

**Report of the Cabinet Meeting to be held on 19 March 2024  
– Maidstone Borough Local Plan Review 2021-38 Adoption**

<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Planning, Infrastructure and Economic Development Policy Advisory Committee (PIED PAC).	18 March 2024
Cabinet	19 March 2024
Council	20 March 2024

<b>Wards affected</b>	All
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**Executive Summary**

This report outlines the matters relating to the Maidstone Borough Local Plan Review 2021-28 Adoption. As this report has been published before the matter's consideration by the PIED PAC and Cabinet, the recommendations made are subject to change and are dependent on the Cabinet's final recommendation to the Council.

**The Cabinet are being asked to make the following recommendations to the Council: That**

1. The Maidstone Borough Local Plan Review (2021-2038) at Appendix D to the report of Cabinet held on the 19 March 2024, which incorporates the Inspector's Main Modifications, and the Policies Map at Appendix E to the report of Cabinet held on the 19 March 2024, be adopted; and
2. The Head of Spatial Planning and Economic Development be given delegated authority to make any non-material, typographical corrections, and formatting changes, as required.

# **Report of the Cabinet Meeting to be held on 19 March 2024 – Maidstone Borough Local Plan Review 2021-38 Adoption**

## **1. REASONS FOR RECOMMENDATION**

- 1.1 The Maidstone Borough Local Plan Review work commenced in 2018. An extensive evidence base has been prepared which underpins the content of the review. The Local Plan Review was subject to three stages of public consultation before it was submitted for Independent Examination.
- 1.2 The Maidstone Borough Local Plan Review is a comprehensive document, providing a full suite of policies which underpin an overall strategy for how, when and where development will be delivered in the period to 2038. To this extent the Local Plan Review's policies and site allocations work together as a coherent package and should be read and applied as such. The document once adopted will be consolidated with the saved policies of the Maidstone Local Plan 2011-31 and form part of the Development Plan for the Borough. The saved policies are set out in appendix 3 of the Maidstone Local Plan 2021- 2038.

### **Local Plan Review Examination**

- 1.3 At its 6 October 2021 meeting, Full Council agreed, amongst other matters, the submission of the Local Plan Review documents to the Secretary of State for Levelling Up, Housing and Communities for examination under Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended). Delegated authority was also given to the Strategic Planning and Infrastructure Committee to agree a schedule of proposed Main Modifications. On 31 March 2022, the Maidstone Borough Local Plan Review (Draft for Submission) was submitted to the Secretary of State, for examination.
- 1.4 The Secretary of State appointed Mr David Spencer BA(Hons) DipTP MRTPI as the Inspector to examine the Plan. The Inspector's role is to make an independent assessment of whether the Plan is sound and whether it meets the requisite legal tests, including the duty to co-operate.
- 1.5 Examination hearings commenced on 6 September 2022, and the last hearing was held on 9 June 2023. On 11 January and 5 July 2023, the Inspector issued Interim Findings which contained his emerging conclusions on key points. The Examination was a rigorous, public and transparent process. The Inspector had before him all the written submissions made by objectors and supporters of the Plan during the Regulation 19 consultation. He also had the evidential documents prepared by and for the Council and a variety of other relevant documents such as statements of common ground. These were all published on the Council's website. He used these to prepare an agenda of key matters, issues and questions for each of the hearing sessions.
- 1.6 Those who made comments at Regulation 19 stage and requested to attend the hearing sessions were invited to submit written representations to the

Inspector's questions. All attending parties were able to prepare written responses to the Inspector's questions in advance. At the hearings themselves, the Inspector led the discussion, structured around his written agenda. All parties had the opportunity to make their case and to challenge the points made by others. In total there were 23 days of hearings, all of which were open to the public and were webcast. The Inspector's objective was to ensure he had sufficient information to make a fully informed decision about the soundness of the Local Plan Review. Where information was missing or unclear, he asked for it to be supplied.

- 1.7 Throughout the Examination, a list of proposed Main Modifications was gradually compiled. After the last hearing, the Inspector finalised the schedule of proposed Main Modifications which he considered, at that stage, were likely to be needed to make the Plan sound. The Cabinet agreed these for public consultation at its meeting on 20 September 2023. The Cabinet also agreed a separate schedule of Minor Changes for consultation. These Minor Changes comprised factual updates, clarifications, corrections of a minor nature, changes needed as a consequence of the proposed Main Modifications and Policies Map changes.
- 1.8 The public consultation on the proposed Main Modifications, the associated Sustainability Appraisal Addendum and Habitats Regulation Assessment Addendum ran from 29 September to 13 November 2023. Final versions of these documents are attached in Appendix C and Appendix F. The consultation responses received were published and passed to the Inspector. He has taken these responses into account in reaching his final conclusions on the Local Plan Review.
- 1.9 Following the receipt of the representations to the Main Modifications Consultation the Inspector held a technical consultation from the 15 January to the 14 February 2024 on evidence base documents. He has also taken these responses into account in reaching his final conclusions on the Local Plan Review.
- 1.10 The Inspector's Final Report was received on 8 March 2024. It can be found at Appendix A. It is also available on the Council's website here: <https://localplan.maidstone.gov.uk/home/local-plan-review-examination>
- 1.11 The Inspector concludes that 'that the duty to cooperate has been met and that with the recommended main modifications set out ... the Maidstone Local Plan Review satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.' The Inspector's Report includes a schedule of the Main Modifications (which are appended to the Inspector's Report). The Report confirms that the Plan has complied with the legal requirements, including the duty to co-operate. All the specified Main Modifications are non-negotiable and needed for the Plan to be sound.
- 1.12 There is no option at this stage to change the Plan prior to adoption. The only exception would be non-material, typographical corrections and formatting changes.
- 1.13 The adoption version of the Maidstone Borough Local Plan Review is included in Appendix D. The adoption version incorporates:

- The Inspector's Main Modifications
- The 'Minor Changes' • Changes which are directly consequential to the Main Modifications (e.g., updated cross references)
- Updated foreword to reflect that the Plan has reached adoption stage
- Factual updates (e.g., updated references to legislation)
- Typographical corrections and formatting changes.

## **Policies Map**

1.14 The Policies Map accompanies the Plan and shows the geographical areas to which various policies of the Plan apply. Whilst the Policies Map is not examined by the Inspector, the Main Modifications which he requires result in corresponding changes to the Policies Map. The adoption version of Policies Map is available at Appendix E.

## **Context & implications for adoption of the Local Plan Review**

- 1.15 There are statutory duties for the Local Planning Authority to have a Local Plan and keep it up to date. Section 38 of the Planning and Compulsory Purchase Act 2004 and section 70 of the Town & Country Planning Act 1990 (as amended) requires Local Planning Authorities to have a Development Plan and to consider planning applications and development proposals in accordance with the Local Plan. Pursuant to regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) local planning authorities must also review their local development plan every 5 years from their adoption date.
- 1.16 A decision to adopt the Maidstone Borough Local Plan Review, incorporating the Main Modifications, would mean that the Council would have an up to date and National Planning Policy Framework-compliant Local Plan which can be given full weight in planning decisions. This will enable the Council to take control of future planning decisions in the borough, avoiding unplanned for development and 'planning by appeal'.
- 1.17 It should also be noted that Invicta Park Barracks is already contained within the Maidstone Borough Local Plan 2011-2031 and allocated for 1,300 units. However, the Maidstone Borough Local Plan Review has more rigorous requirements including the need for a supplementary planning document to ensure that this development comes forward in the most sustainable way possible.
- 1.18 Adoption of the Maidstone Borough Local Plan Review will help secure the 5- and 15-year housing land supply requirements set out in the National Planning Policy Framework. Upon adoption of the Local Plan Review, the Council immediately becomes exempt from the requirement to annually identify and update the 5-year housing land supply. This exemption continues to apply for five years post-adoption. This can give the Council greater confidence should it decide to refuse speculative applications in the borough.
- 1.19 Adoption demonstrates that the Council is planning positively for the future. It provides increased certainty for residents, landowners, developers and

businesses about the circumstances where development will and will not be acceptable. It also provides certainty and clarity for those preparing neighbourhood plans.

1.20 Should the Council not adopt the Maidstone Borough Local Plan Review then the Council will not have an up-to-date Local Plan for the purposes of decision-making. This would have the following principal risks:

- Potential for loss of control over future locations of new development
- Planning by appeal
- Intervention by the Secretary of State
- Future ongoing and proposed planning policy documents would potentially not be able to proceed until an alternative Maidstone Borough Local Plan Review was in place
- Legal challenges from site owners and promoters

1.21 To not have a development plan in place would lead to speculative applications across the Borough, rather than the certainty given through the site allocations within the proposed plan. The Council's 5-year housing land supply position would be placed at significant risk. Not adopting the Plan would mean that the existing Local Plan policies would be used to make decisions and they do not fully reflect the Council's current and future priorities. The Council would not have robust and up-to-date policies to implement inclusive growth and climate change ambitions and would likely face an increasing number of speculative applications and appeals which could incur significant costs.

1.22 Furthermore, the Borough's housing requirement may increase. The borough's annual housing requirement figure has already increased since the submission of the Local Plan Review, from 1,157 homes per year, to 1,226 homes per year (currently). The lower figure of 1,157 homes per year is essentially 'locked in' to the Local Plan Review. However, outside of the Local Plan Review, this figure is updated annually – usually at the end of March. Should the plan not be adopted, it can be expected that the authority's annual housing requirement will continue to increase – necessitating the identification of a greater number of sites/more land to provide the homes to meet the increased requirement. In the absence of a plan, the Council are largely beholden to the development industry bringing forward sites of their choosing to deliver the required housing numbers.

1.23 The Government previously announced that it will intervene where councils are not making sufficient progress with their Local Plans. The Government reasserted this in December 2023<sup>1</sup>.

1.24 There are a number of documents that are currently part of the planning policy workstream that lead on from the Maidstone Borough Local Plan Review. It is highly unlikely that the Government would allow the Council to proceed with these documents where there is not an up-to-date local plan in place. It should be noted that these documents would add significant value to the decision-making processes and would include, for example, the Design and Sustainability DPD and supplementary planning documents for

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<sup>1</sup> [Written statements - Written questions, answers and statements - UK Parliament](#)

three key strategic development locations (Heathlands Garden Community, Invicta Park Barracks and Lidsing Garden Community) to ensure that significant development comes forward in as sustainable way as possible and with the engagement of relevant local communities and stakeholders.

1.25 If the Local Plan review is not adopted, the production process would start again. It would take several years before a new plan could be in place, due to the requirement to refresh the evidence base, assess alternative spatial strategies and go through several rounds of public consultation and a new examination, with associated costs and risks.

1.26 It is recommended that the Local Plan Review be adopted.

### **Next Steps**

1.27 If the Council decides to adopt the Local Plan Review, then the next step is to publish an Adoption Statement (Appendix B) as soon as reasonably practicable and to send a copy of the Adoption Statement to everyone who requested to be notified of the adoption of the Plan. A copy of the Adoption Statement must also be sent to the Secretary of State.

1.28 In addition, the Local Plan Review documents, including the final Sustainability Appraisal Report (Appendix C) will be published on the website and made available for inspection at the designated inspection points across the Borough as set out in the Statement of Community Involvement. These include:

- Maidstone House, King Street, Maidstone, Kent ME15 6JQ
- Libraries throughout the borough

1.29 It should be noted that there is a legal mechanism to challenge adoption through the High Court.

At its 19 March 2024 Meeting, the Cabinet will be requested to consider making the following recommendations to Full Council, that:

1. The Maidstone Borough Local Plan Review (2021-2038) at Appendix D, which incorporates the Inspector's Main Modifications, and the Policies Map at Appendix E, be adopted; and
2. The Head of Spatial Planning and Economic Development be given delegated authority to make any non-material, typographical corrections, and formatting changes, as required.

The recommendations made by the Cabinet, if any, will be reported orally to the Council at the 20 March 2024 meeting.

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## **2. AVAILABLE OPTIONS**

### **Local Plan Review Adoption/Non-Adoption**

- 2.1 Option 1 - That the Local Plan Review incorporating the Main Modifications and Policies Map be adopted by the Council.
- 2.2 Option 2 - That the Local Plan Review incorporating the Main Modifications and the Policies Map are not adopted by the Council.

### **Delegation**

- 2.3 Option 1 - That delegated authority be given to the Head of Spatial Planning and Economic Development to make non-material, typographical corrections, and formatting changes, as necessary. This ensures that any subsequent minor corrections are able to be made to the Local Plan Review in the most efficient manner.
  - 2.4 Option 2 – That delegated authority is not given to the Head of Spatial Planning and Economic Development to make non-material, typographical corrections, and formatting changes, as necessary.
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## **3. REPORT APPENDICES**

- Appendix A: The Planning Inspector’s Report on the Examination of the Maidstone Local Plan Review
- Appendix B: Adoption Statement
- Appendix C: Maidstone Local Plan Review Sustainability Appraisal SA Report Addendum: Amended Main Modifications
- Appendix D: Maidstone Borough Local Plan Review 2021-2038 – version for adoption
- Appendix E: Maidstone Borough Local Plan Review 2021-2038: Policies Map – version for adoption
- Appendix F: Maidstone Borough Local Plan Review Habitat Regulation Assessment Report Addendum Amended Main Modifications

The appendices can be access through the Cabinet agenda papers for the 19 March 2024 meeting: [Your Councillors - Maidstone Borough Council](#)

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## **4. BACKGROUND PAPERS**

None.