to consider masterplanning work being undertaken for the growth around Paddock Wood.
- That growth in the south of the district around Marden, Headcorn and Staplehurst needs to be considered in the light of growth proposed to the north of its own district, especially as regards their impact on infrastructure.

### **Ashford Borough Council**

2.61 Ashford Borough Council (ABC) raised concerns regarding the garden community proposal at Heathlands (policy SP4(a)). Their concerns relate to:

- the impact of the proposals on the local road and rail network, particularly the impact of the proposed new station on increased usage of the Ashford Station for access to HS1 services. the physical location of the development and its impact on local services in Charing.

- the infrastructure requirements of the proposal at Heathlands need to be fully assessed to mitigate any impacts in Ashford Borough. Concern is raised in relation to flood risk, wastewater drainage and water supply. the added pressure to educational facilities with its own district.
- 

### **3. AVAILABLE OPTIONS**

- 3.1 At this stage, the Committee is being asked to note the content of the report.
- 

### **4. RISK**

- 4.1 This report is presented for information only and has no risk management implications.
- 

### **5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 5.1 A full report of the analysis from the Reg 18b Preferred Approaches Consultation will be reported as part of the evidence base and Regulation 19 proposals.
- 

### **6. REPORT APPENDICES**

- N/A
- 

### **7. BACKGROUND PAPERS**

Background paper 1. – Local Plan Review: Regulation 18 Preferred Approaches Consultation (Dec. 2020) -

<https://localplan.maidstone.gov.uk/home/documents/local-plan-review-documents/regulation-18b/Local-Plan-Review-2020.pdf>

## STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

09 March 2021

### Statement of Common Ground between Maidstone Borough Council and Tunbridge Wells Borough Council

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	Rob Jarman
<b>Lead Officer and Report Author</b>	Helen Garnett
<b>Classification</b>	<p>Public Report with Exempt Appendix</p> <p>Exempt Appendix Appendix 1: Draft Statement of Common Ground between Maidstone Borough Council &amp; Tunbridge Wells Borough Council.</p> <p>This appendix contains exempt information as classified in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>The public interest in maintaining this exemption outweighs the public interest in its disclosure. As the Statement of Common Ground is a draft document and is currently unsigned by either authority and contains sensitive cross boundary matters. The draft document contains information affecting the business affairs of another authority (Tunbridge Wells Borough Council). The Statement of Common Ground will be published once agreed and signed by both parties.</p>
<b>Wards affected</b>	All

#### Executive Summary

This report brings before committee a draft statement of common ground which has been prepared by Maidstone Borough Council and Tunbridge Wells Borough Council. The Statement of Common Ground summarises the key strategic matters and matters of agreement and disagreement between the boroughs, and outlines the work that will continue to be undertaken by both authorities on any outstanding matters as the local plans are progressed. The report recommends that members agree the statement of common ground as set out in Appendix 1.

**Purpose of Report**

To provide background to the Statement of Common Ground between Maidstone Borough Council and Tunbridge Wells Borough Council and to seek agreement for the statement as appended to this report.

**This report makes the following recommendations to this Committee:**

1. That members agree the statement of common ground between Maidstone Borough Council and Tunbridge Wells Borough Council as appended to this report.

**Timetable**

<b><i>Meeting</i></b>	<b><i>Date</i></b>
Strategic Planning and Infrastructure Committee	09 March 2021

# Statement of Common Ground between Maidstone Borough Council and Tunbridge Wells Borough Council

## 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 each of the corporate priorities.</p>	Rob Jarman
<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 four cross cutting objectives by ensuring that the Local Plan Review is successful at examination.</p>	Rob Jarman
<b>Risk Management</b>	The recommendations seek to reduce the risk associated with the production requirements for the Local Plan Review.	Rob Jarman
<b>Financial</b>	Funding has been set aside for the Local Plan Review in the Medium Term Financial Strategy. This includes funding for the specific work described in this report.	Section 151 Officer & Finance Team
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Rob Jarman
<b>Legal</b>	Accepting the recommendations will fulfil the Council's duties under Planning and Compulsory	Cheryl Parks Mid Kent Legal

	Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations (2012).  Acting on the recommendations is within the Council's powers as set out in the Planning and Compulsory Purchase Act 2004.	Services (Planning)
<b>Privacy and Data Protection</b>	The recommendations do not require the collection of personal data held by the Council, therefore will not require a data protection impact assessment.	Anna Collier
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Policy & Information Manager
<b>Public Health</b>	No implications identified	[Public Health Officer]
<b>Crime and Disorder</b>	The recommendation will not have a negative impact on Crime and Disorder.	Rob Jarman
<b>Procurement</b>	N/A	[Rob Jarman & Section 151 Officer]

## 2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council has been engaged in ongoing, active and effective duty to cooperate with Tunbridge Wells since the inception of their respective Local Plan Reviews.
- 2.2 Tunbridge Wells Borough Council has produced its pre-submission draft Local Plan Review, and it is expected that consultation will commence in March 2021. To accompany this Regulation 19 draft plan, Tunbridge Wells BC are required to have signed statements of common ground with neighbouring authorities and any necessary prescribed bodies. These statements detail key strategic issues and where there are matters of agreement and disagreement, if any have arisen during the duty to cooperate process.
- 2.3 The draft Statement of Common Ground accompanying this report is a document that has been co-produced by officers from Maidstone Borough Council and Tunbridge Wells Borough Council. It details the key cross boundary issues that have been addressed through discussions.
- 2.4 The key cross boundary strategic matters for consideration between MBC and TWBC, and which have been subject to ongoing discussions, include: housing, employment and retail land need; infrastructure; environment, biodiversity and landscape; transport infrastructure; and flood risk.

- 2.5 A statement of common ground is an iterative document that is signed at key stages of the plan making process. Where plans are to be submitted at different times then this may result in a statement of common ground being brought forward before MBC had it programmed to meet its timetable. However, the signing a statement of common ground at an earlier stage in our plan making process does not preclude the ability for one of the co-signatories to make further updates to the statement. In the case of the MBC/TWBC statement, it will continue to be updated and will again be signed in advance of the MBC Regulation 19 pre-submission draft plan.
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### **3. AVAILABLE OPTIONS**

- 3.1 As Tunbridge Wells Borough Council are due to consult on their Regulation 19 document, the SPI committee are asked to agree the statement of common ground with Tunbridge Wells Borough Council as appended to this report.
- 3.2 Alternatively, Members may choose to amend the statement of common ground, however any such changes may need to be ratified by Tunbridge Wells Borough Council.
- 3.3 Alternatively, members could not agree to the statement of common ground, however this could undermine MBC's ability to demonstrate effective and ongoing duty to cooperate with neighbouring authorities.
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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 That members agree the Statement of Common Ground as appended to this report. This will allow the Statement of Common ground to be signed off in a timely manner and passed to TWBC for publication with their regulation 19 document.
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### **5. RISK**

- 5.1 The risk associated with these proposals, 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. Should the Inspector consider that the Council has not met this duty then the examination may not proceed to hearings. This will delay the review of the Local Plan.

5.3 If agreement is secured, per the recommendation, then we are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

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## **6. REPORT APPENDICES**

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

- Exempt Appendix 1: Draft statement of common ground between Maidstone Borough Council and Tunbridge Wells Borough Council – to follow.
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