

**MAIDSTONE BOROUGH COUNCIL**

**COUNCIL**

**14 OCTOBER 2013**

**REPORT OF PLANNING, TRANSPORT AND DEVELOPMENT  
OVERVIEW AND SCRUTINY COMMITTEE**

**Report prepared by Orla Sweeney**

**Response to the instruction of Full Council to the Planning, Transport and Development Overview and Scrutiny Committee, 2 September 2013.**

1.1 Issue for Decision

1.1.1 To consider the Planning, Transport and Development Overview and Scrutiny Committee's findings in response to the instruction at **Appendix A.**

1.2 Recommendation of Planning, Transport and Development Overview and Scrutiny Committee

1.2.1 That the Planning, Transport and Development Overview and Scrutiny Committee's recommendations to Full Council be considered in response to its instruction on 2 September 2013.

1.2.2 The Planning Transport and Development Overview and Scrutiny Committee, **recommends the Council that:**

1. It endorse the methodology and judgments made thus far for calculating the five year housing land supply;
2. The Planning, Transport and Development Overview and Scrutiny Committee be updated at a midyear point on permitted planning applications, windfall sites and non-completions to assess where we are with regards to the five year housing land supply; and
3. Officers be instructed to investigate urgently what can be done to protect any site from inappropriate development whilst we do not have a five year housing land supply.

### 1.3 Reasons for Recommendation

- 1.3.1 On 2 September 2013 an extraordinary meeting of the Maidstone Borough Council was held to consider a motion.
- 1.3.2 As a result of this meeting Maidstone Borough Council made a detailed 3 part instruction (**Appendix A**). Part 1 and Part 2 of this instruction were to the Planning, Transport and Development Overview and Scrutiny Committee as follows:

“Elected members are provided with the opportunity to both scrutinise the methodology and judgements that need to be made in calculating the five year housing land supply through Planning, Transport and Development Overview and Scrutiny Committee.

The issues to be considered at a single item agenda of the Planning, Transport and Development Overview and Scrutiny Committee on 17<sup>th</sup> September and Overview and Scrutiny Committee should report its findings to Full Council as soon as practicable and in any case should report the position it has reached to the Full Council scheduled for 18<sup>th</sup> September 2013.”

- 1.3.3 Following its meeting on 17<sup>th</sup> September the Chairman of the Planning Transport and Development Overview and Scrutiny updated full Council on the Committee’s findings so far on 18<sup>th</sup> September. The statement, in full, is attached at **Appendix B**.
- 1.3.4 The Statement to Full Council outlined the Committee’s position and its proposals for a second meeting.
- 1.3.5 A second, extraordinary, meeting was held on 26 September. Authority was given to the Chairman and Vice-Chairman by the Committee to scope the meeting and make a witness selection.
- 1.3.6 Two representatives from Boughton Monchelsea Parish Council were invited. They were specifically requested to provide background evidence to substantiate paragraph 5 c in the document titled ‘Boughton Monchelsea Parish Council, Maidstone Borough Council, Housing Land Supply, Note of Advice’ which had been provided in evidence. The paragraph read:

“5. Turning to the substance, it is worth emphasising some important facts:

c. There is likewise the clearest evidence, based on past trends, that windfalls will likewise arise in the next 5-year period, at a rate again in excess of 300 year (332 dpa or 1660 in total).”

- 1.3.7 Boughton Monchelsea Parish Council provided an evidence pack which was included in the agenda for the meeting (attached at **Appendix C**).
- 1.3.8 Councillor Ian Ellis, acting Chairman of Boughton Parish Council and Mr Nicholson, their Planning Advisor were invited to give evidence.
- 1.3.9 The Committee was referred to Boughton Monchelsea's report in the agenda papers (**Appendix C**) and the methodologies put forward by PMC Planning and Tunbridge Wells Borough Council.
- 1.3.10 Mr Nicholson informed the Committee that a windfall allowance could be included in the Council's five year housing land supply. The Government required evidence of a consistent supply and an expectation of a reliable source in the future. He told the Committee that Maidstone borough Council did not dispute this as they had included a windfall supply in their 20 year housing trajectory.
- 1.3.11 It was explained that the methodology to be put forward as evidence was a combination of PMC Planning's methodology which was based on a 'sectoral approach' and Tunbridge Wells's methodology which was to take a trend and moderate that figure by applying a 60% discount.
- 1.3.12 The Committee was referred to the figure of 1660 in table PMC1 from PMC Planning. This windfall allowance was based past on past trends for the period 2001-2006 in Maidstone. A 60% discount was applied to the figure of 1660, leaving 660 housing units which the Committee was told was only marginally above Maidstone's windfall yield for the last year, of 630 housing units. The Committee was informed that 660 housing units would meet the Council's housing short fall of 370 and provide an oversupply for its five year housing land supply calculation.
- 1.3.13 Mr Nicholson concluded his evidence to the Committee by stating that that there was no justification in lifting the embargo on strategic sites. By adopting the officer's approach and ignoring a windfall allocation the Council would be accelerating its use of a scarce resource.
- 1.3.14 The Committee, in its questioning, highlighted the need to include a figure for non-completed planning applications in a methodology, if a windfall allocation was to be included the impact that this would have an affect on the five year housing land supply calculation. If, for example, a 5% discount was applied it raised concerns as to whether this would in fact leave the Council in a worse position overall.
- 1.3.15 The Committee focused on the terminology that had been used when describing windfall such as 'impossible to predict'. Some Members felt

that this suggested a lack of certainty and that it was certainty that they were looking for in their scrutiny of methodology.

- 1.3.16 Rob Jarman, Head of Planning and Development and Emma Boshell, Planning Officer, Spatial Planning were invited to provide evidence of Maidstone Borough Council's methodology and judgements in relation to future trends which had resulted in its decision not to include windfall sites in its five year housing land supply. The presentation is attached at **Appendix D**.
- 1.3.17 Mr Jarman confirmed that Maidstone Borough Council had included a windfall allowance in its 20 year housing trajectory
- 1.3.18 Mr Jarman presented two tables at the conclusion of his presentation, Scenario 1 and Scenario 2 (**Appendix E**). Scenario 1 was Maidstone Borough Council's current methodology in calculation its five year housing land supply and Scenario 2 showed the option for an inclusion of a pure windfall allowance and non-implementation rate in its methodology. The result of including a pure windfall allowance and a non-implementation rate as part of that methodology was shown; the Council's Housing Land Supply would be reduced from 4.2 years to 4.1 years.
- 1.3.19 It was confirmed to the Committee that every windfall site that come forward was included in the Council's land supply, every permission down to a single dwelling, once planning permission had been granted.
- 1.3.20 Careful monitoring was undertaken throughout the year. On 1<sup>st</sup> April each year the number of windfall sites that had come forward and resulted in a planning permission would be calculated along with a deduction for the number of 'non-completed' applications.
- 1.3.22 The need for accuracy was stressed to the Committee and was illustrated by Maidstone Borough Council's approach to including a windfall site, once planning permission had been granted.
- 1.3.23 The Committee felt that a mid year review, ahead of 1<sup>st</sup> April 2014, of the Council's current permitted planning applications, windfall sites and non-completions would help provide an accurate indication of where the Council was with regards to its five year housing land supply currently.
- 1.3.24 In addition to these witnesses the Chairman and Vice-Chairman contacted the Planning Advisory Service (PAS) for an independent planning advisor. PAS sent a request on the Committee's behalf to its suppliers but there was no response to this.

1.3.25 The Chairman and Vice-Chairman sought a witness from Ashford Borough Council to provide a peer perspective, as advocated by PAS and owing to its excellent reputation. Unfortunately Ashford Council did not fulfil the criteria set as it does not have a tested five year housing land supply. It is currently undertaking its Strategic Housing Land Allocation Assessment (SHLAA).

1.3.26 In lieu of an independent planning advisor and a respected peer, a strategic planner from the Home Builders Federation (HBF) attended as a witness to provide an alternative perspective.

1.3.27 Mr Stevens explained that the HBF was a trade organisation that represented a wide range of organisations. As a Strategic Planner he had been involved with approximately thirty Local Plans across the country and eighteen under the new Government legislation.

1.3.28 He provided the Committee with his opinion on the inclusion of windfall, making the following points for its consideration:

- The Council had undertaken a robust SHLAA, the results of which would feed into its five year housing land supply;
- Paragraph 48 of the NPPF guidelines did state that a windfall allowance could be included where there was 'compelling evidence' to do so;
- When the Local Plan came forward for examination by the Planning Inspectorate it would be looking at the deliverability of development, adding that the NPPF placed greater emphasis on this, especially in the first five years following its adoption;
- He explained that the risk with including a windfall allocation was that it could materialise but may not; and
- The risk was further emphasised by running the possibility of losing at appeal if unable to convince the inspector that a windfall allocation was deliverable.

1.3.29 Mr Stevens told the Committee that by not basing the housing land supply on certainty they were selling residents short. A windfall allowance provided less certainty as to where sites would be.

1.3.30 Members raised questions about Greenfield sites and the danger of not including a windfall allocation in order to protect these sites. Mr Stevens responded by explaining that the five year housing land supply had to demonstrate a deliverable, rolling five year housing land supply. If a site was sustainable it would have to come forward and it was better to be in a position of certainty overall.

#### 1.4 Alternative Action and why not Recommended

1.4.1 The Council is asked to consider the Planning, Transport and Development Overview and Scrutiny Committee's report and recommendations in order to make a decision as appropriate.

1.5 Impact on Corporate Objectives

1.5.1 None.

1.6 Risk Management

1.6.1 There are risks associated with the Council considering the Planning, Transport and Development Overview and Scrutiny Committee's report and recommendations. Council Members are asked to consider these risks when determining their response to the recommendations.