

Strategic Planning, Sustainability & Transport Committee

6th October 2015

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

Yes

North Loose Neighbourhood Development Plan

Final Decision-Maker	Strategic Planning, Sustainability & Transport Committee
Lead Director or Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Chris Berry, Planning Consultant to Spatial Planning
Classification	Non-exempt
Wards affected	Boughton Monchelsea and Chart Sutton; Loose; Park Wood; Shepway North; Shepway South; South;

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

1. That the Committee approves this report as the basis for formal representations on the Regulation 16 North Loose Neighbourhood Development Plan (August 2015); and
2. That the Committee agrees the Council's consultation responses to the Regulation 16 North Loose Neighbourhood Development Plan (August 2015) summarised below and described in more detail in sections 2.12 to 2.35.

The North Loose Neighbourhood Development Plan (August 2015):

a) is in general conformity with the strategic policies of the adopted Maidstone Borough-Wide Local Plan 2000;

b) has been assessed, at this stage, to not require Strategic Environmental Assessment or Habitats Regulations Assessment;

c) is not in line with national policy in respect of it failing to make a contribution to the Council's objectively assessed housing need. It should be positively prepared and should not prevent Maidstone Borough Council's proper planning of the borough;

d) is not in line with national and local policy in relation to the Plan's references to low housing density standards in the urban area;

e) is not in conformity with the emerging Maidstone Borough Local Plan Regulation 18 Consultation Draft 2014 (MBLP 2014) in relation to the non-

allocation of the New Line Learning draft housing allocation. Related to this, clarification is needed on the identification of open spaces as they relate to this site and countryside links;

f) should seek to ensure the Plan is 'future proof' in relation to references to the Code for Sustainable Homes; and

g) should include adequate justification and detailed costing where policies refer to the seeking of development contributions.

This report relates to the following corporate priorities:

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

Timetable

<i>Meeting</i>	<i>Date</i>
Strategic Planning, Sustainability and Transport Committee	6 October 2015

North Loose Neighbourhood Development Plan

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Cabinet previously approved a report which formed the basis of the Council's formal response to the Regulation 16 Consultation on the North Loose Neighbourhood Development Plan on 17 February 2015. Public consultation had previously been undertaken at both Regulation 14 and Regulation 16 but procedural errors were made in the consultation periods specified which meant that the North Loose Neighbourhood Forum have been required to repeat those two consultations – an exercise which will now be completed on 23rd October 2015.
- 1.2 The North Loose Neighbourhood Plan is largely unchanged for this second consultation and this report reaffirms the council's position with regard to the Neighbourhood Plan. The following representations may be made in response to the submitted plan.
- 1.3 The Neighbourhood Plan as submitted:
 - a) is in general conformity with the strategic policies of the adopted Maidstone Borough-Wide Local Plan 2000;
 - b) has been assessed, at this stage, to not require Strategic Environmental Assessment or Habitats Regulations Assessment;
 - c) is not in line with national policy in respect of failing to make a contribution to the Council's objectively assessed housing need. It should be positively prepared and not prevent Maidstone Borough Council's proper planning of the borough;
 - d) is not in line with national and local policy in relation to its references to low housing density standards in the urban area;
 - e) is not in conformity with the emerging Maidstone Borough Local Plan Regulation 18 Consultation Draft 2014 (MBLP 2014) in relation to the non-allocation of the New Line Learning draft housing allocation. Related to this, clarification is needed on the identification of playing fields as they relate to this site and countryside links;
 - f) should seek to ensure the Plan is 'future proof' in relation to references to the Code for Sustainable Homes; and
 - g) should include adequate justification and detailed costing where policies refer to the seeking of development contributions.

2 INTRODUCTION AND BACKGROUND

- 2.1 The Town and Country Planning Act 1990 (as updated by the Localism Act 2011) and the Neighbourhood Planning Regulations set out the formal stages which a Neighbourhood Development Plan must proceed through before it is made (adopted). Maidstone Borough Council has supported the North Loose Residents Association in preparing its Neighbourhood Plan by offering advice and guidance to ensure the plan meets the necessary Regulations and legal criteria, as well as providing practical advice and assistance.
- 2.2 Following the formal submission of the plan according to Regulation 15, Maidstone Borough Council has a statutory responsibility for a number of stages, both in terms of organisation and cost. These may be generalised as: consultation, examination, referendum, and formally making the Neighbourhood Development Plan. Once made, the Plan will form part of the development plan for Maidstone Borough.
- 2.3 Preparation of the North Loose Neighbourhood Development Plan began in May 2013, and has been developed by the North Loose Residents Association steering group (the Neighbourhood Forum), with support from community volunteers, Royal Town Planning Institute's Planning Aid, Maidstone Borough Council, and consultants Leon Urban Design and Community Spirit Partnership CIC.
- 2.4 The Neighbourhood Plan was first submitted for public consultation in December 2014, and this consultation took place in January and February 2015. A report outlining the council's response was considered by Cabinet in February 2015.
- 2.5 When the plan was submitted to the Examiner, however, it became apparent that the consultation dates did not strictly adhere to the requirements of the regulations, and this would have made the plan vulnerable to challenge post examination. It thus became necessary to re-run the consultation process to ensure that it is procedurally robust.
- 2.6 The plan was resubmitted under Regulation 15 in August following the re-running of the previous regulatory stage, and the present public consultation according to Regulation 16 started on 11th September and will close at 5 pm on 23rd October. Minor amendments have been made to the plan since the first consultation but these do not affect the original representations made by the council which are re-presented in this report. The plan will progress to examination again following this consultation.
- 2.7 The North Loose Neighbourhood Development Plan is set out in six main sections which cover the major issues identified in the North Loose Neighbourhood Area. These are: Health, Wellbeing and Transport Alternatives; Green Spaces, Sports and Recreation; Sustainable Design; Housing Development; and Businesses and Employment. Officers have assessed the plan against the legal, procedural and technical criteria for the preparation of the plan, and are satisfied that the plan should proceed to examination.

Examination

- 2.8 An Examiner has been appointed by the council and she will consider the plan in the light of the basic conditions as required by Section 38A of the Planning and Compulsory Purchase Act 2004 and the following additional conditions:
- whether the draft plan complies with the definition of a Neighbourhood Development Plan
 - whether the provisions included can be made by a Neighbourhood Development Plan;
 - whether the plan is compatible with the Human Rights Convention.
 - whether the area for referendum should extend beyond the plan boundaries and whether the draft plan meets a set of 'basic conditions'.
- 2.9 The Examiner will take account of all representations made as a result of the public consultation, including this one, and will then report on whether the plan meets the above conditions and the necessity for a hearing on any aspect of the plan. Whether a hearing is required or not, the Examiner will prepare a report and recommendation regarding the referendum.

Consultation responses

- 2.10 The current consultation gives Maidstone Borough Council an opportunity to comment on whether it considers the Neighbourhood Plan meets the set of basic conditions, as noted in para. 2.8 above, which may be summarised as:
- a. having regard to national policy and guidance;
 - b. contributing to the achievement of sustainable development;
 - c. being in general conformity with the strategic policies of the development plan for the area or any part of that area; and
 - d. not breaching or being otherwise compatible with EU obligations, including the Strategic Environmental Assessment Directive 2001/42/EC and Habitats Directive 92/43/EEC.
- 2.11 The Council's proposed responses to the consultation are summarised in the recommendations to this report at 1.3 above and are discussed in further detail below.

National policy and guidance

- 2.12 The Neighbourhood Development Plan should be in general conformity with national policies set out in the National Planning Policy Framework (NPPF) and be positively prepared and make a contribution to meeting the significant housing needs of the borough. It should not frustrate the ability of the Council to meet its objectively assessed housing need. The plan fails to identify new housing sites which make a contribution to meeting an

objectively assessed housing need of 18560 new homes for Maidstone Borough.

- 2.13 The NPPF also stresses the need to ensure effective planning for high quality open spaces, sport and recreation facilities based on robust assessments of the existing and future needs of communities. Further discussion of this issue is presented in more detail in the section relating to conformity with the emerging Local Plan policy.
- 2.14 Prior to submission concerns were raised as to whether the Neighbourhood Development Plan is in line with national policy on delivery of new housing, layout and design. Policy SD5 refers to densities of between 17 and 25 houses per hectare, and Policies SD5 and HD2 both seek to encourage the construction of bungalows.
- 2.15 Whilst the National Planning Policy Framework encourages the setting of local standards for housing density which reflect local circumstances, Maidstone Borough Council is concerned about the merits of setting low housing density standards that will apply across the whole plan area. The density is low for an urban area and the Council questions whether this, together with a preference for bungalow development, would result in an efficient use of land.
- 2.16 Whilst the Council understands the desire to ensure locally appropriate development, and acknowledges the flexibility in the policies, it is important for the authors to ensure specific constraints related to local character, demographic needs and local housing type requirements are strongly evidenced. Maidstone Borough Council wishes the Examiner to be mindful of the Council's objectively assessed housing need and the need to use land efficiently to minimise greenfield land-take in the borough.

Adopted Local Plan Policy

- 2.17 The North Loose Neighbourhood Development Plan is in general conformity with the strategic policies of the adopted Maidstone Borough-Wide Local Plan 2000, and Maidstone Borough Council is satisfied that the plan meets this basic condition.

Emerging Local Plan Policy

- 2.18 Whilst it is not a requirement for a Neighbourhood Development Plan to be in conformity with an emerging local plan, it is clear that the emerging strategic policies and priorities, and importantly the substantial evidence which underpin them, are relevant to Neighbourhood Development Plans. Advice has previously been offered on how the Neighbourhood Development Plan may be amended to respond to the emerging Local Plan, much of which has subsequently been taken on board in the submitted plan.
- 2.19 The Examiner should be made aware though that, in terms of land allocation, there is a potential conflict between the Neighbourhood Development Plan and the emerging Local Plan. The New Line Learning Site has been allocated in the Maidstone Borough Local Plan Regulation 18

Consultation 2014 for the development of 220 dwellings together with a 15m wide landscape buffer, highway improvements and the relocation of the existing sports facilities.

- 2.20 Maidstone Borough Council Cabinet agreed on the 4th February 2015 that, subject to the outcome of the appeal, the New Line Learning site should be included in the Regulation 19 Publication draft of the emerging Maidstone Borough Local Plan. This site, not included in the submitted Neighbourhood Development Plan, makes a contribution to meeting the borough's housing need in its emerging Local Plan.
- 2.21 Due to landscape, infrastructure and environmental constraints Maidstone Borough Council is finding it challenging to meet its objectively assessed housing need. The Council is concerned that the draft Neighbourhood Development Plan, particularly if it does not allocate the New Line Learning site, would not make a contribution to meeting this significant housing requirement.
- 2.22 A planning application for the erection of 220 residential dwellings together with access, parking, landscaping, and ancillary works on land at Boughton Lane, and provision of new playing fields for New Line Learning Academy was refused by Maidstone Borough Council (Ref: 13/2197), due to the positioning of the access road, leading to the loss and deterioration of ancient woodland, in addition to a conflict with affordable housing policy. An appeal against Maidstone Borough Council's decision to refuse the planning application was lodged on 26th November 2014 and this was called in by the Secretary of State for Decision. A Public Inquiry took place on 7th July 2015 and there is likely to be a final decision in December 2015.
- 2.23 The Neighbourhood Development Plan does not allocate this site for development. The Council understands that, although the draft Local Plan proposal is recognised at paragraph 5.2 in the Neighbourhood Development Plan, the Neighbourhood Forum has chosen to remain silent on the future of this site. It does, however, seek to exert some control on the outcomes of development, by essentially seeking to safeguard land on farmland adjacent to the allocated site as green and open space.
- 2.24 The failure to make adequate provision for new housing also undermines the Council's ability to meet its affordable housing need, as evidenced in the Maidstone Strategic Housing Market Assessment. The Council is committed to ensuring that sustainable mixed communities are achieved through the provision of a range of housing types, size and tenure and the plan is silent on this. A plan that is positively prepared must ensure that it makes an appropriate contribution to the housing needs of the borough, including affordable housing.
- 2.25 Policies HWTa Policy 7 (Manage Green and Open Spaces) GSSR Policy 1 (Maintain and Enhance current green corridors) and GSSR Policy (Protect and improve Open Space and Ancient Woodland) work in combination to protect open spaces and the contribution they make to public health. HWTa

Policy 7 seeks to ensure a list of existing sites, used for sports and recreation, are retained in uses that ensure access to opportunities for recreation and are maintained with all their associated benefits, including quality of life, biodiversity and air quality. It usefully includes the requirements that must be applied should a proposal be considered which includes the loss of green and open spaces and this policy should ensure that where development of a needed open space is proposed, equivalent replacement provision in a suitable location is provided.

- 2.26 The Council suggests that some re-ordering of the policy may make it easier to apply and recommends that the list of spaces to be protected follows the policy statement: 'Proposals for new development which would result in the loss of green'. The secondary objective to 'manage green and open space' could follow.
- 2.27 Maidstone Borough Council supports the principle of a green corridor linking the cemetery and Wheatsheaf Junction through to the open countryside. It would, however, like the Examiner to bear in mind that it would not wish the Neighbourhood Development Plan to prejudice development of the New Line Learning site.
- 2.28 There are of course opportunities taking into account the layout of the development site and the creation of new publicly accessible open space on farmland to the south of Mangravet Recreation Ground, that should ensure this connection is maintained. The Council understands this is not the intention of the plan to prevent development of the site, but clarification in the policy text is sought.
- 2.29 Policy GSSR Policy 2 again seeks to protect open spaces and ancient woodland, seeking to retain them for public use. The relationship of this to the essential flexibility provided at policy HWTa Policy 7 could be clearer. This policy also refers to the Loose Valley and wider landscape setting. This would be more effective in a separate paragraph which refers to the need for any development to take into account the setting of the Loose Valley.

Strategic Environmental Assessment and Habitats Regulations Assessment

- 2.30 Maidstone Borough Council has carried out its duty to screen the plan for the need for a Strategic Environmental Assessment (SEA) or Habitats Regulation Assessment (HRA). At this stage Maidstone Borough Council is satisfied that there is no requirement for an SEA or HRA.

Future proofing and contributions

- 2.31 Concerns have previously been raised in respect of SD Policy 5 where it refers to the Code for Sustainable Homes. It is felt that the policy may not be 'future proof' in that the Government Housing Standards Review may result in the Code for Sustainable Homes not continuing, at least in the current form, with certain key elements of the code being embedded in the Building Regulations.

- 2.32 Where development contributions are sought, the policies in the Neighbourhood Development Plan would benefit from additional justification. The Council will require adequate justification and some detailed costing when seeking development contributions from developers in the determination of planning applications. The Council will, of course, discuss the proposals further with the Neighbourhood Forum when preparing its Infrastructure Delivery Plan and during discussion of the emerging Community Infrastructure Levy.

3. AVAILABLE OPTIONS

- 3.1 When the Neighbourhood Development Plan is made it becomes part of the Council's development plan and is used for development management decision making. If the Council does not respond to the consultation draft, it will have missed an opportunity to submit formal comments to the examination. There are therefore two options to consider:
- 3.2 Option A: To approve this report as the basis for the Council's comment on the North Loose Neighbourhood Development Plan.
- 3.3 Option B: Councillors could recommend additional or amended comments on the North Loose Neighbourhood Development Plan.
- 3.4 Option C: No response may be made to the submitted plan and the council will lose the opportunity to inform the Examiner of its concerns with regard to the Neighbourhood Development Plan.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Councillors are recommended to adopt Option A to inform the Examiner and North Loose Neighbourhood Forum of the council's concerns

5. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Once the Neighbourhood Plan is 'made' it will form a part of the development plan for Maidstone. This will assist in the delivery of the Council's objectives, notably 'Keeping Maidstone Borough an attractive place for all'. The action areas supporting the priorities will also be addressed through the development plan.	Head of Planning and Development
Risk Management	This consultation is being re-run following issues identified with the previous	Head of Planning and

	consultation, in order to mitigate any future risk of challenge.	Development
Financial	There are costs to the Council in terms of staffing resources associated with the setting up and running of the consultation as well as some printing and sundries costs for materials required to support the consultation. The Council is able to seek grant funding when plans reach certain milestones and trigger points, but given this is a repeat of a previous consultation, the Council will be unable to seek funding this time around and will have to bear the costs associated. These will be limited to some small costs for additional printed materials and the cost of a second examination, anticipated to last 3 days at c. £700 per day.	Section 151 Officer and Finance Team
Staffing	Staff resources have been required to assist in the planning and running of the consultation including support from the Communications and Web teams. This has caused some difficulties given current resource levels and other work required to be completed.	Head of Planning and Development
Legal	The plan has been completed with mind to the statutory regulations relating to Neighbourhood Plans and their preparation.	Mid-Kent Legal Services Team Leader (Planning)
Equality Impact Needs Assessment	The needs of all interested persons have been considered as part of the consultation planning. Alternate formats of documents will be made available on request.	Policy and Information Manager
Environmental/Sustainable Development	The plan has been the subject of screening for both Strategic Environmental Assessment and Habitat Regulations Assessment	Head of Planning and Development
Community Safety	There are no implications for Community Safety	Head of Planning and Development
Human Rights Act	There are no implications for the Human Rights Act	Head of Planning and Development
Procurement	Once the current consultation is completed the plan will proceed to examination. The examiner was appointed with due consideration to procurement requirements of the Council's Purchasing Guide and Contract Procedure Rules	Head of Planning and Development and Section 151 Officer

Asset Management	There are no implications for asset management	Head of Planning and Development
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6 REPORT APPENDICES

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

- Appendix 1: North Loose Neighbourhood Development Plan

BACKGROUND PAPERS

None