

STRATEGIC PLANNING SUSTAINABILITY & TRANSPORT COMMITTEE

18TH April 2016

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

Yes

Maidstone Borough Local Plan: main outcomes of the Regulation 19 consultation and proposed changes

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 Proposed Changes in Appendix A be agreed for submission to the Secretary of State with the Maidstone Borough Local Plan 2016 which was agreed by Council on 25th January 2016.

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 growth of the local economy while also protecting the environmental assets which make the borough such an attractive place to work

Timetable

Meeting	Date
Strategic Planning Sustainability and Transport Committee	18 th April 2016

Maidstone Borough Local Plan: main outcomes of the Regulation 19 consultation and proposed changes

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report provides an overview of the most important representations objection to the Local Plan made in response to the publication of Regulation 19 submission draft of the Plan. It also recommends Proposed Changes to the Plan which, if agreed, will be submitted to the Secretary of State with the Maidstone Borough Local Plan 2016 agreed by Council on 25th January 2016.
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2. INTRODUCTION AND BACKGROUND

- 2.1 At its meeting on 25th January 2016 Council agreed the Maidstone Borough Local Plan for Regulation 19 stage publication and thereafter for submission to the Secretary of State for Independent Examination. Delegated authority was also given to this Committee to agree a schedule of proposed changes to the pre-submission Publication draft of the Plan arising from the representations duly made under Regulation 20 public consultation. For completeness, the Council resolution is reproduced in full below.

1. *That subject to the reclassification of Coxheath as a Larger Village and the insertion of the Indicative Housing Trajectory, the Council approves the Maidstone Borough Local Plan 2016 (attached as Appendix A to the report to the Strategic Planning, Sustainability and Transportation Committee dated 13 January 2016, revised to reflect (i) insertion of the words 'community and' at line 1 of Policy H1 paragraph 2 on page 78, before the word 'strategic'; and (ii) any previously agreed site-specific infrastructure criterion not covered by (i) which were agreed by the Strategic Planning, Sustainability and Transportation Committee or its decision-making predecessor, and (iii), except where decisions and resolutions of the Planning Committee and/or the Planning Referrals Committee already supersede (i) and (ii)) for Publication (Regulation 19) and Submission to the Secretary of State for Communities and Local Government (Regulation 22) for examination under section 20 of the Planning and Compulsory Purchase Act 2004.*
2. *That delegated powers be granted to the Strategic Planning, Sustainability and Transportation Committee to submit a schedule of proposed changes/main modifications to the pre-submission Publication version of the Maidstone Borough Local Plan 2016, arising from representations made (Regulation 20), to the Secretary of State.*

3. *That the Borough's full objectively assessed housing need of 18,560 dwellings be confirmed as the Council's Local Plan housing target.*

- 2.2 The Regulation 19 public consultation was held for 6 weeks¹ between 5th February and 18th March 2016. The pre submission Publication draft of the Local Plan, representation forms and explanatory information were deposited at libraries and at the Gateway, individual copies were sent to parish councils and the full documentation was also available on the Council's website. A public notice appeared in the local press and consultees on the Local Plan database were notified. Representations could be made using the on-line consultation portal, by email and in writing. In addition to the Local Plan itself, the Council published the following supporting documents: the Sustainability Appraisal; the draft Infrastructure Delivery Plan; the draft Integrated Transport Strategy (which was subject to its own public consultation process) and the documents comprising the Local Plan evidence base which have informed the content of the Plan. These documents were all made available on the Council's website.
- 2.3 By the deadline of 5pm on 18th March 588 representations had been received. Copies of these 'duly made' representations will be included within the submission documents which will accompany the Local Plan submitted to the Secretary of State for independent examination.
- 2.4 Officers have reviewed the duly made representations to identify the main objections questioning the soundness of the draft Plan; to assess whether these objections undermine its overall soundness; and to decide whether it is necessary and/or appropriate to recommend changes to the Plan at this time. To recap, the Inspector will determine if the Plan is sound using four tests:

"Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;

Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and

Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework."²

- 2.5 In addition, and equally as important to the successful progress of the Plan at Examination, is the Inspector's consideration as to whether the Council

¹ As specified in the Town and Country Planning (Local Planning) (England) Regulations 2012

² National Planning Policy Framework paragraph 182

has complied with the relevant legal and procedural requirements when preparing the Plan.

- 2.6 Finally, the Inspector must examine whether, in the preparation of the Local Plan, the Council has complied with the Duty to Co-operate³ which requires the Council to demonstrate that it has met its obligations to engage constructively, actively and in an on-going way with neighbouring and partner authorities in respect of strategic matters. Non-compliance with the Duty to Co-operate cannot be rectified through the examination process and would result in withdrawal of the Plan.
- 2.7 The most significant objections to the Regulation 19 Publication draft of the Local Plan are set out for the Committee in the following sub sections. Where a Proposed Change is recommended, the precise details of the change are set out in the schedule attached at Appendix A.

Legal compliance

- 2.8 The Inspector must determine whether, in the preparation of the Plan, the Council has complied with relevant legal and procedural requirements specified in section 19 of the 2004 Act and the 2012 Regulations and that public consultation during the Plan's preparation has been undertaken in accordance with the Council's adopted Statement of Community Involvement (SCI).
- 2.9 In respect of that latter point, some Representations (made by parish councils and CPRE) assert that the four-week public consultation in respect of the Regulation 18 public consultation undertaken during October 2015 was not legally compliant.
- 2.10 This is not the case; the Regulations and the Council's SCI do not prescribe any minimum time period for public consultation at the Regulation 18 ('preparation') stage.
- 2.11 Whilst other Representations state that the Plan is not legally compliant, in actuality, those assertions relate to the distinct and separate matters comprising the test of soundness and/or the Duty to Co-operate.

Duty to Co-operate

- 2.12 A Duty to Co-operate compliance statement must be submitted with the Plan, which will record how the Council has met its obligations to engage constructively, actively and on an ongoing way with neighbouring authorities on strategic matters. In advance of the Council making that compliance statement, some respondents have reserved their position as to whether the Council has complied with the Duty to Co-operate.
- 2.13 In particular, in their representations housebuilders opined that the Council had not explored accommodating unmet need from elsewhere, specifically, from the rest of the Housing Market Area and from London; or explored other areas accommodating 'unmet' need from this Borough. It is also

³ Planning and Compulsory Purchase Act 2004, section 33A

argued that the Council's economic needs assessment should have been undertaken over a wider area to take account of land supply in neighbouring authorities.

- 2.14 Each of the neighbouring authorities, with whom the Council has a duty to co-operate, have made Representations on the Regulation 19 Publication draft and have confirmed that on-going discussions on relevant strategic issues have been held. Prior to submission the Council will prepare and conclude a 'statement of common ground' with each of its neighbours, to be included as a component of the Duty to Co-operate compliance statement to further substantiate that the Duty has been met.

Kent County Council's representation – overview

- 2.15 KCC has commented on both the Regulation 19 Local Plan and the draft Integrated Transport Strategy. In summary:-

1. The Local Plan fails of tests of soundness primarily because the spatial strategy is not justified by proportionate evidence and inconsistent with national planning policy;
2. The recent appeal decision by the Secretary of State in dismissing residential/development at New Line Learning, Boughton Lane. KCC consider that this pays 'full regard to the significant and demonstrable constraints to growth' and therefore represents 'the proper application' of national policy;
3. That the draft Integrated Transport Strategy is based on transport improvements which have not been agreed by the Local Highway Authority (i.e. KCC);
4. The draft Integrated Transport Strategy does not provide an acceptable means of mitigating the impact of the planned growth in housing and employment and will result in a severe impact on parts of the highway network, most notably on the A229 and A274 in south and south east Maidstone;
5. The draft Integrated Transport Strategy and Local Plan 'do not reflect the resolution of the Maidstone Joint Transportation Board on 7 December 2015' in that a transport strategy up until 2022 needed to be taken forward first so that it would be reviewed simultaneously with the Local Plan by 2022 'once work on developing the justification for a Leeds Langley Relief Road has been completed';
6. Neither document positively contributes 'to the delivery of genuinely sustainable development that reflects the vision and aspiration of local communities' across the Borough.

- 2.16 In response;

1. Whilst it is not wholly clear as to why the County Council consider the Local Plan to be unsound, it is assumed that this is primarily because the transport network in the south east and south of Maidstone will become

increasingly 'severely congested'. In turn, I understand that this is based on strategic VISUM modelling.

Engagement continues with KCC in terms of agreeing areas of common ground around mitigation and having a comprehensive understanding of the assumptions behind the VISUM modelling etc. At a strategic level, it is understood that the 'solution' to the traffic problems is a relief road. This may be the case and to support this, there is positive signposting within both the Local Plan and the draft Integrated Transport Strategy. However, the relief road, as yet, cannot be included in policy because there is insufficient evidence and justification. To date there has been no sustainability appraisal, cost/benefit analysis, route option testing or consultation with key stakeholders including, crucially, Highways England. This could well be completed in time for a Local Plan Review. In conclusion 'signposting' as per the Regulation 19 Local Plan is the most that can be done because KCC has not evidenced that the relief road is necessary within the Plan period.

Based on detailed modelling and mitigation work undertaken by Mott McDonald together with a whole host of transport assessments accompanying planning applications, it is considered that the housing allocations, subject to accompanying mitigation, would not result in severe cumulative congestion. This is also the case for the rest of the Borough.

Work continues on detailed highways modelling and mitigation together with engagement with KCC and Highways England.

2. KCC (Highways Authority) 'chose not to appear at the inquiry, nor to make any direct written representations (although KCC was represented in its other role, as one of the appellants)'. Therefore, whilst the Inspector (and Secretary of State) clearly considered that the level of existing and future congestion was severe, there was no mitigation put forward by the Highway Authority for examination. I understand that KCC have commenced a corridor study of the A229 but progress on mitigation is unclear. It is assumed that KCC will propose positive mitigation because of the existing situation, the future situation (irrespective of new housing) and because they are promoting Boughton Mount with an increased yield.

The Secretary of State's decision is an important material consideration which would need to be overcome in any successful planning application.

3. As stated above, engagement continues with KCC. It had been understood that agreement in terms of road principles relating to priority junction improvements and the relief road had been agreed at the December Joint Transportation Board. Although this is an advisory Board, this was translated into the Regulation 19 Local Plan and Integrated Transport Strategy. Talks are ongoing to resolve the specific points of contention.
4. It is unclear as to why the mitigation put forward in both the Local Plan and Integrated Transport Strategy is considered to be unacceptable. As

previously stated, it was understood that there was much common ground emanating from the December 2015 Joint Transportation Board decision.

The proposed mitigation measures are derived, in part, from the existing adopted Maidstone Local Plan and KCC's own Local Transport Plan (LTP3) both of which are still extant.

Lastly, paragraph 32 of the NPPF sets out a sequential approach to development that generates significant amounts of movement. A safe and suitable site access is a detailed development management matter but we seek (in the Reg 19 Local Plan and Integrated Transport Strategy) to provide:-

- "The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure"; and that
- "Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development".

By doing so, it is considered that development should not be prevented on transport grounds as the residual cumulative impacts of development are not severe because they can be mitigated.

5. As stated above, engagement is continuing with KCC on resolving these matters. The justification and evidence for a relief road can start now and could be ready in time for a specific delivery policy inclusion as part of a future local plan review. However it has not been demonstrated that the relief road is necessary and the most appropriate form of highways mitigation.
6. This point is not understood as this authority has devoted much resource into solving transport problems and engagement and thus 'positively seek opportunities to meet the development needs' of Maidstone Borough (NPPF paragraph 14)

2.17 Further, specific points made in KCC's submission are picked up in the subsequent sections of this report.

Highways England

2.18 Highways England (HE) has made representations objecting to Policy DM24 on the grounds that the plan needs amendment to clarify and ensure that developments can be appropriately located to effectively mitigate their impacts on the Local and Strategic Road Network (SRN). In addition, HE has also expressed concern that the approach to the assessment of transport impacts that has been undertaken may have underestimated the full impact of the Local Plan on the SRN. HE has not however indicated precisely where it is considered shortcomings may be. In response, the Committee is advised that discussions are on-going with HE and that a further up-date will be given at the meeting. In terms of the Infrastructure Delivery Plan

(IDP), HE has also objected and recommend that the IDP lists all potential funding sources for improvements and the likelihood of acquiring funding from each source as well as establishing the delivery time-frame. In this regard it is considered that the IDP as currently drafted does contain the elements referred to by HE in their response.

- 2.19 No changes are proposed to the transport policies DM25, DM26 and DM27 in the plan.

The Strategy (Policy SS1) including housing land supply

- 2.20 **Local Plan period:** Two agents submitting representations on behalf of clients have objected to the length of the Local Plan period, seeking an extension to 2032 to maintain a 15 year plan period from the date of adoption; and to 2036 to include an additional five year period.

- 2.21 In response, the NPPF is clear that local planning authorities must demonstrate a deliverable five years' worth of housing land supply (from the date of adoption), and identify developable sites or broad locations for years six to 10 and, where possible, for years 11 to 15. A 14-year plan period from the date of adoption is sound, and the evidence base that supports the plan accords with the plan period of 2011 to 2031.

- 2.22 **The Strategic Housing Market Assessment and Objectively Assessed Need:** The Home Builders Federation (HBF) and the development industry have challenged the soundness of the Strategic Housing Market Assessment (SHMA) and consider that the objectively assessed housing need (OAHN) is insufficient to meet the needs of the borough. Challenges include the extent of the Housing Market Area and the methodology used to calculate objectively assessed housing needs. Adjustments are sought to the allowances for second homes/vacant properties, affordability, a higher migration from London, and market signals. The balance between the need for jobs and homes is also contested.

- 2.23 In response, these challenges to the SHMA have been considered by the Committee previously. Officers and the SHMA consultants have reviewed the objections and are confident that the SHMA has been prepared in accordance with national guidance and that the Assessment is sound.

- 2.24 The HBF and the development industry consider that the potential implications of unmet housing need from adjacent local authorities have not been adequately addressed, and cite Maidstone as having fewer nationally designated areas of constraint than adjoining local authorities. Their conclusion is that Maidstone can accommodate a higher housing target.

- 2.25 In response, Maidstone Borough Council has engaged with neighbouring local planning authorities (Swale, Tonbridge & Malling, Tunbridge Wells, Ashford and Medway councils) in an active, constructive and on-going basis on strategic, cross-boundary issues. As an example, Maidstone has worked collaboratively with Ashford and Tonbridge & Malling Borough Councils to prepare its Strategic Housing Market Assessment. None of the authorities has requested that Maidstone assists with meeting their housing needs. All

five adjacent planning authorities support the Local Plan, although some minor amendments are suggested.

- 2.26 The Home Builders Federation and the development industry seek an upward revision to objectively assessed housing need from 18,560 dwellings to: 19,380; 19,460; and 19,480.
- 2.27 In response, no changes to the objectively assessed housing need and Local Plan housing target are recommended.
- 2.28 Ward councillors, local MP, the Joint Parishes Group (JPG), CPRE, KALC, parish councils, residents associations and residents also challenge the soundness of the SHMA although, by contrast to the development industry, these groups consider the objectively assessed housing need is too high. The reasons cited include an imbalance between jobs and homes, leading to an increase in out-commuting to London; an anomaly in Maidstone's past delivery rates, so future population and household projections are based on skewed data; and a decreasing trend in household formation rates.
- 2.29 In response, again challenges to the SHMA have been considered by the Committee previously. Officers and the SHMA consultants have reviewed the latest objections and are confident that the SHMA has been prepared in accordance with national guidance and that the Assessment is sound.
- 2.30 Some respondents note that the projected population growth for the borough is greater than the projected increase in jobs with the likely outcome that there will be increased levels of out commuting. Some respondents (agents) argue that this fact should lead to the allocation of more employment land whilst others (residents, parish councils) promote it as a justification to reduce the housing target of 18,560 dwellings over the Plan period.
- 2.31 In response, the jobs forecast of 14,400 jobs upon which the Local Plan is based is taken from the Council's evidence and is acknowledged to be an ambitious level of growth⁴. The forecast should be regarded as a reasonable maximum figure and allocating additional employment land to exceed this level of demand is not considered to be justified. Further, the SHMA indicates that the level of housing proposed would be sufficient to house the working age population needed to fill the jobs which would be created. Whilst the NPPF⁵ recognises that the insufficient housing can be a barrier to economic investment and should be addressed, it does not advocate the opposite, i.e. housing targets being reduced to align with economic forecasts as sought in some of the representations. Indeed the clear intention of the NPPF⁶ is to boost significantly the supply of housing.
- 2.32 Ward councillors, local MP, JPG, CPRE, KALC, parish councils, residents associations and residents seek a downwards revisions to objectively assessed housing need from 18,560 dwellings to: 10,000; 14,000; and 16,560.

⁴ Economic Sensitivity Testing (January 2013), GVA, paragraph 5.65

⁵ Paragraph 21

⁶ Paragraph 47

- 2.33 In response, no changes to the objectively assessed housing need and the Local Plan housing target can be justified and consequently no changes to the Local Plan are proposed.
- 2.34 **Delivery of housing sites to meet objectively assessed need/housing target:** The Home Builders Federation and the development industry consider the council has failed to meet its objectively assessed need and to provide for delivery of a 20-year supply of housing land as required by the NPPF. The objections include proposals for alternative methods of calculating housing land supply; challenges to the deliverability of sites; a lack of delivery mechanisms in place for the broad locations, and no contingency should broad locations not come forward within the plan period. The allocation of omission sites are sought to address the need to meet a higher target or a different distribution of development.
- 2.35 CPRE, KALC, parish councils, resident associations and residents believe the council has a good past delivery rate of windfall sites and the allowance should be higher and be applied earlier in the plan period.
- 2.36 In response, the calculation to establish the housing land supply position in any particular area is not an exact science, not least because it involves an element of forecasting. Furthermore, there is no prescribed or universally established national or local methodology by which the assessment must be undertaken. The detailed survey to update housing land supply to a base date of 1 April 2016 is underway; finalised figures will be included in the Housing Topic Paper which will be included with the submission documents. No changes are proposed to the plan and the plan remains sound. Updated figures will be presented to the June Committee for information. Work undertaken to date confirms the availability/ deliverability of allocated housing sites; and master planning for the Lenham and Invicta Barracks broad locations is underway together with further work on the town centre broad location. Omission sites will be examined by the Inspector.
- 2.37 **Demonstration of a five-year supply of deliverable housing sites:** The Home Builders Federation and the development industry believe the council has failed to provide for a five-year supply of housing land as required by the NPPF: the housing target should provide for a 20% buffer due to persistent failure in housing delivery (as opposed to 5%); a non-implementation rate of 10% should be applied; one or more of the housing site allocations will not be deliverable within five years; and the previous under-delivery of housing land (2011 to 2016) should be delivered within in the next five years (2016 to 2021).
- 2.38 CPRE, KALC, parish councils, resident associations and residents believe the windfall allowance should not only be higher, but should also be included in five-year housing land supply calculations.
- 2.39 In response, again there is no prescribed national or local methodology for the calculation of five-year housing land supply. Historically the council's agreed position has been to exclude windfalls from five-year housing land supply but equally a non-implementation rate has not been applied. Updated figures will be presented to the June Committee for information.

- 2.40 **The housing strategy:** A local MP, JPG, CPRE, parish councils, residents associations and residents consider that the housing target has not paid due regard to Maidstone Borough's constraints, in particular, highway congestion, increased pollution levels and a lack of infrastructure. Objections also cite the adverse impact of development on best and most versatile agricultural land, greenfield sites, the landscape, the environment and village character. They raise concerns that the strategy erodes the strategic gap between Allington (Maidstone) and the Medway Gap (Tonbridge & Malling) resulting in the coalescence of settlements.
- 2.41 These respondents consider that a proportion of Maidstone's needs could be met by adjacent local authority areas that are less constrained; the local plan has not given due consideration to emerging neighbourhood development plans with regard to the amount and distribution of housing land allocations; and the council has failed to fully explore the development potential from brownfield sites. Specific objections seek the deletion of Harrietsham and Marden as rural service centres; Eythorne Street (Hollingbourne), Sutton Valence and Yalding as larger villages; and Lenham as a growth area. Some objectors consider development to the south of Maidstone should be limited (including the south-east strategic development area, Coxheath, Staplehurst and Marden) and/or development to the north west. Furthermore, it is argued that Coxheath has an excessive target compared to other larger villages so development in the village should be restricted. There are also some calls for the housing target to be redistributed to smaller villages.
- 2.42 The development industry asserts that Coxheath should be designated a rural service centre as a secondary focus for housing, consistent with its range of services. Further, that the level of development at Harrietsham is too low compared to the other rural service centres; and the scale of development at the rural service centres and the Lenham broad location is too high. One objector considers that a strategy to deliver a garden suburb has been given insufficient consideration; and others that a strategy to deliver a new settlement (at Detling or Kingswood) would reduce development pressures at rural service centres.
- 2.43 In response, officers and the Committee have given full consideration to these points previously as they were raised during the preparation of the Local Plan. The Local Plan's housing strategy is considered to be sound.

Housing Allocations (Policy H1) and Mixed Use Allocations (Policy RMX1)

- 2.44 In the light of the dismissed appeal at **New Line Learning (Policy H1(29))**, it is recommended that the site capacity be reduced by 40 dwellings to 180 dwellings to enable a significantly improved layout and design for the site. With respect to highway safety issues, the proposed change are; a) emergency access on the southern boundary to decrease traffic on the bottom section of Boughton Lane, which the Inspector judged to be dangerous; b) provision of a dedicated pedestrian and cycle route along the south and west sides of the site connecting with the existing footway at the southern school exit to the north to prevent pedestrian/vehicles movements on Boughton Lane; and c) an improved

crossing point to link to public footpath KM98 to the SE and/or link with site to H1(53) to the south to provide access to KM98. In terms of congestion, a scheme of mitigation for the A229 corridor is currently being developed by the Council's highways consultants. This work is underway and an addition to the policy is proposed to specify that the scheme must contribute to improvements at the Wheatsheaf junction.

- 2.45 Consequential changes are proposed to the policies for the sites at **Boughton Lane (H1(53))** and **Boughton Mount (H1(54))** to also require improvements at the Wheatsheaf junction and to stipulate a pedestrian/cycle link from the Boughton Mount to the New Line Learning site to the north. This is to prevent pedestrians and cyclists using Boughton Lane in the interest of highway safety.
- 2.46 Tonbridge and Malling Borough Council has objected to **East of Hermitage Lane (H1(2))** and **Land at Oakapple Lane (H1(4))** on the grounds that implementation of criteria in the policies require land in the adjoining borough over which this Council has no authority. These measures are therefore not deliverable so it is recommended that the relevant criteria are deleted from the Plan. Criterion 14 in H1(2) concerns the retention of open character although, importantly, the Local Plan strategy (Policy SS1) still retains the safeguard against settlement coalescence by maintaining the separation between settlements, including between Maidstone and the Medway Gap area. Criterion 6 in H1(4), proposed for deletion, relates to land beyond the northern boundary of the allocation. Criterion 3 in the policy is still retained however which secures a landscape buffer to the ancient woodland.
- 2.47 **Policy H1(23) North Street, Barming** requires 0.77ha of open space within the site. This is an area greater than half the total site area, a requirement which is not justified and it is recommended that criterion 5 be deleted. Open space requirements for this site will be delivered in accordance with the terms of Policy DM22 – Publicly accessible open space and recreation.
- 2.48 **Policy H1(37) Ulcombe Road and Millbank, Headcorn** has planning consent. To ensure key details of the policy are consistent with the consent and the associated legal agreement, amendments are proposed to a) the site area, b) to stipulate that the primary access is from Ulcombe Rd with emergency/pedestrian/cycle access from Kings Rd and c) to specify that land shall be provided to allow for the expansion of Headcorn Primary School.
- 2.49 The site plan for **Policy H1(65) Land adjacent to the Windmill Public House, Eythorne Street, Hollingbourne** should be amended to exclude 3rd party land which is not available for development from the proposed access route into the site. The access will still be of sufficient width to serve the development so its deliverability is unaffected.
- 2.50 **Former Syngenta works, Hampstead Lane, Yalding RMX1 (4)**: The Environment Agency objects to residential use on this mixed use site on the grounds of flood risk. In response commissioning is underway for a specialist consultant to undertake a review and update to the 2008

Strategic Flood Risk Assessment. Specific work will be undertaken for this site to identify an appropriate scheme of mitigation and officers will work constructively with the EA on this, as on any other matters. In such circumstances, and with the expectation that an appropriate solution can be derived, no change to the Local Plan is proposed.

2.51 Newnham Park, Bearsted Road, Maidstone RMX1(1): specific changes are recommended to this policy to make it consistent with the legal agreement associated with the Maidstone Medical Campus consent and to clarify the requirements for the retail impact assessment, the landscape assessment and the secondary/emergency access to the site.

Broad Locations (Policy H2)

2.52 Representations objection to the Broad Locations contend that there is over-reliance on the three broad locations in terms of future housing supply. It is stated that there is no published evidence of a detailed assessment having been undertaken of the availability and housing capacity of these locations, nor of the specific consequential impacts of development on this scale. The policy places a number of conditions on the development of homes in the three broad locations and as a consequence it is said that the Plan is unclear if the Council supports the development of these three locations for homes. It is stated that this lack of clarity would be contrary to the NPPF. The representations question whether the anticipated number of dwellings will be delivered in the 3 locations over a 5 year period.

2.53 With respect to Maidstone town centre, representations raise concerns about the evidence and viability which sits behind the delivery of the 700 homes. The development industry believes that the Council cannot plan for growth in the apartment market with any certainty to justify the broad location, even one which is not expected to deliver until 2026-2031. There is limited remaining supply of brownfield sites and there is no evidence to demonstrate 700 additional homes will come forward in Maidstone town centre when those legitimate opportunities have already been identified and allocated within policy H1. It is stated that there is a risk of double counting with the windfall allowance.

2.54 Invicta Park Barracks has not been declared surplus to requirements by the MoD. In these circumstances, no reliance can be placed on the site being available for development. Therefore, there remains a lack of certainty regarding the long term future of Invicta Park Barracks and whether the site will become available for development within the plan period.

2.55 An additional 1500 dwellings at Lenham is disproportionate and would affect its village status. Respondents object to the impacts of development namely congestion on A20, loss of green space, impact on the AONB and local heritage, increase demand for public transport, medical facilities and primary school places, need for more shops and improvement to drainage and flood protection. The Lenham Neighbourhood Plan provides an alternative without the same adverse impacts. Respondents criticise a lack of information about the necessary requirements in terms of infrastructure, land assembly or any other level of necessary mitigation.

- 2.56 In response, and as stated earlier in the report, further background work will be prepared for the Examination to support the Council's case that 700 dwellings can be delivered in the town centre between now and 2031. The preparation of a masterplanning framework for Invicta Barracks is in train. The exercise will confirm, in broad spatial terms, how 1,300 new homes can be delivered on this site alongside the associated infrastructure requirements. It is noted that KCC's representation states that both this site and the Lenham Broad Location should provide for a primary school as part of on-site infrastructure and changes to Policy H2(2) and H2(3) are recommended in response. Officers are in active dialogue with the MoD to reaffirm its 'in principle' support for development on the site, subject its operational requirements.
- 2.57 For Lenham, the first phase of the masterplanning exercise is underway. A consultation event is planned with Lenham Parish Council and other key stakeholders on 15th April. Expected outputs include a refined set of options for further assessment. Highways consultants have also been engaged by the Council to test the scope of necessary highway improvements.
- 2.58 Lenham Parish Council additionally state that the Plan is not legally compliant because it is intending to allocate site/s at Lenham Broad Location through a Masterplan which would be a Supplementary Planning Document (SPD) and not as part of the Development Plan. This is not the case; the masterplan cited in Policy H2(3) will provide the overall picture of how development, including infrastructure requirements, in the broad location should be co-ordinated but it will not be a SPD and it will not allocate land. The allocation of specific sites will be a matter for the Local Plan review.

Infrastructure (Policy IDP1)

- 2.59 A number of respondents have cited existing infrastructure issues such as transport and utilities as reasons why development should not take place in certain parts of the borough. However, the Local Plan and accompanying Infrastructure Delivery Plan set out a comprehensive set of infrastructure requirements, which are considered to be based on a substantive evidence base, and will ensure that planned growth can be accommodated in a sustainable manner.
- 2.60 The County Council has clarified its requirements in respect of education infrastructure, and its position in respect of mitigating the impact of development on the delivery of its social and community infrastructure services. In particular, education requirements for the site West of Church Road, Otham (Policy H1 (8)) and the broad locations at Invicta Barracks and Lenham (Policy H2 (2) and (3)) are confirmed, and therefore proposed amendments to relevant Local Plan policies are set out in Appendix A.
- 2.61 The NHS and West Kent Clinical Commissioning Group has provided a comprehensive set of schemes to provide additional capacity at GP surgeries across the borough in response to planned growth. Specific schemes are reflected in the IDP schedules and key infrastructure requirements should also be included in the Local Plan itself and therefore

proposed amendments to relevant Local Plan policies are set out in Appendix A.

- 2.62 A number of respondents have criticised Policy ID (4) which sets out the proposed infrastructure priorities by type, to apply in cases where there are competing demands for developer contributions. Various comments were received which question the ranking of priorities and the validity of the approach to establishing priorities in this manner and there are fundamental questions as to whether the policy is justified and based on robust evidence.
- 2.63 In response, this is a significant challenge to the policy as no evidence has been prepared to justify either the specific ranking of priorities or the approach of prioritising certain infrastructure types more generally. This raises the further question of the compliance with national policy as any requirements for developer contributions towards infrastructure provision which meet the S106 tests must be secured otherwise the development will not be acceptable in planning terms and should be refused. There would also be no mechanism to enact such priorities once the Community Infrastructure Levy (CIL) is in place. Given these soundness concerns it is proposed that Policy ID1 (4) is deleted together with accompanying text at paragraph 20.7.
- 2.64 Southern Water contends that Policy ID1 is not in conformity with the NPPF paragraph 157 as it does not proactively support the delivery of infrastructure by service providers. The current policy is silent on the delivery of schemes by service providers and it is therefore proposed that an additional criterion is included at ID1 and an amendment is made to Policy SS1 to proactively support the provision of infrastructure schemes where they are in accordance with other policies in the Local Plan.
- 2.65** A further change is proposed to ensure that development connects to the sewerage network at the nearest point of adequate capacity in order to avoid inappropriate connections to the network. This change is proposed to the overarching Policy H1 – Housing site allocations but needs also to be made Policy ID1 to ensure the requirement will apply to commercial and mixed use development proposals as well.

Overall Employment Land Strategy (Policy SS1) and Employment Allocations (Policy EMP1)

- 2.66 Agents have criticised the overall employment land strategy stating that employment development at junction 8 of the M20 motorway is critical to meeting quantitative and qualitative employment needs but the local plan is reliant on the delivery of a single site which does not provide flexibility and is a high risk approach.
- 2.67 Natural England , AONB Unit, KCC, ward councillors, the local MP, residents and parish councils have objected to the allocation at Woodcut Farm (Policy EMP1(5)) for offices, warehousing and industrial uses. The matters raised relate to the overall landscape sensitivity of the site, in particular the impacts of the development on the setting of the Kent Downs AONB and on views to and from the AONB, impact on the overall character of the countryside, development pressure on nearby sites, that the location is not

sustainable, that there will be adverse impacts on the listed building, that lower skilled jobs will be created and that the Council's assessment of needs and supply should take account of available floorspace in adjoining boroughs. Objectors cite the recent dismissed appeals at the Waterside Park site to the south of Junction 8 of M20.

- 2.68 The arguments both in favour and against this allocation have been previously considered by this Committee and its predecessors⁷. The matters raised in the latest consultation, which have all been raised previously, do not alter officers' view that the balance of considerations weigh in favour of the allocation of this site, subject to the safeguards set out in the criteria of Policy EMP1(5). A minor alteration to the site plan is proposed to overcome a drafting error.
- 2.69 The promoters of Waterside Park propose it as an additional allocation which could provide approximately 25,000sqm of B class floorspace. The development footprint would be smaller than that previously proposed in the planning applications for this site and would be focused at the eastern part of the site. It is argued that the additional allocation would provide necessary additional flexibility, particularly if other sites do not come forward and/or the demand for business floorspace is greater than anticipated by the Council's economic evidence.
- 2.70 In response, it is considered that the suite of employment and mixed use sites allocated in the Plan, in conjunction with the additional capacity identified within existing business estates and outstanding planning permissions, provides a sufficient and flexible portfolio of land to accommodate future business requirements both in terms of quality and quantity. The objectors' submissions do not alter this view, particularly as the economic evidence underpinning the Local Plan explicitly recognises that the proposed jobs growth figure of 14,400 jobs represents a relatively ambitious scale of economic growth. This being the case, the additional environmental harm that would result from the development of the Waterside Park site is not considered to be justified on economic grounds.
- 2.71 The landowners of the site Land at Mote Road (Policy EMP1(1)), which is allocated in the Plan for office use, consider that the site should be allocated for mixed use to include residential. It is argued that the immediate character of the location has changed as the adjacent office block (Miller House) is being converted to flats and that new office development is not currently viable.
- 2.72 In response the Council's economic evidence points to the increased demand for office based employment over the whole Plan period (3, 050 jobs 2011-31) which translates into a net need to allocate 24,000sqm in the Local Plan. The NPPF applies a sequential approach to office development whereby town centre locations should be explored first. That said, the Council's economic evidence also highlights that there are distinct markets for town centre and out of centre offices. The Plan makes provision for both. Out of centre demand is provided for at Junction 8 (EMP1(5)), coupled with the extant planning consents at Eclipse Park. The Mote Road allocation

⁷ Most recently, Strategic Planning, Sustainability & Transport Committee 18/19th August 2015

would enable a significant level (up to 8,000sqm) of modern standard office space to be delivered in the town centre. Whilst the town centre office market is not strong currently, indicated by the levels of vacant floorspace, the economic evidence of jobs growth points to demand for office space returning in the future and before the end of the Plan period. As the NPPF requires Local Plans to “set criteria or identify strategic sites .. to meet anticipated needs over the Plan period” (paragraph 21, emphasis added), the allocation should be retained.

Open Space Allocations (Policy OS1)

2.73 The limited responses received in respect of open space allocations were principally from developers seeking alternative or more flexible open space requirements. Others have commented that the policy will not secure a sufficient quantity of open space however the policy should be read alongside policy DM22, which sets the overall standards for open space, and will therefore secure additional quantities and/or qualitative open space provision to mitigate the impacts of new development. Accordingly, no changes are proposed to Policy OS1.

Gypsy & Traveller needs, supply and site allocations (Policy SS1, Policy GT1)

2.74 Respondents state that the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTTSA) is unsound because it should be updated to reflect the changes to the definition of Gypsies and Travellers published in September 2015. There is a concern that a reliance on windfall sites will lead to continued uncertainty about how Travellers will be accommodated in the borough (Local MP; Kent Downs AONB Unit; CPRE; parish councils; residents associations; residents).

2.75 The reasons not to update the Council’s Gypsy and Traveller evidence at this point have previously been reported to this Committee⁸ and these reasons still stand. A key reason is that the Council’s GTTSA explicitly took account of travelling habits in its assessment of needs, unlike other equivalent assessments in Kent. Including an allowance for unidentified sites is appropriate and pragmatic as some such ‘windfall’ sites will inevitably come forward in the future.

Countryside (Policy SP17)

2.76 Representations advocate that the boundaries of the Low Weald Landscape of Local Value (LLV) should be extended and that additional land in the vicinity of Cowbeck Woods should be designated. It is also proposed that the Kent Downs AONB should be a LLV as should its setting. A housebuilder questions the evidential support for the Low Weald LLV and another proposes that two specific sites should be excluded from the Medway valley LLV.

2.77 In response the extent of the LLVs was given detailed consideration by the Committee last year and it is not considered that these representations

⁸ 18th/19th August 2015

raise new issues which merit a change to the Plan. AONBs and their settings have specific national policy protection such that any additional local designation would be entirely superfluous.

Development Management Policies (Policies DM1 - DM45)

- 2.78 Natural England object to Policy DM3 – Historic and natural environment on the grounds that the policy does not fully accord with paragraph 113 of the NPPF which requires Local Plans to take a hierarchical policy approach to international, national and locally designated nature conservation sites. An addition to the policy to address this inconsistency with national guidance is recommended.
- 2.79 Affordable housing (Policy DM13); Objections state that the 40% affordable housing requirement in non-urban areas will create serious social pressures as these areas will be remote from urban centres and major centres of employment and without access to sustainable transport. It is also stated that the viability appraisal appears to have only tested scheme of 10 units and over and the Council needs to demonstrate that its rates are viable for small schemes. Respondents also state that the impact of changes to the Planning system (including the requirement for Starter Homes) should be reviewed.
- 2.80 In response the Council's viability testing evidence indicates that affordable housing is achievable across the borough on sites of five or more homes. The affordable housing targets differentiate across the borough by geographical area and existing land use to reflect the site values whilst also ensuring that on a borough-wide basis, affordable housing delivery rates are maintained.
- 2.81 In order to respond to the identified need for different housing tenures and possible changes in government policy the indicative target of affordable rented or social rented and intermediate affordable housing (shared ownership) provides a level of flexibility. This can be reviewed once the Government has finalised the legislation and clarified its policy for housing delivery.
- 2.82 Policy DM13 also provides level for flexibility for the delivery of affordable housing where there is economic viability evidence to indicate that proportion of affordable housing delivery is not viable on specific sites. No changes are recommended as a result of the representations.

Other matters including site plan proposed changes

- 2.83 A representation has been received suggesting that as a result of the allocation of the two sites at Barty Farm (H1 (21)) and Cross Keys (H1 (32)), and the consequent change to the urban boundary to incorporate these sites, the boundary should be further refined in the vicinity of Sutton Street. It is considered that a revision is indeed justified, having regard to the character of the area and the need for the boundary to be reasonable and defensible. A plan showing the revised alignment is included as one of the proposed changes appended to this report.

- 2.84 The Representation made by KCC also refers to Minerals Safeguarding stating that the Regulation 19 Publication version of the Local Plan is silent on mineral safeguarding matters, and is therefore not consistent with national policy (paragraph 143). KCC also state that the Local Plan does not include any minerals safeguarding assessment of the allocations that affect mineral reserves as identified by the British Geological Society (BGS) and as incorporated into the emerging Kent Minerals and Waste Local Plan (KMWLP). KCC assert that without an assessment it is not possible to conclude whether the minerals could potentially be sterilised or whether there are specific characteristics that exempt the sites from mineral safeguarding requirements.
- 2.85 KCC refers to emerging KWMLP Policy DM 7, which sets out what KCC considers to be reasonable grounds for an exemption from the presumption to safeguard the identified potential mineral resources. Noting that the KWMLP Examination Inspector's Report is expected in April 2016, KCC asserts that, unless the Inspector concludes otherwise, any incompatible development to the presumption of mineral safeguarding on Local Plan site allocation will need to comply with KMWLP Policy DM 7 and, accordingly, mineral safeguarding should be fully considered to ensure the Local Plan is effective and consistent with national policy.
- 2.86 In response, it is important to note that the emerging KMWLP is a strategic development plan document that will be followed by the Kent Minerals Sites Plan and Waste Sites Plan, which are being prepared by KCC in tandem but are to follow adoption of the KMWLP strategic document. At this stage, the Council has concerns about the nature of KCC's mineral safeguarding policy, which adopts a blanket approach to safeguarding that reflects the geological map and has not realistically assessed the deliverability of some resources which overlap with development allocations in the Regulation 19 Publication draft of the Local Plan.
- 2.87 Minerals are not a Local Plan policy topic but clarity will need to be sought on precisely which resources need to be safeguarded and their potential to impact on the Local Plan development allocations. The Council considers that the KMWLP Policy DM7 on minerals safeguarding does not adequately identify key strategic sites of potential resources. At this stage the Council does not consider it appropriate to propose any changes to the Regulation 19 Publication version of the Local Plan but will keep the matter under review and will carefully consider the KMWLP Examination Inspector's Report once published.
- 2.88 KCC have not raised any issues in respect of the Duty to Co-operate with the Council in respect of the preparation of the Local Plan and have not specifically objected to proposed site allocations on these ground in response to previous Regulation 18 public consultations. Engagement will continue with KCC in terms of agreeing areas of common ground.
- 2.89 Also included in the schedule in Appendix A are proposed changes of lesser significance which are being recommended to improve the clarity and consistency of the Plan and to correct drafting or typographical errors.
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3. AVAILABLE OPTIONS

- 3.1 At its 25th January 2016 meeting, Council determined that the Local Plan should be submitted to the Secretary of State for independent examination. This Committee was given delegated authority specifically to agree a schedule of proposed changes to be submitted with the Local Plan. Alternative decisions for the Committee are set out below.
- 3.2 Alternative A: The Committee could decide to agree a Schedule of Proposed Changes to be submitted with the Local Plan. This would accord with the Council's decision. Importantly this option would enable the Inspector to have early sight of amendments which could address soundness concerns for individual site allocations and in response to formal objections from statutory agencies which the Inspector will view with particular importance.
- 3.3 Alternative B: The Committee could decide that the Plan should be submitted without a schedule of Proposed Changes. This option would miss the opportunity for the Council act pro-actively and to overcome challenges to individual aspects of the Plan at an early stage which may in turn help to address some of the Inspector's questions. This could help to (marginally) shorten the Examination.
- 3.4 Alternative C: The Committee could decide that the issues raised in the Regulation 19 consultation are so substantial and/or that much more radical changes should be made to the Plan that neither Alternative A or B are sufficient at this stage. This would be contrary to Council's decision in January to submit the Plan.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 For the reasons set out in sections 3 above, Alternative A is strongly recommended and is reflected in the report's recommendations.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The Local Plan has been subject to repeated and extensive consultation during its preparation. This report sets out the headline outcomes from the latest 'Regulation 19' public consultation. All the duly made representations received will be passed to the Inspector appointed to examine the Plan.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The Plan will be submitted to Secretary of State on 20th May. In the intervening period the relevant supporting documents which must be submitted with the Plan, such as the compliance statements, will be prepared and collated. Officers will also prepare Topic Papers on key subjects for submission alongside the Plan. These topic papers do not make

or amend the Plan's policies; their purpose is to set out clearly and assertively for the Inspector the Council's position on key matters and to explain how the evidential documents have been used to determine the content of the Plan.

- 6.2 Officers will also work actively with the key statutory agencies prior to the examination to try to resolve any areas of difference. The Inspector will give particular consideration to points made by these expert national bodies, such as the Environment Agency, Natural England and Heritage England, in his/her deliberations on the soundness of the Local Plan.
- 6.3 Subject to the Committee's decision, one of the supporting documents will be the Proposed Changes attached at Appendix A.
- 6.4 At a point of his/her choosing during the Examination, the Inspector will request that the Council undertakes public consultation on the Schedule of Major Modifications.

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	Resources for the preparation of the local plan have been made available within the Council's revenue budget. This resource is provided from an earmarked reserve and	Head of Finance & Resources

	therefore ring-fenced to this activity.	
Staffing	Additional short-term resources have been employed to assist with consultation representations.	Rob Jarman, Head of Planning & Development
Legal	Advice has been provided in relation to the soundness of the Plan and the procedure to be followed by local authorities.	Legal Team
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	N/A	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 Proposed Changes.

9. BACKGROUND PAPERS

None