

Cabinet

**19 March
2024**

Maidstone Borough Local Plan Review 2021-38 Adoption

Timetable	
Meeting	Date
Planning, Infrastructure and Economic Development Policy Advisory Committee	18 March 2024
Cabinet	19 March 2024
Full Council	20 March 2024

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	Full Council
Lead Head of Service	Karen Britton (Head of Spatial Planning & Economic Development)
Lead Officer and Report Author	Tom Gilbert, Principal Planning Officer & Mark Egerton, Strategic Planning Manager
Classification	Public
Wards affected	All

Executive Summary

On 8 March 2024 the Council received the Final Report on the Examination of the Maidstone Borough Local Plan Review prepared by the Planning Inspector Mr David Spencer BA(Hons) DipTP MRTPI. The Inspector's Report concludes that the Maidstone Borough Local Plan Review is sound subject to the main modifications being incorporated.

This report recommends that the Maidstone Borough Local Plan Review (2021-2038) at Appendix D, which incorporates the Inspector's Main Modifications, and the Policies Map at Appendix E be adopted.

Purpose of Report

Recommendation to Full Council

This report asks the Cabinet to consider the following recommendation:

1. That the Council be recommended to adopt the Maidstone Borough Local Plan Review (2021-2038) at Appendix D, which incorporates the Inspector's Main Modifications, and the Policies Map at Appendix E.
 2. That the Council be recommended to give delegated authority to the Head of Spatial Planning & Economic Development to make any non-material, typographical corrections, and formatting changes, as required.
-

Maidstone Local Plan Review 2021-38 Adoption

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>We expect the recommendations will positively materially affect achievement of the corporate priorities as the Local Plan Review is the key mechanism for delivering the Council's Strategic Plan.</p>	Karen Britton – Head of Spatial Planning & Economic Development
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>We expect the recommendations will positively materially affect achievement of the corporate objectives as the Local Plan Review is the key mechanism for delivering the Council's Strategic Plan.</p>	Karen Britton – Head of Spatial Planning & Economic Development
Risk Management	Already covered in the risk section of the report.	Karen Britton – Head of Spatial Planning & Economic Development
Financial	<p>The costs of the remaining steps needed to adopt the Local Plan Review are accommodated for in existing budgets.</p> <p>The council has undertaken work on the preparation of the Local Plan Review over a period of several years incurring significant financial cost. In addition, there are</p>	Section 151 Officer & Finance Team

	significant financial risks for non-adoption of the Local Plan Review, which include for example requirements to prepare, consult and have examined an alternative plan.	
Staffing	Workstreams associated with the Local Plan Review will be delivered within current staffing.	Karen Britton – Head of Spatial Planning & Economic Development
Legal	<p>Once adopted, the Local Plan Review will come into immediate effect and will become part of Maidstone’s Development Plan. There is a mechanism for a legal challenge to be initiated during the six-week period following the date of adoption.</p> <p>Once adopted, planning decisions should be made in accordance with the development plan unless other material considerations indicate otherwise. The adopted Plan will replace the Maidstone Borough Local Plan 2011-2031</p>	Russell Fitzpatrick (MKLS (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	An EqIA has been completed and considered.	Equalities and Communities Officer
Public Health	We recognise that the recommendations may have a positive impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	We recognise that the recommendations may have a positive impact on crime and disorder.	Karen Britton – Head of Spatial Planning & Economic Development
Procurement	The recommendation has no immediate impact on procurement.	Karen Britton – Head of Spatial Planning & Economic Development

<p>Biodiversity and Climate Change</p>	<p>The recommendations align with the Council’s Biodiversity and Climate Action Plan;</p> <p>Action 1.2 Deliver policies that enable infrastructure for:</p> <p>Low carbon transportation, Active travel, and that Facilitates high quality public transport connectivity in new developments and existing communities.</p> <p>Action 5.1 Deliver policy as part of design and sustainability DPD and future Development Plan evolution for long term climate change adaptation in new developments to flooding, heatwaves, and drought and ensure longer term climate impacts are being considered as part of planning and policy decisions. Identify indicators that align with strategic planning and monitor implementation.</p> <p>Action 6.2 Ensure sustainable urban drainage schemes (SuDS) maximise biodiversity potential.</p>	<p>Biodiversity and Climate Change Manager</p>
---	--	--

2. INTRODUCTION AND BACKGROUND

2.1 Preparation of the Local Plan Review

2.2 The Maidstone Borough Local Plan Review work commenced in 2018. An extensive evidence base has been prepared which underpins the content of the review. The Local Plan Review was subject to three stages of public consultation before it was submitted for Independent Examination.

2.3 The Maidstone Borough Local Plan Review is a comprehensive document, providing a full suite of policies which underpin an overall strategy for how, when and where development will be delivered in the period to 2038. To this extent the Local Plan Review’s policies and site allocations work together as a coherent package and should be read and applied as such. The document once adopted will be consolidated with the saved policies of the Maidstone Local Plan 2011-31 and form part of the Development Plan for the Borough. The saved policies are set out in appendix 3 of the Maidstone Local Plan 2021-2038

Local Plan Review Examination

2.4 At its 6 October 2021 meeting, Full Council agreed, amongst other matters, the submission of the Local Plan Review documents to the Secretary of State for Levelling Up, Housing and Communities for examination under Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended). Delegated

authority was also given to the Strategic Planning and Infrastructure Committee to agree a schedule of proposed Main Modifications.

- 2.5 On 31 March 2022, the Maidstone Borough Local Plan Review (Draft for Submission) was submitted to the Secretary of State, for examination.
- 2.6 The Secretary of State appointed Mr David Spencer BA(Hons) DipTP 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.
- 2.7 Examination hearings commenced on 6 September 2022, and the last hearing was held on 9 June 2023. On 11 January and 5 July 2023, the Inspector issued Interim Findings which contained his emerging conclusions on key points.
- 2.8 The Examination was a rigorous, public and transparent process. The Inspector had before him all the written submissions made by objectors and supporters of the Plan during the Regulation 19 consultation. He also had the evidential documents prepared by and for the Council and a variety of other relevant documents such as statements of common ground. These were all published on the Council's website. He used these to prepare an agenda of key matters, issues and questions for each of the hearing sessions.
- 2.9 Those who made comments at Regulation 19 stage and requested to attend the hearing sessions were invited to submit written representations to the Inspector's questions. 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 23 days of hearings, all of which were open to the public and were 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 Review. Where information was missing or unclear, he asked for it to be supplied.
- 2.10 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. The Cabinet agreed these for public consultation at its meeting on 20 September 2023. The Cabinet also agreed a separate schedule of Minor Changes for consultation. These Minor Changes comprised factual updates, clarifications, corrections of a minor nature, changes needed as a consequence of the proposed Main Modifications and Policies Map changes.
- 2.11 The public consultation on the proposed Main Modifications, the associated Sustainability Appraisal Addendum and Habitats Regulation Assessment Addendum ran from 29 September to 13 November 2023. Final versions of these documents are attached in Appendix C and Appendix F. The consultation responses received were published and passed to the Inspector. He has taken these responses into account in reaching his final conclusions on the Local Plan Review.

2.12 Following the receipt of the representations to the Main Modifications Consultation the Inspector held a technical consultation from the 15 January to the 14 February 2024 on evidence base documents. He has also taken these responses into account in reaching his final conclusions on the Local Plan Review.

Inspector's Report

2.13 The Inspector's Final Report was received on 8 March 2024. It is attached to this report at Appendix A. It is also available on the Council's website here <https://localplan.maidstone.gov.uk/home/local-plan-review-examination>

2.14 The Inspector concludes that 'that the duty to cooperate has been met and that with the recommended main modifications set out ... the Maidstone Local Plan Review satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.' The Inspector's Report includes a schedule of the Main Modifications (which are appended to the Inspector's Report).

2.15 The Report confirms that the Plan has complied with the legal requirements, including the duty to co-operate.

2.16 All the specified Main Modifications are non-negotiable and needed for the Plan to be sound.

2.17 There is no option at this stage to change the Plan prior to adoption. The only exception would be non-material, typographical corrections and formatting changes.

2.18 The adoption version of the Maidstone Borough Local Plan Review is included in Appendix D. The adoption version incorporates.

- The Inspector's Main Modifications
- The 'Minor Changes'
- Changes which are directly consequential to the Main Modifications (e.g., updated cross references)
- Updated foreword to reflect that the Plan has reached adoption stage.
- Factual updates (e.g., updated references to legislation)
- Typographical corrections and formatting changes.

Policies Map

2.19 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. The adoption version of Policies Map is available at Appendix E to this report.

Context & implications for adoption of the Local Plan Review

2.20 There are statutory duties for the Local Planning Authority to have a Local Plan and keep it up to date. Section 38 of the Planning and Compulsory Purchase Act 2004 and section 70 of the Town & Country Planning Act 1990

(as amended) requires Local Planning Authorities to have a Development Plan and to consider planning applications and development proposals in accordance with the Local Plan. Pursuant to regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) local planning authorities must also review their local development plan every 5 years from their adoption date.

- 2.21 A decision to adopt the Maidstone Borough Local Plan Review, 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, avoiding unplanned for development and 'planning by appeal'.
- 2.22 It should also be noted that Invicta Park Barracks is already contained within the Maidstone Borough Local Plan 2011-2031 and allocated for 1,300 units. However, the Maidstone Borough Local Plan Review has more rigorous requirements including the need for a supplementary planning document to ensure that this development comes forward in the most sustainable way possible.
- 2.23 Adoption of the Maidstone Borough Local Plan Review will help secure the 5- and 15-year housing land supply requirements set out in the National Planning Policy Framework. Upon adoption of the Local Plan Review, the Council immediately becomes exempt from the requirement to annually identify and update the 5-year housing land supply. This exemption continues to apply for five years post-adoption. This can give the Council greater confidence should it decide to refuse speculative applications in the borough.
- 2.24 Adoption demonstrates that the Council is planning positively for the future. It provides increased certainty for residents, landowners, developers and businesses about the circumstances where development will and will not be acceptable. It also provides certainty and clarity for those preparing neighbourhood plans.
- 2.25 Should the Council not adopt the Maidstone Borough Local Plan Review then the Council will not have an up-to-date Local Plan for the purposes of decision-making.
- 2.26 This would have the following principal risks:
- Potential for loss of control over future locations of new development
 - Planning by appeal
 - Intervention by the Secretary of State
 - Future ongoing and proposed planning policy documents would potentially not be able to proceed until an alternative Maidstone Borough Local Plan Review was in place.
 - Legal challenges from site owners and promoters
- 2.27 To not have a development plan in place would lead to speculative applications across the Borough, rather than the certainty given through the site allocations within the proposed plan. The Council's 5-year housing land supply position would be placed at significant risk. Not adopting the Plan

would mean that the existing Local Plan policies would be used to make decisions and they do not fully reflect the Council's current and future priorities. The Council would not have robust and up-to-date policies to implement inclusive growth and climate change ambitions and would likely face an increasing number of speculative applications and appeals which could incur significant costs.

- 2.28 Furthermore, the Borough's housing requirement may increase. The borough's annual housing requirement figure has already increased since the submission of the Local Plan Review, from 1,157 homes per year, to 1,226 homes per year (currently). The lower figure of 1,157 homes per year is essentially 'locked in' to the Local Plan Review. However, outside of the Local Plan Review, this figure is updated annually – usually at the end of March. Should the plan not be adopted, it can be expected that the authority's annual housing requirement will continue to increase – necessitating the identification of a greater number of sites/more land to provide the homes to meet the increased requirement. In the absence of a plan, the Council are largely beholden to the development industry bringing forward sites of their choosing to deliver the required housing numbers.
- 2.29 The Government previously announced that it will intervene where councils are not making sufficient progress with their Local Plans. The Government reasserted this in December 2023.¹
- 2.30 There are a number of documents that are currently part of the planning policy workstream that lead on from the Maidstone Borough Local Plan Review. It is highly unlikely that the Government would allow the Council to proceed with these documents where there is not an up-to-date local plan in place. It should be noted that these documents would add significant value to the decision-making processes and would include, for example, the Design and Sustainability DPD and supplementary planning documents for three key strategic development locations (Heathlands Garden Community, Invicta Park Barracks and Lidsing Garden Community) to ensure that significant development comes forward in as sustainable way as possible and with the engagement of relevant local communities and stakeholders.
- 2.31 If the Local Plan review is not adopted, the production process would start again. It would take several years before a new plan could be in place, due to the requirement to refresh the evidence base, assess alternative spatial strategies and go through several rounds of public consultation and a new examination, with associated costs and risks.
- 2.32 In conclusion, it is recommended that the Local Plan Review be adopted.

Next Steps

- 2.33 If the Council decides to adopt the Local Plan Review, then the next step is to publish an Adoption Statement (Appendix B) as soon as reasonably practicable and to send a copy of the Adoption Statement to everyone who requested to be notified of the adoption of the Plan. A copy of the Adoption Statement must also be sent to the Secretary of State.

¹ [Written statements - Written questions, answers and statements - UK Parliament](#)

2.34 In addition, the Local Plan Review documents, including the final Sustainability Appraisal Report (Appendix C) will be published on the website and made available for inspection at the designated inspection points across the Borough as set out in the Statement of Community Involvement. These include:

- Maidstone House, King Street, Maidstone, Kent, ME15 6JQ.
- Libraries throughout the borough

2.35 It should be noted that there is a legal mechanism to challenge adoption through the High Court.

3. AVAILABLE OPTIONS

Local Plan Review Adoption/Non-Adoption

3.1 Option 1: the Cabinet recommends that the Local Plan Review incorporating the Main Modifications and Policies Map be adopted by the Council.

3.2 Option2: the Cabinet recommends that the Local Plan Review incorporating the Main Modifications and the Policies Map are not adopted by the Council.

Delegation

3.3 Option 1: the Cabinet recommends that delegated authority be given to the Head of Spatial Planning and Economic Development to make non-material, typographical corrections, and formatting changes, as necessary.

3.3 Option 2: the Cabinet does not recommend that delegated authority be given to the Head of Spatial Planning and Economic Development to make non-material, typographical corrections, and formatting changes, as necessary.

4. PREFERRED OPTIONS AND REASONS FOR RECOMMENDATIONS

Local Plan Review Adoption/Non-Adoption

4.1 Option 1 is the preferred option that being the Cabinet recommends that the Local Plan Review incorporating the Main Modifications and Policies Map be adopted by the Council. The reasons in favour of adopting the Plan and the consequences for not doing so are set out fully in the report.

Delegation

4.2 Option 1 is the preferred option that being the Cabinet recommends that delegated authority be given to the Head of Spatial Planning and Economic Development to make non-material, typographical corrections, and formatting changes, as necessary. This ensures that any subsequent minor corrections are able to be made to the Local Plan Review in the most efficient manner.

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 This report also highlights the risks associated with non- adoption of the Local Plan Review.
 - 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. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If agreed, this report will be presented to the Cabinet and then full Council.
-

7. REPORT APPENDICES

The following documents are published with this report:

- Appendix A: The Planning Inspector's Report on the Examination of the Maidstone Local Plan Review
 - Appendix B: Adoption Statement
 - Appendix C: Maidstone Local Plan Review Sustainability Appraisal SA Report Addendum: Amended Main Modifications
 - Appendix D: Maidstone Borough Local Plan Review 2021-2038 – version for adoption
 - Appendix E: Maidstone Borough Local Plan Review 2021-2038: Policies Map – version for adoption
 - Appendix F: Maidstone Borough Local Plan Review Habitat Regulation Assessment Report Addendum Amended Main Modifications
-

8. BACKGROUND PAPERS

- None