

**PLANNING, TRANSPORT AND DEVELOPMENT OVERVIEW
AND SCRUTINY COMMITTEE**

THURSDAY 22 JANUARY 2015

(ADJOURNED FROM TUESDAY 20 JANUARY 2015)

FURTHER URGENT UPDATE REPORT

Attached to this report is a letter received from Barbara Cooper Corporate Director of Growth, Environment and Transport at Kent County Council, received since the meeting on Tuesday evening.

Also attached is a copy of the Council's response to that letter.

Both are included for Members' information.





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BY EMAIL ONLY

**Growth, Environment
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20 January 2015

Dear Alison,

**Re: Maidstone Borough Council Planning, Transport and Development Overview
& Scrutiny Committee - 20 January 2015**

I refer to the forthcoming meeting of the above and note the release of the agenda and supporting documents.

I request that this letter is presented to all Members of this committee, setting out the following serious issues:

1. Kent County Council (KCC) considers that the proposed level of growth causes an unacceptably severe impact on the transport network, the travelling public and the ability of Maidstone's economy to function effectively. These additional housing allocations simply worsen the situation, and to be introducing further development at this time is premature in advance of both authorities agreeing suitable mitigation measures.
2. The County Council continues to have significant concerns regarding the overall quantum and spatial distribution of development proposed in the Local Plan. We have particular concerns about the potential impact on highways and transportation and indeed have worked closely with you and your JTB members on jointly agreeing how we identify potential mitigation measures. As you know we also have concerns about water and sewerage infrastructure and the natural environment and how all of these elements together impact the lives of residents and businesses of the Maidstone Borough.
3. In the context of the serious concerns regarding infrastructure provision and an unacceptably incomplete Local Plan evidence base, the viability and deliverability of the Local Plan cannot be demonstrated. This is a fundamental requirement of national planning policy.

In short, KCC urges this committee not to consider these additional housing allocations and in view of the lack of an agreed evidence base, the report to Members is fundamentally premature.

Item 8 Maidstone Borough Local Plan – new and amended site allocations

KCC strongly objects to the proposed amendments to Policy H1 ('Housing allocations') of the emerging Maidstone Borough Local Plan 2014 and the 24 additional housing sites recommended for allocation. MBC and KCC via the JTB are totally aware of the absence of a comprehensive and agreed evidence base, particularly in respect of highways and transportation and have as a result jointly commissioned transport modelling of various options. MBC is also aware and in agreement with our work on water and sewerage capacity where there are known issues. A robust demonstration of the viability of the Local Plan is also required.

KCC has been closely co-operating with Maidstone Borough Council on transport matters, mainly via the Joint Transportation Board, and we thought we had an agreed programme. The release of the new and amended site allocations is premature without the completion of the traffic modelling work and is not in the spirit of co-operation.

This letter will outline the basis of the strong objections the County Council will maintain to Policy H1. KCC fully intends to submit a comprehensive representation on the Local Plan during the formal period of consultation.

Quantum and distribution

In its response to the 2014 draft of the Maidstone Local Plan (dated 7 May 2014), KCC set out its view that the provision of 17,100 dwellings between 2011 and 2031 as set out under Policy SS1 ('Maidstone Borough spatial strategy') was neither deliverable nor sustainable.

Paragraph 1.3.15 of the officer's report to the Overview & Scrutiny Committee notes the Maidstone Borough Council Cabinet agreement to an objectively assessed housing need for the Maidstone Borough of 18,600 dwellings, based on the findings of the 2014 Strategic Housing Market Assessment.

The County Council draws the attention of the Borough Council to the recent letter (dated 19 December 2014) from the Minister for Planning and Housing to the Chief Executive of the Planning Inspectorate.

The letter states, "... the outcome of a Strategic Housing Market Assessment is untested and should not automatically be seen as a proxy for a final housing requirement in Local Plans". The policy target is derived following the application of proper planning constraints (i.e. environmental, infrastructure etc.) and KCC firmly believes that there are a number of critical constraints to the level of growth proposed in the emerging Local Plan. On this basis, the housing need figure should not simply be transposed to a policy target and a lower number would be justified which would ensure a deliverable Local Plan.

KCC notes the assertion in paragraph 1.3.58 of the officer's report that the 24 additional housing sites proposed for allocation would maintain the spatial distribution of development as set out in the 2014 draft of the Local Plan. In its 2014 Local Plan

response, the County Council set out its strong objections to the major development proposed at the urban periphery of Maidstone. The sites in this location are over three miles from the town centre and development would lead to an increased reliance on the car as the primary mode of transport, alongside the loss of open countryside and further urban sprawl. Development in this location cannot be justified as a suitable or sustainable location for future growth.

A significant proportion of the dwellings proposed in the additional allocations are located within identified Rural Service Centres and Larger Villages. It is the position of KCC that it would be a disservice to those communities if housing allocations in these locations were selected without recourse to the community and not in accordance with relevant Neighbourhood Development Plans.

KCC continues to assess the implications of the proposed allocations on local infrastructure capacity (i.e. transport) and the provision of its key services, particularly Education, Youth and Community Learning and Social Services. The outcomes of this work will form part of the comprehensive representation the County Council will submit during the formal publication of the Local Plan.

Highways and Transportation

Work has been jointly commissioned by the County and Borough Councils and undertaken by Amey to identify the impact on the travelling public of the 17,100 homes on the transport network in 2031. The results of this were presented to the Joint Transportation Board on 15 December 2014 and clearly demonstrate that there would be an average increase of over 42% in total travel time if only the Bridge Gyratory improvement scheme was to be implemented. If the wider package of highway improvements as agreed by the Joint Transportation Board in September 2014 were to be implemented, then this average increase would be of the order of 30%.

For the avoidance of doubt, based on evidence and in full agreement with the Joint Transportation Board, the County Council currently considers that the growth planned causes an unacceptably severe impact upon the network, the travelling public and the ability of Maidstone's economy to function effectively. These additional proposals simply worsen the situation. Without practicable mitigation measures being identified which have the support of both sets of Members and the public, the County Council as Local Highway and Transportation Authority will **maintain** a strong objection to the Local Plan through to the Examination in Public and beyond.

The officer's report asserts at paragraph 1.3.30 that, "... it is important to note that KCC Highways has not objected to the housing sites included in the draft Local Plan (Regulation 18)". This statement is grossly inaccurate. KCC, in its response to the 2014 draft of the Local Plan (dated 7 May 2014), clearly objects to the inclusion of unsuitable sites and certainly to the overall quantum and spatial distribution of development proposed by Maidstone Borough Council.

Water and Sewerage

The County Council considers paragraphs 1.3.21-1.3.23 of the officer's report to the Overview & Scrutiny Committee to downplay the critical nature of the well documented issues in relation to the local sewerage network.

In its response to the 2014 Local Plan, KCC referred to the Maidstone Borough Council Water Cycle Study – Outline Report 2010 (Halcrow Group Limited). In respect of the major development proposed to the south east of Maidstone, the report stated (paragraph 4.2.2), “... *the limited capacity of the existing sewerage infrastructure to the town will act as a significant constraint*”.

In its efforts to understand the full implications of the development proposed in the Local Plan on the sewerage network, the County Council commissioned consultants Amey to undertake detailed assessments. The outcomes of this work were shared with Maidstone Borough Council at the earliest available opportunity. This reaffirmed the findings in the published Local Plan evidence base, “*The foul water sewerage system within Maidstone has little or no capacity to accept additional flows... this represents issues for future development*”.

KCC has, to date, not seen any technical solutions to address the sewerage capacity issues and the cost of delivering the required improvements. In the absence of this information, the County Council reiterates its strong objection to the proposed allocations to the urban periphery of Maidstone on the basis that the sites are not deliverable, notwithstanding their unsuitable location and contribution to urban sprawl.

Viability and deliverability

Until the traffic modelling has been completed, we cannot, jointly, determine what mitigation to development would be suitable; therefore we cannot determine the viability of individual sites. Without an Infrastructure Delivery Plan in place, neither are we able to determine the viability of the emerging Maidstone Borough Local Plan.

The National Planning Policy Framework (paragraphs 173 and 174), “... *requires careful attention to viability and costs in plan-making and decision-taking*”. In accordance with the Community Infrastructure Regulations (CIL) 2010 (as amended), the Framework and Planning Practice Guidance, new development will be required to provide and/ or fund the infrastructure provision necessary to mitigate its impact, and at nil cost to the County Council.

This infrastructure should always be funded by development contributions, the CIL and any other funding sources. The County Council will not be able to provide any additional gap funding, additional service provision capacity or infrastructure to mitigate any shortfall in development contributions or CIL receipts arising from new development. KCC contends that further urban sprawl of Maidstone is neither viable nor deliverable.

The County Council, as Local Education Authority, Local Highways Authority and Statutory Library Authority, must be included as a signatory to any future Planning Obligation Deed that is completed. Agreements will be subject to sign off by the S151 Officer and where necessary, appropriate Cabinet Member, in order to ensure that the County Council can make appropriate provision for delivery as required under the terms of the agreement. Being a signatory will also enable the County Council to monitor and enforce any obligations and have the required certainty to plan for infrastructure delivery in the interests of both existing and future community.

Maidstone Borough Council has already been made aware that KCC wishes to engage with the developers involved in progressing the Sutton Road sites with planning consent, in order to discuss how the funding secured through Unilateral Undertakings might be dedicated to more strategic highway improvements rather than the widening of Sutton Road, for which Members are unanimous in their opposition.

The County Council accepts that any Section 106 Agreements must meet the three tests of validity, but there is an opportunity to gain substantial contributions to an emerging strategy – namely a link between the A274 and the A20. KCC is of the firm belief that a bypass of Leeds and Langley would be considerably more beneficial in terms of the local highway infrastructure, when looked at from the perspective of a Local Plan transport strategy. A bypass would enable opportunities for housing growth in the area but these must respect the level of local infrastructure provision and the impact on the sensitive landscape and visual amenity of the area.

Item 9 Local Plan Employment and Mixed Use Land Allocations and Results of the Consultation of the Economic Development Strategy

The County Council notes that the respective Maidstone Borough Council Overview and Scrutiny Committees will consider any amendments and/ or new employment and mixed use land allocations in the emerging Local Plan, with recommendations scheduled to be put to the 11 February 2015 Cabinet meeting. KCC will carefully consider these recommendations and their contribution to the sustainable development of the Maidstone Borough before setting out its response.

I would like your assurance that this letter will be presented to all Members of this committee which articulates our serious concerns regarding prematurity and the fact that we are working together to commission work to better understand the capacity issues and potential mitigation relating to the infrastructure necessary to support growth. Without this evidence I fail to see how you can consider these additional housing sites.

If you require further information or clarification on any matter then please do not hesitate to contact me.

Yours sincerely,



Barbara Cooper
Corporate Director – Growth, Environment and Transport

Cc. Mr. R Jarman, Head of Planning and Development, Maidstone Borough Council

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22 January 2015

Dear Barbara

Thank you for your letter of 20 January 2015 sent by e-mail only and which you requested be brought to the attention of our elected members at the Maidstone Planning, Transport and Development Overview and Scrutiny Committee (PTD O&S) meeting on the evening of 20 January (the agenda for which was published on 9 January). Unfortunately I did not receive your e-mail until the morning of 21 January as it was quarantined by our IT security system. However, the PTD O&S Committee was adjourned and will be reconvened this evening. I will ensure that your letter is brought to the attention of Committee members at this meeting.

Your letter reflects the close working that has already taken place between our two authorities and clearly sets out Kent County Council's current position concerning our Local Plan which is very helpful. I have endeavoured to set out below the context for Maidstone Borough Council, where I believe we have areas of common ground and where there remain differences between our two authorities with the intention of making further progress on both joint work currently underway and those issues that remain to be resolved.

In response to the main thrust of the points in your letter it is important to remember that plan making is a continuous and iterative process of engagement from initial thinking through to implementation resulting in a final position where policies are in place to provide the land and infrastructure to support current and projected future levels of development. Draft housing allocations and input from infrastructure providers are an iterative process and inevitably decisions need to be made on sites before the infrastructure providers can give a firm response on the implications. Identifying draft housing allocation sites is not premature,

merely a stage in a continuous process with many other inputs towards adopted policies.

Strategic Overview of the Maidstone Local Plan

Maidstone Council conducted Regulation 18 consultation on its Local Plan as a whole in May 2014. It reflected the best information available at that point in time (including a viability assessment) although we did not have the benefit of a strategic transport assessment. I do not think it is necessary for me to repeat here the history of how we got to this position as I set this out in correspondence with your colleague the Director of Environment, Planning and Enforcement on 21st May 2014. I am sure that you will appreciate that among the factors that we took into account in deciding to go ahead with the consultation were the facts that the existing borough plan dates back to 2000 and the borough does not have a 5 year housing land supply. The consequence of this situation is that it is more difficult to direct development to the places where it is most suitable and to secure appropriate financial contributions to strategic infrastructure. Being able to make progress quickly is therefore imperative.

Since May 2014 we have enjoyed many constructive discussions concerning the Local Plan with the Director and other KCC colleagues. We have shared the further work being conducted by Maidstone officers on the Local Plan and how this is structured. For example the timetable for reviewing the draft spatial and development management policies in the light of consultation feedback, when we planned to report this to O&S and seek decisions from the Cabinet and crucially when we will be in a position to again consider all the elements in the round, including cumulative impact and demonstrable constraints on growth eg transport infrastructure, education, open space etc. This will be done before we commence Regulation 19 consultation on the revised whole Local Plan which is planned for the latter half of 2015. The Cabinet have delayed consideration of transport policies until all the transport modelling, which is currently in progress, has been completed.

Transport

Although we do not yet have an adopted Integrated Transport Strategy I believe that we (i.e. KCC and MBC working together) have made very good progress. It is a fact that the strategic transport modelling work is not yet complete. KCC has already stated its concerns about the potential consequences for transport networks, the travelling public and the economy of 17,100 new homes (May 2014) or 18,100 new homes (January 2015). We do take this seriously. In May 2014, as far as we are aware, no transport modelling had been conducted and therefore there was no evidence that we could take into account in our plan making or that KCC could take into account in its consultation response.

We are confident that this will not be the case when we conduct Regulation 19 consultation because of the joint work that we have done. Currently we do not yet have all the outcomes of the transport modelling which commenced in September/October 2014 and have not yet had the opportunity to objectively assess the impacts, fully explore mitigation or conduct a full assessment of deliverability. Although some headlines have been presented from some of the modelling we have been advised that your consultants Amey have not yet produced any reports and are focussing on running the various model scenarios. We understand and appreciate that this takes time.

Nevertheless with what we know about the timetable for this work - I believe that with continued collaboration - the results from the modelling, the subsequent consideration of both the interdependency between this and housing growth and the whole picture in terms of our infrastructure delivery plan can be completed before our planned Regulation 19 consultation on the whole Maidstone Local Plan. This will include an assessment, which I hope we can progress jointly, of any appropriate mitigation of otherwise unacceptable transport impacts including consideration of sites which are suitable for housing but are to be discounted because of the constraints of the transport network. I am sure that you will appreciate that the test for this will be high.

Furthermore I believe that the fact that we have secured funding for the Bridges Gyrotory improvements (through a combination of an allocation of capital from the Local Growth Fund and match funding from Maidstone Borough Council) demonstrates tangible results from our collaboration to date.

Housing quantum and spatial distribution

Maidstone Council is acutely aware of the general public concern and that of KCC about the objectively assessed housing need for the borough (18,600 homes). In particular we appreciate the concern that if the amount of housing allowed for in the Local Plan reaches the calculated level of need, this amount of growth would have unacceptable consequences for people's quality of life now and in the future e.g. in terms of residential amenity and congestion on the road network. I think it is also worth repeating that as the local planning authority we also have specific obligations and need to ensure that we produce a Local Plan that is evidence based and compliant with government guidance including that set out in the National Planning Policy Framework. This includes positively identifying solutions to the adverse impacts that are forecast to occur and being clear and realistic about what level of worsening e.g. in travel times we are prepared to accept and why. We (i.e. MBC and KCC officers) have discussed on many occasions how challenging it is to meet these requirements to the satisfaction of many stakeholders and specifically, given KCC's statutory responsibilities, how this may be achieved with respect to transport, education, social care etc.

Our starting point with respect to housing considerations must be the objectively assessed need. Maidstone Council, the local planning authority with

responsibility for determining the borough's housing requirement, has not yet reached a conclusion concerning the quantum of housing to be included in the Local Plan – often referred to as the housing "target".

As you maybe aware, as yet, we have not been able to identify sufficient supply of land to satisfy the objectively assessed need. This was clear when we conducted consultation last May when the balance of unmet need was in the region of 2,500 dwellings. This was clearly and openly stated in the report presented to our Cabinet on 24th February 2014. Although we have reviewed our level of objectively assessed housing need in the light of new information from Office for National Statistics and carried out a further call for sites you will know from the papers presented to the O&S Committee on 20th January that even if all the sites identified here were agreed and delivered then the level of need would not be met. The gap is currently around 420. Of course we will keep you fully appraised of the decisions made by the Maidstone Cabinet on 28th January 2015 concerning sites to be the subject of future consultation. We will also ensure that the Cabinet is fully aware of your representation to our O&S Committee concerning the principle of conducting consultation in the current circumstances.

With what we know currently it is entirely possible that the "target" will be lower than the level of need that has been identified for justifiable planning reasons. Thank you for drawing to our attention the letter of 19th December 2014 from the Minister for Planning and Housing to the Chief Executive of the Planning Inspectorate and in particular that Strategic Housing Market Assessments (SHMA) "should not be seen as an automatic proxy for a final housing requirement". I would like to reassure you that we are considering the housing supply in the borough in a constructive and robust manner and keeping abreast of the outcomes from Local Plan Examinations in Public across England. We have conducted appropriate research and analysis to identify sites which are suitable and available for housing. I hope you would agree that our work to date demonstrates that we are not simply making our SHMA into our housing "target".

In addition it is the case that we have consulted KCC on all the sites that have been identified. We have not proposed any site in our proposed site allocations for which there are highways issues or issues that cannot be sufficiently mitigated (in the view of KCC officers) to make them acceptable. I appreciate that work on the complementary Integrated Transport Strategy is not yet complete – and have referred to this above. We are aware of your concerns about the cumulative impact and we share the concern that this should be properly taken into account in the plan making process.

Having said all that it needs to be reiterated how important it is that we make good progress on the Local Plan in part because of the lack of a 5 year housing land supply and the local housing need. It is a fact that development proposals have already come forward for a large number of the sites identified in the May

2014 draft local plan. We have consulted KCC about the planning applications that we have received and involved highways colleagues in pre-application meetings where development proposals which are at a formative stage have been discussed.

Other matters – including water and sewerage infrastructure, the natural environment and Neighbourhood Plans

We have noted the wider concerns that you have expressed concerning water and sewerage infrastructure and the natural environment and how all these elements together impact the lives of residents and businesses of the Maidstone Borough.

It is a fact that in the development of our Local Plan we have engaged with infrastructure providers for water and sewerage. We have and will continue to take their responses into consideration in formulating the Local Plan. We are also mindful of the views of some parish councils, our borough members and KCC's view concerning the lack of adequate provision for the management of water and sewerage in some places now and in the future. Although the advice of the statutory providers of water and sewerage services must take precedence it is important that we can properly and constructively challenge the advice that we are being given especially where it appears to be contradicted by local experience. And so, notwithstanding your lack of a statutory locus on these matters, we are actively collaborating to investigate the concerns that you have.

It is also a fact that we have fulfilled our statutory obligations with respect to engagement with a range of organisations with respect to the natural environment. We are grateful for the continuing valuable advice and support to us as the local planning authority provided through the KCC ecology and archaeological services with respect to both site evaluation (in the allocation process) and wider policy considerations. We have also consulted with a range of statutory consultees including Natural England and the Environment Agency, in addition to the local AONB unit and Kent Wildlife Trust.

We have also noted the opinions you have expressed concerning Neighbourhood Plans. I would simply make three points. Neighbourhood Plans, once adopted, are part of the development plan for the area and must be in conformity with the Local Plan. We are aware of the emerging neighbourhood plans across the borough and the value of dialogue to achieve alignment. We have consulted extensively with parish councils and other community groups in particular concerning housing allocations and, with respect to key settlements, appointed the consultancy Design South East to undertake further engagement on our behalf.

Viability and Deliverability

I have responded to the points concerning to process and timing for production and finalising the Infrastructure Delivery Plan above. I advised you when we met on 8th January 2015 that we are refreshing the viability assessment undertaken prior to our Regulation 18 consultation last May. We have commissioned Peter Brett and Associates to undertake this work. We expect it to be complete by mid-March and, as already promised, we will be happy to share it with you.

Thank you for the statement about future planning agreements and advising us of the internal governance arrangements that KCC will apply to the approval of any S106 or similar agreement. I would be grateful for your clarification as to the impact that you expect this to have on the responsiveness of KCC to our consultation on development proposals and draw your attention to the standards in place for timescales for the determination of planning applications. I would also be grateful for your confirmation that these governance arrangements are in place as part of your consideration of planning applications across the county.

Thank you also for the clear statements concerning a bypass of Leeds and Langley. I have noted with interest that this view has been expressed before the transport modelling has been completed and the consequences that you envisage for the spatial distribution of housing in the borough and potentially the quantum of housing (with all the usual caveats about infrastructure capacity). I hope that we will be able to have a constructive dialogue on these matters going forward.

Employment and Mixed Use Land Allocations and results of the consultation on the draft Economic Development Strategy

We very much welcome KCC's engagement with our draft Economic Development Strategy which will supersede our adopted EDS and will be a key part of our evidence base for employment policies and site allocations in the Local Plan. We have briefed your colleagues (Dave Hughes, Ross Gill and David Smith) and have been told that they will make a formal representation to us. As yet we have not received it. The deadline for responses is 5pm this Friday 23 January. The deadline for publishing the officer report for consideration by O&S is 2 February.

In the interests of collaboration it would be beneficial to receive KCC's response to our consultation in advance of our preparation of reports to O&S and Cabinet. Of course we respect your right to make representations to O&S and Cabinet but it would be unfortunate if this is the only way in which your input is made.

I look forward to continuing our positive dialogue over the weeks and months to come.

Yours sincerely

A handwritten signature in black ink that reads "Alison Broom". The signature is written in a cursive style with a large initial 'A'.

Alison Broom
Chief Executive

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