

**STRATEGIC PLANNING
SUSTAINABILITY &
TRANSPORT COMMITTEE**

**14th December
2015**

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

Yes

Maidstone Borough Local Plan: responses to the Regulation 18 consultation (October 2015).

Final Decision-Maker	Strategic Planning, Sustainability & Transport Committee
Lead Head of Service	Rob Jarman, Head of Planning & Development
Lead Officer and Report Author	Sarah Anderton, Principal Planning Officer (Spatial Policy)
Classification	Public
Wards affected	All

This report makes the following recommendations to this Committee:

1. That the schedule of policies and amendments be in Appendix B be approved for incorporation into the Regulation 19 version of the Maidstone Borough Local Plan.
2. That the site allocation policies for Land at Bydews Place and Land south of Tovil in Appendix F be approved for incorporation into the Regulation 19 version of the Maidstone Borough Local Plan
3. That the officer responses to the representations submitted during the public consultations on the draft Maidstone Borough Local Plan (Regulation 18 consultation) in Appendix A be approved.
4. That the amendment to Policy DM4 – Design Principles set out in paragraph 4.76 be approved for incorporation into the Regulation 19 version of the Maidstone Borough Local Plan

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all – the Local Plan aims to plan positively for future growth in a sustainable way and protect the borough’s environmental assets.
- Securing a successful economy for Maidstone Borough – the Local Plan also aims to plan positively for the growth of the borough’s economy whilst also protecting the environmental assets which make the borough such an attractive place to work.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transport Committee	14 th December 2015

Maidstone Borough Local Plan: responses to the Regulation 18 consultation (October 2015).

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to consider the issues raised during the Local Plan Regulation 18 consultation held in October 2015 and the suggested changes to the Local Plan recommended in response.
 - 1.2 For completeness and convenience, the report also considers the issues raised on Policy SP5 – Countryside during the earlier Regulation 18 consultation on the ‘full’ draft Local Plan held in March-May 2014.
 - 1.3 As a further matter, the report addresses the reference from Planning Committee (first discussed at this Committee on 10th November) requesting that the Local Plan provide criteria for ‘active frontages’ as it would apply to residential development in more rural environments.
 - 1.4 Committee members are requested to bring their copies of the Maidstone Borough Local Plan Regulation 18 Consultation (October 2015) to the meeting.**
-

2. INTRODUCTION AND BACKGROUND

- 2.1 The public consultation on the Maidstone Borough Local Plan Regulation 18 (October 2015) was held from Friday 2nd to Friday 30th October. The consultation related to a select suite of matters as follows;
 - a. Policy SP5 – Countryside, including proposed Landscapes of Local Value
 - b. Proposed new, amended and deleted housing allocations
 - c. Proposed additional employment land allocation at Woodcut Farm (M20 J8)
 - d. Proposed additional Gypsy & Traveller allocations
 - e. Proposed open space allocations and open space development management policy
 - f. Policy for nursing and care homes
 - g. Proposed deletion of two Park & Ride allocations in Policy PKR1 and consequent changes to Policy DM15 – Park & Ride
- 2.2 Some 935 representations were received to the consultation document from some 426 different respondents. These figures include approximately 11 late representations which were received within 4 days of the consultation closing. The purpose of this report is to consider the issues raised during this latest consultation and the recommended changes which should be made to the Local Plan in advance of the Committee’s consideration of the next full draft of the Plan (Regulation 19 version) at its meeting in January.

- 2.3 According to the timetable in the Local Development Scheme agreed by the Committee on 10th November the Regulation 19 consultation will take place in February/March 2016 with submission of the Plan following in May 2016 provided no substantive issues of soundness are raised.
- 2.4 A general matter raised during the latest public consultation by KALC, parish councils and private individuals was the 4-week duration of the consultation period which they considered to be too short to be meaningful and contrary to the Town and Country Planning (Local Planning) (England) Regulations and the Parish Charter.
- 2.5 In response, the Regulations do not specify a minimum consultation during preparation of the Local Plan at Regulation 18 stage. The breadth and length of the consultation should be proportionate to the size and complexity of the document. The 4 week timeframe was agreed as part of the wider programme for the delivery of the Local Plan by this Committee on 9th June 2015 given it was a partial update to the comprehensive consultation at Regulation 18 undertaken in the spring of 2014 on the whole plan. The proportionately shorter timescale ensured expediency in progressing the plan to the next stage.
- 2.6 All planning related consultation must be undertaken with regard to and in compliance with the Council's adopted Statement of Community Involvement, a legal requirement, which this Regulation 18 consultation was.
- 2.7 Finally in regard to the Parish Charter, this is clear that planning consultations are exempted from the six-week requirement, and that parishes should 'respond to all consultations in relation to the Local Plan within the Borough Council's deadlines in accordance with the adopted Statement of Community Involvement and Constitution.' This understood, comments received after the consultation close owing to the timing of parish council meetings have been considered with those received on time.
-

3. AVAILABLE OPTIONS

- 3.1 The schedule in Appendix A sets out the issues raised in the consultation for each of the policy aspects included in the consultation document. Those respondents who were objecting to the content of the document were putting forward, in effect, alternative options to those included in the original consultation document. Officers have put forward a preferred approach in response in each case. The main issues are drawn out in the next section of the report.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The schedule in Appendix B includes the recommended changes to the Local Plan arising from the consultation.

Policy SP5 – Countryside

- 4.2 There was a significant volume of representations to Policy SP5 - Countryside (90 comments). Officers have additionally taken the opportunity to consider and respond to the issues raised in connection with this policy at the earlier Regulation 18 consultation held in 2014. Respondents raised a number of objections to the proposed Landscapes of Local Value (LLV) designations. A large portion of the comments regarding the LLVs were seeking further areas to be designated as LLVs, or to extend the proposed LLV boundaries. Councillors will recall that a number of these 'omitted' areas and/or landscape character areas were also raised during the 2014 Regulation 18 consultation, for which the responses were approved by this Committee in July 2015. The reasons not to include these areas are still regarded as valid. The inclusion of an LLV for the setting of the Kent Downs AONB was proposed by a small number of respondents. There were previous discussions regarding this issue, and the Committee concluded that the AONB settings should not be designated as LLVs due to the high degree of protection already afforded to these areas through national policy.
- 4.3 Some respondents were concerned about the perceived lack of evidence base supporting the designation of LLVs, with particular reference made to the Low Weald both in relation to its boundary based on the former SLA, and the designation of the area in general. The merits of including the Low Weald as a LLV was discussed at great length by both this Committee and the Policy & Resources Committee in July-September. The resolved position of the council is that inclusion of the Low Weald is justified and it is not recommended that the approach now be changed in the Regulation 19 version of the Local Plan.
- 4.4 The 2014 consultation has highlighted that greater clarity is needed about the Plan's approach to the development of brownfield sites in the countryside, in particular for housing. Such sites are frequently in unsustainable locations for conventional housing. As a result an amendment is proposed to Policy DM1 – Development on brownfield land to set out the very limited circumstances when the residential redevelopment of a brownfield sites in the countryside would be appropriate. The amendment requires such sites to be in close proximity to one the settlements in the Plan's settlement hierarchy, to be accessible by sustainable modes and for the redevelopment to secure a significant environmental improvement.
- 4.5 A number of respondents for both the 2014 and 2015 Regulation 18 consultations were concerned that the policy appears too much in favour of development in the countryside, and should be more prescriptive akin to the adopted policy ENV28. The Local Plan is to be read as a whole and sets out where significant development is acceptable (and conversely where it is not) with consideration given to conserving and enhancing the natural, historic, and local landscapes. The policy wording in Policy SP5 – Countryside is stated in the positive in line with the NPPF's presumption in favour of sustainable development and, whilst not precluding development in the countryside, it greatly restricts the type and scale that would be permitted. In addition heritage, landscape and ecology considerations are given

specific policy expression in Policy DM10 – Historic and natural environment.

- 4.6 Comments made during both the Regulation 18 consultations from the Kent Downs AONB Unit suggested specific wording amendments to the policy and supporting text in order to ensure alignment with national policy and legislation (the NPPF and the CROW Act 2000) and the Kent Downs Management Plan which have been included in the schedule of proposed changes (Appendix B).

Housing site allocations (Policies H1(51) – H1(77))

- 4.7 The consultation proposed the allocation of 20 additional housing sites. Having reviewed the consultation responses, specific detailed amendments to individual site allocation policies are set out in the schedule in Appendix B. Overall it is considered that all these sites continue to be suitable for the residential development and that they should be incorporated, as amended, in the Regulation 19 version of the Local Plan.
- 4.8 There was a significant volume of representations to the housing allocation at Land to the South of Sutton Road allocated in Policy H1(10). Respondents raised particular concerns about the transport impacts of the proposed development, stating that the existing highway infrastructure is insufficient and the proposed highway improvement measures, including public transport improvements, are inappropriate or inadequate. Highway safety was also cited as a concern. KCC, the highway authority, object to the proposal on the grounds of the cumulative impacts on the southern highway approaches to Maidstone and the severe impact on the highway network. No detailed evidence has been put forward and this issue was considered previously.
- 4.9 The Integrated Transport Strategy, which is considered elsewhere on this agenda, will set out the overall framework for transport planning in the borough. It will provide a programme of specific schemes to support the growth proposed in the Local Plan. The aim is to deliver a package of highway improvements throughout the Borough which support the housing allocations by adding capacity at key junctions to the benefit of both public transport and car users. Specific improvements are planned for the A274/A229 corridor and significant financial contributions have already been secured through legal agreements associated with planning consents at Langley Park, north of Sutton Road, and the sites at the Police HQ and the Police Training Centre. It is not considered that the highway authority has provided sufficient, transparent information to evidence its position that the residual, cumulative transport impacts of the development of this site would be 'severe'¹.
- 4.10 An amendment is proposed to the Policy to detail the alignment of the proposed cycle path across the site which will link Sutton Road to Brishing Road via the Langley Park development immediately to the west of Site H1(10). This is independent of any existing public right of way.

¹ NPPF paragraph 32

- 4.11 The Environment Agency raised concerns over the specific inclusion in Criterion 15 of the requirement to seek appropriate contributions for the improvement of the Brishing Lane Reservoir due to the inability for this structure to function as a flood defence. Whilst accepting that the Council wish to ensure some safeguard for flood mitigation, the landowner objected to this criterion as they are of the opinion that this can best be addressed through SUD measures. An amendment is proposed to Criterion 15 to allow a more flexible approach to contributions for flood mitigation impacting the site in discussion with the Environment Agency.
- 4.12 Respondents were also concerned about the implications of this site's development for local social infrastructure and facilities such as school places, GP surgery places and hospital capacity. In response, key infrastructure providers including the NHS and KCC Education have been consulted as part of the evolution of the Infrastructure Delivery Plan which will be published as a supporting document to the Local Plan. NHS Property has not identified health services as a constraint to the development of this site in the on-going dialogue that has informed the emerging content of the Infrastructure Delivery Plan. In its representation on the Local Plan KCC Education observes that there is limited surplus capacity in Maidstone to accommodate pupils from potential further development, especially at Langley Park where pressure from development has been high. The implication is that additional primary school capacity would be required in association with this development. Pending any more detailed response from KCC Education through the on-going consultation on the Infrastructure Delivery Plan, an additional requirement should be added to the allocation policy to require the provision of a primary school within the developable area of the site.
- 4.13 Concerns are raised about the landscape and character impacts of development on this site. Respondents are worried about the impact on the wider rural and historic character of the area and ecology, particularly the cumulative impact of development on this site in conjunction with that of the other sites planned in the south east of the town. In response, this site, along with all other candidate sites, has been subject to comprehensive assessment for its suitability through the Strategic Housing Land Availability Assessment (SHLAA). The evidence in the council's Landscape Sensitivity Assessment (2015) identifies this site as having a high capacity to accommodate new residential development. Further, proposed Policy H1(10) includes specific policy criteria to ensure development is designed to take account of the results of a both a detailed Landscape and Visual Impact Assessment and an ecology survey and for the design and siting of development to take account of the identified heritage assets adjacent to the site.
- 4.14 Langley Parish Council is seeking that the public open space provided with this development to the east of the public right of way should be transferred to a dedicated Langley Amenity Trust. Whilst the parish council has stated that this trust is in the process of being set up, formal documentation to confirm this is not yet in place. At this point therefore reference in the policy to the specific body is not justified.

4.15 The deletion of four housing allocations was proposed in the consultation document namely Land at Tongs Meadow, Harrietsham; Haynes, Ashford Road, Maidstone; Ham Lane, Harrietsham and Heath Road, Boughton Monchelsea. There was particularly strong support from local residents to the deletion of the Tongs Meadow site. Whilst KCC's submission additionally seeks the identification of some of this land adjacent to Harrietsham primary school for a potential future extension to the school, the land is not demonstrably available for this use and therefore not 'deliverable'. Such development could nonetheless come forward through a planning application (which would be a county council matter to determine) in the event the landowner and education authority reach an agreement about the transfer of the land.

4.16 Based on the assessment of the representations received (Appendix A), it is proposed that the deletion of the four site be carried forward into the Regulation 19 version of the Local Plan.

Proposed additional housing site allocations

4.17 The 20 year housing land supply position has been updated to take account of the permissions granted and those subject to a s106 agreement at the 31st October 2015.

20-year Housing Land Supply as at 31 October 2015 (All elements of supply are net of dwelling losses)	Dwellings – supply sub totals	Dwellings – supply totals	Totals - no. of dwellings
Objectively Assessed Need 2011 to 2031			18,560
Total number of dwellings built			
Dwellings built 01.04.11 to 31.03.15	2,341		
Total number of dwellings built		2,341	
Permitted dwellings/S106 not built			
At 31.10.15 (adjusted for double counting)			
- On allocated sites	2,465		
- On non-allocated sites	2,434		
Permitted subject to S106			
- On allocated sites	1,320		
- On non-allocated sites	314		
Permitted dwellings not yet built		6,533	
LP Allocations pending application			
Approved allocations pending application (Includes yield from further allocations agreed)	4,922		
Broad Locations (MBLP 2014 – Reg 18)	3,500		

LP Allocations pending application		8,422	
Windfall contribution			
9 years at 114 dwellings p.a.	1,026		
Windfall contribution		1,026	
TOTAL HOUSING LAND SUPPLY			(18,322)
Unmet housing need (net)			238

4.18 This shows that there is shortfall in planned provision of 238 dwellings compared with the objectively assessed need figure of 18,560 dwellings (2011-31)

4.19 During the latest Regulation 18 consultation 11 new sites were put forward for inclusion on the Plan. These are sites which have not previously been assessed through the SHLAA process.

Site ref	Location
HO3-301	Land at Kilnwood , East of Old Ham Lane Lenham
HO3-312	Land adj. Old Goods Yard Lenham
HO3-313	Land adj. Detling Aerodrome Industrial Estate
HO3-314	Land at Bydews Place Tovil
HO3-315	Land at Downsoak Stud West Street Harrietsham
HO3-316	Land at Ledian Farm Upper Street Leeds
HO3-317	Land West of Ledian Farm Upper Street Leeds
HO3-318	Land North East of Forge Lane Bredhurst
HO3-319	Land South of Tovil (East of B2010 Dean Street)
HO3-320	Land South of Warmlake Road Chart Sutton
HO3-321	'Nutbrow' Land off Boyton Court Road Sutton Valence

4.20 Officers have assessed these sites using the same site assessment proforma used for all other sites. The sites have also been subject to Sustainability Assessment (SA) on the same, consistent basis to further inform the site assessment and selection process. The SA sites summary matrix is included in Appendix E. The outcomes of the overall assessment for each site are summarised in the table in Appendix C. In addition a further 25 previously considered sites were re-submitted during the consultation period on the Local Plan. Any new or additional information on these sites has been reviewed. The outcome of this further review of these sites is set out in the table in Appendix D.

4.21 As a result of this assessment/reassessment exercise, two sites are considered suitable for allocation in the forthcoming Regulation 19 version of the Local Plan.

Policy ref	Housing Site	No. dwellings
H1(x)	Land at Bydews Place Tovil	50

RMX1(x)	Land South of Tovil (East of B2010 Dean Street)	452
		502

- 4.22 Land at Bydews Place: The proposed site (2.1ha) is an area of greenfield land situated off the B2010 Farleigh Hill/Dean Street Tovil to the south west of the access to Bydews Place. This area is crossed in its south east corner by PROW KB14. To the north west is a development site with an extant planning permission for 27 units (12/0980) on which works have recently commenced. This will be served by a new access directly off the B2010. Opposite the site on the south east side of the B2010 is a former municipal land-fill site which is encompassed in the proposed allocation for Land South of Tovil below. To the north west is the group of buildings (mostly listed in their own right) and which are associated with the Grade II* listed Bydews Place.
- 4.23 Overall the site is considered to be well-related to the existing urban area and to existing and proposed residential development . Policy criteria are included in the proposed allocation policy to preserve the boundary between the urban area and the countryside beyond the site as well as the setting of both Bydews Wood and the designated heritage assets at and adjacent to Bydews Place. The existing hedgerow and important trees should also be retained and the line of PROW maintained. An area of land to the north east of the site, adjacent to the housing site at Burial Ground Lane, is identified as publically accessible open space. Keeping this land undeveloped will also help to secure the setting of the listed buildings to the north.
- 4.24 The site is approximately 1km from the nearest primary school, 0.5km from local shops and 700m to a post office. The SA highlights that the site scores more poorly in terms of its distance to services and facilities. In response the proposed allocation policy criteria require the pedestrian and cycle paths to be incorporated into the design of the scheme and that these connect to existing and proposed footways along Dean Street/Farleigh Hill. Access to a GP surgery would substantially improve if such a facility were delivered as part of the proposed development on the site 'Land south of Tovil' (below). The site is on the route of the 23 and 26 bus services with the nearest bus stop some 100m from the site.
- 4.25 Land south of Tovil: The site is located on the east side of the B2010 immediately to the south of the existing urban area
- 4.26 The land closest to the road is a former municipal waste/landfill site that is now pasture land having been capped and a gas monitoring system installed. The eastern part of the area is farmland. North of the site is a further former landfill site (the P J Burke's site) that has permission for residential development. East of Stockett Lane, which forms the eastern boundary of the site, lies the Loose Valley Conservation Area. Adjacent to the SE corner of the site lies Abbey Gate Place which is a Grade II* listed building with a Grade II water tower in its grounds.

- 4.27 The site is well-related to the existing urban area and to existing/allocated residential development. The nearest shops are approximately 600m to the north of the site, the nearest primary school some 1.3km. The 23 and 26 bus services operate along Dean Street/Farleigh Hill; the nearest bus stops are located on Burial Ground Lane and outside Tesco on Farleigh Hill.
- 4.28 The proposed allocation is for a mixed use development to incorporate residential development (452 dwellings) on the eastern part of the site and outdoor sports facilities (9.25ha) on the former waste/landfill site which would contribute to a borough requirement for formal outdoor sports provision. This approach helps to maintain the openness of the site to the east. The development must secure against the migration of landfill gas and the continuing functioning of the landfill gas control system. The policy also provides for landscaped buffer areas, especially along Stockett Lane with improved upgrading and additional provision of PROW's linking up with the site. This site also scores more poorly in the SA in terms of distance to facilities and in response the proposed allocation criteria include requirements for specific improved pedestrian and cycle connections.
- 4.29 These two sites would deliver some 502 additional dwellings. Inclusion of these sites in the Local Plan would result in a modest numerical oversupply of some 264 dwellings over the 20 year plan period which is 1.4% of the total requirement.
- 4.30 A key role of the Local Plan is to identify in advance where development will take place. This brings important certainty for both local residents and also for developers and any others with a stake in the development process. The inclusion in the Local Plan of a significant supply of confirmed site allocations will help to ensure it complies with two of the tests of soundness, namely that the Plan has been 'positively prepared' and that it is 'effective' i.e. that it is deliverable. Further, the greater the number dwellings identified on specific, deliverable sites, the greater the boost to pipeline supply which potentially would improve the resilience of the Council's 5 year supply position (when achieved).
- 4.31 For the latter part of the Plan period, 3 broad locations have been identified which will deliver housing in the post 2026 period. To give greater detail to the delivery of development in these locations, early masterplanning is to be undertaken for both the Invicta Barracks and Lenham locations. Detailed site allocations in Lenham and at the Barracks and at The Mall will also be included in the planned review of the Local Plan at 2021. Whilst there is confidence about the future prospects for all these locations, and recognising the proactive steps that will be taken, there are some inherent uncertainties associated with planning for sites to be delivered 10+ years hence. In addition it is possible that yields achieved on allocated sites could vary marginally from those cited in the Plan for site specific reasons revealed at detailed planning application stage.
- 4.32 With this understanding, a numerical oversupply against the OAN figure helps to mitigate risks of housing not coming forward exactly when and in the form expected, including in the latter part of the Plan period and further

increase the certainty of the Objectively Assessed Need for housing being met in full².

- 4.33 Proposed site allocation policies and site plans for the two sites are included in Appendix F. The committee's agreement to the inclusion of these policies in the Regulation 19 version of the Local Plan is sought.

Employment land allocation – Woodcut Farm (Policy EMP1(5))

- 4.34 There were objections to this proposed employment land allocation from KCC, Natural England, the AONB Unit in addition to parish councils and residents. There was also support for the allocation from a more limited number of respondents. Reasons for objection included landscape impacts on the setting of the AONB and adverse impacts on the attractive rural character of the wider countryside. Respondents highlighted that the Waterside Park appeal Inspector weighed environmental harm above economic benefits of that specific proposal.
- 4.35 In response, it is considered that the economic case for continuing to include the allocation in the Local Plan continues to be strong based on the Council's own evidence and supported by its approved Economic Development Strategy. This justification has not altered since this Committee took the decision to include the allocation in the Regulation 18 Local Plan in August. Whilst development of this site will have an adverse impact on the setting of the AONB, on the wider landscape and on the rural character of the area, this site gives the best opportunity at Junction 8 for mitigation measures to help ameliorate these adverse impacts of development. Policy EMP1(5) is considered to provide appropriate safeguards through its detailed criteria for landscaping, building coverage, building heights and building orientation to help mitigate the adverse environmental impacts of development.
- 4.36 A further issue raised was the lack of sustainable transport options serving the site; there would be a high probability of employees travelling to and from the site by car. Policy EMP1(5) addresses this point by specifically requiring a significant package of transport measures to improve sustainable access to the site.
- 4.37 Respondents considered that there are alternative sites within and outside the borough where this type of development could be more appropriately accommodated. In response the National Planning Policy Framework states that local planning authorities should aim to meet the needs of the economy in their Local Plans (paragraph 21) and that they should plan positively for the development required in the area (paragraph 157). The clear expectation is that authorities should aim to meet needs within their own area first. It is considered that Policy EMP1(5) provides the appropriate criteria to deliver an acceptable form of development in this sensitive location and thereby help ensure that the forecast economic growth can be delivered in the borough.

² NPPF paragraph 47

- 4.38 Detling Aerodrome is a site which was cited by respondents as an alternative to the Woodcut Farm site. The site's owner has also promoted the site and adjacent greenfield land for mixed use development to include employment land (24ha) and housing (1,200 dwellings) as well as a country park and a Park & Ride facility. Previous assessment of this site has concluded that it is unsuitable for development in this manner; development and the associated highways infrastructure would have an unacceptable impact on the Kent Downs AONB and the latest reconsideration of the site has reached the same conclusion (Appendix D). The site is in an unsustainable location where there would be a high reliance on the private car.
- 4.39 There was some support from respondents for allocating the Waterside Park site south of the M20 J8 in addition to Woodcut Farm. There is challenge to the assumptions underpinning the Council's quantitative assessment of employment land requirements whilst some respondents highlight that the unit size criteria included Policy EMP1(5) would exclude local firms such as ADL and Scarab who have had explicit interest in relocating to a site at Junction 8.
- 4.40 Development of Waterside Park, even at a reduced scale, would necessitate significant alteration to the landform, and the introduction of features such as bunding and retaining walls which the appeal Inspector considered to be alien features. The Woodcut Farm site is considered to provide better opportunities for mitigation and that it provides for the quantitative and qualitative gaps in the borough's portfolio of employment sites identified in the council's employment land evidence³.
- 4.41 Having considered the issues raised in the representations received on this matter it is considered that overall balance of considerations continue to weigh in favour of retaining the allocation in the Local Plan. Specific amendments to Policy EMP1(5) (Appendix B) are proposed to clarify that hi-tec and research & development would also be acceptable uses for the site, that off-site environmental improvements will be secured by means of financial contributions and to clarify that the north western field should be planned and managed as open woodland.

Gypsy & Traveller site allocations (Policy GT1)

- 4.42 The Regulation 18 consultation document proposed the allocation of 8 Gypsy and Traveller sites which collectively could provide some 18 additional pitches.
- 4.43 On 31st August 2015 the Government published changes to 'Planning for Traveller Sites' (PTS), the national planning guidance governing Gypsy and Traveller development. These changes included a revision to the definition of Gypsy and Travellers for the purposes of planning to exclude those who have ceased to travel permanently. The revised definition is as follows;

³ Economic Sensitivity Testing and Employment Land Forecast (2014) and Qualitative Employment Site Assessment (2014), both by GVA.

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

- 4.44 To determine whether an applicant falls within the definition, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 4.45 Respondents to the Regulation 18 consultation stated that allocations should not be made until the implications of the revised definition are known.
- 4.46 The change brings some uncertainty about how the need for Gypsy and Traveller pitches can be assessed in the context of the revised definition. The Council’s Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (2012) (‘the Assessment’) was prepared under the terms of the previous definition. Significantly, however, it **did take account of the extent of households’ travelling in reaching its findings.** The identified need for 187 pitches (2011-31) includes a deduction (amounting to some 14%) for those not travelling⁴.
- 4.47 The questionnaire used in the original Assessment did not ask questions about households’ future travelling plans and specifically of any intentions to restart travelling after a settled period. Without this information, it is not possible with complete robustness to retrospectively apply the new definition to the survey responses collected for the 2012 Assessment. What can be deduced is that the revised definition is likely to have the effect of reducing the overall number of households that are ‘gypsies and travellers’ for the purposes of planning but, as the original Assessment did account for travelling habits, the reduction is likely to be relatively modest.
- 4.48 Officers do not recommend that a complete new Assessment is commissioned at this point. This is for the following reasons:
- The Government has not published the promised revised guidance on how assessments should be undertaken nor has it provided a timescale for publication. There is a high risk that an Assessment commissioned now would not comply with the guidance once it is published.
 - Undertaking a new assessment risks delay to the Local Plan timetable. To illustrate, the current Assessment took 6 months to complete.
 - There is a significant prospect of legal challenge to the revised definition under the terms of the Equalities Act and/or Human Rights legislation. There is some risk that a new assessment will become quickly outdated.

⁴ See Table 10.1 in the Assessment

- A new Assessment would have a revised base date of 2016. This would, in effect, 'wipe the slate clean' and the significant number of permanent pitches granted since October 2011 (79) would not contribute towards any revised needs figure.

4.49 The 2012 Assessment identified a need for 187 pitches (2011-31). This provides the best evidence of needs available at this point in time and it is recommended that this form the basis for planning future pitch provision in the Local Plan, recognising that actual needs may be a degree lower. Any individual applicant's compliance with the definition will be tested at planning application stage.

4.50 The site specific issues raised in the consultation for the nine proposed Gypsy allocations are set out and responded to in Appendix A. The outcome of this assessment is that Policies GT1(8) to GT1(16) inclusive, as amended, should be included in the Regulation 19 version of the Local Plan.

4.51 The table below sets out the supply position relative to needs with the inclusion of the proposed nine additional sites.

1	Pitch Requirement (2011-31) ⁵		187
2	Permanent consents granted 1/10/11 to 18/9/15	79	
3	Sites GT1(1)-(7) (Reg 18 Local Plan)	23	
4	Proposed additional sites GT1(8)-(16)	18 ⁶	
5	Public pitch turnover (1.4pa for 16 years) ⁷	22	
6	Shortfall		45

4.52 If an allowance is made and fully justified for some pitches coming forward on unidentified sites, it is anticipated that this identified shortfall can be addressed.

Open space allocations (Policy OS1) and Open space and recreation policy (Policy DM11)

4.53 **Policy DM11:** There is general support for the inclusion of quantitative open space standards as set out in proposed Policy DM11, however some respondents have criticised the policy as being unjustified and not based upon robust evidence. Whilst this is not accepted, it is acknowledged that the evidence base which justifies the approach was not made available alongside the Regulation 18 consultation document and this will be rectified for publication of the Regulation 19 Local Plan. A parish council has commented that the broad typologies of open space should be

⁵ 1st October 2011-31st March 2031

⁶ Of which 2 pitches are subject to a current application

⁷ based on the last 5 years' data

supplemented by the identification of relevant features or types of provision. This amendment would be a helpful addition to the policy and the text has been revised to reflect this.

- 4.54 There is also concern that the policy lacks detail in respect of how it will be applied to individual developments and, in particular, how the policy will be interpreted in the context of existing local provision. Given that open space provision will generally be secured through Section 106 Legal Agreements (s106) associated with new housing developments, it is critical that the application of the standards results in a requirement which is necessary to make development acceptable in planning terms, and which is proportionate to the level of need generated by the development⁸. However, the draft policy already establishes at criterion (3) of Policy DM11 that the council will take account of existing provision in accordance with the quantitative and accessibility standards and, where this may wholly or partially mitigate the impacts of development, may seek a reduced contribution. Technical details on exactly how the standards will be applied will be most appropriately set out within the Open Space Supplementary Planning Document (SPD) however a minor amendment is suggested to more clearly show that this measure relates to provision as well as contributions.
- 4.55 To supplement this, a further amendment is recommended at criterion (3) to require developers to take full account of open space requirements at an early stage of the development management process, and to encourage early engagement with the Parks and Open Space team, to determine the most appropriate type, quantum and location of open space provision. Additionally, the introduction of a new criterion (4) establishes that the council will operate the policy flexibly to secure the provision of the typologies of open space which are most needed in any given area.
- 4.56 Sport England has commented that there is insufficient evidence to justify the outdoor sports standards, and that there is no evidence base for indoor sports. This is acknowledged and a study will be commissioned to address this gap in the evidence base by the time the Local Plan is submitted to the Planning Inspectorate.
- 4.57 **Policy OS1:** A variety of concerns have been raised in respect of this policy; some of which are very site specific but many respondents raise significant concerns regarding the overall approach adopted in the policy's formulation. Many of the developers affected by the OS1 allocations, and also the Home Builders Federation, have commented that the policy is unjustified as there is no clear rationale for the levels of open space sought through each allocation. One respondent points out that the allocations range from 14% of the overall development site to as high as 50%, whilst others state that the allocations depart from the level of provision already approved through the development management process.
- 4.58 In addition, many of the developers affected by draft Policy OS1 have commented that the identification of specific areas of open space, as shown on the draft policies maps, will prejudice the proper delivery of their sites before they have been subject to detailed appraisal and master planning

⁸ NPPF paragraph 204

work. Again, some respondents commented that the extent or location of the sites identified in OS1 actually conflicts with approved planning permissions. A number of respondents are therefore seeking a more flexible approach to the accommodation of on-site open space.

- 4.59 Given the strength of the objections it has been necessary to undertake a full review of the policy and supporting evidence in order to establish (a) a more accurate picture of open space provision approved through existing planning consents and (b) justifiable levels and, where possible, locations of open space provision for each development site in accordance with DM11 and the s106 tests⁹. The review goes beyond those sites identified in OS1 and has examined the potential of each development site to accommodate open space provision, and has considered the full range of typologies. The results of the review in terms of the changes recommended are included in Appendix B.
- 4.60 Where there is an identified need for open space, sufficient capacity within the site to accommodate new provision, and adequate justification for the identification of specific areas of the site to be designated for the provision of open space, sites are allocated for open space provision through OS1 policies. This approach is also adopted where specific locations have been identified for the provision of open space through planning permissions, or where there is a resolution to grant consent subject to completion of a S106 planning obligation.
- 4.61 For many of the development sites there is an identified need for open space and capacity to accommodate some or all of the need within the site, but no clear justification for the identification of specific areas of the site to be allocated for open space provision. This is also the case for a number of outline planning permissions or sites with a resolution to grant consent subject to completion of a S106 planning obligation. In these cases it is recommended that relevant policies in H1 are amended to stipulate a minimum or approximate quantitative requirement for on-site provision, with any residual provision being secured in accordance with DM11. This is a positive and plan-led approach to the delivery of open space and seeks to ensure that land capable of delivering new open space is not lost to additional or lower density housing.
- 4.62 Finally, there are a number of sites where there is some uncertainty regarding whether or not they will be capable of delivering new open space on site; for instance due to constraints or the existing balance of yield and density. In these cases it is recommended that the existing wording for H1 "open space" policies is amended to reflect more directly the requirements of Policy DM11.
- 4.63 Turning to more site specific issues, landowners/developers for two of the draft OS1 allocations - Bicknor Farm (OS4) and Tongs Meadow (OS8) - have made representations to state that the land proposed for allocation as open space will not be made available for publically accessible open space unless an element of housing is incorporated within the allocation. This is regrettable in both instances, but particularly for Tongs Meadow where the

⁹ NPPF paragraph 204

allocation received significant support from local residents. There are however existing public footpaths which cross the site and therefore public access will be maintained without any allocation in the Local Plan.

- 4.64 In the case of Bicknor Farm, the area of the original SHLAA submission identified in the Local Plan as suitable for housing is now subject to an application for full planning permission as a self-contained site, incorporating its own open space provision without encroaching into the surrounding land. Nevertheless, much of the surrounding woodland is protected by virtue of the policy criteria in Policy H1 (9) Bicknor Farm and the area identified in OS4 is likely to continue to provide landscape and ecological benefits without the open space allocation. There is a need to demonstrate that any allocations in the Local Plan are deliverable and therefore, as these sites are not considered suitable for housing development, it is recommended that they are deleted from Policy OS1.
- 4.65 Another of the draft allocations, East of Hermitage Lane (OS1), has been granted outline consent on appeal subsequent to the publication of the Regulation 18 consultation document. The view taken by the inspector, which has been affirmed by the Secretary of State, is that the principle of some residential development within the area of land identified in OS1 is acceptable, and the inspector concluded that there are acceptable approaches to achieving an access through the ancient woodland or secondary woodland to an area of residential development situated within this part of the site.
- 4.66 Allocating the southern part of the development site, as shown in draft Policy OS1, would therefore conflict with the approved planning permission and requires amendment. The appeal decision does however fix the overall quantum and type of open space to be provided within the site to 12.95ha, and it is therefore recommended that the open space requirements for East of Hermitage Lane are deleted from OS1 and accommodated within Policy H1 (2) to reflect the quantum and typologies of open space approved through the planning consent. Given the ecological and archaeological sensitivities of the area shown in draft Policy OS1, recommended modifications to H1 (2) will also require development to maximise the use of the southern part of the site ("bluebell wood" and the "hospital field") for the delivery of open space. Similar modifications are recommended in respect of the community infrastructure element of the allocation, where details of its specific location are not approved through the planning consent. There is broad agreement however that the approved community infrastructure should be sited within the general location identified in draft Policy OS1, and consequently modifications to H1 (2) to strongly encourage the siting of community infrastructure in this area are appropriate.
- 4.67 The review has identified that a number of the draft OS1 allocations would deliver levels of open space provision significantly in excess of the needs for open space generated by the associated developments. In order to comply with the s106 tests (CIL Regulation 122)¹⁰, policies which establish the requirements for open space must seek provision only the level that is necessary to make development acceptable in planning terms, that is

¹⁰ Also NPPF paragraph 204

directly related to the development and that is reasonable in scale and kind to the development. In these instances it is necessary to align the policy requirements with the identified needs however this does not preclude landowners and developers from making additional land available for open space provision. The key for some OS1 allocations has therefore been amended to identify, where appropriate, that the land shall be provided as either open space/undeveloped/ecological mitigation/landscaping. In a number of cases landowners and developers have indicated an intention to make additional land available for open space and, although policies cannot require "over provision", the revised wording of the policy does not prevent developers making more land available for open space provision.

4.68 Finally, concerns are raised that, despite the aspirations of the draft policies DM11 and OS1 there are likely to remain shortfalls in open space provision for certain typologies in some parts of the borough. It is disappointing that no responses were received to the "Call for Sites" exercise for open space provision and the likelihood of an ongoing need for strategic interventions to deliver access to open space is recognised. There is scope however for increased provision of open space through the development of Neighbourhood Plans and it is anticipated that the Green and Blue Infrastructure Strategy will outline measures in the Action Plan to address this issue. It is considered, therefore, that the need for strategic open space provision should also be included as an item in the Infrastructure Delivery Plan, to enable such provision to be eligible for CIL funding in the future. Further work in regards to identifying potential opportunities for provision will be undertaken through the development of the Green and Blue Infrastructure Strategy and its Action Plan.

4.69 The recommended changes with respect to open space which are all included in the overall schedule in Appendix B can be summarised as follows;

- Additions to Policy DM11 to clarify the types of provision and the approach to determining individual site requirements
- Amendments to the open space allocations in Policy OS1 and corresponding amendments to Policies H1 and RMX1 site allocations to quantify and specify open space requirements including the location of the open space where this can be justified
- Owing to their non-availability for development for publically accessibly open space, deletion of OS4 – Bicknor Farm and OS8 – Tongs Meadow
- Specify open space requirements for East of Hermitage Lane in Policy H1(1) rather than in Policy OS1 in the light of the recent appeal decision.

Nursing and care homes policy (Policy DM42)

4.70 Comments proposed that the policy should also apply to brownfield sites and existing care homes in the rural parts of the borough. Refinements to the supporting text are proposed in response to clarify that proposals to extend an existing care or nursing home located in the rural area would be considered under the terms of Policy DM37 – Expansion of existing business in rural areas and that Policy DM32 – Conversion of rural buildings would

apply to a proposal to convert an existing rural building to a care or nursing home.

Park & Ride allocations (Policy PKR1) and Park & Ride (Policy DM13)

- 4.71 There was more support than objection to the deletion of the proposed Park & Ride facility at Linton crossroads (11 support, 3 objections) whereas the position was reversed for the deletion of the existing Sittingbourne Road Park & Ride site (11 object; 1 support) . Objectors noted that the consultation document did not propose any alternative measures to improve sustainable access into Maidstone. In response, the draft Integrated Transport Study is the document which will set out the overall framework for transport planning in the borough. It will provide a programme of specific schemes to support the growth proposed in the Local Plan. The aim is to deliver a package of highway improvements throughout the Borough which will add capacity at key junctions to the benefit of both public transport and car users.
- 4.72 A draft of the strategy was brought to 1st December meeting of this Committee. With respect to access from the south, a package of highway capacity improvements on A274/A229 has been developed to mitigate the impacts of increased traffic flows. To complement these capacity improvements for general traffic, bus priority proposals have been developed which will protect buses from residual queues and delays, contributing to quick and reliable bus services toward Maidstone town centre, with largely continuous bus priority between Wallis Avenue and Armstrong Road. Increases in the quality and frequency of bus services are also proposed as part of the comprehensive measures, including on the A249 corridor currently served by the Sittingbourne Road Park & Ride service.
- 4.73 KCC has objected to Policy DM15, which sets criteria for the provision of new or replacement Park & Ride facilities, stating that there is no support for the provision of bus measures, including bus lanes, as the benefits they achieve do not represent good value when compared with highway capacity schemes that will deliver overall improvements in traffic flow. The overall transport strategy is a separate matter for decision on this agenda.

Wider issues raised through the consultation

- 4.74 The October 2015 Regulation 18 consultation focused on the select aspects on the Local Plan set out above. Some respondents took the opportunity nonetheless to raise other issues related to wider aspects of the Local Plan. The wider points made have been collated by officers and will be taken into account as the Regulation 19 version of the Local Plan is prepared, recognising that many of the same points have been raised at earlier consultations in the Local Plan process. For councillors' information, the main points made by respondents are as follows:
- Housing requirement is too high; housing requirement is too low
 - Brownfield sites should be developed before greenfield
 - Insufficient employment land to match housing; employment allocations are in the wrong places

- Transport: lack of an Integrated Transport Strategy; impact of the overall scale of development on the highways network; lack of the Leeds/Langley bypass
- Infrastructure: lack of an Infrastructure Delivery Plan; infrastructure should be delivered before development
- Object to the overall distribution of development; distribution should include a garden town centred on Otham; object to proposed scale of development at north west Maidstone, at south east Maidstone and/or at specific Rural Service Centres and Larger Villages; object to Lenham Broad Location
- Objections and support for specific allocations included in the Local Plan Regulation 18 (2014).
- The Local Plan will supersede more specific neighbourhood plans approved before the Local Plan's adoption.

Active frontages

4.75 Following a referral from Planning Committee, this Committee agreed to consider the issue of active frontages particularly in rural and rural edge areas and any policy initiatives which may be required. The Planning Committee was concerned about the urbanising effect of active frontages in these areas and also about the potential for highway safety issues.

4.76 The emerging Local Plan contains a Policy DM4 – Principles of good design which sets out key design considerations which all development should meet. A copy of this policy is included in Appendix G for information. To address the issue identified by the Planning Committee, the following addition to criterion (vi) of Policy DM4 is proposed for incorporation into the Regulation 19 version of the Local Plan.

(vi) Respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention within the site. **Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation along the site frontage should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area.**

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 This report summarises and addresses the outcomes of the latest public consultation on the Local Plan.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 The Committee's decisions will be incorporated in a revised full draft of the Local Plan which will be considered by the Committee and Council in January 2016 and thereafter subject to a further round of public consultation (Regulation 19 consultation).

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Maidstone Borough Local Plan will deliver the spatial objectives of the Sustainable Community Strategy and the Strategic Plan. It will also have regard to objectives set out in other council documents, such as the Economic Development Strategy and the Housing Strategy. The Local Plan aims to plan positively for future growth, including economic growth, in a sustainable way and protect the borough's environmental assets which is central to both the Council's key corporate priorities.	Rob Jarman, Head of Planning & Development
Risk Management	The adoption of the Maidstone Borough Local Plan will reduce the risk of inappropriate development.	Rob Jarman, Head of Planning & Development
Financial	The preparation of the local plan has been fully funded as part of the council's revenue budget. Potential deficiencies that might impact on the production of the local plan will be identified at an early stage.	[Section 151 Officer & Finance Team]
Staffing	The team is now fully staffed and additional short-term resources have been employed to assist with consultation representations and preparation of the Publication version of the local plan.	Rob Jarman, Head of Planning & Development
Legal	Public consultation on the emerging Local Plan is a legal requirement and essential to assisting the soundness of the	[Legal Team]

	Local Plan at Examination.	
Equality Impact Needs Assessment	None identified	[Policy & Information Manager]
Environmental/Sustainable Development	The Local Plan is fundamentally concerned with delivering sustainable development objectives.	Rob Jarman, Head of Planning & Development
Community Safety	N/A	[Head of Service or Manager]
Human Rights Act	The report highlights the potential for legal challenge to the new planning definition of Gypsy and Travellers.	Rob Jarman, Head of Planning & Development
Procurement	N/A	[Head of Service & Section 151 Officer]
Asset Management	N/A	[Head of Service & Manager]

8. REPORT APPENDICES

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

- Appendix A: Schedule of issues and responses
- Appendix B: Schedule of policies and amendments, including open space site plans
- Appendix C: Table of new sites submitted
- Appendix D: Table of resubmitted sites
- Appendix E: Sustainability Appraisal summary matrix
- Appendix F: Proposed site allocation policies and site plans
- Appendix G: Policy DM4 – Design principles

9. BACKGROUND PAPERS