

Lead Member for Planning and Infrastructure

24 August 2022

Draft Statements of Common Ground

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

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

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

Executive Summary

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

Purpose of Report

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

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

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

Draft Statements of Common Ground

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

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

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

2. INTRODUCTION AND BACKGROUND

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

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

Recommendation 1

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

Recommendation 2

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

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

Recommendation 1

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

Recommendation 2

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

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

6. CONSULTATION

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

7. REPORT APPENDICES

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

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

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

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

8. Background Documents

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