MAIDSTONE BOROUGH COUNCIL

PLANNING, TRANSPORT AND DEVELOPMENT OVERVIEW AND SCRUTINY COMMITTEE

16 DECEMBER 2014

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

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1. MAIDSTONE BOROUGH LOCAL PLAN - DEVELOPMENT MANAGEMENT AND INFRASTRUCTURE DELIVERY POLICIES

1.1 Issue for consideration

1.1.1 The issue for consideration concerns the responses to development management policies contained in the Maidstone Borough Local Plan Regulation 18 Consultation 2014 (MBLP 2014) in accordance with the Town and Country Planning (Local Planning)(England) Regulations 2012. This report covers proposed amendments to these policies following regulation 18 consultation, with the intention that these policies will then be approved for regulation 19 consultation, planned for July 2015.

1.1.2 In addition to development management policies, proposed amendments to the two infrastructure delivery policies are being reported. The intention is that these policies will then be approved for the regulation 19 consultation.

1.1.3 A new development management policy, covering care homes, is also being reported. This policy is proposed to be grouped with the housing policies in the plan. As this is a new policy, it needs to be subject to regulation 18 consultation. On that basis and subject to approval, the policy would be consulted on alongside site additions and amendments in the further regulation 18 consultation at the end of February 2015.

1.2 Recommendation of the Head of Planning and Development

1.2.1 That the Planning, Transport and Development Overview and Scrutiny Committee (PTDOSC) recommends to Cabinet that the development management policies are amended as per the proposals in Appendix A and that the policies are approved for regulation 19 consultation in July 2015.

1.2.2 That the PTDOSC recommends to Cabinet that the infrastructure delivery policies are amended as per the proposals in Appendix A and that the policies are approved for regulation 19 consultation.

1.2.3 That the PTDOSC approves the care home policy as proposed, for regulation 18 consultation in February 2015.

1.3 Reasons for recommendation

1.3.1 The Maidstone Borough Local Plan regulation 18 consultation ran from 21 March 2014 until 7 May 2014.

1.3.2 A large part of the local plan consultation was about finding the land to accommodate 19600 homes, which at that time was identified as the objectively assessed need for the borough in the plan period 2011-2031.

1.3.3 In addition to housing allocations and other types of allocations which addressed issues such as employment or retail, there are topic based policies, which give general guidance to submitting and determining planning applications – these are the development management policies. Development management officers will use these policies on a day to day basis to form the foundation of their assessment of the merits of planning applications.

1.3.4 The list of development management policies is detailed as follows:

Development management policies for Maidstone Borough	
DM 1	Development on brownfield land
DM 2	Sustainable design standards
DM 3	Renewable and low carbon energy schemes
DM 4	Principles of good design
DM 5	Residential garden land
DM 6	External lighting
DM 7	Signage and shop fronts
DM 8	Residential extensions, conversions and redevelopment
DM 9	Non-conforming uses
DM 10	Historic and natural environment
DM 11	Publicly accessible open space and recreation
DM 12	Community facilities
DM 13	Sustainable transport
DM 14	Public transport
DM 15	Park and ride sites
DM 16	Air quality
DM 17	Economic development
DM 18	Retention of employment sites

DM 19	Town centre uses
DM 20	District centres, local centres and local shops and facilities
DM 21	Residential premises above shops and businesses
DM 22	Mooring facilities
DM 23	Housing mix
DM 24	Affordable housing
DM 25	Local needs housing
DM 26	Gypsy, Traveller and Travelling Showpeople accommodation
Development management policies for the town centre	
DM 27	Primary shopping frontages
DM 28	Secondary shopping frontages
DM 29	Leisure and community uses in the town centre
Development management policies for the countryside	
DM 30	Design principles in the countryside
DM 31	New agricultural buildings and structures
DM 32	Conversion of rural buildings
DM 33	Rebuilding and extending dwellings in the countryside
DM 34	Change of use of agricultural land to domestic garden land
DM 35	Accommodation for agricultural and forestry workers
DM 36	Live-work units
DM 37	Expansion of existing businesses in rural areas
DM 38	Holiday caravan and camp sites
DM 39	Caravan storage in the countryside
DM 40	Retail units in the countryside
DM 41	Equestrian development

1.3.5 At the meeting of PTDOSC on 19 August 2014, the key issues arising from the MBLP 2014 consultation were reported. This included the development management policies and listed the amount of comments against each policy that were either in support, an objection or an observation.

1.3.6 Appendix A to the report is in effect a continuation of the 19 August report, albeit restricted to the development management and infrastructure delivery policies. The issues identified in the 19 August report are responded to and any proposed changes are detailed. Each policy as amended is included following the responses and proposed changes.

1.3.7 **General issues raised as objections or observations in the local plan consultation**. This section is a general consideration of issues raised in the local plan consultation and the changes that officers have proposed in response to these. The issues are covered individually in Appendix A.

1.3.8 **Reading the plan as a whole**. A number of issues are raised in general throughout the consultation responses. One point that is

raised a number of times, but in general not accepted, is regarding cross references. Requests to refer to other policies in the plan or make reference to individual aspects of policy such as transport or the Kent Downs AONB. These requests have been rejected on the basis of the principle of the requirement to read the local plan as a whole. Unless policies are location or topic specific, all policies will apply. So as an example, where a comment requests reference to the Kent Downs AONB, the majority of times, this will already be covered by DM30 – Design principles in the countryside. In some cases, requests are made to reference guidance documents – again a good example of this is in relation to the Kent Downs AONB. The principle here is slightly different in that these documents can provide useful guidance and that because these are not a part of the plan, they can be referenced in policy – assuming that they are relevant.

1.3.9 **Cross-referencing parish councils and neighbourhood plans**. In a similar vein to the issue about cross-referencing policies and topics, a frequent comment relates to the referencing of parish councils or neighbourhood plans. The knowledge that parish councils bring to the planning process is invaluable, however, the circumstances in which a neighbourhood plan is referenced within the local plan should be limited. This is because neighbourhood plans are part of the development plan, alongside the local plan. What this means is that apart from the issue about neighbourhood plans being in general conformity with the strategic policies in the local plan, the weight afforded to policies in an adopted neighbourhood plan is equivalent to that afforded to policies in an adopted local plan. There is no need to reference an adopted neighbourhood plan as it has equal statutory weight and must be taken into account. In any case, the emerging neighbourhood plans have been a material consideration in the formulation of policies.

1.3.10 In terms of referencing a parish council and the guidance that they might be able to offer the process, then this is slightly different. An example where such a comment has been accepted is DM11 – Publicly accessible open space and recreation, in relation to deciding whether alternative provision is of equivalent community benefit. The proposed policy change makes reference to community representatives determining if the alternative provision is of an equivalent benefit. This does not reference the parish council directly because not all areas are parished.

1.3.11 **Place shaping policies versus topic based policies**. An interesting issue relates to DM13 – Sustainable transport. There is concern that parts 1 and 2 of the policy cannot be used for development management purposes as they do not offer decision

making criteria and are rather an indication of the council's strategic intent. This is true in the respect that, as a topic, sustainable transport does cross boundaries with strategy elements and specific decision-making criteria. The structure of the draft local plan is such that its strategic policies are drafted as place shaping policies, rather than as topic based policies. A good example of the change in approach is to compare it with the Maidstone Borough-Wide Local Plan 2000. The recommendation in this case is for the policy to remain as drafted, because this is a necessary compromise resulting from the way that the draft local plan is structured. This does not impact on decision making because sufficient and appropriate development management criteria are included in the transport policies.

1.3.12 **Housing policies**.

1.3.13 As part of the council's collegial approach to refining the local plan, the development management housing policies were responded to by the council's housing team. These policies are DM23, DM24, DM25 and DM26. In general, the housing team has sought to better define aspects of the policies and add detail where they have considered it appropriate. It is important to recognise that the way the policies function affects both the development management team and the housing team, so housing input to the drafting of these policies is valuable in the longer term.

1.3.14 **Local needs housing**. An issue of note that has arisen in the consultation is concerning local needs housing and the definition of what that is versus general affordable housing. Affordable housing in its general sense, will be reported to PTDOSC as part of the proposed regulation 19 consultation in July 2015, however, there is some appropriate commentary to be made. Some parishes have expressed a desire to restrict affordable housing only to local residents/those with a local connection. This is against the general principle of affordable housing provision and would serve to assist in making the relevant parishes/villages closed communities. While the council does not agree with that in principle, the housing team have expressed some empathy from a differing perspective that perhaps the long term sustainability of placing residents in locations they might not have chosen otherwise, could be detrimental.

1.3.15 **Affordable housing**. DM24 – Affordable housing has not been reported on this agenda. The policy has been the subject of a large number of comments in the consultation. These relate to the cost of providing affordable housing, tenure split, the proposed geographical split and the tenants that ultimately would live in the houses. The nature of the comments and their implications for plan viability is such that further work will be required in order to

update the policy appropriately. In any case, the affordable housing policy as consulted on in the draft local plan is based on viability evidence produced by Peter Brett Associates, in the evidence document – Local Plan Viability Testing (2013). To amend the policy in the plan would require an amount of this evidence to be retested.

1.3.16 **Economic development policies**.

1.3.17 In a similar manner to the housing policies, the council's economic development team has responded to the comments on development management economic development policies in the plan. These policies are DM17, DM18, DM19, DM36 and DM37.

1.3.18 Of note among the proposed amendments to the economic development policies are the additional employment sites proposed in policy DM18 – Retention of employment sites. The amendments to the list of employment sites takes account of the evidence in the 2014 Qualitative Employment Sites Assessment (undertaken by GVA).

1.3.19 A number of the comments regarding economic development relate to the allocations and designations. Allocation specific comments, responses and proposed changes i.e. new sites as identified in the consultation and either denoted EMP1(XX) or RMX1(XX), will be reported to PTDOSC at the 20 January 2015 meeting. Comments relating to the designations, i.e. identification of existing sites for protection purposes, query the nature of the identification and suggest that limiting the use of the site to traditional B class employment uses will unduly restrict development. The response in these cases, however, is that policy DM18 does allow for non-B class uses, but with recognition that this is under strict circumstances where it can be demonstrated that in the medium term there is no prospect of take-up/continued use. The purpose of the policy remains, to protect traditional employment uses, albeit noting that the NPPF is now more flexible in its definition of what employment is.

1.3.20 **Sustainable construction – winding down the Code for Sustainable Homes**. DM2 – Sustainable design standards is currently subject to Government policy. In the Housing Standards Review – Technical Consultation, published in September 2014, the Government indicated that it would wind down the Code for Sustainable Homes and that it would publish a policy statement on the matter early in 2015. Accordingly, when the statement is published, the Government expects new local plan policies to no longer refer to the Code for Sustainable Homes – these standards will be incorporated into building regulations.

1.3.21 What is not clear is how the Government intends to deal with BREEAM or with the so called Merton Rule (requiring 10% of energy provision to be provided on site through renewable technology). It appears at this point that when the policy statement is published, the requirements for Code levels will have to be removed from this policy, but that the references to BREEAM and the 10% renewable energy requirement could be allowed to remain. No changes to this policy are currently proposed, but it may need to be amended prior to the regulation 19 consultation.

1.3.22 **Design principles**. Design principles are key to all development proposals. The draft local plan included two design policies – DM4 – Principles of good design, and DM30 – Design principles in the countryside. A number of comments relating to these policies question how they can be enforced or seek further clarification of certain elements. These are appropriate questions and are a reflection of how the policies should be used. The policies themselves set parameters and the way that the design policies are enforced is through an iterative design process undertaken in conjunction with the council. This involves a design and access statement and ultimately if it is considered at application stage that the consideration of design has been insufficient, through refusal.

1.3.23 **Sustainable transport**.

1.3.24 DM13 – Sustainable transport, had the most varied comments of any development management policy. The comments, perhaps unsurprisingly, relate a lot to infrastructure delivery, so there is significant read across with policy ID1 and the infrastructure delivery plan (IDP). Allowing for affordable housing, transport is the top of the infrastructure prioritisation list for residential development and for business and retail development.

1.3.25 The comments in general seek either the delivery of physical infrastructure, be that a high speed railway station, the Leeds/Langley bypass or a rapid transit system – such as a monorail; or they seek better services on existing infrastructure. Other comments relate to the policy structure and suggest that the policy approach is not integrated with the rest of the local plan.

1.3.26 The difficulty in addressing comments at this stage relates to further transport modelling, which is still being undertaken by Amey, on behalf of Kent County Council. Officers have responded appropriately to the comments made in the consultation, but what is still apparent is the need to model transport solutions to mitigate the impact of developments proposed in the plan, and then make commentary based on the results of modelling.

1.3.27 The mitigating factor is that apart from the identification of park and ride sites, the transport policies take a generalised approach, so comments can also be responded to in generalised terms where necessary.

1.3.28 **Infrastructure delivery policies**.

1.3.29 Infrastructure delivery is a key element of the local plan. The infrastructure delivery policies in the draft local plan deal with the principle of infrastructure delivery in general and with the specifics of electronic communication.

1.3.30 The two infrastructure delivery policies are as follows:

ID 1	Infrastructure delivery
ID 2	Electronic communications

1.3.31 A number of concerns were raised in relation to policy ID1, specifically about the timing of infrastructure and about what types of infrastructure might be included and not be included in the list that the council intends to seek funding for/use Community Infrastructure Levy receipts to fund. The prioritisation included in the policy is in part the reason for these comments, however, they are still legitimate comments. The other side to these comments is that if a relevant infrastructure type has been included, but is low down the list then some comments have sought for these rankings to be changed. Some clarification has been proposed to be added to the policy to make it clear that the priority list is a guide and that in some cases the context of a given application may mean this is altered.

1.3.32 **Timing**. One concern raised many times is the timing of infrastructure. The concern is that the infrastructure on developments is being delivered late and that in some cases, such as with public transport services, this is hindering the success of that infrastructure. There are options for the delivery of infrastructure earlier in the development of given sites and can be specified in site policies. As with all infrastructure, viability is a key consideration. An extra sentence has been proposed to address this issue.

1.3.33 **Sewage**. In the southern villages in particular, but also across the borough in general, there have been instances of surface water flooding leading to sewage flooding the streets, frequently because of rain water inundating the main foul drainage system. These instances are a key concern for residents. The council has been involved in ongoing work to understand what it can seek to achieve so that developments can be accommodated and problems adequately addressed.

1.3.34 **IDP and CIL**. Key to the understanding of infrastructure delivery will be the infrastructure delivery plan and the Community Infrastructure Levy. The CIL is acknowledged in ID1 as the means to secure funding for strategic infrastructure and it may be that as a result of the CIL the council will be better placed to deliver infrastructure and offer infrastructure in a more timely manner, where it is proven to be necessary. The IDP remains the key document in terms of listing what infrastructure is needed where, by when and identifying how it is intended to be funded. While comments have been made that request the specific infrastructure types and perhaps even schemes that need to be addressed in ID1, the proper approach is for the IDP to remain as the list and for ID1 to specify how that is delivered.

1.3.35 **Additional policy – Nursing and care homes**

1.3.36 Included as Appendix B to the report is the proposed policy addressing nursing and residential care homes. On 10 September 2014, the Cabinet agreed a figure of 960 additional care home places in the borough for the period 2011-2031.

1.3.37 The proposed policy included in Appendix B follows the wider spatial distribution of the plan and seeks for nursing and residential care homes to be delivered in the urban area, rural service centres or the larger villages, subject to standard planning principles i.e. the impact on the amenity of neighbours and neighbouring uses.

1.3.38 Subject to the approval of Cabinet, this draft policy will be included in the further regulation 18 consultation proposed to begin at the end of February 2015.

1.3.39 **Next steps**

1.3.40 The proposed next steps are:

- **Policies DM1-DM41 (excluding DM24)** – approve recommended changes detailed in this report and consult on these in regulation 19 draft of the local plan (July 2015).
- **Policy DM24 – Affordable housing** – subject to further consideration as part of the wider IDP and CIL work, will be reported to July 2015 PTDOSC and Cabinet for approval as part of regulation 19 consultation.
- **Policies ID1 and ID2** – approve recommended changes and consult on these in regulation 19 draft of the local plan (July 2015).
- **Policy DMXX (Nursing and care homes)** – approve recommended policy for inclusion in further regulation 18 consultation, intended for February 2015.

1.4 Alternative action and why not recommended

1.4.1 In reality the only alternative course of action is to delay the proposed amendments to the development management policies until the full version of the regulation 19 consultation draft is reported back to PTDOSC and Cabinet in July 2015. This is the route that is being taken with DM24 – Affordable housing, and with other elements of the plan. The reason this has not been recommended is because the plan contains a significant amount of information and it is considered that the chance to approve some of this earlier, rather than later is a prudent approach. The development management policies in the large part, although with some recognised exceptions, are topic based and can be dealt with ahead of determining some of the more strategic elements of the plan.

1.5 Impact on corporate objectives

1.5.1 For Maidstone to have a growing economy. Policies in the draft local plan impact the growth of the economy in Maidstone Borough. When read as a whole, the local plan needs to be a balance of economy, society and environment.

1.5.2 For Maidstone to be a decent place to live. The local plan is about place shaping and guiding development in an appropriate manner to respect the balance of economy, society and environment – each of which contributes to having a decent place to live.

1.6 Risk management

1.6.1 **Development management policies**. The development management policies are being reported earlier in the plan preparation process because their impacts, read with other plan policies are relatively limited. As discussed, the development management policies are in the majority, topic-based policies and in the main their guidance and legitimacy stems from the National Planning Policy Framework (NPPF). The local plan is interpreting the NPPF to guide developments of local concern or interest in the borough.

1.6.2 In that respect, the risks are relatively limited. However, where there may be risks are in policies which incorporate strategy elements as well as development management elements, such as DM13 – Sustainable transport. There is a possibility that with further sites identified in the further regulation 18 consultation, intended for February 2015, some strategic elements of the plan will need to change. It is therefore the case that these policies

could be subject to further consideration before regulation 19 consultation in July 2015.

1.6.3 **Infrastructure delivery policies**. Similarly to the development management policies that include strategic elements, there is a risk with the infrastructure delivery policies, specifically ID1, that further proposed changes to the draft local plan will mean some of the responses made to ID1 following consultation might need to be revisited prior to the regulation 19 consultation in July 2015. This risk is mitigated by other factors, namely that the broad strategy of the local plan is set, so infrastructure requirements will not change by an order of magnitude which would require significant changes to the policy. Additionally, if changes are required, these could be incorporated into the report to approve the regulation 19 draft for consultation.

1.7 Other implications

1.7.1

1.	Financial	X
2.	Staffing	
3.	Legal	X
4.	Equality impact needs assessment	
5.	Environmental/sustainable development	X
6.	Community safety	
7.	Human Rights Act	
8.	Procurement	
9.	Asset management	X

1.7.2 Financial. The policies addressed in the report cover topics, in particular with infrastructure delivery, that could place further economic requirements on development. This is a prime consideration.

1.7.3 Legal. Response(s) to consultations need to be accurate and meritorious so as to reduce/prevent the risk of legal challenge in either the plan-making process or later development management decisions.

1.7.4 Environmental/sustainable development. A key message of the National Planning Policy Framework is the presumption in favour of sustainable development.

1.7.5 Asset management. In future years, as a consequence of infrastructure delivery policies, the council will likely have further assets that it will need to give consideration to managing.

1.8 Relevant documents

1.8.1 Maidstone Borough Local Plan – Regulation 18 Consultation.

1.8.2 Maidstone Qualitative Employment Site Assessment, 2014 (GVA)

1.8.3 National Planning Policy Framework, Department of Communities and Local Government, 2012.

1.9 Appendices

1.9.1 Appendix A – Issues, responses and proposed policy changes.

1.9.2 Appendix B – Proposed Nursing and care homes policy.

IS THIS A KEY DECISION REPORT?		**THIS BOX MUST BE COMPLETED**	
Yes	X	No	

If yes, this is a key decision because: Plans and strategies

Wards/parishes affected: All