

**STRATEGIC PLANNING
SUSTAINABILITY &
TRANSPORTATION COMMITTEE**

**12 September
2017**

Is the final decision on the recommendations in this report to be made at this meeting?

No

Maidstone Borough Local Plan (2017): Adoption

| | |
|---------------------------------------|--|
| Final Decision-Maker | Council |
| Lead Head of Service | Rob Jarman, Head of Planning & Development |
| Lead Officer and Report Author | Sarah Anderton, Principal Planning Officer (Strategic Planning) & Mark Egerton, Strategic Planning Manager |
| Classification | Public |
| Wards affected | All |

This report makes the following recommendations to this Committee:

That this Committee **Recommends** to **Council**:

That the Maidstone Borough Local Plan (2017) in Appendix VI, which incorporates the Inspector's Main Modifications, and the Policies Map at Appendix VII be adopted.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all – the Local Plan provides for future growth in a positive and sustainable way whilst protecting the borough's environmental assets. In this way, the Plan supports a social objective of achieving strong, vibrant and healthy local communities.
- Securing a successful economy for Maidstone Borough – the Local Plan also plans positively for the growth of the local economy whilst also protecting the environmental assets which make the borough such an attractive place to work.

Timetable

| Meeting | Date |
|---|-------------------|
| Strategic Planning, Sustainability & Transportation Committee | 12 September 2017 |
| Council | 27 September 2017 |

Maidstone Borough Local Plan (2017): Adoption

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 On 27th July 2017 the Council received the Report on the Examination of the Maidstone Borough Local Plan prepared by the Local Plan Inspector Mr Robert Mellor Bsc DipTP DipDesBEnv DMS MRICS MRTPI. The Inspector's report concludes that the Maidstone Borough Local Plan provides an appropriate basis for the planning of the borough provided a number of Main Modifications are made to it. All these Main Modifications are needed for the Plan to be sound.
- 1.2 This committee report;
- Provides a short overview of the Local Plan Examination process and the Inspector's findings;
 - Highlights the limited additional changes the Inspector requires to the proposed Main Modifications which were approved by this Committee for public consultation on 14th March 2017;
 - Includes in Appendix VI the revised version of the Local Plan for adoption; and
 - Recommends that Council is recommended to adopt the Local Plan and the associated Policies Map (Appendix VII).
- 1.3 By adopting the Local Plan, the Council will;
- Have an up to date and National Planning Policy Framework-compliant Local Plan which can be given full weight in planning decisions. This will enable the Council to take control of future planning decisions in the borough, resist the development of unallocated sites in unsustainable locations and help avoid 'planning by appeal';
 - Secure its 5 and 20 year housing land supply positions;
 - Positively plan for the borough's development needs in parallel with policies which will protect the borough's environmental qualities;
 - Clearly set out the transport, health, education, open space, affordable housing and other infrastructure requirements associated with future development;
 - Provide increased certainty for residents, landowners, developers and businesses about the circumstances where development will and will not be acceptable; and
 - Confirm the strategic planning policies which neighbourhood plans will need to generally comply with, providing valuable clarity for the groups preparing neighbourhood plans.
- 1.4 The Local Plan is at a very advanced stage. The Inspector has determined that the Local Plan, incorporating the Main Modifications, is sound when taken as a whole. The Council does not have the remit to accept some of his Main Modifications and not others. Similarly, there is no facility to change other aspects of the Plan before adoption (e.g. add or delete a site). The Plan has been through an extended and thorough process of preparation, consultation and independent testing during which all interests were represented and the conclusion has been reached that the Plan with the

Main Modifications is fit for purpose. It is now the final step for Council to decide whether it should adopt the Plan as it stands.

2. INTRODUCTION AND BACKGROUND

Preparation of the Local Plan

- 2.1 The Maidstone Borough Local Plan has taken an extended period to prepare. Work commenced on the Core Strategy in 2006/7. In 2013 the Council took the decision to prepare a comprehensive Local Plan. An extensive evidence base has been prepared which underpins the content of the Plan. The Plan was also subject to three specific stages of public consultation before it was submitted for independent examination.
- 2.2 In March 2012 the National Planning Policy Framework (NPPF) was published. This was a highly significant turning point in national planning policy and was coupled with the abolition of regional spatial strategies (the South East Plan). The adopted Maidstone Borough-wide Local Plan (2000) predated these changes and as a result some of its key policies have been regarded as out of date¹. In such circumstances, the 'presumption in favour of sustainable development' applies. This has been compounded by a period when the Council has not been able to demonstrate a 5 year supply of housing land. Having an up to date, NPPF-compliant Local Plan in place is the only way to re-establish the Council's control in future development management decisions.
- 2.3 The Maidstone Borough Local Plan is a comprehensive document, providing a full suite of policies which underpin the overall strategy for how, when and where development will be delivered and the borough's environmental qualities will be protected in the period to 2031. To this extent the Plan's policies and allocations work together as a coherent package and should be read and applied as such.

Local Plan Examination

- 2.4 On 20th May 2016, the Maidstone Borough Local Plan (2016) was submitted to the Secretary of State for examination. The decision to submit the Plan was made by Council at its meeting on 25th January 2016. The documentation submitted to the Secretary of State (and then passed on to the Inspector) included copies of all the duly made representations to the Regulation 19 consultation held between 5th February and 18th March 2016.
- 2.5 The Secretary of State appointed Mr Robert Mellor Bsc DipTP DipDesBEnv DMS MRICS MRTPI as the Inspector to examine the Plan. The Inspector's role is to make an independent assessment of whether the Plan is sound and whether it meets the requisite legal tests, including the duty to co-operate. The Council wrote to the Inspector on 1st June 2016 formally requesting that he put forward modifications if he found that they would be necessary to make the submitted Plan sound.

¹ NPPF paragraph 14

- 2.6 Examination hearings commenced on 4th October 2016 and the last hearing was held on 24th January 2017. On 22nd December the Inspector issued his Interim Findings which contained his emerging conclusions on key points.
- 2.7 The Examination was a rigorous and public process. The Inspector had before him all the written submissions made by objectors to the Plan (and supporters) during the Regulation 19 consultation. He also had the evidential documents prepared by the Council and a variety of other relevant documents such as council strategies, statements of common ground and neighbourhood plans. These were all posted on the Council's website. He used these to prepare an agenda of key matters, issues and questions for each of the hearing sessions. All attending parties were able to prepare written responses to the Inspector's questions in advance. At the hearings themselves, the Inspector led the discussion, structured around his written agenda. All parties had the opportunity to make their case and to challenge the points made by others. In total there were 21 days of hearings, all of which were open to the public and webcast. The Inspector's objective was to ensure he had sufficient information to make a fully informed decision about the soundness of the Local Plan. Where information was missing or unclear, he asked for it to be supplied.
- 2.8 Throughout the Examination, a list of proposed Main Modifications was gradually compiled. After the last hearing, the Inspector finalised the schedule of proposed Main Modifications which he considered, at that stage, were likely to be needed to make the Plan sound. Strategic Planning Sustainability & Transportation Committee agreed these for public consultation at its meeting on 14th March 2017. The Committee also agreed a separate schedule of Minor Changes for consultation. These Minor Changes comprised factual updates, clarifications, corrections of minor errors, changes needed as a consequence of the proposed Main Modifications and also Policies Map changes.
- 2.9 The public consultation on the proposed Main Modifications, the associated Sustainability Appraisal and the Minor Changes ran from 31st March to 19th May. The 310 consultation responses received on the Main Modifications and the Sustainability Appraisal were passed on to the Inspector. He has taken these responses into account in reaching his final conclusions on the Local Plan².

Inspector's report

- 2.10 The Inspector's Final Report was received on 27th July 2017. It was circulated to all Councillors by email and it is also available on the Council's website here;
http://www.maidstone.gov.uk/_data/assets/pdf_file/0017/150803/ED-158-Inspectors-final-report-on-our-Local-Plan-27-July-2017.pdf
- 2.11 The Inspector concludes that "the Maidstone Borough Local Plan provides an appropriate basis for the planning of the borough, provided a number of Main Modifications (MMs) are made to it"³. The Inspector's Report is

² Inspector's Report, paragraph 5

³ Non-technical summary, first paragraph

accompanied by a separate schedule of the Main Modifications, also previously circulated and available here;
http://www.maidstone.gov.uk/_data/assets/pdf_file/0018/150804/ED-159-Inspectors-schedule-of-changes-to-our-Local-Plan-27-July-2017.pdf

2.12 All the specified Main Modifications are needed for the Plan to be sound. The Report also confirms that the Plan has complied with the legal requirements, including the duty to co-operate. With the exception of a few limited adjustments, explained below, the Main Modifications are the same as those agreed by the Strategic Planning Sustainability and Transport Committee for public consultation on 14th March.

2.13 A summary of the Inspector's Report is provided in Appendix I.

Context for a decision to adopt the Local Plan

2.14 A decision to adopt the Plan, incorporating the Main Modifications, would mean that the Council would have an up to date and National Planning Policy Framework-compliant Local Plan which can be given full weight in planning decisions. This will enable the Council to take control of future planning decisions in the borough and help avoid 'planning by appeal'. The decision will help secure the 5 and 20 year housing land supply positions and will demonstrate that the Council is planning positively for the borough's development needs in parallel with policies which will protect the borough's environmental qualities. The Plan clearly sets out the transport, health, education, open space, affordable housing and other infrastructure requirements associated with future development. It provides increased certainty for residents, landowners, developers and businesses about the circumstances where development will and will not be acceptable. It also confirms the strategic planning policies which neighbourhood plans will need to generally comply with, providing valuable clarity for the groups preparing neighbourhood plans.

2.15 The Inspector has determined that the Local Plan, incorporating the Main Modifications, is sound when taken as a whole. The Council does not have the remit to accept some of his Main Modifications and not others.

2.16 Similarly, there is no facility at this advanced stage to change other aspects of the Plan prior to adoption (e.g. add or delete a site). The relevant legislation⁴ does not allow for a local planning authority to make any material changes to a local plan in adopting it, other than the Main Modifications recommended by the Inspector. The only exception would be trivial changes in the nature of a spelling correction.

2.17 The reason for the legislation being framed in this way is likely to stem from the fact that the plan, and the objections to it, have already been fully considered by an independent planning Inspector. An alteration to the Plan at this final stage would subvert this process as there is no further opportunity for a party adversely affected by the change to have their objection heard. Also, because of the comprehensive nature of the plan,

⁴ Section 23 of the Planning & Compulsory Purchase Act 2004 as amended

such a change is highly likely to have ramifications for other policies or proposals in the Plan. An alteration to one policy would result in the need for compensatory changes elsewhere in the Plan. The only feasible outcome of a move to alter the Plan at this stage would be non-adoption of the Plan.

- 2.18 In this scenario (which is not recommended), the Plan would be revised in preparation for a new Regulation 19 consultation (at best) and a new Examination. Non-adoption of the Local Plan and a new Examination would have the following principal risks;
- Updated (higher) household projections for the borough have been published by DCLG since the Plan was submitted. A new Inspector would expect the Plan to take account of this latest evidence in confirming the objectively assessed need for housing (OAN).
 - An increased OAN figure is highly likely to require the allocation of additional housing sites. A new 'Call for Sites' may be required.
 - West Kent authorities are advancing their own local plans and there will be consultation on the new London Plan in November. There is some considerable likelihood that over the next 18 months or so this Council will receive formal requests to accommodate unmet needs from elsewhere. Having an adopted Local Plan which meets our own needs in full gives this Council a confirmed position from which to consider such approaches. Conversely, having no adopted plan in place would raise the prospect of whether additional allocations could or should be incorporated into what would still be a Plan in preparation.
 - Short-medium term risk to the Council's 5 year supply position.
 - A protracted period of uncertainty during which matters such as the weight to be afforded to planning policies, the OAN figure and overall housing land supply would be debated at each appeal.

2.19 The Committee may also be aware that the Government has previously announced that it will intervene where councils are not making sufficient progress with their Local Plans⁵. The Government reasserted this intention in the Housing White Paper (February 2017).

2.20 Further, significant financial resources and substantial staff and Member time has been expended to get the Plan to its current, advanced stage. The borough's residents and other interested parties have also devoted their own time and resources, contributing in significant numbers at each stage of the Plan preparation process. Much of this effort would be wasted if there was a decision not to adopt the Plan.

2.21 In conclusion, it is considered that there are compelling and overriding reasons to adopt the Local Plan at the earliest opportunity.

Adoption version of the Local Plan

2.22 The Inspector has made a few, limited adjustments to the detailed wording of the Main Modifications following the public consultation. These adjustments can be summarised as follows;

⁵ Written Statement made by Minister of State for Housing and Planning (Brandon Lewis) on 21st July 2015.

- i. Addition to the text of the plan at paragraph 4.3 (4.8 in the adoption version of the Local Plan) to clarify that the 5,475 dwelling figure quoted includes sites with a resolution to grant permission (Main Modification MM1)
- ii. Correction to the supporting text for 'Policy SP18 – Historic Environment' to refer to *Registered* Parks & Gardens (MM12)
- iii. Exclude 6 housing sites from the minerals safeguarding requirements in Policy H1 (MM16)
- iv. Clarification in the supporting text to 'Policy RMX1(1) - Newnham Park' to confirm that goods restrictions may be required specifically for additional retail or leisure floorspace, above that already consented (MM33)
- v. Add reference to sustainable transport modes in the supporting text of 'Policy DM5 – Development on brownfield land' to be consistent with the requirements in the policy (MM41)
- vi. Insert reference in 'Policy DM21 – Assessing the transport impacts of development' to Highways England's guidance on transport assessments (MM52)

2.23 The adoption version of the Maidstone Borough Local Plan is included in Appendix V. The Plan has been restructured to bring the strategic policies together into a single, early chapter as required by the Inspector (MM61). The adoption version incorporates;

- i. The Inspector's Main Modifications
- ii. The 'Minor Changes' agreed by SPS&T for public consultation on 14th March
- iii. Changes which are directly consequential to the Main Modifications (e.g. updated cross references)
- iv. Updated foreword and Chapters 1 & 2 to reflect that the Plan has reached adoption stage
- v. Factual updates (e.g. updated references to legislation)
- vi. Typographical corrections and formatting changes for consistency.

Policies Map

2.24 The Policies Map accompanies the Plan and shows the geographical areas to which various policies of the Plan apply. Whilst the Policies Map is not examined by the Inspector, the Main Modifications which he requires result in corresponding changes to the Policies Map.

2.25 The adoption version of Policies Map is available here:

<http://maidstone.addresscafe.com/app/exploreit/Default2017.aspx> . It is also included as Appendix VII. This version includes the following changes compared with the Regulation 19 version of the Policies Map;

- i. Map changes directly resulting from the Main Modifications
- ii. Map changes listed in the Minor Changes agreed for public consultation by Strategic Planning, Sustainability and Transportation Committee on 14th March. In addition, and as an outcome of the consultation, the Maidstone urban boundary has been adjusted in 2 locations to more accurately follow boundaries on the ground and the allocation plan for Policy H1(29) – Land west of Eclipse Park has been

amended to exclude the buffer to M20 as discussed at the Examination hearing. A correction has also been made to the boundary of the Allington Park & Ride site to exclude a delivery area for the adjacent retail unit. Land at Mote Road, Maidstone was incorrectly shown on the Policies Map as a designated Economic Development Area and an employment site allocation at Regulation 19 stage. This is now corrected to show the site allocation only. Plans showing these changes are included in Appendix I.

- iii. Updates to certain of the environmental designations which are the responsibility of external agencies and which have occurred since the Regulation 19 consultation

Adoption process

2.26 Once adopted, the Local Plan will come into immediate effect and will become part of the Maidstone Development Plan. There is a mechanism for a legal challenge to be initiated during the six week period following the date of adoption and, if this occurs, the challenger can request that the Court suspend the operation of the Local Plan or part of it. Once adopted, planning decisions should be made in accordance with the development plan unless other material considerations indicate otherwise. The adopted Plan will supersede the following;

- Saved policies of the Maidstone Borough-wide Local Plan (2000)
- Affordable Housing Development Plan Document (2006)
- Open Space Development Plan Document (2006)
- Sustainable Construction Supplementary Planning Document (2006)

2.27 Assuming Council does decide to adopt the Local Plan, the Council is required to send a copy of the Adoption Statement (Appendix III) to everyone who requested to be notified of the adoption of the Plan and we will extend this to include everyone on our Local Plan consultee database. A copy of the Adoption Statement must also be sent to the Secretary of State. In addition, the Local Plan documents, including the final Sustainability Appraisal report (Appendix IV) will be published on the website and made available for inspection at Maidstone Link and local libraries

3. AVAILABLE OPTIONS

3.1 Option A: the Committee recommends that the Local Plan incorporating the Main Modifications and Policies Map are adopted by the Council.

3.2 Option B: the Committee recommends that the Local Plan incorporating the Main Modifications and the Policies Map are not adopted by the Council.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The reasons in favour of adopting the Plan (Option A) are set out in full in the body of the report. The consequences of a decision not to adopt the Local Plan (Option B) are similarly set out.

4.2 For all these reasons, prompt adoption of the Local Plan is strongly recommended.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 The preparation of the Local Plan has involved extensive public consultation, both formal and informal, and Committee consideration and decision-making. To recap, the key formal consultation stages have been;

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| Reg. 18 draft Maidstone Borough Local Plan | 21 st March – 7 th May 2014 |
| Reg. 18 partial draft Maidstone Borough Local Plan | 2 nd – 30 th October 2015 |
| Reg. 19 Maidstone Borough Local Plan | 5 th February – 18 th March 2016 |
| Proposed Main Modifications | 31 st March – 19 th May 2017 |

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 The next steps are explained in the 'adoption process' section above.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue | Implications | Sign-off |
|---------------------------------------|--|---|
| Impact on Corporate Priorities | <p>Keeping Maidstone Borough an attractive place for all – the Local Plan provides for future growth in a positive and sustainable way whilst protecting the borough's environmental assets. In this way, the Plan supports a social objective of achieving strong, vibrant and healthy local communities.</p> <p>Securing a successful economy for Maidstone Borough – the Local Plan also plans positively for the growth of the local economy whilst also protecting the environmental assets which</p> | Rob Jarman, Head of Planning & Development |

| | | |
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| | make the borough such an attractive place to work. | |
| Risk Management | The adoption of the Local Plan will significantly reduce the risks of inappropriate, unplanned development. These risks associated with not adopting the Plan are explained in Section 4 of the report. | Rob Jarman, Head of Planning & Development |
| Financial | Resources for the preparation of the Local Plan have been made available within the Council's revenue budget, ringfenced for this activity. The remaining steps needed to adopt the Local Plan can be financed from this budget. | Section 151 Officer & Finance Team |
| Staffing | The Strategic Planning team is adequately staffed to progress the Plan to adoption. | Rob Jarman, Head of Planning & Development |
| Legal | Legal advice has been provided in an on-going manner during the Plan's preparation and examination. | [Legal Team] |
| Equality Impact Needs Assessment | The Equality Impact Needs Assessment (EqIA) in Appendix V has been completed to meet the best practice requirements of the Council. | [Policy & Information Manager] |
| Environmental/Sustainable Development | The Local Plan is fundamentally concerned with delivering sustainable development objectives. The Local Plan has been subject to Sustainability Appraisal and Strategic Environmental Assessment throughout its preparation. | Rob Jarman, Head of Planning & Development |
| Community Safety | No specific implications arising from this report. | Rob Jarman, Head of Planning & Development |
| Human Rights Act | No specific implications arising from this report. | Rob Jarman, Head of Planning & Development |
| Procurement | No specific implications arising from this report. | Rob Jarman, Head of |

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| | | Planning & Development & Section 151 Officer] |
| Asset Management | No specific implications arising from this report. | Rob Jarman, Head of Planning & Development |

8. REPORT APPENDICES

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

- Appendix I: Summary of the Inspector's Report
- Appendix II: Policies Map changes
- Appendix III: Adoption statement
- Appendix IV: Sustainability Appraisal Final Report
- Appendix V: Equalities Impact Assessment
- Appendix VI: Maidstone Borough Local Plan (2017) – version for adoption
- Appendix VII: Policies Map (booklet) – version for adoption

9. BACKGROUND PAPERS

Report on the Examination of the Maidstone Borough Local Plan (27th July 2017) and his schedule of Main Modifications

http://www.maidstone.gov.uk/_data/assets/pdf_file/0017/150803/ED-158-Inspectors-final-report-on-our-Local-Plan-27-July-2017.pdf

http://www.maidstone.gov.uk/_data/assets/pdf_file/0018/150804/ED-159-Inspectors-schedule-of-changes-to-our-Local-Plan-27-July-2017.pdf