

STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE MEETING

Date: Tuesday 7 July 2020

Time: 6.30 pm

Venue: Remote Meeting - The Public proceedings of the Meeting will be broadcast live and recorded for playback on the Maidstone Borough Council Website

Membership:

Councillors D Burton (Chairman), Clark, English, Garten, Mrs Grigg (Vice-Chairman), McKay, Munford, Parfitt-Reid and de Wiggondene-Sheppard

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.

AGENDA

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| 7. To consider whether any items should be taken in private because of the possible disclosure of exempt information. | |
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| 9. Presentation of Petitions (if any) | |
| 10. Question and Answer Session for Members of the Public | |
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Issued on Monday 29 June 2020

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

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INFORMATION FOR THE PUBLIC

In order to ask a question at this remote meeting, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Friday 3 July 2020). You will need to provide the full text in writing.

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

In order to submit a written statement in relation to an item on the agenda, please call **01622 602899** or email committee@maidstone.gov.uk by 5p.m. one clear working day before the meeting (i.e. by 5 p.m. on Friday 3 July 2020). You will need to tell us which agenda item you wish to comment on.

If you require this information in an alternative format, please call **01622 602899** or email committee@maidstone.gov.uk.

To find out more about the work of the Committee, please visit www.maidstone.gov.uk.

Out of Hours Dangerous Structure Call Out

Maidstone Building Control have implemented a Dangerous Structure Out of Hours call out service.

It is Maidstone Council's statutory duty to protect people by ensuring that buildings within the Borough do not endanger public health and safety. In order to provide a more reliable service so as to protect the Council and the local community, a more formal standby system has been put in place. Similar systems are in place in other services.

The Building Control Section now operates a 24 hour / 365-day emergency service that will take appropriate action if a building or structure poses a potential danger to the safety of people in its immediate vicinity. Examples of dangerous structures attended over the past year include a fire at a warehouse causing structural damage, a high wall on a busy public highway that had started to crumble, the front of a house that had structural damage caused by vehicle impact, storm damage to a roof and general dilapidation of buildings. All qualified and competent staff will now be on call for one week at a time to attend any out of hours dangerous structure requests within the Maidstone Borough Council area. By operating a formal Rota, Surveyors will remain on call for a full 7-day period from 5 pm each Monday. Surveyors ensure that they remain within a reasonable travel time and that they always maintain telephone contact.

The Council's Out of Hours Response Service, on receipt of a call from the Emergency Services or a member of the public, will contact the Surveyor on the Rota. This will be via telephone either to a mobile phone or a home telephone. When a Dangerous structure is notified to the office within normal working hours our aim is to respond and investigate within 2 hours. If outside normal working hours, then our aim is to respond and investigate within 4 hours.

Costs

The owner of any building that becomes a dangerous structure is responsible for all the costs involved in making the building safe. If the Council is unable to contact the owner at the time, and the building needs to be made safe, the Council may carry out the emergency works (Under Section 77 of The Building Act 1984) and claim the costs back from the owner.

APPENDIX 1: NEIGHBOURHOOD PLANNING PROTOCOL

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/ delegated authority	Outcome
MBC decision on an Examiner's recommendations	17A	<ol style="list-style-type: none"> 1. On receipt of the Examiner's final report, prepare SPI Committee report recommending the course of action to be taken (accept report / decline report / accept and make modifications). 2. If SPI Committee accepts the Examiner's recommendations (with or without modifications) to hold a referendum, then the next step is to arrange the referendum. 3. If SPI Committee accepts the Examiner's recommendation that a neighbourhood plan or modification proposal does not pass examination, the plan will not proceed to referendum. 4. If SPI Committee declines to accept the Examiner's recommendations, then MBC must undertake a 6-week consultation on its decision³ in accordance with the provisions of Regulation 17A. 5. Prepare a decision statement within 5 weeks of receipt of the Examiner's report, or by a later date agreed in writing with the parish council or neighbourhood forum. 	MBC Strategic Planning Team	<p>SPI Committee decision</p> <p>(The Head of Planning and Development has elected not to use his delegated authority at Regulation 17A because it is important that the Committee has the opportunity to have input into a document that becomes part of the Maidstone Development Plan).</p>	<p>MBC decision to accept (with or without modifications) or decline to accept the Examiner's report.</p> <p>Note: 'post-examination draft neighbourhood plan' (as modified by the Examiner) becomes a material consideration in decisions on planning applications.</p>

7 July 2020

³ This is not a full consultation – it includes the parish council or neighbourhood forum, those who submitted representations at Regulation 16 stage, and statutory consultees included in the Regulation 15 consultation statement

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 and Communications** by: **3 July 2020**

MAIDSTONE BOROUGH COUNCIL

STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY 9 JUNE 2020

Present: Councillors D Burton (Chairman), Clark, English, Garten, Mrs Grigg, McKay, Munford, Parfitt-Reid and de Wiggondene-Sheppard

135. APOLOGIES FOR ABSENCE

There were no apologies for absence.

136. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

137. URGENT ITEMS

The Committee agreed to take an urgent update to Item 14 – Fourth Quarter Budget & Performance Monitoring. The reason for urgency was that a correction needed to be made to a table shown in Appendix 2 of the report.

138. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

139. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

140. DISCLOSURES OF LOBBYING

Councillor Burton stated that he had been lobbied on Item 18 – Marden Neighbourhood Plan.

Councillor English stated that he had been lobbied on Item 13 – Reports of Outside Bodies.

Councillor McKay stated that he had been lobbied on Item 16 – Local Plan Review Update.

141. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

142. MINUTES OF THE MEETING HELD ON 10 MARCH 2020

RESOLVED: That the Minutes of the meeting held on 10 March 2020 be approved as a correct record and signed at a later date.

143. PRESENTATION OF PETITIONS

There were no petitions.

144. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

145. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

146. COMMITTEE WORK PROGRAMME

It was noted that progress of the 20mph pilot schemes that were due to undergo public consultation had been delayed due to the Corona Virus Pandemic. This issue was raised during the agenda setting process for the Joint Transportation Board.

RESOLVED: That the Committee Work Programme be noted.

147. REPORTS OF OUTSIDE BODIES

There were no reports of Outside Bodies.

Councillor English noted that South Eastern Railways had allocated up to £400k of funding for the establishment of two community rail partnerships. The proposal would be of significance as it would affect the Ashford service line that would travel through Maidstone East Train Station. A formal report would be received in due course.

148. FOURTH QUARTER BUDGET & PERFORMANCE MONITORING

The Head of Finance introduced the report, which provided the provisional outturn information for the 2019-20 financial year. The Committee was informed that the report included information up until the 31 March 2020 and as such did not reflect the impact of Covid-19. The figures had not yet been audited, so were to be treated as provisional.

Performance against the budget was shown in Appendix 1, with particular attention drawn to the net income shortfall of £318k. This related to Planning Services and the shortfall in Development Control income. There was a smaller shortfall shown of £24k within the parking services budget, with the 2021 budget reflecting the reduced income target.

The Head of Finance informed the Committee of a correction to Table 3 in Appendix 1. The correct spending figure was £209,770 whilst the

remaining balance was £308,300. The budget allocation for the 2020-21 financial year was therefore £508,300.

The Equalities and Corporate Policy Officer noted that all three Key Performance Indicators (KPIs) had achieved the fourth quarter target. In comparison to quarter three performance, two KPIs had improved, two had been sustained and two had declined, but the overall performance was positive.

In line with the urgent update to the item, the Equalities and Corporate Policy Officer confirmed that the correct figures for the number of appeals for quarters one and two were 48, for quarters three and four were 45 and that the Council's success rate of both periods respectively were 54.17% and 80%. This gave an annual figure of 67.9%. Whilst the figures had been revised, the overall trend was positive. It was noted that the Policy and Information Team would be working with the Planning Team in the future to resolve the data reporting issue.

The Equalities and Policy Officer noted that three of the four annual outturn targets were achieved and the fourth was within 10% of the target. It was explained that some of the data could not be collected due to the Covid-19 pandemic.

During the debate, several Members of the Committee expressed concerns that the budget shown would be further impacted by the Covid-19 pandemic and requested that a report be added to the Committee Work Programme; with an update on parking services to be brought separately, if necessary, to ensure that this information would be delivered expediently.

It was also noted that a five-year budget cycle, instead of the current annual budget allocation process, could be beneficial for the Committee when moving through the Local Plan making process.

RESOLVED: That

1. The Revenue position as at the end of Quarter 4 for 2019/20, including the actions being taken or proposed to improve the position, where significant variances have been identified, be noted;
2. The Capital position at the end of Quarter 4 be noted; and
3. The Performance position as at Quarter 4 for 2019/20, including the actions being taken or proposed to improve the position, where significant issues have been identified, be noted.

149. KEY PERFORMANCE INDICATORS 2020-21

The Equalities and Corporate Officer introduced the report, noting that the Appendix shown summarised the new draft KPIs for the Committee's consideration. The Committee requested an additional indicator for information each quarter, on open enforcement cases.

It was requested that the definition of open cases be in accordance with that used for the Planning Committee reports, to ensure that there was consistency in the information provided to both Committees.

A motion was moved and seconded, to include the reporting of open enforcement cases to the Committee at each quarter.

RESOLVED: That

1. The draft Key Performance Indicators for 2020-21, as attached as Appendix 1, be agreed; and
2. The number of open enforcement cases be added as a quarterly Key Performance Indicator for information.

150. LOCAL PLAN REVIEW UPDATE

The Strategic Planning Manager and the Interim Local Plan Review Director introduced the report. It was noted that the report provided was in response to the Committee's previous resolution that a written update concerning any slippage and/or progress on the delivery of the Local Plan Review within the agreed timescale, be brought to each meeting of the Committee.

The Strategic Planning Manager confirmed that the Council, as the Local Planning Authority, would undertake a public consultation from October 2020. This consultation would examine housing, employment and retail growth amongst other topics, with a second public consultation process to take place from February 2021. Particular attention was drawn to paragraph 1.5 of the report, whereby the work undertaken by officers had been outlined.

The Interim Local Plan Director informed the Committee that of the nine garden community sites received in the call for sites process, these had been grouped down to seven. Independent Consultants had been commissioned to undertake a suitability assessment of the sites, which resulted in four sites being recommended to progress to the stage two assessment process.

The work undertaken would be completed by the end of June or early July 2020, which would help inform the Elected Member engagement exercises as included in the report.

In response to questions, the Interim Local Plan Director and Strategic Planning Manager confirmed that Members of the Committee would be able to remove and include sites and set a preferred spatial strategy, with advice from officers.

It was reiterated that the Local Plan Review would be subjected to examination from an Inspector appointed by the Secretary of State. As such, the consultation produced would need to contain an appropriate

preferred approach, with reasonable alternative approaches demonstrated.

RESOLVED: That

1. The content of this report be noted; and
2. The Elected Member Engagement Protocol to be used in the run-up to the public consultation on the Local Plan Review that is scheduled to commence in October 2020 be agreed.

151. MAIDSTONE STATEMENT OF COMMUNITY INVOLVEMENT COVID-19
TEMPORARY ADDENDUM MAY 2020

The Principal Planning Officer introduced the report stating that the proposed changes to the adopted Statement of Community Involvement (SCI), were necessary to ensure adherence to the document to avoid legal challenge. The provision of physical consultation materials in publicly accessible places, alongside the use of public spaces to hold hearings, would not be possible given recent government guidance.

The proposed amendments were included in Appendix 1, which included that all consultation materials were to be viewed online and any hearings and examinations would occur through written presentation or video conferencing. These changes would ensure that the plan making process would be able to continue. The Committee was also asked to agree that the Head of Planning and Development be given delegated powers to make future changes to the SCI.

The Committee expressed concerns that whilst the need for these changes was understood, removing the general public's ability to inspect physical documents should not occur for longer than necessary. It was requested that the SCI be placed as a standing item on the agenda to be reviewed at regular intervals by the Chair and Vice-Chair of the Committee rather than give delegated authority to the Head of Planning and Development. Instead, in line with keeping the changes in place for as short a period as possible, the committee agreed delegated authority only to end the use of the temporary changes and revert back to the adopted SCI.

The Committee also requested that the Council make reasonable endeavours to provide hardcopies of documents to the public if requested.

Councillor English left the meeting of the Committee after the vote had been taken for Item 17.

RESOLVED: That

1. The Maidstone Statement of Community Involvement Covid-19 Temporary Addendum May 2020 is approved for immediate publication;

2. The Statement of Community Involvement be placed as a standing item on the agenda for the Committee, with the Head of Planning and Development granted delegated powers to reverse the changes proposed within the addendum to the adopted Statement of Community Involvement as soon as Covid-19 restrictions allow; and
3. The Council would endeavour to provide paper copies to any resident when required.

152. MARDEN NEIGHBOURHOOD PLAN (REGULATION 19)

Prior to the introduction of the report, the Chairman read out a statement on behalf of Councillor Andrew Turner, Chair of Marden Neighbourhood Plan Steering Group.

The Planning Policy Officer introduced the report, noting that reporting of the referendum result to the Committee had been delayed due to the Covid-19 pandemic.

The Planning Policy Officer confirmed that there were three neighbourhood plans within the borough, in Loose, North Loose and Staplehurst. The Marden Neighbourhood Plan had undergone two rounds of consultation and examination prior to the referendum having taken place in February 2020.

RESOLVED: That

1. The result of the referendum held on 27 February 2020 on the Marden Neighbourhood Plan be noted; and
2. Council be recommended to make the Marden Neighbourhood Plan.

153. DURATION OF MEETING

6.30 p.m. to 8 p.m.

2020/21 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Lenham Neighbourhood Plan - Post Examination Proposals	SPI	08-Sep-20	Officer Update	?	Mark Egerton	Sue Whiteside
Boughton Monchelsea Neighbourhood Plan - Regulation 16 Representations	SPI	08-Sep-20	Officer Update	?	Mark Egerton	Sue Whiteside
Upper Stone Street Air Quality Update Report	SPI	08-Sep-20	Officer Update	?	William Cornall	
Conservation Area Appraisal and Management Plans Work Programme Update	SPI	08-Sep-20	Officer Update			Paul Robertshaw
1st Quarter Budget & Performance Monitoring Report	SPI	08-Sep-20	Officer Update		Mark Green	Ellie Dunnett
Local Plan Review Regulation 18 - Preferred Approaches Public Consultation Part 1	SPI	07-Oct-20	Local Plan Review Process	?	Phil Coyne	Mark Egerton
Authority Monitoring Report	SPI	08-Dec-20	Local Plan Process	?	Mark Egerton	Anna Ironmonger
Local Plan Review Regulation 18 - Preferred Approaches Public Consultation Part 2	SPI	09-Feb-21	Local Plan Review Process	?	Phil Coyne	Mark Egerton
KCC 20mph Speed Limit Pilot - Summary of Conclusions (Requested by Cllr English)	SPI	Awaiting Date for Pilot Information to be Released by KCC	Cllr Request	?	TBC	TBC
Ensuring Conditions are Incorporated in Delegated Decisions	SPI	TBC	Cllr Request	?	Rob Jarman	Rob Jarman

Agenda Item 14

Strategic Planning and Infrastructure Committee

7th July 2020

Maidstone Affordable and Local Needs Housing Supplementary Planning Document - Adoption

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	<i>Rob Jarman, Head of Planning and Development</i>
Lead Officer and Report Author	Mark Egerton, Strategic Planning Manager and Andrew Connors, Housing Delivery Manager
Classification	Public
Wards affected	All

Executive Summary

The Affordable and Local Needs Housing Supplementary Planning Document is a commitment in the Maidstone Local Plan 2017. The document builds upon and provides more detailed guidance on the policies within the adopted Local Plan around the Council's preferred approach to the provision of affordable and local needs housing in Maidstone Borough.

The document has been subject to informal engagement with key stakeholders and Council Members, followed by a formal 6-week public consultation. Following consideration of the representations, the document has been subject to amendments and a final Consultation Statement has been produced, illustrating this process. The next step is for Members of this Committee to consider whether the Affordable and Local Needs Housing Supplementary Planning Document is ready to be adopted as a supplementary planning document for use as a material planning consideration in the decision-making process.

Purpose of Report

For decision. That the Committee adopt the Affordable and Local Needs Housing Supplementary Planning Document as a supplementary planning document for use as a material planning consideration in the decision-making process.

This report makes the following recommendations to this Committee:

1. That the content of the Affordable and Local Needs Housing Supplementary Planning Document and associated Consultation Statement are noted and the Affordable and Local Needs Housing Supplementary Planning Document is adopted for use in decision making

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	7 th July 2020

Maidstone Affordable and Local Needs Housing Supplementary Planning Document - Adoption

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Accepting the recommendations will materially improve the Council's ability to achieve 'Embracing Growth and Enabling Infrastructure' and 'Homes and Communities'. We set out the reasons other choices will be less effective in section 3	Rob Jarman (Head of Planning and Development)
Cross Cutting Objectives	The report recommendations support the achievement of the 'Deprivation and Social Mobility is Improved' cross cutting objective by seeking to ensure a supply of the affordable and local needs housing that is needed	Rob Jarman (Head of Planning and Development)
Risk Management	Already covered in the risk section	Rob Jarman (Head of Planning and Development)
Financial	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Ellie Dunnet, Head of Finance
Staffing	We will deliver the recommendations with our current staffing.	Rob Jarman (Head of Planning and Development)
Legal	The documents appended to this report are compliant with the Town and Country Planning (Local Planning) (England) Regulations 2012 . The A&LNH SPD has been prepared in association with Counsel's advice.	Russell Fitzpatrick MKLS (Planning) Team Leader
Privacy and Data Protection	Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with our retention schedules.	Policy and Information Team
Equalities	We recognise the recommendations may have	Equalities and

	varying impacts on different communities within Maidstone. Therefore, we have completed a separate equalities impact assessment	Corporate Policy Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	[Public Health Officer]
Crime and Disorder	No significant impact anticipated	Rob Jarman (Head of Planning and Development)
Procurement	No implications from the recommendations are anticipated	Rob Jarman (Head of Planning and Development)

1. INTRODUCTION AND BACKGROUND

- 1.1 Maidstone's Local Plan was adopted in October 2017. Strategic policies SP19 (Housing Mix) and SP20 (Affordable Housing) refer to the production of an Affordable and Local Needs Housing Supplementary Planning Document (A&LNH SPD) to expand on how the proposals contained in these policies will be implemented.
- 1.2 Following a procurement exercise, Adams Integra was appointed to take forward the A&LNH SPD and undertake pre-consultation engagement with key stakeholders as the document was drafted. These stakeholders were Registered Providers (Housing Associations) and representatives from the housebuilding industry.
- 1.3 Once this exercise had been completed, a Member working group took place. This was particularly targeted at Strategic Planning, Sustainability and Infrastructure Committee, and Communities, Housing and Environment Committee Members but was open to all Members to attend. Information obtained from this working group also informed the draft A&LNH SPD.
- 1.4 Supplementary Planning Documents are subject to a period of statutory public consultation prior to their adoption. Following the above pre-consultation engagement, the A&LNH SPD was agreed by this committee for public consultation at the 10th September 2019 meeting. The public consultation period of 6 weeks commenced on 7th October and finished on 18th November 2019. A Consultation Statement was published alongside the SPD that set out the pre-consultation engagement that took place during drafting, the issues raised, and how they had been addressed.
- 1.5 A total of 20 responses were received to the consultation and revisions have been made to the document in response to relevant matters raised. The resulting A&LNH SPD is attached as Appendix 1. An updated Consultation Statement summarising all engagement that has taken place, including the

6 weeks public consultation, the responses received and the changes that have been made, is provided as Appendix 2.

Summary Content of the ALNH SPD

- 1.6 The SPD has various purposes, including to facilitate negotiations and provide certainty for landowners, lenders, housebuilders and Registered Providers regarding the council's expectations for affordable and local needs housing provision in specific development schemes. This includes guidance on the range of approaches, standards and mechanisms required to deliver a range of housing to meet identified needs. As such, the SPD is intended to facilitate delivery of truly affordable homes in the borough.
- 1.7 There are a number of key matters that the SPD considers, and these are set out below.
- 1.8 Following an introduction, Sections 2 and 3 set out the local and national planning context. The SPD notes that one of the key issues the Borough is facing is meeting housing needs by delivering affordable housing, local needs housing and accommodation for the elderly and to meet rural housing needs. It notes that the borough is failing to meet the levels of affordable housing set out in the published Strategic Housing Market Assessment.
- 1.9 In respect of the national context, the SPD notes that production of a SPD has to meet legislative and guidance requirements. It also sets out the use of and requirements associated with planning obligations as the primary method of delivering affordable housing through private development schemes.
- 1.10 Section 4 looks at the definition of affordable housing, as well as the various types of affordable housing. Sections 5 to 7 consider the evidence of need for affordable housing, the required mix of units and when affordable housing is required.
- 1.11 The need for social housing is obvious and reflected nationally. The SPD notes that across the Borough as a whole, it is estimated that some 67% of need is for social or affordable rent tenures, whilst around 33% is for intermediate housing. Smaller (one and two bedroom) dwellings account for between 60% and 70% of the need with larger (three bedroom and above) dwellings accounting for between 30% and 40%. At the same time, the Maidstone Strategic Housing Market Assessment showed that over a quarter of households have an income below £20,000 with a further third in the income range of £20,000 - £30,000.
- 1.12 Section 6 sets out the requirements for the mix of housing and types of affordable housing, including dwelling sizes. This includes when the provision of affordable housing is required in extra care housing schemes.
- 1.13 Section 7 refers to policy requirements for affordable housing and provides further detail around the government's vacant building credit, the Community Infrastructure Levy and Rural Exception Site requirements.
- 1.14 Section 8 deals with affordability of rented and intermediate units. It makes it clear that social rent represents the largest need in the borough and the provision of social rent is the preferred option of the Council as it is the tenure that deals most effectively with affordability issues.

- 1.15 Section 8 also goes further to say that social rent will be the assumed tenure for rented units and that the Council will be flexible regarding the total percentage of affordable housing and/or tenure split if this results in the provision of social rent on site. Reference is even made to forgoing some intermediate units in exchange for provision of social rent units as opposed to affordable rent units.
- 1.16 Following information on shared ownership provision there is also information on discounted homes for sale with the discount being applied in perpetuity. This is stated as a product that would be particularly suited to helping local people onto the housing ladder.
- 1.17 Sections 9 to 11 deal with how affordable housing should be incorporated on site, how the units are transferred to an RP and the design standards required. This includes how shared ownership properties should not be lost once full ownership is reached, or the occupier moves. There is also reference to the Council investigating the potential for minimum space standards as part of the Local Plan Review. Wheelchair user requirements together with Ideal occupancy and minimum floor area requirements are also considered.
- 1.18 Although the council does not have an approved list of Registered Providers, Section 11 includes a list of providers and also states support for Housing Co-operatives regarding affordable housing generally.
- 1.19 Section 12 deals with housing for the elderly, including extra care, older persons and specialist housing. This includes the clarification around application of the affordable housing requirements to these types of housing.
- 1.20 Sections 13 and 14 deal with suggested and likely transfer values to RPs and off-site financial contributions (where applicable). These suggested and likely transfer values have been set out on a number of bedroom basis, having regard to Local Housing Allowance rents and open market values to set out final figures.
- 1.21 The guidance in the SPD regarding off-site financial contributions makes it clear that affordable housing provision should be on site and that exceptional circumstances would need to exist to justify alternative provision. In the event that such exceptional circumstances are agreed by the Council, Section 14 provides relevant information for calculating the level of off-site provision.
- 1.22 Section 15 looks at how the Council will deal with viability and sets out the Council's requirements in respect of viability assessments. Viability assessments will be made publically available alongside the documentation submitted as part of the planning application. The SPD states that *"it is not sufficient for developers to argue that they did not take into account the need to provide affordable housing in the amount they have paid for the land as it is reasonable to expect that land values will reflect the requirements of the Local Plan."* It is also clear that other development costs, including site demolition, infrastructure provision and flood mitigation should also have been factored into the amount paid for the land.
- 1.23 Section 16 contains a summary of information for developers and Section 17 contains contact details for key officers.

2. AVAILABLE OPTIONS

- 2.1 The first option is for this Committee to adopt the ALNH SPD. The SPD would then be published and made available in accordance with the requirements set out in relevant legislation. This includes publication of an Adoption Statement. The adopted ALNH SPD would then be used as a material planning consideration in the decision-making process. It would also be used in decisions elsewhere in the authority.
- 2.2 The second option is for the Committee to require significant changes to the ALNH SPD prior to adoption. This option would delay the adoption of the SPD in order that the content could be modified. This may also include further engagement with relevant parties, which would be recorded in the Consultation Statement
- 2.3 The third option is not to proceed with the ALNH SPD. The SPD is a commitment within the Adopted Local Plan and has been subject to a significant period of production, including stakeholder and Member engagement and public consultation. This option would mean decisions would be taken in accordance with current policies without reference to the guidance and context contained within the SPD
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3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 *The first option is the preferred option. As noted above, this would mean that the ALNH SPD would be adopted and used as a material planning consideration in the decision-making process. It would also be used in decisions elsewhere in the authority.*
- 3.2 *Following adoption of the SPD, the Council will comply with its obligations for publication, including publication of an Adoption Statement.*
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4. RISK

- 4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 As noted earlier in this report, the ALNH SPD was subject to pre-consultation engagement with key stakeholders and Members as the document was drafted. These stakeholders were Registered Providers (Housing Associations) and representatives from the housebuilding industry. A Member Workshop was also undertaken. The responses and modifications to the draft SPD were compiled in a Consultation Statement.

- 5.2 A subsequent 6-week public consultation on the draft SPD along with the associated Consultation Statement resulted in 20 representations being made on the draft SPD.
- 5.3 A final Consultation Statement has been produced to reflect the engagement and public consultation and the resultant modifications to the SPD and this is provided as Appendix 2.
- 5.4 As noted in Appendix 2 a number of issues were raised. One of the concerns was around the SPD creating new policy and placing emphasis on social rented housing – the SPD makes it clear that it reflects current policy in the adopted 2017 Local Plan. It is our view that the SPD does not create new planning policy. It builds upon and provides more detailed advice or guidance on the policies in the adopted Local Plan, particularly strategic policies SP19 (Housing Mix) and SP20 (Affordable Housing). There should also not be an additional cost from the content of the SPD, which is provided as guidance to supplement existing policy only.
- 5.5 Concern was also raised around an enabling fee and this has been removed from the SPD. Reference to space standards for affordable housing have been removed and these will now be addressed along with space requirements for market homes as part of the Local Plan Review.
- 5.6 Amendments have also been made to reflect concerns around clustering of affordable units and to ensure the external appearance of properties reflects those of other properties in the development. Requests around greater flexibility in the SPD have also been addressed or the current approach justified.
- 5.7 Clarity has also been provided in the Consultation Statement that the SPD is not an opportunity to revisit current Local Plan Policies and that the appropriate arena to do this is through the Local Plan Review.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Should this committee resolve to adopt the ALNH SPD, the document will be published, along with an Adoption Statement, in accordance with relevant legislation and the Council's Adopted Statement of Community Involvement.
- 6.2 The ALNH SPD will also then be used as a material planning consideration in the decision-making process. It would also be used in decisions elsewhere in the authority.
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7. REPORT APPENDICES

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

- *Appendix 1: Maidstone Affordable and Local Needs Housing Supplementary Planning Document*
 - *Appendix 2: Maidstone Affordable and Local Needs Housing SPD Consultation Statement*
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Maidstone Borough Council



Affordable and Local Needs Housing Supplementary Planning Document

FINAL DRAFT
April 2020

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1 INTRODUCTION

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- 1.1 Maidstone Borough Council (MBC) has recently adopted its Local Plan (October 2017) and this includes a commitment to produce an Affordable and Local Needs Housing Supplementary Planning Document (the SPD).
- 1.2 The SPD is intended to facilitate negotiations and provide certainty for landowners, lenders, housebuilders and Registered Providers regarding MBC's expectations for affordable and local needs housing provision in specific schemes.
- 1.3 This Supplementary Planning Document (SPD) provides guidance as to how Local Plan policies should be applied in a development viability context when determining planning applications. It aims to provide greater clarity to both applicants and the general public and ensures that the principles of sustainable development are at the forefront of decision-making in the Borough.
- 1.4 The purpose of this Supplementary Planning Document (SPD) is to provide advice on how the Council's Local Plan housing policies are to be implemented. This includes guidance on the range of approaches, standards and mechanisms required to deliver a range of housing to meet identified needs.
- 1.5 Once adopted, this SPD will form a material consideration in the determination of planning applications and should be considered alongside the policies in the Local Plan.
- 1.6 Its guidance should therefore be taken into consideration from the earliest stages of the development process of any site, including any land purchase negotiations and in the preparation of development schemes.
- 1.7 There is a shortage of affordable housing in the Borough and the Council is under significant pressure to deliver new housing to meet objectively assessed needs.
- 1.8 As such the SPD is intended to maximise delivery of truly affordable homes in the borough.
- 1.9 It should be noted that this intention will have its limitations in the context of a difficult macro picture around the housing market and affordability.
- 1.10 This SPD will look to address this through the encouragement of the inclusion of social rent and discounted open market units. Social rents are set at more affordable rates than "affordable rent" and discounted market sale can include larger discounts than normal making them more affordable than shared ownership products.
- 1.11 Every effort has been made to make this guide as comprehensive as possible, but it is not possible to anticipate the needs generated by all types of development. It is the responsibility of those submitting planning applications to contact planning staff at as early a stage as possible to determine whether the potential impacts of a proposed development go beyond the advice given here.
- 1.12 This guide will look at the following items each in separate chapters:
 - Chapters 1 and 2 look at the local and national planning context.
 - Chapters 3 to 7 look at the definition and evidence of need for affordable housing; required mix of units and when affordable housing is required.
 - Chapter 8 deals with affordability of rented and intermediate units

- Chapters 9 to 11 deal with how affordable housing is incorporated on site, how the units are transferred to an RP and the design standards required.
- Chapter 12 deals with housing for the elderly
- Chapters 13 and 14 deal with transfer values from RPs and off-site financial contributions (where applicable).
- Chapter 15 looks at how the Council will deal with viability issues.
- Chapter 16 contains a summary of information for developers and Chapter 17 contains contact details for key officers.

2 LOCAL AND HOUSING CONTEXT

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- 2.1 The Borough of Maidstone covers 40,000 hectares and is situated in the heart of Kent. Maidstone is the county town of Kent and approximately 70% of its 155,143 population (2011 census) live in the urban area. The urban area, located in the north west of the borough, has a strong commercial and retail town centre with Maidstone comprising one of the largest retail centres in the south east.
- 2.2 A substantial rural hinterland surrounds the urban area, part of which enjoys designation due to its high landscape and environmental quality. The borough encompasses a small section of the Metropolitan Green Belt (1.3%), and 27% of the borough forms part of the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 2.3 The borough is strategically located between the channel tunnel and London with direct connections to both via the M20 and M2 motorways. Three central railway stations in the town connect to London, the coast and to the Medway Towns.
- 2.4 The town centre acts as the focus for retail development throughout the borough and has an important role to play in the visitor economy with the tourist information centre located at Maidstone Museum. The rural service centres of Harrietsham and Lenham lie on the Ashford International - Maidstone East - London Victoria line; and Headcorn, Marden and Staplehurst lie on the Ashford International - Tonbridge - London Charing Cross and London Cannon Street lines. The larger village of Yalding lies on the Medway Valley Line, Paddock Wood - Maidstone West - Maidstone Barracks - Strood.
- 2.5 The channel tunnel link known as High Speed 1 (HS1) runs through the borough, providing fast links into London (a service links to HS1 from Maidstone West station, via Strood to Ebbsfleet). A number of main transport routes cross the borough including the A20, A229, A249, A274 and A26.
- 2.6 The borough is relatively prosperous with a considerable employment base and a lower than average unemployment rate compared to Kent. However, the borough also has a low wage economy that has led to out-commuting for higher paid work. The local housing market crosses adjacent borough boundaries into Tonbridge and Malling and Ashford, and is influenced by its proximity to London, resulting in relatively high house prices.
- 2.7 As a result of having a Local Plan with site allocations in place, MBC is meeting its overall housing delivery targets and is on course to make up for previous undersupply.
- 2.8 One of the key local issues is meeting housing needs by delivering affordable housing, local needs housing and accommodation for the elderly and to meet rural housing needs (as well as accommodation to meet Gypsy and traveller needs).
- 2.9 Between 2015 – 2019 the Borough delivered 1,744 new affordable homes, of which 63 were delivered on rural exception sites for local needs housing¹. This equates to 218 units per year which is below the target of 322 units per year (identified in the SHMA Jan 2014) and demonstrates the need to aim to provide more affordable housing units.

¹ http://www.maidstone.gov.uk/_data/assets/pdf_file/0004/9517/Housing-Strategy-2016-20.pdf

3 NATIONAL CONTEXT

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- 3.1 This SPD has been prepared in accordance with planning legislation and policy overseeing the processes of securing appropriate contributions and obligations from developments.
- 3.2 Planning obligations or agreements and Unilateral Undertakings are normally entered into in accordance with Section 106 of the Town & Country Planning Act 1990 (as amended). These tend to be referred to on a day-to-day basis as 'Section 106 (S106) agreements' and this term is used throughout this SPD.
- 3.3 Section 106 of the 1990 Act provides that anyone with an interest in land may enter into a planning obligation, which is enforceable by a local planning authority.
- 3.4 An obligation may be created by agreement or by the party with an interest in the land making a unilateral undertaking. Obligations may:
- Restrict the development or use of land
 - Require operations to be carried out in, on, under or over the land
 - Require the land to be used in any specified way; or
 - Require payments to be made to the local planning authority, either in a single sum or periodically.
- 3.5 Obligations run with the land and, providing all parties with an interest in the land enter into the agreement, affect everyone with an interest in it, including successors in title. They are registered as Local Land Charges.
- 3.6 The main principles governing the use of obligations are that:
- They should only be used when planning conditions are not appropriate
 - They are intended to make development acceptable which would otherwise be unacceptable in planning terms
 - They can be used to prescribe the nature of the development (e.g. a proportion of the housing must be affordable), to compensate for loss or damage caused by the development (e.g. loss of open space) or mitigate a development's impact (e.g. increase public transport provision).
- 3.7 All S106 agreements should satisfy the following tests:
- it must be necessary to make the proposed development acceptable in planning terms,
 - it is directly related to the proposed development,
 - it is fairly and reasonably related in scale and kind to the proposed development.
- 3.8 Agreements must be governed by the fundamental principle that planning permissions may not be bought or sold, and they cannot be used to secure a share in the profit from development.
- 3.9 Contributions may be either in kind or in the form of a financial contribution.
- 3.10 Payments can be made in the form of a lump sum, an endowment, or as phased payments related to dates, events or triggers.
- 3.11 Local planning authorities should set out their policy on local standards, including infrastructure contributions and requirements for affordable housing in the Local Plan.

The plan is subject to testing the cumulative impact of policies and requirements on viability, so that the Local Plan can be delivered.

- 3.12 This SPD provides clarity to developers and wider stakeholders on the requirements for infrastructure arising from consented developments, and associated obligations to ensure that the impacts of new developments are appropriately considered and mitigated.

4 DEFINITION OF AFFORDABLE HOUSING

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4.1 The NPPF provides the definition of affordable housing (as used in this report). The following is taken from Annex 2 of NPPF, February 2019:

4.2 **Affordable housing**: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

4.3 **a) Affordable housing for rent**: meets all of the following conditions:

- (a) the rent is set in accordance with the Government's rent policy for **Social Rent or Affordable Rent**, or is at least 20% below local market rents (including service charges where applicable);
- (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and
- (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

4.4 **b) Starter homes**: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.

4.5 **c) Discounted market sales housing**: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

4.6 **d) Other affordable routes to home ownership**: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision or refunded to Government or the relevant authority specified in the funding agreement.

4.7 Other relevant definitions within the NPPF include the following:

4.8 **Build to Rent**: Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses but should be on the same site and/or contiguous with the main development. Schemes will usually offer

longer tenancy agreements of three years or more and will typically be professionally managed stock in single ownership and management control.

- 4.9 Further guidance on “build to Rent” can be found at <https://www.gov.uk/guidance/build-to-rent>
- 4.10 The government published the guide: ‘Accelerating Housing Supply and Increasing Tenant Choice in the Private Rented Sector: A Build to Rent Guide for Local Authorities in March 2015 which outlines a series of practical options as to how local authorities can support the development of private rented sector homes and the benefits it can offer to local authorities.
- 4.11 Build to Rent should not be viewed as an alternative to the Council’s target tenure rate percentage of the affordable provision to be for social or affordable.
- 4.12 The National Planning Policy Framework states that affordable housing on build to rent schemes should be provided by default in the form of affordable private rent, a class of affordable housing specifically designed for build to rent. Affordable private rent and private market rent units within a development should be managed collectively by a single build to rent landlord.
- 4.13 The Council would expect that the benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any build to rent scheme would be 30% of the total number of units.
- 4.14 **Rent to buy.** The Council are open to “rent to buy”, but only for those properties required under affordable home ownership. A suitable example of this is a product called “rent plus” <https://rentplus-uk.com/>.
- 4.15 **Entry-level exception site:** A site that provides entry-level homes suitable for first time buyers (or equivalent, for those looking to rent), in line with paragraph 71 of the NPPF.
- 4.16 The Council is happy to consider the development of Entry Level Exceptions Sites in suitable locations, particularly where these will provide for Local Key Workers.
- 4.17 **Older people:** People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.
- 4.18 **Rural exception sites:** Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either past or current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.
- 4.19 **Self-build and custom-build housing:** Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.
- 4.20 **Intermediate rented housing (no longer defined in the NPPF)** is homes for rent provided at a cost above social rent but below market levels. It does not include

affordable rented housing. Under local policy, Intermediate Rented Housing is included as a form of affordable housing and classed as Intermediate Housing. These homes may be delivered by a Registered Provider or any other Provider.

- 4.21 **'Low cost market' housing** does not meet the definition of affordable housing and is not considered as affordable housing for planning purposes.
- 4.22 The Government have published a consultation in February 2020 on the proposals for the implementation of a First Homes policy. This consultation seeks views on First Homes for local people, considering both the design of this policy and options for its implementation. First Homes are new properties to be sold to local people for at least 30% below market value, prioritised to first time buyers, with the discount preserved in perpetuity. Eligible buyers could be local first-time buyers, key workers or military personnel and veterans.
- 4.23 The Council will monitor the outcome of the consultation and the subsequent impact of the implementation of any final First Home scheme policy and carry out any necessary updates to this SPD accordingly.

5 EVIDENCE OF NEED FOR AFFORDABLE HOUSING

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- 5.1 The Government's Green Paper - A new deal for social housing (August 2018)² states that *"there is a continued need for more social housing. Various measures suggest there will be a continued need for more social housing. The number of households is projected to rise, with average annual household growth of around 220,000 over the next few years. Not everyone will be able to meet their housing needs through the market. There are consistently over 1 million households on local authorities' waiting lists. There are over one million households in the private rented sector receiving Housing Benefit, and roughly 50-60,000 households are accepted as homeless and in priority need in England each year.*
- 5.2 At paragraph 143 of the Green Paper it says that *"There remains a long term need for social housing, especially in London and the South East. However, we acknowledge that there are housing pressures in other places too, including rural areas. It is worth bearing in mind that, while social housing supports some of the most vulnerable in our society, 58 per cent of working age social tenants are in work. For many such working tenants, particularly those living in areas of acute affordability pressures, the reality of housing costs will make renting in the private sector or saving for a deposit more difficult."*
- 5.3 The Strategic Housing Market Assessment (updated June 2015) identified that the housing market area for Maidstone overlaps with Ashford and Tonbridge and Malling Boroughs. It identified a net affordable housing need of 5,800 homes from 2013 to 2031, equivalent to 322 households each year.
- 5.4 This is a significant need for the borough and a clear justification for the council to seek affordable dwellings through new development schemes.
- 5.5 Across the Borough as a whole, it is estimated that some 67% of need is for social or affordable rent tenures, whilst around 33% is for intermediate housing. Smaller (one and two bedroom) dwellings account for between 60% and 70% of the need with larger (three and above) dwellings accounting for between 30% and 40%.³
- 5.6 **Local Needs Housing** - Maidstone has a total of 41 Parishes in the Borough. Property within the villages and small towns of Maidstone are expensive; a reflection on the attractiveness of the Borough. This means that many local people are priced out of the housing market and unable to afford to live locally. The result is that many young couples and families have been forced to move away elsewhere in search of more affordable accommodation. This can have a detrimental effect on the balance and sustainability of the local community. Through the provision of affordable housing in rural locations the Council can help local people to remain in the village or town where they have strong family or employment ties.⁴
- 5.7 **Entry Level Access to the Markets** - When assessing housing need, an important consideration is to establish the entry-level costs of housing to buy and rent. The estimated average lower quartile property prices for purchases in 2013 were between £85,000 for a 1 bed dwelling in Maidstone Town Centre to £322,000 for a 4 bed dwelling in Maidstone Rural North. The entry-level cost for private rented accommodation

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733605/A_new_deal_for_social_housing_web_accessible.pdf

³http://www.maidstone.gov.uk/data/assets/pdf_file/0004/9517/Housing-Strategy-2016-20.pdf

⁴http://www.maidstone.gov.uk/data/assets/pdf_file/0004/9517/Housing-Strategy-2016-20.pdf

indicates that rents range from about £520-£575 per month for a one bedroom home up to around £1,250 per month for a four-bedroom property depending on location.

- 5.8 The Maidstone Strategic Housing Market Assessment (January 2014) showed that over a quarter of households have an income below £20,000 with a further third in the range of £20,000 to £40,000. The overall average income of all households in the Borough was estimated to be around £31,600 with a mean income of £42,000.
- 5.9 Across the Borough it is estimated that around 43% of households are unable to access market housing on the basis of income levels.
- 5.10 There is also a gap between what the Local Housing Allowance (LHA) rate is and what the rent is for private rented properties.
- 5.11 The new Maidstone Strategic Housing Market Assessment release date is not yet known but any policy changes will be included in the Local Plan Review, which is due to be adopted in 2022.
- 5.12 Further information regarding housing need can be found in the Council's Housing Strategy.
- 5.13 Affordable housing for rent, as defined in paragraphs 4.3 and 4.13 above, will be allocated in accordance with the Council's Allocation Scheme which is available to view on the Council's website.

6 MIX OF MARKET AND AFFORDABLE HOUSING REQUIRED [return to contents](#)

6.1 Maidstone Borough Council's Local Plan was adopted in October 2017 and contains the following policies in relation to market and affordable housing:

Policy SP 19 - Housing mix

Maidstone Borough Council will seek to ensure the delivery of sustainable mixed communities across new housing developments and within existing housing areas throughout the borough.

- 1. In considering proposals for new housing development, the council will seek a sustainable range of house sizes, types and tenures (including plots for custom and self-build) that reflect the needs of those living in Maidstone Borough now and in years to come.*
- 2. Accommodation profiles detailed in the Strategic Housing Market Assessment 2015 (or any future updates) will be used to help inform developers to determine which house sizes should be delivered in urban and rural areas to meet the objectively assessed needs of the area. In relation to affordable housing, the council will expect the submission of details of how this information has been used to justify the proposed mix.*
- 3. Where affordable housing is to be provided, developers should also take into consideration the needs of households on the council's housing register and discuss affordable housing requirements with the council's housing team at the pre-submission stage of the planning process.*
- 4. Large development schemes will be expected to demonstrate that consideration has been given to custom and self-build plots as part of housing mix.*
- 5. The council will work with partners to support the provision of specialist and supported housing for elderly, disabled and vulnerable people.*
- 6. Gypsy, Traveller and Travelling Showpeople accommodation requirements will form part of the borough need for housing.*

6.2 With regard to the required affordable housing mix the SHMA ⁵(January 2014) says the following:

There are thus a range of which are relevant in considering policies for the mix of affordable housing sought through development schemes. At a Borough-wide level, the analysis would support policies for the mix of affordable housing of:

- 1-bed properties: 30%-35%
- 2-bed properties: 30%-35%
- 3-bed properties: 25%-30%
- 4-bed+ properties: 5%-10%

6.3 The SHMA (January 2014) goes on to say that the need for affordable housing of different sizes will vary by area across the Borough area and over time. In considering the mix of homes to be provided within specific development schemes, the information herein should be brought together with details of households currently on the Housing Register in the local area and the stock and turnover of existing properties.

6.4 With regard to the provision of market units the SHMA (January 2014) says the following:

⁵ http://www.maidstone.gov.uk/_data/assets/pdf_file/0007/44656/Strategic-Housing-Market-Assessment-2014.pdf

In the market sector we would suggest a profile of housing that more closely matches the outputs of the modelling. On the basis of these factors we consider that the provision of market housing should be more explicitly focused on delivering smaller family housing for younger households. On this basis we would recommend the following mix of market housing be sought:

- 5%-10% 1-bed properties
- 30%-35% 2-bed properties
- 40%-45% 3-bed properties
- 15%-20% 4+ bed properties

The SHMA (January 2014) goes on to say that although we have quantified this on the basis of the market modelling and our understanding of the current housing market we do not strongly believe that such prescriptive figures should be included in the plan making process and that the 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time. The figures can however be used as a monitoring tool to ensure that future delivery is not unbalanced when compared with the likely requirements as driven by demographic change in the area.

- 6.5 The recommendations in the SHMA (January 2014) are shown below for ease of reference and should be used to help inform the housing mix proposals for market and affordable housing. NB. Any updated SHMA mix will supersede this table. Applicants would need to demonstrate how the size percentages in the table relate to the chosen mix.

Table 60: Indicative requirements for different dwelling sizes (2011-31)

	1-bed	2-bed	3-bed	4+ bed
Market	5-10%	30-35%	40-45%	15-20%
Affordable	30-35%	30-35%	25-30%	5-10%

- 6.6 A particular site's characteristics and the development as a whole should be reflected in the affordable housing mix of dwelling tenure, type and size, taking into account the space standards guidelines for affordable housing. The Council's planning team will advise on the exact tenure, type and size split on each site through pre-application discussions.
- 6.7 Where an application is in relation to Rural Exceptions Housing, Build to Rent, Entry Level Exceptions sites or other specialist accommodation, the standard mix will not apply.
- 6.8 **Custom and self-build housing** is housing built or commissioned by individuals or associations of individuals for their own occupation. National planning policy and guidance sets out the need for local planning authorities to identify and take account of such housing need in their area when planning for a mix of dwellings. Whilst the SHMA has not identified a need for custom and self-build housing to be strategically allocated in Maidstone, it is clear that this sector can play a key role in helping achieve a higher level of home ownership, and that policies should be flexible to take account of changing market conditions over time.
- 6.9 It is recommended that any requirement for Custom and self-build housing is discussed with planning officers at the pre-application stage.

- 6.10 The provision of any self-build plots will be in addition to the provision of affordable housing.
- 6.11 **Extra care and sheltered housing schemes**
- 6.12 Extra care and continuing retirement communities often provide self-contained units for sale to meet the needs of a growing older population. Such developments of self-contained units, where they are within a Class C3 development, will be required to meet the Council's Affordable Housing requirements in **Policy SP20**.
- 6.13 For the avoidance of doubt, the affordable housing requirements associated with Policy SP20 apply only to the use class C3 element of development proposals.
- 6.14 Accommodation for **Gypsies and Travellers** is a specific type of housing that councils have the duty to provide for under the Housing Act (2004) but is not subject to the contents of this SPD.

- 7 WHEN IS AFFORDABLE HOUSING REQUIRED [return to contents](#)
- 7.1 Developers and RPs should refer to Local Plan Policy SP20 for details of the target rates for the overall percentage of affordable housing and tenure required.
- 7.2 More information on target rates for affordable and tenure provision can be found within Local Plan Policy SP20 here:
- <http://services.maidstone.gov.uk/docs/October%202017%20Adopted%20Local%20Plan.pdf>
- 7.3 This SPD will be updated regularly so as to reflect any changes in the Council's Policies that may result from the Local Plan review.
- 7.4 For clarification purposes affordable housing requirement referred to in SP20 is a percentage of the number of units proposed in accordance with the market and affordable mixes outlined in the SHMA (January 2014).
- 7.5 In all cases, it is expected that new affordable housing delivered under Policy SP20 will be delivered without the input of public subsidy, which includes grant from Homes England
- 7.6 For clarity Maidstone Borough Council are applying the threshold of 10 units or more as set out in the National Planning Policy Framework (NPPF).
- 7.7 The MBC Local plan says that to support community integration, affordable housing will be provided **on-site**, and alternative provision will not be accepted unless there are **exceptional circumstances** that justify it. Any proposals for off-site or financial provision must be made at the time of the application.
- 7.8 **Vacant Building Credit.** - The Government has introduced a vacant building credit (VBC) to incentivise brownfield development on sites containing vacant buildings. In considering how the vacant building credit should apply to a particular development, the council will consider whether the building has been made vacant for the sole purposes of redevelopment and whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.
- 7.9 **Community Infrastructure Levy (CIL)** - -On 25 October 2017 Maidstone Borough Council formally approved its Community Infrastructure Levy (CIL) Charging Schedule at Full Council. It has been implemented on planning permissions permitted on and from Monday 1 October 2018. Affordable housing is excluded from the Community Infrastructure Levy providing the necessary documentation is completed and submitted to the prescribed timetable.
- 7.10 The definition of existing building vacancy effectively means that a development can only benefit from CIL exemption or VBC but not both.
- 7.11 **Rural Exception Sites (Local Needs Housing)** - Exception sites are small sites in locations where sites would not normally be released for housing development. The housing must remain affordable in perpetuity and priority will be given to occupants who meet relevant criteria, i.e. those who have a specified connection to the settlement – often being residential, employment or family.

Policy DM 13 - Affordable local needs housing on rural exception sites

Outside of Maidstone, the five rural service centres and the five larger villages, the council will work with parish councils and local stakeholders to bring forward affordable local needs housing at its rural communities. The council will grant planning permission subject to the following criteria:

- 1. Development has been proven necessary by a local needs housing survey approved by the council which has been undertaken by or on behalf of the parish council(s) concerned. In consultation with the parish council and registered provider of social housing, the council will determine the number, size, type and tenure of homes to be developed after assessing the results of the survey. The council will also use the housing register to determine where there may be unmet housing needs.*
- 2. People meeting the relevant occupation criteria will be given priority to occupy local needs housing (under the council's housing allocation scheme).*
- 3. Affordable local needs housing will remain available in perpetuity to meet the need for which it was permitted. This will be secured by planning conditions and/or legal agreements as appropriate.*
- 4. Sustainability of the site and its settlement will be a prime consideration in decision making. The council will give preference to settlements and communities where a range of community facilities and services, in particular school, health, and shopping are accessible from the site preferably on foot, by cycle or on public transport. The site must also be safely accessible to and from the public highway by all vehicles using the site at all times.*
- 5. The scale of development must be in proportion to the context of the settlement where it is located.*
- 6. Where national landscape, ecological and heritage designations are affected by the proposed development, proposals must have regard to the designation and its purpose whilst complying with national policy and guidance.*

7.12 The Council actively supports the provision of rural exception sites coming forward across the Borough.

7.13 The Council has stated its intention to work in close partnership with parish councils and local stakeholders in order to maintain and promote sustainable, mixed and inclusive communities.

7.14 The Council will endeavour to ensure that Local Needs Housing Surveys are carried out by every Parish where the Local Parish Council supports this approach.

7.15 This will provide a clear picture of Local Needs Housing across the Borough.

7.16 The Council expects local needs housing schemes to provide 100% affordable housing to meet locally identified needs. As a general rule, the development of local needs housing is facilitated by low land values with plot values of around £10,000, demonstrating the housing is only permitted as an exception.

7.17 However, on rare occasions proposals may include an element of market housing to cross subsidise delivery. This may be to provide financial viability in order to deliver local needs homes and/or be a requirement of the landowner. Where market homes are suggested, the applicant will need to demonstrate to the satisfaction of the Council that a 100% affordable housing scheme has been fully considered and the reasons why it has been discounted.

7.18 If the Council is satisfied that an element of cross subsidy is required to secure a local needs housing scheme, the amount of market housing will need to be at the minimum level required. It is envisaged that the amount of market housing should not exceed 30%

of the total number of homes to be provided within the overall scheme or 3 homes, whichever is the lesser amount.

- 7.19 A fully costed viability appraisal will need to be carried out to justify the inclusion of market housing for cross subsidy purposes.
- 7.20 It is expected that any market homes provide for cross subsidy purposes will only comprise housing which is three bedrooms or less. Two- and three-bedroom homes are the primary size of new market homes required in the Borough as evidenced in the SHMA. Executive style homes will not be permitted.
- 7.21 Unless otherwise agreed by the Council, it is expected all of the market housing units will be sold to people with a local connection to the parish at first sale only.
- 7.22 This would be set out in the Section 106 Agreement.
- 7.23 In order to promote and secure local needs housing, useful information is provided in the Kent Rural Housing Protocol⁶

⁶ <https://www.kenthousinggroup.org.uk/assets/uploads/2017/02/Final-KHG-Rural-Housing-Protocol.pdf>

8 AFFORDABILITY

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- 8.1 The largest need in the Borough is for **social rent**. The latest guidance on setting of social rents⁷ says the following:

Registered providers may set the initial rent on properties to be let at social rent at a level that is no higher than formula rent, subject to the rent flexibility level

The basis for the calculation of formula rents is:

- 30% of a property's rent is based on relative property values
- 70% of a property's rent is based on relative local earnings
- a bedroom factor is applied so that, other things being equal, smaller properties have lower rents

- 8.2 In reality what this means is that social rents (set by RPs) are much lower than "affordable rents" and are the preferred option for Maidstone Borough Council as they are the tenure that deal most effectively with affordability issues.
- 8.3 The Council's preference is for social rent and this will be the initial assumed tenure for the rented units. However, it is accepted that the delivery of social rent has been difficult and that the most common rented tenure being delivered is affordable rent. It should also be noted that the Economic Viability Report used to support the Local Plan assumed a tenure split of 70% affordable rent / 30% intermediate and did not include any social rent.
- 8.4 **Affordable rents** – are typically higher than social rents. The intention behind this flexibility is to enable properties let on this basis to generate additional capacity for investment in new affordable housing
- 8.5 Affordable rent housing means accommodation that is:
- (a) provided by a registered provider pursuant to an agreement between that provider and the Homes and Communities Agency (now Homes England) or the Greater London Authority and the accommodation is permitted by that agreement to be let at an affordable rent;
 - (b) provided by a registered provider pursuant to an agreement between a local authority and the Secretary of State and the accommodation is permitted by that agreement to be let at an affordable rent; or
 - (c) provided by a local authority and the Secretary of State, Homes England or the Greater London Authority has agreed that it is appropriate for the accommodation to be let at an affordable rent.
- 8.6 The rent for affordable rent housing (inclusive of service charges) must not exceed 80% of gross market rent.
- 8.7 Providers should have regard to the local market context, including the relevant Local Housing Allowance for the Broad Rental Market Area in which the property is located, when setting affordable rents.⁸
- 8.8 It is the Council's requirement that RPs cap their affordable rents to LHA levels if the 80% of the gross market rents exceeds the LHA level.

⁷

⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740300/180912_Draft_policy_statement.pdf

8.9 The Local Housing Allowance rents can be found by entering the postcode for the proposed scheme into the following website: - <https://lha-direct.voa.gov.uk/>

8.10 The current Local Housing Allowance rate (August 2019) are as follows:

Maidstone Broad Rental Market Area BRMA:

One Bedroom Rate:	£131.11 per week
Two Bedrooms Rate:	£162.29 per week
Three Bedrooms Rate:	£185.86 per week
Four Bedrooms Rate:	£235.41 per week

8.11 "Whether the Council could play a role in delivering affordable housing in the form of social rent on S106 sites, to help meet needs, is the subject of a separate report by the Council entitled *"Communities, Housing and Environment Committee – 17th September 2019 - Housing Delivery Partnership Update"*

8.12 The Communities Housing & Environment Committee took the decision that Maidstone Borough Council should once again start to develop its own portfolio of affordable housing. This decision is reflected in the Council's adopted capital programme, whereby £30m will be invested to develop up to 200 social rented homes.

8.13 Where a developer can demonstrate that the affordable housing targets in policy are not economically viable, the Council will be flexible regarding the tenure split and / or total percentage of affordable housing if this results in the provision of social rent on site. This would be on the basis that it would be "cost neutral" in terms of the overall viability to developers. A viability report would need to be undertaken to ensure that there was 'cost neutrality' and that the development is still viable for the developer.

8.14 For example, some intermediate units could be forgone in exchange for the provision of social rented units as opposed to affordable rented units.

8.15 **Shared Ownership Units** are where the purchaser buys an initial share from a Registered Provider who retains, and charges rent on the remaining equity. The purchaser may acquire further equity shares until the whole home is owned. The purchaser of a shared ownership property needs to enter into a shared ownership lease and has to pay rent on the unsold equity (at a maximum of 2.75%).

8.16 Nationally, there are some general eligibility requirements that anyone wishing to buy a Shared Ownership home must meet. The general eligibility criteria for Shared Ownership is as follows:

- You must be at least 18 years old;
- Outside of London your annual household income must be less than £80,000
- You should generally be a first-time buyer, i.e. you don't already own a home. If you do already own, you must be in the process of selling it;
- You should not be able to afford to buy a home suitable for your housing needs on the open market;
- You must show you are not in mortgage or rent arrears;
- You must be able to demonstrate that you have a good credit history (no bad debts or County Court Judgements) and can afford the regular payments and costs involved in buying a home;

- You should have savings or be able to easily access at least £4,000 to cover the costs of buying a home;
 - In most cases you will also need to have enough savings or be able to easily access a minimum 5-10% of the equity share you are buying, as a deposit.
 - Applicants will also need to have enough savings or be able to easily access funds to cover Stamp Duty.
- 8.17 The Council will explore options it may have in providing help to first time buyers with initial deposits.
- 8.18 Shared ownership lets the applicant buy between 25% and 75% of a home from a housing association. They will pay rent on the rest of the property. The Capital Funding Guide says the following:
- 8.19 The initial rent must not exceed 3% of the capital value of the unsold equity at the point of initial sale, but it can be less.
- 8.20 Providers are encouraged to set rents that average no more than 2.75% of the value of the unsold equity at the point of initial sale.
- 8.21 In setting rents providers must have regard to the affordability of the total housing expenditure to the residents including:
- Mortgage costs;
 - Rent; and
 - Service charges (including the cost of management and insurance).
- 8.22 When shared ownership purchasers acquire further shares in the property (known as staircasing) and potentially purchase all the remaining shares the capital receipt is received by the housing association.
- 8.23 The housing association uses the receipt to offset the private finance originally borrowed to finance the scheme and any grant (apportioned to each unit in relation to its originally retained equity) goes into the Recycled Capital Grant fund to be used to fund further shared-ownership schemes. The Council will seek to ensure that proceeds received by the housing association from the sales of shared ownership schemes are reinvested back into Maidstone wherever possible
- 8.24 It is possible, therefore, for shared ownership units to become fully owned open market units and the receipts used purely to offset the housing associations borrowings.
- 8.25 **Discounted homes for sale** are defined as those available to buy at a discount from what would be their open market value, with the discount applied in a manner so that it remains applicable on future re-sales **in perpetuity**.
- 8.26 It is the Council's view that, along with the provision of social rented units discounted open market units are the product that would be particularly suited to helping local people get onto the housing ladder. Social rent levels are much more affordable than "affordable rent" and the level of discount applied to the discounted open market units can be adjusted to suit local salary levels.
- 8.27 To ensure that this type of housing is effective, it is essential that these homes are genuinely affordable to local people, reflecting on incomes and house prices.

- 8.28 The purchaser of a discounted home for sale owns 100% of the property but is bound by a covenant upon any resale to apply the same percentage level of discount to the next buyer (there is no rent on the discounted portion of the property).
- 8.29 Discounted homes for sale need to comply with the following principles: -
- Need to be sold at a discount from open market value;
 - Must be genuinely affordable, based on incomes and house prices; and
 - Remain affordable for future occupiers, at a price which remains fixed at a discount percentage of open market value.
- 8.30 The above eligibility criteria for shared ownership will also apply to applicants of “discounted homes for sale”
- 8.31 The number of mortgage providers that will lend on these products are limited where there are S106 restrictions on local connection, resales and mortgagee in possession clauses.
- 8.32 This will have an impact on the level of deposit required (normally 10%) and the interest rates available to borrowers.
- 8.33 The Capital Funding Guide - Help to Buy: Shared Ownership Eligibility and affordability assessment section says the following:
- “6.1.2 - Providers must encourage purchasers to buy the maximum share they can afford and sustain. Providers must sell shares flexibly in accordance with the purchasers’ specific circumstances (e.g. not just to nearest 10%).”*
- “6.1.3 - It is expected that shared ownership properties in a development will be sold across a range of equity shares. Providers must not sell all properties in a scheme at the same equity share regardless of individual purchaser circumstances. However, it is not unreasonable to expect that providers will have a ‘target’ average equity share across shared ownership properties within a development”.*
- 8.34 The Shared Ownership Initial Eligibility and Sustainability Calculator and Guidance note is available to download from Home’s England’s Capital Funding Guide – Help to Buy: Shared Ownership (Section 6.2) – <https://www.gov.uk/guidance/capital-funding-guide/1-help-to-buy-shared-ownership>.
- 8.35 The Bank of England has told lenders to test **affordability** by using a 3-percentage point increase in their current reversion rate – usually the standard variable rate – rather than its previous rule introduced in 2014 which said they should consider a 3-percentage point increase in the Bank Rate.
- 8.36 This ensures that borrower affordability is tested in the event that the borrower is unable to refinance their mortgage at the end of the fixed-rate period, which is appropriate given that — in times of stress — some borrowers may be unable to do this.
- 8.37 As stated earlier in this guide – it should be noted that the Council are open to “rent to buy”, but only for those (30%) properties required under affordable home ownership.

Build to Rent should not be viewed as an alternative to requirement for 70% of the affordable provision to be for social or affordable.

- 8.38 **Help to Buy - Equity Loan** – This is a scheme where the Government lends the purchaser between 10% and 20% of the cost of their new-build home, so that they will only need a 5% cash deposit and 75% mortgage to make up the rest.
- 8.39 Help to Buy is provided by Registered House Builders and is administered by regional “help to Buy” agents. Please visit the Help to Buy website for further information “Help to buy East and South east” - <https://www.helptobuyese.org.uk/>. Please visit the Homes England website for Affordability Guidance.
- 8.40 Help to Buy units are provided by a developer in addition to rather than in place of any affordable homes provided as part of a S106 agreement.

9 INCORPORATING THE AFFORDABLE HOUSING REQUIREMENT ON SITE

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- 9.1 Affordable Housing should be integrated within a development and should, as far as possible be indistinguishable from the market housing.
- 9.2 The council seeks fully integrated mixed tenure housing schemes within the market housing and will support a reasonable level of clustering, particularly for any proposed flatted units, to enable small self-contained blocks. The location of the units is to be agreed with the Housing Delivery Team at the pre-application stage.
- 9.3 Following consultation with registered providers (RPs) it is accepted that there are inherent problems with blocks of flats that have shared tenures of open market and rent with regard to ground rents and service charges.
- 9.4 Where flats are provided on site as part of the affordable housing package then these should be in separate blocks with the freehold transferred to the RP. This will enable the RPs to set service charges which are affordable to their tenants/purchasers.
- 9.5 It is essential that landowners / developers consider early in the pre – application process how affordable housing will be integrated into a policy compliant development scheme. The landowner / developer will be required to build into their designs at pre-application stage the percentage of affordable housing required in accordance with SP20 and the occupancy and design requirements detailed in this SPD.
- 9.6 The applicant should clearly set out how the application meets the affordable housing requirement with information on the size, tenure, type and location of the affordable units
- 9.7 The Local Plan refers to potential flexibility to change from shared ownership homes to 'intermediate rented' if market conditions change. Some RPs have experienced a downturn in demand for shared ownership in rural locations where there is a lot of shared ownership coming on to the market at the same time.
- 9.8 The wording of new Section 106 Agreements should incorporate this flexibility so that there is scope for tenure changes to be agreed without the need for Section 106 Agreements to be amended
- 9.9 Shared ownership scheme policy is different in areas where affordable housing is hard to replace, particularly in rural areas. Such areas are identified as Designated Protected Areas (DPAs) under the Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009.
- 9.10 DPAs made under this Order make it less likely that shared ownership homes in England will be lost to the private sector through staircasing.
- 9.11 More information can be found here:
<https://www.gov.uk/government/publications/homes-england-designated-protected-areas>
- 9.12 In order to combat the loss of homes out of shared ownership schemes, landlords within DPAs are either required to cap equitable ownership of homes at 80% or require the homes to be sold back to them once full ownership is reached through the insertion of a clause within the lease. If the landlord is unable to buy back the property, an alternative registered provider may be nominated, or the owner will be able to sell the property on

the open market after a certain period of time has passed (usually 6 months). There is also the further possibility that Homes England will positively consider the provision of funding to help re-purchase the house if the landlord cannot source such funds.

- 9.13 Where shared ownership schemes fall within Designated Protected Areas, developers need to make sure that their shared ownership leases contain the right provisions to make them DPA standard and they need to be aware of their on-going DPA obligations.
- 9.14 It should be noted that local planning authorities in DPAs do have the right to waive the DPA restrictions for new developments in certain circumstances – and the fact that the scheme might not be viable if the DPA restrictions apply to it is an important factor.

10 DEVELOPMENT SITE STANDARDS AND CHARACTERISTICS [return to contents](#)

- 10.1 The characteristics of a site and the development as a whole should be reflected in the affordable housing mix - dwelling tenure, type and size. The tenure, type and size split on each site can be advised through pre-application discussions but should be in accordance with the SHMA and factoring requirements of need contained on the housing register at that time.
- 10.2 The Council are investigating the potential for minimum space standards to be adopted in the Local Plan review.
- 10.3 The Council will normally only accept 2 bed 4-person units 3 bed 5/6-person units and 4 bed 6/7/8-person units where the tenure is for rent. Proposals for 2 bed 3-person or 3 bed 4-person units for rent will not normally be accepted. This is to ensure that an appropriate range and size of affordable dwellings for rent are provided to best meet the identified housing need as demonstrated by the household composition of applicants on the Housing Register.
- 10.4 The land made available for affordable housing on site and as part of the application should be fully serviced and of a sufficient size to accommodate the range and type of dwellings necessary to meet the identified housing need and should not be based on the minimum site area possible to accommodate the specified number of units.
- 10.5 Housing proposals will be expected to make efficient use of land. Any proposal that appears to have an artificially low density in order to avoid the required thresholds for affordable housing will be scrutinised and may be refused planning permission, where they fail to make efficient use of land and provide appropriate levels of affordable housing. The same applies to any site that appears to have been deliberately sub-divided as a possible measure to avoid the required affordable housing threshold.
- 10.6 Affordable housing provided on-site must be designed to a high standard and, as far as possible, fully integrated into the overall scheme layout, rather than concentrated in just one location.
- 10.7 Consideration of the grouping of affordable housing in the overall scheme will include how the provision relates to phasing within the same development. This includes where there is a degree of separation provided by roads, open space or landscape feature; and the grouping of affordable housing in nearby previously developed schemes.
- 10.8 Affordable housing units should, as far as possible, aim to be 'tenure blind' so that affordable and private homes are virtually indistinguishable from one another in terms of design quality, appearance, materials and site location. This will help to avoid visual separation between private and affordable housing.
- 10.9 Account should be made to relevant design and quality codes and standards as set out by the Homes England or other associated national bodies as well as though produced locally e.g. Building for Life 12.
- 10.10 With regard to D.C.L.G. Nationally Described Space Standards⁹ the Council are keen to incorporate these for all tenure types, but this will be done in a co-ordinated way through the Local Plan Review rather than as part of this SPD.

⁹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524531/160519_Nationally_Described_Space_Standard_Final_Web_version.pdf

- 10.11 Where appropriate, development will be required to meet and maintain high standards of accessibility so all users can use them safely and easily. Account should also be taken of any requirements for the provision of wheelchair user dwellings, dependant on the suitability of the site and the need at the time.
- 10.12 For further information see the following link:
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/540330/BR_PDF_AD_M1_2015_with_2016_amendments_V3.pdf
- 10.13 In such cases a wheelchair user dwelling means a dwelling which meets the requirements contained in Part M4(3)(1)(a) and (b) and Part M4(3)(2)(b) for wheelchair accessible dwellings as contained in Category 3 – wheelchair user dwellings of Schedule 1 of the Building Regulations 2010.
- 10.14 In order to properly accommodate these requirements developers will need to allow additional space when designing wheelchair user dwellings, over and above that which is required by Nationally Described Space Standards. This should be approximately 20% of the Gross Internal Area in the case of flats and 30% of the Gross Internal Area in the case of houses.
- 10.15 The requirement for wheelchair provision will be secured through the relevant s106 agreement and in order to demonstrate compliance with the furniture schedule contained in M4(3) manoeuvring zones and furniture of the correct sizes will need to be clearly indicated on the submitted unit layouts.
- 10.16 Any requirements for fully wheelchair accessible housing will be considered on a site by site basis, dependant on need and suitability of the site and proposed affordable housing mix at the time.
- 10.17 There is an expectation that all affordable units mainly those for rent will be built in accordance with Part M4(2).
- 10.18 Appropriate provision should be made for car parking for the affordable housing units, in line with that for open market housing
- 10.19 The Council will encourage the provision of lifts in blocks of flats to ensure homes are accessible to everyone. Lift provision is particularly encouraged on sites where housing suitable for older people and specialist housing, is proposed.
- 10.20 The Council would expect to see lifts to be provided in all blocks of 4 or more storeys where affordable housing is being provided on-site. The Council would expect this to be part of the pre application discussions.
- 10.21 As part of the government's housing and construction 'Red Tape Challenge', there has been a move to consolidated standards into a national framework centred on the Building Regulations. The government suggests that the large number of competing standards can be confusing, and that "standards are all drawn from documents produced by non-Governmental groups who perceive that current national guidance, policy or regulation is deficient in some respect, and needs to be supplemented. They are rarely subject to cost benefit analysis when they are developed, unlike government guidance or regulation.
- 10.22 As a consequence, the Code for Sustainable homes can no longer be a requirement of planning conditions, and where a local planning authority adopts a policy to provide

enhanced accessibility or adaptability, they should do so only by reference to Requirement M4(2) and / or M4(3) of the optional requirements in the Building Regulations.

11 MECHANISM AND TIMING FOR THE TRANSFER OF AFFORDABLE UNITS AND LAND

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- 11.1 The following section deals with the range of issues likely to be covered by a planning obligation in different circumstances.
- 11.2 Affordable housing secured through a planning obligation will ensure the provision of the necessary units as part of the overall scheme generally through developer-built homes.
- 11.3 This involves the developer building the affordable housing in accordance with the design standards and requirements of the approved Registered Provider and then transferring the ownership and management of the housing to the Registered Provider or any HDP of which MBC is a member, at an agreed price.
- 11.4 Maidstone Council do not have an “approved list” of Registered Providers but those working in the Borough include the following (these are arranged in order of stock levels within the Borough:

Maidstone Borough Council (and any RP of which might be a member of any Housing Delivery Partnership).

Golding Homes Limited

Hyde Housing Association Limited

Town and Country Housing Group

West Kent Housing Association

Clarion Housing Association Limited

Heart of Medway Housing Association Ltd

Sanctuary Housing Association

Orbit South Housing Association Limited

Senacre Housing Co-operative Limited

Places for People Homes Limited

Moat Homes Limited

Housing & Care 21

Plexus UK (First Project) Limited

Allnutt Mill Housing Co-operative Limited

Oast Wood Housing Co-operative Limited

Gravesend Churches Housing Association Limited

Westree Road Housing Co-operative Limited

Anchor Hanover Group

Home Group Limited

Orbit Group Limited

The Honywood and Douglas Charity

Oakapple Housing Co-operative Limited

English Rural Housing Association Limited

The Riverside Group Limited

Peace Cottages Charity

Accommodation Yes Limited

Advance Housing and Support Limited

First Priority Housing Association Limited

Golden Lane Housing Ltd

Inclusion Housing Community Interest Company

London & Quadrant Housing Trust

Places for People Living+ Limited

Sage Housing Limited

Reside Housing Association Limited

Trinity Valley Housing Association Limited
 Funding Affordable Homes Housing Association Limited
 Heylo Housing Registered Provider Limited
 Auckland Home Solutions Community Interest Company
 Metropolitan Housing Trust Limited
 Thames Valley Housing Association Limited

- 11.5 Further details can be obtained from the Council's Housing Delivery Team. There would be an expectation on the Council's part that any RP that the developer uses should be able to demonstrate a local management presence.
- 11.6 The Council supports the role that Housing Co-operatives can play in providing affordable housing. A housing co-op is a housing organisation which exists as a landlord, managed partly or fully by its tenants. Co-ops are one model of Community-Led Housing. Co-ops which allow people to control their homes and build a supportive community.
- 11.7 In some circumstances however, affordable housing is provided through serviced plots which are made available to the Local Authority or an approved Registered Provider at nil cost, with a guarantee that the plot will subsequently only be used to construct the necessary affordable housing in conjunction with the nominated Registered Provider.
- 11.8 With both approaches the Borough Council will require the developer to have agreed a suitable affordable housing partner and to have entered into a contract with them to deliver the affordable housing units prior to work beginning on site, on any development or phase of a development. Early engagement with an RP is vital. See also [6](#)
- 11.9 In cases where developers are experiencing difficulties securing a housing partner, they will be required to provide a copy of their brief inviting offers from Registered Providers and the names of the Registered Providers invited to offer. Registered Providers who choose not to submit an offer in such cases will also be asked for their reasons, in order for the Borough Council to establish what obstacles may prevent a developer securing an affordable housing provider and to assist them in overcoming them.
- 11.10 The initial consultation period revealed that many developers find it difficult to obtain realistic offers from RPs for smaller sites where the affordable housing requirement is less than 20 units.
- 11.11 On sites where the requirement is for less than 10 units developers are experiencing real problems in obtaining offers from Registered Providers.
- 11.12 In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including being flexible to allow single tenure affordable housing on small sites with a preference for social rent or providing an offer for the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider.
- 11.13 The Council uses a standard form of Nomination Agreement and a draft will be appended to the Planning Obligation with the expectation that the finalised agreement will be in substantially the same form. The developer must take into account the timing and processes required to ensure that such an agreement is in place prior to the occupation of the affordable housing units.

- 11.14 Within flatted development, due to management, service charges and other requirements, rented and shared ownership units must be located on separate floors, around separate cores/ entrances or, **preferably**, in separate blocks to both each other and to open market units.
- 11.15 The Council are seeking developers to provide the affordable flatted housing units in small clusters, around the development. On high density flatted schemes, it may be agreed by the Borough Council to allow blocks containing more affordable housing units, provided that the design does not seek to concentrate the affordable housing into flats at the expense of integration.
- 11.16 Phasing the timing of the delivery of affordable homes should be set out in the S106 agreement and linked to the occupation or transfer of dwellings.
- 11.17 Delivery of open market dwellings that significantly outstrip the delivery of affordable dwellings will not normally be supported. The Council will require the completion and transfer of all the affordable housing prior to the occupation or transfer of all the open market homes.
- 11.18 Typically, no more than 50% of the open market housing is to be occupied or transferred prior to the equivalent proportion of the affordable homes are ready for occupation.

12 APPROACH TO EXTRA CARE, OLDER PERSONS AND SPECIALIST HOUSING

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- 12.1 The Local Plan acknowledges that Retirement homes (sheltered housing) and extra care homes (assisted living) are not as viable as other residential uses in Maidstone. A **20% affordable housing** rate will be sought for such developments, which will allow for an appropriate balance between affordable housing need and supporting infrastructure provision.
- 12.2 For the avoidance of doubt, the affordable housing requirements associated with Policy SP20 apply only to the use class C3 element of development proposals.
- 12.3 Residential care homes or nursing homes, where 24 hour personal care and/or nursing care are provided, are shown to be even less viable than retirement homes. These schemes are not required to provide affordable housing either on site or as an off-site financial contribution.

Policy DM14 - Nursing and care homes

Within the defined boundaries of the urban area, rural service centres and larger villages, proposals for new nursing and residential care homes through new build, conversion or redevelopment and for extensions to existing nursing and residential care homes which meet the following criteria will be permitted:

- 1. The proposal will not adversely affect the character of the locality or the amenity of neighbouring properties by means of noise disturbance or intensity of use; or by way of size, bulk or overlooking; and*
- 2. Sufficient visitor and staff vehicle parking is provided in a manner which does not diminish the character of the street scene.*

- 12.4 The accommodation needs of Maidstone's ageing population will vary. Some will be able to continue to live in their own homes with the option, potentially, of receiving care at home. Specialist sheltered accommodation and/or extra care accommodation will also help to meet needs. In planning terms such accommodation falls within C3 use (dwelling house).
- 12.5 In addition, there will be a further demand for care and nursing home places particularly for the more frail elderly; it is estimated that 980 additional nursing and care home places will be needed in the borough (2011-31).

13 TRANSFER VALUES

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- 13.1 To assist in determining the viability of schemes and to aid the calculation of off-site contributions, we have conducted research into transfer values and the most appropriate means of determining such values; whether they should be fixed, based on a £ per m² or a % of open market value.
- 13.2 Our conclusion was that transfer values should be fixed and for each Local Housing Allowance area, the price a Registered Provider could pay has been based on capitalised Local Housing Allowance rents.
- 13.3 We have applied a yield of 6% to the rents after deducting a management charge of £1,150 and “voids and bad debts” at 3%.
- 13.4 The capitalised values for the Maidstone Broad Rental Market Area BRMA are as follows:

affordable housing rented unit	LHA rent	Transfer value based on standard assumptions
1-bed	£131.11 per wk	£94,462
2-bed	£162.29 per wk	£121,485
3-bed	£185.86 per wk	£141,912
4-bed	£235.41 per wk	£185,000

- 13.5 Shared ownership units are assumed to have a transfer value equivalent to 65% of the open market value. This will vary on a site by site basis depending on the initial share sold and the rent on the unsold equity. Any offer from an RP would be subject to specification and a Red Book valuation and would be dependant on whether the sale of units was on a turnkey basis or stage payments.
- 13.6 Based on a purely arbitrary open market value of say £300 per ft² the following table shows transfer values for typical shared ownership units:

shared ownership unit	floor area	open market value	Transfer value based on 65% of Open market value
1b2p	58m ²	£187,298	£121,744
2b4p	79m ²	£255,113	£165,823
3b5p	93m ²	£300,323	£195,210
4b6p	106m ²	£342,304	£222,497

- 13.7 Furthermore, there is still the flexibility allowed through the 'viability appraisal' route as set out in Policy SP20 of the Local Plan.
- 13.8 This will allow account to be taken of occasions when values cannot be achieved, and a Registered Provider cannot meet the transfer value expected.
- 13.9 Where this is the case and it affects the overall viability of a scheme, such evidence will need to be reflected in a viability appraisal. The proposed alternative transfer value must be based on an independent valuation carried out by a suitably qualified (RICS) local valuer, the cost of which should be borne by the applicant.

- 13.10 It is therefore important that developers discuss the transfer of housing to Registered Providers as early in the process as possible and preferably prior to the submission of a planning application.
- 13.11 These transfer values will be updated in accordance with guidance from the Borough Council's Housing Delivery Team as and when required.
- 13.12 However, this would not prevent social rented units being provided on any scheme.
- 13.13 No separate values have been provided for social rent and affordable rent. This is because "affordable rents" and "social rents" are set as per the draft policy statement which can be found at
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740300/180912_Draft_policy_statement.pdf
- 13.14 The values shown above for rented units reflects the need to ensure that rents are within the Local Housing Allowance for the area, and that the units will be affordable for households in need, and to allow the potential for social rented units to be provided where possible.

14 OFF SITE FINANCIAL CONTRIBUTIONS

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14.1 As stated earlier in this SPD, the MBC Local plan says that to support community integration, affordable housing will be provided **on-site**, and alternative provision will not be accepted unless there are **exceptional circumstances** that justify it. Any proposals for off-site or financial provision must be made at the time of the application.

14.2 Reasons for accepting an off-site contribution could include:

- Existing provision
- Where a site is unable to offer housing that meets the requirements of a Neighbourhood Plan or Supplementary Planning Document.
- Where the council has an overriding need to safeguard or provide affordable housing elsewhere in the borough to meet other strategic housing objectives or Neighbourhood Plans.
- Where the scheme design, such as studio flats would make the site unsuitable for affordable housing.

14.3 Following the initial consultation with stakeholders it is apparent that the Council's current methodology for calculating off-site contributions is too complicated and needs simplification.

14.4 Should the Council agree that the affordable housing requirement is best provided as an off-site financial contribution the financial contribution should be calculated as if the units were to be provided on site.

14.5 The amount should equate to the difference between the market value of the unit and the amount a Registered Provider would pay for that unit based on the required housing mix for that site.

14.6 The market value of the units would be established and verified on a site by site basis.

14.7 The applicant would need to demonstrate with evidence from market research and advice from local estate agents the open market values.

14.8 If necessary, the Council will engage an independent consultant to check that the open market values are fair and reasonable. The cost of this service would be expected to be met by the applicant.

14.9 This amount is then multiplied by the number of units sought (whole or fraction) based on the policy target percentage.

14.10 An example of how this would work in practice is shown below

14.11 Site in Maidstone Broad Rental Market

No of units in total			20 x two-bed houses
Affordable housing requirement:	30%	=	6 x two-bed houses
Tenure split	70/30	=	4.2 rent and 1.8 intermediate

Assuming a market value for the 2 bed units of, say £240,000, this equates to a total GDV for the open market units of £1,440,000

If the units had been provided on site, then the transfer value assumed would be:

Rent -	$£121,485 \times 4.2 = £510,237$
Intermediate -	$£156,000 \times 1.8 = £280,800$
TOTAL -	$= £791,037$

Difference between open market value and transfer price = £648,963

- 14.12 Many Council's make allowances in their financial contribution for the difference in profit levels between providing open market units on site and affordable housing on site. This has the effect of reducing the overall financial contribution.
- 14.13 However, this difference in profit is offset by the extra revenue potentially received by the developer given that the site is now 100% open market and also accounts for the extra costs involved for both the Council and RPs in finding alternative sites and schemes for the off-site contribution.
- 14.14 The commuted sum calculation spreadsheet will be updated to incorporate the above methodology.
- 14.15 The rental levels used in the calculation sheet will be the latest Local Housing Allowance rates - <https://lha-direct.voa.gov.uk/>

15 VIABILITY

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15.1 Paragraph 57 of the NPPF states the following:

“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

15.2 The Local Plan has been adopted recently (October 2017) and the affordable housing and CIL requirements have been tested in the Maidstone Borough Council Revised Plan and CIL Viability Study¹⁰

15.3 The Council therefore only expects a viability Housing assessment to be submitted for a Policy SP20 site in unusual circumstances. In such circumstances the onus is on the developer to demonstrate why in their case the site-specific circumstances mean the Local Plan policy is not viable, together with clear bespoke evidence.

15.4 The Council will expect publication of Economic Viability Assessments in accordance with national and local requirements. The following guidance sets out the Council's expectations for Economic Viability Assessments:

- Must be in accordance with the requirements of the National Planning Practice Guidance
- Must include an executive summary
- Provide a clear account of the extraordinary and site-specific costs or the other very special circumstances which make the scheme unviable
- Provide detailed and bespoke evidence behind all non-standard benchmark assumptions
- Provide all measurements in square metres and consistent with submitted plans
- Appraisals will be expected to have considered value engineering or scenario testing different development options which might improve viability (for example different mixes of tenure, unit type and size and phasing)
- Have a realistic and sound land value

15.5 Rural exception sites work because the land coming forward will not obtain planning permission for 100% market housing, but it would provide a significant uplift in value compared with agricultural land.

15.6 Exception sites have a land value that sits between agricultural and 'hope' value. The price agreed for the land is important, so as to ensure that the housing provided remains affordable

15.7 On rural exception sites typically £10,000 to £15,000 per plot for the base land cost or no more than ten times the agricultural land value at the time, whichever is lower (including site abnormalities) will be accepted as a benchmark land value.

¹⁰ http://www.maidstone.gov.uk/_data/assets/pdf_file/0011/94736/Revised-Plan-and-Community-Infrastructure-Levy-CIL-Viability-Study-2015.pdf

- 15.8 The Rural Affordable Housing on Rural Exception Sites - A Hands-On Guide for Landowners –
https://2391de4ba78ae59a71f3-fe3f5161196526a8a7b5af72d4961ee5.ssl.cf3.rackcdn.com/5715/0357/7205/land-owner_guide-final.pdf
 says the following:
- “These sites have no open market housing value, so typically, if you sell the land to a housing association or community housing organisation you can expect around £100,000 - £120,000 per acre (£10k a plot), but with some small variation reflecting local and site circumstances. This compares with an agricultural value that is typically around £6,000 to £15,000 per acre.”*
- 15.9 In accordance with the revised NPPF viability assessments will be made publicly available along with all information relevant to any planning application.
- 15.10 Where a reduced percentage of affordable housing or a financial contribution below the full policy equivalent is accepted based on viability the Council will reserve the right to implement a viability review mechanism and/or impose a planning condition requiring that the development must begin within a timescale shorter than the relevant default period, in case of an improvement in market conditions.
- 15.11 The new NPPF and supporting Planning Practice Guidance (PPG) also provided updated guidance on viability. Paragraph 009 of the PPG on Viability refers to review mechanisms for assessing viability. It confirms that contributions can be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. In light of this it is proposed through this SPD that where contributions are reduced below the requirements set out in policies of the Local Plan (or as superseded by other policy and guidance) the Local Planning Authority may require the developer to enter into a review mechanism.
- 15.12 Where there are significant unknowns and/or acceptance of very high proposed abnormal costs it may be appropriate to re-assess costings at the end of the development process to capture any potential contribution from costs that were over estimated
- 15.13 A viability assessment which demonstrates a level of return which the Council considers to be below a reasonable return suggests the site is not deliverable. Where the appraisal also shows financing costs the Council will require the submission of documented evidence from the lending organisation which demonstrates that lending has been secured against that level of return.
- 15.14 Issuing undeliverable planning consents merely causes stalled sites and land-banking. Proposals where a submitted viability assessment demonstrates marginal viability or that the scheme will not make a reasonable level of return will not normally be supported, as these sites cannot be considered deliverable and developable applying the definition in the NPPF.
- 15.15 It is not sufficient for developers to argue that they did not take into account the need to provide affordable housing in the amount they have paid for the land as it is reasonable to expect that land values will reflect the requirements of the Local Plan. The Council also considers that any normal development costs, such as site demolition, preparation, retaining walls, piling, infrastructure provision and flood mitigation should be established at the outset and reflected in the amount paid for land.

- 15.16 Government guidance confirms that as the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project.
- 15.17 The information required for the submission of a Viability Appraisal is set out below
- 15.18 Developers are encouraged to use the residual land value method as set out as this will assist in speeding up the consideration of submitted evidence.
- 15.19 Where there is dispute concerning the effect of providing affordable housing on the viability of a project, applicants will be required to provide full financial details to demonstrate why they cannot provide the affordable housing. They will also need to demonstrate that in making this assessment they have considered indicative transfer prices set out in this SPD.
- 15.20 It is not sufficient for applicants to argue that the land costs did not take into account the need to provide affordable housing as, in the national plan led planning system, it is reasonable to expect that land values will reflect the requirements of the Local Plan. In addition, it is also reasonable to expect that development costs will have been established from the outset by the developer and reflected in the land acquisition price.
- 15.21 Where developers raise issues relating to viability during pre-application discussions, the Local Planning Authority's Viability Assessor will invite the developer to provide details of the value of the completed development and all costs incurred to achieve this value. The information that should be included is set out below, however other factors may need to be added.
- 15.22 The Council will commission its own choice of independent expert and the expert's fees will be agreed with the applicant. The Developer will be expected to pay the fees.
- 15.23 In instances where the Developer does not provide sufficient or adequate information for the Viability Assessor to make a satisfactory assessment the Developer will be advised what further information is required.
- 15.24 In instances where the developer pushes ahead with the application without a satisfactory assessment being made, the application may well be recommended for refusal.
- 15.25 If there is a disagreement or a dispute concerning the Council's own valuation, a second independent assessment will need to be undertaken by an external valuation expert. It is expected that the costs of providing this second valuation should also be borne by the Developer.
- 15.26 The 'onus' is on the developer to demonstrate why a site should not include provision. This is fully supported by the updated NPPF.

Information Required for A Viability Assessment

SECTION A - Scheme Overview

- Total Site Area
- Non-Developable Area
- Net Developable Area
- Benchmark Land Value – based on Existing Use Value Plus an uplift
- Spreadsheet showing the total numbers of market housing and affordable housing indicating the tenure.
- Spreadsheet showing dwellings including type (detached / semi / terrace / flat / bungalow) and number of bedrooms including individual gross internal areas (in m2).

SECTION B – Development Value

- Market value of each open market house (by type) including £m2
- Ground rents statement
- Details of any retail or commercial units in mixed use schemes – build costs, revenues and yields
- Transfer value of any rented product
- Sales values / transfer values of intermediate units

SECTION C – Construction

- Build costs per sqm including preliminaries (BCIS median rate as a norm unless more detailed QS data is provided).
- External works including infrastructure (an appropriate percentage unless more detailed information is submitted)
- Abnormals (detailed breakdown of costs which would not be covered in build costs or externals such as demolition)
- Scheme timings – construction and sales periods
- Contingency (percentage of build costs)

SECTION D - Other Costs

- Site acquisition costs – including agent fees, stamp duty and legal fees
- Professional fees (Percentage of GDV)
- Sales and marketing costs
- Finance costs (cost of borrowing money to finance a scheme).
- CIL / S106 – details of CIL and any other S106 costs

SECTION E – Profit and Overheads

- Profit on open market units – 15% to 20% on GDV
- Profit on affordable units – 6% on cost

SECTION F – Residual Land Value

- The preferred methodology is to carry out a residual land valuation based on the information above which is then compared to the Benchmark Land Value. If the residual land value is higher than the benchmark, then the scheme is considered to be viable. If not, then adjustments would need to be made to the affordable tenure mix and consideration given to a reduction in the overall percentage of affordable housing delivered.

16. INFORMATION SUMMARY FOR DEVELOPERS

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The following is a brief checklist for developers when considering the affordable housing provision as part of a planning application in the Maidstone Borough Council area.

- 15.27 The first assumption should be that the development will aim to be policy compliant with the Local Plan. (Too many developers start from the premises that they will be providing their own preferred mix of market units and will be delivering the least number and smallest sizes of affordable housing).
- 15.28 Developers are reminded that they should adhere to all of the policies in the adopted Local Plan. For example Policy DM 2 - Sustainable design.
- 15.29 Developers should engage with the council's Housing department, Planning department and with registered providers at the earliest stage of the application process to determine whether a Planning Performance Agreement is appropriate. This should also include consideration of an appropriate tenure split, investigating whether the rented units could be delivered as social rent and what is the most appropriate form of intermediate housing. Contact details for officers can be found at the end of this SPD
- 15.30 Developers should also make contact and liaise with the Council's Housing Delivery team.
- 15.31 The mix of open market units and affordable units provided on site should, where possible, comply with the mix outlined in the SHMA (January 2014):
- 15.32 The SHMA (January 2014) says that although we have quantified this on the basis of the market modelling and our understanding of the current housing market we do not strongly believe that such prescriptive figures should be included in the plan making process and that the 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time. The figures can however be used as a monitoring tool to ensure that future delivery is not unbalanced when compared with the likely requirements as driven by demographic change in the area.

Where affordable housing is to be provided, developers should also take into consideration the needs of households on the council's housing register and discuss affordable housing requirements with the council's housing team at the pre-submission stage of the planning process.

Table 60: Indicative requirements for different dwelling sizes (2011-31)

	1-bed	2-bed	3-bed	4+ bed
Market	5-10%	30-35%	40-45%	15-20%
Affordable	30-35%	30-35%	25-30%	5-10%

Ideally the sizes of the affordable units should be:

- 1 bed 2-person flats
- 2 bed 4-person flats or houses
- 3 bed 5/6-person units

- 4 bed 6/7/8-person units.
- 15.33 Ideally developers will liaise with a number of RPs active in the area and will be able to decide on which is their preferred partner.
- 15.34 If difficulties are encountered, then the Council will endeavour to deal with the brokerage role itself or may look at alternative delivery methods including providing the affordable units themselves or in conjunction with the developer.
- 15.35 This may include substituting the affordable rent and intermediate units on site for discounted open market units where the discount is much larger than usual and represents the same transfer value. The discount would be in the region of 50%.
- 15.36 This would enable the units to be provided on site by the developer rather than accepting an off-site contribution.
- 15.37 Developers should consider early in the pre-application process how affordable housing will be integrated into a policy compliant scheme.
- 15.38 Developers will need to agree with RPs the specification of the affordable units and agree on a payment structure. This could either be on a 'stage payment' or 'turn key' basis.
- 15.39 Developers will be encouraged to explore ways in which more social rent could be incorporated into the overall affordable housing package.
- 15.40 As stated earlier in this SPD - The Council will be flexible regarding the total percentage of affordable housing and / or tenure split if this results in the provision of social rent on site. This would be on the basis that it would be "cost neutral" in terms of the overall viability to developers.
- 15.41 An Affordable Housing Statement should be provided as part of the planning application, clearly setting out how the application meets the affordable housing requirements. This statement should contain details of the size, tenure, type and location of the affordable units.
- 15.42 A typical Affordable Housing statement should include details of the following:
- the total number of all residential units;
 - the number of affordable units; numbers of bedrooms and property types across all tenures to demonstrate representative mix of unit types and sizes;
 - plans showing the location of units;
 - the different levels or types of affordability or tenure proposed for different units- this should be clearly and fully explained in line with policy expectation;
 - design standards (ideally - D.C.L.G. Nationally Described Space Standards compliant) with full unit floor plans;
 - demonstration that the affordable units have proportionate car parking spaces in
 - line with policy expectation.
- 15.43 Developers will also need to consider the Council's guidance based on Building for Life 12.

- 15.44 Developers will need to agree with the Council when the affordable housing will be delivered and how this fits into the overall build and sales program.
- 15.45 The Council have produced a “Planning Advice Note for Applicants/Agents Information Required When Submitting an Application” which can be found at this address:

<http://www.maidstone.gov.uk/home/primary-services/planning-and-building/primary-areas/apply-for-planning-permission>
- 15.46 Developers, RPs and the Council will need to agree on the terms of the S106 agreement. This will include whether a local lettings policy is required and also determine how the units will remain “affordable” in perpetuity
- 15.47 Further guidance can be found on the Council’s website - <http://www.maidstone.gov.uk/home/primary-services/planning-and-building/additional-areas/section-106s>

16 CONTACT DETAILS FOR KEY MBC OFFICERS

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16.1 Andrew Connors, Housing Delivery Manager.

- T 01622 602166
- M 07900 931627
- AndrewConnors@maidstone.gov.uk

16.2 Alison Elliott, Housing Development Officer

- T 01622 602152
- AlisonElliott@maidstone.gov.uk

16.3 Tony Stewart, Homechoice and Strategy Team Leader

- T 01622 602546
- tonystewart@maidstone.gov.uk

Maidstone Borough Council



Maidstone Borough Council Affordable and Local Needs Housing
Supplementary Planning Document (SPD) Draft Version October 2019

Consultation Statement

April 2020

This statement firstly provides a summary of comments, as well as modifications to the ALNH SPD, resulting from the pre-consultation engagement exercise. It secondly provides a summary of comments, as well as modifications to the ALNH SPD, resulting from the 6-week public consultation exercise.

PRE-CONSULTATION ENGAGEMENT EXERCISE

1.1 During the preparation of this SPD, Maidstone Borough Council undertook pre-consultation engagement with housing associations and developers. We consulted the following persons and organisations:

David Banfield	Redrow Homes
Barry Chamberlain	Wealden Homes
Tim Daniels	Millwood Designer Homes
Paul Dawson	Fernham Homes
Rosa Etherington	Countryside Properties PLC
Chris Lilley	Redrow Homes
Chris Loughhead	Crest Nicholson
Iain McPherson	Countryside Properties PLC
Stuart Mitchell	Chartway Group
Chris Moore	Bellway
Guy Osborne	Country House Developments
Kathy Putnam	Chartway Group
James Stevens	Home Builders Federation
Julian Wilkinson	BDW Homes
Kerry Kyriacou	Optivo
Adetokunbo Adeyeloja	Golding Homes
Sarah Paxton	Maidstone Housing Trust
Joe Scullion	Gravesend Churches Housing Association
Gareth Crawford	Homes Group
Mike Finch	Hyde HA
Russell Drury	Moat HA
Keiran O'Leary	Orbit HA
Chris Cheesman	Clarion Housing
Michael Neeh	Sanctuary HA
Colin Lissenden	Town and Country
	West Kent HA
Guy Osbourne	Country House Homes
Katherine Putnam	Chartway Group
Annabel McKie	Golding Homes
Councillors at Maidstone Borough Council	Maidstone Borough Council

1.2 The feedback from the pre-consultation engagement was set out in a Consultation Statement that was published alongside the draft SPD as part of a 6-week public consultation that took place between 7th October 2019 and 18th November 2019. A list of the various responses to the pre-consultation engagement and how the feedback was addressed in the consultation draft SPD is provided below:

<u>Comment from consultee</u>	<u>How the issues raised have been addressed in the SPD</u>
-	-

On small sites, it would be conducive for contributions to be paid in relation to sites of below 10 homes in lieu of affordable housing units as these have a higher level of development management intensity both pre and post contract.	Maidstone Borough Council have chosen not to apply a lower threshold of 5-units or less but are requiring affordable housing in accordance with the threshold contained in the current NPPF and NPPG
NDSS size standards – on occasions we have been invited to bid for affordable units that fall short of the NDSS, without strategic control of this issue, via planning policy for example, it has been very difficult to compel developers to deliver units in accordance with NDSS. By way of an example, in London s106 developments must comply with the London Housing Design Guide of which size standards are included thereby resulting in all affordable units achieving the relevant standards.	The SPD says the following: 10.2-The ideal occupancy requirements and minimum floor areas for each affordable unit type are set out in the table below and it should be noted that affordable units are likely to be fully occupied. The Council are investigating the potential for minimum space standards to be adopted in the Local Plan review. The SPD is unable to change or add Policy that differs from the Local Plan.
As an experienced and leading developer of affordable housing, we have delivered affordable housing through a variety of mediums, working in partnership with major/volume housebuilders who understand what is required, but don't often deliver it. Usually we are involved in a competitive bidding war against other RP's to maximise the developers' offers. We have little choice or say in how or what is being provided, notwithstanding our enthusiasm to become involved in the curating of the affordable housing offer within the early stages of the development process, for example at feasibility and outline design stages. To this end, we either compromise or don't bid where we think there are longevity issues. Whilst RPs are similar in nature in their remit to provide genuinely affordable housing, we do however work differently in some cases and therefore	<p>The SPD says the following: 11.9-In cases where developers are experiencing difficulties securing a housing partner, they will be required to provide a copy of their brief inviting offers from Registered Providers and the names of the Registered Providers invited to offer. Registered Providers who choose not to submit an offer in such cases will also be asked for their reasons, in order for the District Council to establish what obstacles may prevent a developer securing an affordable housing provider and to assist them in overcoming them.</p> <p>11.10-The initial consultation period revealed that many developers find it difficult to obtain realistic offers from RPs for smaller sites where the affordable housing requirement is less than 15 units.</p>

not all RPs are concerned about the level of participation in shaping the affordable housing proposals. Against this backdrop, aligning a uniform response to working with developers is a challenge and we would welcome new policy and strategy in overcoming this.	11.11-In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including providing the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider.
In contrast, smaller developers who bring opportunities are more willing to engage at earlier stages where we can influence the best outcome for all parties (landowner, developer and end customer (all via LA and RP expectations)	Noted and see above.
<i>What could be improved?</i> - Better engagement with RPs to refine the design of the affordable housing offering at an early stage –i.e. a collaborative approach that goes beyond consultative to active participation. A protocol or process for working with RPs could be considered. We are working within a competitive environment for the provision of affordable housing, a return to site registrations could mitigate bidding wars.	Maidstone Council do not have an “approved list” of Registered Providers but the SPD lists those working in the Borough. The SPD says the following: 11.8-With both approaches the Borough Council will require the developer to have agreed a suitable affordable housing partner and to have entered into a contract with them to deliver the affordable housing units prior to work beginning on site, on any development or phase of a development. Early engagement with an RP is vital. An information summary has been provided in the SPD at Chapter 17. The SPD says the following: 16.2- It is the intention that an Enabling Fee (subject to annual review) will be incurred on each affordable housing unit delivered in Maidstone Borough Council area. These fees are designed to help with the provision of an affordable housing enabling service, assisting with the financial, legal, social, economic and environmental objectives required to secure and maximise affordable housing delivery and additional services. 16.11-These proposed enabling fees are designed to maximise affordable housing delivery in the Borough by assisting registered providers with support.
Provision of an affordable housing cost formula to homogenise bids from RPs for new AH, again to mitigate bidding wars. Historically the value of new affordable housing development was based on total cost indicators which levelled the playing field.	This is dealt with in Chapter 13 of the SPD entitled "Transfer values"

<p>The SHMA provides a good foundation and enables a strong influence, we believe it is imperative to ensure there is a sufficient link that creates a community that can thrive and has place making qualities that there will always be a demand for. SHMA's do shift a bit over time, so there is some flexibility. As for market/sub-market housing we will be more market led as SHMA's are not always accurate enough to rely on. We have, as a solution, developed mitigation plans that can cope with a rapid change in market conditions, but this would be only for unusual circumstances.</p>	<p>The SPD says the following at chapter 17 - The mix of open market units and affordable units provided on site should comply with the mix outlined in the SHMA (January 2014). Where affordable housing is to be provided, developers should also take into consideration the needs of households on the council's housing register and discuss affordable housing requirements with the council's housing team at the pre-submission stage of the planning process.</p>
<p>We believe there is a particular challenge with 2 bed- 3 person homes for affordable rent – it is the new bedsit problem of the future in our opinion.</p>	<p>The SPD says the following: 10.4-The Council will normally only accept 2 bed 4-person units 3 bed 5/6-person units and 4 bed 6/7/8-person units.</p> <p>10.5-2 bed 3-person or 3 bed 4-person units will not normally be accepted.</p>
<p>As place shapers sustainability is at the heart of our schemes and building developments that foster social cohesion is an imperative. To illustrate, we avoid clustering 1 and 2 bed needs together, thereby balancing unit locations to avoid clashes of lifestyles, that is, avoiding concentrations of family housing immediately adjacent to single person households etc. We also seek to balance the tenure choices within the realms of local policy which we believe is sufficiently clear.</p>	<p>The SPD deals with this issue at Chapter 9- Incorporating the Affordable Housing Requirement on Site</p>

<p>Evidencing the demand for shared ownership is not simple and requires a triangulation. The Homebuy Agent does not support sufficiently what that demand is, and we don't expect the guidance to be any clearer. To address this demand intelligence, we have to research other sources of evidence for example assessing local demography and income levels compared to local markets and attainability of homeownership. So maybe an aspirational split of tenure indicating percentage of homes shared ownership can only be the approach.</p>	<p>The SPD says the following: 11.11-In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including providing the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider and 1.10-This SPD will look to address this through the encouragement of the inclusion of social rent and discounted open market units. Social rents are set at more affordable rates than "affordable rent" and discounted market sale can include larger discounts than normal making them more affordable than shared ownership products. With regard to affordability the SPD says the following: 8.18-It is the intention of the Council that in order to be eligible for a shared ownership home the annual household income of applicants should be less than £60,000 rather than £80,000. it also says the following: 9.7-The local Plan refers to potential flexibility to change from shared ownership homes to 'intermediate rented' if market conditions change. Some RPs have experienced a downturn in demand for shared ownership in rural locations where there is a lot of shared ownership coming on to the market at the same time.</p>
<p>We make an offer based on the tenure and housing mix, usually using the LHA rate as rental stream if these are lower than 80% of market rent levels, and model this in our appraisal against annual appraisal criteria set by our Board.</p>	<p>This is dealt with in the SPD: 8.8-It is the Council's requirement that RPs cap their affordable rents to LHA levels if the 80% of the gross market rents exceeds the LHA level.</p>
<p>You will know that the price being paid by RPs is more than that to cover the build cost. It won't be the full cost of land they pay, so some subsidy is being provided by the developer. But on mixed tenure schemes transfer values that are around 80% of market value are not uncommon.</p>	<p>This is dealt with in the SPD at Chapter 13 - Transfer Values</p>

For S106 schemes of under 20 homes we believe there needs to be a change of approach. For schemes under 10 homes MBC should look at a sliding scale of contributions. SDC are also now considering the developer provides land with planning to be transferred for £1 to an RP to procure the construction. This could work on very high value sites, although we are conscious that the works costs, we can develop at will leave a funding gap – can this be grant funded, or a dowry provided by the developer? This could be complex if there are a lot of small sites to deliver.	Maidstone Borough Council have chosen not to apply a lower threshold of 5-units or less but are requiring affordable housing in accordance with the threshold contained in the current NPPF and NPPG. The SPD also says the following: 9.8-The wording of new Section 106 Agreements should incorporate this flexibility so that there is scope for tenure changes to be agreed without the need for Section 106 Agreements to be amended and also says the following: 13.7-Furthermore, there is still the flexibility allowed through the 'viability appraisal' route as set out in Policy SP20 of the Local Plan.
Do you consider the affordable housing provided to be "tenure blind"? - Not in all cases, but it is getting better. But that's once you get to the back of the site next to the motorway, rail lines, the communal bins and sub-stations! In general, new schemes are tenure blind from an external elevational and fenestration perspective, internally the specifications somewhat differ between the affordable rent, shared ownership and market housing. In the case of the latter, market housing purchasers seek to customise their accommodation according to their needs. In terms of shared ownership, there is usually an enhanced specification above the affordable rent owing to commercial sensitivities and the need to adopt a more consumerist approach. In terms of the clustering and juxtapositioning of the tenures, this is usually driven by the developer to optimise the market value of the units by capitalising on the best aspects following a comprehensive assessment of the site's opportunities and constraints during the concept design stages.	The SPD deals with this issue at Chapter 9- Incorporating the Affordable Housing Requirement on Site
Tenures are often separated, that is not pepper potted, to respond to commercial sensitivities around selling private and shared ownership and to simplify the service charge and asset management over the long term.	The SPD deals with this issue at Chapter 9- Incorporating the Affordable Housing Requirement on Site
During occupation we seek to homogenise estate and block management with the private elements by working in partnership to ensure all tenures benefit from the same levels of estate management thus avoid a distinction.	The SPD deals with this issue at Chapter 9- Incorporating the Affordable Housing Requirement on Site

<p>There is a concern at the growing interest in non-RP's taking on the S106 homes and having them managed by RP's. This is an investment game and the social and economic factors of social housing shouldn't be mixed like this in our view. To exemplify the point, investors are less likely to be concerned to address issues that are raised in the above points as we suspect that 2-5 years into their ownership, they will trade that portfolio as a going concern to another investor. How does MBC ensure that standards of development aren't being compromised, and the life expectancy of the homes is being maintained? Where would the landlord commitment be? This short term-ism is not compatible in providing and managing affordable homes over the long haul; we believe that a policy response to this potentially intractable issue is compelling.</p>	<p>The SPD says the following: 11.11-In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including providing the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider. The SPD also addresses this comment in Chapter 10- DEVELOPMENT SITE STANDARDS AND CHARACTERISTICS</p>
<p>There needs to be recognition of local circumstances that may affect demand for particular unit types in any given location. For example, level sites with good access to facilities may be particularly suitable for wheelchair standard homes; other locations may attract high demand for affordable family housing but less demand for people with a 1 bed flat need, for example.</p>	<p>This is an issue that the SPD is not best placed to address. It is more of a planning consideration.</p>
<p>The SPD should give flexibility for the total number of affordable units to be varied in return for a number of truly wheelchair standard home being provided, on suitable sites.</p>	<p>The SPD has the flexibility to deal with this issue. The SPD says the following: 9.8-The wording of new Section 106 Agreements should incorporate this flexibility so that there is scope for tenure changes to be agreed without the need for Section 106 Agreements to be amended</p>
<p>To support the new SPD, robust and up to date evidence must be maintained that includes consideration of benefit entitlements alongside the stated housing need of different household types.</p>	<p>The SHMA is updated regularly.</p>
<p>Ideally the SPD should define 2-bedroom units such that they will be 2-bedroom 4 person units, i.e. with a double and a twin bedroom; and 3-bedroom units should be defined so that they will be 5 person units not 4 person units.</p>	<p>The SPD says the following: 10.4-The Council will normally only accept 2 bed 4-person units 3 bed 5/6-person units and 4 bed 6/7/8-person units.</p> <p>10.5-2 bed 3-person or 3 bed 4-person units will not normally be accepted.</p>

To ensure homes will be affordable, the SPD should preferably state that the title to affordable housing units must be freehold or if leasehold, then long lease, at nil ground rent.	Ground rents are normally only charged on private units. New Government legislation is looking to outlaw ground rents.
Whilst we are keen for all development to be 'tenure blind' we do sometimes want to make changes to the specification proposed by developers especially as some only offer a very basic specification for affordable units. Developers can be reluctant to make internal specification changes or seek to charge a premium. We recognise that this can be because proposed alternative components are difficult to source through their existing supply chains and add complication to their build. However, we always have to balance this with ensuring suitable quality of the finished homes and the cost effectiveness of future maintenance.	This comment is noted but it is not possible to deal with this issue in the SPD
Developers may try to transfer any flats on a Leasehold basis to enable them to profit from/sell on ground rents and well as making profits from management companies. We look to secure freehold title wherever possible. Where the affordable 'quotas' includes a number of flats within a larger private block this tends to be particularly problematic, and service charge and ground rent may make these properties unaffordable.	<p>New Government legislation is dealing with this issue. The SPD also says the following: 9.3- Following consultation with registered providers (RPs) it is accepted that there are inherent problems with blocks of flats that have shared tenures of open market and rent with regard to ground rents and service charges.</p> <p>9.4- Where flats are provided on site as part of the affordable housing package then these should be in separate blocks with the freehold transferred to the RP. This will enable the RPs to set service charges which are affordable to their tenants/purchasers.</p>
Leasehold terms and estate wide management company conditions normally include a prohibition on parking commercial vehicles, which we always seek to negotiate out as otherwise people who drive for example a small commercial vehicle for work will be unable to park near their homes.	Note - but this is not something that the SPD can look to address.
We value the relationship with Andrew Connors and others in the housing team.	Noted

Viability tends to be more problematic when developing small sites, and flexibility on planning requirements can make the difference between a project proceeding or being unviable. Greater flexibility on the tenure mix would assist with viability – for example allowing the affordable 'quota' to be 100% AR or possibly 100% SO – having just 1 or 2 SO units can mean disproportionate marketing costs for the RP- giving developers flexibility may make it easier for them to interest RPs in offering for very small numbers of affordable units.	There is flexibility built into the draft SPD. Chapter 15 deals with viability.
We have experienced difficulties where MBC S106 Agreement has contained a requirement for Lifetime Homes standard to be achieved on all affordable homes (but not on any of the private units.) In particular, this requirement has occasionally been included in the terms of the S106 even when the planning approved layouts for those units did not enable Lifetime Homes compliance.	The SPD also addresses this comment in Chapter 10-DEVELOPMENT SITE STANDARDS AND CHARACTERISTICS
Good practice examples include :access to informal pre application advice for affordable projects; regular affordable housing meeting with planning officers and highways rep; sharing draft planning conditions before decision issued so that any potentially problematic conditions can be discussed and potentially amended; Council providing feedback on draft Unilateral Undertaking in lieu of Section 106 Agreement, to speed up planning process; Council agreeing principles of local lettings plan at outset of project where mix included high proportion of smaller flats	The SPD says the following: 11.8-With both approaches the Borough Council will require the developer to have agreed a suitable affordable housing partner and to have entered into a contract with them to deliver the affordable housing units prior to work beginning on site, on any development or phase of a development. Early engagement with an RP is vital. An information summary has been provided in the SPD at Chapter 17. The SPD says the following: 16.2-It is the intention that an Enabling Fee (subject to annual review) will be incurred on each affordable housing unit delivered in Maidstone Borough Council area. These fees are designed to help with the provision of an affordable housing enabling service, assisting with the financial, legal, social, economic and environmental objectives required to secure and maximise affordable housing delivery and additional services. 16.11- These proposed enabling fees are designed to maximise affordable housing delivery in the Borough by assisting registered providers with support.

<p>The local Plan refers to potential flexibility to change from shared ownership homes to 'intermediate rented' if market conditions change and it is particularly timely for the Council to consider this. We have already experienced some downturn in demand for shared ownership in rural locations where there is a lot of shared ownership coming on to the market at the same time, and coupled with this are mindful of the risk of a wider market downturn, possibly combined with reduction in mortgage availability. The wording of the new SPD and subsequent new Section 106 Agreements should embed this flexibility so that their scope for tenure changes to be agreed without the need for Section 106 Agreements to be amended.</p>	<p>The SPD says the following: 9.7-The local Plan refers to potential flexibility to change from shared ownership homes to 'intermediate rented' if market conditions change. Some RPs have experienced a downturn in demand for shared ownership in rural locations where there is a lot of shared ownership coming on to the market at the same time.</p> <p>9.8-The wording of new Section 106 Agreements should incorporate this flexibility so that there is scope for tenure changes to be agreed without the need for Section 106 Agreements to be amended</p>
<p>Rather than seeking the same approach, same mix provision in all locations, planning policy needs to give flexibility for site specific factors to be considered, and for this assessment to include consideration of both supply and demand factors.</p>	<p>The SPD does allow for flexibility</p>
<p>I would like to see the Council producing LNH Need Surveys in every parish, setting out the needs of the Borough and reviewing the position every 7 years (min)</p>	<p>The SPD says the following: 7.15-The Council will endeavour to ensure that Local Needs Housing Surveys are carried out by every Parish where the Local Parish Council supports this approach</p>

<p>On small sites the delivery to the required standards can be very difficult as the Register Housing Associations pay such a little sum for the finished product, this could be augmented by the inclusion of Open Market Housing, offsetting the very low figure paid by the HA.....carrying out a LNH Need Survey in every parish will determine where such allowances within the policy should be permitted, for example one parish may have a LNH need of say 25 units, which would not need open market housing support, another may only need 5 units, in which case open market housing would definitely enable the delivery.</p>	<p>The SPD says the following: 7.18-However, on rare occasions proposals may include an element of market housing to cross subsidise delivery. This may be to provide financial viability in order to deliver local needs homes and/or be a requirement of the landowner. Where market homes are suggested, the applicant will need to demonstrate to the satisfaction of the Council that a 100% affordable housing scheme has been fully considered and the reasons why it has been discounted.</p> <p>7.19-If the Council is satisfied that an element of cross subsidy is required to secure a local needs housing scheme, the amount of market housing will need to be at the minimum level required. It is envisaged that the amount of market housing should not exceed 30% of the total number of homes to be provided within the overall scheme or 3 homes, whichever is the lesser amount.</p> <p>7.20-A fully costed viability appraisal will need to be carried out to justify the inclusion of market housing for cross subsidy purposes.</p> <p>7.21-It is expected that any market homes provide for cross subsidy purposes will only comprise housing which is three bedrooms or less. Two- and three-bedroom homes are the primary size of new market homes required in the District, as evidenced in the SHMA. Executive style homes will not be permitted.</p> <p>7.22-Unless otherwise agreed by the Council, it is expected all of the market housing units will be sold to people with a local connection to the parish at first sale only.</p>
<p>RP's have generally been ok to work with over the past ten years. We are finding that they are being far more difficult over the past two years as the quantum of delivery to large national housebuilder sites is taking their focus much more than smaller schemes, additionally the RP's are offering lower prices for the finished product, particularly where the delivery numbers are low as they do not really want just four or five homes on a site that is not closely associated to their existing housing stock. I appreciate that this can be off-site to an off-site contribution although this is not always the right answer to the issue and the off-site</p>	<p>The SPD says the following: 11.11-In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including providing the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider</p>

contribution calculations as set out by the council are flawed.	
We send out the details and await the offers.....this is a major problem as the RP's do not have to take your stock & they will only offer what they want to offer....when a PLC national housing builder has 150 affordable units coming online in a similar location to one of our small sites we are being royally shafted by the RP's....they do not want small numbers pepper potted on small sites, they want large areas of PLC sites where all of their product is in one location.	<p>The SPD says the following: 11.9-In cases where developers are experiencing difficulties securing a housing partner, they will be required to provide a copy of their brief inviting offers from Registered Providers and the names of the Registered Providers invited to offer. Registered Providers who choose not to submit an offer in such cases will also be asked for their reasons, in order for the District Council to establish what obstacles may prevent a developer securing an affordable housing provider and to assist them in overcoming them.</p> <p>11.10-The initial consultation period revealed that many developers find it difficult to obtain realistic offers from RPs for smaller sites where the affordable housing requirement is less than 15 units.</p> <p>11.11-In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including providing the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider.</p>
RP's pay no land value at all, they pay the lowest price possible for the product and the inclusion of affordable on the site takes 20% off the sale price of open market homes and means that it will take you much longer to sell the open market homes.	These comments are noted - see above.
The whole affordable housing system needs a complete overhaul-RP's need to pay for the land, they need to pay the right price for the product, private business should not be losing money to provide housing stock to a trust that then makes money from it.	These comments are noted - see above.

<p>Council Housing team need to engage with us – we are providing the houses they need but we are not considered as a party in the process.</p>	<p>Maidstone Council do not have an “approved list” of Registered Providers but the SPD lists those working in the Borough. The SPD says the following: 11.8-With both approaches the Borough Council will require the developer to have agreed a suitable affordable housing partner and to have entered into a contract with them to deliver the affordable housing units prior to work beginning on site, on any development or phase of a development. Early engagement with an RP is vital. An information summary has been provided in the SPD at Chapter 17. The Spd says the following: 16.2-It is the intention that an Enabling Fee (subject to annual review) will be incurred on each affordable housing unit delivered in Maidstone Borough Council area. These fees are designed to help with the provision of an affordable housing enabling service, assisting with the financial, legal, social, economic and environmental objectives required to secure and maximise affordable housing delivery and additional services. 16.11-These proposed enabling fees are designed to maximise affordable housing delivery in the Borough by assisting registered providers with support.</p>
<p>Delivery of S106 affordable dwellings. Several RP will not take small amount of units</p>	<p>The SPD says the following: 11.9-In cases where developers are experiencing difficulties securing a housing partner, they will be required to provide a copy of their brief inviting offers from Registered Providers and the names of the Registered Providers invited to offer. Registered Providers who choose not to submit an offer in such cases will also be asked for their reasons, in order for the District Council to establish what obstacles may prevent a developer securing an affordable housing provider and to assist them in overcoming them.</p> <p>11.10-The initial consultation period revealed that many developers find it difficult to obtain realistic offers from RPs for smaller sites where the affordable housing requirement is less than 15 units.</p> <p>11.11-In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including providing the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider.</p>

<p>A number of RPs will not now look at S106 units that are below 15 dwellings. Offers that are made for the lower amount of units are sometimes not viable and as a developer you are forced to accept low offers only so you can get the development started and private units delivered</p>	<p>The SPD says the following: 11.9-In cases where developers are experiencing difficulties securing a housing partner, they will be required to provide a copy of their brief inviting offers from Registered Providers and the names of the Registered Providers invited to offer. Registered Providers who choose not to submit an offer in such cases will also be asked for their reasons, in order for the District Council to establish what obstacles may prevent a developer securing an affordable housing provider and to assist them in overcoming them.</p> <p>11.10-The initial consultation period revealed that many developers find it difficult to obtain realistic offers from RPs for smaller sites where the affordable housing requirement is less than 15 units.</p> <p>11.11-In some cases, the Borough Council may take on the brokerage role itself or look at alternative delivery methods including providing the affordable units themselves. This could be in the form of a Housing Delivery Partnership (HDP) with a Registered Provider.</p>
<p>If you need to get an RP on board you do what they want and say in fear that you may end up with private units you are unable to complete on</p>	<p>Noted - see above</p>
<p><u>Councillors also made comments on the draft SPD at a meeting on 3rd June 2019.</u></p>	
<p>Members' overriding message was for affordable housing to be truly affordable</p>	<p>The SPD has text explaining its limitations in the context of a difficult macro picture around the housing market and affordability</p>

<p>There was some concern regarding shared-ownership products. Particularly how the Council could ensure they remained as affordable housing in perpetuity. It was noted that the unit could be lost as affordable housing. (officers explained that although this could be the case, the finance for the affordable housing would be kept in perpetuity).</p>	<p>The SPD says the following: 8.26-It is possible, therefore, for shared ownership units to become fully owned open market units and the receipts used purely to offset the housing associations borrowings.</p> <p>8.27-Discounted homes for sale are defined as those available to buy at a discount from what would be their open market value, with the discount applied in a manner so that it remains applicable on future re-sales in perpetuity.</p> <p>8.28-It is the Council's view that, along with the provision of social rented units discounted open market units are the product that would be particularly suited to helping local people get onto the housing ladder. Social rent levels are much more affordable than "affordable rent" and the level of discount applied to the discounted open market units can be adjusted to suit local salary levels.</p>
<p>Members were fairly positive about discounted market sale product in the SPD. Members also referred to co-operatives as something they could support. Members wanted this referred to in the definitions. Rent to buy is popular with the Leader.</p>	<p>The SPD is clear on its benefits and the reasons for its inclusion with particular regard to bringing AH forward (and the type of AH, where possible). AH would need to stay as AH though. The SPD says the following: 11.6-The Council supports the role that Housing Co-operatives can play in providing affordable housing. A housing co-op is a housing organisation which exists as a landlord, managed partly or fully by its tenants. Co-ops are one model of Community-Led Housing. Co-ops which allow people to control their homes and build a supportive community.</p>
<p>There was discussion around elderly people with large housing blocking it from coming forward for families.</p>	<p>This is not something the SPD is able to address.</p>
<p>There seemed to be general agreement that one of the issues was around deposits/lump sums and the barrier they created. Reference to help to buy could be expanded in the SPD. There was a lot of support for finding ways that the Council could help with deposits and asked us to look into this. Members also wanted us to look into reducing the £80k income threshold, to £60k, for example.</p>	<p>The SPD says the following: 8.19-The Council will explore options it may have in providing help to first time buyers with initial deposits. It also says the following: 8.18-It is the intention of the Council that in order to be eligible for a shared ownership home the annual household income of applicants should be less than £60,000 rather than £80,000</p>

<p>A theme that some Members felt quite strongly about was local affordable housing for local people. This seemed to manifest itself in a couple of ways – 1. If there is a product that would be particularly suited to helping local people get onto the housing ladder, then this should be promoted and 2. Can we support exception sites coming forward in the SPD itself</p>	<p>The SPD says the following: 1.7-There is a shortage of affordable housing in the Borough and the Council is under significant pressure to deliver new housing to meet objectively assessed needs.</p> <p>1.8-As such the SPD is intended to maximise delivery of truly affordable homes in the borough.</p> <p>1.9-It should be noted that this intention will have its limitations in the context of a difficult macro picture around the housing market and affordability.</p> <p>1.10-This SPD will look to address this through the encouragement of the inclusion of social rent and discounted open market units. Social rents are set at more affordable rates than “affordable rent” and discounted market sale can include larger discounts than normal making them more affordable than shared ownership products.</p> <p>4.16-The Council is happy to consider the development of Entry Level Exceptions Sites in suitable locations, particularly where these will provide for Local Key Workers</p>
<p>There was a lot of debate around space standards. Ultimately, Members were keen to bring in minimum space standards but want this done in a co-ordinated way and through the Local Plan Review, rather than the SPD itself.</p>	<p>The SPD says the following: 10.2-The ideal occupancy requirements and minimum floor areas for each affordable unit type are set out in the table below and it should be noted that affordable units are likely to be fully occupied. The Council are investigating the potential for minimum space standards to be adopted in the Local Plan review.</p>
	<p>Where possible, due to constraints placed upon the SPD from National and Local Planning Policy, the above comments have been taken into account and are reflected in the draft SPD.</p>

6-WEEK PUBLIC CONSULTATION ON THE ALNH SPD

- 1.3 As part of the 6-week public consultation, the Council consulted everyone on its database, consisting of 4,567 entries, including housing associations, developers, other stakeholders and the public.
- 1.4 We received 20 responses, including from housing associations and developers and other stakeholders. The below summarises the various responses to the consultation and illustrates how modifications have been made.

<u>Comment from consultee</u>	<u>How the issues raised have been addressed in the SPD</u>
-	-
Undertake the review of Affordable Housing Policy through the Local Plan review, and not through this SPD.	The SPD reflects the Local Plan and does not attempt to introduce new policy.
Social Rented tenure cannot be delivered as drafted. This is a national issue and cannot be brought in via an SPD. Consider site by site the delivery of Social Rented tenure.	The Local Plan already assumes provision of social rent. The SPD is purely giving guidance on how this can be achieved. Policy SP 20 says the following: The indicative targets for tenure are: i. 70% affordable rented housing, social rented housing or a mixture of the two; and ii. 30% intermediate affordable housing (shared ownership and/or intermediate rent).
Consideration to a sliding scale of affordable delivery where Social Rented is required which gives a reduction to the overall amount of affordable provision	This is already addressed in the SPD 8.13 says the following: "The Council will be flexible regarding the total percentage of affordable housing and / or tenure split if this results in the provision of social rent on site. This would be on the basis that it would be "cost neutral" in terms of the overall viability to developers."
It is considered that needs based on geography and location are taken into account as it is not often appropriate for example to locate Social Rented units in remote locations in the Borough.	This is addressed at paragraph 7.12 of the SPD and Policy DM 13 of the adopted Local Plan - Affordable local needs housing on rural exception sites.
Be flexible to allow single tenure affordable housing on small sites.	One of the main aims of the SPD is to demonstrate that the Council are willing to be flexible to ensure that the maximum amount of affordable housing is delivered on-site.

Introduce more flexibility to the affordable housing mix and consider on a site by site basis. Update the SHMA.	The SPD is clear that the housing mix will take into account the SHMA but that developers should engage with the council's Housing department, Planning department and with registered providers at the earliest stage of the application process. Paragraph 16.4 has now been amended to say the following: The mix of open market units and affordable units provided on site should, where possible, comply with the mix outlined in the SHMA (January 2014). The SHMA will be updated in due course. Paragraph 10.1 says that the characteristics of a site and the development as a whole should be reflected in the affordable housing mix - dwelling tenure, type and size. The tenure, type and size split on each site can be advised through pre-application discussions but should be in accordance with the SHMA and factoring requirements of need contained on the housing register at that time . The SHMA (January 2014) goes on to say that although we have quantified this on the basis of the market modelling and our understanding of the current housing market we do not strongly believe that such prescriptive figures should be included in the plan making process and that the 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time. The figures can however be used as a monitoring tool to ensure that future delivery is not unbalanced when compared with the likely requirements as driven by demographic change in the area.
Remove the mix requirement for market housing	Paragraph 16.4 has now been amended to say the following: The mix of open market units and affordable units provided on site should, where possible, comply with the mix outlined in the SHMA (January 2014)
Include adopting the space standards in the review to the Local Plan and not through the SPD.	Paragraph 10.11 of the SPD now says - With regard to D.C.L.G. Nationally Described Space Standards the Council are keen to incorporate these for all tenure types, but this will be done in a co-ordinated way through the Local Plan Review rather than as part of this SPD.

The table excludes 2 bed 3 person and 3 bed 4 person homes which we consider is inappropriate	The SPD is flexible in that it says that the Council will normally only accept 2 bed 4-person units 3 bed 5/6-person units and 4 bed 6/7/8-person units. This item in the SPD was a result of earlier consultation where RPs commented that “We believe there is a particular challenge with 2 bed-3 person homes for affordable rent – it is the new bedsit problem of the future in our opinion. Paragraph 10.3 has now been amended to say that the Council will normally only accept 2 bed 4-person units 3 bed 5/6-person units and 4 bed 6/7/8-person units where the tenure is for rent and paragraph 10.4 has been amended to say that 2 bed 3-person or 3 bed 4-person units for rent will not normally be accepted. the table at paragraph 10.2 has now been removed and the amended text now says that The Council are investigating the potential for minimum space standards to be adopted in the Local Plan review
Consider the wheelchair and accessibility requirements on the suitability of the site and need and not as a blanket requirement	This is not a blanket requirement. The SPD says at paragraph 10.12 that where appropriate , development will be required to meet and maintain high standards of accessibility so all users can use them safely and easily. Account should also be taken of any requirements for the provision of wheelchair user dwellings, dependant on the suitability of the site and the need at the time
Do not require the shared units to need to provide M4(2) compliance	The SPD says that there is an expectation not a requirement that all affordable units will be built in accordance with Part M4(2).
Remove reference to a specific cluster number, let each site be considered on its own merits and controlled through the design and other affordable housing policies.	The SPD has been amended to reflect this.
Section 14 to include criteria for off-site payment for the affordable provision on schemes of under 50 units.	The SPD section on viability conforms with the Local Plan and the NPPF and PPG. Paragraphs 11.9 to 11.12 the SPD also addresses this concern.

Further work on the OMV to reflect the Borough along with further discussions with the RP's.	Paragraph 13.7 now says that - It should be noted that the actual transfer values will vary on a site by site basis
Extend paragraph 15.20 to include sites purchased based on Local Plan requirements and not SPD.	Paragraph 15.20 is clear and does not need to be amended
Remove the proposed enabling fee and any reference to it.	This has now been removed
The SPD states at page 43 (point 1) that the first assumption is the development should be policy compliant. It is unclear what policy this is in reference too. Is it this SPD or is it the Local Plan?	This has now been amended to say - 16.1 - The first assumption should be that the development will aim to be policy compliant with the Local Plan.
The Council needs to have strong evidence showing the degree of need for social rent before it adopts a policy that is in conflict with NPPF	It is not setting new policy – it says the following at paragraph 8.3 The Council's preference is for social rent and this will be the initial assumed tenure for the rented units. However, it is accepted that the delivery of social rent has been difficult and that the most common rented tenure being delivered is affordable rent. It should also be noted that the Economic Viability Report used to support the Local Plan assumed a tenure split of 70% affordable rent / 30% intermediate and did not include any social rent. The Local Plan already assumes provision of social rent. The SPD is purely giving guidance on how this can be achieved. Policy SP 20 says the following: The indicative targets for tenure are: i. 70% affordable rented housing, social rented housing or a mixture of the two; and ii. 30% intermediate affordable housing (shared ownership and/or intermediate rent).

Para 7.21 - Here the council is seeking to control/guide the sizes of market homes. This is wrong, developers know the market place better than the council and always seek to provide the right product in the right places.	paragraph 7.21 says - It is expected that any market homes provide for cross subsidy purposes will only comprise housing which is three bedrooms or less. Two- and three-bedroom homes are the primary size of new market homes required in the District, as evidenced in the SHMA. Executive style homes will not be permitted. The market homes should meet the identified needs of the rural location through a local Housing Needs Survey. This will identify not only the affordable housing needs but also the market housing needs for local people. Policy DM 13 item 1 says the following: Development has been proven necessary by a local needs housing survey approved by the council which has been undertaken by or on behalf of the parish council(s) concerned. In consultation with the parish council and registered provider of social housing, the council will determine the number, size, type and tenure of homes to be developed after assessing the results of the survey. The council will also use the housing register to determine where there may be unmet housing needs.
Para 7.22 - Controlling the first sale of a market home supporting rural housing need is wrong and cannot be controlled in such a way. This will completely undermine the benefit of market homes to support rural exception sites and will prevent small developers from gaining funding to deliver such sites	The whole point of rural exception sites is that they are purely to meet local housing need. This includes the market housing on the site.
Para 8.18 - Controlling the earnings cap & reducing the cap from £80k/annum to £60k per annum. Young people are already up against it and to reduce the earnings cap by 25% is cruel, unfair and unnecessary. If the council really wants to help young people get on the property ladder this cap must remain at £80k/annum	This has now been amended in the SPD and is set at £80,000.

Para 9.1 - This policy wording is not attainable and is out of the control of the developer. The RP's do not want their homes to be 'good quality' they want materials and finishes to be cheap and simple due to perceived long-term management costs. Therefore, an affordable home will never appear to be as good as an Open Market Home, no matter what the developer does to try and specify such standards. As we see constantly in the planning system, RP's dumb-down previously approved schemes in order to use the cheap external finishes that they want. Therefore, this policy wording is undeliverable	Paragraph 9.1 has been amended to say - 9.1 - Affordable Housing should be integrated within a development and should, be as far as possible be indistinguishable from the market housing.
Para 10.8 - Control over the number of affordable homes in one cluster - this is a poor piece of planning policy drafting. I fully agree with the sentiment to pepper pot affordable housing into open market housing schemes, however to actually determine that 10 is the cap on a cluster of affordable homes is completely wrong and must be removed from the document. On large housing sites a cluster of more than 10 is wholly acceptable and this must be reflected in a more flexible policy wording.	This has been amended to say - Affordable housing provided on-site must be designed to a high standard and, as far as possible, fully integrated into the overall scheme layout, rather than concentrated in just one location
Para 10.10 - This is not attainable for the same reasons as cited above - The RP's will not pay for standards/specifications that are anywhere near to the level of open market housing and always seek to dumb-down the external appearance of a home to cheap materials and detailing.	This has been amended to say - Affordable housing units should, as far as possible, aim to be 'tenure blind' so that affordable and private homes are virtually indistinguishable from one another in terms of design quality, appearance, materials and site location. This will help to avoid visual separation between private and affordable housing
The table on Page 28 is meaningless unless you also set out a table of minimum room sizes. Given the reference to M4 of the building regulations and need to comply with such regs there is no need for this table at all in this document.	The table on page 28 has been removed
Para 11.10 - This statement is incorrect - The small developers cannot find any RP that will take less than 20 units on a single site as has been demonstrated by many of us over the past four years. The benchmark figure here should be 20 units not 15	this has been changed to 20 units

11.14 The policy wording here using '10 units' as a benchmark is wrong and should be given greater flexibility	This has been changed to say - The Council are seeking to restrict developers to provide the affordable flatted housing units in small clusters, around the development. On high density flatted schemes, it may be agreed by the Borough Council to allow blocks containing more affordable housing units, provided that the design does not seek to concentrate the affordable housing into flats at the expense of integration
Para 11.16 & 11.17 - This policy wording is extremely unfair and should not form part of any planning policy in the borough. The developer is already providing affordable housing at nil profit, in some cases the developer is subsidising the cost of delivering affordable homes. For MBC to now try and control the delivery timing of affordable homes against market housing delivery is morally wrong. In many situations the delivery of affordable housing is governed by design or by the timing of Transfer Values from the RP, to try and control the sale of market homes and effectively control the finances of the developers private business cannot be allowed	The wording in these paragraphs is not unfair - it is there to ensure that the affordable housing is delivered.
Para 12.1 - Planning Policy SP20 is flawed in regard to C3 retirement homes. Retirement schemes are generally to sites of 20 units or less and in such cases the number of affordable units that is derived under current policy means that a developer is trying to find an RP that will take 2 to 4 homes	This is a Local Plan policy that has been adopted.
Para 13.6 - The sales rate of £350/sqft is not attainable in many parts of the borough and is a flawed figure. It is attainable in the more affluent areas. In the interests of fairness the council needs to identify a base rate for each parish rather than use such an inflated figure across the whole borough	This paragraph has been changed to now say - Based on a purely arbitrary open market value of say £300 per ft2 the following table shows transfer values for typical shared ownership units

Para 14.11 - The method outlined by the policy wording is significantly flawed. The method outlined would take from the developer 100% of the open market land value and 100% of the developers profit on the open market unit. This is unfair and does not meet with the guidance of the RICS. The method represents profiteering on behalf of the council and does not follow the previous, very fair, method which sought a sum equal to the cost of delivering the same units on-site. The transfer value to an RP represents the developers build cost and a small sum for the land. In most cases the developers are spending more on the delivery of the affordable housing than they get back in the transfer sum as the transfer sum does not take into account any of the site infrastructure, land cost, developers profit or costs to attain planning. Therefore, the suggested model of taking 100% of the revenue from an open market home, less the transfer value is profiteering and does not represent the actual scenario. This is a significant point that need urgent attention.	The rational behind this is explained in the SPD at paragraphs 14.2 and 14.3 - Many Council's make allowances in their financial contribution for the difference in profit levels between providing open market units on site and affordable housing on site. This has the effect of reducing the overall financial contribution. However, this difference in profit is offset by the extra revenue potentially received by the developer given that the site is now 100% open market and also accounts for the extra costs involved for both the Council and RPs in finding alternative sites and schemes for the off-site contribution.
Para 15.5 The commentary here is flawed and does not represent the real situation. Rural exception sites are always small sites, generally less than 1 acre in size and generally located near to existing homes/facilities in low hierarchy villages. Therefore, the existing use value of these sites is way higher than the general agricultural land values that the council has identified. Yes when buying 100 acres of agricultural land in Kent you might only pay £6,000 to £15,000 per acre however if a 1 acre parcel of land comes up for sale in a low hierarchy village it is likely to sell for anywhere between £60,000 and £100,000. The abilities for rural exception site to compete with these land values is very low.	Rural exception sites are on sites that would not normally obtain planning permission for open market housing. If because the site is located next to an existing village the landowner thinks that he may obtain planning permission in the future then that it is for him to make the decision whether to release it for a rural exception site or not. Rural exception sites are an exception to normal planning policy and the land value must represent the existing use value of the land and not include any "hope value". If the site is too expensive because of its existing use, then alternative sites should be sought.
Para 15.7 is totally flawed - in line with comments above - this should be removed from the document.	the wording has been slightly amended to say the following - On rural exception sites typically £10,000 to £15,000 per plot for the base land cost or no more than ten times the agricultural land value at the time, whichever is lower (including site abnormalities) will be accepted as a benchmark land value. See also the comments above.
Enabling fees should be removed	This has now been removed

The Council and its officers can easily assess the acceptable reduction in Affordable Housing numbers to any particular site, in exchange for a priority to the Social Rent Tenure Type, so as to create parity between a policy compliant Affordable Housing Mix of 70% Affordable Rent and 30% Shared Ownership versus any variation that includes the Social Rent Tenure Type.	this has to be done on a site by site basis. It is not possible to apply this to all sites equally as there will be variation in affordable housing values and open market values across the Borough.
SME Developers can be assured of attaining the same Transfer Values as larger Development Companies who currently benefit from improved terms from Registered Providers than SME Developers can attain	The Council cannot insist upon the price that RPs pay for affordable units on S106 sites. Each RP will have their own methodology for calculating the transfer value of a particular affordable unit.
The Council should unilaterally carrying out a Local Needs Housing Survey to every parish outside of the eleven upper hierarchy settlements, thereby establishing the future needs of these parishes and providing some prospect of such needs being provided within the Plan Period	The SPD says the following - The Council will endeavour to ensure that Local Needs Housing Surveys are carried out by every Parish where the Local Parish Council supports this approach
The Council should avoid, as far as is practicable, the need for any Viability Assessment by setting out clear and concise parameters through the use of Index Linked Transfer Values.	The Council cannot insist upon the price that RPs pay for affordable units on S106 sites. Each RP will have their own methodology for calculating the transfer value of a particular affordable unit.
The Council should provide clarity on its policies for Discounted Homes and the percentages that would be allowed on any one development site as part of the Affordable Housing provision.	The SPD gives adequate flexibility for developers as currently worded.
Introduce wording that states that a 'developer must have entered into a contract with a Registered Provider to deliver Affordable Homes before any Market Homes are occupied'	The wording currently in the SPD is considered to be a reasonable approach to this issue.
Remove reliance on Viability Assessments as such processes significantly delay housing delivery and significantly increases the cost of delivery to the developer and to the council.	This is clearly not an option as viability has to be taken into account as per the NPPF and NPPG.

The role of the SPD should therefore seek to provide guidance on existing planning policy contained in the adopted Development Plan. It is important to note that this does not present an opportunity to reinvent the existing planning policies contained in the Local Plan. Gladman note that the draft SPD refers to policies in Maidstone Borough Local Plan (specifically policies SP9 and SP20). Whilst the Local Plan was adopted in 2017, the Local Plan Review has recently undergone Issues and Options consultation. Therefore, it is key that this SPD is updated and reflects any changes made to these policies throughout the Review's preparation and examination process.	Noted
I am pleased to see that developers are being held responsible for supplying the required affordable housing.	Noted
South East Water appreciates the nature of this document and would like to suggest that a link to your adopted water efficiency policy set out on the adopted Local Plan could also be part of this document. It would be good to keep the focus on your water efficiency policy and this would be a good opportunity to also remind it to your stakeholders.	This has now been included at paragraph 16.2
The problem is not a lack of affordable housing. The problem is the affordable housing is being provided by London borough councils to their tenants! We should not be allowing London to solve its housing crisis by buying up property for development for the intention of housing out of county tenants. The local infrastructure is already at breaking point. The pollution . Levels in Maidstone are at an all time high yet more and more development is happening in Maidstone without any consideration for current residents. Hermitage Lane is a prime example of over development from a bordering council impacting on the local services too	Noted
Sutton Valence Parish Council believe that this is a well thought out production that covers all types of housing needs. The Parish Council has experience of an exception site - Haven Close. The rental costs in Sutton Valence are very high, therefore rural housing rental costs are high. An exception site should have the rents capped at an affordable level and not just a percentage reduction on the private rental costs.	the SPD allows the flexibility to deliver rural exception sites at truly affordable rents

The requirement figures for tenures should have been provided for in the adopted Local Plan (2017) and should not be deviated from within in the draft ALNH SPD as stipulated in the NPG (2018) and detailed above. The assertion in Section 5 is a subtle one, but a theme developed throughout the draft ALNH SPD is that the emphasis is shifted from the delivery of affordable housing to social rented houses. The provisions of Policy SP20 are clear in this regard and the draft ALNH SPD should reflect this Policy provision and not seek through the 'back door' to change the Policy emphasis.	The Local Plan already assumes provision of social rent. The SPD is purely giving guidance on how this can be achieved. Policy SP 20 says the following: The indicative targets for tenure are: i. 70% affordable rented housing, social rented housing or a mixture of the two; and ii. 30% intermediate affordable housing (shared ownership and/or intermediate rent). 8.13 says the following: "The Council will be flexible regarding the total percentage of affordable housing and / or tenure split if this results in the provision of social rent on site. This would be on the basis that it would be "cost neutral" in terms of the overall viability to developers."
As an initial point, paragraph 6.2 of the draft ALNH SPD should not be seeking to establish policy in addition to that set out in Policy SP19. This is a point of concern in principal. If details of mix requirements are to be identified, this should be done through the emerging Local Plan process, not an SPD	The SPD does make it clear that the SHMA (January 2014) goes on to say that although we have quantified this on the basis of the market modelling and our understanding of the current housing market we do not strongly believe that such prescriptive figures should be included in the plan making process and that the 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time. The figures can however be used as a monitoring tool to ensure that future delivery is not unbalanced when compared with the likely requirements as driven by demographic change in the area.
We are unclear as to why Help-to-Buy is referenced at paragraphs 8.40 – 8.42 as it is not an affordable housing tenure.	This is for information only
The draft ALNH SPD lacks a robust evidence base and introduces matters of viability testing that appear poorly justified and explained	The viability at section 15 is fully compliant with the NPPG and current best practice.

Agenda Item 15

STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

7th July 2020

Local Plan Review Update

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

Executive Summary

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

Purpose of Report

For noting

This report makes the following recommendations to this Committee:

1. That the content of this report is noted.

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	7 th July 2020

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p><i>The four Strategic Plan objectives are:</i></p> <ul style="list-style-type: none"> <i>Embracing Growth and Enabling Infrastructure</i> <i>Safe, Clean and Green</i> <i>Homes and Communities</i> <i>A Thriving Place</i> <p>The Local Plan Review (LPR), can contribute to all four objectives. The Scoping Themes and Issues consultation document previously agreed by this Committee explains this interrelationship between the Strategic Plan objectives and the LPR.</p>	Rob Jarman, Head of Planning & Development
Cross Cutting Objectives	<p><i>The four cross-cutting objectives are:</i></p> <ul style="list-style-type: none"> <i>Heritage is Respected</i> <i>Health Inequalities are Addressed and Reduced</i> <i>Deprivation and Social Mobility is Improved</i> <i>Biodiversity and Environmental Sustainability is respected</i> <p>Similarly, the relationship between these objectives and the LPR is explained in the Scoping, Themes and Issues consultation document.</p>	Rob Jarman, Head of Planning & Development
Risk Management	<i>Please refer to Section 3 of this report.</i>	Rob Jarman, Head of Planning & Development
Financial	Provision has been made for the costs of delivering the local plan review within the Council's agreed budget and medium-term financial plan.	Ellie Dunnet, Head of Finance

Staffing	<i>There are no significant staffing implications resulting from this update report</i>	Rob Jarman, Head of Planning & Development
Legal	This report does not raise any specific legal implications. More widely, the preparation of the LPR is governed by specific legislation and regulations and informed by national planning policy and guidance. Legal advice on specific matters is obtained from MKLS and/or counsel as the LPR is progressed and this is incorporated.	Cheryl Parks Mid Kent Legal Services (Planning)
Privacy and Data Protection	This report does not raise any specific privacy/data protection issues at this stage.	Policy and Information Team
Equalities	No implications identified as part of this report and recommendations. An impact assessment has been undertaken. This is a live document that is revisited as the review progresses	Equalities and Corporate Policy Officer
Public Health	The LPR will have, or has the potential to have, a positive impact on population health and that of individuals	[Public Health Officer]
Crime and Disorder	The LPR can potentially have a positive impact on crime and disorder.	Rob Jarman, Head of Planning & Development
Procurement	This report does not raise any specific procurement issues at this stage.	Rob Jarman, Head of Planning & Development & Section 151 Officer

1. INTRODUCTION AND BACKGROUND

- 1.1 At the 10th March 2020 meeting of this committee, Members resolved that officers provide a short-written update at each meeting of this committee, concerning any slippage and/or progress on delivering the plan on the timescale agreed. This report provides the requested update.
- 1.2 The Local Plan Review Update report presented to the 9th June 2020 meeting of this committee summarised the work that is taking place in preparation for public consultation in October 2020. This consultation will be

on preferred approaches and reasonable alternatives with an emphasis on the spatial strategy – the amount and location of future growth in housing, employment, and retail, for example that is associated with the Local Plan Review.

- 1.3 As part their consideration of the report at the 9th June 2020 meeting, Members resolved to accept proposals for a series of Member engagement exercises over the summer period. The purpose of the engagement exercises will be to ensure that Members have the opportunity to be involved and briefed on emerging proposals and supporting evidence, in the run up to the October 2020 public consultation exercise.
- 1.4 Despite the tight timeline, it is anticipated that the public consultation will take place from Friday 30th October 2020 and finish 6 weeks later on Sunday 13th December 2020.
- 1.5 This report provides Members with a summary of the key specialist evidence studies that will help inform the Member engagement and the October 2020 public consultation. Many studies will also inform other components of the Local Plan Review including the public consultation that is scheduled to take place in February 2021, on more detailed technical matters including development management policy areas.

Economic Development Needs Study (EDNS)

- 1.6 The purpose of the EDNS is to provide an up-to-date, robust and comprehensive evidence base for employment, retail, leisure and town centre needs within the Borough during the period to 2042. The study follows a two-stage integrated approach:
- 1.7 Stage 1 – Taking stock of the current position: This is a baseline report demonstrating a holistic understanding of the current economic ‘state’ of the borough and its centres, encompassing all retail, leisure and main town centre uses, and commercial sectors. This also includes commercial viewpoints regarding the current local market and provides a narrative framing the key issues facing Maidstone’s commercial sector; and
- 1.8 Stage 2 – Future Needs Assessment: This is a substantive integrated study in accordance with government guidance and best practice for retail leisure and employment needs. It establishes the future need for retail and employment floorspace in the borough up to 2042 under 3 separate scenarios; it seeks to understand the needs of local businesses; and undertakes a qualitative and quantitative assessment of the borough’s employment land supply. It also includes the identification of potential policy approaches and spatial strategies for the LPR.
- 1.9 There remains scope for an additional, more detailed piece of work on the composition of any potential Garden Settlement(s), should they be included within our preferred spatial strategy.
- 1.10 As evidence gathering exercises associated with the EDNS were completed prior to the Covid-19 pandemic, the study does not account for the implications this may have on the borough’s future employment, retail,

leisure and town centre needs. Although there will be synergies with the Economic Development Strategy, it is possible that an update will be required to the EDNS once the long-term implications of Covid 19 are better understood.

Strategic Housing Market Assessment

- 1.11 The Strategic Housing Market Assessment looks at housing need for all types of housing across the Maidstone area. It identifies the individual need for different housing typologies (such as affordable tenures, private rented housing, and older persons housing), and looks at overall housing need. It is intended to revisit this piece of work in Summer-Autumn 2021, as well as the latest government calculations associated with its housing needs standard methodology, prior to submission of the draft plan, to ensure we are delivering on the most up-to-date need figures.

Strategic Flood Risk Assessment

- 1.12 The Strategic Flood Risk Assessment draws together evidence concerning flood risk in the borough. This is a two-stage assessment.
- 1.13 The first stage provides up-to-date information on areas within the borough that are most at risk from flood events, including, where available, information from the 2019/20 floods. A second stage considers site impacts and potential mitigations in more detail, thus informing the selection and design of potential sites in the Local Plan Review. The primary objective is to locate more vulnerable uses away from areas with higher flood risk. The assessment therefore informs the choice of sites towards areas that benefit lower flood risk, unless exceptional benefits exist, for example on town centre sites proximate to the River Medway.

Sustainability Appraisal/Strategic Environmental Assessment

- 1.14 The Sustainability Appraisal (which incorporates a Strategic Environmental Assessment) of the Local Plan Review is an important statutory undertaking to inform and support the conclusions in the Local Plan Review at each main stage for the duration of the Local Plan Review process. It is therefore being undertaken in an iterative manner, with the emerging strategy and policies being tested against sustainability objectives set out in the SA Scoping Report of 2019.
- 1.15 Currently, the consultants are looking at the impacts of three high-level indicative Reasonable Alternatives and thematic Reasonable Alternatives set out in 6 emerging Topic Papers. This will provide an objective basis to help with the forthcoming work on understanding the strengths and weaknesses of different spatial approaches when selecting reasonable alternative Spatial scenarios. These scenarios will then be tested and used to inform the preferred approach. The outputs will be consulted on alongside the LPR Preferred Approach in an Interim Sustainability Appraisal in October 2020.

Strategic Land Availability Assessment

- 1.16 The Strategic Land Availability Assessment synthesises the need for development (as defined through the Borough's housing, employment, and retail needs assessments) and the land available to accommodate them (as identified through the existing Local Plan, through extant planning consents, through the Call for Sites and through the Council's research into alternative sources of sites).
- 1.17 The SLAA will contain a number of site assessments, most pertinently for the Call for Sites proposals, looking specifically at their suitability against criteria agreed at the time of issuing the Call for Sites. There will also be a more detailed assessment of the suitability and deliverability of Garden Settlement-scale proposals (see below).

Garden Communities Assessment

- 1.18 As noted in detailed discussion at the 9th June meeting of this committee, consultants have been appointed to undertake a 2-stage assessment of submissions for potential garden communities. The first stage considers the overall suitability of sites for such purposes, while the second stage looks in more detail at deliverability and viability of proposals.

Maidstone Transport and Air Quality Modelling Project

- 1.19 The methodology in place for this project follows a recognised approach to Local Plan transport assessments. The project has been split into two stages in order to assist in achieving shorter timescales for bringing forward its transport evidence than would otherwise be achievable, while maintaining a fully robust, evidence driven approach.
- 1.20 The two stages are inherently linked; however, completion of Stage 2 will require the Kent Transport Model to be available for the detailed testing of spatial allocation options.
- 1.21 Stage 1 of the modelling involves developing the evidence base to support the preferred approaches proposals. These proposals will set out a number of options for different quantities of development allocation in different sections or "corridors" of the District and what mitigation of transport and air quality impacts may be required to enable them.
- 1.22 Stage 2, building on the evidence base of Stage 1, will apply the new Kent Model in order to provide the more detailed and site-specific evidence base for a Regulation 19 draft of the Local Plan Review. This will, again, include highway impacts and air quality impacts, along with the necessary degrees of mitigation on a more site-by-site basis.

Integrated Transport Strategy

- 1.23 The Integrated Transport Strategy is a joint piece of work by Maidstone Borough Council (MBC) and Kent County Council (KCC) which sets the approach to managing transport issues in Maidstone over the Local Plan period. Progress is at an early stage, with an officer and stakeholder workshop being held in February. A representative Member workshop took

place on 24th June. Proposals and objectives will be identified to help generate an overall approach for the Local Plan Review.

Gypsy & Traveller and Travelling Showpeople Accommodation Assessment (GTAA)

- 1.24 In addition to the above studies, a Gypsy and Traveller Needs Assessment has also been commissioned. As noted in the March 2020 meeting of this committee, it is now anticipated that the study will inform the public consultation on the Local Plan Review that is scheduled to take place in February 2021, on more detailed, technical matters including development management policy areas.
- 1.25 The GTAA must be undertaken in accordance with the requirements of the Government's Planning Policy for Traveller Sites (PTTS).
- 1.26 The new GTAA is currently being produced by external consultants and a key component of the evidence base requires interviews with Gypsy and Traveller households within the Borough. These interviews are normally carried out face to face, so Covid-19 and the subsequent lockdown rules from late March have meant that these cannot be held at the current time. The consultants have carried out further interviews by telephone where this has been possible but the interview rates to date (around 50%) are not sufficient to produce a robust evidence base that would stand up to scrutiny.
- 1.27 However, there is a need to gain a preliminary, up-to-date understanding of future needs to enable initial work on the Local Plan Review and to inform forthcoming planning appeals. In this unprecedented situation, officers have agreed that the consultants produce an 'Interim GTAA' based on the data from the interviews that have been completed. The Interim GTAA will model the remaining need from households where an interview has not been possible to give an overall level of need, and this will be completed in July.
- 1.28 Going forward, the consultants will continue to carry out interviews over the telephone with a potential return to site interviews should lockdown restrictions be relaxed. Once a suitable level of interviews has been reached they will then produce the final GTAA. At present it is anticipated that it will be possible to produce the final GTAA for the consultation in February 2021 but this may need to be re-visited should the situation change with regard to Covid-19.

Sport Facilities Strategy and Playing Pitch Strategy

- 1.29 Like the Gypsy and Traveller Accommodation Needs Assessment, the Sports Facilities Strategy and Playing Pitch Strategy will feed into the February 2021 rather than the October 2020 consultation. A summary is provided, however, as the work is ongoing and involves ongoing liaison with Members and Parishes.
- 1.30 The strategies were approved by SPI Committee at its meeting of 9 July 2019. The strategies form part of the Council's evidence base for the

review of the Maidstone Borough Local Plan and inform development management decisions. They also provide the Council with an evidence base for future budgetary needs or grant funding applications.

- 1.31 Consequently, consultants PLC have been appointed to undertake a review of both strategies, to reflect the population growth arising from the Local Plan Review. The updates can be undertaken as a desk-top exercise, so have been able to be progressed during the period of Covid-19 lockdown and continued restrictions. Local stakeholder consultation is currently underway, and PLC is engaging with key stakeholders, including sports providers/users and governing bodies, MBC Councillors, and parish councils.

Heritage Strategy

- 1.32 Although the Heritage Strategy will also feed into the February 2021 consultation, it is worth noting that this work is intended to involve specialist consultants, following early discussions with Historic England regarding their requirements.

Other Considerations

- 1.33 As noted in the 9th June Local Plan Review Update report, there are other considerations that will feed into the Member engagement exercise and October 2020 public consultation, much of which is set out in subject-specific topic papers. The topic papers bring together a significant number of factors that influence the approaches, including previous Local Plan Review public consultation responses, legislation and government guidance and key strategies, such as the Council's Strategic Plan (2019-2045).

2. AVAILABLE OPTIONS

- 2.1 This report is for noting

3. RISK

- 3.1 This report itself has no specific risk management implications and the risks associated with the Local Plan Review programme are contained within a strategic risk assessment.
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Agenda Item 16

STRATEGIC PLANNING AND INFRASTRUCTURE COMMITTEE

7 July 2020

Neighbourhood Planning Protocol Update

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Mark Egerton, Strategic Planning Manager and Sue Whiteside, Principal Planning Officer
Classification	Public
Wards affected	All Wards

Executive Summary

Since the approval of a revised protocol for neighbourhood planning by the Strategic Planning, Sustainability and Transportation Committee at its meeting on 10 July 2018, there have been a number of changes to the Council's practices for processing neighbourhood plans. A review of the protocol has also identified a need to clarify actions at certain stages of plan preparation, and to accentuate the prescribed dates for processing tasks. Additionally, in response to government guidance on the neighbourhood planning process during the coronavirus pandemic, the Committee has approved an addendum to the Maidstone Statement of Community Involvement (SCI). The protocol will comply with the SCI addendum which, for neighbourhood planning, predominantly affects the availability of material at inspection points. This report seeks the Committee's approval of an updated protocol for neighbourhood planning (attached at Appendix 1). For ease of reference, the updates are highlighted in the attachment but will not appear in the published version.

Purpose of Report

For decision.

This report makes the following recommendations to this Committee:

1. That the revised Neighbourhood Planning Protocol attached at Appendix 1 be approved.

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	7 July 2020

Neighbourhood Planning Protocol Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The recommendations will by themselves not materially affect achievement of corporate priorities.	Rob Jarman, Head of Planning and Development
Cross Cutting Objectives	The recommendations will by themselves not materially affect achievement of cross-cutting objectives.	Rob Jarman, Head of Planning and Development
Risk Management	The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. Officers are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the policy.	Rob Jarman, Head of Planning and Development
Financial	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Section 151 Officer & Finance Team
Staffing	The recommendations can be delivered within current staffing levels.	Rob Jarman, Head of Planning and Development
Legal	The protocol, as drafted, reflects the individual regulatory stages of plan making, and ensures that statutory requirements are clear to those involved. Where more complex issues in plan making arise and which are not covered by the protocol, separate advice can be provided upon request.	Russell Fitzpatrick MKLS (Planning)
Privacy and Data Protection	Accepting the recommendations will not increase the volume of data held by the Council.	Equalities and Corporate Policy Officer
Equalities	The Council has a responsibility to support communities in developing a neighbourhood plan. The neighbourhood planning process provides an opportunity for communities to shape a plan that meets the needs of its population.	Equalities and Corporate Policy Officer
Public Health	There are no implications for public health.	[Public Health Officer]
Crime and Disorder	There are no implications for crime and disorder.	Rob Jarman, Head of Planning and

		Development
Procurement	A procurement waiver is in place for the appointment of examiners for neighbourhood plan examinations.	Rob Jarman, Head of Planning & Development & [Section 151 Officer]

2. INTRODUCTION AND BACKGROUND

Introduction

- 1.1 The Strategic Planning, Sustainability and Transportation Committee approved an amended protocol for neighbourhood planning at its meeting on 10 July 2018. Since then, there have been changes to the legislation that governs neighbourhood planning¹, but these have not had a direct impact on the protocol. However, when reviewing the protocol, it is evident that a further update is desirable to reflect changes in the Council's practices for processing neighbourhood plans, and to improve clarity for the reader. Further, the protocol must comply with the Statement of Community Involvement addendum, which was approved by this Committee on 9 June 2020 in response to government guidance on the neighbourhood planning process during the coronavirus pandemic. As a consequence, this report seeks the Committee's approval of an updated protocol which, for transparency, illustrates the proposed changes at Appendix 1. These will not appear in the published version of the protocol.
- 1.2 The Council's policy for supporting neighbourhood planning groups is set out in the Maidstone Statement of Community Involvement (SCI). The SCI also explains how the Council will consult statutory bodies, stakeholders and the public at each stage of the neighbourhood plan making process. The neighbourhood planning protocol, in addition to satisfying consultation requirements, includes detailed actions for all regulatory stages and, equally important, specifies the decision making processes for each stage.

Changes in practices for processing neighbourhood plans

- 1.3 The key updates are set out below, together with a synopsis of why changes have been made.
- 1.4 **A) Making clear the status of neighbourhood plans at certain stages of the plan making process.** Once a decision is made to move a plan to referendum (Regulation 17A), a 'post-examination draft neighbourhood plan' becomes a material consideration in decisions on planning applications. Following a successful referendum, the neighbourhood plan immediately becomes part of the Maidstone Development Plan (unless material considerations indicate otherwise), and the Council must 'make' the plan within 8 weeks of the referendum date.
- 1.5 **B) Adding clarity to the roles of the Borough Council and qualifying bodies in respect of the Environmental Statement at submission**

¹ The Neighbourhood Planning (General) Regulations 2012 (as amended)

(Regulation 15). At pre-submission consultation (Regulation 14), the Council is responsible for preparing an initial Screening Report to determine if a neighbourhood plan needs an SEA/HRA². If an SEA/HRA is required, the qualifying body is responsible for its scoping and preparation. The protocol needs to make clear that the Council is only obliged to update the initial Screening Report at submission stage (Regulation 15) if (a) an SEA/HRA was not initially required and (b) a significant change to the plan has occurred as a result of pre-submission consultation, which results in a 'likely significant effect' on the environment.

- 1.6 **C) Deletion of references to the use of the Council's consultation database for neighbourhood planning consultations** (Regulation 16). When publicising a neighbourhood plan consultation that is facilitated by the Council, the Council must publicise details on its website and in such other manner as considered "likely to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area³". The Council must also notify any consultation body referred to in the qualifying body's Consultation Statement. Currently, the Council publicises documents and details of the consultation on its website, places a public notice in the local newspaper and notifies the relevant consultation bodies (including local and adjacent parish councils, neighbourhood forums and ward councillors). The qualifying body is also encouraged to undertake local publicity.
- 1.7 To date, the consultation database has been used to inform the public of neighbourhood plan consultations and to manage representations. The public's preferred means of submitting comments on neighbourhood plans is by email or post, which officers have to upload to the database. This is not an efficient approach and is proving to be costly in terms of officer time and hard-copy notifications for those consultees without an email address. Such widespread notification through the database is not necessary for neighbourhood plan consultations, which focus on local policies for specific areas of the borough that are already subject to the overarching planning framework of the adopted local plan. Representations can still be made by email or post, and will be published on the neighbourhood plans webpage.
- 1.8 **D) Deletion of reference to summarisation of the main issues arising through consultation** (Regulation 17). There is no statutory obligation for the Council to summarise the key issues arising from representations made during Regulation 16 consultation. In fact, offers to do so have been declined by the examiners of recent neighbourhood plans.
- 1.9 **E) Emphasis of prescribed dates** for undertaking certain stages of the neighbourhood planning process. Accentuating deadlines by which tasks must be completed offers greater clarity for the reader.
- 1.10 **F) The addition of explanatory notes** that the Head of Planning and Development has elected not to use his delegated authority at Regulation 16 and Regulation 17A stages of the neighbourhood plan making process, to ensure that the Committee has an opportunity to input into a plan that will

² Strategic Environmental Assessment/Habitats Regulations Assessment

³ Regulation 16 of The Neighbourhood Planning (General) Regulations 2012 (as amended)

form part of the Maidstone Development Plan. This will remove the need to reiterate the Head of Planning and Development's decision for all neighbourhood planning reports.

Changes to Government guidance due to the coronavirus pandemic

- 1.11 In response to government guidance on the neighbourhood planning process during the coronavirus pandemic, the Committee has approved an addendum to the Maidstone Statement of Community Involvement (SCI). The neighbourhood planning protocol will comply with the SCI addendum, which predominantly affects the availability of material at inspection points.
- 1.12 Neighbourhood planning grants and technical support will continue to be available, and national advice from Locality is operating normally.

Progress of neighbourhood plans and funding

- 1.13 The Committee is aware that neighbourhood planning is very active in Maidstone. There are three 'made' (adopted) neighbourhood plans for Loose, North Loose and Staplehurst. Marden also forms part of the Maidstone Development Plan following a successful referendum. At its meeting on 9 June 2020, this Committee recommended that Council make the Marden Neighbourhood Plan. The Lenham Neighbourhood Plan is at examination (Regulation 17). The Boughton Monchelsea Neighbourhood Plan has been submitted, and Officers are liaising with the Parish Council to agree dates for public consultation (Regulation 16), which will be undertaken in accordance with the SCI and its addendum. Otham Neighbourhood Plan is expected to be submitted in the near future for consultation (Regulation 16), and three more plans are being prepared for pre-submission consultation (Regulation 14).
- 1.14 The processing of neighbourhood plans is managed within existing staff resources. Ongoing liaison with the parish councils or neighbourhood forums preparing plans helps to mitigate the impact of neighbourhood planning on the competing work priorities of the Strategic Planning team, but the number of plans and the timing of their submission to the team for actions are not within the team's control.
- 1.15 There is a dedicated budget for neighbourhood planning which is grant funded by MHCLG⁴. Under current funding arrangements, the Council cannot receive a grant for designating a neighbourhood area because a threshold of five areas has been exceeded. Claims can be made for the following stages.
- £20,000 once the Council has set a date for a referendum following a successful examination, and where a neighbourhood plan has not previously been made for that area.
 - £5,000 for the first five neighbourhood forums that the Council designates. The limit applies to the total number of areas designated in the borough (i.e. it includes claims made for past designated forums), and includes the re-designation of forums.

⁴ Ministry of Housing, Communities & Local Government

- £10,000 for a revised neighbourhood plan that makes substantive modifications (requiring an examination but no new referendum because the nature of the plan has not changed). A claim can be made after the revised plan comes into force following examination. Once such a claim is made, further updates to that specific plan will be restricted to one every 5 years.
- £20,000 for a revised neighbourhood plan that makes substantive modifications (requiring an examination and a new referendum). A claim can be made after a successful examination with the setting of a new referendum date. Once such a claim is made, further updates to that specific plan will be restricted to one every 5 years.
- Further grants are available for the designation of business areas and the making of an NDO or a CRtBO⁵. (None are proposed at present).

1.16 This report is recommending that the Committee approves the updated neighbourhood planning protocol attached at Appendix 1.

3. AVAILABLE OPTIONS

- 3.1 Option A: The Committee could decide not to approve the revised protocol for neighbourhood planning. The protocol would not then align with changes in practice regarding the management and processing of neighbourhood plans, and the SCI addendum. This option would diminish the value of the protocol.
- 3.2 Option B: The Committee could decide to approve the revised protocol for neighbourhood planning.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option B is recommended so that the neighbourhood planning protocol (Appendix 1) reflects the changes in practice regarding the management and processing of neighbourhood plans, and aligns with the SCI addendum.
- 4.2 Statutory requirements for neighbourhood plan making will prevail if there is a conflict with the Council's neighbourhood planning protocol. The protocol makes clear who is responsible for the detailed actions at various stages of the neighbourhood planning process, and confirms the decision making authority agreed by this Committee and the expected outcomes from each stage of the process. The protocol provides consistency of approach, and helps to manage the expectations of those groups preparing plans. It is a valuable tool for Councillors, officers, parish councils and neighbourhood forums when plans are in preparation.
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5. RISK

⁵ Neighbourhood Development Orders (NDO) and Community Right to Build Orders (CRtBO)

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. Officers are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the policy.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If approved, the neighbourhood planning protocol will be published on the neighbourhood plans webpage.
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7. REPORT APPENDICES

The following document is to be published with this report and forms part of the report:

- Appendix 1: Neighbourhood Planning Protocol
-

8. BACKGROUND PAPERS

None

APPENDIX 1: NEIGHBOURHOOD PLANNING PROTOCOL

The neighbourhood planning protocol has been prepared in accordance with the regulatory stages of The Neighbourhood Planning (General) Regulations 2012 (as amended) and refers to The Neighbourhood Planning (Referendums) Regulations 2012 (as amended). **The protocol aligns with the Maidstone Statement of Community Involvement (SCI) and, in response to government guidance on the neighbourhood planning process during the coronavirus pandemic, the Council has adopted an addendum to the SCI. The neighbourhood planning protocol will comply with the SCI addendum, which predominantly affects the availability of material at inspection points.**

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/ delegated authority	Outcome
General		In addition to the support and assistance given to parish councils and neighbourhood forums, as set out in MBC's Statement of Community Involvement: 1. Meetings with parish councils or neighbourhood forums, where appropriate. 2. If requested by parish councils or neighbourhood forums, submission of informal general comments on pre-Regulation 14 and pre-Regulation 15 draft neighbourhood plans.	MBC Strategic Planning Team	N/A	Neighbourhood plans meet statutory requirements and move forward to successful examination and referendum.
Neighbourhood area application made by a parish council where the area follows the parish boundary	5, 5A and 7	1. Check the application meets statutory requirements and that the proposed area does not conflict with other designated areas. 2. Acknowledge receipt of the application. 3. Prepare a delegated report. 4. Notify the local and adjacent parish councils, neighbourhood forums and ward councillors of the decision (by email). 5. Publish details on the MBC website. 6. Place a public notice in the local newspaper.	MBC Strategic Planning Team	Delegated authority is given to the Head of Planning and Development.	Publicity requirements are met, and the neighbourhood area is designated.
Neighbourhood forum application made by a qualifying body (e.g. Residents Association)	8, 9, 9A and 10	1. Check the application meets statutory requirements. 2. Acknowledge receipt of the application. 3. Arrange local consultation to run for a minimum 6 weeks: a) Notify the local and adjacent parish councils, neighbourhood forums and ward councillors of the	<u>Tasks 1-3 and 5-9</u> MBC Strategic Planning Team	Delegated authority is given to the Head of Planning and Development.	Consultation and publicity requirements are met, and the neighbourhood forum is designated.

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/ delegated authority	Outcome
		consultation (by email) b) Publish details on the MBC website (to include a statement that no other body may be designated for the same neighbourhood area) c) Place a public notice in the local newspaper (to include a statement that no other body may be designated for the same neighbourhood area). 4. The neighbourhood forum to publicise the consultation through its website and other means such as posters, meetings and newsletters. 5. Manage representations received, and acknowledge receipt. 6. Prepare a delegated report – a decision must be made with 13 weeks of the start of consultation. 7. Notify the local and adjacent parish councils, neighbourhood forums and ward councillors of the decision (by email). 8. Notify those who submitted representations of the decision. 9. Publish details on the MBC website.	Task 4 Neighbourhood Forum		Or Consultation, publicity and notification requirements are met, and the neighbourhood forum application is refused. Note: Designation of a neighbourhood forum expires after five years and the appropriate body must re-submit an application.
Neighbourhood area application made by a parish council or neighbourhood forum where the area does not follow the parish boundary	5, 6, 6A and 7	1. Check the application meets statutory requirements. 2. Acknowledge receipt of the application. 3. Arrange local consultation to run for a minimum 6 weeks: a) Notify the local and adjacent parish councils, neighbourhood forums and ward councillors of the consultation (by email) b) Publish details on the MBC website c) Place a public notice in the local newspaper. 4. The parish council or neighbourhood forum to publicise the consultation through its website and other means such as posters, meetings and newsletters. 5. Manage representations received, and acknowledge receipt. 6. Prepare a delegated report – a decision must be made with 13 weeks of the start of consultation.	Tasks 1-3 and 5-9 MBC Strategic Planning Team Task 4 Parish Council or Neighbourhood Forum	Delegated authority is given to the Head of Planning and Development	Consultation, publicity and notification requirements are met, and the neighbourhood area is designated. Or Consultation, publicity and notification requirements are met, and the neighbourhood area

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Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/ delegated authority	Outcome
		7. Notify the local and adjacent parish councils and ward councillors of the decision (by email). 8. Notify those who submitted representations of the decision. 9. Publish details on the MBC website.			application is refused.
Consultation on a pre-submission draft neighbourhood plan or modification proposal	14	At this stage Maidstone Borough Council is a consultee 1. Upon receipt of the draft plan or modification proposal, prepare an SEA/HRA ¹ Screening Report. Forward the Screening Report and draft neighbourhood plan to Historic England, Natural England and the Environment Agency for their views. The bodies have 5 weeks to respond. Update the Screening Report and forward to the parish council or neighbourhood forum. 2. If an SEA/HRA is required, the parish council or neighbourhood forum is responsible for preparing a Scoping Opinion and an SEA/HRA prior to the formal submission of its plan to MBC. 3. The parish council or neighbourhood forum to undertake a minimum 6-week local consultation exercise on the draft plan or modification proposal, in accordance with regulatory requirements, and to publicise the consultation through its website and other means such as posters, meetings and newsletters. 4. Update the MBC website. 5. Assess whether the neighbourhood plan or modification proposal conforms to national and local planning policies, and provide written representations to the consultation.	<u>Tasks 1 and 4-5</u> MBC Strategic Planning Team <u>Tasks 2- 3</u> Parish Council or Neighbourhood Forum	Delegated authority is given to the Head of Planning and Development	Submission draft neighbourhood plan or modification proposal and, if required, an SEA/HRA.
Submission of a	15	1. Acknowledge receipt of submitted documents, i.e.	MBC Strategic	Appointment of	Draft neighbourhood

¹ Strategic environmental assessment/habitats regulations assessment

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/delegated authority	Outcome
draft neighbourhood plan or modification proposal to MBC		<p>neighbourhood plan or modification proposal with a map of the neighbourhood area, basic conditions statement, consultation statement, and an environmental report (SEA/HRA) or a statement explaining why this is not required. In the case of a modification proposal, a statement as to why the modification proposal is so significant or substantial as to change the nature of the neighbourhood plan must form part of the submission.</p> <p>2. Check that statutory requirements were met at Regulation 14 consultation stage (including consultation with statutory consultees) <u>and at Regulation 15 submission stage</u>.</p> <p>3. <u>A significant change to a neighbourhood plan between Regulations 14 and 15 that results in a 'likely significant effect' on the environment will require an amended SEA/HRA Screening Report and re-consultation with Historic England, Natural England and the Environment Agency. The bodies have 5 weeks to respond.</u> Forward the final Screening Report to the parish council or neighbourhood forum. <u>(Note: Where an SEA/HRA has been prepared, it is the responsibility of the parish council or neighbourhood forum to re-consult the bodies if there has been a significant change that results in a further 'likely significant effect' on the environment).</u></p> <p>4. Agree suitable consultation dates with the parish council or neighbourhood forum, and prepare for public consultation (refer to Annex A).</p> <p>5. Contact NPIERS/IPE² and request candidates for the Examiner, and agree a preferred Examiner with the parish council or neighbourhood forum.</p> <p>6. Appoint the Examiner.</p>	Planning Team	Examiner from NPIERS/IPE in accordance with signed procurement waiver.	plan or modification proposal with supporting documentation is ready for consultation and examination.

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² Neighbourhood Planning Independent Examiner Referral Service (NPIERS)/Intelligent Plans and Examinations (IPE)

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/delegated authority	Outcome
Consultation on a submission draft neighbourhood plan or modification proposal	16	<ol style="list-style-type: none"> 1. Arrange local consultation to run for a minimum 6 weeks: <ol style="list-style-type: none"> a) Publicise documents on the MBC website (refer to Annex A). b) Notify the local and adjacent parish councils, neighbourhood forums and ward councillors of the consultation (by email) c) Notify the consultation bodies referred to in the Regulation 15 consultation statement d) Place a public notice in the local newspaper e) Press release (optional). 2. The parish council or neighbourhood forum to publicise the consultation through its website. 3. Manage the representations received by email <u>or</u> post, and acknowledge receipt. 4. Prepare SPI Committee report seeking approval of MBC's response to the Regulation 16 consultation. 	<p>Tasks 1 and 3-4 MBC Strategic Planning Team</p> <p>Task 2 Parish Council or Neighbourhood Forum</p>	<p>SPI Committee decision</p> <p>(The Head of Planning and Development has elected not to use his delegated authority at Regulation 16 because it is important that the Committee has the opportunity to have input into a document that becomes part of the Maidstone Development Plan).</p>	<p>Consultation, publicity and notification requirements are met.</p> <p>MBC's formal representations on the draft neighbourhood plan or modification proposal are submitted.</p> <p>The draft neighbourhood plan or modification proposal with supporting documentation is ready for examination.</p>
Submission of a draft neighbourhood plan or modification proposal for Examination	17	<ol style="list-style-type: none"> 1. Send the following documents prepared by the parish council or neighbourhood forum to the Examiner: <ol style="list-style-type: none"> a) Neighbourhood plan or modification proposal with a map of the neighbourhood area b) Basic conditions statement c) Consultation statement d) An environmental report (SEA/HRA) or a statement explaining why this is not required e) In the case of a modification proposal, a statement as to why the modification proposal is so significant or substantial as to change the nature of the neighbourhood plan 	MBC Strategic Planning Team	N/A	<p>Completion of the examination.</p> <p>Receipt of the Examiner's report.</p> <p>Note: Neighbourhood plan examinations are usually dealt with by written representations, but</p>

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Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/ delegated authority	Outcome
		f) Copies of the representations submitted during Regulation 16 consultation. 2. Liaise as required with the Examiner and the parish council or neighbourhood forum. 3. If a Fact Check report is produced by the Examiner, arrange for checking with the parish council or neighbourhood forum <u>to enable submission of a joint response.</u>			the Examiner may arrange a Hearing where plans or the issues arising from representations are complex.
MBC decision on an Examiner's recommendations	17A	1. On receipt of the Examiner's final report, prepare <u>SPI</u> Committee report recommending the course of action to be taken (accept report / decline report / accept and make modifications). 2. If <u>SPI</u> Committee accepts the Examiner's recommendations (with or without modifications) to hold a referendum, then the next step is to arrange the referendum. 3. If <u>SPI</u> Committee accepts the Examiner's recommendation that a neighbourhood plan or modification proposal does not pass examination, the plan will not proceed to referendum. 4. If <u>SPI</u> Committee declines to accept the Examiner's recommendations, then MBC must undertake a 6-week consultation on <u>its</u> decision ³ <u>in accordance with the provisions of Regulation 17A.</u> 5. Prepare a decision statement <u>within 5 weeks of receipt of the Examiner's report, or by a later date agreed in writing with the parish council or neighbourhood forum.</u>	MBC Strategic Planning Team	<u>SPI</u> Committee decision <u>(The Head of Planning and Development has elected not to use his delegated authority at Regulation 17A because it is important that the Committee has the opportunity to have input into a document that becomes part of the Maidstone Development Plan).</u>	MBC decision to accept (with or without modifications) or decline to accept the Examiner's report. Note: Following a decision to move a plan to referendum, the 'post-examination draft neighbourhood plan' (as modified by the Examiner) becomes a material consideration in decisions on planning applications.
Publication of the	18	1. Publish the Examiner's report and MBC's decision statement	Tasks 1-3	N/A	The draft

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³ This is not a full consultation – it includes the parish council or neighbourhood forum, those who submitted representations at Regulation 16 stage, and statutory consultees included in the Regulation 15 consultation statement

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/ delegated authority	Outcome
Examiner's report and MBC's decision statement on whether to proceed to referendum		<p>on the MBC website.</p> <p>2. Notify the parish council or neighbourhood forum of the outcome (by email).</p> <p>3. If, following a successful examination, the Examiner's recommendations (with or without modifications) have been agreed by <u>SPI</u> Committee, organise the referendum (refer to Annex B).</p>	MBC Strategic Planning Team, liaising with MBC Electoral Services Team for task 3		<p>neighbourhood plan or modification proposal with supporting documentation is ready for referendum.</p> <p>Note: <u>Where a decision statement detailing an intention to send a neighbourhood plan to referendum has been issued, that plan can be given significant weight in decision-making, so far as the plan is material to the application (PPG change in response to the coronavirus pandemic)</u></p>
Prescribed dates for making a neighbourhood plan	18A	<p>1. MBC's decision on <u>the</u> Examiner's report <u>(together with any minor modifications proposed by MBC and agreed with the parish council or neighbourhood forum)</u> must be made within 5 weeks of receipt of the report, or a later date agreed in writing with the parish council or neighbourhood forum.</p> <p>2. Following a successful referendum, the neighbourhood plan must be made (i.e. adopted by Full Council) within 8 weeks of the date of referendum.</p>	MBC Strategic Planning Team	N/A	Prescribed dates for making a neighbourhood plan are met.

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/delegated authority	Outcome
Referendum	Separate regulations	Hold referendum (refer to Annex B).	MBC Electoral Services Team	N/A	Completion of referendum. Note: Following a successful referendum, unless material considerations indicate otherwise, the neighbourhood plan becomes part of the Maidstone Development Plan.
Decision to make a neighbourhood plan	19	<ol style="list-style-type: none"> Following an unsuccessful referendum ('NO' result), prepare a statement and publish on the MBC website. Prepare SPI Committee report for information. Following a successful referendum, prepare SPI Committee report with a recommendation that Full Council makes the neighbourhood plan. The plan must be made within 8 weeks of the referendum date. Publish MBC's decision statement on the MBC website, together with details of where the decision statement may be inspected. Notify the parish council or neighbourhood forum of the decision (by email). Notify persons who asked to be notified of the decision. 	MBC Strategic Planning Team	SPI Committee decision. Full Council decision to make a neighbourhood plan	Decision to make, or otherwise, a neighbourhood plan. Publicity and notification requirements are met.
Publicising the making of a neighbourhood plan	20	<ol style="list-style-type: none"> Publish the neighbourhood plan on the MBC website, together with details of where the plan may be inspected. Notify the parish council or neighbourhood forum (by email). 	MBC Strategic Planning Team	N/A	Publicity requirements are met.

Deleted: Note: Once made, the neighbourhood plan becomes part of the Maidstone Development Plan.¶

Plan stage	Regulatory stage	Tasks	Responsibility	Committee decision/delegated authority	Outcome
		3. Notify persons who asked to be notified of the making of the neighbourhood plan. 4. Place a public notice in the local newspaper.			

7 July 2020

Annex A: Regulation 16 Consultation Tasks

1. Agree dates for the consultation with the parish council or neighbourhood forum (**min 6 weeks excluding bank holidays**).
2. Agree local deposit points for the documents to be viewed during the consultation (at least 1, preferably 2).
3. Ensure there is a meeting of SPI Committee within the consultation window to allow for an MBC response to be approved.
4. Set up the consultation event and upload the neighbourhood plan and supporting documents to the website.
5. Draft a public notice with dates, information on deposit points and how to comment.
6. Send public notice to Kent Messenger **by the previous Friday before the start of the consultation** to book a space; raise and send a Purchase Order.
7. Use the public notice text to draft a media release and send to Communications for finessing and sending out (optional).
8. Identify all neighbouring wards, parishes and forums (both inside and outside the borough).
9. Draft an email to local and neighbouring ward councillors and parishes/forums advising of the consultation (again use the public notice text). Send out on the day before the consultation starts.
10. Liaise with the parish council or neighbourhood forum in producing publicity posters, if required, and request that the neighbourhood plan and supporting documents are uploaded to the qualifying body's website together with consultation details.
11. Arrange the printing and delivery of a copy of the neighbourhood plan and relevant supporting documents for every deposit point. **Make sure these are in place before the start of the consultation**.
12. Advise The Link / Customer Services of the start of the consultation.
13. Update the Neighbourhood Plan web pages.
14. Create a written notification for postal consultees and arrange a mail merge via the print room (if required) including the posting out of the notifications **on the Monday before the consultation**.
15. Write, circulate and publish an SPI Committee report seeking approval of MBC's formal representation to the consultation. Follow the standard processes in Modern.Gov and the Committee Services timetabling protocols.

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Annex B: Referendum Planning

1. Liaise with Electoral Services team.
2. Ensure approval to hold the referendum is in place i.e. the referral period for a Committee decision has closed.
3. Provide a copy of the neighbourhood plan area as designated.
4. Referendums should ideally be held on a Thursday.
5. There is a **minimum 'referendum period' of 28 working days**, when specified documents and an information statement for the referendum must be published on the website and made available for public inspection. The referendum period cannot commence before a decision to move to referendum is made by SPI Committee and, in accordance with the Council's Constitution, the referral period for a Committee decision has closed.
6. A detailed timetable will be provided by the Electoral Services team, in consultation with the Strategic Planning team and the parish council or neighbourhood forum.
7. Assistance from the Strategic Planning team will be required to complete the 'Information for Voters' and the 'Information Statement'.

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