

## **CABINET**

**6 AUGUST 2019**

### **PLANNING POLICY UPDATE**

Portfolio Holder:	Councillor Jane Chitty, Portfolio Holder for Planning, Economic Growth and Regulation
Report from:	Richard Hicks, Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive
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#### **Summary**

This report considers three areas of planning policy work in Medway. It firstly provides an update on the preparation of the Medway Local Plan, including a revision to the Local Development Scheme and publication of supporting documents for consultation.

It also presents the first Housing Delivery Test Action Plan. This is a new requirement from government in areas where housebuilding has not reached the identified levels of housing needed. The council is required to publish this Action Plan by 18 August 2019.

The third strand of the report concerns neighbourhood planning activities in Medway, and specifically considers the proposal to designate a neighbourhood area and neighbourhood forum at Chatham (Arches) for the purpose of preparing a neighbourhood plan.

#### **1. Budget and Policy Framework**

- 1.1 The Medway Local Plan is the statutory development plan for the area, and is part of the council's Policy Framework. The council is preparing a new Local Plan, which on adoption will replace the current Medway Local Plan, 2003. The Local Plan is being produced in conformity with the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

- 1.2 Whilst approval of the Medway Local Plan will be a matter for Full Council because it forms part of the Council's Policy Framework, approval of preparatory matters, including approval of Local Plan documents for consultation, will be a matter for Cabinet.
- 1.3 The costs of preparing the Local Plan are met within the Planning Service budget.

## **2. Background**

- 2.1 The council is preparing the new Medway Local Plan in a challenging environment of government ambitions to boost housing supply, ongoing changes to planning policy and guidance, uncertainties in the development market, and increasing community concerns about the impacts of new development, particularly pressures on infrastructure and services. The council sees the Local Plan as critical to delivering our ambitious vision for Medway's future, promoting regeneration and sustainable growth, boosting our economy and securing the quality of our natural and built environments.
- 2.2 This report covers three areas of work: progress on the Medway Local Plan; production of the first Medway Housing Delivery Test Action Plan; and neighbourhood planning activities in Medway.

### *Local Plan Update*

- 2.3 The Planning Service is working to publish the draft Local Plan this year, and to submit the Plan for independent Examination in 2020. The timetable for preparing the Plan is set out in the Local Development Scheme, that was approved by Cabinet in December 2018 (decision no. 158/2018 refers). This indicated the publication of the draft Plan in Summer 2019, and submission to the Planning Inspectorate for examination in December 2019.
- 2.4 In March 2019, the council submitted a bid to the government's Housing Infrastructure Fund (HIF) for up to £170m to deliver strategic improvements to infrastructure in Medway. Consultation and evidence base work carried out in preparing the local plan have identified that infrastructure capacity is a major constraint to potential growth in Medway. The council needs to demonstrate that the proposals in the draft Local Plan can be delivered, and that major constraints, such as limits to infrastructure capacity can be addressed.
- 2.5 If the HIF bid is successful, the investments would provide for significant upgrades to infrastructure. This is a key consideration in assessing the options for sustainable development in Medway. The council took legal advice in 2018 that confirmed that it would be appropriate to delay the publication of the draft Local Plan until the outcome of the HIF bid was known. It was anticipated that the decision on the HIF bid would be announced in May 2019, and the Local Plan timetable reflected this. Homes England has not yet announced outcomes of the HIF bid process, and has not confirmed a revised date.

- 2.6 As the investment from the HIF programme would have strategic implications for Medway's infrastructure network, and on potential options for development locations, it is still considered appropriate to align the publication of the draft Plan with greater certainty on the outcome of the HIF bid. The council therefore seeks to publish a revised Local Development Scheme that sets out the timetable and programme for the preparation of the Local Plan. The Medway Local Development Scheme, 2019 is set out at Appendix A. The council has updated the programme to provide clarity to communities and stakeholders on the preparation of the Local Plan. This revision programmes the publication of the draft Plan for late 2019; submission of the draft Plan in autumn 2020 with an examination following later that year; and adoption in 2021.
- 2.7 One of the implications of the revision to the Local Development Scheme, is that the Plan period needs to be extended beyond 2035, to ensure that the Plan looks forward at least fifteen years on adoption. It is proposed to project the Plan period to 2037, and housing requirements and evidence base work will be updated accordingly.
- 2.8 The Planning Service has worked on a number of reports and evidence base documents to support the preparation of the Plan, and to inform the direction taken on the emerging development strategy and policies. One of these work streams has included the production of town centre masterplans and delivery strategies for Chatham, Gillingham and Strood. This work has been commissioned to inform the policy for key centres, in the context of structural changes in the High Streets, and to identify potential for redevelopment sites that could contribute to meeting our needs for housing and commercial land. The draft documents are set out in Appendices B, C and D. It is proposed to publish the documents for consultation, so that comments can be considered in the content of the draft Plan. The documents provide direction on the council's ambitions for furthering urban regeneration, and support the emerging spatial strategy. However, it is recognised that there are a number of areas for further consideration and testing in the light of other evidence documents and consultation comments. The outcomes of the consultation will be recorded and presented to Cabinet with the supporting documents for the draft Local Plan, together with further advice on the status of the guidance for the town centres.

#### *Medway Housing Delivery Test Action Plan*

- 2.9 The government has made the delivery of housing a key aim of its administration. Ongoing reform of the planning system has sought to boost the supply of housing. This has included the government's work on defining levels of local housing need through use of a Standard Method, and extensions of permitted development rights to convert a range of buildings to homes, without the need for planning permission. Another new measure from the updated National Planning Policy Framework in 2018 is the introduction of the Housing Delivery Test (HDT) that measures the delivery of housing in a local authority area against its defined level of housing need. The intention is to encourage local planning authorities to take action to address the causes of low rates of housing delivery.

- 2.10 The first HDT measurement was published on 19 February 2019 (delayed from November 2018.) The test compares the net homes delivered over the preceding three years to the housing requirement for the same period. In Medway, the test showed that 3997 homes were required in the three years from April 2015 to March 2018. 1883 new homes were provided in this period – a delivery rate of 47%.
- 2.11 When the HDT shows that delivery has fallen below 95%, an action plan should be prepared ‘to assess the causes of under-delivery and identify actions to increase delivery in future years.’<sup>1</sup> The council is required to publish a HDT Action Plan within six months of the result of the HDT. Where the HDT indicates delivery has fallen below 85% of identified housing requirement, a 20% buffer will be added to the housing land supply. This has the effect of further increasing the council’s housing target to over 2000 homes a year. Further measures will be phased in by government over three years. Where the HDT indicates rates of delivery falling below the following thresholds then the ‘presumption in favour of sustainable development’ will apply when the council is determining planning applications:
- 25% in November 2018 (publication was February 2019)
  - 45% in November 2019
  - 75% from November 2020
- 2.12 The ‘presumption in favour of sustainable development’ weakens the council’s management of local decision making on planning applications, and may lead to the release of more greenfield sites and/or development that does not align with the spatial strategy in the emerging local plan. As Medway Council’s result was 47%<sup>2</sup> an action plan and buffer will apply. These measures will continue to apply until the results of the next HDT, or a new housing requirement is adopted, at which point the relevant consequence will then be applied.
- 2.13 Government has provided guidance on the content and purpose of the HDT action plan, and the Planning Advisory Service (PAS) has developed support for local authorities in preparing the first round of Action Plans. The council has been working with PAS to produce an Action Plan that meets best practice guidance.
- 2.14 The Action Plan is set out at Appendix E. It analyses housing delivery in Medway, reviewing planning consents and build out rates in recent years. It assesses the processes in the Planning Service, to identify if there are any areas that may be contributing to a delay or lower rates of housebuilding. The council has also considered what external factors may influence housing delivery in Medway. These have included market confidence and the mix of housebuilders active locally. The Plan follows the guidance issued by PAS on

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<sup>1</sup> Paragraphs 73 & 75 of the revised National Planning Policy Framework at <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>2</sup> Housing Delivery Test: 2018 measurement <https://www.gov.uk/government/publications/housing-delivery-test-2018-measurement>

potential internal and external influences on housebuilding to ensure that there is a comprehensive assessment to inform the action plan.

- 2.15 The analysis of the root causes of housing delivery rates has identified that there are many areas where Medway Council has been proactive in supporting housing. These include the council's work on bringing forward sites for regeneration, direct delivery of housing through Medway Development Company, our placemaking agenda and commitment to our greenspaces, leisure and culture offer, and strong partnership working. The Planning Service has a dedicated Implementation Officer post that was introduced in 2018 specifically to bring forward opportunities to speed up the delivery of development. This has included work with developers to address delays in implementing planning consents. The Implementation Officer has produced the Action Plan, gathering information from a number of council services and external sources. Over a number of years the Planning Service has reviewed its processes in Development Management to seek opportunities to streamline and clarify decision making processes. There are scheduled meetings with developers to improve communications and understanding, so that there is a common focus on delivering quality housing. Work on the new Local Plan has carried out wide ranging reviews of land across Medway to identify suitable sites and locations for sustainable development as potential allocations to boost the supply of housing land.
- 2.16 The Action Plan also sets out areas where the council could carry out additional work to influence housing delivery. This includes further opportunities for working with partners to address some of the external factors on housebuilding, and to review current practices and procedures to improve efficiencies. The Local Plan is seen as the main measure to boost the supply of housing, with new allocations to deliver the area's sustainable growth. The council will continue to monitor housing delivery and assess the impact of proposed actions in the HDT Action Plan.

#### *Neighbourhood planning update*

- 2.17 There are three designated neighbourhood areas in Medway working on the preparation of a neighbourhood plan – Cliffe and Cliffe Woods, High Halstow, and Hoo St Werburgh. Over the past eighteen months, the Planning Service has been liaising with 'Arches Local', in early work towards developing a Neighbourhood Plan for an area of Luton. It is the first group to apply to take forward a Neighbourhood Plan in an urban area in Medway. The process involves the designation of a Neighbourhood Forum, in addition to the designation of a Neighbourhood Area for Arches (Chatham). Further information on the proposal, including the definition of the area to be covered by the neighbourhood plan and membership of the forum is set out at Appendix F.
- 2.18 The proposed neighbourhood area includes parts of three wards: Luton & Wayfield, Chatham Central and River. Arches Local has developed a new Arches (Chatham) Neighbourhood Planning Forum to prepare the neighbourhood plan. Its members include local residents, businesses, community groups and elected members from the three wards included in the proposed neighbourhood area.

- 2.19 The council is currently consulting on the proposed neighbourhood area and membership of the neighbourhood forum. The consultation period ends on 2 August 2019. Subject to satisfying the designation criteria for the neighbourhood area and the neighbourhood forum, and considering any comments made during the consultation, the Cabinet is requested to agree to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation to consider any comments arising from the consultation, finalise and approve designation of the neighbourhood area and neighbourhood forum for Arches (Chatham). However, if there are no matters to address on the conclusion of the consultation, Cabinet will be requested to approve the designations. The Arches (Chatham) group has secured a grant to deliver training and community engagement events in late September.
- 2.20 Cliffe and Cliffe Woods is planning to publish its draft neighbourhood plan for local consultation this year. Drop in events were held in July 2019 for local people to find out more about the plan. The draft neighbourhood plan seeks to achieve sustainable development through a mix of land uses, housing types and infrastructure contributions with residential proposals. Following consultation, the plan will be reviewed and then submitted to Medway Council to take through further stages of consultation and examination, prior to a referendum and adoption as part of the development plan.
- 2.21 High Halstow and Hoo St Werburgh are also working on preparing neighbourhood plans for their areas, and are continuing to gather information and consult with local communities. High Halstow has undertaken community consultations, formed objectives and has appointed Troy Planning & Design as their consultants. The consultants will assist High Halstow neighbourhood planning group in preparing the plan. High Halstow has set its target for completing the neighbourhood plan as late 2020.
- 2.22 The neighbourhood plan group in Hoo St Werburgh has held a number of consultation events locally. It has used this information to identify key issues and action points for further work. It has recently engaged a consultant to support its work and have a first meeting arranged for August. The council's Planning Service is liaising with all four groups to meet requests for support and to coordinate work with the preparation of the Medway Local Plan.

### **3. Options**

- 3.1 There are limited options to consider in relation to the publication of the Housing Delivery Action Plan and the Arches (Chatham) neighbourhood area and forum application. Government requires the publication of the HDT Action Plan by 19 August 2019. It is not specified what penalties will apply to local planning authorities that do not meet this requirement. However, at a time when the council is without an up-to-date Local Plan, and experiencing significant speculative development pressures on greenfield sites, the Action Plan can be seen as a useful measure to support the council's work. There are no formal sanctions in place for not producing an action plan or for producing one that is not fit for purpose. However, a well researched and

effective action plan could support the local planning authority in appeals, and lead to service and procedural improvements. It could also support the work of the local plan and feed into future monitoring arrangements. A credible action plan could also be used to lobby government for more resources to support housing delivery. The council has considered a broad range of criteria in drawing up the content of the action plan.

- 3.2 The request to designate a neighbourhood area and neighbourhood forum for the purpose of producing a neighbourhood plan for Arches (Chatham) meets the legal criteria. Subject to the satisfactory conclusion of the consultation, the council is expected by government to approve the designations without unnecessary delay. The council has liaised with the Arches (Chatham) group on the boundary of the proposed area, and changes were made from the initial proposals. If comments are received on the proposed boundary, these will be considered further, before authorising the designations.
- 3.3 In considering the timetable for the publication of the Local Plan, the council could decide to publish the draft Plan in advance of the announcement of the HIF bid. This could help the timely progress of the Plan. However, this approach has a number of risks. As advised by Counsel in 2018, there would be scope for legal challenge to the Plan, as the uncertainty on the delivery of strategic infrastructure could undermine the soundness of the Plan. Publication of the draft Plan in August 2019, could also result in gaps or weaknesses in the supporting evidence base. A number of key documents, including the Infrastructure Delivery Plan and Viability Assessment require certainty on strategic investments.
- 3.4 The council considers that the proposed revision to the Local Development Scheme for the Local Plan timetable represents the appropriate action.

#### **4. Advice and analysis**

- 4.1 Section 2 of the report sets out the key issues associated with the delay in the publication of the draft Local Plan, the publication of the Housing Delivery Test Action Plan and the proposals to prepare a neighbourhood plan for Chatham (Arches).
- 4.2 It is proposed to approve an updated Local Development Scheme for the local plan programme. A Diversity Impact Assessment screening is set out at Appendix G. The Local Plan is informed by iterative sustainability appraisals which consider the potential social, environmental and economic impacts of the draft proposals and policies.

#### **5. Risk management**

- 5.1 The delay on the publication of the draft Plan presents a risk of potential government intervention in the preparation of the Plan. The council will liaise with officers at the Ministry of Housing, Communities and Local Government (MHCLG) to explain the specific circumstances causing this delay to minimise this risk. There is a greater risk that the delay in publishing the draft Plan encourages the submission of further speculative planning applications in advance of the draft Plan. The council will seek to manage this through

publication of evidence base documents that justify its preferred spatial strategy. This approach has helped in a recent appeal decision on a Green Belt site near Strood. The delay to the Plan also presents risks of an ageing evidence base and having to extend the Plan period beyond 2035 to ensure that there are 15 years upon the adoption of the Plan. Planning officers are reviewing the evidence base documents to identify any areas where updates may be needed. This could be done in a focused way to minimise costs and the time for further work.

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>	<b>Risk rating</b>
Lack of updated Local Plan	Risk of government intervention in Medway's planning. Vulnerable position in resisting speculative development proposals in inappropriate locations.	Engagement with MHCLG, members and the Planning Inspectorate (PINS) on emerging Local Plan work and timetable to build confidence that the council is progressing as quickly as due process allows in positively preparing a new plan. Revision to Local Development Scheme (LDS) provides for updated programme.	C2
Further delay in decision of HIF bid	Subsequent effect on Local Plan programme and options	Continued engagement with Homes England and MHCLG.	B2
'Policy vacuum' provides grounds for further speculative development proposals	Further pressures for unsustainable development.	Publication of evidence base documents to support decision making	C2
Ageing evidence base	Does not provide effective basis to provide soundness of plan.	Review of key documents and focused updates where necessary.	C2



## **6. Consultation**

- 6.1 The Planning Service seeks the approval of Cabinet to publish the draft town centre masterplans and delivery strategies for Chatham, Strood and Gillingham for consultation, prior to the publication of the draft Local Plan. The council will carry out a six week period of consultation on the draft documents. Officers have arranged a workshop with elected members on 12 August to discuss the draft masterplans. There will be further events held with key stakeholders, particularly town centre businesses and communities, as part of the consultation work. The Planning Service will use its Local Plan database of over 1000 contacts to invite comments on the documents.
- 6.2 The council consulted on the proposal to designate a neighbourhood area and neighbourhood forum at Chatham (Arches) from 20 June to 2 August 2019. The proposals were publicised in local media, the council's website, and in the local area. At the time of writing this report, no comments had been received. An update will be reported at the meeting.

## **7. Financial implications**

- 7.1 The cost of preparing the Local Plan and Housing Delivery Action Plan is met from within the Planning Service budget. The government has not made any additional funding available to local planning authorities to prepare Action Plans. The council has a duty to support neighbourhood planning in its area. MHCLG provides a small payment to the council upon the designation of new neighbourhood areas and a further payment is made available to support the costs of examination and the referendum of the neighbourhood plan.

## **8. Legal implications**

- 8.1 The Local Plan forms part of the council's policy framework, and must be prepared in accordance with statutory processes. These include conformity with the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). On adoption a 'made' Neighbourhood Plan forms part of the development plan for the area. The Local Planning Authority has the duty to determine the designation of the Neighbourhood Area and the Neighbourhood Forum. The Council's actions meet the requirements of the Neighbourhood Planning (General) Regulations 2012, as amended in 2015, Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, and in the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017.

## **9. Recommendations**

- 9.1 Cabinet is asked to:
- 9.1.1 approve the Medway Local Development Scheme, 2019, as set out at Appendix A to the report, as an updated programme for the preparation of the Medway Local Plan, to take effect from 15 August 2019.

- 9.1.2 approve the publication of the draft town centre masterplans as set out at Appendix B, Appendix C and Appendix D of the report for consultation.
- 9.1.3 approve the publication of the Medway Housing Delivery Test Action Plan, 2019, as set out at Appendix E of the report.
- 9.1.4 agree to delegate authority to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive, in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation, to consider any comments arising from the consultation, finalise and approve the designation of the proposed neighbourhood area and neighbourhood forum for Arches (Chatham), as set out at Appendix F and paragraph 2.19 of the report.

## **10. Suggested reasons for decisions**

- 10.1 Approval of the Medway Local Development Scheme, 2019, will provide clarity on an updated programme for the preparation of the Medway Local Plan.
- 10.2 Approval for the publication of the draft town centre masterplans as set out at Appendix B, Appendix C and Appendix D to the report for the purposes of consultation will support the preparation of the draft Local Plan.
- 10.3 Approval for the publication of the Medway Housing Delivery Test Action Plan, 2019 will enable the Council to meet the requirements set by government.
- 10.4 Approval of the application to designate a neighbourhood area and neighbourhood forum for Arches (Chatham), subject to the satisfactory conclusion of the consultation, will meet the legal requirements in the neighbourhood planning process.

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### **Appendices**

- Appendix A Medway Local Development Scheme, 2019
- Appendix B Chatham Town Centre masterplan and delivery strategy (draft) - please see supplementary agenda no.1
- Appendix C Gillingham Town Centre masterplan and delivery strategy (draft) - please see supplementary agenda no.1
- Appendix D Strood Town Centre masterplan and delivery strategy (draft) - please see supplementary agenda no.1
- Appendix E Medway Housing Delivery Test Action Plan, 2019
- Appendix F Arches (Chatham) Application for designation of Neighbourhood Area and Neighbourhood Forum
- Appendix G Diversity Impact Assessment

### **Background papers**

None