

LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

13 April 2023

Statements of Common Ground for Local Plan Review Update

Timetable	
Meeting	Date
PAC for Planning & Infrastructure	5 April 2023
Lead Member on the Executive for Planning & Infrastructure	13 April 2023

Will this be a Key Decision?	No
Urgency	The papers have been published with less than 5 clear working days' notice, as the decision is now required by the 13 April 2023.
Final Decision-Maker	Lead Member for Planning and Infrastructure
Lead Head of Service	Phillip Coyne (Interim Director for Local Plan Review)
Lead Officer and Report Author	Tom Gilbert (Principal Planning Officer) & Helen Garnett (Principal Planning Officer)
Classification	<p>Public report with exempt appendices</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 unsigned and contain sensitive cross boundary matters. The draft documents contain information affecting the business affairs of other authorities and bodies.</p> <p>It is intended to publish each of the Statements of Common Ground, once they have been agreed and signed by all relevant parties, as evidence to support the Local Plan Review examination.</p>

Wards affected	All
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Executive Summary

The draft Statements of Common Ground (SoCG) appended to this report summarise the key strategic matters between Maidstone Borough Council and other bodies. The bodies are National Highways (appendix 1), and Natural England (appendix 2).

The SoCGs relate to the examination of Maidstone Borough Council's Local Plan Review and specifically the Duty to Cooperate obligation, which is an important part of the planning process. The report recommends that members recommend approval of these new Statements of Common Ground by the Lead Member as set out in the Exempt Appendices.

Purpose of Report

Decision

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

1. That the Draft Statement of Common Ground between Maidstone Borough Council and National Highways, attached as Exempt Appendix 1 to this report, be approved; and
2. That the Draft Statement of Common Ground between Maidstone Borough Council and Natural England, attached as Exempt Appendix 2 to this report, be approved;

Statements of Common Ground for Local Plan Review Update

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>	Phil Coyne (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 various strands of the Council's ongoing strategic planning work, all of which contribute toward achievement of the crosscutting objectives by supporting the Local Plan Review</p>	Phil Coyne (Interim Director – Local Plan Review)
Risk Management	<p>The Statements of Common Ground and associated protocol have been produced as part of both our ongoing strategic planning work with adjacent authorities and other bodies in relation to their planning functions, and our own current the Local Plan Review, both of which take into account the key requirements and therefore addresses associated risks.</p>	Phil Coyne (Interim Director – Local Plan Review)
Financial	<p>The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.</p>	Mark Green, Section 151 Officer & Finance Team

Staffing	We will deliver the recommendations with our current staffing.	Phil Coyne (Interim Director – Local Plan Review)
Legal	The Duty to Cooperate is a fundamental requisite of plan making and required pursuant to s33A of the Planning & Compulsory Purchase Act 2004 as amended by the Localism Act 2011. Statements of Common Ground are required pursuant to the NPPF as part of plan making to demonstrate effective cross-boundary and strategic discussion between relevant parties and will form part of the evidence to demonstrate that an LPA has effectively discharged its statutory Duty to Cooperate.	Cheryl Parks 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	It could have environmental health impacts on quality of life and mental health and wellbeing for new and existing residents. MBC will work together with appropriate agencies to consider noise and air pollution.	Public Health Officer
Crime and Disorder	The recommendations will not have a negative impact on crime and disorder.	Phil Coyne (Interim Director – Local Plan Review)
Procurement	Not applicable.	Phil Coyne (Interim Director – Local Plan Review)
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and aligns with Enhancing and increasing biodiversity Action 6.1 of the biodiversity and climate change action plan to "Draft Local Plan to: <ul style="list-style-type: none"> • require biodiversity net gain as a standard across the borough 	Biodiversity and Climate Change Manager

	<ul style="list-style-type: none"> • ensure garden communities are an exemplar for biodiversity and deliver semi natural open space • increase tree coverage and other wildlife habitats to allow biodiversity in new developments; and • ensure that sustainable urban drainage schemes (SuDS) maximise biodiversity potential.” 	
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2. INTRODUCTION AND BACKGROUND

- 2.1 Pursuant to S.33A of the Planning and Compulsory Purchase Act 2004 (as amended) when preparing development plan documents 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 policy making authorities to prepare and maintain one or more statements of common ground (SoCG), documenting the cross-boundary matters being addressed and to describe progress in cooperating to address these.
- 2.2 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 even if there are still matters to be resolved. 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 cooperation between the Local Planning Authority and those who play a part in helping deliver their Plan. Importantly, the Duty to Cooperate, is not a duty to agree, and it is a legitimate role for SoCG's to also document areas where agreement has not yet been reached, should this be the case.
- 2.4 These SoCG's are pertinent to the Maidstone Local Plan Review, which was submitted to the Secretary of State for Examination in Public on 31 March 2022. The examination hearings are currently in process. SoCG's are being used by the Council to demonstrate legal compliance in terms of the plan-making process, as well as to demonstrate progress in resolving issues of plan soundness that the Planning Inspector is considering following representations made during the Regulation 19 consultation and the examination

- 2.5 This report brings to the Committee two draft Statements of Common Ground. These are with National Highways and Natural England.
- 2.6 The SoCG in Exempt Appendix 1 has been produced by Maidstone Borough Council and National Highways. It provides an update to the SoCG published in March 2022. It clarifies the highways and transport work to be undertaken before the recommencement of the stage two Local Plan Review examination hearings as requested to National Highways; specifically in relation to the Garden Communities and the proposed Local Plan Review.
- 2.7 The SoCG in Exempt Appendix 2 has been produced by Maidstone Borough Council and Natural England. It provides an update to the SoCG published in November 2022. It clarifies the position with regards to nutrient neutrality in the River Stour and sets out the agreement reached on the approach MBC has adopted to calculating nutrient budgets.
- 2.8 There remains a matter surrounding air quality and nitrogen deposition at Boxley Wood. As at the time of writing this report, MBC is in discussions with Natural England in order to resolve air quality matters. The updated position around Air Quality will form the basis of a future iteration of this SoCG.
- 2.9 There is potential to bring to this committee a SoCG between Kent County Council and Maidstone Borough Council. If it is possible to bring this SoCG to the 5th April 2023 PI PA this will be brought as a urgent update.
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3. AVAILABLE OPTIONS

- 3.1 Option 1: That Planning, and Infrastructure Policy Advisory Committee recommend that the draft Statements of Common Ground (Exempt Appendices 1 & 2) be approved by the Lead Member for Planning & Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that they may be published as part of the Council's evidence base for the Local Plan Review examination.
- 3.2 Option 2: That Planning, and Infrastructure Policy Advisory Committee recommend that the draft Statements of Common Ground (Exempt Appendices 1 & 2) be approved by the Lead Member for Planning & Infrastructure subject to further comments and changes. While this would allow the Statements of Common Ground to be finalised and signed, in accordance with the agreed protocol, it may cause delays or other risks in the Local Plan Review examination process.
- 3.1 Option 3: That Planning, and Infrastructure Policy Advisory Committee recommend that the draft Statements of Common Ground (Exempt Appendices 1 & 2) are not approved by the Lead Member for Planning & Infrastructure. However, this would mean the documents could not be finalised and signed, thus potentially prejudicing national requirements associated with the production of the Local Plan Review and discharge of the Council's duty to cooperate with other authorities.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1: That Planning, and Infrastructure Policy Advisory Committee recommend that the draft Statements of Common Ground (Exempt Appendices 1 & 2) be approved by the Lead Member for Planning & Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that they may be published as part of the Council's evidence base for the Local Plan Review examination.

5. RISK

- 5.1 The risk associated with the recommendation, including the risks should the Council not act as recommended, have been considered in line with the Council's Risk management Framework.
- 5.2 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. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The Statements of Common Ground were considered by the Planning and Infrastructure Policy Advisory Committee on 5 April 2023 and recommended for approval by the Lead Member for Planning and Infrastructure. If approved by the Lead Member, the Statements of Common Ground will be published as part of the Council's evidence base for the Local Plan Review examination in public.

7. REPORT APPENDICES

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

- Appendix 1: Draft Statement of Common Ground between Maidstone Borough Council and National Highways
- Appendix 2: Draft Statement of Common Ground between Maidstone Borough Council and Natural England

8. BACKGROUND PAPERS

n/a