

Appendix 1 – MBC response to ‘Planning for the right homes in the right places’

HOUSING NEED CALCULATION

Question 1:

a) do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

b) how can information on local housing need be made more transparent?

1a) Maidstone Borough Council (MBC) welcomes in principle the Government’s intention to streamline the process of establishing the housing need figure for a local authority area. MBC has very recently gone through the process of establishing its objectively assessed need for housing (OAN) by means of a Strategic Housing Market Assessment and of having it tested through a Local Plan Examination. In MBC’s case, this evidence required updating three times during the plan preparation process using external consultants in response to updated population and household projections. The assessment has been subject to substantial debate and external challenge throughout the plan’s preparation and Examination. It has been costly and time-consuming as the Government consultation identifies.

The proposed standard methodology appears, however, to be a very blunt tool for calculating needs and fails to take account of the implications for locations such as Maidstone as follows.

MBC has got an up to date Local Plan in place as required by Government. The Plan’s OAN is 17,660 (883dpa) (2011-31). This in itself is a substantial 59% uplift compared with the previous requirement of 11,080 (554dpa) established in the South East Plan in which Maidstone was identified as a Growth Point location. The proposed methodology would see Maidstone’s requirement increase to 1,236dpa, a **further 40% increase** on the OAN so recently confirmed through the Inspector’s Report for the Maidstone Borough Local Plan Examination (July 2017).

As for SHMAs, household projections are the starting point for the calculation. As these are to a substantial extent based on past trends, boroughs which have successfully achieved good levels of growth in the past, such as Maidstone, are projected to grow at or above this rate in the future. Conversely, areas which have historically had lower levels of growth, including because of constraints, have lower levels of household growth projected. This is confirmed in the following table which shows how Maidstone, Medway and Swale and to a lesser extent Ashford and Tonbridge & Malling would see appreciably higher uplifts to their OAN figures compared with Tunbridge Wells and Sevenoaks where affordability issues are worse.

	Current OAN (homes/ year)	New formula OAN (homes/ year)	% increase
Maidstone	883	1,236	40%
Medway	1,281	1,665	30%
Ashford	825	989	20%
Swale	776	1,054	36%
Tonbridge & Malling	696	859	23%
Tunbridge Wells	648	692	7%
Sevenoaks	620	698	13%

MBC **strongly objects** to this methodology which serves to perpetuate established patterns of household growth and to disproportionately load requirements on authorities with the highest base populations and which have delivered good levels of housing in the past.

At 1,236dpa, the standardised calculation results in a housing need figure which for this borough is a further **40%** above the Maidstone Borough Local Plan (October 2017). This scale of growth will require significant investment in new, strategic infrastructure to serve the new homes e.g. transportation, education, healthcare, recreation and sports facilities and there is the very real prospect that this could not be fully funded through development-generated income (s106 agreements, CIL, New Homes Bonus). This is particularly the case if house prices fall, which is the implicit intention of the Government's new approach, as this would impact on housebuilders' financial returns. As an authority which will have CIL in place (TBC), the new approach could directly impact on the council's ability to secure a sufficient proportion of affordable housing on housing sites. In parallel with the new approach, Government should therefore prepare to provide substantial gap funding to fund strategic infrastructure.

The new approach does not take specific account of implications for local employment. With an uplift of this scale, there would be an onus to correlate local employment opportunities to the above-trend increase in the resident population if a substantial increase in out-commuting is to be curtailed.

MBC also questions the realism of the approach in terms of actually achieving this rate of housebuilding on the ground in terms of the availability of sufficient labour, skills and materials. Also, it is not in the interests of housebuilders to increase the release of houses on to the market to such an extent that overall house prices will fall. Proposals that act on

the planning system must be matched with meaningful sanctions (possibly financial) directly on landowners/developers who fail to develop sites with planning permission promptly. Boosting the amount of land with planning permission will not, of itself, result in lower house prices unless there is action in other areas of the development process.

The consultation does not provide any form of strategic approach to deal with London's unmet housing needs. The new methodology would see London's projected growth increase to 72,000 compared with current London Plan figure of 49,000dpa.

In conclusion, the approach is considered to be demand-led with emphasis on increasing supply in areas where there is existing development pressure whilst reducing supply (principally in more northern authorities) where SHMAs have shown needs to be higher. A more nationally strategic approach to achieve housing delivery at the scale of 266,000dpa is required.

On a point of detail, the average household growth rate is proposed to be estimated using 10 years' worth of data. A 15 year period would align with Local Plan timeframes and ensure the projections reflect the average change over the whole Plan period.

1b) In MBC's view, whilst the proposed standard calculation is transparent because it is relatively simple and is to be applied nationwide, it fails to take proper account of the implications for authorities such as Maidstone as set out in response to Q1a.

Question 2: do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?

The consultation fixes housing need figure for 2 years from the date of submission of a Local Plan, even if updated household projections are issued. Based on MBC's experience, this should be extended to 1-2 years **before** submission to avoid the expense and delay of repeat evidence gathering/consultation during plan preparation stages. The housing need figure is a figure from which many other strands of evidence fall so it is generally helpful to establish a figure early in the Plan making process. Through its Local Development Scheme, a local planning authority commits to a date for submission and could fix the housing need figure for a period of 1 -2 years prior to this. If a local authority failed to meet the submission date, the updated household projection figures would need to be used.

Question 3: do you agree that we should amend national planning policy so that a sound plan should identify local housing need using a clear and justified method?

Yes – whilst it is considered that this is inherent within the current requirement that a Plan should be ‘justified’ based on proportionate evidence, MBC does not object to this being made explicit in the NPPF.

Question 4: do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from Planning Inspectors?

Yes – if a standard methodology is to be applied (subject to the concerns expressed in Q1a being addressed), it must result in the streamlining of the Plan preparation/Examination process. Using an alternative approach would need to be tested at Examination.

Question 5:

a) do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?

b) do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?

c) do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?

5a) – yes

5b) no response [not relevant for MBC]

5c) – no response [proposal is specific to National Park authorities and Urban Development Corporations]

Question 6: do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?

Yes – it is essential that local authorities which have made stringent efforts to get an up to date Local Plan in place are able to implement that Plan, and the housing targets within it, without the risk of premature challenge from developers/landowners. This is vital to support a Plan-led system and to provide certainty for all those with an interest in the development process.

STATEMENT OF COMMON GROUND

Question 7:

- a) do you agree with the proposed administrative arrangements for preparing the statement of common ground?
- b) how do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?
- c) do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

7a) – firstly MBC agrees with the sentiment in the consultation document that the current arrangements for Duty to Co-operate could result in local planning authorities failing to make the difficult decisions needed to ensure needs are met which in turn “can push unfair and unrealistic burdens for delivering housing need on neighbouring authorities” (paragraph 62). The Government could further underline its primary expectation that local authorities will meet their housing needs in full within their own boundaries as part of the proposed suite of revisions to the NPPF and NPPG.

Also there is not always agreement between authorities on the definition of HMAs. For example the definition of the HMAs covering Maidstone, Ashford, Swale, Tonbridge & Malling and Tunbridge Wells boroughs and Sevenoaks district all align whereas Medway has taken a more expansive approach in its SHMA which identifies a single HMA covering Medway, Swale, Maidstone, Tonbridge & Malling and Gravesham. Guidance on what happens when there is not agreement on these technical matters would be worthwhile. Amendments to NPPF/NPPG need to be clear that statements of common ground replace other requirements to record DtC between local authorities . The SCG should not be an additional burden.

7b) – no response [not relevant to MBC]

7c) – no response [not relevant to MBC]

Question 8: do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?

There are very real practical difficulties in preparing SCG with authorities at different stages in the Plan making process. Maidstone, has an up to date Local Plan in place and will not be substantially progressed with a plan review when these new provisions come into force. Conversely neighbours with whom we share a HMA will be at, or approaching, submission.

The authorities will not have a common position in terms of their plans' time horizons, evidence of their capacity for future development or the methodological basis for their housing need figure. In these circumstances, there is a real risk that SCGs will still not enable all cross-border issues to be fully concluded.

Question 9

- a) do you agree with the proposal to amend the tests of soundness to include that:**
- i) plans should be prepared based on a strategy informed by agreements over the wider area; and**
 - ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?**
- b) do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?**

As for Q8.

PLANNING FOR A MIX OF HOUSING NEEDS

Question 10:

- a) do you have suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?**
- b) do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?**

10a) MBC welcomes the Government's intention to update guidance on how to assess housing needs of different groups in an efficient and proportionate way.

b) MBC does not have specific evidence to indicate that the current definition of older people is no longer fit for purpose.

NEIGHBOURHOOD PLANNING

Question 11:

- a) should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?**

b) do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?

- a) An up-to-date local plan should offer sufficient guidance to neighbourhood planning bodies through the local authority area's development strategy and the allocation of key housing sites. Neighbourhood plans can indicate the future direction of development, allocate additional small sites, and include policies that allow for windfall development. Should national guidance require local authorities to set a housing figure for designated neighbourhood planning areas and parished areas in their local plans, the figure should be defined as a "minimum housing requirement" rather than a "housing need" to take account of inevitable windfall development.
- b) Neighbourhood planning bodies need guidance on their housing figures where an up-to-date local plan is not in place. The formulae-based approach to calculating a housing figure provides a starting point for neighbourhood plans but, whilst neighbourhood planning bodies can determine whether there are constraints to delivering their housing figure, unmet need from elsewhere in the borough/district is excluded. The formula based approach does not take account of how needs should be distributed at a more strategic level taking account of, for example, the relative sustainability of different locations within a local authority area. Guidance must make clear that a future local plan may allocate additional sites to meet the strategic housing needs for the local authority area. The formula-based approach would be clear and consistent but, like the proposed housing needs formula, is somewhat of a blunt tool as it cannot take account of the need to redistribute housing requirements based on the sustainability of different locations and their capacity to accommodate development.

PROPOSED APPROACH TO VIABILITY ASSESSMENT

Question 12: do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?

In principle, yes – indeed the Maidstone Borough Local Plan specifies the site size threshold for affordable housing and tenure split. Site allocation policies specify where on-site infrastructure and contributions to strategic infrastructure will be required. The plan is accompanied by an Infrastructure Delivery Plan which costs and identifies funding sources for the infrastructure needed to support the Local Plan's proposals.

The detailed costing and, potentially, apportionment of developer contributions for strategic infrastructure can be subject to change over the extended timeframe of a local plan. In MBC's view, this means it is a matter better dealt with in a supporting, evidence document to the Local Plan (such as an Infrastructure Delivery Plan) and not for the Plan itself.

Question 13: in reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?

MBC's view is that, broadly, the guidance on Plan viability testing is working adequately.

Where there is particular scope for improvement in the guidance is in respect of the viability testing of non-residential uses such as retail, employment and care homes. Given how comparatively infrequent these types of schemes are, data is sourced from other boroughs or based on assumptions on a small number of example cases, which is then more open to challenge. Some further guidance in this area would certainly be helpful.

It would be useful if – like for the housing need figure – viability studies supporting Local Plans could be relied upon for an extended period of time, say 2 years. These are expensive pieces of evidence to undertake and it would be helpful to be able to rely on them for LP and CIL examination purposes for a period of time.

Question 14: do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?

In principle this is welcomed; where a Local Plan has been found sound, the starting point assumption for a planning application should always be that its policies, and in particular site allocations and associated developer contributions, are viable. Nonetheless there will be occasions where there will be a change in circumstances on a site and there may be some site-specific costs which it is not possible to identify at Local Plan stage (e.g. archaeological finds). There must continue to be some flexibility to enable changed circumstances to be a material consideration so that the planning system does not unreasonably restrict development. In these circumstances, a bespoke viability assessment would be required with the application.

Question 15: how can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?

MBC's response to the Housing White Paper advocated imposing a duty on statutory agencies to engage constructively and at an early stage in the Plan making process and to provide the required information to evidence the emerging Plan, including viability issues, would help to expedite the plan preparation process. Statutory agencies, including infrastructure providers, should be obligated to provide the evidence they hold which could impact on the preparation of a Plan as soon as it is available. This will help speed up the production of plans which in turn will hasten the delivery of housing and associated infrastructure.

Question 16: what factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?

In overall terms, MBC welcomes Government's analysis that viability assessments can be complex and at planning application stage it can be difficult for a local planning authority to objectively assess the validity of an applicant's viability assessment. Particular issues experienced by MBC include;

- Delay to the planning application determination whilst viability assessments are independently audited
- Cost associated with commissioning an independent audit and, in some instances, debate about whether the planning authority or the developer should meet these costs
- In some cases, disagreement between the applicant and MBC about whether a viability assessment is required
- The specialist and complex nature of viability assessments can make their findings difficult to present concisely in planning committee reports and detail may need to be withheld because of commercial confidentiality.

MBC would welcome measures which simplify this process including, potentially, the Government setting out a more standardised approach to viability assessment in guidance. This could prescribe the data sources to be used and/or set parameters for the inputs and assumptions underpinning viability assessments.

Question 17:

a) do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?

b) what factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?

c) how can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

17a) In general, Local Plans already set out the monitoring indicators which will be measured over the Plan period through the Authority Monitoring Report (AMR). The NPPG highlights that the AMR can, in particular, be used to set out the S106 contributions, CIL, and New Homes Bonus payments made during the monitoring period and how these have been used. The Maidstone Borough Local Plan includes specific indicators relating to the collection of contributions and their use in the delivery of the identified infrastructure. In MBC's view, the AMR is the best vehicle for presenting progress on all the Local Plan indicators including those relating to infrastructure funding secured.

MBC is actively working to make information about the receipt and use of developer contributions more publically available. A new IT system is being implemented which will both internally manage the processing of developer contributions (including CIL) and will enable information on the receipt and spending of funds to be publically accessible via the MBC website.

For a complete picture, the publicity requirements could also be extended to developer funding paid to other agencies (in particular the highway authority).

b) The introduction of a more standardised approach to the monitoring and reporting of planning obligations is welcomed in principle.

c) Local authorities could make use of their own publicity channels, such as borough updates, to promote progress with key infrastructure projects linked to development.

PLANNING FEES

Question 18:

a) do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?

b) do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?

c) should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?

d) are there any other issues we should consider in developing a framework for this additional fee increase?

18a)& b) Support the intention that fees can be increased to recover a greater proportion of the cost of determining a planning application. Criteria must be based on delivery against the overall housing requirement figure in an adopted LP (provided it is NPPF compliant) to support a plan-led system, not the new methodology or other measures of wider housing needs.

c) should be able to be applied by an authority once it meets the qualifying criteria. There would be a significant delay if it is contingent on all authorities meeting the criteria.

d) Must be ringfenced for investment in the planning service to continue to deliver housing levels required in adopted Local Plan.

BUILD OUT

Question 19: having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?

Proposals that act on the planning system should be matched with meaningful sanctions (possibly financial) on landowners/developers who fail to develop sites with planning permission promptly. This should avoid an onerous, administrative process for the local planning authority.