

# STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE MEETING

Date: Tuesday 12 April 2022  
Time: 6.30 pm  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Clark, Cooper (Chairman), Garten, Mrs Grigg, McKay, Munford,  
Russell, Spooner and Springett (Vice-Chairman)

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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1. Apologies for Absence	
2. Notification of Substitute Members	
3. Urgent Items	
4. Notification of Visiting Members	
5. Disclosures by Members and Officers	
6. Disclosures of Lobbying	
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
8. Minutes of the Meeting Held on 21 March 2022	1 - 7
9. Presentation of Petitions (if any)	
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**Issued on Monday 4 April 2022**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

## **INFORMATION FOR THE PUBLIC**

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If your question is accepted, you will be provided with instructions as to how you can access the meeting.

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Should you wish to refer any decisions contained in these minutes to the **Policy and Resources Committee**, please submit a Decision Referral Form, signed by **three** Councillors, to the **Head of Policy, Communications and Governance** by: **11 April 2022**

## **MAIDSTONE BOROUGH COUNCIL**

### **STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON MONDAY 21 MARCH 2022**

**Present:** Councillor Cooper (Chairman) and  
Councillors Clark, Mrs Grigg, McKay, McKenna,  
Munford, Russell, Spooner and S Webb

**Also Present:** Councillors Brindle, English, Hinder, J Sams and  
T Sams

#### 202. RECORDING OF PROCEEDINGS

Councillors Mrs Grigg and McKay reserved their right to record the proceedings.

#### 203. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Garten and Springett.

#### 204. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor McKenna for Councillor Garten  
Councillor S Webb for Councillor Springett

#### 205. URGENT ITEMS

The Chairman said that he had agreed to take an urgent update to item 14 – Local Plan Review Requirements Leading to submission. The update had been published on Friday 18 March 2022 and contained further information relevant to consideration of the item.

#### 206. NOTIFICATION OF VISITING MEMBERS

Councillors Brindle, English, Hinder and J Sams indicated their wish to speak on item 14 – Local Plan Review Requirements Leading to Submission. Councillor T Sams was present as an observer for this item.

Councillors J and T Sams had also given notice of questions to the Chairman (item 11).

#### 207. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

208. DISCLOSURES OF LOBBYING

The Chairman said that he understood that there had been significant lobbying in relation to item 14 – Local Plan Review Requirements Leading to Submission and the Lidsing and Heathlands Garden Community proposals in particular.

Councillors Mrs Grigg and Russell stated that they had been lobbied regarding the Coxheath sites and Councillors McKay and S Webb stated that they had been lobbied on the Lidsing Garden Community proposal.

209. EXEMPT ITEMS

**RESOLVED:** That the public be excluded from the meeting if Members wish to discuss the information contained in the exempt Appendix to item 14 (Draft Statements of Common Ground) because of the likely disclosure of exempt information.

210. MINUTES OF THE MEETING HELD ON 8 MARCH 2022

**RESOLVED:** That the Minutes of the meeting held on 8 March 2022 be approved as a correct record and signed.

211. CHANGE TO THE ORDER OF BUSINESS

**RESOLVED:** That the order of business be changed to enable the petition relating to the Lidsing Garden Community proposal to be taken with item 14 – Local Plan Review Requirements Leading to Submission.

212. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

**Question from Mr Peter Coulling to the Chairman of the Strategic Planning and Infrastructure Committee**

*Main Modifications – page 68 in the Agenda Pack has a Trajectory. Assuming the Trajectory actually happens and that the orange line is the mandated requirement, after Year 1 Five Years’ Housing Supply looks problematic and, in Year 4, it looks as if we will have failed the Housing Delivery Test. Are we then, respectively, at risk from NPPF’s presumption in favour of sustainable development and the requirement to produce a remedial plan?*

The Chairman responded to the question.

Mr Coulling asked the following supplementary question:

*The trajectory for the adopted Local Plan was a bit of a tragedy and I did get the gist of that in the email correspondence, but I would challenge that that is a correct interpretation of Planning Practice Guidance so I should be grateful if you would stand alert for a clarificatory email from me to pass to the Planning Officers for them to absolutely give a personal assurance that the trajectory is robust to the forward looking Five Years’*

*Housing Supply and the rearwards looking Housing Delivery Test. Will you give that assurance please?*

The Chairman responded to the supplementary question.

**Question from Mr Peter Titchener to the Chairman of the Strategic Planning and Infrastructure Committee**

*Main Modification to LPRSP5(A) - development in the Leeds-Langley Corridor.*

*The policy now includes: "Land within the corridor .... will be safeguarded for the delivery of a potential relief road ..... Although development in this safeguarded area will be considered, where such development is assessed to be acceptable, the development will contribute to the delivery of the highway infrastructure needs required to deliver the relief road ....."*

*This clearly opens the possibility of much development as the route for any relief road crystallises and part of the corridor is not needed for the road itself and this is within the context that it has been stated that development will be necessary to part-fund any road.*

*If any large proposal is then forthcoming beyond the scope of windfalls, that would mean, as Reg19 is drafted, that MBC would substantially exceed the Government's mandated housing requirement.*

*Why is that not recognised by a contingency for development to support any relief road, with corresponding removal of some currently identified sites to avoid any such excess?*

The Chairman responded to the question.

Mr Titchener asked the following supplementary question:

*Are you saying that if a new road goes ahead in the Leeds-Langley Corridor, and say 1,000 houses need to be built for funding it, then Maidstone will be exceeding its planned housing targets, and are you happy with this?*

The Chairman responded to the supplementary question.

**Question from Mr John Hughes to the Chairman of the Strategic Planning and Infrastructure Committee**

*The Reg 19 Plan evidence base does not seem to include an integrated transport strategy. Is it the intention to produce one, and, if so, when?"*

The Chairman responded to the question.

Mr Hughes asked the following supplementary question:

*Do you agree that a long-term integrated transport strategy that works to reduce congestion and air pollution will improve the economic, environmental and health attractiveness of the Borough and help achieve net zero, and that the strategy needs to significantly increase walking, cycling and the use of public transport?*

The Chairman responded to the question.

To listen to the answers to these questions, please follow this link:

<https://www.youtube.com/watch?v=KsxnfeHqAdQ&t=1810s>

## 213. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

### **Question from Councillor J Sams to the Chairman of the Strategic Planning and Infrastructure Committee**

*Given the growing opposition to garden communities and concern amongst residents, Parish Councillors and Borough Councillors, as to their viability and sustainability, how do you feel about concerns that their very inclusion either singly or jointly throws the success of the Local Plan under inspection into doubt?*

The Chairman responded to the question.

Councillor J Sams asked the following supplementary question:

*Does any aspect of the CPRE response within the urgent update regarding Heathlands Garden Community give you grounds for questioning it being put forward?*

The Chairman responded to the supplementary question.

### **Question from Councillor T Sams to the Chairman of the Strategic Planning and Infrastructure Committee**

*Are you confident that sufficient detailed discussions around co-operation between other planning authorities and public bodies have taken place, and do you feel this Council has indeed done what is needed under duty to co-operate with others for the Local Plan?*

The Chairman responded to the question.

Councillor T Sams asked the following supplementary question:

*Can you offer to the public reassurance that the Statements of Common Ground specifically with Ashford Borough Council and Medway Council have been positive, and give examples in relation to the Garden Communities of Heathlands and Lidsing?*

The Chairman responded to the supplementary question.

To listen to the answers to these questions, please follow this link:

<https://www.youtube.com/watch?v=KsxnfeHqAdQ&t=1810s>

214. COMMITTEE WORK PROGRAMME

**RESOLVED:** That the Committee Work Programme be noted.

215. REPORTS OF OUTSIDE BODIES

There were no reports of Outside Bodies on this occasion.

216. LOCAL PLAN REVIEW REQUIREMENTS LEADING TO SUBMISSION

Prior to the introduction of the report by the Strategic Planning Manager:

Mrs Sue Harwood presented a petition objecting to the Lidsing Garden Community proposal.

Ms Kate Hammond addressed the meeting on behalf of the Save Our Heathlands Action Group.

Mr Chris Hawkins of DHA Planning addressed the meeting.

The Strategic Planning Manager then introduced his report setting out the three primary areas of work to be considered as the Local Planning Authority moved towards submission of the Local Plan Review documents at the end of March 2022; these being the updated evidence base; the draft Statements of Common Ground; and the proposed Main Modifications to the Local Plan Review.

The Strategic Planning Manager explained that:

- With the agreement of the Committee, the proposed Main Modifications would be forwarded to the Secretary of State as part of the submission documents. There was an urgent update to the report regarding the updated evidence base and the proposed Main Modifications.
- The report also provided background to the current position including the results of the Regulation 19 consultation that finished in December 2021 and a summary of the main issues raised. The individual representations had been published and were available to view.
- The evidence base for the Local Plan Review was constantly under review and had been updated at various key stages of production. Updates to certain components of the evidence base had also taken place following the Regulation 19 consultation and were set out as background documents to the report. They included evidence updates from strategic site promoters, further information on transport modelling, additional work on the Habitats Regulations Assessment and an AONB Mitigation Paper. The updated evidence would help the

Local Planning Authority as it sought to meet the tests of soundness at the forthcoming Independent Examination.

- Regarding the draft Statements of Common Ground, the Inspector was required to examine whether in preparation of the Local Plan Review, the Council had complied with the Duty to Co-operate. The Local Planning Authority had engaged, as it was required to do, with neighbouring authorities and other relevant prescribed bodies. It was the intention to finalise and sign off the Statements of Common Ground following the meeting in order that they may form part of the submission documents.
- The proposed Main Modifications were not minor changes such as typographical or graphical adjustments. They would be proposed by the Local Planning Authority on the basis that they would help the Local Plan Review documents to be found sound and legally compliant at Independent Examination. Most of the Main Modifications were relatively straightforward and represented opportunities to clarify the Local Planning Authority's position regarding specific matters.
- There were Main Modifications proposed to the Policies for Heathlands, Lidsing and Invicta Barracks so that there is greater clarity regarding the expectations of the Local Planning Authority in terms of the delivery of housing and other forms of development as well as the timings of infrastructure. This was to address various representations that sought greater clarity and certainty regarding the delivery of these schemes.
- Concerns over the coalescence of Coxheath and Loose/Linton had resulted in a reversion back to land at Forstal Lane as previously included in the Regulation 18b version of the Plan.
- The proposed Main Modifications were included in Appendix 2 to the report as amended by the urgent update.
- Submission of the Local Plan Review documents was scheduled to take place at the end of March 2022. Following submission, a Planning Inspector would be appointed by the Secretary of State to undertake an Independent Examination of the Local Plan Review documents to determine whether or not they had been prepared in accordance with legal and procedural requirements, as well as whether they were sound.

Councillors J Sams, Hinder, Brindle and English (Visiting Members) addressed the meeting.

In response to questions by Members, the Officers provided updates on:

The implications of any delay in the Local Plan Review process in terms of the housing figures; the Main Modifications proposed to the safeguarding requirements for the Leeds-Langley Corridor; the discussions with Medway Council regarding the impact of the proposed Lidsing Garden Community

on communities and infrastructure within that Council’s administrative area; the implications of the omission of Park and Ride and the opportunities for further sustainable transport within the Spatial Strategy; and the arrangements for summarising and providing responses to the representations received to the Regulation 19 consultation on the Draft for Submission documents.

Councillor S Webb wished to record that he had visited Lenham, viewed the site of the proposed Heathlands Garden Community and attended the engagement meeting at the Village Hall.

**RESOLVED:**

1. That the list of documents within the updated evidence provided as background documents to the report be noted.
2. That the draft Statements of Common Ground attached as exempt Appendix 1 to the report be agreed.
3. That the proposed Main Modifications attached as Appendix 2 to the report (as amended by the urgent update) be approved in order that they may be submitted with the Local Plan Review Draft for Submission documents and associated Policies Map to the Secretary of State for Levelling Up, Housing and Communities subject to the following amendments:

Agenda Page	Policy/Paragraph	Change Proposed	
25.	LPRSP1 Maidstone Town Centre	Broad location	Sites TBC reflecting Town Centre Strategy, but could include <i>components of Sessions House; Broadway; Sites on Week Street, Mill Street Car Park and others</i>
35.	LPRSP5(B) Invicta Barracks	New Point 11: The SPD should have a focus on celebrating the military heritage <i>and broader history</i> of the site.	
59.	LPRSA362 Access New Point	Prior to the first occupation, the private access gate <del>between the site and Boughton Lane at the junction of Cliff Hill and Pested Bars Road</del> shall be closed to traffic, but for emergency/operational police vehicles.	

Note: Councillor Clark voted against decisions 2 and 3 above.

217. DURATION OF MEETING

6.30 p.m. to 8.01 p.m.

## 2021/22 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Refresh of the Council's Air Quality Management Area and Air Quality Action Plan	SPI	TBC	Officer Update		John Littlemore	Tracey Beattie
Conservation Area Appraisal and Management Plan Update	SPI	TBC	Officer Update		Rob Jarman	Deanne Cunningham/Jeremy Fazzalano
Update Report on the Maidstone Strategic Infrastructure Working Group	SPI	TBC	Committee Request		Alison Broom	Alison Broom
National Bus Strategy	SPI	TBC	Cllr Request		U/K	U/K
Overview of the Draft Building Safety Bill and the Implications for the Council	SPI	TBC	Officer Update		William Cornall	Robert Wiseman
Report on the Use of Section 106 Monies around Lockmeadow (title tbc)	SPI	TBC	Officer Update		U/K	U/K
Update on the Potential Procurement of a Cycle and/or E-Scooter Hire Operator within the Borough	SPI	TBC	Officer Update		William Cornall	Alex Wells
Virtual Permit Management - Visitor Permits ∞	SPI	TBC	Officer Update		Jeff Kitson	Alex Wells
First Homes	SPI	TBC	Officer Update		William Cornall/Rob Jarman	TBC
Updating the Community Infrastructure Levy Charging Schedule	SPI	TBC	Officer Update		Philip Coyne/Rob Jarman	Helen Smith

## STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

**12 April 2022**

### Local Plan Review Update

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	Philip Coyne (Interim Director of the Local Plan Review) and Rob Jarman (Head of Planning and Development)
<b>Lead Officer and Report Author</b>	Mark Egerton (Strategic Planning Manager)
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

At the 10th March 2020 meeting of this committee, Members resolved that officers provide a short, written update at each meeting concerning any slippage and/or progress on delivering the Local Plan Review on the timetable agreed. This report provides the requested update.

#### **Purpose of Report**

Noting

#### **This report makes the following recommendations to this Committee:**

1. That the report is noted

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Strategic Planning and Infrastructure Committee	12 April 2022

# Local Plan Review Update

## 1. INTRODUCTION AND BACKGROUND

- 1.1 At the 10th March 2020 meeting of the Strategic Planning and Infrastructure (SPI) Committee, Members resolved that officers should provide a short-written update at each future meeting concerning any slippage and/or progress on delivering the plan on the timescale agreed. This report provides the requested update
- 1.2 At its 6th 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 (SoS) 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 (which this Committee believe to be acceptable arising from the Regulation 19 consultation responses) to be submitted with the Local Plan Review Draft for Submission document and associated Policies Map to the SoS.
- 1.3 At its 21<sup>st</sup> March 2022 meeting, this committee considered the Local Plan Review proposed Main Modifications and agreed these (with specific modifications), along with agreeing the draft Statements of Common Ground and noting the updated evidence base.
- 1.4 As a result of the above, preparations for submission of the Local Plan Review documents continued and submission took place on 31<sup>st</sup> March 2022.
- 1.5 An Inspector (or Inspectors) will now be appointed on behalf of the Secretary of State in order to consider the Local Plan Review documents with the intention of undertaking an Independent Examination. This is normally structured via a series of 'matters, issues and questions' that commence shortly after submission and will then lead into the examination hearings themselves.
- 1.6 In accordance with guidance, at the point of submission, the Local Planning Authority must have appointed a Programme Officer. This is an independent person, whose role is to act as coordinator co-ordinator and to effectively be the conduit between the appointed Inspector(s) and the Local Planning Authority or others involved in the Examination. We have now entered into a contract for this role with Louise St John Howe, who was also the Programme Officer for the current Local Plan and therefore knows the area.
- 1.7 From this point forward, the Local Planning Authority has little influence over timings for either the preliminary sessions or the main examination itself, and there remains some uncertainty in relation to the use of the main holiday period in July and August by the Inspector, or otherwise. However, it is possible that from some point in May, we will start to receive 'Matters, Issues and Questions' (MIQ's) from the Inspector via the Programme

Officer. These MIQ's are effectively the areas that the Inspector requires additional information around in advance of the examination and will generally be a good indication of some of the main areas of the draft plan which are likely to receive specific attention during examination.

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## **2. RISK**

- 2.1 This report is presented for information only has no direct risk management implications. Risks associated with the LPR are dealt with through the usual operational framework and have been previously reported.
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## **3. REPORT APPENDICES**

- 3.1 None
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# Agenda Item 15

## Alternative Referral of Service Committee Decision – Article 4 Directions

### **Strategic Planning and Infrastructure Committee Briefing Note for the Alternative Referral of Service Committee Decision in respect of Houses in Multiple Occupation in Fant.**

This matter began by way of a motion to Full Council in September 2021. This was followed up by an officer report to SPI in November 2021, which suggested that the matter be explored, and again in February 2022, when it was revisited along with requests for further article 4 directions to be explored too.

The February report suggested that to achieve tangible results, the exploration of article 4 directions should be prioritised as follows: -

- Complete work on potential HMO article 4 direction(s) in the Fant area. To date, only Charles Street has any potential. Completion of the work should take around 3 months.
- Exploratory work commences on article 4 directions in connection with 'protecting' everyday services in the villages identified for growth in the Development Plan.
- Exploratory work commences on article 4 directions on conservation areas.
- Exploratory work commences on article 4 directions in relation to employment protection areas.

An article 4 direction removes permitted development rights and therefore a planning application becomes necessary.

The Committee decided against this prioritisation and instead resolved to:

*'Work on prioritising Conservation Areas and getting the management plans in place to be completed, before proceedings with Article 4 Directions'.*

This decision was initially referred for reconsideration by Councillors Harper Rose and Coates, who wanted the officer recommendation to be agreed, which was to focus initially on the possibility of article 4 directions in Fant. This initial referral is attached at Appendix 1.

An alternative referral was then submitted by Councillors Purle, Cannon, Forecast and Holmes, which whilst ostensibly sought the same outcome, was more detailed, and proposed a multi-faceted approach to resolve the perceived issues with the growth of HMOs, initially in the Fant area. This alternative referral is attached at Appendix 2, and was permitted by Council Procedure Rule 33(8) as outlined below:

*'In either case, should new and relevant information come to light, or a more acceptable course of action be proposed which may resolve the matter to the satisfaction of the Committee, then a Committee Chairman, at the request of any three Councillors in writing, may choose whether to call another meeting of the original Committee to re-consider the decision within five working days of receipt of a referral. The referral to Policy and Resources Committee or the Council would then fall away and the matter would be treated as having been dealt with by the original service Committee. No further referral of the matter would be permitted'.*

Moving forward, , to decide on the best approach, there needs to be consideration of the baseline position of the quantum of HMOs in Fant. To move the discussion forward, this gathering of baseline information has been accelerated, and can be summarised as follows:

Street	Licensed HMO's	Shared Test HMO's	Converted Building HMO's	Converted Flats HMO's	Total	Units on Street	% HMO of Total
Bower Lane	2	1			3	95	3.2%
Bower Place	1			8	9	77	11.7%
Bower Terrace		11			11	27	40.7%
Chamberlain Avenue	1				1	87	1.1%
Charles Street	4	2			6	39	15.4%
Charlton Street	1			9	10	94	10.6%
Douglas Road	3			1	4	68	5.9%
Dover Street	1			2	3	75	4.0%
Everlyn Road		2			2	19	10.5%
Fant Lane	1			1	2	84	2.4%
Florence Road	3			1	4	106	3.8%
Hart Street		1		1	2	285	0.7%
Hartnup Street		3			3	121	2.5%
Lower Fant Road		1		1	2	102	2.0%
Milton Street	3	2		2	7	174	4.0%
Old Dover Works		1			1	6	16.7%
Reginald Road	3	1			4	58	6.9%
St Michaels Road			1		1	20	5.0%
Tonbridge Road	9	5		4	18	395	4.6%
Upper Fant Road	8	6	1	6	21	369	5.7%
Western Road		1			1	57	1.8%
	40	37	2	36	115		

Further explanation of the column headings is provided below:

- Licensed HMO's – these are properties with 5 or more people in 2 or more households.
- Standard Test HMOs are where facilities are shared, i.e., shared houses and bedsits (3 or more tenants in 2 or more households). If a dwelling is owner occupied with lodgers there must be 3 lodgers to make it an HMO.
- Converted Building HMOs are where not all the flats are self-contained. These are licensable if there are 5 occupants in the building.
- Converted flats are where the building was converted before 1992 and/or not to 1991 Building Regulations Standard and less than 2/3<sup>rd</sup> of the flats are occupied by leaseholders.

In terms of the table, it shows only one street with a relatively high proportion of HMO's, Bower Terrace, but this is arguably skewed by there being a relatively small total number of dwellings on the street. Also, given there are circa 5,000 dwellings in Fant, the % that are converted is just 2.3% of the total stock.

Therefore, the key consideration is:

**"Is the amount of HMOs in Fant so high today, that it is harming the community through the issues commonly associated with the densification of housing, so: pressure on parking, pressure on bin storage, too many people in one location, changes to the curtilage of properties etc".**

If 'no', then no further action should be taken on the matter in Fant, and the next priority should then be pursued.

If 'yes', it does not necessarily follow that an article 4 direction is the solution. There are several possibilities that could be explored to improve the situation:

- Strengthening the design quality criteria for HMOs in the forthcoming "Design and Sustainability" Development Plan Document (DPD) that this Committee has already committed to progress. This exercise should take into account that Fant area is classed as "edge of centre" in local plan residential parking policy DM23 and this means that the 'sustainability' of the location is factored in and, moreover, the standards are expressed as maxima. Therefore, this parking policy could be reviewed.
- Residents' parking restrictions on occupants of HMOs
- A Council licencing regime for all types of HMO.
- Council Tax disincentives to creating HMOs (low chance of success)

If article 4 direction(s) were deemed to be suitable, they should only be introduced once the DPD is in place, or Planning Committee would still potentially need to approve the planning applications, as there would not be strong policy grounds for refusal. Furthermore, article 4 direction(s) should only be introduced on a street-by street basis at the point that the number of HMOs on any given street exceeds a threshold (which relies on an evidence base demonstrating 'harm' beyond this point) such as 25% of the total housing stock on that street. This is common practice where the prevalence of HMOs has become an issue elsewhere, say in university or coastal towns. This targeted approach will be necessary as the NPPF says that such directions must be targeted / affect the smallest area possible.

The alternative referral did also moot the possibility of the Council buying stock in Fant for its 1,000 Affordable Homes Programme, to either de-convert existing HMOs or to buy homes that are placed on the market that might be susceptible to being converted to HMOs. This idea is not workable as Homes England do not provide grant to create affordable homes from existing street properties. i.e., their grant monies are only available to create new build stock only.

Therefore, if this Committee answers 'yes' to the question posed, the following course of action is suggested for the next municipal year:

That the relevant portfolio holder(s) be recommended to:

1. Take forward the "Design and Sustainability" DPD to include a review of DM23, and once adopted seeks to bring in A4Ds in Fant on a street-by street basis, once HMO prevalence reaches the evidenced threshold.
2. Take forward a review of residents' parking entitlement for either all HMO residents or just residents of new HMOs created after.
3. Explore the possibility and merits of creating a formalised licencing arrangement for all HMOs.
4. Take forward an exploration of referring all HMO properties to the Valuation Office for revaluation, based on their net rental income (as an HMO), rather than their valuation as a single self-contained dwelling, as is currently the case. This is unlikely to be successful as Royal Institution of Chartered Surveyors advice is that residential valuations are based purely upon comparable sales values, rather than rental streams (as is the case with

commercial property). However, the concept can be explored further in case precedents have been established elsewhere.

Once all these lines of enquiry have been explored, a cross-cutting report should be prepared by officers and presented to the Cabinet for approval, by a target date of 30 September 2022.

### **Appendices**

Appendix 1 – Alternative referral of Service Committee Decision

Appendix 2 – Original referral of Service Committee Decision

Appendix 3 – Article 4 Report presented to the Strategic, Planning and Infrastructure Committee on 8 February 2022, including urgent update.

Appendix 4 – Minute 175 of the Strategic, Planning and Infrastructure Committee Meeting held on 8 February 2022.

### **Background Documents**

Original Motion - Council Meeting held on 29 September 2021 and associated Minute: [Your Councillors - Maidstone Borough Council](#)

Reference from Council – Motion – HMOs – Presented to the Strategic Planning and Infrastructure Committee on 9 November 2021 and associated Minute: [Your Councillors - Maidstone Borough Council](#)

## Decision Referral

**To:**

The Head of Policy, Communications and Governance

**Decision making body**

Strategic Planning and Infrastructure Committee

**Decision made**

24. Article 4 Directions

Decision: Article 4 Direction

Minute 174 RESOLVED: That

1. Work on prioritising Conservation Areas and getting the management plans in place be completed, before proceeding with Article 4 Directions.

**Reason for referring the decision**

We wish to call in the following decision from the meeting of SPI on the 8<sup>th</sup> February 2022

24. Article 4 Directions

At this meeting it was decided not to prioritise work on Article 4 Directions or looking into the extent of Houses of Multiple Occupancy in the Fant Ward.

This decision is the decision which needs to be reviewed. It is completely against the decision made at the Council meeting in September 2021 where the recommendations were agreed unanimously by the full Council. The Council resolution was referred to the SPI Committee which at its meeting on 9<sup>th</sup> November 2021 unanimously resolved:

That the Head of Planning and Development be requested to:

1. Begin the work required to implement an Article 4 on Fant Lane and Hackney Road;
2. Produce a list of proposed sites where it may be appropriate to implement article 4 directions, to be presented to the committee at a later date; and
3. Explore the possibility of an SPD and review this.

Subsequently in consultation with Fant Ward members the review area was moved to the Charles Street area. Work had started and to assist the process we started to compile a list of HMO in the sample area.

There therefore seems no logic or rationale to the decision of the SPI Committee on the 8<sup>th</sup> February 2022 to stop all work, there was no or only minor discussion of the HMO or Fant issue at that meeting. This is a further reason why we are calling for a decision referral.

Since the motion was considered there have been a considerable number of new HMO's made in Fant. This is an important issue which needs to be worked on now, every month which goes by sees on average a further residential property being converted to a HMO (C3 to C4) and the character of the neighbourhood of East Fant to the east of St Michaels Road is continually being eroded and made less pleasant for a decent family life and environment which the residents are entitled to.

As a result of continuing concerns residents independently have been sending in lists of known HMO's to the Fant Councillors and we are constantly adding more HMO's to our list which already contains over 50 properties in a small area.

**Desired outcome (please give full details)**

The outcome we are seeking is for the officer report and recommendations to be agreed and implemented, in accordance with the expressed wishes of the full Council.

With the continuing removal of family housing in favour of HMO's at an escalating rate as evidenced from residents there is an urgent need to complete the review of Charles Street and the surrounding area.

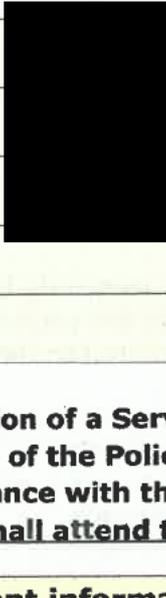
The author of the report to SPI recommended that work is completed on the appropriateness of article 4 direction(s) in relation to HMOs in the Fant area. This with a number of other pieces of work were estimated to cost under £10,000.

There is a very high level of concern by residents in this area and also in neighbouring areas that the Council is not interested in preserving a good quality of life and that decisions are made which are not subject to public accountability.

Therefore as stated there is an urgent need to complete the review process on the area of Fant, local Councillors and residents are able to assist in identifying small HMO's (those made under permitted rights) from local knowledge. Once the review is completed then to review the process to implement an Article 4 Direction over a defined area within East Fant to ensure that HMO conversions are subject to a full planning application process.

**Members referring the decision**

**Signed:**

<b>1. Paul Harper</b>	
<b>2. Margaret Rose</b>	
<b>3. Patrick Coates</b>	
<b>4.</b>	
<b>5.</b>	

**(3 signatories are required to refer a decision of a Service Committee to the Policy and Resources Committee. However, a decision of the Policy and Resources Committee for referral to Council requires 5 signatories in accordance with the Constitution's rules of procedure). Any of the signatories making such a referral shall attend the meeting.**

**Please note that should new and relevant information come to light, or a more acceptable course of action be proposed which may resolve the matter to the satisfaction of the Committee, then a Committee Chairman, at the request of any three Councillors in writing, may choose whether to call another meeting of the original Committee to re-consider the decision within five working days of receipt of a referral. The referral to Policy and Resources or the Council would then fall away and the matter would be treated as having been dealt with by the original Service Committee. No further referral of the matter would be permitted.**

**Committee (or Council) responsible for examining this decision**

**Policy and Resources Committee**

**Maidstone Borough Council**

Maidstone House,  
King Street ME15 6JQ

 [maidstone.gov.uk](http://maidstone.gov.uk)

 [maidstonebc](#)

 [maidstoneboroughcouncil](#)

**Jonathan Purle**

Councillor for Bridge Ward  
& Deputy Leader of the Council

Paul Cooper  
Chairman  
Strategic Planning & Infrastructure Committee  
Maidstone Borough Council  
Maidstone House  
Maidstone  
ME15 6JQ

**By Email:**

[PaulCooper@maidstone.gov.uk](mailto:PaulCooper@maidstone.gov.uk)

04 March 2022

Dear Paul

**COUNCIL PROCEDURE RULE 33(8)  
CALL-IN OF SPI COMMITTEE DECISION IN RESPECT OF  
HOUSES OF MULTIPLE OCCUPATION (“HMOs”)**

1. We write following the meeting of the Strategic Planning & Infrastructure Committee (“SPI”) on 08 February 2022 and the request received by the Council from three (3) members to call-in the Committee’s decision concerning HMOs and the use of an Article 4 direction.
2. You will recall that work on this issue followed a motion to Full Council on 29 September 2021. As members covering or neighbouring the ME16 8 postcode, we procured an amendment to that motion so that it called for action across the postcode.
3. We were disappointed when SPI resolved, at Officers suggestion, that initial work focus on just two (2) streets which had not featured in our own correspondence with local residents. That initial work on these two (2) streets has not revealed much of note hardly deals with the original problem: the intensity and cumulative impact of the process of family housing being converted into HMOs (“HMOfication”) across the ME16 8 postcode.
4. This process is removing lower priced family housings, whether for buyers or renters. It is changing the character of the streets away from being a family-friendly area. It is contributing to anti-social behaviour and it is seriously aggravating the problems associated with parking in what are often Victorian streets with no off-road parking.
5. We therefore agree that the SPI decision in this instance needs to be reconsidered. To this end, we would urge the Committee to consider a potentially four-pronged approach.

- 5.1. Firstly, there remains the use of Article 4 Directions. In other places, these have been used to tackle HMOfication over quite wide areas (such that we do not accept any argument that they cannot extend to the afflicted postcode). We appreciate that by itself, requiring a planning application that the Council would then be obliged to approve within the constraints of national and local planning policy would not achieve much. We therefore suggest work is progressed on an Article 4 direction as per the original motion to Full Council, with a view to implementation upon adoption of tighter planning policy in respect of HMOs.
- 5.2. Secondly, it is common ground that current MBC Planning Policy DM9 is far too weak in addressing the harm being caused by the process of HMOfication across the Borough. We therefore suggest that the Committee renews its resolve develop further policy, at least at the level of a supplementary planning document (“SPD”), to address these issues. We believe that with an Article 4 direction, this will be a potent combination.
- 5.3. Thirdly however, we believe the economics driving HMOfication across the Borough need to be tackled. Relative to family housing, HMOs provide substantially greater rental incomes net of expenses. In areas with lower house prices, these produce substantial rental yields allowing slum landlords to purchase these properties, often with large amounts of mortgage finance and little of their own capital.

From press reports and discussions with Council Officers, we are of the view that this Council may not be using the tools utilised by other authorities, notably Council Tax.

A family house in ME16 8 might pay £1,988.63 (Band D) in Council Tax. If it is converted to (say) a 5-room HMO, the landlord will still pay the same Council Tax. A development of 5 self-contained flats or studios however would result in a Council Tax bill of at least 5 Band A dwellings e.g.  $5 \times £1,325.75 = £6,628.75$ . We see no reason why an HMO should not pay this higher figure, given its obvious impact on services, and suggest that such increase costs would push-back on the incentives for slum landlords to convert family housing to HMOs.

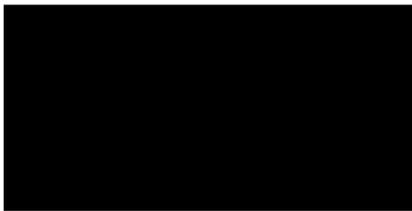
We would therefore like the Council to consider methods of referring HMO conversions back to the Valuation Office to ensure that Council Tax increases for these properties. Where this did not prevent HMOfication, or perhaps for the spate of recent HMO conversions, one option to be considered might be for the extra revenue might to be earmarked for projects in the afflicted areas.

- 5.4. Fourthly, since the matter was first raised, the Council has adopted a capital programme to support the Administration’s initiative to acquire 1,000 dwellings that would otherwise be market-housing for use as affordable housing for local residents, with rents capped at the Local Housing Allowance. We believe that such an acquisition of properties provides another avenue to explore in retaining housing as family housing and blocking HMOfication.

We accept that this is not a straight-forward matter. We would, for example, not want to block local families and first-time buyers from acquiring these lower-price properties. Nevertheless, we feel this option requires some proper analysis.

6. We would therefore urge the Committee to make a revised decision adopting the first two points above and to make reference to the Policy & Resources Committee in respect of the second two.
7. We believe that this multi-pronged approach would be a more acceptable course of action and provide a better method of resolving this matter to the satisfaction of the Committee and the wider stakeholders.
8. We therefore urge you to call a further meeting of the SPI Committee to reconsider the original matter and consider the approach suggested above.

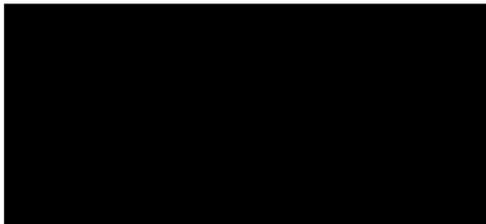
Yours sincerely



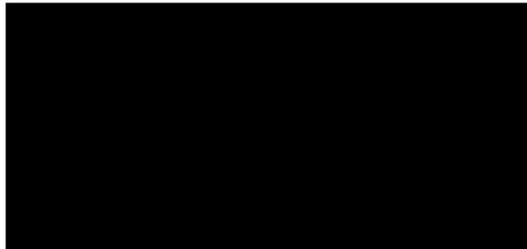
**Jonathan Purle**  
**Bridge Ward**



**Tom Cannon**  
**Bridge Ward**



**Stanley Forecast**  
**Allington Ward**



**Peter Holmes**  
**Heath Ward**

cc. Proper Officer

# Strategic Planning and Infrastructure Committee

## 8 February 2022

### Article 4 Directions

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	William Cornall
<b>Lead Officer and Report Author</b>	Rob Jarman
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### Executive Summary

The prioritisation and resourcing of potential article 4 directions

#### Purpose of Report

Decision

#### This report makes the following recommendations to this Committee:

1. That the following prioritisation takes place with regard to future article 4 directions :
  - a) Work is completed on the appropriateness of article 4 direction(s) in relation to HMOs in the Fant area.
  - b) Exploratory work is undertaken in relation to article 4 directions being served in relation to :
    - Essential everyday services in villages identified for growth in the Development Plan
    - Conservation Areas
    - Employment Protection Areas
2. That sufficient resource is identified for the above.

#### Timetable

<b>Meeting</b>	<b>Date</b>
Strategic Planning and Infrastructure Committee	8 February 2022

## Article 4 Directions

### 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council’s overall achievement of its aims as set out in the discussion section of the report</p>	Rob Jarman
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The report recommendations support the achievements of the first cross cutting objectives by, potentially, affording more protection to conservation areas.</p>	Rob Jarman
<b>Risk Management</b>	Covered in the risk section.	Rob Jarman
<b>Financial</b>	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Paul Holland, Senior Finance Manager (Client)
<b>Staffing</b>	There will be Staffing implications and these are set out in section 3	Rob Jarman

<b>Legal</b>	There are no specific legal implications in the report which is drafted to request additional resources to facilitate delivery of the aspirations of this Committee. Any article 4 directions subsequently pursued will need to be made and (where appropriate confirmed) in accordance with procedures outlined in the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.	Cheryl Parks Mid Kent Legal Services (Planning)
<b>Privacy and Data Protection</b>	<ul style="list-style-type: none"> <li>Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with our retention schedules.</li> <li>We recognise the recommendations will impact what personal information the Council processes and so have completed a separate data privacy impact assessment [at reference].</li> </ul>	Policy and Information Team
<b>Equalities</b>	An Equalities Impact Assessment should be completed as part of the recommended work set out in the recommendations to ensure they meet the needs of those communities.	Equalities and Communities Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
<b>Crime and Disorder</b>	N/A	Rob Jarman
<b>Procurement</b>	N/A	Rob Jarman
<b>Biodiversity and Climate Change</b>	There are no direct implications on biodiversity and climate change.	Biodiversity and Climate Change Manager

## 2. INTRODUCTION AND BACKGROUND

- 2.1 In a recent meeting of this committee, there has been a resolution to examine whether it would be appropriate to serve article 4 direction(s) on streets in the Fant area in order to restrict permitted development rights for Houses in Multiple Occupation (HMO) and, more broadly, using article 4 directions to protect everyday facilities. The presence of shops and other essential services as well as consideration of these in the Sustainability

Appraisal, formed the foundations of the settlement hierarchy in the Local Plan Review. For these two reasons, this matter was put on the Committee work programme. I also understand that there may well be recommendations for further article 4 directions in the future.

- 2.2 Given this context, it would seem prudent to prioritise work on potential article 4 directions, including the consideration of resource implications and likely timescales.
- 2.3 To recap, an article 4 direction is a direction under article 4 of the General Permitted Development Order which enables this Council, as local planning authority, to withdraw specified permitted development rights across a specified geographical area. The National Planning Policy Framework (NPPF) advises that all article 4 directions should be applied in a measured and targeted way. They should be based on robust evidence and apply to the smallest geographical area possible.
- 2.4 I have previously advised that, for compensation reasons, non-immediate article 4 directions are more appropriate than immediate ones but these require a minimum of 12 months to take legal effect from the time of serving (providing there is no intervention by the Secretary of State) to avoid any compensation risk.
- 2.5 As stated above, there is a need for **prioritisation** if further article 4 directions are to be pursued. Until recently, with the significant increase in permitted development rights, article 4 directions were predominantly used to remove permitted development rights for specified works in conservation areas. It would seem sensible to prioritise these as much resource is taken up with the designation and subsequent appraisals and management plans.
- 2.6 Secondly, the increase in permitted development rights has more of an impact on certain geographical areas and uses than others which, in turn, potentially, could have a significant impact on long established policies such as employment protection areas. It is appreciated that the revised prior approval process for commercial uses provides some safeguards notably in relation to the size threshold but there may be ways around this threshold, case law will dictate. So, there is potential for the undermining of employment protection areas. This overlaps with a previous resolution of this Committee to protect every day / essential services such as shops and other services in villages which are identified for growth in both the adopted Local Plan and the Local Plan Review.
- 2.7 **Resources:** thus far, some bespoke external legal advice has been taken in respect of the new Class MA rights for conversion from commercial to residential uses. Internally, the main bulk of the work has been undertaken by the Head of Planning and Development, legal services officers, conservation officers and administrative/technical support from the Strategic Planning Team. The main resource requirements are around:
  - Evidence gathering
  - Initial legal advice
  - Consultation
  - Report writing

- Execution of resolution (which entails a not insignificant amount of work by officers from both the planning and legal teams)

2.8 One of the main elements in terms of time and other resource is the evidence gathering. This is also where the main risks are, namely, if the geographical area and the alleged harm being caused are not clearly identified and specific then the proposed article 4 direction is likely to fail.

2.9 I would recommend the following prioritisation:

- Complete work on potential HMO article 4 direction(s) in the Fant area. To date, only Charles Street has any potential. Completion of the work should take around 3 months.
- Exploratory work commences on article 4 directions in connection with 'protecting' everyday services in the villages identified for growth in the Development Plan.
- Exploratory work commences on article 4 directions on conservation areas.
- Exploratory work commences on article 4 directions in relation to employment protection areas.

2.10 All the 'exploratory' work will require scoping and then a resource plan and timelines can be attached. I suggest that this will require project management resource together with external legal and planning advice and support. The initial cost of the scoping is likely to be under £10,000.

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### **3. AVAILABLE OPTIONS**

3.1 One option would be to complete the Fant HMO work only as this is the sole specific resolution of this Committee. However, there has been a general resolution to examine article 4 directions for protecting everyday services in villages to add significant strength to existing and draft local plan policies and so it would be logical to apply this principle to other long standing planning designations such as conservation areas and employment protection areas.

3.2 Therefore, it is recommended that the actions set out in paragraph 2.9 are adopted with the appropriate resourcing (set out in paragraph 2.10).

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 This is set out in paragraph 3.2.

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## **5. RISK**

- 5.1 This has already been set out but it primarily revolves around accurate evidence gathering and clarity over harm allied to sufficient and appropriate resourcing.
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## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 N/A
- 

## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 If the recommendations are agreed then each of these will be reported back to future meetings of this Committee.
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## **8. REPORT APPENDICES**

N/A

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## **9. BACKGROUND PAPERS**

***None***

**8 February 2022 - Strategic Planning and Infrastructure Committee**

**Urgent Update**

**8 February 2022**

**Agenda Item 24: Article 4 Directions**

It is worth noting with regard to Conservation Areas that as a matter of law the demolition of “the whole or any part of any gate, fence, wall or other means of enclosure in a conservation area” requires planning permission and does not presently benefit from any permitted development rights. If “the whole or any part of any gate, fence, wall or other means of enclosure in a conservation area” is demolished this constitutes a criminal offence for which a prosecution may be brought and may also be subject to planning enforcement action.

Therefore, it would not be necessary to serve an article 4 direction for a Conservation Area for the demolition of a means of enclosure.

**MINUTE 175 OF THE STRATEGIC PLANNING AND INFRASTRUCTURE  
COMMITTEE MEETING HELD ON TUESDAY 8 FEBRUARY 2022**

**175. ARTICLE 4 DIRECTIONS**

The Head of Planning and Development introduced the report, referencing the expansion of permitted development rights and the Committee's previous resolutions on the exploration of Article 4 Directions in Fant and the protection of essential services within the village development hierarchy. The initial work undertaken in Fant had not uncovered many streets where it would be appropriate to implement an Article 4 Directions on Houses of Multiple Occupation (HMO).

The proposed strategic prioritisation of the Article 4 Directions was outlined taking account of the resource intensive work currently being carried out, such as the preparation of the Design and Sustainability Development Plan Document. The prioritisation included the completion of the exploratory work in the Fant Area, the commencement of the exploratory work across the development hierarchy followed by the Conservation and Employment Protection areas. Additional resources would be required.

In response to questions, the Head of Planning and Development confirmed that Neighbourhood Plans were similar to Management Plans in that the document could influence local developments. The protection of everyday services within Conservation Areas would be considered as part of the creation of a management plan.

Whilst several Members expressed support for pursuing the Article 4 Directions as proposed, it was felt overall that there should be greater strategic priority given to the initial development of management plans in Conservation Areas, to provide the policy to support any future Article 4 Directions and ensure the quality of development within a local area.

**RESOLVED:** That

1. Work on prioritising Conservation Areas and getting the management plans in place be completed, before proceeding with Article 4 Directions.