

CABINET

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PLANNING POLICY UPDATE

Portfolio Holder: Councillor Jane Chitty, Portfolio Holder for Planning, Economic Growth and Regulation

Report from: Richard Hicks, Director of Place and Deputy Chief Executive

Author: Dave Harris, Head of Planning

Summary

This report provides an update on two aspects of the Planning Service's work. It presents a revised timetable for the production of the Medway Local Plan, in a Local Development Scheme. It also sets out a Housing Delivery Test Action Plan that considers measures to help boost the supply of housing in Medway. Cabinet is asked to approve the publication of the documents to meet government requirements.

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 a new Local Plan to shape Medway's growth up to 2037. The next stage of the plan making process will be the publication of the draft plan (sometimes referred to as Regulation 19). This is a critical stage of plan making. It represents the council's selected strategy for Medway's development and sets out proposed land use allocations, and the policies to secure sustainable development to meet the vision and strategic objectives for the plan. This will be published for representations, which will form part of the materials submitted to the Planning Inspectorate for independent examination of the plan.
- 2.2. Officers are collating a comprehensive evidence base to inform the content of the draft plan. This includes finalising work on critical documents, such as the Habitats Regulation Assessment, Sustainability Appraisal, Strategic Transport Assessment (STA), Infrastructure Delivery Plan (IDP), Viability Assessment, and a Development Framework to guide strategic growth on the Hoo Peninsula. Many of these documents are intrinsically linked and there are key inter-dependencies in the work programmes. The STA, for example, provides air quality modelling data required for the Habitats Regulation Assessment, and identifies transport schemes required to support planned growth, that need to be included in the IDP. The plan will be tested on its legal compliance and soundness. An effective and robust evidence base is essential to justify the council's proposed spatial strategy and policies.
- 2.3. The Planning Service has been working with corporate services and external stakeholders to collate evidence and progress key ambitions for Medway's growth. This includes promoting the regeneration of our urban centres and waterfront sites and establishing guiding principles for potential strategic growth on the Hoo Peninsula, responding to opportunities provided by the Housing Infrastructure Fund (HIF) investment programme. In recent months the council consulted on a 'Planning for Growth on the Hoo Peninsula' document. Comments are being considered through further and more detailed work to support the preparation of the draft Local Plan. The Council has received comments from statutory consultees and local communities that need to be addressed in ongoing work.
- 2.4. The Local Plan is being prepared in the context of ongoing development pressures, infrastructure and environmental constraints, assessing and responding to the impacts of Covid-19, strategic proposals outside of Medway, such as the Lower Thames Crossing, and anticipated changes to the Planning system.
- 2.5. Officers are engaging with statutory consultees and wider stakeholders to coordinate development plans in a strategic context, and to meet the legal requirements of the 'Duty to Cooperate'. Through this work, Highways England has provided updated advice to the Council on the need to explicitly assess the potential impact of the Lower Thames Crossing as part of our evidence base work on the STA. This has implications for the work programme for this complex component of the Local Plan evidence base, and

the timing for the completion of the STA. This has the consequent impact of delaying the completion of other aspects of the evidence base and therefore the publication of the draft plan. This requires an update to the Local Plan timetable which is set out in the Local Development Scheme (LDS) and considered in more detail below.

Local Development Scheme

- 2.6. The LDS is a formal document that sets out the programme for producing planning policy documents and is of particular importance for the preparation of Local Plans. Government expects local planning authorities to keep their LDS up-to-date and publicly available, as it is important that local communities and interested parties can keep track of progress. It is therefore appropriate that the council publishes an updated version of the LDS to provide clear information to local communities and wider stakeholders.
- 2.7. The updated Medway LDS, 2020 is set out at Appendix 1. It reflects the additional work on the STA in line with the advice from Highways England as a statutory consultee. It also presents the ongoing work on the preparation of Neighbourhood Plans in Medway. Once 'made' a neighbourhood plan becomes part of the development plan for Medway in the specifically defined neighbourhood areas. The key stages of the programme to adoption of the Local Plan are summarised below. The programme is to present the draft plan to Cabinet in March 2021 seeking authority to publish the document and supporting evidence base for representations from April to May 2021.

Key Stage	Date
Publication of draft Plan (Regulation 19)	Spring 2021
Submission to Secretary of State (Regulation 22)	December 2021
Independent Examination (Regulation 24)	Spring 2022
Adoption (Regulation 26)	December 2022

Table 1: Local Plan key stages

Housing Delivery Test Action Plan

- 2.8. 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 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 test compares the net number of homes delivered over the preceding three years to the housing requirement for the same period. The intention is to encourage local planning authorities to take action to address the causes of low rates of housing delivery.
- 2.9. The first HDT, published in February 2019, gave Medway a result of 47% delivery against its defined level of housing need. The second, published this February, a result of 46%. The following table shows Medway's data taken from the published measurement.

	2016-17	2017-18	2018-19	Total	Percentage result
Number of homes required	1,322	1,334	1,672	4,328	46%
Number of homes delivered	661	669	647	1,978	

Table 2: Housing Delivery Test Results

2.10 The first action plan was published in August 2019 as the result was below 95% and the council now needs to produce a second, updated action plan in August 2020, within six months after the result as prescribed by the National Planning Policy Framework (NPPF). In addition, a 20% buffer is applied to the five-year land supply as delivery is below 85%. This has the effect of further increasing the council's housing target to around 2,000 homes a year. Further measures are being phased in by government. Where the HDT indicates rates of delivery falling below specified thresholds then the 'presumption in favour of sustainable development' will apply when the council is determining planning applications. The 'presumption' 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.

2.11 There has been a transition arrangement in place for the first two years of the measurement with the level of delivery needing to be above 25% in year 1 and 45% in year 2. Medway was just above this at 46% for year 2. In year 3 and beyond, this increases to 75% and as the HDT measurement is based upon the preceding three years delivery it is unlikely Medway will meet this level of delivery in year 3, even if there is an increase in the delivery rate for last year. The table below sets out the predicted delivery rates in coming years.

2018	2019	2020	2021	2022	2023	2024
47%	46%	56%	70%	102%	111%	119%
1st action plan and 20% buffer	Current action plan and 20% buffer	Action plan, 20% buffer and presumption in favour of sustainable development	Action plan, 20% buffer and presumption in favour of sustainable development	No imposed measures	No imposed measures	No imposed measures

Table 3: Predicted Housing Delivery Test results

2.12 The predicted results show that Medway will pass the HDT in 2022 if it delivers the number of homes set out in the housing trajectory based on market intelligence and analysis of past trends. The timing will coincide with adoption of the local plan and will mean Medway will be able to make decisions based on the adopted policies including the sites allocated for housing in favour of other sites.

- 2.13 It is noted that housebuilding in Medway in recent years has not reached the high levels of housing needs identified by the government formula. However, there are clear signs of an improving housing market. Published data and the council's own development monitoring systems indicate a significant uplift in housebuilding in 2019/20, and the rates are forecast to further increase in coming years to well over 2,000 homes a year by 2022. This reflects the 'pipeline' of sites coming forward that have been granted planning permission in recent years. There is progress on key regeneration sites but there is also growth in smaller urban sites and in suburban and rural locations. In advance of the new Local Plan and the challenges set by government to boost housebuilding, the Council has granted planning permission for several greenfield sites, outside the current Local Plan development boundaries, to increase housing land supply. The impact of the Council's actions can be seen in the statistics for projected development. Monitoring shows an increase in the supply of land on greenfield sites in Medway in recent years, that should provide for a wider market mix and see development come forward more quickly.
- 2.14 The HDT action plan is set out at Appendix 2 and:
- Considers Medway's development context and reviews historic performance on housing delivery.
 - Explains measures the council has already adopted to monitor and encourage housing delivery.
 - Reviews actions from the last plan and their impact.
 - Has gathered evidence on strategic sites with planning permission to understand the build out rate and the barriers that are preventing these homes being built (and at a quicker rate).
 - Proposes measures to contribute to increasing the amount and speed of delivery of new housing.
 - Sets out measures to continue monitoring housing delivery and understanding factors influencing delivery rates.
 - Includes a timetable to review the action plan.
- 2.15 The action plan provides details of the Council's activities in promoting sustainable development. The scope and scale of this work provide compelling evidence of its commitment to boost housing investment in Medway. The Council works corporately to maximise the benefits of regeneration and economic growth, and is proactive in engaging with developers and landowners. This includes regular liaison with the development sector, through Council led initiatives such as breakfast meetings with a cross section of developers, a Small and Medium Enterprises Developers forum, annual meetings with major developers and planning agents; in addition to the services provided in relation to the development management and plan making processes. The Council is also delivering housing sites through Medway Development Company and the Housing Service. The Council provides strong leadership in its ambitions for Medway's regeneration agenda. The regeneration strategy promotes the opportunities for new housing in Medway's town centres and urban waterfronts. The Council has secured funding to deliver on its ambitions, with success in attracting investment from Government, such as the Housing Infrastructure

Fund, Local Growth Fund and Historic England's High Street Heritage Action Zone programme. The Council's success in its place making work has led to increased confidence in attracting development investment into Medway. This is reflected in the growing number of sites coming forward for development, and levels of housebuilding activity. Published information on Energy Performance Certificate lodgements showed 1200 registrations in Medway in 2019/20. This provides a broad indication of levels of new housebuilding. The Council's own annual monitoring data for 2019/20 indicates an uplift in housing delivery of nearly 60% on the previous year. This reflects increased land supply for housing in Medway and growing confidence in the area.

- 2.16 The action plan recognises the potential impact of Covid-19 on the development industry. Planning officers have sought updated information from developers about any delays or changes to their delivery plans. The action plan also aligns to wider corporate work on Medway's recovery plans that seek to secure growth and investment locally. The HDT action plan emphasises the need for a coordinated approach to support sustainable development and boosting the supply of housing. The report assesses past trends and recent decisions in planning and development and considers the Council's wider role and actions in promoting successful growth in Medway. Through this, it clearly shows Medway's commitment to support quality housebuilding in appropriate locations and increasing confidence and levels of investment in new housing.
- 2.17 There is widespread concern amongst local planning authorities that the HDT, and associated requirements for a five year housing land supply, penalise councils for matters outside of their control. Councils plan for housing land but have only a limited role in the delivery of housing. The impacts of a severe recession on housebuilding cannot be effectively addressed through actions taken by a local planning authority. Councils are working in collaboration to lobby Government for some temporary relaxations on the penalties imposed on local planning authorities as a result of wider issues in the development sector, notably in relation to the impacts of Covid-19.

3. Options

- 3.1. The council must have a complete and robust evidence base in place to support the publication of the draft plan. If the draft plan is published without key information, it is likely to fail the tests of soundness and legal compliance when submitted for independent examination.
- 3.2. Officers have worked with representatives of HE and the transport consultants preparing the STA to consider alternative approaches and timescales for completing the technical work. These discussions have concluded that it is critical to follow the updated advice from HE and this is reflected in an updated work programme. Due to the complexity of the transport assessment work and the need for HE's review at key stages, it is not possible to shorten the timetable.

3.3. The Council considers that the proposed revision to the LDS for the local plan timetable represents the appropriate action, and follows Government guidance that local planning authorities should keep the published programme up-to-date.

3.4. The Council has considered a broad range of criteria and potential actions in drawing up the content of the HDT action plan. There are limited options to consider in relation to the publication of the HDT Action Plan. Government requires the publication of the HDT Action Plan by late August 2020. 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 is seen as a useful measure to support the Council's work. The Council has used extracts from the 2019 Action Plan in supporting planning reports and appeal statements. Work on the 2020 Action Plan is being coordinated with work on the new Local Plan, particularly in defining the five-year land supply and delivery strategy.

4. Advice and analysis

4.1. It is proposed to approve an updated LDS for the Local Plan programme. A Diversity Impact Assessment screening is set out at Appendix 3. The Local Plan is informed by iterative sustainability appraisals which consider the potential social, environmental and economic impacts of the draft proposals and policies. This forms part of the legal process for plan making.

4.2. It is advised that the Council publish the HDT Action Plan as presented in Appendix 2 to meet the government requirements and to confirm the measures being taken by the council to support housebuilding in Medway.

5. Risk management

5.1. The key risks relate to the delay in the publication of the draft Local Plan. The Council's actions focus on clear communications, robust project management to avoid any further delays, and completing work on the evidence base and content of the draft plan to ensure that they meet the tests of soundness and legal compliance. The Planning Service recognises that there will be concerted objections to the plan and it is critical that the draft plan is informed by an appropriate evidence base, and it follows the required legal processes. With regard to the HDT Action Plan, there are potential risks around the anticipated delivery rates for housing. The Council will continue to liaise with developers to maintain accurate housing trajectories.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Council fails to publish 2020 HDT Action Plan	Failure to meet government requirements	Preparation of HDT Action Plan	E3

Risk	Description	Action to avoid or mitigate risk	Risk rating
Housebuilding does not meet levels set by Government.	Presumption in favour of sustainable development applies	Production of Local Plan and granting consents for proposals for sustainable development in advance of plan.	A2
'Policy vacuum' provides grounds for further speculative development proposals	Further pressures for unsustainable development.	Publication of evidence base documents to support decision making	C2
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 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 LDS provides for updated programme.	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. There is no requirement to consult on the LDS or HDT Action Plan. The Council regularly engages with the development sector and has included information gathered in preparing the HDT action plan. This has included seeking updates from developers on planned housing delivery rates, with consideration of impacts from Covid-19 and the anticipated recession. The Council will widely publicise the publication of the draft plan for representations next Spring.

7. Climate change implications

- 7.1. The LDS sets out a timetable for the preparation of the Council's development plan. The HDT Action Plan reports on the measurement of the HDT and sets out actions to promote housing growth. Neither documents directly address climate change matters. However, there are specific considerations on climate

change in the wider work in preparing the Local Plan and in the determination of planning applications.

8. Financial implications

8.1 The Cost of preparing the Local Plan should be met from existing Planning Service budgets but this is not achievable in 2020/21 as the Expenditure is in excess of the Reserve to meet these costs. This will therefore result in a pressure on the Planning service unless this can be offset from other Planning service savings. The pressure is currently anticipated to be in the region of £200,000 as reported in the round 1 Monitoring. The production of the HDT Action Plan and LDS have been met using staff resources within the Planning Service.

9. Legal implications

9.1. 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). A Local Development Scheme is required under section 15 of the Planning and Compulsory Purchase Act 2004. On adoption a 'made' Neighbourhood Plan forms part of the development plan for the area. The Housing Delivery Test Action Plan meets the requirements of the National Planning Policy Framework, 2019.

10. Recommendations

10.1. Cabinet is requested to:

- a) Approve the Medway Local Development Scheme, 2020, as set out at Appendix 1, as an updated programme for the preparation of the Medway Local Plan.
- b) Approve the publication of the Medway Housing Delivery Test Action Plan, 2020, as set out at Appendix 2.

11. Suggested reasons for decision(s)

11.1. Cabinet is requested to approve the Medway LDS, 2020, to provide clarity on an updated programme for the preparation of the Medway Local Plan.

11.2. Cabinet is requested to approve the publication of the Medway HDT Action Plan, 2020, to meet requirements set by Government.

Lead officer contacts

Dave Harris, Head of Planning
Telephone: 01634 331575
Email: dave.harris@medway.gov.uk

Rachel Flintoft, Implementation Officer, Planning Service
Telephone: 01634 331099
Email: rachel.flintoft@medway.gov.uk

Catherine Smith, Planning Manager – Policy
Telephone: 01634 331358
Email: catherine.smith@medway.gov.uk

Appendices

Appendix 1: Medway Local Development Scheme, August 2020
Appendix 2: Medway Housing Delivery Test Action Plan, August 2020
Appendix 3: Diversity Impact Assessment screening

Background papers

None