

## **MAIDSTONE BOROUGH COUNCIL**

### **RECORD OF DECISION OF THE CABINET**

Decision Made: 20 September 2023

#### **Maidstone Local Plan Review: Proposed Main Modifications and Minor Changes**

##### **Issue for Decision**

To approve a statutory consultation on the Main Modifications of the Local Plan Review with a simultaneous consultation on the Sustainability Appraisal and Habitat Regulations Assessment Addendums.

The report and urgent update considered detailed the Local Plan Review Main Modifications which are considered necessary by the Inspector overseeing the Independent Examination.

##### **Decision Made**

1. That the schedule of proposed Main Modifications to the Maidstone Local Plan Review, in the updated Appendix 1 and Appendix 2 to the report, be approved for public consultation.
2. That the Sustainability Appraisal and Habitat Regulations Assessment Addendums of the Main Modifications to the Maidstone Local Plan Review, in the updated Appendix 4 and updated Appendix 5 to the report, be approved for public consultation.

##### **Reasons for Decision**

The draft Local Plan Review was submitted for Examination in Public on 31 March 2022. Two stages of examination hearings have taken place, the first stage taking place from September 2022 - November 2022 and the second stage taking place from May 2023 - June 2023.

The Council has also written to the Inspector requesting formally that he recommend Main Modifications to the Borough Council as part of the examination process, if he considers that such changes would be needed for him to be able to find the draft Plan sound.

A schedule of proposed Main Modifications approved by the Strategic Planning and Infrastructure Committee on 21st March 2022 was submitted alongside the plan on 31st March 2022. Since then, the proposed changes have been considered as the Examination process has progressed. Changes and new Main Modifications have resulted from the discussions at the hearings to address issues raised by the Inspector and in response to his specific requests.

The Inspector is only concerned with those changes to the Plan's policies and supporting text needed to make the document sound. These changes are termed 'Main Modifications'. It is not the Inspector's role to recommend other changes which would make the Plan 'more sound' or generally improve it in other ways.

The Inspector has confirmed that the Main Modifications listed in Appendix 1 and Appendix 2 are the ones he wants to be subject to public consultation. He needs to understand interested parties' views on these proposed Main Modifications before he reaches his final conclusions on the Plan and the changes which are required to it. These conclusions and recommendations will be set out in his final report to the Council.

The proposed Main Modifications are set out in full in the schedules in Appendix 1 and Appendix 2. Each of the proposed Main Modifications is attributed a unique reference number which relates to a single change, or, in some instances, a group of changes to one section of the Plan. Some key aspects of the proposed Main Modifications to highlight are as follows –

- Plan period
- Housing requirement
- Housing land supply
- Employment land requirement and Maidstone town centre
- Spatial strategy and Leeds-Langley corridor
- Heathlands and Lidsing garden communities
- Invicta Barracks
- Lenham broad location for housing
- Rural service centres
- Larger and smaller villages
- Countryside
- Affordable housing
- Gypsy and traveller accommodation requirement
- Transport and infrastructure
- Park and ride
- Natural environment
- Site allocations
- Saved policies
- Strategic policies (for the purpose of Neighbourhood Plans)

Of particular note are the following Main Modifications -

**Plan period** – In the Inspector's Stage 1 Interim Report, he advised that the LPR plan period needs to be extended to at least 2037/38 to provide for a minimum 15-year period upon plan adoption in accordance with the NPPF. The Inspector recommended that the plan period start at 1st April 2021, which would align with much of the evidence base and recognise the plan was submitted for examination before 1st April 2022. It would also enable an initial year's worth of data on housing delivery in 2021/22 to be accounted for. Main modifications are therefore proposed in the LPR to reflect the revised plan period, including in Policy LPRSS1.

**Housing requirement** - In the Inspector's Stage 1 Interim Report, he concluded that no adjustments were required to the local housing need figure of 1,157 dwellings per annum (dpa) in terms of deriving the housing requirement. However, he advised that taking the local housing need figure of 1,157 dpa over the extended plan period (as set out in the Main Modification above) would increase the overall housing requirement from 17,746 to 19,669 dwellings, and this would need to be expressed as a minimum figure. Main Modifications are therefore proposed to Policy LPRSS1 to this effect.

**Housing land supply** – In the Inspector’s Stage 1 Interim Report, he raised concerns with the ‘fragile situation’ in Maidstone with respect to housing land supply, pointing to the council’s evidence of 5.14 years of supply (as of 1st April 2022) against the higher 1,157 dpa housing requirement. Whilst acknowledging some encouraging signs in the development pipeline and the council’s cautious approach to assessing site capacities and delivery rates, he considers that the inclusion of a stepped housing trajectory is necessary for soundness. This is consistent with national planning guidance and will provide resilience in securing plan-led development over the plan period, particularly in responding to the phased delivery of the garden communities. A Main Modification to update the plan’s Appendix A (Housing trajectory), to apply a stepped trajectory based on the latest position on housing site delivery, is therefore proposed. The revised trajectory takes into account outcomes of examination hearing discussions on individual sites and further factual updates, following advice from the Inspector’s Stage 2 Interim Report.

The Inspector has also directed the inclusion of a strategic policy on housing delivery. This is set out by way of a Main Modification in a new policy LPRSP10. The policy reaffirms the overall housing requirement, links to the stepped housing trajectory and explains how deliverable supply will be maintained and assessed in Maidstone borough. The policy also provides details on how Neighbourhood Plans should support delivery of the strategic housing requirement, which was a focus of the examination hearings particularly in response to representations from Parish councils.

**Employment land requirement and Maidstone town centre** - In the Inspector’s Stage 1 Interim Report, he indicated that the Council’s evidence base, including the Economic Development Needs Study (EDNS) Addendum (2021), provided an appropriate basis for establishing future employment requirements. Given the extended plan period (as per Main Modifications outlined above), he considered it necessary for soundness to extrapolate the employment land / floorspace requirements forward. Main Modifications to are therefore proposed to Policy LPRSS1 to this effect.

With respect to Maidstone town centre, which is dealt with principally through Policy LPRSP1, there is a Main Modification proposed to update the commercial floorspace targets. This is linked to updated information on the indicative capacities for site allocations and other opportunity sites within the centre, which are set out in a table within the policy. The Stage 2 hearings featured discussions on individual sites within the town centre, and details of modifications arising, that are not saved policies, are set out in Appendix 1.

**Spatial strategy and Leeds-Langley corridor** – In the Inspector’s Stage 1 Interim Report, he concluded that the spatial strategy is an appropriate strategy and provides a sound basis for securing a sustainable pattern of development. Notwithstanding this overall conclusion, he identified soundness issues with some individual components of the strategy. In particular, the inclusion of Leeds-Langley corridor as a ‘strategic development location’ as established by Policy LPRSS1 and the associated proposals for the safeguarding of land in Policy LPRSP5(A).

Whilst acknowledging that the council has made progress in coordinating various land ownerships and preparing technical evidence, the Inspector is of the view that the Leeds-Langley proposals in the submitted plan are not justified or

effective. Further, the Inspector does not consider it necessary for plan soundness that additional longer-term development potential is identified at Leeds-Langley. Accordingly, Main Modifications have been proposed to delete Leeds-Langley as a strategic development location and to remove the associated safeguarding area, with consequential changes to the Key Diagram and Policies Map.

It is worth noting that the Inspector has not closed the door on this area as a development location, rather he suggests the option of Leeds-Langley remains a matter for the council to consider when preparing future development plan documents. Indeed, the Inspector's Stage 2 Interim Report accepts that an additional criterion in the strategic transport policy LPRSP13 referencing an ongoing commitment by the council to explore the funding and delivery of a relief road, and associated enabling development, would not be prejudicial to future plan-making. A Main Modification to this effect is therefore included.

**Heathlands and Lidsing garden communities** – As set out above, the Inspector's Stage 1 Interim Report concluded that the spatial strategy is justified, including the identification of Lenham Heathlands and Lidsing as locations for new large-scale garden communities. Notwithstanding this, the Inspector considered that Main Modifications to the associated spatial strategic policies for Heathlands and Lidsing, LPRSP4(A) and LPRSP4(B) respectively, were necessary for plan soundness. The changes are required in response to matters discussed during the hearings, the evolving evidence base and updated Statements of Common Ground between the council and key stakeholders.

One of the key Main Modifications for the above noted policies is the inclusion of a schedule showing phasing periods, quantum of development and indicative infrastructure interdependencies. These schedules are linked to the housing trajectory in the plan's Appendix A (which itself is subject to Main Modifications, including a stepped trajectory which responds to the long-term build out of the garden settlements).

For Heathlands the site-specific matters necessitating Main Modifications include transport and other infrastructure requirements (including mitigation to the highway network, a new rail station and provision for wastewater treatment works); character of the Kent Downs AONB including landscaping and visual impact; minerals extraction; biodiversity; and heritage.

For Lidsing the site-specific matters necessitating Main Modifications include transport and other infrastructure requirements (including mitigation to the highway network and health care provision); Kent Downs AONB including landscaping and visual impact; green infrastructure including biodiversity; and heritage. The Inspector has also directed that a concept framework diagram be included alongside the Lidsing policy and this will be used as a basis to inform a future Supplementary Planning Document (SPD) and masterplans.

**Invicta Barracks** – In the Inspector's Stage 1 Interim Report, he supported the principle of a site allocation here. He directed that that the development capacity of 1,300 dwellings in the policy be applied as a target and not a ceiling. This will provide flexibility for additional, modest supply to come forward should that be supported by more detailed analysis at the planning application stage. Allied to this, a concept framework diagram is proposed to accompany the policy and will

be used as a basis to inform a future SPD and masterplans. As with the garden communities, the Inspector has recommended the inclusion of a schedule showing phasing periods, quantum of development and indicative infrastructure interdependencies.

The Inspector's Stage 2 Interim Report confirmed the need for modifications to clarify requirements around the provision of community facilities, including education provision, which was a key focus of the hearings for this site. The report also pointed to the role of the Infrastructure Delivery Plan (IDP) as a mechanism to provide further details on the delivery of this provision.

**Lenham broad location for housing growth** – Policy LPRSP5(C) deals with the wider Lenham area as a strategic location for growth and new investment as part of the spatial strategy for the borough. Main Modifications are proposed to help ensure that new developments appropriately respond to area specific circumstances. These include waste and wastewater infrastructure, particularly in relation to the Stour catchment and the protected Stodmarsh nature conservation site; heritage assets; and the character of the Kent Downs AONB.

**Rural service centres** – The strategic spatial policy dealing with Rural Service Centres is set out in policy LPRSP6. No modifications are proposed for this policy, reflecting that the approach is considered to be sound. There are a limited number of Main Modifications proposed for the policies specific to individual service centres. These changes deal principally with updates to indicative development capacities for some site allocations, as derived through the hearing sessions; additional policy criteria for nature conservation, including the River Beult Site of Special Scientific Interest (SSI); and clarifications around the role of Neighbourhood Plans in supporting housing delivery.

**Larger and smaller villages** - The strategic spatial policy dealing with Larger Villages is set out in policy LPRSP7. No modifications are proposed for this policy, reflecting that the approach is considered to be sound. The most substantive change in respect of the individual larger villages concerns East Farleigh. For this village, Main Modifications are proposed to Policy LPRSP7(A) to make clear the role of Neighbourhood Plans in supporting housing delivery, along with the inclusion of a diagram to illustrate the extent of the defined settlement boundary to aid policy implementation.

The strategic spatial policy dealing with Smaller Villages is set out in policy LPRSP8. Main Modifications are proposed to this policy to make clear the expectations around housing delivery for each of the smaller villages, including quantum of development, that will be facilitated through the plan-led process and other additional windfall development that may arise over the plan period.

**Countryside** - The Inspector's Stage 2 report reflects on the tension inherent between objectives to protect the character of the countryside and the harmful impact that new development might have on it. The Inspector is of the view that such impacts need to be suitably qualified in policy terms to ensure that otherwise appropriate development is not precluded from coming forward. A Main Modification is therefore proposed to Policy LPRSP9 to make clear that development proposals that result in 'significant harm' will not be permitted.

**Affordable housing** – A number of Main Modifications are proposed to Policy LPRSP10(B) to ensure it is effective and consistent with the NPPF. Requirements

for affordable housing contributions on new development in the borough's 'low-value' zone and brownfield development in the 'midvalue' zone have been refined to address site-specific viability considerations that may arise through the development management process. The policy will make clear that provision of on-site affordable housing in these zones will be sought, with flexibility for the quantum of this provision and any necessary, proportionate off-site provision to be secured where appropriate, informed by a financial appraisal.

There is also a change to the target tenure type where affordable housing is required. The Regulation 19 plan provided for a split of 75% social or affordable rented and 25% First Homes. A Main Modification is now proposed to amend the latter proportion to 25% intermediate or affordable home ownership products. This will provide flexibility for a wider range of affordable housing products to be delivered. The policy also introduces a related contingency to respond to the situation where the provision of First Homes will not be adequate to meet the minimum 10% Affordable Home Ownership target set by the NPPF.

**Gypsy and traveller accommodation** – The Inspector's Stage 2 Interim Report discusses gypsy and traveller accommodation. It reflects that he is satisfied the council is expediently progressing a standalone Gypsy, Traveller and Travelling Showpeople Development Plan Document (GTTSDPD), also acknowledging factors that have affected its preparation, most notably compiling of the evidence base. The Inspector is of the view that there are exceptional circumstances in Maidstone borough that support the timely preparation of the GTTSDPD as the mechanism to address total need rather than the Local Plan Review.

To ensure the Local Plan Review is consistent with national planning policy, the Inspector recommends that Policy LPRSS1 (Spatial Strategy) is amended to reference that the accommodation needs of gypsy, travellers and travelling showpeople over the plan period will be met. He also directs that paragraph 5.19 of the be amended to reflect the latest position with the Gypsy and Traveller accommodation needs assessment along with new text inserted setting out the likely pitch and plot requirements that the GTTSDPD would need to address. The Inspector accepts that currently, the level of need referred to in the Local Plan Review may need to be caveated. Main Modifications are therefore proposed to this effect.

In addition, the Inspector cites case law and the national Planning Policy for Traveller Sites in directing an amendment to the development management Policy LPRHOU8. This policy is largely rolled forward from the adopted Local Plan 2017. The Main Modification is to delete criterion (2) in order to ensure that households of a gypsy and traveller ethnicity who have ceased travelling and seek culturally appropriate accommodation would not be discriminated against.

**Transport and infrastructure** – Borough-wide strategic policies on transport (LPRSP12) and infrastructure (LPRSP13) were considered largely during the Stage 2 hearings. Discussions frequently focussed on the implications of the Department for Transport Circular 01/22 (introduced after the Plan was submitted for examination) for infrastructure planning. The Inspector's Stage 2 Interim Report confirmed the need for Main Modifications to reflect the new approach in the Circular as part of a positive approach to supporting the transition to net zero carbon and potentially unlocking early growth. Notably, Maidstone's Local Plan Review is one of the first plans in the country to progress to this stage in the context of the new Circular.

There are a limited number of Main Modifications proposed for policy LPRSP13. Amendments include a new reference to Section 278 agreements as a mechanism to secure mitigation connected to the strategic and local road networks, and clarifications around the application of the infrastructure 'priority' list.

There are a number of Main Modifications relating to transport and other types of infrastructure on an area and/or site wide basis, including for the garden communities and other site allocations. In some instances, the principles established via Circular 01/22 and associated Main Modifications to LPRSP12 are filtered into these policy changes. The modifications are summarised elsewhere in this report and set out in Appendix 1.

**Park and ride** – The policy dealing with park and ride facilities is proposed to be deleted by way of a Main Modification. This policy was initially carried over from the adopted Local Plan, as policy LPRTRA3. Its removal is needed to ensure the plan is sound in the context of local deliverability issues associated with this type of provision.

**Natural environment** – The natural environment is a cross-cutting topic area covered across the Plan. There are Main Modifications on a limited number of policies dealing with this topic, including spatial strategic and site allocation policies, the details of which are set out in Appendix 1 and also summarised elsewhere in this report.

Policy LPRSP14(A) sets the overarching strategic policy for protecting and enhancing the natural environment. A number of Main Modifications are proposed to this policy following the hearings. This includes revising the requirement for developments to provide 20% Biodiversity Net Gain (BNG) on-site to allow flexibility for off-site provision where appropriate, unless otherwise specified by the Plan. Additional references to features of the natural environment will also be included in various sub-sections of the policy to strengthen its effectiveness. This includes Landscapes of Local Value, aquifers (in relation to groundwater) and Local Wildlife Sites.

Finally, further requirements addressing the North Downs Woodland Special Area of Conservation (SAC) are included. This is required to ensure that development will not result in adverse effects on the integrity of the SAC, particularly in relation to air quality (nitrogen deposition). The Inspector's Stage 1 Interim Report identified that this issue is related but not exclusive to the Lidsing garden community, and it is therefore proposed as part of both the Lidsing policy LPRSP4(b) and the borough-wide strategic policy LPRSP14(A). The Stage 2 Interim Report confirmed the need for these requirements as a safeguard, recognising the evolving evidence and council's engagement with Natural England on this matter.

**Site allocations** – There are Main Modifications concerning some individual site allocation policies. The modifications have arisen in response to discussions at the hearings on site-specific issues and planning constraints.

The modifications broadly involve amendments to indicative site development capacities and refinements to the detailed development requirements and guidelines. These cover matters such as design and layout; access, highways and transport; and landscape and ecology. Further details are set out in Appendix 1

of this report.

**Saved policies (from Local Plan 2017)** - In the Inspector's Stage 1 Interim Report, he advised that the LPR needs to be clearer on those 2017 Local Plan policies that would be superseded by the Local Plan Review and any residual 2017 Local Plan allocation policies that would remain 'saved'. A Main Modification is therefore required in response to this by way of a new Local Plan Review Appendix 3 (Saved policies) – see Appendix 2 to this report.

**Strategic policies (for purpose of Neighbourhood Plans)** - Neighbourhood Plans are required to be in general conformity with the strategic policies in a development plan for their area. In the Inspector's Stage 1 Interim Report, he advised that the LPR must make clear which policies are 'strategic' policies. A Main Modification is therefore required in response to this by way of a new Local Plan Review Appendix 4 (Strategic policies) – see Appendix 1 to this report.

### **Policies Map Modifications**

In some cases, the Inspector's proposed Main Modifications will have an impact on the Local Plan Review Policies Map. Whilst these are not strictly deemed to be Main Modifications, these will be published at the same time as the Main Modifications, for completeness and in the interests of transparency. The changes to the Policies Map are provided as Appendix 3 to this report.

### **Sustainability Appraisal and Habitat Regulations Assessment**

A Sustainability Appraisal is needed to help determine whether the proposed Main Modifications will have significant sustainability implications. The Sustainability Appraisal addendum into the Main Modifications is included as Appendix 4 to this report.

It is proposed for the Sustainability Appraisal addendum to be consulted on concurrently with the Main Modifications.

Similar to the Sustainability Appraisal, a Habitat Regulations Assessment (HRA) is also being undertaken for the Local Plan Review and an addendum has been prepared specifically in respect of the proposed Main Modifications. This is provided as Appendix 5 to this report. It is proposed that this HRA addendum is consulted on alongside the Sustainability Appraisal addendum.

### **Minor Changes**

In addition to the Main Modifications required for soundness, there will be other, minor changes to make to the content of the Plan. Some such minor changes were included in the Schedule of Proposed Changes approved by the Planning and Infrastructure Policy Advisory Committee in March 2022. Further such changes have come to light as the examination has progressed. These minor changes comprise –

- Factual updates
- Correction of minor errors and inconsistencies
- Clarifications
- Formatting changes
- Consequential changes arising from the proposed Main Modifications



The schedule of minor changes is included as Appendix 6. In the Inspector's Stage 2 Interim Report, he encourages the council to publish the minor changes.

Like the Policies Map modifications, it is therefore intended for these to be published at the start of the Main Modifications consultation, for completeness and to give an overall picture of the changes that are proposed to the Plan.

The Inspector is only concerned with the Main Modifications and does not wish to consider the minor changes. He will only consider comments made in relation to the proposed Main Modifications.

When the Inspector's final report is received (assuming it is favourable), a fully revised version of the Local Plan Review will be prepared incorporating his recommended Main Modifications and all the minor changes. It should be noted that updating of the plan in respect of minor changes will continue through to adoption, as further formatting, factual updates, presentational changes and correction of minor errors and inconsistencies becomes required.

### **Updates to Other Evidence Documents**

An Equalities Impact Assessment is undertaken as an iterative process and has been prepared alongside the Local Plan Review. A further update to the Equalities Impact Assessment has been prepared to take account of the Main Modifications and this will also be published as an informative at the start of the consultation. The Equalities Impact Assessment indicates that for the most part the proposed Main Modifications are likely to result in positive or neutral impacts.

Three other documents have been updated as a natural consequence of the Inspector's Main Modifications. These are the Local Plan Review Infrastructure Delivery Plan, Integrated Transport Strategy Addendum and Viability Assessment.

The updates to these documents reflect changes regarding infrastructure provision and delivery of the three main strategic developments of Heathlands and Lidsing Garden Communities, and Invicta Barracks, specifically transport projects following the further transport work undertaken between the stage 1 and stage 2 hearing sessions.

The updates will be published as supporting evidence at the start of the Main Modifications consultation, for completeness and to give an overall picture of the changes that are proposed to the Plan. It should be noted that whilst the Infrastructure Delivery Plan relates directly to the infrastructure required by the Local Plan Review, the Integrated Transport Strategy also potentially includes wider transport measures and may be subject to formal review at a later date, separate from the Plan process.

In addition, the Council is due to receive the final version of the Gypsy and Traveller accommodation needs assessment from its consultants. The Interim assessment has already been published as an examination document for the Local Plan Review and was subject to consideration during the Stage 2 examination hearings. The final version of the assessment provides an update to the needs figures, and is set to include a slight reduction in overall need, which is reflected in the Main Modifications. This document will be published as supporting

evidence at the start of the Main Modifications consultation.

The Planning, Infrastructure and Economic Development Policy Advisory Committee considered the matter on 18 September 2023 and the Committee recommended that the Cabinet approve the recommendations.

The urgent update considered alongside the report was published on the Maidstone Borough Council website, and was circulated at the meeting.

### **Alternatives considered and why rejected**

Option B: That the publication of the Main Modifications, as well as the Sustainability Appraisal and Habitat Regulations Assessment Addendums, is not agreed for public consultation. In this event, the Inspector would not be able to recommend the Main Modifications to make the Plan sound. It can be expected that the Inspector would write to the Council advising it to formally withdraw the Plan from Examination. If the Council did not withdraw the Plan, the Inspector's only option would be to issue a final report finding the Plan unsound. In either case, the Council would potentially need to re-start the Plan preparation process, significantly delaying the point at which an adopted Plan could be in place. Without a substantially-advanced/adopted Local Plan which is compliant with the updated NPPF, the Council will have radically reduced control over development in the borough. There is risk of 'planning by appeal' for an extended period.

### **Background Papers**

Maidstone Local Plan Review (Regulation 19) March 2022

<https://drive.google.com/file/d/13MfNeKxSGxYIfCCKZcP6-ggua2EFInbt/view>

I have read and approved the above decision for the reasons (including possible alternative options rejected) as set out above.



Signed: \_\_\_\_\_

Councillor David Burton, Leader of the Council

Full details of both the report for the decision taken above and any consideration by the relevant Policy Advisory Committee can be found at the following area of the [website](#)

Call-In: Should you be concerned about this decision and wish to call it in, please submit a call-in form signed by any three Members to the Proper Officer by: **5pm Thursday 28 September 2023**