

## Officer Executive Decisions

### **Title: Response to Ministry of Housing Communities and Local Government (MHCLG) Consultation on Proposed Revisions to the National Planning Policy Framework**

**Delegation from Leader and Cabinet and date:** The Cabinet considered a report on 10 April 2018 relating to the Council's proposed response to the MHCLG consultation. The Cabinet agreed:

- (i) to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Leader and Portfolio Holders for Planning, Economic Growth and Regulation & Inward Investment, Strategic Regeneration and Partnerships to submit Medway Council's formal response to the Ministry of Housing Communities and Local Government (MHCLG) setting out concerns about the proposals contained in the consultation (decision no. 56/2018 refers)
- (ii) to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Leader and Portfolio Holders for Planning, Economic Growth and Regulation & Inward Investment, Strategic Regeneration and Partnerships to submit the Council's response to the consultation on supporting housing delivery through developer contributions to the MHCLG as highlighted in paragraph 4.44 of the report (decision no. 57/2018 refers).

The report may be viewed online:

<https://democracy.medway.gov.uk/ielIssueDetails.aspx?Id=22603&Opt=3>

**Decision:** The proposed responses were finalised following consultation with the Portfolio Holders for Planning, Economic Growth and Regulation and Inward Investment, Strategic Regeneration and Partnerships and is set out at Appendix A.

**Reasons for Decision:** In accordance with the Cabinet decision.

**Date of Decision:** 10 May 2018

**Officer:**

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**Details of any other options considered and rejected:** None

**Conflicts of Interest:** None





## CABINET

10 APRIL 2018

# RESPONSE TO MINISTRY OF HOUSING COMMUNITIES AND LOCAL GOVERNMENT (MHCLG) CONSULTATION ON PROPOSED REVISIONS TO THE NATIONAL PLANNING POLICY FRAMEWORK

Portfolio Holder: Councillor Jane Chitty, Planning, Economic Growth and Regulation  
Councillor Rodney Chambers OBE, Inward Investment, Strategic Regeneration and Partnerships

Report from: Richard Hicks, Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive

Author: Dave Harris, Head of Planning

### Summary

On 5 March 2018 the Ministry of Housing, Communities and Local Government published its consultation on revisions to the National Planning Policy Framework (NPPF) 2012. These revisions implement policy changes previously consulted on through the Housing White Paper (Fixing our broken housing market) 2017, Planning and affordable housing for build to rent – a consultation paper 2017 and planning for the right homes in the right places consultation 2017.

This report will summarise the proposed changes to the NPPF and will set out the key areas of focus, while appendix 1 provides more detail on the consultation document and sets out the 43 questions being asked in the consultation, with a draft response for consideration and approval by Cabinet

## 1. Budget and Policy Framework

- 1.1 Responses to MHCLG consultations, where the consultation has implications for delivery of the Council's planning service and the Local Plan, is a matter for Cabinet

## **2. Background**

- 2.1 In 2012 the Government released the first National Planning Policy Framework (NPPF), which essentially tried to consolidate 1,000 page of National Planning Policy into a single document.
- 2.2 This consultation seeks views on revisions to the NPPF, which seek to implement policy changes promoted through the Housing White Paper (fixing our broken housing market) 2017, Planning and Affordable Housing for build for rent (2017); and Planning for the Right Homes in the Right Places consultation 2017. Medway Council has previously responded to the Housing White Paper and more recently the right homes in the right places consultation. Attached at Appendix 2 is the response to the Right Homes in the Right Places consultation (which was considered by Cabinet on 24 October 2017).
- 2.3 The Government intends to publish the final Framework before this summer.

## **3. Options**

- 3.1 The following options are available to the Council:
  - (i) Do not respond to the consultation and implement any changes that are enacted by the Government in legislation, following consideration of the responses to the consultation;
  - (ii) Respond, as set out in the attached draft response in Appendix 1.

## **4. Advice and analysis**

- 4.1 The following is a brief summary of the key areas contained in the revised NPPF consultation. The Government have billed it as “new fairer effective planning rules to unlock land for housing delivery”. Very clearly the emphasis of the revisions is set out from the start, as providing greater focus towards housing delivery compared to the previous emphasis on promoting economic growth. Considering that the document refers continually to a presumption in favour of sustainable development, that change in focus solely towards housing delivery seems to fly in the face of providing sustainable communities and place making based around sound economic growth, which should be the real focus, of which housing delivery forms a part NOT the main focus. This immediately sets the tone for a consultation document that contains some good elements, but also some areas of real concern to Medway and proper planning to deliver high quality sustainable communities of the future that provide for growth, with the necessary infrastructure and protect what is important in the historic and natural environment, to provide places that people want to live in and visit.

### *Sustainable Development*

- 4.2 As with the existing NPPF, Sustainable Development as a principle remains at the heart of the document. The wording of the presumption in favour of sustainable development has been re-ordered to reflect the way that plan making and decision making are approached in practice. There is an expectation that Objectively Assessed Needs (OAN) will be accommodated, including any unmet needs from neighbouring areas, unless there are

STRONG reasons not to. The revised Framework sets out a defined list for restricting development and this includes sites protected under Birds and Habitats directive, Sites of Special Scientific Interest (SSSIs), Green Belt, Local Green Space, Areas of outstanding natural beauty (AONB's), Heritage Coast, National Park, irreplaceable habitats including ancient woodland, aged or veteran trees, designated heritage assets and areas at risk of flooding. It does not refer to policies in development plans.

- 4.3 The three high level objectives for planning – Economic, Social and Environmental – have been amended to explain clearly how these relate to the presumption in favour of sustainable development to address the aspects that had been subject to litigation. This mostly relates to clarification to circumstances where there are no Development Plan policies or the policies are out of date and to refusing rather than restricting development.

#### *Plan Making*

- 4.4 This section is seeking to address concerns from Developers and Local Authorities alike at the length of time the Development Plan process takes. In this respect, the revisions include some positive elements including amending the test for a sound plan so that it should set out “an appropriate strategy” rather than “the most appropriate strategy”; Local Plans to be reviewed every 5 years from adoption; and tightening the evidence, which is expected to support a sound plan to be proportionate.
- 4.5 In addition, the revisions take forward previous consultation proposals. In order to meet the soundness test, Local Planning Authorities will need to prepare a statement of common ground as evidence of the duty to co-operate (with neighbouring authorities) and a new approach to viability, to ensure that the requirements on developments are deliverable.
- 4.6 Further changes include amendment to the positively prepared soundness test to emphasise the role of plans in meeting the OAN for housing.

#### *Decision Making*

- 4.7 The emphasis is on approving applications for sustainable development where possible. The desire for pre application engagement and front loading is re-iterated and this is something that Medway and Kent Authorities are leading on through the Planning Protocol. In terms of conditions, there is the encouragement for early agreement on wording and avoidance where possible, of pre commencement conditions.
- 4.8 The revisions touch on planning obligations and viability. It advises that viability assessments should not be required where a development accords with development plan policies (and presumably any developer contributions guide), and that all viability assessments should be made publicly available. There is a reference to draft national planning guidance, which says that Development Plans should define circumstances when a viability assessment should be carried out. The guidance also sets out when and how review mechanisms may be used to amend developer contributions to help to account for significant changes in costs and values. This could include Plans setting out how such mechanisms could be used where values increase and

how the increase can be apportioned between the developer and the Local Authority. This is considered to be a really positive suggestion.

- 4.9 There is reference to applications for permissions in principle (PiP) and that local validation lists do not apply to them. Medway (and developers) have previously expressed concern over PiPs and will not be encouraging their use but will continue to positively engage through the planning application process using the commitments set out in the Planning Protocol.

### *Housing Supply*

- 4.10 This section provides the greatest area of contention and concern amongst most Council's in the South East, including Kent and Medway.
- 4.11 The revision includes a paragraph (61) that introduces the new standard methodology for the calculation of Local Housing Need. Medway has previously responded forcefully on this aspect and while it is not a question in the consultation, it must be appropriate to forcefully repeat the strong concerns that exist about the appropriateness of the methodology. In areas like the South East, where affordability of housing is most challenging, the Government propose an affordability index, which increases the housing target. This will require more houses of mixed type and tenure to be built and could result in reduced house prices. There are many concerns to this approach, which were set out in the Council's previous response to the "Right homes in the right places" consultation. However, in addition the Government's own advisor - Oliver Letwin's interim report has highlighted a number of concerns, which include Developers building out slowly to manage the market (recognising that there are just 10 major housebuilders building 60% of the housing in the country), as well as both a skills and materials shortage. He also refers to concerns regarding the availability of capital, constrained logistics on site, and constraints from utilities, land remediation and problems with local transport infrastructure. All of these issues are currently outside the control of Local Planning Authorities and need to be addressed. Letwin's final report will not be until at least August~~June~~ 2018 and it seems wrong that the standard methodology should be promoted in advance of the final report and other measures to assist housing delivery introduced. The standard methodology will require additional land to be allocated/given permission, but will not speed up housebuilding or deliver the additional housing needed if the Development Industry itself cannot meet the challenge.
- 4.12 New paragraph 62 requires the use of Development Plan policies that address the housing requirements to meet the needs of the area including affordable housing, families with children, older people, students, people with disabilities, service families, travellers, private rent and custom/self build.
- 4.13 Paragraph 63 requires that where the need for affordable housing is identified, policies should specify the type of affordable housing required and expect it to be met on site unless off site provision or contributions in lieu can be justified or the agreed approach contributes to objective of balanced communities. Paragraph 64 states that affordable housing should only be required on major sites and restates that brownfield sites can be reduced using the vacant building credit. Medway has previously raised concern that any reduction from the Local Plan affordable housing policy requirement on~~the amount of~~

~~affordable housing on~~ brownfield sites should be established through viability assessments, not through the use of the vacant building credit, which seems illogical.

- 4.14 In paragraph 65 the revisions introduce the requirement for at least 10% of homes on major sites to be available for affordable home ownership, subject to certain exemptions. The potential area of concern is that in Medway, homes for affordable rent is the key area of need and policies should seek to require affordable housing to meet the specific needs of an area.
- 4.15 There is also an expectation that Plans should provide a housing requirement for designated neighbourhood areas.
- 4.16 In order to encourage greater use of small sites and the development of SMEs into the market, the revisions require that Plans show at least 20% of the sites allocated are of half a hectare or less. The principle of this is recognised and discussions are taking place locally with the development industry, as to how best to bring this forward through the emerging Local Plan. Following discussions with a number of SME's and major housebuilders it is considered that both thresholds are wrong. The 20% should relate to the total housing figure in Local Plans not the number of site allocations and 0.5ha is far too small. SME's suggest sites of that size normally come forward as windfall sites and actually what they require in terms of allocations is sites of 50-100 dwellings, which the large volume housebuilders will not normally go for. Consideration should also be given to encouraging partnerships between volume housebuilders and SME's with the SME's possibly taking parts of larger sites but accessed separately. Initial thoughts are that the size threshold is appropriate and that a possibility is to require larger sites to include smaller areas for development by SMEs to develop.
- 4.17 The revisions then propose measures relating to supply and delivery, in particular, to bring in the Housing Delivery Test. Essentially this means that despite any allocations in an up to date Local Plan, from 2020 where housing delivery is below 75% of the Local Authority's housing requirement, then the presumption in favour of sustainable development will apply to applications for development on non allocated sites. The consultation also refers to the local government finance settlement technical consultation and the possibility that new homes bonus could be linked to the delivery test or the use of the standard approach to local housing need. The housing delivery test and the potential link to new homes bonus provides considerable concern, particularly if the target the council is judged against is the standard methodology. Firstly housing delivery is affected by the economic climate (which is outside the influence of the Council) and thereby is to a degree volatile. Secondly, as described in the Letwin interim report, there are a lot of factors relating to housing delivery that are outside of the control of the Council. Medway prides itself in being pro regeneration and significant positive work is undertaken by a number of teams within the Council – Planning, Regeneration and the Council's Housing Company – to encourage high quality development on appropriate sites and, even in advance of the Local Plan, significant planning permissions are being granted (despite significant local objection) to assist in meeting local housing need. Despite much positive action the development industry has on average only delivered 561 houses per year over the last 3 years (closer to 700 last year). This is only approximately 34% of the target of 1665 dwellings per year that would be required using the standard

methodology and thus well short of the 75% delivery target referred to above and thus could result in significant permissions being granted on appeal outside of allocations in a recently adopted Local Plan, as well as implications for New Homes Bonus payments, through no fault of the Council. This cannot be acceptable. Until the concerns and constraints identified by Letwin are appropriately dealt with Planning Authorities should not be penalised by a test over which they have limited influence. In addition, significant weight should be given to steps that the Authority are taking to positively address housebuilding.

- 4.18 The revisions also set out proposals for a 5 year housing land supply position to be agreed for a 1 year period and, where this is done, a 10% buffer will be applied. A further proposal is to allow the commencement condition to be reduced to 2 years unless that would hinder viability or deliverability.
- 4.19 Paragraph 72, re-introduces the idea of starter homes as exception sites, which could be for sale or rent and should be outside existing settlements on land not already allocated. This would need to be carefully thought through within policies in the Development Plan and must demonstrate that it meets a local need.

#### *Building a Strong, Competitive Economy*

- 4.20 The initial paragraphs make more explicit the importance of supporting business growth explicit and the section now brings within it the rural economy with the potential need for local policies to accommodate sites for businesses and community needs outside existing settlements. In principle all of this reads well and is supported and should be developed within Local Plan policies. There is, however, concern that the positivity of this section runs into conflict with the continued use of permitted development rights to change business premises into residential uses, which has resulted in existing businesses closing and cannot be correct when promoting business growth. In addition many conversions have resulted in poor standards of accommodation and amenity for prospective occupiers and do not relate well to surrounding development. Medway recognise the value of this section in the NPPF and this should facilitate positive consideration of appropriate employment sites to come forward for redevelopment through the normal planning process, rather than the blunt permitted development process, which has resulted in the loss of important businesses. Properly and positively considering proposals through the normal application process can protect essential businesses and employment, while bringing forward for conversion appropriate sites but making sure that a high standard of accommodation and amenity is provided for prospective occupiers and avoid providing the slums of tomorrow (which is what is happening in many cases)

#### *Ensuring the vitality of town centres*

- 4.21 The NPPF revisions support the role of Town Centres, and that plan policies should look at least 10 years ahead, but recognise the uncertainty in forecasting long term retail trends. Town centre boundaries should be kept under review and where town centres are in decline, there will be support for diversification, subject to meeting the community's day to day needs.



- 4.22 The sequential approach to planning applications has been changed to provide more support to Town Centre or Edge of Centre sites, as opposed to Out of Centre sites. However, office developments outside centres will be subject to the same sequential approach, but will not be subject to an impact assessment.

*Promoting healthy and safe communities*

- 4.23 In this section, paragraph 94 states that policies and decisions should consider the social and economic benefits of estate renewal and that planning powers should help deliver high quality estate regeneration.
- 4.24 There is additional recognition of the role of planning in promoting social interaction and healthy lifestyles and that planning policies and decisions should promote public safety including taking account of wider defence and security requirements.

*Promoting sustainable transport*

- 4.25 There is an expectation that Plans and decisions should identify additional development opportunities arising from Strategic infrastructure investment.
- 4.26 In terms of parking, maximum standards should only be used with compelling justification and in town centres parking should be convenient, safe, and secure and link to measures promoting accessibility for pedestrians and cyclists.
- 4.27 The section emphasises the importance of transport issues and the need to address them through the planning process while paragraph 105f sets out a new policy to recognise the importance of maintaining a national network of general aviation facilities relating to their economic value in serving business, leisure, training and emergency service needs.
- 4.28 In terms of considering development proposals, the traffic impact of proposals has been amended to refer to highway safety as well as capacity and congestion in order to promote prioritisation of the pedestrian and cycle, public transport (where possible) and the importance of creating well designed places.

*Supporting high quality communications*

- 4.29 The Government support further expansion of electronic communications networks and therefore expect Local Plan policies to set out expectations in relation to the delivery of high quality digital infrastructure from a range of providers.

*Making effective use of land*

- 4.30 Planning policies should promote effective use of land in meeting needs utilising previously developed or brown field land, but safeguarding and

improving the environment and ensuring safe and healthy living conditions. Changes to the NPPF include making more intensive use of land and buildings, avoiding building at low densities in areas of high demand and being flexible to policies that would inhibit effective use, but consider carefully daylight and sunlight issues.

- 4.31 There is encouragement to making more effective use of empty space above shops; reallocating land where there is no reasonable prospect of an application for its allocated use; making it easier to convert retail and employment land where housing would be a more effective use; and bring in minimum density standards in centres and around transport hubs unless this would be inappropriate.
- 4.32 In principle, this is accepted in terms of drafting Plan policies and determining applications, but similar to a previous section, the implementation of Permitted development rights has resulted in changes to areas in terms of loss of retail, community uses and employment that is harmful to the character and vitality of areas as well as providing substandard and poor accommodation. It is better that this is properly assessed and controlled through positive plan policies and application determination rather than blanket implementation of Permitted Development rights that could result in harm.

#### *Achieving well designed places*

- 4.33 The revised NPPF states that Plans should set out clear design vision and expectations, supported by design guides and codes utilising assessment frameworks such as building for life. There is emphasis on pre application discussions and acknowledgement that poor design should be refused, that design should not be used as a refusal reason if development accords with policies. While there is a support for outstanding or innovative design they should be in context and sensitive to their surroundings.
- 4.34 While it is not considered that there is anything intrinsically wrong with the section, there is a worry that such a short section on an important issue, which is key to the way people feel about where they live and the associated public health benefits linked to place making, may be given reduced weight compared to the requirement to deliver housing at appropriate densities, with resultant poor quality and unsustainable development being allowed (particularly on appeal). The importance of place making and good design cannot be understated.

#### *Protecting the Green Belt*

- 4.35 The NPPF revision maintains the strong protection of the green belt and sets out the exceptional circumstances for changing green belt boundaries and that any green belt release should relate to previously developed land or land well served by public transport. The revisions allow for neighbourhood plans to change green belt boundaries if justified and for the impact to be off set through compensatory improvements. Facilities for existing cemeteries and development under a neighbourhood development order should not be regarded as inappropriate development.
- 4.36 Brownfield land in the Green Belt can come forward for an identified local affordable housing need where there is no harm to the openness. Exceptions

to inappropriate development in the Green Belt now would include appropriate facilities for outdoor sport, as well as limited affordable housing for local community needs.

*Meeting the challenge of climate change, flooding and coastal change.*

- 4.37 The NPPF revision makes clear that Plan policies should support measures to ensure future resilience of communities and infrastructure to climate change. It also brings in changes to considerations for wind energy developments to include consideration of community views. Plans should consider cumulative impacts of flood risk rather than just looking at individual sites while there is clarification on exception tests for development in locations at risk of flooding. There will also be further work on the clean growth strategy in terms of energy performance of buildings.

*Conserving and enhancing the natural environment*

- 4.38 Firstly the NPPF confirms that it is the applicant for a development who is responsible for mitigating the impact on their scheme of potential nuisance from existing development, such as live music venues and church bells.
- 4.39 The chapter includes an additional policy on strengthening existing networks of habitats, taking air quality fully into account, any development in AONB's should be limited and clarifies policy on heritage coast. There is strengthening of protection for ancient woodland but need to balance against important development schemes in the public interest.

*Conserving and enhancing the historic environment*

- 4.40 World heritage sites are to be recognised internationally for their outstanding universal value. Importantly for Medway, is that when considering impact of development on a designated heritage asset, great weight should be given to the asset's conservation.

*Facilitating the sustainable use of minerals*

- 4.41 Additional text on on-shore oil and gas development is included. While the chapter has been shortened the question raised by the NPPF is whether this should be a separate document alongside waste. It is considered by Medway that would indeed be helpful.

*Transitional arrangements and consequential changes*

- 4.42 There are limited transitional proposals and it is intended that the majority of the NPPF will come into effect immediately it is published. There will be transitional arrangements for the housing delivery test of less than 25% in 2018, rising to 45% in 2019 and then the final figure as set out of 75% in 2020.

*Going Further*

- 4.43 The final section emphasises the need to get more homes built but that more needs to be done. It considers that the permitted development rights referred to above have been successful in delivering homes – this is agreed but it is

challenged over harm that has been caused and substandard nature of some of the homes. More alarming is the proposal to introduce further permitted development for use of the airspace above existing residential and commercial premises to create new homes. There will be a future consultation on that

*Supporting housing delivery through developer contributions*

4.44 The Government is also consulting on a series of proposals on amendments to the Community infrastructure Levy and S106 agreements. Medway will need to consider and respond also to this consultation. The deadline for responses to this consultation is 10 May 2018. Therefore, it is recommended that the Cabinet agree to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Leader and Portfolio Holders for Planning, Economic Growth and Regulation & Inward Investment, Strategic Regeneration and Partnerships to submit the Council's response to the consultation on supporting housing delivery through developer to the MHCLG.

## 5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
1. Government ignore comments from Medway Council and introduce standard methodology as proposed	1. Delay to Local Plan production 2. Inspector does not find Local Plan sound 3. Council will have reduced 5 year housing land supply 4. Increased speculative applications 5. Cannot meet housing delivery targets 6. Do not get second additional 20% increase in planning fees	1 and 2. Evidence work continuing on Local Plan to justify housing target to be included in Plan 3 and 4. Need to continue to grant planning permission on more sustainable sites and encourage early implementation and delivery of sites 5 and 6 set out clearly measures taken to deliver housing being proactive – e.g Building company, implementation officer etc and demonstrate increase in delivery from previous years	B2

## **5. Financial implications**

- 5.1 The financial implications relate to the possibility of a second and additional 20% increase in planning fees and not securing that increase because we are unable to meet the housing delivery targets set out.
- 5.2 There is a chance of an increase in expenditure due to need to defend expensive public Inquiries, resulting from an increased number of speculative applications, due to lack of 5 year housing land supply and delay in producing Local Plan.

## **6. Legal implications**

- 6.1 As this is a consultation response there are no direct legal implications at this time.

## **7. Recommendations**

- 7.1 That the Cabinet agrees:
  - 7.1.1 This report and draft response to the direct questions in the consultation as set out in Appendix 1 to the report including the strong opposition to the use of standard methodology for calculating housing need, and;
  - 7.1.2 To delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Leader and Portfolio Holders for Planning, Economic Growth and Regulation & Inward Investment, Strategic Regeneration and Partnerships to submit Medway Council's formal response to the MCHLG setting out concerns about the proposals contained in the consultation.
- 7.2 That the Cabinet agrees to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Leader and Portfolio Holders for Planning, Economic Growth and Regulation & Inward Investment, Strategic Regeneration and Partnerships to submit the Council's response to the consultation on supporting housing delivery through developer contributions to the MHCLG as highlighted in paragraph 4.44 of the report.

## **8. Suggested reasons for decision(s)**

- 8.1 Medway Council is concerned about the recommendations contained within the consultation and specifically the standard methodology for calculating housing need. The consequences of the recommendations within the consultation are set out in the body of the report and in the responses to the questions in appendix 1 to the report.
- 8.2 The standard methodology recommended produces a housing target for Medway and other Kent Authorities that is not only unachievable, but would have serious and unacceptable implications for infrastructure and the valued and nationally and internationally protected landscape within Medway.

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## **Appendices**

Appendix 1 - Proposed Response to MHCLG Consultation questions in “National Planning Policy Framework consultation proposals.

Appendix 2 – Medway’s response to the Right Homes in the Right Places consultation (2017)

## **Background papers**

National Planning Policy Framework 2012

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Housing White Paper 2017

<https://www.gov.uk/government/collections/housing-white-paper>

Right Homes in the Right Places Consultation 2017

<https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals>

## Appendix 1

### **Response to MHCLG National Planning Policy Framework consultation proposals**

[The comments below must also be read in conjunction with the attached cabinet report.](#)

Cabinet members have expressed the STRONGEST OBJECTIONS to the use of the proposed standard method for assessing Housing need, stating that it WILL result in unachievable housing targets and undermine plans for locally driven sustainable development in Medway.

Objections are also raised to the use of the associated Housing Delivery Test, which does not address fully the reasons for housing delivery not meeting targets and places unfair consequences on even those Local Planning Authorities, such as Medway that are positively preparing a new Local Plan and are actively engaging with the development industry to promote high quality development in appropriate sustainable locations and indeed are recognised nationally in terms of partnership working being at the forefront of the development of the Planning Protocol delivering growth in Kent and Medway. Implementation of the Housing Delivery Test in its current form and in advance of the conclusions of the Letwin investigation and any recommendations contained therein would be premature and inappropriate.

As the Standard methodology is a key element in the NPPF revisions, consultation it is considered appropriate, before answering the 43 set questions in the consultation, to re-iterate Medway's concern regarding the use of the standard methodology. This concern must be seen in the context that Medway is working with the MHCLG to bring forward a new Local Plan, as quickly as possible, and is planning positively to deal with Medway's growth, while engaging with our neighbouring authorities. In addition, Medway is continuing to positively respond to applications in advance of the Local Plan and is granting planning permissions for significant developments on non allocated, but sustainable sites.

At the time of the work on the previous core strategy in 2014, the annual Objectively Assessed Needs (OAN) was 815 dwellings per year. With the recent Strategic Housing Market Assessment (SHMA) work as part of the current Local Plan, the annual OAN figure went up to 1281 based on a very robust assessment. There was little challenge to this figure by the development industry in their representations on the Local Plan consultations and in support of planning applications. The few that did challenge, calculated a significantly lower level than the 1665 dwellings per year generated by the new method. Initial discussions with DCLG policy team only 18 months ago when work was being undertaken on a draft methodology, indicated that the Medway figure was about right. The new methodology currently proposed would

result in an annual requirement of 1665, which is more than double the requirement of just 4 years ago and a 30% increase on the very recent SHMA figure.

Every single Kent Authority (with exception initially of one in the early years) would see an increase, including Swale and Maidstone, who have recently had their housing figures agreed by an Inspector through a Local Plan Examination. Indeed, their figures would increase by 35% and 40% from previous targets. Furthermore, every Authority in Kent would immediately no longer have a 5 year housing land supply and with that brings pressure from speculative housebuilding and approvals (possibly on appeal) for significant development on sites not included on any Local Plan. This would bring the whole planning process into disrepute.

Medway's figures would increase by 29%, over the OAN identified in the recent SHMA, a significant amount over a recently robustly assessed figure and in an area of Kent, which is the most affordable. Medway has grasped the nettle and is positively preparing a Local Plan with the intention of meeting the OAN figure of 1281, despite the fact that is already a significant increase over the previous 815 figure and also despite the fact the development industry has struggled to meet the lower figure. [The standard methodology](#) would potentially mean an extra 8000 dwellings over the Plan period, in addition to the 29,500 already being planned for.

Medway IS trying to plan positively and for the infrastructure necessary to support the growth predicted within the current SHMA. To meet its growth challenge, Medway requires significant infrastructure improvements, which must come in advance of or certainly at the same time as, the housing. In recognition of this, Medway has recently lodged an expression of interest bid for funding for infrastructure, as part of the Housing Infrastructure Fund and has been successful in the first round, which is a recognition of the need both for the infrastructure, but the positive and sustainable way Medway is planning for its growth.

Medway is also aware that the need to promote and encourage the development of SME's and different ways of delivering housing, such as modular housing if Medway is to get anywhere near the current housing target, as the traditional 10 large house builders simply will not deliver enough housing quickly enough. Medway currently has 3 sites being developed for modular house building including Kitchener Barracks, which is specifically referred to in the Housing White Paper. We are also encouraging the provision of a new factory(s) in Medway for modular house building.

Notwithstanding this, there are clear infrastructure constraints to development in Medway, while Medway is also blessed with significant national and internationally important environmental constraints, such as Special Protection Areas (SPA's), AONB, Green Belt, SSSI's, RAMSAR sites, protected coastline etc., which cover a lot of our rural area. So while Medway are planning positively, the current housing



targets are a challenge and a 29% increase would be unachievable for all the above reasons.

Medway is working hard to deliver a positive and sound Local Plan based on a robust assessment of housing need, as quickly as the necessary procedures allow. The proposed standard assessment for calculating Housing need is causing a significant delay to the Local Plan timetable. The recent consultation on Development Strategy included a scenario as to the implications of the implementation of the Standard methodology. All the scenarios now need further work and evidence testing including sustainability appraisals, strategic transport assessment, air quality work, infrastructure demands etc. While the proposals do allow for Councils to bring forward a Local Plan that does not meet the housing target set out using the new housing needs approach, it is very clear that to do so would require considerable evidential work. The Council is already undertaking significant work to try to deliver a new Local Plan within a very tight timeframe, but the work required to justify either that the standard approach figures could or could not be met is resulting in a delay in producing a Local Plan.

#### **Q1 Do you have any comments on the text of Chapter 1?**

[Medway agrees with the following comments made by the Thames Gateway Kent Partnership](#)

[We welcome in principle the renewed emphasis on the plan-led system; however many individual paragraphs in the draft NPPF serve to weaken that emphasis and we would urge the Government to review the text through to ensure that specific policies do not undermine the plan-led approach.](#)

[It is unclear why the Government has not taken the opportunity to incorporate planning policy for Traveler Sites into the NPPF; it would make sense to do so since some of the key considerations that should inform decisions about Traveler Sites reference policies in the NPPF](#)

#### **Q2 Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?**

Yes

#### **Q3 Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the framework?**

This makes logical sense

**Q4 Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?**

While additional certainty for neighbourhood plans is welcomed, the reference to the Housing Delivery Test in advance of proper consideration of the Letwin final report is not helpful. The Letwin final report must have implications for the delivery test as it will be so clear that delivery has so many aspects that are simply outside of the control of the Local Authority. The HDT should also not be based on the standard methodology but on the OAN figure agreed as part of a recently adopted Local Plan, while the test must factor in the starting point for any Council and the journey they have gone through.

**Q5 Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?**

The wording of the soundness tests is good in that it requires (positively prepared) a strategy to meet as *much as possible* the areas OAN – using clear and justified method to identify needs. Medway strongly believes it has and is doing this based on a positive and robust assessment of need (including housing). In addition the reference to meeting unmet need from neighbouring authorities is based on it being “practical to do so”. Medway welcomes the change to the justified soundness test to refer to **an appropriate** strategy taking into account **reasonable** alternatives and based on **proportionate** evidence. Medway feels it has effective joint working on cross boundary strategic matters and will evidence them in a statement of common ground.

**Q6 Do you have any other comments on the text of Chapter 3?**

No

**Q7 The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?**

Medway believes that in terms of open and transparent planning this appropriate.

**Q8 Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?**

In principle yes, [maybe by giving examples but not being too prescriptive.](#)

**Q9 What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi phased development?**

Medway would welcome this. It seems sensible that if having negotiated a viability assessment that reduces contributions, that if circumstances change and the marginality of the development improves, that the financial gains should be shared with the local community to off set the pressures of the development.

[Medway also shares the following TGKP comment - TGKP also endorses the approach set out in the accompanying draft Planning Practice Guidance on viability assessment where, amongst other things, it emphasized that existing use value is not the price paid for the land and should disregard hope value.](#)

**Q10 Do you have any comments on the text of Chapter 4?**

Medway would encourage the MHCLG to look at and consider the Planning Protocol - delivering growth in Kent and Medway. This has been signed up to by all Councils in Kent and Medway and with Kent Developers group and it is a fabulous example of partnership working and commitment between LPA's and the development industry and Medway has been at the forefront of driving it forward.

**Q11 What are your views on the most appropriate combination of Policy Requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?**

[Following discussions with a number of SME's and major housebuilders it is considered that both thresholds are wrong. The 20% should relate to the total housing figure in Local Plans not the number of site allocations \(although Medway feels that the 20% figure is too prescriptive\) and 0.5ha is far too small. SME's suggest sites of that size normally come forward as windfall sites and actually what they require in terms of allocations is sites of 50-100 dwellings, which the large volume housebuilders will not normally go for. Consideration should also be given to encouraging partnerships between volume housebuilders and SME's with the SME's possibly taking parts of larger sites but accessed separately. ~~To be completed — DH is meeting with major developers and SMEs over the next few weeks and will discuss with them which will then inform Medway's response.~~](#)

**Q12 Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?**

A categorical NO.

Medway has significant concerns about the Housing Delivery Test in advance of the final Letwin report and consideration of the issues flowing from that report which is essentially about the barriers to delivery – much of which lies outside the control of the LPA. For instance, the availability of skilled labour, materials, slow speed of utility companies, cost and time of land remediation etc . With only 10 major developers in the Country for instance, it is entirely possible for the development industry to slow the rate of delivery in order to get planning permission on non allocated green field sites despite an up to date Local Plan. In addition, there is a need to consider the positive steps that a LPA is taking to address housing delivery, sometimes in the face of significant constraints. For instance, Medway worked in partnership with both Berkeley and Countryside on housing sites in Medway to make sure development continued when it was highly likely that due to economic circumstances the sites would close. In addition, consideration should be given to the starting point in terms of housing delivery and where a LPA has been able to work with the development industry to get to. For instance, Medway has been achieving on average 561 dwellings per year over the last 3 years. That was closer to 700 last year. Our OAN target is currently 1261 and we are working hard with the development industry to increase delivery. However, if the standard methodology is accepted and we have a housing target of 1665 (while it is highly unlikely that the development industry can deliver that, let alone for it to be acceptable in environmental and infrastructure terms) then if Medway do not deliver 1249 dwellings per year (which is a 223% increase) then we will fail the 75% test – even if Medway was to get a 200% increase from 561 up to 1,122, which would be incredible on the basis of the test it would be penalised when it should be rewarded.

**Q13 Do you agree with the new policy on exception sites for entry level homes?**

While Medway recognises the benefits of this, there is a need to clarify how the local need aspect will work in reality and how the proportionate in size will be defined in order to avoid challenges through the appeal process and courts.

**Q14 Do you have any other comments on the text in Chapter 5?**

1. The revision includes a paragraph (61) that introduces the new standard methodology for the calculation of Local Housing Need. Medway has previously responded forcefully on this aspect and while it is not a question in the consultation, it must be appropriate to forcefully repeat the strong concerns that exist about the appropriateness of the methodology. Essentially in areas like the south east where affordability of housing is most challenging, the Government through their standard methodology propose an affordability index which then increases the housing target, on the basis that will require more houses of mixed type and tenure to be built and prices will drop. There are a great many concerns to this approach which were set out in the Council's previous response to the "Right homes in the right places"

consultation. However, in addition the Government's own advisor - Oliver Letwin – in his interim report has highlighted a number of concerns which include Developers building out slowly to manage the market (recognising that there are just 10 major housebuilders building 60% of the housing in the country) as well as both a skills shortage and a materials shortage. He also refers to concerns regarding the availability of capital, constrained logistics on site, constraints from utilities, land remediation and problems with local transport infrastructure. All of these issues are currently outside the control of Local Planning Authorities and need to be addressed. Letwin's final report will not be until ~~at earliest August~~ June and it seems wrong that the standard methodology should be promoted in advance of the final report and other measures to assist housing delivery introduced. The standard methodology will require additional land to be allocated/given permission but will not in itself speed up housebuilding or deliver the additional housing needed if the Development Industry itself cannot meet the challenge.

2. Medway is very disappointed in the continued use of the vacant building credit. The consultation document makes reference to viability and takes steps forward on that basis but then the reference to VBC is either unnecessary or double counting. It should be deleted, with assessment based on viability which will include costs of demolition, remediation etc. The inclusion of VBC is not only double counting but also could prejudice the delivery of much needed affordable housing in an area.
3. Medway is concerned over paragraph 65 and the reference only to affordable home ownership. It is important that through its Development Plan a LPA identifies its needs for an area including housing mix, housing needs and that should include for the percentage of affordable and the tenure mix, which should include sale and rent. It should not be for national policy to dictate local housing need in terms of tenure split.

**Q15 Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?**

Medway welcomes this chapter on building a strong and competitive economy.

**Q16 Do you have any other comments on the text of chapter 6?**

As advised in the cabinet report, Medway welcomes this chapter, which will assist in promoting sustainable areas and communities. However, the existing permitted development rights fly in the face of this aspiration and have and are resulting in the closure of viable businesses which is of significant concern to Medway and other Council's. There should be policies that encourage the re-use and appropriate redevelopment of redundant employment sites but not a blanket pd for conversion which results in the closure of viable businesses and also the provision of residential uses without any compliance to space standards or other amenity issues and is creating the slums of tomorrow. The permitted development is not providing the right type of homes necessarily and its use is contrary to the aims of the NPPF for

sustainable development. It would be better to have national and local policies guiding development than allowing poor substandard development through the implementation of pd rights.

**Q17 Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses.**

Yes - this is positive for the future of town centres

**Q18 Do you have any other comments on the text of Chapter 7?**

Similar to the answer to Q16 the implementation of pd rights in some cases is running contrary to the aspirations of the NPPF and local Development Plans and is actually harming the appearance and viability of Town centres, while providing in some cases for substandard accommodation. It would be better for the pd rights aspect to be deleted and for appropriate encouragement in national and local policy.

**Q19 Do you have any comments on the new policies in Chapter 8 that have not already been consulted upon?**

No Medway welcomes the chapter on promoting healthy and safe communities

**Q20 Do you have any other comments on the text of chapter 8?**

No

**Q21 Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?**

Yes

**Q22 Do you agree with the policy change that recognises the importance of general aviation facilities?**

Rochester benefits from a local airport and the benefits this brings for business, leisure and emergency service needs and therefore welcomes this policy change.

**Q23 Do you have any other comments on the text of Chapter 9?**

No

**Q24 Do you have any comments on the text of Chapter 10 (high quality communications)?**

No

**Q25 Do you agree with the proposed approaches to under utilised land, re-allocating land for other uses and making it easier to convert land which is in existing use/**

In principle yes, Medway agrees provided that this is secured through the appropriate wording of national and local policies and proper assessment of planning applications and NOT through the application of pd rights which could result in inappropriate uses, detrimental impact to areas and poor living standards.

**Q26 Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing need?**

Again in principle yes, but this must be linked to other chapters particularly in terms of requiring high quality design and amenity.

**Q27 Do you have any other comments on the text in Chapter 11?**

No

**Q28 Do you have any comments on the changes of Policy in Chapter 12 (well designed places) that have not already been consulted upon?**

Medway do not think that there is anything intrinsically wrong with this section, but have a concern about how short it is for such an important issue as design and place making. This has huge implications for people's health and well being and can make the difference between successful places and unsuccessful which links to so many other parts of the NPPF including sustainable development, transport, health etc. It is about place making, providing places that people want to live with high quality design and amenity etc.. The section maybe needs greater emphasis.

**Q29 Do you have any other comments on the text of Chapter 12?**

No

**Q30 Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are "not inappropriate" in the Green Belt?**

Yes

**Q31 Do you have any other comments on the text of Chapter 13?**

No

**Q32 Do you have any comments on the text of Chapter 14 (Climate change and flooding)?**

No

**Q33 Does paragraph 149b need any further amendment to reflect the ambitions in the clean growth strategy to reduce emissions from buildings?**

No

**Q34 Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 year Environment Plan and national infrastructure requirements, including the level of protection of ancient woodland and aged or veteran trees?**

Agreed and note the need to balance environment protection without preventing development schemes that are in the public interest.

**Q35 Do you have any other comments on the text of Chapter 15 (natural environment)?**

No

**Q36 Do you have any comments on the text of Chapter 16 (historic environment)?**

In principle Medway agrees to the added support for designated heritage assets, but similarly recognises the need for balance in bringing forward schemes of significant public benefit.

**Q37 Do you have any comments on the changes of Policy in Chapter 17 (minerals) or on any other aspects of the text of this chapter?**

No

**Q38 Do you think that planning policy on minerals would be better contained in a separate document?**

Yes

**Q39 Do you have any views on the utility of national and sub national guidelines on future aggregates provision?**

No

**Q40 Do you agree with the proposed transitional arrangements?**



Medway, as stated several times above, is very concerned regarding the inclusion and implementation of the Housing Delivery Test, prior to further more considered thoughts about housing delivery that will flow from the Letwin report and conclusions.

**Q41 Do you think that any changes should be made to the planning policy for traveller sites as a result of the proposed changes to the Framework set out in this document?**

No Medway would ~~acheecho~~ the comments of TGKP that planning policy for traveller sites should be incorporated into the NPPF rather than as a separate document

**Q42 Do you think that any changes should be made to the planning policy for waste as a result of the proposed changes to the Framework set out in this document?**

No

**Q43 Do you have any comments on the glossary?**

No Medway supports the following comments from TGKP:

TGKP commented in response to last year's Housing White Paper on the definition of affordable housing and we would reiterate those points here:

"We are not persuaded that starter homes and discounted market sales should be classified as affordable housing and do not therefore agree with the proposal [to revise the definition of affordable housing]. The effect of this policy could see 'affordable housing' obligations being proposed that focus purely on home purchase models and fail to address the needs of lower income households for whom ownership is beyond their reach. There is a vast difference between households that might qualify for starter homes, with household incomes up to £80,000 – which would place them within the richest quartile of UK households – and those at or below average household income (currently £31,920). Whilst we welcome a menu of affordable housing options, and recognise the challenge that even relatively affluent households have in getting on the home ownership ladder, the solutions brought forward through developments and the way in which affordable housing obligations are met need to be genuinely matched to local needs and circumstances. Local planning authorities should be able to resist proposals where the 'affordable housing' component ignores the identified local housing needs of lower income households who cannot afford to buy.

"We do not therefore support the proposition that home ownership products should be treated as a component of affordable housing, but suggest that starter homes and discounted market sales should be sought in addition to products that genuinely serve the needs of lower income households."

We acknowledge that the Government has taken some steps to ensure that affordable housing remains affordable for subsequent occupiers. However, there is no explicit reference to social rented housing, and tying the definition to a range of current products and models could reduce flexibility to respond to new possibilities. It would be better if the definition set down clear principles leaving the tenure mix and types for local determination.

## **Going Further**

Medway Council does have significant concerns on the going further section.

Throughout this response, we have raised concerns regarding the harm from the implementation of permitted development rights. We recognise that 30,000 new homes have been secured in this way, but feel that a significant proportion would have been secured through the normal planning process encouraged by the appropriate wording of national and local policies, and that this could have been achieved in a far more positive way without the loss of viable businesses and the provision of substandard unsustainable accommodation for instance.

Medway would strongly discourage the introduction of permitted development rights for the use of airspace and, again, would strongly recommend that this is re-thought through with the development of appropriate national and local policies, so that where such development is appropriate, it can be secured in the highest quality and least harmful way. The blunt use of pd rights could result in significantly harmful developments, of poor quality and design and amenity for prospective and existing residents.



## CABINET

24 OCTOBER 2017

### RESPONSE TO DCLG CONSULTATION “PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES”

Portfolio Holder: Councillor Jane Chitty, Planning, Economic Growth and Regulation  
Councillor Rodney Chambers OBE, Inward Investment, Strategic Regeneration and Partnerships

Report from: Richard Hicks, Director of Regeneration, Culture, Environment and Transformation

Author: Dave Harris, Head of Planning  
Catherine Smith, Planning Manager Policy

#### Summary

On 14 September 2017, Department for Communities and Local Government (DCLG) published details of a consultation, “Planning for the right homes in the right places” on further measures to boost housing supply in England. This follows on from the Government Housing White Paper published in February 2017 “Fixing our broken housing market”.

This report summarises the consultation document, whilst appendix 1 provides more detail on the consultation document and sets out the 19 questions being asked in the consultation, with a draft response for consideration and approval by Cabinet.

#### 1. Budget and Policy Framework

1.1 Responses to DCLG consultations, where the consultation has implications for delivery of the Council’s planning service and the Local Plan, is a matter for Cabinet.

#### 2. Background

2.1 The Government has set ambitions to significantly boost the supply of housing, and seeks to use the planning system to support new housebuilding. The Housing White Paper published in February 2017 outlined a range of measures that the Government identified as speeding up and bringing greater certainty to the development process. The White Paper included notice that

the Government would consult on options for introducing a standardised approach to assessing housing requirements. This aims for a more transparent and consistent basis for preparing Local Plans, removing a ground of challenge between developers and local authorities that can slow down the planning process and involve considerable expense.

2.2 On 14 September 2017, DCLG published details of a consultation, 'Planning for the right homes in the right places'<sup>1</sup>, on further measures to boost housing supply in England. The consultation runs until 9 November 2017. The main components of the consultation document are proposals for:

- A standard method for calculating local authorities' housing need;
- A statement of common ground to improve how local authorities work together to meet housing and other needs across boundaries;
- How neighbourhood planning groups can have greater certainty on the level of housing need to plan for;
- Making the use of viability assessments simpler, quicker and more transparent; and
- Increased planning application fees in those areas where local planning authorities are delivering the homes their communities need.

### 3. Options

3.1 The following options are available to the Council:

- (i) Do not respond to the consultation and implement any changes that are enacted by the Government in legislation, following consideration of the responses to the consultation;
- (ii) Respond as set out in the attached draft response in Appendix 1; or
- (iii) Respond as per (ii) but also require officers to engage with Kent Planning Officers Group, other Councils in Kent (or North Kent) and MPs and provide a co-ordinated response in addition to clearly setting out agreed responses.

### 4. Advice and analysis

4.1 The key area of the consultation document relates to the Government's proposal to introduce a standard methodology for the calculation of Local Housing Need, which will then be used for calculating housing requirements for inclusion in Local Plans and in calculating 5 year Housing Land Supply. In commenting on the principle of such a standard methodology in response to the Housing White Paper, Medway Council was supportive in principle. This was partly because it considered that it had already undertaken a robust calculation of Objectively Assessed Needs through the Strategic Housing Market Assessment work on the Local Plan and consultation on the calculation had revealed little challenge from the Development Industry, and

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<sup>1</sup> *Planning for the right homes in the right places: consultation proposals, September 2017, available at:*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/64495/5/Planning\\_for\\_Homes\\_consultation\\_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/64495/5/Planning_for_Homes_consultation_document.pdf)

partly because a standard methodology would save time and public money expense at both Local Plan and Planning Application Public Inquiries.

- 4.2 The Government, within its consultation, has produced a standard methodology for consultation which has significant implications for Council's across the Country but particularly for the South East, including Medway, as explained below.

### 4.3 Issues arising on Local Housing Need

- 4.3.1 Alongside the consultation document, DCLG published a data table<sup>2</sup> setting out the indicative levels of annual housing need for local planning authorities in England. The table uses the proposed formula for calculating housing need for the period 2016-2026. The new methodology has resulted in marked changes across the country.
- 4.3.2 The Government has indicated that Medway requires 1665 dwellings a year as it's local housing need. The Council commissioned independent consultants in 2015 to produce a Strategic Housing Market Assessment (SHMA)<sup>3</sup> as a core component of its Local Plan evidence base. This work determined that the Objectively Assessed Need (OAN) for housing in Medway is 1281 dwellings a year. This has been used to assess the housing needed over the plan period (2012-2035) as 29,463 homes. The Council has been working to identify land that could meet this level of housing, together with employment, retail and infrastructure needs. The proposed methodology therefore represents a large increase in the level of housing needed in Medway – a 29% uplift which would represent 38,295 houses for the plan period (2012-2035).
- 4.3.3 The Council considers that the work carried out in 2015 to establish the housing need for the Local Plan followed a robust methodology. There have been limited challenges to the findings of the SHMA from developers. The few representations made to the Local Plan that defined a higher level of OAN were significantly below the 1665 figure generated by the proposed standard method. Other Councils in Kent have also carried out recent assessments of housing needs, some of which have been recently successfully tested through the Examination of Local Plans. These authorities have also seen substantial rises in their OAN levels.
- 4.3.4 Although the Government states that it's proposed approach represents a 5% increase across England on the 'upper end' of Council OAN estimates, there is significant variation throughout the country. Nearly half of authorities have seen a fall in their level of housing need; these are largely in the north. However, where there are increases, mostly in the south and east, the average rise is 35%.

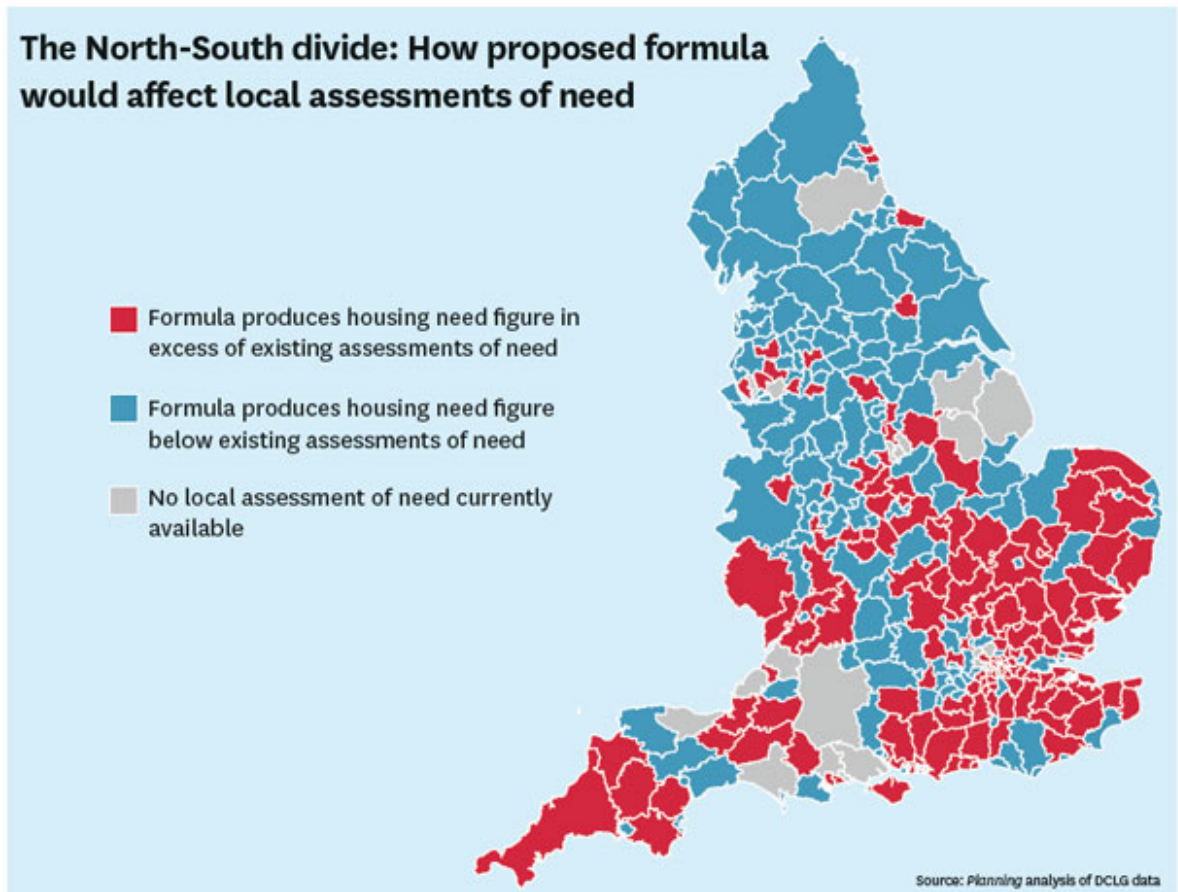
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<sup>2</sup> *Housing need consultation data table, September 2017, available at: <https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals>*

<sup>3</sup> *Strategic Housing Market Assessment, November 2015, available at: <http://www.medway.gov.uk/pdf/Medway%20SHMA%20Final%20Report.pdf>*

4.3.5 This is the picture in wider Kent. In the County only Shepway has seen a decrease in it's OAN, but this is only for a temporary period under a capping criteria, and it also will rise significantly in a couple of years. Canterbury, Dartford, Gravesham, Maidstone, and Swale have all seen increases of over 30%.

4.3.6 The graphic below from "Planning" magazine illustrates the varying impact of the proposed method across England.



4.3.7 There is widespread concern that there is not capacity to accommodate this scale of growth, either within Medway, or wider Kent, without placing unacceptable pressures on infrastructure or the environment. There are also significant challenges to demonstrate that such rates of development could be delivered in the next 10 years.

4.3.8 The consultation document refers to the standard methodology for housing needs as a 'starting point' for housing targets in Local Plans. There is recognition that there may be environmental or other constraints that prevent authorities from meeting this level of housing need. The reference is then made to the Duty to Cooperate with other authorities to determine how any unmet need could be redistributed across a wider area.

4.3.8 The experience of recent Planning consultations has shown that proposals published by Government for consultation provide a strong indication of upcoming policy revisions.

## 4.4 Implications arising from the consultation document

### *Local Housing Needs*

- 4.4.1 The Planning Service is working on the next stage of the Local Plan for consultation in early 2018. This involves the identification of the Council's preferred approach for strategic locations and sites to meet the area's development needs. The emerging Local Plan is seeking to meet a need of circa. 29,500 homes. The 29% increase in the OAN presents significant challenges. A crude calculation for the housing needs for the Medway Local Plan, using the proposed standard method indicates that this could increase to 38,295 (increase of 8,832 homes).
- 4.4.2 The application of the standard method will have major impacts on the housing target for the Local Plan. It is understood that the proposed methodology provides a 'starting point' for setting a housing target, and there may be a number of constraints that limit the capacity to deliver such a scale of growth. However, with the publication of this proposed approach, the Government has created uncertainties that existing OAN calculations are sound. This places increased expectations on authorities to further strengthen their evidence to support locally derived development strategies.
- 4.4.3 The Council will now need to collate further evidence, incurring expense and delays to the plan preparation to consider the options and impacts of delivering the higher level of growth. Existing evidence indicates that there are likely to be significant challenges to delivering such an increase in housing. The strengthened evidence base must therefore establish the area's capacity to accommodate sustainable development, which may determine a housing target lower than the proposed level of OAN. This will include assessment of infrastructure requirements, environmental impacts and consideration of other development needs dependencies. The Council will also need to determine how development can be delivered and viability, together with cross boundary impacts with other authorities' growth strategies.
- 4.4.4 There is also a negative impact on the development management process, as it is proposed that the standard method will be used from April 2018 as the basis for calculating the Council's five year land supply. As the market has been volatile in recent years, house building rates have not been meeting levels of defined need. Use of the higher OAN figure will weaken the Council's five year land supply position, thus providing further grounds of challenge from developers.
- 4.4.5 The development industry is now well aware of the indicative OAN targets set for Local Planning Authorities, and will seek to use the increase in housing need to make the case for further allocations in the Local Plan and particularly to secure planning consents in advance of the plan. The Council will be challenged if it does not consider the latest OAN figure in progressing to the next stage of the plan making process. If the Council is to successfully establish a lower OAN that represents a sustainable and deliverable level of growth in Medway, a strengthened evidence base will be required.

*Statement of common ground*

- 4.4.5 It is proposed that authorities must prepare a statement of common ground over the housing market area to set out cross boundary matters, including the housing need for the area, distribution and proposals for meeting any shortfalls.
- 4.4.7 Medway's housing market area was considered in the Medway Strategic Housing Market Assessment in 2015. Due to the size of the urban area, this was defined as a wide area with connections to neighbouring boroughs in Gravesham, Swale, Tonbridge & Malling, and Maidstone. Therefore, the Council will need to work collaboratively in producing a statement of common ground, so that this is in place within 12 months of the publication of the revisions to the National Planning Policy Framework. It is expected that the Council will need to have an outline statement in place by Autumn 2018.
- 4.4.8 All other authorities within Medway's housing market area have also seen substantial increases in the calculation of their local housing needs from the proposed standard approach. Maidstone has increased by 40%, Swale by 37% and Tonbridge and Malling by 30%. Although there is a significant increase in Gravesham on its Core Strategy housing target, the DCLG figure is closer to the Council's updated OAN determined in its SHMA.
- 4.4.9 In the case of Maidstone and Swale, both authorities have recently taken their Local Plans through Examination towards adoption. Gravesham intends to consult on its first stage of Land Allocations and Development Management Plan in October 2017, and Tonbridge and Malling aims to publish its draft plan for consultation in Spring 2018.
- 4.4.10 Not only does the proposed increase in local housing need present significant challenges for Medway in progressing its Local Plan and establishing a sustainable and deliverable strategy for managing growth, authorities in the wider housing market area will also be struggling to identify the capacity to accommodate this scale of development. At recent Local Plan Examinations, all authorities in Kent have been tested on the ability to deliver their development strategy, particularly on securing strategic infrastructure upgrades required to support growth.
- 4.4.11 The scale of increase in housing needs across North/Mid Kent will likely place unacceptable pressures on infrastructure and services, as well as the capacity of the environment to accommodate such a scale of growth. There is also much uncertainty that the development industry could, or would wish to, deliver this volume of new housebuilding in the area over a short period of time. There are well acknowledged issues of labour and skills shortages and access to development finance in the housebuilding sector, together with consideration of market factors that influence the release of new homes.
- 4.4.12 At this stage it is hard to envisage that the authorities within Medway's housing market area would be able to determine the means of meeting the scale of housing needs proposed to satisfy the Government's expectations on putting statements of common ground in place.



4.4.13 Discussions have started with neighbouring authorities and underway on a strategic county and sub-county basis. A formal process will be needed that includes member engagement.

### *Proposed approach to viability assessment*

4.4.14 There will be more robust testing of Local Plans to prove that the development strategy is deliverable. This will place additional expectations on the Council to identify and cost the infrastructure required to support the level and mix of development proposed in the Local Plan. The Council needs to prepare for this through strengthening its evidence base and testing of sites and strategic locations to demonstrate deliverability, including phasing and how and when infrastructure will come forward to support housebuilding.

4.4.15 In determining the preferred development strategy to promote in the draft Local Plan, the Council will need to consider how and when the portfolio of selected sites will be delivered. It needs to address potential risks of delays and constraints attached to strategic sites, where there are common issues of major infrastructure investments prior to housing delivery, and release of sites being timed by market considerations. In assessing which sites should be selected as development allocations in the Local Plan, the Council will need further information from developers and site promoters on delivery and how they will contribute towards meeting infrastructure needs.

4.4.16 Initial reactions to this proposal in the consultation paper have raised queries from the development and planning sectors on the feasibility of effectively managing viability testing at the plan making stage, when market conditions can vary significantly over time.

### *Planning fees*

4.4.17 The Council welcomes the Government's statement that it will bring forward regulations at the earliest opportunity to increase planning fees by 20% for those authorities that will commit to investing the income in improving the productivity of their planning departments.

4.4.18 However, Medway could miss out on the potential of securing a further 20% increase on planning fees income, due to the market not delivering the high level of housing need proposed by the new methodology.

## **4.5 Conclusions**

4.5.1 The Council has identified a number of concerns arising from the proposed changes to the Planning System set out in the consultation document. These are set out above and in the responses to the set questions in Appendix 1. It is the Government's intention to speed up the development process and to introduce more certainty into Planning. It is therefore disappointing that the implications of these proposed changes will create more uncertainty in the short term, and have a direct impact on the timing and costs of preparing Medway's Local Plan, and undermine the authority's work in providing a locally led development planning strategy.

4.5.2 The Council will work with other planning authorities, particularly across Kent, at technical and political levels to voice concerns and evidence capacity constraints to growth. Officers will provide a position statement for use in determining planning applications and in appeals. The Council will also carry out additional work to secure the baseline information for the Local Plan, to ensure that it is sound.

4.5.3 Cross border discussions will continue to work towards having a statement of common ground progressed for next autumn.

## 5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
1. Government ignore comments from Medway Council and introduce standard methodology as proposed	1. Delay to Local Plan production 2. Inspector does not find Local Plan sound 3. Council will have reduced 5 year housing land supply 4. Increased speculative applications 5. Cannot meet housing delivery targets 6. Do not get second additional 20% increase in planning fees	1 and 2. Evidence work continuing on Local Plan to justify housing target to be included in Plan 3 and 4. Need to continue to grant planning permission on more sustainable sites and encourage early implementation and delivery of sites 5 and 6 set out clearly measures taken to deliver housing being proactive – e.g Building company, implementation officer etc and demonstrate increase in delivery from previous years	B2

## 6. Financial implications

6.1 The financial implications relate to the possibility of a second and additional 20% increase in planning fees and not securing that increase because we are unable to meet the housing delivery targets set out.

6.2 There is a chance of an increase in expenditure due to need to defend expensive public Inquiries, resulting from an increased number of speculative applications, due to lack of 5 year housing land supply and delay in producing Local Plan.

### 7. Legal implications

- 7.1 As this is a consultation response there are no direct legal implications at this time.

### 8. Recommendations

- 8.1 That the Cabinet agrees that this report and response to the direct questions in the consultation, as set out in Appendix 1 to the report, be sent to the DCLG as Medway Council's formal response to concerns about the proposals contained in the consultation.
- 8.2 That the Cabinet instructs officers work with other Kent Authorities and Kent Planning Officer Groups (KPOG) to promote joint responses expressing similar concerns to those set out in the report and Appendix 1 to the report.
- 8.3 That the Cabinet encourages the 3 local Medway MPs to lobby the Secretary of State on behalf of Medway to express clearly the concerns of Medway and other Kent Authorities about the proposals in this consultation.
- 8.4 That the Cabinet instructs the Leader and Chief Executive to raise the concerns of Medway at their various Kent and Medway Group meetings and to promote similar joint responses to the consultation.

### 9. Suggested reasons for decision(s)

- 9.1 Medway Council is concerned about the recommendations contained within the consultation and specifically the standard methodology for calculating housing need. The consequences of the recommendations within the consultation are set out in the body of the report and in the responses to the questions in appendix 1 to the report.
- 9.2 The standard methodology recommended produces a housing target for Medway and other Kent Authorities that is not only unachievable but would have serious and unacceptable implications for infrastructure and the valued and nationally and internationally protected landscape within Medway.

### Lead officer contact

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### Appendices

Appendix 1 - Proposed Response to DCLG consultation questions in "Planning for the right homes in the right places" consultation.

### Background papers

*Planning for the right homes in the right places: consultation proposals, September 2017, available at:*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/644955/Planning\\_for\\_Homes\\_consultation\\_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644955/Planning_for_Homes_consultation_document.pdf)

Housing need consultation data table, September 2017, available at:  
<https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals>

Strategic Housing Market Assessment, November 2015, available at:  
<http://www.medway.gov.uk/pdf/Medway%20SHMA%20Final%20Report.pdf>

### Appendix 1

#### **Response to DCLG consultation questions in “Planning for the right homes in the right places” consultation.**

Cabinet members have expressed the STRONGEST OBJECTIONS to the use of the proposed standard method, stating that it WILL result in unachievable housing targets and undermine plans for locally driven sustainable development in Medway.

#### **PROPOSED APPROACH TO CALCULATING THE LOCAL HOUSING NEED**

The proposed approach is in 3 steps:

1. Setting the baseline – This should continue to be projections of future household growth in each area.
2. An adjustment to take account of market signals. This is basically building in an affordability ratio linking median house prices to median earnings.
3. Capping the level of any increase. For those LPA's with Local Plan adopted in last 5 years this will be capped at 40% increase. For those without an up to date Local Plan the cap will be 40%, whichever is the higher of the projected household growth for their area or annual housing requirement.

The attached Cabinet report sets out very clearly the implications of this standard approach for Medway. At the time of the work on the previous core strategy in 2014 the annual Objectively Assessed Needs (OAN) was 815 dwellings per year. With the recent Strategic Housing Market Assessment (SHMA) work as part of the current Local Plan, the annual OAN figure went up to 1281 based on a very robust assessment. There was little challenge to this figure by the development industry in their representations on the Local Plan consultations and in support of planning applications. The few that did challenge, calculated a significantly level lower than the 1665 dwellings per year generated by the new method. Initial discussions with DCLG policy team a year ago when work was being undertaken on a draft methodology, indicated that the Medway figure was about right. The new methodology currently proposed would result in an annual requirement of 1665, which is more than double the requirement of just 3 years ago and a 30% increase on the very recent SHMA figure.

Every single Kent Authority (with exception initially of one in the early years) would see an increase, including Swale and Maidstone who have recently had their housing figures agreed by an Inspector through a Local Plan Examination. Indeed their figures would go up by 35% and 40% from previous targets. Furthermore, every Authority in Kent would immediately no longer have a 5 year housing land supply and with that brings pressure for speculative housebuilding and approvals

(possibly on appeal) for significant development on sites not included on any Local Plan. This would bring the whole planning process into disrepute.

Medway's figures would increase by 29%, over the OAN identified in the recent SHMA, a significant amount over a recently robustly assessed figure and in an area of Kent which is the most affordable. Medway has grasped the nettle and is positively preparing a Local Plan with the intention of meeting the OAN figure of 1281, despite the fact that is already a significant increase over the previous 815 figure and also despite the fact the development industry has struggled to meet the lower figure. This would potentially mean an extra 8000 dwellings over the Plan period in addition to the 29,500 already being planned for.

Medway IS trying to plan positively and for the infrastructure necessary to support the growth predicted within the current SHMA. To meet its growth challenge Medway requires significant infrastructure improvements, which must come in advance of or certainly at the same time as, the housing. In recognition of this Medway has recently lodged an expression of interest bid for funding for infrastructure, as part of the Housing Infrastructure Fund.

Medway is also aware that the need to promote and encourage the development of SME's and different ways of delivering housing, such as modular housing if Medway is to get anywhere near the current housing target, as the traditional 10 large house builders simply will not deliver enough housing or quickly. Medway currently has 3 sites being developed for modular house building including Kitchener Barracks, which is specifically referred to in the Housing White Paper. We are also encouraging the provision of a new factory(s) in Medway for modular house building.

Notwithstanding this, there are clear infrastructure constraints to development in Medway, while Medway is also blessed with significant national and internationally important environmental constraints, such as Special Protection Areas (SPA's), AONB, Green Belt, SSSI's, RAMSAR sites, protected coastline etc., which cover a lot of our rural area. So while Medway are planning positively, the current housing targets are a challenge and a 29% increase would be unachievable for all the above reasons.

Medway is working hard to deliver a positive and sound Local Plan based on a robust assessment of housing need, as quickly as the necessary procedures allow. The proposed standard assessment for calculating Housing need will cause a significant delay to the Local Plan timetable. While the proposals do allow for Councils to bring forward a Local Plan that does not meet the housing target set out using the new housing needs approach, it is very clear that to do so would require considerable evidential work. The Council is already undertaking significant work to try to deliver a new Local Plan within a very tight timeframe, but the work required to justify either that the standard approach figures could or could not be met will result

in a significant delay in producing a Local Plan. This would be a great frustration and to put this into context, Medway's current Local Plan dates back to 2003, despite 2 attempts to bring forward a Core Strategy, which both times got to an Examination in Public stage. The first time because an Inspector had concerns over an employment issue (which highlights the inconsistency of Inspectors while Inspectors now are encouraged to find solutions and ways forward) and the second time due to Lodge Hill and the fact that survey work presented during the Examination Hearing Sessions introduced new information on ecology interests, which subsequently led to the designation of an extended SSSI. A further delay to production of a Local Plan now would be to penalise Medway again for aspects outside of our control and place further pressure for speculative house building, raising increasing public concern over the Planning process. This would limit Medway's ability to plan comprehensively for the wider development needs and meet the strategic objectives set for the plan.

### Question 1

- a) Do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered.**
- b) How can information on local housing need be made more transparent**

No, the council strongly objects to the proposed standard approach, as it considers it flawed and ineffective in addressing the real issue of housing delivery. In commenting on the Housing White Paper, Medway supported the principle of a standard approach to calculating housing need, as it would potentially avoid costly time at both Local Plan Examinations and Planning Appeal Inquiries. However, for all the above reasons (and those set out in the Cabinet report) Medway cannot support the standard approach being put forward now and strongly recommends that it is completely re-thought and something fairer and more deliverable for the South East and the Country is brought forward.

The proposed standard methodology overly relies on one market signal, the housing affordability ratio. This does not provide a robust methodology to account for local circumstances. In seeking to establish a standard approach, the proposals have resulted in an overly simplistic method that distorts planning for housing needs, undermines national strategies for economic growth, and promotes unachievable expectations for numbers of homes that the market can not deliver.

In common with much of the south east, Medway has high house prices and local people need better access to housing that they can afford. However the use of the standard methodology does not provide an effective context for Medway's housing market. Medway's housing affordability ratio is just below the national average. However housing in Medway is significantly more affordable than any other area in

Kent. Of 67 local authorities in the south east, Medway ranks as the sixth most affordable area. The huge uplift in housing needs produced by the standard methodology does not take account of this notable characteristic of Medway.

The council considers that its work carried out on a Strategic Housing Market Assessment to establish the housing need for its new Local Plan is robust and followed a transparent process. There have been limited challenges to the findings of the SHMA from developers. None of the few representations made to Local Plan consultations on this matter identified such a high level of housing need.

Neighbouring local planning authorities have had recent Local Plan Examinations where the findings of housing needs assessments have been found sound. These authorities have also seen substantial rises resulting from the application of the proposed method.

It is indisputable (reflected in widespread concern) that there is not the capacity to accommodate this scale of proposed growth, either within Medway, or wider Kent, without placing unacceptable pressures on infrastructure or the environment. There are also significant challenges to demonstrate that such rates of development could be delivered in the next 10 years.

The council challenges the statement at paragraph 13 in the consultation document that a standard approach to assessing local housing need would speed up the time taken to prepare Local Plans and give local communities greater control of development in their area.

The proposed standard approach is not reflective of clear guidance in the NPPF that Local Plans should be aspirational but realistic (para 154) and that strategies for housing should take full account of market and economic signals (para 158). Medway has undertaken a robust strategic housing assessment in line with para 159 while it is clear that the implementation of the proposed standard methodology would not meet the clear requirements of the NPPF.

It is understood that the proposed methodology provides a 'starting point' for setting a housing target, and there may be a number of constraints that limit the capacity to deliver such a scale of growth. However, with the publication of this proposed approach, the Government has created uncertainties that existing OAN calculations are sound. This places increased expectations on authorities to further strengthen their evidence to support locally derived development strategies.

The Council will now need to collate further evidence, incurring expense and delays to the plan preparation, to consider the options and impacts of delivering the higher level of growth. Existing evidence indicates that there are likely to be significant challenges to delivering such an increase in housing. The strengthened evidence base must therefore establish the area's capacity to accommodate sustainable



development, which may determine a housing target lower than the proposed level of housing need. This will include assessment of infrastructure requirements, environmental impacts and consideration of other development needs dependencies. The Council will also need to determine how development can be delivered and viability, together with cross boundary impacts with other authorities' growth strategies. The standard approach will therefore delay Local Plans NOT speed them up

The standard approach proposed is not simpler and no more transparent than the current process. Government should review the proposed methodology.

### Question 2

**Do you agree with the proposal that an assessment of local housing need should be relied upon for a period of 2 years from the date the plan is to be submitted**

It is agreed that there needs to be a period of stability where the housing figures remain at a set level. This will help to avoid the necessity for expensive and time consuming days at Inquiries into planning appeals. However, it is questioned if a period of 2 years is long enough, given the process involved in submitting a plan for Examination, and potential further consultation on main modifications before a plan can reach Adoption stage. This period needs to be extended.

In addition the government needs to acknowledge that adopted Local Plan housing targets, that are sufficiently up to date, and which have been subject to robust independent examination and testing of the evidence base, provide the certainty that the development sector, councils and local communities need.

The Governments actions, through the consultation, have caused increased uncertainty already, which is impacting on Local Plan delivery.

In order to provide for planning certainty, the standard methodology should not be used to undermine adopted Local Plan targets. National planning policy should not provide the grounds for encouraging speculative unsustainable development. This is very much promoting planning by appeal in the face of local opposition rather than involving communities in the production of collaborative and consultative Local Plans. This is clearly contrary to the aspirations of the Localism Act.

### Question 3

**Do you agree that we should amend national planning policy so that a sound plan should identify local housing need using a clear and justified method.**

We question the criteria by which Inspectors will determine if a defined level of housing need is based on a clear and justified method. Although the consultation document indicates the Local Housing Need is a 'starting point' in identifying the appropriate Local Plan housing target, experience shows that developers will continue to use the methodology to challenge any variation from that level. This involves additional costs and time for local authorities and introduces further uncertainty.

In paragraph 40, the consultation document states the proposed approach will 'give communities greater control of where much-needed homes should be built...and provide a level of certainty for the public and plan makers'.

The implications of the proposed approach in identifying undeliverable levels of housing need completely contradict this intention.

The proposals will hamper the council in managing and delivering locally led growth, and undermine certainty, as it leaves the area at greater risk of speculative development.

This is very much promoting planning by appeal in the face of local opposition rather than involving communities in the production of collaborative and consultative Local Plans. This is clearly contrary to the aspirations of the Localism Act.

### **Question 4**

**Do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from Planning Inspectors?**

Medway Council has already carried out a robust and rigorous assessment of housing need based on realistic assumptions, as have many authorities in Kent, including those that have very recently got their plans through an Examination process with the methodology and figures agreed. This rigorous assessment was carried out clearly following requirements of para 159 of the NPPF. Notwithstanding that, the proposed figures using the standard methodology are significantly higher. Medway does not consider the proposed approach to be the correct one, with the likely consequence of all the concerns identified above.

The reliance on the flawed methodology is not accepted by the council. Further guidance should be provided on the criteria and process by which alternative methods may be examined by Inspectors, such as the use of wider market criteria and demographic analysis as promoted in the NPPF.

**Question 5**

- a) **Do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some Local Authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such a deferral be permitted?**
- b) **Do you consider that authorities that have an adopted joint Local Plan or which are covered by an adopted spatial development strategy, should be able to assess their 5 year land supply and/or be measured for the purpose of the housing delivery test, across the area as a whole?**
- c) **Do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or emerging local figure for housing need for the purposes of calculating 5 year land supply and to be measured for the purposes of the housing delivery test?**

Considering the preceding paragraphs to these questions, they are not relevant to Medway, although consideration should be given to where a LPA are promoting an ambitious plan to deliver housing, such as a new market town or such like. This will rely on significant infrastructure delivery, which is the subject of a successful bid for funding and therefore likely to come forward, in which case that Authority should be allowed discretion by the Secretary of State, in terms of applying the base line and 5 year housing land supply.

The council has strong and serious concerns about the implications of the use of the standard method on the five year housing land supply position. As the market has been volatile in recent years, house building rates have not been meeting levels of defined need. Use of the higher figure of local housing needs will have serious implications for the Council's five year land supply position, thus providing further grounds of challenge from developers.

If the government wishes to promote sustainable growth, it needs to provide discretion in the application of the standard method, to avoid undermining Local Plans and encouraging speculative proposals that fail to deliver the balanced development needed. To not do so is contrary to the Governments own NPPF and runs contrary to the aspirations of the Localism Act

**Question 6**

**Do you agree with the transitional arrangements for introducing the standard approach for calculating local housing need?**

No, Medway strongly objects to this proposal. It considers that it has spent considerable time producing a SHMA (which is consistent with Government guidelines for production set out in the NPPF), which contains a robust assessment of housing need and that this has been the subject of extensive public consultation, the comments from which are being assessed. This has all been undertaken in accordance with the NPPF. It should be noted that the public, while accepting the housing crisis and need for housing are still concerned about the high numbers (the 1281 figure) and the implications for infrastructure and natural environment. By imposing the new approach on Medway, we will not have a published plan by March 2018. An increase of 29% will have huge consequences for Medway in terms of further work in relation to evidence, as well as public consultation. This will significantly delay production of the Local Plan, while also bringing into question Government's role in dictating significantly increased local housing figures on an area where infrastructure (roads, schools, doctors, water etc.) is already under huge strain and environmental constraints are equally significant.

The consultation document fails to recognise the time taken for many developments to come forward, despite supportive planning environments. Complex sites, particularly in brownfield locations which are at the centre of government policy for sustainable development, frequently take years to build out.

It is very clear that the use of Standard approach is NOT realistic and therefore is contrary to para 154 of the NPPF

### **STATEMENT OF COMMON GROUND**

#### **QUESTION 7**

- a) Do you agree with the proposed administrative arrangements for preparing the statement of common ground?**
- b) How do you consider a statement of common ground should be implemented in areas where there is a mayor with strategic plan making powers?**
- c) Do you consider there to be a role for directly elected mayors without strategic plan-making powers, in the production of a statement of common ground?**

There have been issues in a few Authorities with the Duty to Cooperate (D2C) and some Local Plans have been found unsound. Many plans have been found sound though and the D2C process has worked, recognising that it is not a duty to agree. One of the fundamental issues has been that the problems that exist now have existed since the abolition of Regional Strategies.

- a) Having made those points, Medway agrees with the proposed first step of a statement of common ground (SOCG) should be to identify key cross border

strategic planning issues, including housing and infrastructure. Medway also agrees that for SOCG to work there is a need to work with neighbouring authorities to produce a Strategic Housing Market Assessment and indeed Medway has done this. There is a risk that the new process introduces additional opportunities for challenge to Local Plans, and therefore local planning authorities will seek to include more detail in SOCGs, thereby making the process more resource intensive, potentially detracting from other areas of work.

The council questions the practicalities of achieving the content and consensus on decision making sought in the proposed approach to the statement of common ground. Neighbouring authorities are at very different positions in their plan making, which is likely to complicate and influence the work on statements of common ground.

Not only does the proposed increase in local housing need present significant challenges for Medway in progressing its Local Plan and establishing a sustainable and deliverable strategy for managing growth, authorities in the wider housing market area will also be struggling to identify the capacity to accommodate this scale of development. At recent Local Plan Examinations, all authorities in Kent have been tested on the ability to deliver their development strategy, particularly on securing strategic infrastructure upgrades required to support growth.

The scale of increase in housing needs across North/Mid Kent will likely place unacceptable pressures on infrastructure and services, as well as the capacity of the environment to accommodate such a scale of growth. There is also much uncertainty that the development industry could, or would wish to, deliver this volume of new housebuilding in the area over a short period of time. There are well acknowledged issues of labour and skills shortages and access to development finance in the housebuilding sector, together with consideration of market factors that influence the release of new homes.

At this stage it is hard to envisage that the authorities within Medway's housing market area would be able to determine the means of meeting the scale of housing needs proposed to satisfy the Government's expectations on putting statements of common ground in place.

- b) Medway Council does not have or wish to introduce a Mayor with strategic plan-making powers.
- c). Medway Council does not have or wish to introduce a directly elected Mayor with or without strategic plan-making powers.

### Question 8

**Do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross boundary planning matters?**

The proposal in the consultation is that within 6 months the contents of a SOCG should contain:

- Identify the Geographical area.
- Key cross boundary matters.
- Identify the relevant authorities.
- Governance arrangements.
- How it will be kept up to date.

Then within 12 months the SOCG should also include:

- The process for agreeing the distribution of housing need, including unmet need.
- Keep records of agreements and disagreements on key strategic matters.
- Other key strategic cross boundary matters.

This will undoubtedly cause delay to the Local Plan process, as it is clearly an additional area of work that will take time, including officer and member time, which will increase with the number of Authorities involved and thereby signatures required. It is likely that there will be multiple agreements, as strategic matters operate over different geographies and stakeholders. The Council agree with the RTPI view that “frequent tinkering with the planning system is severely disruptive to the day to day tasks of planning and delivery”.

The scale of growth that would be proposed in Kent and Medway through use of the standard method requires major investment in new infrastructure and complex work to determine if suitable sites could be identified to deliver growth. It is therefore unlikely within 12 months of the publication of the revised NPPF that the distribution of housing need, including unmet need could be achieved. Please see our answer to Question 7, indicating our concerns on ability to satisfy the requirements of the statement of common ground.

### Question 9

- a) **Do you agree with the proposal to amend the test of soundness to include that:**
- i) **Plans should be prepared based on a strategy informed by agreements over the wider area; and**

- ii) **Plans should be based on effective joint working on cross boundary strategic priorities, which are evidenced in the statement of common ground?**
- b) **Do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?**

a) i) Do not agree with this, as the D2C and the SOCG are not a requirement to agree. So if there are areas of disagreement how would that impact on the soundness of a plan. It would create doubt and uncertainty and potential areas of conflict. Medway does agree that the SOCG (or D2C) should be a consideration on whether the Plan is sound or not and that Plans should be informed by the SOCG.

Plans should be “informed by” rather than “based on”. Medway supports strategic working, such as through its involvement in the Thames Gateway Kent Partnership and many initiatives and coordinating boards at a Kent and Medway level. Medways working practice has always been to work positively with its partners. Our concerns therefore relate to the criteria and requirements that would be applied through the proposed changes.

b) The proposal is that the new tests do not need to be applied until 12 months after the proposed revision to the NPPF. Medway understands this, but that would still mean that you could have multiple authorities at different stages in their Local Plan process and therefore working to different rules, which would then disadvantage those at an earlier stage in their plan process. The different positions in the plan making process will present considerable challenges to coordinate work and align evidence bases.

## **PLANNING FOR A MIX OF HOUSING NEEDS**

The proposal here is to disaggregate the total housing need into the overall needs for each type of housing as part of the plan making. The issues here for consideration are:

- Impact on timescales.
- How do you get evidence on every type and tenure.
- NPPF, Annex 2, which provides a definition of older people, and this reflects the range of people at different ages and with different needs.

### **Question 10**

- a) **Do you have suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help to plan the needs of particular groups**

**b) Do you agree that the current definition of older people within the NPPF is still fit for purpose?**

- a) The Strategic Housing Market Assessment has provided this breakdown of housing need for particular groups. Although the needs of some groups can be identified reasonably clearly through published demographic information, the council considers that some areas require a more considered assessment to provide a robust evidence base and appropriate policy. The need for affordable housing is particularly important to define clearly. Developers sometimes challenge the policy requirement for affordable housing, and is necessary to show a clear evidence base that underpins the Local Plan targets and policies.
- b) Medway agrees.

## **NEIGHBOURHOOD PLANNING**

The proposal is that Local Plans should be clear on the apportionment of housing in neighbourhoods. Where the Local Plan is out of date though (like Medway) then the proposal is for a formula based approach which will apportion overall housing types to neighbourhoods.

### **Question 11**

- a) **Should a Local Plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?**
- b) **Do you agree with the proposal for a formula based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied upon as a basis for calculating housing need?**

- a) Yes. Clearly Local Plans should identify housing need for neighbourhoods BUT that housing need might not be able to be met in the most sustainable way in that neighbourhood and the Local Plan strategy may be that the housing need may be better met elsewhere and allocate accordingly, or conversely may look to that neighbourhood to take the housing need from another neighbourhood. That is part of the Local Plan process which is to identify housing need over the housing market area and then to allocate sites, which are the most sustainable and best meet the strategic objectives set for the plan.
- b) No, for the above reason as this might not be the most sustainable and appropriate way forward. It is overly simplistic and does not consider the context of the neighbourhood planning area, or its capacity to accommodate growth. For example, the one neighbouring planning area designated in Kent



contains much land of environmental importance, ie, SSSI and SPA, Grade 1 agricultural land, strategic sites for minerals, and Conservation Areas,

### VIABILITY

The consultation paper advises that its proposals for S106/CIL are short term with announcements on the wider options for reform later.

Medway Council would want to make the following initial comments:

- a) There must be an immediate removal of the “pooling” limit of contributions and it cannot and should not wait for wider reforms at some time in the future. Such pooling has a huge impact on the delivery of the infrastructure necessary to bring forward a development without causing unacceptable harm to the existing infrastructure, services and facilities in the locality.
- b) Viability assessments are currently a game of smoke and mirrors where developers manipulate and hide figures to try to minimise contributions and much needed affordable housing. This is delaying and time consuming and often results in important infrastructure not being provided.
- c) The inclusion of vacant building credit is total nonsense and again results in important infrastructure and affordable housing not being provided, for no justified viability reasoning. This loop hole to avoid affordable housing needs to be stopped immediately, otherwise Local Councils will have an even greater shortage of vital affordable housing to have to provide elsewhere. This is particularly important in the South East, where the Government’s proposals of housing need set figures, based on the lack of affordability of housing.
- d) The starting point for viability assessments and what can and cannot be included is not clear or transparent. The fact that land owners can factor in a “purchase price” for land that they already own and have not had to pay for, cannot be right and just seems to be double counting in relation to profit. Such “double counting” again means that schemes appear unviable on paper, when that is far from the truth and the consequence again is that the necessary infrastructure, affordable housing or contributions to services are lost.
- e) The public and local authorities do not easily understand viability assessments and it is a deliberately complex science designed to hide and screen real figures and viability in order for developers to maximise profits far above expected levels at the expense of paying for and delivering the necessary infrastructure and services to serve the needs of the development.

**Question 12**

**Do you agree that Local Plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?**

The provision of the necessary infrastructure to support development is essential and must be delivered in advance of or at latest alongside the housing development to acceptably meet the growth demands of Medway. This is a major issue for the council and our residents, and is intrinsic to sustainable development. Greater attention should be given to this aspect of the consultation. It is essential that housing is supported by the effective and timely provision of infrastructure, and funding needs to be in place. In seeking to boost the supply of housing, particularly affordable housing, developers must not be given the grounds to step back from appropriate funding of much needed infrastructure.

**Question 13**

**In reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?**

Not sure. The council would welcome means to improve engagement from Utilities providers in providing up to date information on service delivery to support Local Plan development strategies and allocations.

**VIABILITY IN DECISION MAKING**

**Question 14**

**Do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?**

In principle Medway agrees. However, it is not possible for a LPA to fully consider the viability of every site, as there may be hidden costs such as archaeology, contamination or other ground conditions, which may not be apparent at the Plan making stage. Also over time, the viability work on a Local Plan may become dated or may need to change due to market or economic changes. The consequences are that key sites may then not be viable to develop and not come forward. This will then impact on the ability of LPA's to deliver and meet the housing need of its area. This may then put pressure on the further release of non allocated and less sustainable green field sites. So, the starting point for viability assessment for a planning application should be the viability work on a Local Plan and then build if necessary from there.

The council must be fully informed of the level of detail that would be required at Examination and would seek reassurance that this does not provide further grounds of unreasonable challenge to emerging Local Plans.

### Question 15

**How can government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required.**

The Government can and should provide clear guidance encouraging developers and LPA's to engage with infrastructure providers in both plan making and application processes, particularly where viability is an issue. Infrastructure providers could benefit from longer term planning, to align with the Local Plan periods.

## IMPROVED TRANSPARENCY

### Question 16

**What factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?**

Viability assessments are complex and not easily understood by the public and indeed by planning officers and councillors. They are often hiding figures and it is a game of smoke and mirrors to try and increase profits, with LPA's then having to employ their own viability consultants. The outcome is not transparent and often not clear to anyone other than the viability "experts" themselves. There needs to be clear guidance and definitions from a recognised and fixed starting point, with then a standard framework for calculating viability which can easily be understood by the lay person.

### Question 17

- a) **Do you agree that LPA's should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?**
- b) **What factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?**
- c) **How can LPA's and applicants work together to better publicise infrastructure and affordable housing secured through new**

**development once development has commenced, or at other stages of the process?**

- a) Yes. Medway are a leading example of how this can be done in a clear and transparent way.
- b) Happy for representatives of DCLG to visit and view practice in Medway.
- c) Developers should be encouraged to undertake public engagement on their proposals and set out how their proposals help to meet the developer contribution requirements set out in Local Plans and SPD's. They should also be encouraged to present to Council members pre app. The LPA should have clear committee or delegated reports that set out developer requirements from the Local Plan or S106 SPD and how they are being met by the developer.

**PLANNING FEES**

**Question 18**

- a) **Do you agree that a further 20% fee increase should be applied to those LPA's who are delivering the homes their communities need? What should be the criteria to measure this?**
  - b) **Do you think there are more appropriate circumstances when a LPA should be able to charge the further 20%? If so, do you have views on how these circumstances could work in practice?**
  - c) **Should any additional fee increase be applied nationally once all LPA's meet the required criteria, or only to the individual authorities who meet them?**
  - d) **Are there any other issues we should consider in developing a framework for this additional fee increase.**
- a) Yes, but some Authorities have very limited housing needs and can easily achieve their targets with the resources they either currently have or with the additional resources delivered from the first 20% fee increase. So, an extra 20% increase may not actually deliver significantly more housing, which is the objective of the fee increase. We question what definition will be used – the local housing need level calculated from the proposed standard method, or a plan target, that may be lower, in recognition of constraints. The government should recognise the local development context, ie, where there are particularly complex sites or major infrastructure requirements.

The rates of housebuilding are largely driven by the private development sector, and LPAs are limited in their abilities to manage the housing market locally. The proposed approach to increased fees does not fairly assess the efforts and attitudes of councils to boost housing supply for their communities.

The proposal could disadvantage LPAs that are seeking to provide more housing, which could benefit from additional resources that would be invested in promoting and planning for growth. Local planning authorities, such as Medway, can provide a supportive and positive environment for development, but it can take years for homes to reach the market. We have key regeneration sites which have been in the planning domain for 20 years, that are just starting to deliver. The wider barriers in the development sector are the key determinants of housing delivery.

LPA's should be judged on their starting base in a set year or taking into consideration delivery over a 5 year period before the start date. Consideration should then be given to what steps the LPA have taken using the initial 20% increase in order to improve/increase delivery. This could include:

- Appointment of relevant staff to not only deliver housing numbers, but quality developments in terms of place making.
- Steps taken to reduce unimplemented planning permission numbers.
- Evidence of partnership working with the development industry, through implementing the commitments within a Planning protocol for growth; Planning Performance Agreements; regular meetings with developers; encouragement and growth in the market of SME's; and introduction of alternative housing delivery models such as modular house building.
- Increase in housing delivery numbers over the starting base as a %.
- LPA should set out a clear plan for how it will spend the additional 20% to deliver on housing need and this may not be through additional resources in planning, but maybe part of a regeneration delivery team or part of the Council's new construction team.

b), c), and d) see above.

## OTHER ISSUES

### Question 19

**Having regard to the measures we have already identified in the housing white paper, are there any actions that could increase build out rates?**

The proposals in the consultation fail to deliver the ambitions of the Housing White Paper to address the country's housing crisis. The proposed changes to aspects of the Planning system, in the absence of coordinated measures to tackle the problems of housing delivery weaken the ability to effect real improvements in access to housing.

A coordinated programme is required, that provides the means to improve capacity in the construction sector and overcomes the barriers to build out consented developments. The proposals are silent on interventions in the development sector that could boost delivery rates.

The proposals in the consultation focus attention on a narrow aspect of housing. It risks bringing the focus solely onto housing numbers, and not effectively delivering houses. Numbers are not houses, and without a comprehensive and strategic package of measures to support housing delivery, people will continue to experience difficulties in finding suitable and affordable places to live.

The measures identified in the Housing White Paper assist, but the Government has lost sight that while we have a housing crisis, this is not just about house building. It is about place making, building communities and the provision of supporting physical and social infrastructure to serve these new and expanded communities. In the South East, there is a strong reaction by the public against planning and developers (and in that respect against the Government), due primarily to the impact of new housing on infrastructure and services. This includes roads, but also doctors (and surgeries), hospitals and schools, as well as utilities. The Government needs also to tackle these issues if the public is to engage properly and positively in the planning process and the delivery of housing. It is disappointing that the current consultation has not been able to provide more information on the wider range of complementary measures set out in the Housing White Paper that would provide a comprehensive approach to boosting the supply of housing and open up access to housing. The introduction of additional measures for local planning authorities in the absence of the further controls and incentives for housebuilders weakens the ability to achieve the ambitions set to address the country's housing crisis.

Medway Council is committed to planning positively to provide for its development needs. It is providing civic leadership in promoting sustainable growth for its residents and businesses. The new Local Plan will manage locally led growth.

The implications of the proposals will damage Medway's abilities to plan appropriately for the area's growth. Medway has experienced economic decline in the past and there are pockets of inequalities across the borough. The council's ambitions for Medway's Local Plan are for balanced growth, where people can enjoy a better quality of life, a strengthened economy and flourishing environment.

The use of the standard methodology in calculating 5 year land supply provides additional grounds for developers to challenge councils and seek to promote speculative release of greenfield sites.

The consultation document fails to acknowledge the intrinsic role of infrastructure in supporting sustainable development. Medway, in common with many areas cannot support significant growth without addressing the pressures on services and

infrastructure. Medway is under huge pressure now in terms of doctors, hospital, schools before even considering the implications of further growth. This highlights that the consultation document does not provide a joined up basis for sustainable development.

This is a fragmented approach that will not deliver on the ambitions for housing.

### *Other Comments*

Paragraph 129 of the consultation document refers to prematurity and the need to plan properly through Local Plans rather than by speculative applications taken through the appeal process. Medway supports this sentiment, as significant speculative single use (i.e. just housing) proposals on green field sites are being allowed on appeal and these can and do significantly and detrimentally impact on the progress and route of direction of a Local Plan, which is being delivered through a proper assessment of evidence base and public consultation, in line with a vision and strategic objectives set by local people. Such applications being allowed on appeal, will not only impact on the proper planning of an area through the Local Plan process and encourage the submission of other similar speculative and harmful applications, BUT it will also cause the public to question the manner in which the Government plans and whether it actually cares about localism and communities.