

Public Sector-Led Garden Community

Timetable	
Meeting	Date
Housing and Community Cohesion Policy Advisory Committee	14 January 2025
Overview and Scrutiny Committee	21 January 2025
Cabinet (Cabinet Member for Housing and Homelessness)	22 January 2025

Will this be a Key Decision?	Yes
Urgency	Not Applicable
Final Decision-Maker	Cabinet
Lead Head of Service	William Cornall
Lead Officer and Report Author	Helen Garnett
Classification	Public
Wards affected	All, but in particular Harrietsham, Lenham & North Downs Ward

Executive Summary

Homes England (HE) and Maidstone Borough Council (the Council), as joint Co-Promoters, are leading the delivery of Heathlands Garden Community. To date, activities have included land assembly, promotion of the site for inclusion in the Local Plan Review (LPR), and early evidence base work to support the production of the upcoming Supplementary Planning Document (SPD) and Outline Planning Application (OPA).

The Local Plan Review was adopted in March 2024 with Heathlands as an allocation in that plan for 5,000 homes plus infrastructure and employment land. This report outlines progress to date, next steps, and project finance.

As in the case of previous reports to this Committee, the contents of this report relate to the Council's position as a potential property owner/developer and not as Local Planning Authority (LPA).

This report will be presented to the Housing and Community Cohesion PAC and Overview and Scrutiny Committee before being decided by Cabinet.

Purpose of Report

This report will provide an update of the current position of the Heathlands Garden Community. The report will then seek for approval for additional expenditure beyond the currently approved sum.

This report makes the following recommendation to the Cabinet: That

1. The contents of this report be noted; and
2. The additional spend of £2.5m associated with providing Supplementary Planning Document support to the Local Planning Authority and submission of Outline Planning Application be agreed.

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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>We expect the recommendations will materially improve achievement of all four corporate priorities.</p>	Director of Regeneration and Place
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 achievement(s) of the four cross cutting objectives by seeking to deliver necessary housing supply within the borough in a manner that best protects and enhances the ability to achieve cross-cutting objectives.</p>	Director of Regeneration and Place
Risk Management	Risk is set out in section 5 of this report.	Director of Regeneration and Place
Financial	Accepting the recommendations will demand new capital spending of £2.5m. £2.5m is included in the draft budget for 2025/26 that is going through the approval process now.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Director of Regeneration and Place

Legal	<ul style="list-style-type: none"> • MBC has the statutory power under Section 1 of the Localism Act 2011 to do anything that individuals generally may do. Further, under Section 111 of the Local Government Act 1972 MBC has the power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. • Acting on the recommendations is within the Council's powers as set out in the legislation noted above. 	Deputy Head of Legal
Information Governance	The recommendations do not impact personal information the Council processes.	Information Governance Manager
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
Public Health	<ul style="list-style-type: none"> • We recognise that the recommendations will have a positive impact on population health or that of individuals. • Access to affordable, safe and appropriate housing with access to outdoor spaces and active public transport is a key factor in addressing the wider determinants of health. 	Health Policy Officer
Crime and Disorder	There are no implications to Crime and Disorder	Director of Regeneration and Place
Procurement	On accepting the recommendations, the Council will continue to work with Homes England who are leading on procurement in consultation with the Council. We will complete those exercises in line with financial procedure rules.	Director of Regeneration and Place and Section 151 Officer
Biodiversity and Climate Change	<ul style="list-style-type: none"> • There are no implications on biodiversity and climate change. • This aligns with action 1, 2, 3, 5, 6, of the Biodiversity and Climate Change Action Plan 	Biodiversity and Climate Change Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 This report updates the Cabinet on the progress made to date on the Heathlands Garden Community, from the land promotor perspective.
- 2.2 Heathlands was conceived in response to the need for the Council to identify a significant number of sites in its LPR. Initially promoted by just the Council, in 2021 Homes England (HE) entered into a Collaboration Agreement with the Council to jointly promote the site through the LPR and secure an Outline Planning Permission (OPP).
- 2.3 The LPR was adopted in March 2024, thereby securing the allocation. The allocation provides a significant portion of housing supply in relation to the current adopted plan, and going forward will provide a continued supply through several further Local Plan Reviews.

Partnership with Homes England and Project Team

- 2.4 The Co-Promoters (the Council and HE) are working together to deliver Heathlands. HE is leading on securing land options on the principal 330ha landholdings.
- 2.5 The Co-promoters have commissioned a multidisciplinary team of consultants to undertake work to secure the grant of OPP. Consultancy teams will handle the following aspects:
 - Project Management (WSP)
 - Planning advice (WSP)
 - Masterplanning (Fabrik)
 - Railway station consent, including Business Case (WSP)
 - Engagement (Meeting Place)
 - Highways (WSP)
 - Technical (WSP)
 - Nutrient Neutrality (WSP)
- 2.6 Other commissions include, Pinsent Masons (legal advice), and Carter Jonas (property valuation, business planning and delivery support).
- 2.7 The Council and Homes England have signed a Collaboration Agreement setting out the objectives and requirements of the project, and the obligations of each party. For both parties the agreement requires that the costs of promoting the scheme to the submission of an OPA are split on a 50/50 basis. Costs associated with securing the principal land options and site assembly, along with any costs of construction and S.106 costs, fall solely with Homes England. Any costs incurred by the Council and HE shall first be reimbursed following disposal of all or any part of the site (most likely in the form of serviced development parcels to developers). Following that any profit accrued from disposals will be shared between HE and the Council. The project should therefore recover any costs incurred by the Council.
- 2.8 The Collaboration Agreement also requires that the Council has first refusal on any affordable homes delivered through the project (expected

to be 1,600 affordable homes), and first refusal on any commercial land offered for sale by Homes England. The Agreement sets out the intention of both parties that the Council shall take over stewardship of all non-adopted public realm and create a legacy board to manage this.

Planning update

- 2.9 Heathlands has been developed and promoted by the Co-Promoters for several years through the various stages of the LPR, which was the first step in the process to starting on site. These stages are as follows:
- i. Secure allocation in the LPR
 - ii. Technical Due Diligence
 - iii. Supporting the LPA to produce and adopt the SPD.
 - iv. Prepare and submit OPA
 - v. Reserved Matters planning application
 - vi. Start on site
- 2.10 Now that the LPR is adopted and the allocation is secured, work has commenced on the SPD which will sit alongside the allocation policy in the adopted LPR, for which the LPA has commenced early preparatory work.
- 2.11 At this time, the SPD is programmed to be adopted in November 2025. Following adoption, the OPA and Design Code will be prepared in accordance with the LPR policy for Heathlands and the SPD. Submission of the OPA is currently programmed for Summer 2026. Any delays to the adoption of the SPD, which has already had a long lead in time to date, represent a delivery risk to the project.
- 2.12 The Co-promoters have undertaken a refreshed comprehensive Technical Due Diligence (TDD) exercise for the site. This has established an up-to-date position on the key constraints and opportunities of the site and will help to inform the SPD, the OPA, and the masterplan process that will feed into both. The purpose of the TDD was to identify and reduce/ mitigate risk, along with enabling the master-planning team to better explore options and shape the plans.
- 2.13 The TDD work has been supplied to the LPA so that the information within it can be used to commence writing the SPD.
- 2.14 The SPD will be supported by an additional detailed evidence base of technical reports, and these will be provided by the promoter team. Survey work for this evidence base is already underway with the timetable having been agreed by the LPA. The evidence base includes:
- Ecology assessment.
 - Archaeology assessment.
 - Minerals assessment.
 - Arboricultural assessment.
 - Heritage and archaeology, including geophysical survey.
 - Flood Risk Assessment and Concept Drainage assessment.
 - Nutrient Neutrality assessment.
 - Transport assessment.
 - Land Contamination/ground conditions assessment.

- Noise and Vibration assessment.
 - Air quality assessment.
 - Strategic Infrastructure assessment.
 - Landscape Strategy assessment.
- 2.15 The Co-promoters have adapted the evidence base so that these studies can serve both the SPD and OPA. Consequently, this requirement to provide technical support to the LPA has resulted in previously unbudgeted for costs.
- 2.16 Following grant of OPP, Reserved Matters applications will be developed to further refine and define the detail of the development.
- 2.17 The OPA and Reserved Matters applications will be informed by a range of engagement and to ensure that consultation is robust, constructive, and that stakeholders and the community feel embedded in the process, the co-promoters will prepare comprehensive Engagement Strategy.
- 2.18 Once Planning Permission is granted then the site will be divided into parcels which are prepared for development, so key infrastructure such as the main access points and wastewater services will be provided by a master developer. These parcels will then be sold or 'disposed of' to developers who will then deliver the development in accordance with the SPD, OPP, Design Code and Reserved Matters applications. This arrangement enables developers to focus on delivering housing and associated infrastructure.
- 2.19 Delivery of the first housing on site in 2031 is premised on the ability to submit OPA in summer 2026, with Reserved Matters applications, pre-commencement conditions compliance, and preliminary infrastructure including wastewater treatment subsequently taking place prior to commencement of the first houses on site. Consequently, the programme of pre-commencement activity for delivery on site is tight. Should any of these elements of pre-commencement programme be delayed then it is likely that delivery of the first homes will be delivered later than 2031.
- 2.20 To overcome potential delays, the Co-promoters have been working hard to support the timely production of an SPD that is viable and is able to deliver the requirements of LPR policy. The promoters are particularly keen to ensure sufficient flexibility in the SPD to respond to changes arising from OPA engagement, market forces, changes in society, and retains flexibility to remain relevant for the lifetime of the Heathlands project.

Railway station update

- 2.21 The requirement for a new railway station is now set in policy, and therefore the scheme is mandated to deliver this by the end of Phase 1. (2031 – 2037)
- 2.22 The Position Statement presented at examination and initial findings from preliminary work indicate that the station is likely to become financially self-sufficient during the build out of Heathlands. There are some local concerns regarding the impact on Lenham station, however there is

deemed to be minimal impact (three minute delay on the network). There are no proposals for Lenham station to be closed.

- 2.23 In order to deliver new rail infrastructure, there is a requirement for the promoters to engage in a formal process with Department for Transport and Network Rail to establish the best approach to delivery. The Co-promoters commissioned WSP to prepare a draft Strategic Outline Business Case (SOBC) which is the first in a multi-stage approvals process to secure the design and planning of the new station, in line with Network Rail's PACE (Project Acceleration in a Controlled Environment) requirements. The PACE process is split across four broad stages: project definition, constraints, single option development (ES1-3); design and standards approval (ES4-5); construction complete (ED6); project handover (ES7-8).
- 2.24 Work is now starting on ES1-3 which will define the project, identify constraints and refine feasibility, following which a single option will be endorsed.
- 2.25 Whilst this is a separate process to the OPA for Heathlands, the two approvals processes will be run in parallel by WSP to ensure full integration of proposals and maximise placemaking and high-quality design opportunities.

Land Assembly

- 2.26 HE has been negotiating option terms with the principal landowners that make up the red line of the settlement. The total area of these landownerships is approximately 813 acres. HE has 75% of the total site red line under Option agreements.
- 2.27 The remaining owners were awaiting the outcome of the LPR examination before entering into any agreement. Now that the LPR is adopted discussions have re-commenced.

Project Finance

- 2.28 At the point the Collaboration Agreement was signed it was envisaged that the total cost of securing the allocation of the site and the OPP would be circa £3m (£1.5m each). To date this sum has been spent.
- 2.29 Since the Collaboration Agreement was signed, the project has undergone significant changes and has accrued additional costs. The likely shared cost of securing the Allocation and making the OPA are now forecast to be £8m, for the following reasons: -
- Securing the Allocation through the LPR took much longer than envisaged, and was far more complex, requiring much more technical evidence and input, as well as legal costs to secure the desired outcome. At the time of agreeing the initial budget it was envisaged that the LPR would be submitted for examination in 2021 with adoption by 2022, following a single Regulation 18 consultation. Ultimately the LPR underwent an extra consultation stage and was delayed due to a need to find additional sites, and this resulted in additional costs for

the promoters.

- Prior to submission and during the examination process, changes to the legislative framework resulted in a requirement for several additional evidence streams. This included: costly works to establish suitable mitigation for nutrients and to pass an Appropriate Assessment in line with new requirements introduced by Natural England; additional viability testing; additional studies on minerals which was introduced at a late stage; early position papers relating to the new railway station. Finally, the examination process resulted in significant additional transport work which proved particularly high in cost.
- Challenges to the LPR and a focus of some of these on Heathlands in particular, both during and after examination, resulted in the accrual of significant additional legal costs. Specifically, the cost of legal representation by way of barrister attendance and support through the examination process.
- The Allocation introduced the need for an SPD, another document that is expensive and time consuming to produce, resulting in the pushing back of the project timeline and requiring the adaption of a significant amount of expensive technical evidence and survey work to support the LPA.
- The policy for the Allocation now includes a railway station, which is another expensive and time-consuming matter to bring forward (i.e. the OBC and its approval process). This workstream in itself will require an additional £800,000.
- A refreshed TDD resulted in the identification of additional technical costs at this stage, albeit it identified overall construction cost savings for the eventual project. This work also expanded the scope of previous technical work to incorporate land to the north of the railway line which had been included at a later stage.

2.30 So far, the promoters have spent c £3m (£1.5m each) on planning and promotion costs, but by the time the OPA is submitted, this will have risen by a further £5m, to £8m, with this expenditure to be shared 50:50 between the promoters, on the following cost areas: -

- Rail SOBC and approval
- Masterplanning
- Environmental Impact Assessment and Habitat Regulations
Appropriate Assessment
- Design Code
- Community engagement
- Stewardship and Governance
- Planning Performance Agreement & Planning Application fees
- Disposals/ Valuation technical services
- Planning legal fees (EiP and OPA)
- Project management

- 2.31 For the next phase of expenditure (£5m, shared 50:50), the cost breakdown is as set out below:

Shared Cost Workstream	Joint cost	MBC cost
Planning application/SPD evidence base.	3,888,000	1,944,000
Community Engagement and Comms	530,000	265,000
Planning Performance Agreement and Planning Application fees	404,000	202,000
Disposals/Valuation Advice	150,000	75,000
Legal Advice	150,000	75,000
50/50 Shared cost for MBC		£2,561,000

- 2.32 HE has now secured the additional budget approval necessary to take the project through to OPA (IE their 50% share of £8m).
- 2.33 As set out earlier, these costs are the first priority for reimbursement following disposal of the site after grant of planning permission is achieved.
- 2.34 The Housing and Community Cohesion Policy Advisory Committee will consider the report on 14 January 2025.

3. AVAILABLE OPTIONS

- 3.1 Option A: To approve the additional budget of £2.5m (in addition to £1.5m sunk cost, to give a total exposure of £4m) for the Council as set out in the report, in order that the project may be progressed to OPA. This will allow Heathlands to come forward in time to meet the projected housing delivery as set out in the LPR. This is consistent with the Council's Strategic Plan and The Council would continue to operate in accordance with the Collaboration Agreement.
- 3.2 Option B: To not approve the additional budget and withdraw from the Collaboration Agreement. Should the additional funds not be approved, then this would mean having to withdraw the project and write off the sums already invested to date, with significant reputational and financial cost for the Council. Additionally, this would breach the Collaboration Agreement with HE resulting in reputational cost with a key partner of the Council, and loss of the right to first refusal on affordable homes & commercial. Finally, should Heathlands not go ahead then a significant portion of the housing land supply would need to be written off leaving unmet need within the LPR.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option A. This is consistent with the Council's broader objectives, would work towards delivery of future housing

delivery in line with the LPR trajectory, and would ensure that The Council operates in accordance with the Collaboration Agreement.

5. RISK

5.1 The risks associated with the project, including a failure to approve further funding for the project are set out as follows:

- Delays to the adoption of the SPD and subsequent cost implications.
- Refusal of OPA, or any OPA approval being subjected to onerous conditions.
- Lack of engagement with, and cohesion between stakeholders during the SPD phase.
- Land assembly for the remaining unsecured land remains a risk.
- 'At risk' consultancy expenditure would become abortive, if the project fails.
- Council reputation would be damaged if it failed to deliver this key strategic project.
- A period of uncertainty for the community affected.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 The next steps will be:

- The Co-promoters to continue to develop the proposal for community and stakeholder engagement, communications and stewardship in collaboration with the LPA.
 - HE, the Council, and WSP to work with the Local Planning Authority to prepare the required SPD, Design Codes and Outline Planning Application.
 - Continue to work with the external consultant team to ensure that work can continue at the appropriate pace to develop the strategic business case for the delivery of the new Heathlands railway station within the required timescale i.e., delivery by phase 1.
 - The Co-promoters will prepare OPA, aiming for submission in Summer 2026.
-