

Examination of the Maidstone Local Plan Review
Inspector: Mr. David Spencer BA(Hons) DipTP MRTPI

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Mr Mark Egerton
Strategic Planning Manager
Maidstone Borough Council

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Dear Mr Egerton,

Maidstone Local Plan Review – Inspector’s Initial Observations

- 1 I have now had the opportunity to read the submitted plan, selected accompanying technical documents, representations submitted on the published plan and the Council’s proposed modifications to the submitted plan presented in Document LPRSUB011. The proposed spatial strategy, in particular the two proposed Garden Settlements, has clearly engendered significant comment and the production of an expanding volume of technical evidence. Consequently, I am setting out in this letter some initial questions / actions for the Council and a preliminary roadmap for moving the examination forward.

The Examination Website

- 2 As required on plan submission the Council has appointed a Programme Officer – Louise St John Howe. As the Council will be aware, all communication to myself must be through the Programme Officer. All formal correspondence between the Council and myself, including this letter, will need to be published on the examination website for transparency.
- 3 The examination website is logically structured and the key documents I would expect to be available at this early stage of the examination are accessible. Whilst the Council hosts the Examination webpage on its website (as is normal practice), the content of the Examination webpages is the jurisdiction of the Examination. Accordingly, any additional material or documents that the Council wishes to submit into the examination must be, in the first instance, sent to the Programme Officer, who in turn will seek my authorisation that the material can be uploaded under the tab for ‘Examination Documents’.
- 4 I appreciate that on the Examination Webpage it is possible to view representations made on the published plan between October and December 2021 (the Regulation 19 stage). I have generally found it a relatively difficult set-up to navigate in terms of how it is structured over its 113 pages. Trying

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to sort/filter by names (A-Z) does not appear to produce particularly logical results and there appears to be no filter to search by Plan policy. I recognise Appendix B to the Regulation 22 Statement [LPRSUB004] presents a helpful summary of representations by policy/subject matter but it is not always clear in the Regulation 22 statement who has made the representation and whether or not they wish to be heard. The Inspectorate's Procedure Guide on Local Plan Examinations sets out the requirements for presenting Regulation 19 representations at paragraphs 1.18-1.21. If not done so already, **it is essential that the Council provides a searchable database as a matter of priority**. This will save considerable time and effort for myself and the Programme Officer. Additionally, I would direct the Council to paragraph 1.21 of the Procedure Guide which sets out the need for participants to know who else has made representations on the relevant part of the Plan. Again, a database (or amendments to the Keystone platform) would meet this requirement. If there are any difficulties or serious time implications for meeting paragraphs 1.18-1.21 of the Procedure Guide please advise the Programme Officer as there could be implications for the intended programme for the Examination set out below.

Essential Matters for the Examination and Initial Inspector Questions/Actions (IIQs) for the Council

- 5 The following paragraphs identify some key areas for the examination of the Local Plan Review where some initial information or further action is required from the Council to assist my understanding and to formulate relevant questions to assess plan soundness. These matters are not exhaustive and further reading of the technical evidence may identify some further critical areas of soundness and/or legal compliance, which I may need to raise in supplementary correspondence with the Council over forthcoming weeks. At the time of writing, a Statement of Common Ground with Medway Council is still awaited. I would emphasise that the legal duty to cooperate is not a duty to agree. It is also important not to conflate matters of plan soundness with the required effort (on Maidstone's part) to engage and seek cooperation as part of the Borough Council's plan-making activities.

Duty to Cooperate

- 6 I will deal with this legal requirement at the start of the hearings. I raise a few matters below for early clarification from the Council. A number of these matters stem from the submitted Statements of Common Ground – March 2022¹.

¹ Excepting SoCG with Tunbridge Wells Borough Council signed October 2021

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- IIQ1 Are the Draft Statements of Common Ground (SoCG) in Documents LPR1.59 & LPR1.60 the first published iterations of SoCGs during the preparation of the Maidstone Local Plan Review?
- IIQ2 The Duty to Cooperate Statement (Document LPR5.5] at paragraph 4.3 contains a hyperlink to a separate document listing the various DtC meetings November 2017 – January 2022. Rather than rely on a hyperlink I would be grateful if the Council could submit an Examination document containing the table of DtC meetings.
- IIQ3 Page 17 of the Duty to Cooperate Statement references a Memorandum of Understanding with Tonbridge and Malling Borough Council. Is this correct? If so, what status does it have and should it be submitted into the Examination?
- IIQ4 Paragraph 5.24 of the Duty to Cooperate Statement refers to an intention to produce a coordinated action plan to deliver nutrient neutrality in the Stour catchment. Has there been any progress on preparing an action plan? Additionally, the Statement of Common Ground with the Environment Agency references that the Local Plan Review will be supported by a full nutrient neutrality review. On similar grounds the SoCG with Natural England (NE) addresses the Stour Catchment, including a need to update current calculations to reflect the latest NE March 2022 methodology. Does the Council intend to submit additional documentation on nutrient neutrality into the Examination and if so, what would be the broad timeframe for doing so?
- IIQ5 Paragraph 5.36 of the Duty to Cooperate Statement appears to be incomplete?
- IIQ6 The statement of Common Ground with National Highways refers to further work to extend forecast outputs to 2050 and identify further mitigation in order to fully test the Garden Community proposals. In respect of Lidsing, National Highways have requested additional modelling that is compatible with the Medway AIMSUM and for an initial DMRB compliant design review of the proposed M2 Junction 4 upgrade. Is there a timeframe for when additional modelling outputs are likely to be shared with National Highways, and in turn, potentially submitted into the Examination?
- IIQ7 The Statements of Common Ground with Natural England and Kent Downs AONB Unit refer to further work regarding landscape mitigation for Lidsing and Heathlands² and possible proposed main modifications. Can the Council please provide a brief update on any post-submission engagement / dialogue with Natural England and Kent Downs AONB Unit and likely timeframe for further evidence base work? Are there likely to be further main modifications related to the AONB to those already presented in LPRSUB011?

Spatial Strategy

- 7 From all that I have read to date, a fundamental issue for the examination will be whether the submitted spatial strategy at Policy LPRSS1 (and subsequently in

² Further reaffirmed in the Heathlands Garden Community Roadmap (March 2022)

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Policies LPRSP1-9) represents an appropriate strategy for achieving sustainable development³ when compared against reasonable alternatives. In particular, the examination will initially focus on:

- (i) The housing and employment requirements to be planned for and over what period (ensuring 15 years from plan adoption and a 30 year vision where there are proposals larger scale developments (NPPF paragraph 22));
 - (ii) the proposed distribution of growth and the settlement hierarchy;
 - (iii) the proposals for the two Garden Settlements at Heathlands and Lidsing (including, amongst other things, the process for their selection, the discounting of alternative strategic options, the Sustainability Appraisal (SA) outputs for a strategy for two garden communities (as opposed to one or none), the basis on which the performance of Heathlands and Lidsing against the SA objectives have been assessed, the likely environmental and infrastructure impacts and the effectiveness of mitigation (including cross-boundary) and the likely timeframes for delivery within the plan period);
 - (iv) the proposals for the Invicta Barracks site in Maidstone including quantum of development, education infrastructure, heritage assets and character of the site;
 - (v) the approach for the Leeds-Langley corridor east of Maidstone in light of Policy LPR1 in the 2017 Local Plan;
 - (vi) the general approach to site selection for the various proposed allocations in Maidstone, the Rural Service Centres and lower tier settlements; and
 - (vii) Whether the strategy and sites selected will deliver a sufficient supply of homes (NPPF paragraphs 68 and 73(d)), including a robust trajectory and approach to maintaining housing supply and delivery so that the Local Planning Authority will maintain control through a plan-led system.
- 8 If the examination suitably navigates these matters it then it will proceed to Stage 2 hearings to consider matters of soundness on the approach to Maidstone Town Centre, other individual site allocation policies for Maidstone, the Rural Service Centres and larger villages together with the development management policies.

IIQ8 In addition to the further work referenced in IQ4, IQ6 and IQ7 above, and having regard to the Council's response to representations in the Regulation 22 Statement, I would be grateful if the Council can outline what additional work it is currently undertaking and/or likely to wish to submit into the examination on the delivery of the spatial strategy and in particular the proposed Garden Settlements? If so, what is the anticipated timeframe for submission into the examination?

IIQ9 References are made in Regulation 19 representations to the Council's 'Landscape Capacity Study', which in turn is referred to in the Sustainability

³ Net gains across social, environmental and economic objectives – NPPF paragraph 8

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Appraisal Report. Is the Landscape Capacity Study still relevant and should it be submitted into the Examination?

- IIQ10 Minerals safeguarding is an issue at Heathlands, with implications for delivery / phasing. Is there a realistic prospect of a specific Statement of Common Ground with the Minerals Planning Authority to ensure that this matter is appropriately planned for?
- IIIQ11 Various representations on Lidsing make reference to sites (and appeal decisions) at 'Gibraltar Farm' and 'East Hill' in Medway. To be clear, I am not re-examining what has happened in Medway but it would be helpful that I understand the relationship of these sites to the proposed MLPR allocation. From the various technical documents in support of Lidsing I am reasonably clear on the Gibraltar Farm site but can I nonetheless request that the Council submits a map into the Examination showing these two sites (where they have been successful on appeal?) in relation to the Lidsing Garden Settlement site.
- IIQ12 Having regard to the Inspectorate's Procedure Guidance on Local Plan Examinations (paragraph 3.20), I would encourage the Council to pursue further statements of common ground, including:
- (i) DiO regarding availability and delivery of the Invicta Barracks site; and
 - (ii) Kent Downs AONB Unit & Natural England on residual areas of agreement / disagreement regarding impacts of the proposed Garden Settlements on the Kent Downs AONB following additional dialogue and evidence.

Habitat Regulations

- 9 At present, the Habitat Regulations Assessment comprises an amalgam of the September 2021 report (LPR1.19) and the March 2022 Addendum (LPRSUB005). Appropriate Assessment has been undertaken. In light of the comments from Natural England, the principal residual matters appear to be effectiveness of mitigation to enable a conclusion of no adverse effects on the integrity of both North Downs Woodland SAC (due to air pollution from vehicles) and Stodmarsh SAC, SPA and Ramsar site (due to decrease in water quality from nutrient enrichment). I note, notwithstanding the Arcadis Technical Note on Nutrient Neutrality mitigation– March 2022, that Natural England wishes to see the nutrient neutrality calculations updated using their latest calibrations.
- IIQ13 Has there been further engagement with Natural England since the meeting on 21 March 2022 to obtain their feedback or comments on the HRA addendum, including the proposed approach/strategy to mitigation for North Downs Woodland SAC and air pollution?
- IIQ14 Has there been any progress on re-running the nutrient assessment calculations? Is there a timeframe for doing this?
- IIQ15 Does the HRA addendum work indicate a need for further modifications to the plan not already presented in LPRSUB011?

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IIQ16 Can it be confirmed that likely significant effects on the Swale SPA and Ramsar were screened out in relation to both water quality and quantity (para 4.81 of the Sept 2021 HRA says this, but Table 4.5 of same document says water quantity only)?

The Submitted Plan

10 In various places, the submitted plan states where the Local Plan Review will result in the retention of 2017 Local Plan site allocations and development management policies or will supersede/replace them. At this early stage of examination, I agree with the Council's approach of not retaining those 2017 allocations that have now been completed or are expected to be completed very soon (Table 8.1 of the LPR). I also agree that a policy framework should be retained for those 2017 Local Plan allocations that are yet to be delivered but will not be superseded by new allocations in the Local Plan Review. However, there does need to be clarity on what is meant by retained site allocations. For example, Policy DM39 of the 2017 Local Plan is retained, not amended, and has been replicated as Policy LPREnv3. Accordingly, there has been opportunity to comment on LPREnv3 at Regulation 19. I am unclear that similar has been able to take place for 'Allocations not Complete' listed in Table 8.1, which are described at paragraph 8.2 of the LPR as being "rolled forward" and at paragraph 8.3 as "saved allocations".

IIQ17 Is it the Council's intention to 'save' the policies relating to site allocations 'not complete' and keep those saved policies as part of the development plan as remaining parts of the 2017 Local Plan? If so, a main modification would be needed to insert an Appendix to the LPR clearly identifying the 'saved' site allocation policies. Alternatively, is it the Council's intention to embed the residual 2017 Local Plan site allocation policy content into the final version of an adopted LPR document? This approach would create a series of main modifications. The Council's early clarification on this would be appreciated.

11 In addition to the submitted plan, the Council has usefully considered potential modifications to the Plan following the representations made and additional evidence. These are presented in document LPRSUB011, and I would encourage those with an interest in the Plan to be aware of its contents. On first examination of the proposed changes, a number would appear to fall squarely into the category of a main modification, which if I found to be necessary for soundness would need to be consulted on and appraised as part of addendums to Sustainability Appraisal and HRA. A notable number of the proposed changes, however, appear to be either factual or for modest clarification to an extent which does not affect the substance of the Plan published in October 2021. These are not main modifications that I would need to recommend in any report for soundness. Technically, they are known as 'additional' modifications, which the Council can make to the Plan of its own volition. Document LPRSUB011 should remain on the website for

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reference. I will advise in a **separate note** to the Council the process for establishing schedules of ‘main’ and ‘additional’ modifications.

Plan Period

- 12 The submitted plan period is 2022-2037. I will explore this further as part of the initial hearings, but I would advise at this early stage that the Council prepare for the strong likelihood that the plan will not be adopted by 31 March 2023 (as per the Local Development Scheme). For a whole plan examination, dealing with strategic matters (and in Maidstone’s case significant proposals for two new communities / settlements), revised development management policies and an appreciable number of new site allocations, adoption within 12 months from submission is very optimistic. NPPF paragraph 20 is clear that strategic policies should look over a minimum 15 year period from adoption. I would recommend that the Council looks at a scenario of extending the plan period to 2038 and to be in a position to advise the Examination by the first set of hearings what the implications of that would mean⁴.

Strategic Policies

- 13 I am pleased to see that Strategic Policies are clearly identified in the submitted LPR. The examination will need to address LPRSP10 ‘Housing’ which in contrast to other strategic policies contains no overarching strategic policy and proceeds to separate sub-strategic policies on areas such as affordable housing. My initial assessment is that there is a need to consider a new LPRSP10 policy for plan soundness, as a progression of LPRSS1. The new policy would reaffirm the housing requirement over the plan period and the trajectory for housing delivery. As part of this, a more detailed trajectory (Appendix 1 to the Plan) needs to be prepared so that delivery by aggregated ‘sources’ can be profiled (for example – permissions, LP2017 allocations⁵, windfall⁶, Lidsing, Heathlands, Invicta, Maidstone Town Centre and other LPR allocations). A new strategic policy could identify any basis or justification for stepping the housing requirement, together with any policy content necessary for consistency with NPPF paragraph 66 in terms of clarity for neighbourhood plan preparation / review in the Borough.
- 14 In terms of the housing trajectory, I will be looking for evidence of engagement with site promoters on the realism of profiled site delivery, including critical infrastructure dependencies and trigger points. I recognise the statements of common ground and phasing and delivery evidence in relation to Lidsing and Heathlands and the latest post Regulation 19 evidence for Invicta Barracks (including LPR5.8) and this will need to be discussed and tested at an early

⁴ See below under ‘Strategic Policies’ and request for a Housing Delivery and Land Supply Topic Paper

⁵ Avoiding any double counting with permissions

⁶ Avoiding any allowance in years 1-3 of the trajectory

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stage of the hearings. I will also be looking for reassurance that the proposed strategy will provide the required deliverable supply in years 1-5, together with some contingency to ensure a plan-led system.

- IIQ18 The Housing Strategy Topic Paper (LPR1.22) is dated June 2020 but references a December 2021 SHMA. The Paper appears to pre-date First Homes and omits references to Section 124 of the Housing and Planning Act 2016 in terms of assessing and planning for the needs of those households who do not want conventional bricks and mortar accommodation – houseboats, culturally appropriate accommodation for those who do not meet the planning definition of Gypsies and Travellers and other caravan/park home needs. The 2021 Annual Monitoring Report says at para 4.11 that the Housing Topic Paper 2021 sets out the methodology used to calculate the windfall allowance. This does not appear to be the case, unless there is a separate Topic Paper? In advance of the Stage 1 hearings I would request that the Council updates the Housing Strategy Topic Paper to ensure a version that aligns with plan submission date and briefly addresses the implications of First Homes and to what extent there are needs for non-bricks and mortar accommodation (will non-planning Gypsy and Traveller need be addressed through the separate DPD?). I would like to see a refreshed Housing Topic Paper produced by the time I issue Stage 1 MIQs in early July.
- IIQ19 In addition to an updated Housing Strategy Topic Paper I would also request that the Council prepares a Housing Delivery and Land Supply Topic Paper that outlines the process it went through in selecting the proposed housing allocations in the LPR from the call for sites and SLAA and confirm in broad terms how reasonable alternatives were dealt with through the SA process. The paper should consider options for the housing trajectory and whether there is a case for a stepped trajectory. The Paper should also provide commentary on the implications for land supply were the plan period amended to 31 March 2038. The Paper also needs to set out and provide the compelling evidence as per NPPF paragraph 71 for any windfall allowance – drawing on what is provided in the AMR and any other documents. The paper should also reaffirm that 10% of the housing requirement can be met on sites of no larger than 1ha. It would also be helpful if the paper can briefly outline why it would be necessary for soundness to re-introduce site LPRSA202 at Coxheath for 85 dwellings (proposed in LPRSUB11). Ultimately, the Paper should seek to confirm that there would be a specific, deliverable supply of sites for years one to five of the plan period, with an appropriate buffer (NPPF paragraph 74). I appreciate this topic paper may take some time to prepare but request that a version is made available at least 4 weeks prior to the Stage 1 hearings starting.
- IIQ20 The AMR for 2020/1 is provided as Submission document LPRSUB007. Can the Council confirm when it is likely to publish/report to Members its AMR for 2021/22 monitoring period?

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Moving the Examination Forward

- 15 Given the issues identified in this letter, I am proposing to hold the hearings in two stages. The first stage of hearings will last approximately 2 weeks and will cover legal compliance, settlement hierarchy, housing and employment requirements, the spatial strategy including reasonable alternatives (including Sustainability Appraisal), the overarching approach to the Garden Settlement proposals and their deliverability, Invicta Barracks, the Leeds-Langley Relief Road policy and preliminary considerations of the housing trajectory/deliverable land supply.
- 16 Subject to the outcome of Stage 1, the anticipation would be to move to Stage 2 hearings to consider Maidstone town centre, various proposed site allocations, potentially matters of detail relating to the Garden Settlements and the proposed development management policies. Stage 2 would likely involve 3 weeks of hearings towards the end of 2022.
- 17 My strong preference would be to hold the hearings in person at a venue in Maidstone. I would be grateful if the Council could liaise with the Programme Officer on identifying and securing a suitable public venue for the Stage 1 hearings in September. My preferred date would be to open the hearings on Tuesday 6 September. This would appear to fit with the Council's Local Development Scheme.
- 18 Working back, if hearings are possible in early September, it would be my intention to issue my Matters, Issues and Questions (MIQs), guidance notes and draft programme for the Stage 1 hearings in the first week of July and to provide a 6 week timeframe⁷ for any statements in response to my MIQs.
- 19 I trust this initial letter is constructive and indicates to the Council those areas where the Examination will primarily focus in the first instance. I would like the Council to respond to the IIQs I have raised in this letter by no later than **Friday 24 June** so that I can reflect on any additional information in my MIQs for the Stage 1 hearings. If there are any aspects of this letter where the Council requires further clarification from me, please do not hesitate to raise the matter via the Programme Officer.

Yours sincerely

David Spencer

Inspector.

⁷ The Planning Inspectorate Procedural Guide on Local Plan Examinations indicates 2-3 weeks to prepare statements but in this case 6 weeks would appropriately mitigate for any impact of the holiday period.