

LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

3 November 2022

Statements of Common Ground for Local Plan Review

Timetable	
Meeting	Date
Planning and Infrastructure Committee PAC	3 November 2022
Lead Member on the Executive for Planning and Infrastructure	3 November 2022

Will this be a Key Decision?	No
Urgency	<p>Urgent</p> <p>Two types of urgency are applicable:</p> <p>The <u>28-day notice requirement</u> relating to exempt information has been waived by the Chairman of the Overview and Scrutiny Committee in accordance with Rule 11.6, Part C4 of the Council's Constitution due to the decision's urgency.</p> <p>The <u>5 clear-day notice requirement</u> will not be met for some and/or all of this report's associated appendices due to the decision's urgency.</p>
Final Decision-Maker	Lead Member for Planning and Infrastructure
Lead Head of Service	Phil Coyne (Interim Director, Local Plan Review)
Lead Officer and Report Author	Erik Nilsen (Principal Planner, Strategic Planning)
Classification	<p>Public report with exempt appendices</p> <p>The appendices contain exempt information as classified in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>

	<p>The public interest in maintaining this exemption outweighs the public interest in their disclosure. The Statements of Common Ground are draft documents and are currently unsigned and contain sensitive cross boundary matters. The draft documents contain information affecting the business affairs of other authorities and bodies.</p> <p>It is intended to publish each of the Statements of Common Ground, once they have been agreed and signed by all relevant parties, as evidence to support the Local Plan Review examination.</p>
Wards affected	All

Executive Summary

The draft Statements of Common Ground (SoCG) appended to this report summarise the key strategic matters between Maidstone Borough Council and other bodies. The bodies are Kent County Council (Exempt Appendix 1 and Appendix 2), Medway Council (Exempt Appendix 3), Natural England (Exempt Appendix 4), National Highways (Exempt Appendix 5), Kent Downs Area of Outstanding Natural Beauty Unit (Exempt Appendix 6), the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit (Exempt Appendix 7), the Lidsing site promoters and Kent Downs Area of Outstanding Natural Beauty Unit (Exempt Appendix 8), the Defence Infrastructure Organisation (Exempt Appendix 9). In the case of Exempt Appendices 7 and 8, Maidstone Borough Council is a co-signatory with the respective site promoters in addition to having its own separate SoCG with the Kent Downs AONB Unit. The SoCGs relate to the examination of Maidstone Borough Council's Local Plan Review and specifically the Duty to Cooperate obligation, which is an important part of the planning process. The report recommends that members recommend approval of these new Statements of Common Ground by the Lead Member as set out in the Exempt Appendices.

Purpose of Report

To provide background to and current versions of the draft Statements of Common Ground between Maidstone Borough Council and other bodies. The views of the Planning and Infrastructure Policy Advisory Committee on the draft Statements of Common Ground as appended to this report (Exempt Appendices 1-9) will have been considered prior to a decision being sought from the Lead Member on the Executive for Planning and Infrastructure.

This report makes the following recommendation to the Lead Member on the Executive for Planning and Infrastructure:

1. That the Draft Statement of Common Ground between Maidstone Borough Council and Kent County Council, attached as Exempt Appendix 1 to this report, be approved;

2. That the draft Statement of Common Ground between Maidstone Borough Council and Kent County Council (regarding minerals), attached as Exempt Appendix 2 to this report, be approved;
 3. That the draft Statement of Common Ground between Maidstone Borough Council and Medway Council, attached as Exempt Appendix 3 to this report, be approved;
 4. That the draft Statement of Common Ground between Maidstone Borough Council and Natural England, attached as Exempt Appendix 4 to this report, be approved;
 5. That the draft Statement of Common Ground between Maidstone Borough Council and National Highways, attached as Exempt Appendix 5 to this report, be approved;
 6. That the draft Statement of Common Ground between Maidstone Borough Council and Kent Downs Area of Outstanding Natural Beauty Unit, attached as Exempt Appendix 6 to this report, be approved;
 7. That the draft Statement of Common Ground between Maidstone Borough Council, the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, attached as Exempt Appendix 7 to this report, be approved; and
 8. That the draft Statement of Common Ground between Maidstone Borough Council, the Lidsing site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, attached as Exempt Appendix 8 to this report, be approved.
 9. That the draft Statement of Common Ground between Maidstone Borough Council and the Defence Infrastructure Organisation, attached as Exempt Appendix 9, be approved.
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Statements of Common Ground for Local Plan Review

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>Accepting the recommendations will materially improve the Council's ability to achieve the corporate priorities.</p>	Phil Coyne (Interim Director – Local Plan Review)
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendations support the various strands of the Council's ongoing strategic planning work, all of which contribute toward achievement of the cross-cutting objectives by supporting the Local Plan Review.</p>	Phil Coyne (Interim Director – Local Plan Review)
Risk Management	<p>The Statements of Common Ground and associated protocol have been produced as part of both our ongoing strategic planning work with adjacent authorities and other bodies in relation to their planning functions, and our own current the Local Plan Review, both of which take into account the key requirements and therefore addresses associated risks.</p>	Phil Coyne (Interim Director – Local Plan Review)
Financial	<p>There are no financial implications to note, any costs will be accommodated within existing budgets.</p>	Phil Coyne (Interim Director –

		Local Plan Review)
Staffing	We will deliver the recommendations with our current staffing.	Phil Coyne (Interim Director – Local Plan Review)
Legal	Accepting the recommendation will fulfil the Council’s duties (particularly evidencing the duty to co-operate) under Planning and Compulsory Purchase Act 2004 (as amended), the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the National Planning Policy Framework.	Cheryl Parks; Mid Kent Legal Services (Planning)
Information Governance	There are no concerns with regards to the Data Protection Act 2018 and UK GDPR.	Lauren Connett (Information Governance Officer)
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Phil Coyne (Interim Director – Local Plan Review)
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Jolanda Gjoni (Senior Public Health Officer)
Crime and Disorder	The recommendations will not have a negative impact on crime and disorder.	Phil Coyne (Interim Director – Local Plan Review)
Procurement	Not applicable.	Phil Coyne (Interim Director – Local Plan Review)
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and are: <ul style="list-style-type: none"> • There are no implications on biodiversity and climate change. 	Phil Coyne (Interim Director – Local Plan Review)

2. INTRODUCTION AND BACKGROUND

- 2.1 Pursuant to s.33A of the Planning and Compulsory Purchase Act 2004 (as amended) when preparing development plan documents local planning authorities and county councils (in two-tier areas) are subject to a legal duty to cooperate with each other, and with other prescribed bodies (as set out in regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)), on strategic matters that cross administrative boundaries. In order to demonstrate effective and on-going joint working, the National Planning Policy Framework (NPPF) requires strategic policy making authorities to prepare and maintain one or more statements of common ground (SoCG), documenting the cross-boundary matters being addressed and to describe progress in cooperating to address these.
- 2.2 SoCG are written records of the progress made by strategic policy-making authorities during the process of planning for strategic cross-boundary matters. It documents where effective cooperation is and is not happening throughout the plan-making process and is a way of demonstrating at examination that plans are deliverable over the plan period, and based on effective joint working across local authority boundaries even if there are still matters to be resolved. In the case of local planning authorities, it also forms a key part of the evidence required to demonstrate that they have complied with the duty to cooperate.
- 2.3 A SoCG may also be used as an effective tool for demonstrating cooperation between the Local Planning Authority and those who play a part in helping deliver their Plan. This is pertinent to the Maidstone Local Plan Review, which was submitted to the Secretary of State for Examination in Public on 31 March 2022. The examination hearings are currently in process. SoCG are being used by the Council to demonstrate legal compliance in terms of the plan-making process, as well as to demonstrate progress in resolving issues of plan soundness that the Planning Inspector is considering following representations made during the Regulation 19 consultation and the examination.
- 2.4 This report brings to the Lead Member nine draft Statements of Common Ground. It is noted that in some instances the Council has existing SoCG with the prescribed bodies. The main topic areas or matters addressed by each of the SoCG presented in this report is summarised below, with a focus on key updates to existing SoCG where relevant. It is also important to point out that the SoCG process is iterative and will continue throughout the Local Plan Review examination process. Thus, there may be a need to bring further versions of the attached, or other SoCGs, back to the Planning and Infrastructure Policy Advisory Committee and to the Lead Member in due course.
- 2.5 The SoCG in Exempt Appendix 1 has been produced by Maidstone Borough Council and Kent County Council. It provides an update to the current SoCG to clarify positions with respect to the timing of education provision at Heathlands Garden Community and recent transport work.
- 2.6 The SoCG in Exempt Appendix 2 has been produced by Maidstone Borough Council and Kent County Council specifically in respect of the latter's role as

a Minerals and Waste planning authority. It provides an update to the current SoCG to clarify the position in relation to post extraction re-grading of the Chapel Farm Quarry site in advance of commencement of development of that phase of Heathlands.

- 2.7 The SoCG in Exempt Appendix 3 has been produced by Maidstone Borough Council and Medway Council. It provides an update to the current SoCG with clarifications on matters relating to the proposed allocation at Lidsing. This includes matters of education provision, general impacts on wider Medway services and potential impacts on the Capstone Valley. The SoCG has also been amended to make clearer those matters that are unresolved or where agreement has not been reached.
- 2.8 The SoCG in Exempt Appendix 4 has been produced by Maidstone Borough Council and Natural England. It provides an update to the current SoCG on several matters including air quality, nutrient neutrality and the Kent Downs Area of Outstanding Natural Beauty (AONB). The SoCG reflects updated work undertaken by the Heathlands site promoters (in addressing issues in relation to Natural England guidance on nutrient neutrality) and the Lidsing site promoters (in mitigating potential quality issues on the Kent Downs AONB) in response to findings of the Habitats Regulations Assessment and comments from the Kent Downs Area of Outstanding Natural Beauty Unit.
- 2.9 The SoCG in Exempt Appendix 5 has been produced by Maidstone Borough Council and National Highways. It provides an update to the current SoCG following further transport work and ongoing liaison with National Highways.
- 2.10 The SoCG in Exempt Appendix 6 has been produced by Maidstone Borough Council and the Kent Downs Area of Outstanding Natural Beauty Unit. It provides an update to the current SoCG following additional information on landscape capacity work and proposed mitigations provided by the garden community promoters.
- 2.11 The SoCG in Exempt Appendix 7 has been produced by the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, with the Local Planning Authority as a co-signatory.
- 2.12 The SoCG in Exempt Appendix 8 has been produced by the Lidsing site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, with the Local Planning Authority as a co-signatory.
- 2.13 The SoCG in Exempt Appendix 9 has been produced by the Defence Infrastructure Organisation as site promoters for Invicta Barracks. This version is an update to the SoCG that has already been published (Examination Document reference ED25) and includes a Statement of Intent between the Defence Infrastructure Organisation and Annington Homes, who have a property interest on part of the Invicta Barracks site.
- 2.14 The nine draft SoCG are presented to the Lead Member for Planning and Infrastructure, after having been presented to the Planning and Infrastructure Policy Advisory Committee for its views. However, due to the ongoing nature of negotiations around some issues contained within these documents, there may be circumstances which prevent the full complement

of these SoCGs being finalised by planning officers in time for the meeting. Only those draft SoCG made available for the Planning and Infrastructure Policy Advisory Committee and the Lead Member for Planning and Infrastructure meetings will be subject to a decision.

3. AVAILABLE OPTIONS

- 3.1 Option 1: That the draft Statements of Common Ground (Exempt Appendices 1-9 or as otherwise presented) are approved by the Lead Member for Planning and Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that they may be published as part of the Council's evidence base for the Local Plan Review examination.
 - 3.2 Option 2: That the draft Statements of Common Ground (Exempt Appendices 1-9 or as otherwise presented) be approved by the Lead Member for Planning and Infrastructure, subject to further comments and changes. While this would allow the Statements of Common Ground to be finalised and signed, in accordance with the agreed protocol, it may cause delays or other risks in the Local Plan Review examination process.
 - 3.3 Option 3: That the draft Statements of Common Ground (Exempt Appendices 1-9 or as otherwise presented) are not approved by the Lead Member for Planning and Infrastructure. However, this would mean the documents could not be finalised and signed, thus potentially prejudicing national requirements associated with the production of the Local Plan Review and discharge of the Council's duty to cooperate with other authorities.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1. That the draft Statements of Common Ground (Exempt Appendices 1-9 or as otherwise presented) are approved by the Lead Member for Planning and Infrastructure. This would allow these documents to be finalised and signed, in accordance with the agreed protocol, in order that they may be published as part of the Council's evidence base for the Local Plan Review examination.
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5. RISK

- 5.1 The risk associated with the recommendation, including the risks should the Council not act as recommended, have been considered in line with the Council's Risk management Framework.
 - 5.2 If agreement is secured, per the recommendations, then we are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The Statements of Common Ground provided alongside this report will have been considered by the Planning and Infrastructure Policy Advisory Committee on the 3 November 2022.
- 6.2 If agreed the Statements of Common Ground will be published as part of the Council's evidence base for the Local Plan Review examination in public. The SoCGs will be submitted prior to completion of the Call-In process.
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7. REPORT APPENDICES

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

- Exempt Appendix 1: Draft Statement of Common Ground between Maidstone Borough Council and Kent County Council – **to follow**
 - Exempt Appendix 2: Draft Statement of Common Ground between Maidstone Borough Council and Kent County Council (regarding minerals) – **to follow**
 - Exempt Appendix 3: Draft Statement of Common Ground between Maidstone Borough Council and Medway Council – **to follow**
 - Exempt Appendix 4: Draft Statement of Common Ground between Maidstone Borough Council and Natural England – **to follow**
 - Exempt Appendix 5: Draft Statement of Common Ground between Maidstone Borough Council and National Highways – **to follow**
 - Exempt Appendix 6: Draft Statement of Common Ground between Maidstone Borough Council and Kent Downs Area of Outstanding Natural Beauty Unit – **to follow**
 - Exempt Appendix 7: Draft Statement of Common Ground between the Heathlands site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, with the Local Planning Authority as a co-signatory – **to follow**
 - Exempt Appendix 8: Draft Statement of Common Ground between the Lidsing site promoters and Kent Downs Area of Outstanding Natural Beauty Unit, with Local Planning Authority as a co-signatory – **to follow**
 - Exempt Appendix 9: Draft Statement of Common Ground between Maidstone Borough Council and the Defence Infrastructure Organisation regarding Invicta Barracks – **to follow**
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