

# Strategic Planning, Sustainability & Transport Committee

9<sup>th</sup> June 2015

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

## Maidstone Borough Local Plan: Housing Sites Update

<b>Final Decision-Maker</b>	SPS&T Committee
<b>Lead Director or Head of Service</b>	Rob Jarman, Head of Planning and Development
<b>Lead Officer and Report Author</b>	Sarah Anderton, Principal Planning Officer (Spatial Policy)
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

### This report makes the following recommendations to the final decision-maker:

1. That the Committee takes account of the level of risk set out in this report in making future decisions on the emerging Local Plan

### This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Policy and Resources Committee	n/a
Council	n/a
Other Committee	SPS&T Committee 9 <sup>th</sup> June 2015

# Maidstone Borough Local Plan: Housing Sites Update

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 At its meetings on 2<sup>nd</sup> and 4<sup>th</sup> February and 9<sup>th</sup> March 2015, Cabinet made a series of decisions about housing sites included, or proposed to be included, in the draft emerging Maidstone Borough Local Plan (the Local Plan). An outcome of this decision making is that the draft Local Plan would provide for 2,201 fewer dwellings than would be required to meet the objectively assessed need figure of 18,600 homes (2011-31) in full. Cabinet also resolved that it wished to consider a further report which would set out the implications of this position for the production of a sound Local Plan. These implications are addressed in this report.
- 1.2 Cabinet additionally agreed that officers should urgently progress dialogue with infrastructure providers, particularly in relation to foul water, specifically for Headcorn and Staplehurst, to ensure that existing infrastructure concerns are addressed and works are progressed with the utmost urgency. Progress with this work is addressed in brief in this report.
- 1.3 This report:
  - Sets out the interim housing land position at 1st May 2015;
  - Considers the risks associated with progressing the Local Plan with the current shortfall against housing land requirements (the 'objectively assessed need'); and
  - Considers options for the way forward.

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## 2. INTRODUCTION AND BACKGROUND

- 2.1 At its meetings on 2<sup>nd</sup> and 4<sup>th</sup> February and 9<sup>th</sup> March 2015, Cabinet considered the representations made regarding the 50 proposed housing sites allocated in Policy H1 of the draft Local Plan (Regulation 18 draft). These representations had been received during the public consultation on the draft Local Plan held between March and May 2014. Cabinet agreed that some sites should go forward for inclusion in a forthcoming Regulation 19 version of the Local Plan. It also decided that some sites should be deleted from the Local Plan and these deleted sites were agreed for incorporation into a further, focused Regulation 18 consultation. At the same meetings Cabinet considered the acceptability of 24 proposed new additional housing sites and accepted a number of them for inclusion in the focused Regulation 18 public consultation.
- 2.2 Progression of the Regulation 18 consultation needed to await decisions on proposed employment, mixed use and Gypsy and Traveller site allocations for inclusion in the same consultation as well as the Committee's consideration of the risk analysis set out in this report.

2.3 The decisions made by Cabinet on the proposed housing sites can be summarised as follows;

- 42 sites and 1 part-site<sup>1</sup> identified in Policy H1 (yield 6,621 dwellings) were approved for Regulation 19 consultation
- For 19 (of the 43) sites identified in Policy H1, a revised yield was agreed from that stated in the Regulation 18 draft Local Plan
- 7 sites and 1 part-site identified in Policy H1 (yield 1,515 dwellings<sup>2</sup>) were deleted from the Plan and it was agreed that the deletion of these sites be subject to Regulation 18 consultation
- 15 new, additional sites (yield 408) were agreed for Regulation 18 consultation

2.4 These decisions impact on the overall housing supply position of the draft emerging Local Plan. The table below incorporates Cabinet's agreed changes (subsequent to call-in) and also updates the planning permissions information to 1<sup>st</sup> May 2015 to set out the latest, interim position. These figures do not include the full results of the latest housing monitoring for 2014/15 and should be regarded as interim figures.

	Dwellings	Totals
Objectively Assessed Need		<b>18,600</b>
Completed Dwellings 11/12, 12/13, 13/14	1926	
Planning Permissions (incl subj. S106 agreement) on non-allocated sites at 1 <sup>st</sup> May 2015	2612	
Yield from Policy H1 sites in Reg.18 Local Plan (of which 2518 have permission/subj s106)	6621	
Yield from Policy RMX1 sites in Reg.18 Local Plan (subj. to future Committee consideration) (of which 125 have permission/subj s106)	552	
Broad Locations at Maidstone Town Centre, Invicta Barracks, Lenham in Policy H3 (subj. to future Committee consideration)	3400	
Windfall allowance 2021-31	880	
Yield from additional new housing sites agreed by Cabinet for forthcoming Reg.18 consultation (of which 54 have permission/subj s106)	408	
Total potential supply		<b>16,399</b>
Unmet housing need (18,600 less 16,399)		<b>2,201</b>

2.5 This represents an interim draft 'snap shot' of the housing land supply position. Permissions are granted on an on-going basis so the specific number of

<sup>1</sup> H1(40) – Grigg Lane/Lenham Road Headcorn

<sup>2</sup> Yield taken from the Regulation 18 draft Local Plan

permitted dwellings can alter from day to day. Similarly, planning permissions can expire before they are implemented. The table does serve to confirm the overall scale of housing provision which the Local Plan, as revised, would make. The absolute figures may change modestly when the full result of the housing monitoring are known. At this point more than 7,200 dwellings have been built or have permission (including those subject to a section 106 agreement). The scale of the shortfall against the objectively assessed need of 18,600 dwellings (agreed by Cabinet on 10th September 2014) is some 2,201 dwellings. This equates to a shortfall of 11.8% of the identified need or, put another way, a shortfall of 2.4 years' worth of supply, based on the requirement for 930 dwellings per annum (dpa).

- 2.6 Attached to this agenda is a report recommending a revision to the objectively assessed need figure to 18,560 in response to the latest demographic projections. With the Committee's agreement to this figure, the scale of the shortfall will be 2,161 dwellings, equating to 11.5% of the identified need or a shortfall of 2.3 years' worth supply of housing land based on the requirement for 928 dwellings per annum.
- 2.7 To compare, the Regulation 18 version of the draft Local Plan provided for some 17,100 new homes at a time when the objectively assessed need figure was 19,600. The shortfall was therefore 2,500 dwellings equating to 12.8% of the identified need or 2.6 years' worth of supply based on the requirement for 980 dpa. Faced with this position, the decision was taken to undertake a further Call for Sites<sup>3</sup>.
- 2.8 Proportionately, the shortfall is now only marginally less than when the Regulation 18 version of the Plan was prepared. The gap between housing needs and supply has not substantially reduced as a result of recent decisions.

### Reasons for the deletion of sites

- 2.9 Cabinet determined that seven sites and part of one additional site be subject to further Regulation 18 Consultation with a view to their deletion from the plan. The sites recommended for deletion and the reasons given are set out below.

Policy	Site address	Reason for deletion
H1(10)	South of Sutton Road Langley	(a) in the opinion of the Cabinet the eastern boundary of site H1 (5) forms a natural boundary to the edge of the urban area of Maidstone;  (b) there should be no further encroachment of residential development into the countryside which would result in the loss of green space and a leisure facility;  (c) there would be an unacceptable impact on conditions in the surrounding area where the

<sup>3</sup> Cabinet 24<sup>th</sup> February 2014

		environmental and amenity consequences for the community are unacceptable now;
H1(25)	Tongs Meadow West Street Harrietsham	Following receipt of views from Natural England that they would be unlikely to consider issuing an EPS (European Protected Species) Development Licence given the fact that the site is a receptor site for a previous development
H1(31)	Ham Lane Lenham	Unacceptably adverse impact on the AONB and on the character of the village because it is peripheral to the settlement and beyond the open space occupied by Swadelands School playing field.
H1(39)	Ulcombe Road & Mill Bank Headcorn	Local infrastructure is insufficient, in particular for foul water sewerage, flood risk and highway congestion.
H1(40) (Northern part)	Grigg Lane & Lenham Road Headcorn	It has not been demonstrated to the community's satisfaction that current foul water problems can be resolved and these will be exacerbated by any further development in this part of Headcorn and the unacceptable cumulative impact for the community and highways. In addition of community concerns that suitable highways access arrangements cannot be achieved at this point in time.
H1(41)	South of Grigg Lane Headcorn	Local infrastructure is insufficient, in particular for foul water sewerage, flood risk and highway congestion.
H1(42)	Knaves Acre Headcorn	Local infrastructure is insufficient, in particular for foul water sewerage, flood risk and highway congestion.
H1(48)	Heath Road Boughton Monchelsea	Due to concerns that the site will not be deliverable as the access to the site is not under the control of the site promoter.

2.10 As can be seen, Councillors gave a number of reasons for their decisions, but Councillors were primarily concerned on the majority of sites that the local infrastructure could not cope with additional development pressure, specifically noting education, roads and waste water, and that problems were not capable of appropriate mitigation. In the case of Headcorn for example, all of the sites in the Regulation 18 draft, with the exception of site H1(38) at Station Approach that has already received permission and part of the H1(40) Grigg Lane/Lenham Road site where there are also two extant planning permissions, were recommended for deletion for the reasons outlined above.

2.11 Councillors will be aware of the application lodged with the Council on land between Mill Bank and Ulcombe Road Headcorn (proposed deleted site H1(39))

in the Regulation 18 draft. The applicants lodged an appeal against the non-determination of the application and the application was reported to the Planning Committee on 16 April 2015. Planning Committee resolved that had the appeal not been lodged it would have granted planning permission for the development.

- 2.12 The application was not subject to an objection from Kent Highway Services as the applicant demonstrated that adequate highway mitigation could be provided. Similarly the applicant demonstrated that a drainage scheme could be delivered that would not worsen the existing situation. Lawfully, this is as much as the applicant needs to demonstrate. In terms of education provision it was demonstrated by the applicant in conjunction with Kent County Council that Headcorn Primary School is capable of expansion. The concerns of Cabinet have not been borne out by the decision of the Planning Committee in this case.
- 2.13 A total of twenty-four additional sites were recommended to Councillors for allocation in the January/February/March cycle of meetings. Cabinet resolved to accept 15 of those sites. The list below details the 9 sites that were rejected and the reasons given.

Proposed Policy no.	Site Address	Reason for not being allocated
H1(57)	Former Astor of Hever School Farm, Oakwood Rd Maidstone	That the site is retained for education use and development would be unacceptably compromised by the lack of adequate access.
H1(60)	Fant Farm Maidstone	The site is valuable for agriculture use, and would have an unacceptable impact on the landscape, including the overall shape of the urban area of Maidstone and the unacceptable highways impact for the local community
H1(61)	Land at Cross Keys, Bearsted	Development of this site would have an unacceptable impact on hydrology and local flood risk.
H1(64)	Bell Farm North, East Street Harrietsham	The cumulative impact of development having a detrimental effect on the character, size and shape of the village and community due to the increase in size and footprint of the village and unacceptable cumulative impact for the community for education provision, transport and other community infrastructure.
H1(65)	Land at Lenham Road Headcorn	Development is in reality impractical due to current water conditions and community perception of failure of

		infrastructure providers to deliver infrastructure identified as required in the past, local knowledge of flood risk and community concern about the cumulative impact on local education provision and highways.
H1(66)	Land south of The Parsonage, Goudhurst Rd Marden	The site is too peripheral to Marden and on the grounds that the cumulative impact of sites already considered in the draft Local Plan would be unacceptable to the community in terms of highways and water infrastructure and social balance.
H1(67)	Land south of Marden Road, Staplehurst	It has not been demonstrated to the community's satisfaction that current foul water problems can be resolved and these will be exacerbated by any further development in this part of Staplehurst and the unacceptable cumulative impact for the community and highways.
H1(68)	Land north of Henhurst Farm, Staplehurst	It has not been demonstrated to the community's satisfaction that current foul water problems can be resolved and these will be exacerbated by any further development in this part of Staplehurst and the unacceptable cumulative impact for the community and highways. In addition of community concerns that suitable highways access arrangements cannot be achieved at this point in time.
H1(69)	Land at Lodge Road, Staplehurst	The site should be retained for employment use given the economic upturn and that infrastructure must be improved to enable this to happen and the cumulative impact of residential development in Staplehurst on social balance.

2.14 Cabinet rejected the site at Cross Keys, Roundwell, Bearsted for allocation in the Local Plan (proposed site H1(61)) on the grounds of flood risk and the fact that the capacity of local schools could not be improved. A subsequent decision by Planning Committee saw the planning application approved subject to the completion of a s106 agreement. Planning Committee was sufficiently satisfied

that flood risk and the impact on local schools could be adequately mitigated. The subsequent Planning Committee decisions are included in the figures in the table at the front of the report .

- 2.15 There is some risk of reputational damage to the Council if the decisions made on the Local Plan and those being made by Planning Committee continue to be out of step.
- 2.16 Councillors will also be aware of the applications that have been submitted and determined on the allocated Regulation 18 sites and also some of the more recently proposed sites yet to be subject to consultation. With the number of applications that have or are being submitted and determined, the available 'pot' of potential CIL money is steadily reducing. This risk will increase the longer an adopted Local Plan takes to put in place and has been compounded by recent legislative changes which limits the number of sites from which s106 contributions can be pooled to 5 sites.

### **Overall context – the National Planning Policy Framework (NPPF)**

- 2.17 The Government's clear intention is to increase the number of new homes being built. One of the objectives of the National Planning Policy Framework is "to boost significantly the supply of housing"<sup>4</sup>. To this end, councils must "ensure their Local Plan meets the full, objectively assessed need for market and affordable housing in the housing market area as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period." (emphasis added).
- 2.18 The NPPF requires that the objectively assessed need for new homes be established through Strategic Housing Market Assessment (SHMA) as a first step to be followed by the identification of sites sufficient to meet the identified need through a Strategic Housing Land Availability Assessment (SHLAA).<sup>5</sup>
- 2.19 The Government is also committed to planning decisions being plan-led. The NPPF confirms that Local Plans provide the framework for planning application decisions to be made "with a high degree of predictability and efficiency"<sup>6</sup>. This is at the heart of the planning system. Having a sound Local Plan in place helps to give valuable certainty to all those with an interest in where, when and how future development takes place including existing and future local residents, developers, landowners and service providers.
- 2.20 For plan making, the presumption in favour of sustainable development requires councils to "positively seek opportunities to meet the development needs of their areas"<sup>7</sup> unless to do so would 'significantly and demonstrably outweigh the benefits'. This point is sufficiently important for it to be repeated later in the NPPF document; "every effort should be made to objectively identify and then

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<sup>4</sup> Paragraph 47 of the NPPF

<sup>5</sup> Paragraphs 47 & 159 of the NPPF

<sup>6</sup> Paragraph 17 of the NPPF

<sup>7</sup> Paragraph 14 of the NPPF



meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth”<sup>8</sup> (emphasis added)

2.21 The very strong presumption in the NPPF is that a council should work assiduously to meet its area’s identified need for additional housing. The Local Plan’s approach to securing an adequate and appropriate level of housing will be a key issue at the Examination. Reviewing recent Local Plan Inspectors’ letters and decisions gives some insight into how the Planning Inspectorate is interpreting this national policy.

### **Recent Inspectors’ Decisions**

2.22 The Local Plan Inspector will determine whether the submitted Local Plan is sound. The starting point for this consideration is that the council has submitted a plan which it believes to be sound. The Inspector can reach one of three conclusions on a Local Plan following its Examination:

- That the Plan is sound and legally compliant (including that it has met the Duty to Co-operate obligations) and can be adopted; or
- That the Inspector recommends ‘main modifications’ to the Plan to make it sound and legally compliant. These main modifications must be subject to public consultation after which the Inspector will issue his/her final decision letter; or
- That the Plan is unsound and should be withdrawn.

2.23 Where the Inspector has early, fundamental concerns about a Plan, s/he can advise that it be withdrawn prior to the start of the Examination. During the Examination, the Inspector could propose that the Examination hearings be suspended for a limited period to enable the Council to undertake further work to address an identified issue. In opting for a suspension, rather than withdrawal of the Plan, the Inspector would judge whether there was a reasonable prospect that the shortcoming/s could be addressed sufficiently within a fixed timescale to make the Plan sound.

2.24 To be judged sound, the Local Plan must demonstrably meet the tests sets out in paragraph 182 of the NPPF, namely that it is:

- Positively prepared – the plan should meet identified development and infrastructure requirements, provided this is consistent with sustainable development;
- Justified – it is the most appropriate strategy based on proportionate evidence;
- Effective – the plan must be deliverable; and
- Consistent with national policy

2.25 Officers have been monitoring Inspectors’ decision letters and their pre/post Examination correspondence with local authorities. The current cohort of Plans which have completed the Examination process are ‘old style’ core strategy Local Plans which set out the overarching development strategy for an area but do not include a full set of detailed land allocations and development management policies. To date, no comprehensive new-style Local Plans akin to

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<sup>8</sup> Paragraph 17 of the NPPF

Maidstone's emerging Local Plan have successfully completed the Examination process. Locally, Canterbury City Council submitted a 'full' Local Plan to the Planning Inspectorate in November 2014 and Swale BC did so in April 2015..

- 2.26 Twelve Local Plans covering areas outside London (where borough housing requirements are set through the London Plan) have been found sound between October 2014 and May 2015. Significantly, eleven of these provide for the area's objectively assessed need for housing in full. For the twelfth (Wiltshire), the Inspector increased the plan's housing target based on what he determined was the likely objectively assessed need for housing pending the preparation of a SHMA in 2016 and with the council committing to undertake an early review of the Plan. He also required the target to be expressed as a minimum.
- 2.27 The converse of this is an assessment of the reasons recently submitted Local Plans have failed. Since January 2014, 2 plans have been found unsound, 9 Plans were withdrawn from Examination and 13 have had their Examinations suspended. Of these 24 Plans, the Inspectors for 22 of them had serious concerns about the housing target proposed. The basis for these concerns was that:
- the housing target was too low compared with the objectively assessed needs;
  - the objectively assessed need was not used as the starting point for the target; and/or
  - the objectively assessed need for housing had been underestimated.
  - In one case, the County Durham Plan, the Inspector indicated that the Council's objective assessment of housing needs is too high because it is based on unrealistically high assumptions of jobs growth and associated inward migration.
- 2.28 In an overriding number of recent cases, inadequate housing provision has been a determining factor in the failure of Plans to reach adoption, or has put the soundness of a plan at risk. Inspectors are consistently concluding that the housing targets in emerging Plans are too low, not too high. Inspectors are testing Strategic Housing Market Assessments to check that they are genuinely objective assessments of need based on the most up to date information available. Once convinced of the scale of the need for housing, Inspectors are then stringently examining the extent to which Local Plans will secure a step change in the delivery of housing to meet needs and thereby help to boost supply as required by paragraph 47 of the NPPF.
- 2.29 On this analysis, any shortfall in the amount of housing relative to the objectively assessed need figure will be a risk to the soundness of the Plan. The risk will only be mitigated if there is a robust justification on planning grounds for why, despite best efforts, the full requirement cannot be met.

### **Constraints**

- 2.30 The objectively assessed housing need figure is the starting point for the level of housing which the Local Plan should provide for but it is not the same as the Plan's housing target. The Minister of State for Housing and Planning has

recently underlined this point, stating in his letter to the Planning Inspectorate dated 19th December 2014 that the objectively assessed need figure is not automatically a proxy for a Local Plan's housing number. The Minister's letter confirms that councils can take account of environmental and policy constraints which indicate that development should be restricted in determining what their housing target should be.

- 2.31 The Minister's letter reiterates the process which is set out in the National Planning Practice Guidance; "once need has been assessed, the local planning authority should prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period, and in so doing take account of any constraints such as Green Belt, which indicate that development should be restricted and which may restrain the ability of an authority to meet its need"<sup>9</sup> (emphasis added). The housing target can be less than the objectively assessed need if there is robust, defensible evidence of constraints.
- 2.32 There is therefore a clear sequence of assessments – the Strategic Housing Market Assessment (SHMA) and then the Strategic Housing Land Availability Assessment (SHLAA) - to confirm the overall capacity to meet, or otherwise, housing needs.
- 2.33 Further, the NPPF is specific about the types of policies which could constrain meeting objectively assessed needs in full; "for example, those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt; Local Green Space; an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion."<sup>10</sup>
- 2.34 The Inspector for the Harrogate Sites and Policies DPD for example was critical that that the Council had failed to substantiate its argument of constraints as a reason not to meet its OAN. He considered that the constraints had been expressed in only very general terms with no analysis of the magnitude of the constraints and he specifically referred to the NPPF paragraph quoted above, highlighting that some of the constraints the Council was relying on fell within and some outside this definition. The Plan was withdrawn in May 2014 based in part on the Plan's failure to meet the objectively assessed housing need.
- 2.35 The Inspector for the Derbyshire Dales Local Plan stated that the Council needed to revisit the constraints that apply to the area in the light of the objectively assessed need for housing. The Plan was withdrawn in October 2014.
- 2.36 Whilst recognising the significance of the constraints applying to the Runnymede Core Strategy Local Plan, specifically Green Belt, flood risk and a Special Area of Conservation, the Inspector did not consider that the Council

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<sup>9</sup> NPPG paragraph 45 'Housing and economic land availability assessments'

<sup>10</sup> NPPF Paragraph 14, footnote 9

had positively sought opportunities to meet housing needs. The Council has now withdrawn the Plan.

- 2.37 The methodology of the Council's SHLAA has ensured all the NPPF listed constraints (where relevant) have been assessed as part of the assessment of potential housing sites. The considerations are set out in the site assessment template (proforma) approved by the Cabinet Member for Planning, Transport & Development.
- 2.38 Constraints have and are being assessed in an evidence-based way through the following work streams:
- Maidstone Landscape Character Assessment
  - Landscape Capacity Study - Sensitivity Study
  - Agricultural Land Classification Study
  - Strategic Flood Risk Assessment
  - Traffic modelling
- 2.39 Cabinet and the Planning, Transport and Development Overview & Scrutiny Committee both expressed strong concerns about the cumulative impact of development on particular settlements, in particular the impacts on infrastructure capacity. In making its decisions, Cabinet highlighted concerns about highway and sewerage capacity in particular, in addition to education provision and community infrastructure more generally.
- 2.40 The NPPF states that "Local Plans should plan positively for the development and infrastructure required in the area"<sup>11</sup> and requires Councils to work collaboratively to assess the quality and capacity of infrastructure for transport, water supply, wastewater, energy, telecommunications, utilities, waste, health, social care, education, flood risk and its ability to meet forecast demands and to take account of the need for strategic infrastructure.<sup>12</sup>
- 2.41 There is a very important distinction which must be made between current deficiencies in the adequacy and efficiency of existing infrastructure which local communities are experiencing and the additional impact generated by planned development. The NPPF<sup>13</sup> is clear that developer contributions should only be sought through planning obligations (section 106 agreements) where they are;
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- 2.42 It is not therefore the role of future development to rectify the shortcomings in current provision or that of the past. Development must however address the reasonable, additional demands on physical and social infrastructure which the development itself will generate.
- 2.43 Local residents have expressed firmly their frustrations about the adequacy of specific services and facilities in their neighbourhoods. It is very

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<sup>11</sup> NPPF Paragraph 157

<sup>12</sup> NPPF paragraph 162

<sup>13</sup> NPPF paragraph 204

understandable that, faced with their day to day experiences, there is strongly felt scepticism about the actual capacity for additional development in their areas.

- 2.44 In response, the Council can use its influence, resources and expertise to encourage the infrastructure providers to better address existing inadequacies. Such action is not contingent on the Local Plan. It can take place now to a timetable independent of the Local Plan. To this end, four working groups termed 'Task & Finish Groups' have been set up for (i) transport, (ii) waste water and sewerage, (iii) health and (iv) education. These will actively work with the responsible organisations (Kent County Council, Southern Water, NHS Clinical Commissioning Groups) to understand more fully the current deficiencies and to agree future actions.
- 2.45 Turning to the infrastructure needs that will be generated by future development, Councillors will recall that the relevant infrastructure providers have advised on the scale and nature of future requirements as the Local Plan has progressed. To date, these responsible agencies have not provided the Council with defensible evidence that the cumulative impacts of development proposed in the draft Local Plan (Regulation 18) could not be addressed. In these circumstances, Leading Counsel's view is that the risk of the plan being found unsound is very real.
- 2.46 Work on green and blue infrastructure requirements is also progressing with draft open space standards and strategic open space allocations nearing completion.
- 2.47 Councillors should also be aware that the Local Plan Inspector will undertake a pre-examination health check on the Local Plan and it is likely that, given the significant gap between the supply of sites and the objectively assessed housing need, he or she would advise that the plan should not proceed to examination. Consequently, it would be prudent, in order to avoid that further delay at a later stage, to reduce that shortfall prior to the pre examination check. Councillors will be aware that the sooner an adopted local plan is in place, the less risk there is of ad hoc unplanned housing development being permitted on appeal.

### **Housing trajectory**

- 2.48 The Local Plan includes a housing trajectory which sets out the actual and expected pattern of dwelling completions for the whole 20 year Local Plan period. To secure a continuous supply of housing land, the trajectory should comprise:
- A supply of specific, deliverable sites for the first 5 years post adoption
  - A supply of specific, developable sites or broad locations for years 6-10 and where possible for years 11-15.<sup>14</sup>

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<sup>14</sup> NPPF paragraph 47

- 2.49 A deliverable site should be both available and suitable for development with the realistic prospect that it will be developed within the next 5 years. To be developable, a site should be suitable with the expectation that it will be available and viably developed at the specified point in the future.
- 2.50 The components of supply which feed into the Local Plan's housing trajectory are:
- Completions
  - Planning permissions
  - Local Plan allocations
  - Local Plan broad locations
  - Windfall allowance
- 2.51 The supply from these sources becomes increasingly more definitive moving from the bottom to the top of the above list. Windfalls are brownfield sites which have not been specifically identified in advance through the Local Plan process but which will nonetheless subsequently contribute to the borough's housing land supply. The three broad locations are more specific as they have been identified in the draft Local Plan as locations where development will be acceptable and deliverable in the longer term. The sites allocated for housing in Policies H1 and RMX1 of the draft Local Plan are clearly defined, policy criteria for their development are in place and the sites' availability and suitability has been demonstrated through the SHLAA process. There is therefore a very high degree of certainty associated with allocated sites' contribution to housing supply. Planning permissions are more definite still, the exact details of the new housing having been confirmed through the planning application process culminating in the completion of the new homes on site.
- 2.52 It is crucial to ensure a sufficient rolling pipeline supply coming through the planning system. For the system to be genuinely plan-led, this means allocating sites in the Local Plan, to direct and control where and in what circumstances planning consents will be granted and where they will not.
- 2.53 With the onus in the NPPF that the planning system is to be plan-led and to provide certainty of decision making, it follows that having a sufficient supply of confirmed site allocations in the Local Plan will help it to comply with two of the tests of soundness, namely that it has been both 'positively prepared' and that it is 'effective', i.e. it is deliverable.
- 2.54 Annual completion rates are a measure of past delivery. These are set out in the Council's Annual Monitoring reports. To meet the proposed objectively assessed need for new homes would require an average rate of completions of 928 dwellings per annum (dpa) over the 20 years of the Local Plan. By way of comparison, the average rate of completions over the past 5 years to April 2014 has been 631dpa, and over the past 10 years has been 688dpa. This illustrates that a significant step change in the pipeline supply of housing will be needed to achieve the rates of delivery required to meet the expected population growth.
- 2.55 Allocating specific sites in the Local Plan is the best way for the council as the local planning authority to secure the necessary uplift in supply and hence the delivery of homes on the ground.

## 5 year supply

- 2.56 The 5 year supply figure represents the amount of housing which is available and is expected to be delivered within the forthcoming 5 year period. It is not sufficient for the Council simply to be able to identify five years' worth of housing land; it must demonstrate that it has at least five years' worth of housing that will be built within the forthcoming five years. The Council's 5 year housing land supply position is updated annually at a snapshot date of 1st April.
- 2.57 The Committee will be provided with the finalised position on 5 year supply at the snapshot date of 1<sup>st</sup> April 2015 at its July meeting. At 1<sup>st</sup> April 2014 the Council was able to demonstrate a 2.1 year supply of housing land. The 1<sup>st</sup> April 2015 position is expected to be an improvement on the 2014 position but is unlikely to reach a 5 year supply.
- 2.58 Paragraph 49 of the NPPF states that 'housing applications should be considered in the context of the presumption in favour of sustainable development' and that 'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites'. This means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole<sup>15</sup>.
- 2.59 It is anticipated that housing supply will have to increase significantly from current levels for the Council to be able to demonstrate a 5 year supply. Simply relying on the granting of planning permissions is unlikely to achieve the uplift in supply needed to secure a 5 year land supply. An adopted Local Plan which allocates sufficient suitable sites to secure a rolling supply of housing land is considered the best way the Council can secure full control over future development.

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### 3. AVAILABLE OPTIONS

- 3.1 Taking account of the commentary above, there are a number of potential options to consider.
- 3.2 **A) 'Do nothing further' option - progress the Local Plan with the current shortfall against the objectively assessed needs:** A shortfall of any scale represents both reputational and financial risk to the success of the Local Plan at Examination. As highlighted, no recent plans have been found sound with a housing target lower than the objectively assessed need figure and in this context the current gap can be regarded as a significant risk given the scale of the shortfall and the lack of demonstrable constraints. Leading Counsel's advice supports this.

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<sup>15</sup> NPPF paragraph 14

- 3.3 **B) Undertake a further call for sites:** Call for Sites exercises have been undertaken in 2013 and 2014 and prior to this in 2008. The 2014 Call for Sites was undertaken in full knowledge of the need for 19,600 new homes at that time. On this basis, it is considered that the Council already has a good level of information on the availability and suitability of potential housing sites in the borough and that this information is sufficient to make decisions about future allocations. This approach chimes with the NPPF requirement that Local Plans should be based on proportionate evidence.<sup>16</sup>
- 3.4 **C) Consider allocating sites adjacent to settlements not currently identified for expansion:** The Local Plan's strategy is to allocate sites in and adjacent to the most sustainable settlements in the borough namely Maidstone, the Rural Service Centres of Marden, Staplehurst, Headcorn, Harrietsham and Lenham and the Larger Villages of Sutton Valence, Coxheath, Eyhorne Street (Hollingbourne), Yalding and Boughton Monchelsea. These settlements have been identified based on an assessment of services and facilities in the borough's villages and towns which forms part of the evidence base of the Plan. It is considered that other settlements do not have the level of facilities to make them sufficiently sustainable for significant additional new housing. This position is supported by a very recent planning appeal for 15 dwellings at the edge of Langley where the Inspector noted that the village had few facilities aside from a doctor's surgery and a village hall and that bus services were limited in frequency. He concluded that the development's occupants would be reliant on private cars for most journeys and this was one of the determining factors which led to the dismissal of the appeal.<sup>17</sup>
- 3.5 **D) Consider including additional 'broad locations' in the Plan:** The draft Local Plan (Regulation 18) currently identifies three broad locations where development will come forward in the latter period, 2026-31. A candidate for this approach could be Headcorn which is identified as a Rural Service Centre but which now has only one allocated housing site for 45 dwellings which already has permission. There would need to be a clear justification why development was being pushed back to a later part of the Plan period. Weighing strongly against this approach is the evidence through the SHLAA that suitable sites at the edge of Headcorn (for example) are available for development now. Indeed Planning Committee has determined that it would have granted permission at the Mill Bank/Ulcombe Road site in Headcorn had the appeal not been lodged. Further, this approach would reduce the degree of certainty the Local Plan would give to all interested parties, including utility providers making their forward plans. In addition, this approach does not help to maximise the definite site allocations included the Local Plan which will be the best and most timely way for the Council to establish a 5 year land supply.
- 3.6 **E) Reconsider the sites excluded from the Plan:** An option which reduces the identified risks to the soundness of the Local Plan is for the Committee to decide to include additional sites in the Local Plan from the candidates recommended during the January/February/March cycle of meetings. This would include re-considering both the re-instatement of the sites deleted from

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<sup>16</sup> NPPF paragraph 182

<sup>17</sup> Land north of Horseshoes Lane, Langley. Decision dated 16<sup>th</sup> February 2015.



the Regulation 18 version of the Plan (7 sites and 1 part site) and the allocation of more of the additional sites (15 sites).

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

- 4.1 It is considered that the best option at this stage in the Local Plan making process is for additional sites to be allocated in the Local Plan (Option E above).
- 4.2 Officers are advising this course of action because;
- Evidence of infrastructure constraints is not being substantiated by the relevant infrastructure providers, in particular in their responses to planning applications on the same sites
  - As set out elsewhere in this report, an unsubstantiated gap between housing needs and supply is a significant risk to the soundness of the Plan.
  - Applications are being submitted on the sites identified in the Local Plan, and recommended to be included in the Plan, on an on-going basis. Planning applications have been submitted or determined on 30 of the 54 housing/residential mixed use sites allocated in the Regulation 18 version of the Local Plan (March 2014). Planning Committee's decisions are overtaking those being made through the Local Plan process in contravention of a 'plan-led' approach.
  - It best supports getting a sound Local Plan in place in a timely way. Any alternative decision which adds delay to the progress of the Plan could result in the submitted Plan having less than a 14 year time horizon, when the preference in the NPPF<sup>18</sup> is for Local Plans to look ahead 15 years. This would bring some further risk to the Plan at Examination.
- 4.3 There are real risks that the Local Plan Inspector would give an early indication that more must be done to eradicate the gap between objectively assessed housing needs and housing supply and s/he would recommend that the draft Plan is likely to be found unsound. This would only result in the Council being back in the position it is in at the current time embarking on the same exercise to allocate more sites but with many months lost. As explained in the body of this report, the longer delay there is before a local plan is adopted the longer the period is in which ad hoc and uncontrolled planning permissions come forward.
- 4.4 Relevant to this overall consideration of the way forward is the requirement that the Council must fulfil its **duty to co-operate**. The Local Plan Inspector will test whether the Council has complied with its legal duties. It will be necessary to demonstrate to the Inspector's satisfaction that co-operation with other councils and agencies has been both on-going and positive. Faced with Maidstone not being able to meet its housing needs in full it will be necessary to approach councils within the same housing market area in the first instance, namely Tonbridge & Malling and Ashford Borough Councils. The councils which are approached will analyse the strength of the Council's case for not meeting its

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<sup>18</sup> NPPF paragraph 157

own needs in addition to their own capacity for additional housing. As other councils are faced with challenging housing targets of their own, which could result in reciprocal requests for this borough to accommodate other boroughs' needs, it is right that there is a degree of realism about the outcomes of the co-operation process.

- 4.5 Should duty to co-operate discussions have failed to bridge the gap between housing need and supply, there is some risk that the Local Plan Inspector will expect the Council to have robustly examined its constraints in accordance with the guidance in the NPPF with the continued aim of trying to meet its needs in full.

## 5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The Local Plan is subject to repeated and widespread consultation during its preparation. Further Regulation 18 consultation is planned for late summer prior to Regulation 19 consultation on the next full draft of the Local Plan in the New Year.

## 6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The Committee's decisions will be actioned through the next preparatory stages of the Local Plan.

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	Having an adopted Local Plan in place will help to deliver both of the Council's Corporate Priorities	Sue Whiteside, Team Leader (Spatial Policy)
<b>Risk Management</b>	This report is primarily concerned with identifying the risks associated with decisions on housing allocations, and the scale of the unmet housing need, in the emerging Local Plan and these are set out in the main body of the report.	Sue Whiteside, Team Leader (Spatial Policy)
<b>Financial</b>	The development of the Local Plan has been fully funded as part of the council's revenue budget. The total spend from 2006/07 to 2014/15 is £1.8 m. At 31 March 2015, the budget has a balance of £353,480. The base budget for the next 3 years is £60k p.a. plus one-off funding of £480k from New Homes Bonus. The budget does not account for any additional costs arising from the risk that	Zena Cook (Section 151 Officer) & Ellie Dunnet (Chief Accountant)

	the local plan is found unsound or withdrawn, which would include the preparation of additional evidence, further consultations, and re-examination. This would need to be found from the council's revenue budget which already has a target to deliver £2.2 m savings in 2016/17 – 2018/19. The council will need to demonstrate financial rigour in terms of decisions that will incur avoidable unbudgeted expenditure.	
<b>Staffing</b>		Rob Jarman, Head of Planning & Development
<b>Legal</b>	Advice on the legal implications has been incorporated into the body of the report.	Kate Jardine, Solicitor, Team Leader (Planning)
<b>Equality Impact Needs Assessment</b>		[Policy & Information Manager]
<b>Environmental/Sustainable Development</b>	The Local Plan is fundamentally concerned with delivering sustainable development objectives.	Sue Whiteside, Team Leader (Spatial Policy)
<b>Community Safety</b>		Sue Whiteside, Team Leader (Spatial Policy)
<b>Human Rights Act</b>		Sue Whiteside, Team Leader (Spatial Policy)
<b>Procurement</b>	N/A	Rob Jarman Head of Planning & Development , Zena Cook, Section 151 Officer
<b>Asset Management</b>		Sue Whiteside, Team Leader (Spatial Policy)

## 8. REPORT APPENDICES

None

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## 9. BACKGROUND PAPERS

None