



The Planning Inspectorate

Mr Philip Coyne
Interim Strategic Director – Local Plan Review
Maidstone Borough Council

Our Ref: PINS/U2235/429/10

Date: 5 July 2023

Dear Mr Coyne

Examination of the Maidstone Local Plan Review

1. Further to my letter of 11 January 2023 following the Stage 1 hearings, I now write following the conclusion of the Stage 2 hearings into the examination of the Maidstone Local Plan Review on 9 June 2023. As previously advised, I am satisfied that the Council has complied with the Duty to co-operate. As submitted, the Local Plan Review document is not sound, and I will need to recommend main modifications. Having considered the Council's proposed modifications (principally presented in documents LPRSUB011 and ED53) together with statements and discussion with participants at the hearing sessions, I consider that the Local Plan Review could be made sound by main modifications. These would need to be consulted upon and I set below at paragraphs 31-32 the general guidelines for this process. Further guidance on the main modifications process and consultation can be found in Section 6 of the Inspectorate's Procedural Guide on Local Plan Examinations, notably at paragraphs 6.7 - 6.9.
2. At the Stage 2 hearing sessions potential main modifications were discussed for each matter under examination. I am satisfied that those modifications either proposed by the Council or to which the Council raised no objection to, were noted and that the Council has been diligent in compiling a schedule of proposed main modifications as the examination has progressed. Through the Programme Officer, I have already provided the Council my record of what I consider was discussed/agreed as proposed main modifications at the Stage 2 hearing sessions. Accordingly, I do not intend in this letter to set out in detail each of the individual proposed main modifications identified. I will liaise through the Programme Officer to ensure that the final schedule of main modifications tallies with my assessment prior to any consultation being undertaken.
3. Consequently, this letter addresses a small number of residual matters where I signalled that I would need to give further consideration following what I heard at the Stage 2 hearings. In preparing this letter I am grateful for those who organised and facilitated an accompanied site visit to Abbey Gate Place (in relation to Site LPRSA265) and to the Council for its additional work in

relation to proposed site allocations at Coxheath (Examination Document ED 110). I emphasise that this letter only summarises my assessment on these matters so that a schedule of proposed main modifications can be finalised by the Council. The full reasoning behind all the main modifications which I consider necessary for plan soundness will be set out separately in my final report to the Council.

LPRSA265 South-West of Maidstone

4. The submitted plan proposes to allocate land at Abbey Gate Farm, South-West of Maidstone (site LPRSA265) for approximately 250 dwellings. It is clear from the evidence before me, including the Council's Strategic Land Availability Assessment (SLAA) and submissions from the site promoter, that an area of land has been identified that could deliver significantly in excess of 250 dwellings. There are, however, various policy requirements for the site which would appreciably reduce the net developable area. A number of these land requirements appear to be incontrovertible¹ in order to protect the character of the Loose Valley to the east of the site, the undevelopable nature of the wildlife site to the west and the rural character south of the public right of way. Even when netting off these areas for open space and biodiversity, I am satisfied that there remains flexibility within any remaining net developable area to deliver approximately 250 dwellings (at an appropriate average 30 dwellings per hectare) together with further open space, landscaping and buffering.
5. Immediately to the south of LPRSA265 is Abbey Gate Place, a Grade II* listed Wealden hall-house. This building would have been conceived as part of a wider rural land holding. That said, the agrarian origins are now somewhat diminished by the residential use of Abbey Gate Place and the nearby converted oasthouse. Furthermore, there is a large twentieth-century, utilitarian outbuilding to the south of the house (currently used as a vehicle garage/maintenance building) and a modern single storey extension and large, domestic conservatory attached to the west of the original building. Immediately around the listed building is an attractive, well-maintained garden including a terrace feature along part of the northern boundary adjacent to site LPRSA265. A tennis court and other buildings beyond to the east further consolidate a residential character, reducing further the original agrarian context and setting immediately around the property.
6. Whilst boundary vegetation filters views of Site LPRSA265 from within and at the edge of the Listed Building, I note various openings on the north façade of the house afford views towards the allocation. Whilst the proximity of Maidstone is perceptible (and will become more so with the already consented development at nearby Farleigh Hill), the adjacent field to the north currently has a rural character complementary of how this Wealden hall-house was intended to be experienced. Whilst I consider the principal heritage

¹ Including having regard to the indicative site masterplan submitted by the site promoter.

significance of the listed building to be the quality, and especially the internal intactness, of its vernacular design and materials, as a rural building it inevitably follows that development of site LPRSA265 would have a detrimental impact on the setting of this listed building. Taking into account what I observed in terms of the now overtly residential immediate setting to the building including a modern domestic extension, I ascribe the harm to its wider setting from the proposed allocation to be less than substantial. In coming to this view, I have taken into account the fact that land elsewhere in the proximity of the listed building, including south of the footpath, would remain undeveloped. I consider that any harm on this spectrum could be reduced further by requiring further detail within the policy to specify a landscaped buffering to maintain a degree of rural outlook and reduce intervisibility with new residential development. I therefore recommend this as part of any proposed modifications to Policy LPRSA265 together with other amendments discussed at the hearings.

Coxheath Rural Service Centre – Residential Allocation

7. On submission the Local Plan Review presented at pages 207-208 proposed site allocation LPRSA312 – land north of Heath Road, on the eastern edge of Coxheath for approximately 85 dwellings. I understand that the identification of potential site allocations for housing in Coxheath through the various rounds of plan drafting has shifted but ultimately site LPRSA312 was finally selected. This is supported by SLAA and Sustainability Appraisal evidence to the examination as part of ‘an appropriate strategy’. As I made clear at the hearings, the proposed submission document consulted on in Autumn 2021, is for the purposes of Regulation 19, intended to be culmination of previous scoping and testing of options and effectively the ‘final’ plan. Content should only change after the Regulation 19 consultation if there is demonstrably a soundness issue necessitating a change.
8. Document LPRSUB011 presented on plan submission proposed deleting Site LPRSA312 and substituting it with Site LPRSA202, to the north of the village at Stockett Lane / Forstal Lane. The rationale for this suggested change appears to be a combination of the degree of community objection² to the proposed site LPRSA312 and concerns regarding harmful coalescence with settlement to the east / north-east at Loose. In terms of community objection, I note above that identifying new housing sites in Coxheath has not been straightforward. Nonetheless, site LPRSA312 was ultimately selected and included in the ‘final’ version of the plan intended to be submitted for examination. In terms of the concerns identified with Site LPRSA312 I note the following.
9. Firstly, with regards to sustainability of location, the site is within reasonable walking distance of facilities in the Coxheath area, not least the new Greensand Health centre but also the Cornwallis Academy. A safe pedestrian

² Including unanimity amongst Parish, District and County Councillors

route exists through Aspian Drive and Park Way to reach the Primary School, and lit footways exist along the entirety of Heath Road into the village centre. Site LPRSA202 does not occupy a markedly more sustainable location.

10. Secondly, on the issue of coalescence, this was not identified in any of the technical evidence accompanying the submitted plan as a 'showstopper'. Having visited the location, including walking Heath Road, Forstal Lane, the lane to Gordon Court and the patchwork of public footpaths in this location I am satisfied that Site LPRSA312 would form a suitably contained development, where existing boundary vegetation could be retained and strengthened. Subject to details on site layout and the location of open space the development of Site LPRSA312 for approximately 85 dwellings would result in negligible harm to the rural character between Coxheath and Loose when in Forstal Lane or Gordon Court to the north. From the south on Heath Road, development of LPRSA312 would form a logical extension to the adjoining modern residential development to the west. I accept that with the new Greensands Health Centre the separation of Coxheath and Loose on the southern side of Heath Road has become somewhat blurred, but an extensive patchwork of fields would remain on the north side of Heath Road between Site LPRSA312 and south-west edge of settlement at Loose. An appropriate degree of separation would be maintained. This could be reinforced by additional detail in the wording in the policy for LPRSA312 regarding a suitable landscaped buffer to the eastern and northern edge of the site. I am confident, having regard to the evidence in ED110, that this would not diminish the ability of the site to sustainably deliver approximately 85 dwellings. I note that in contrast to the alternative Site LPRSA202, the submitted allocation at Heath Road is not within an identified Landscape of Local Value (LLV) which further persuades me that Site LPRSA312 was soundly identified for inclusion in the proposed Plan for submission.
11. Concern was expressed at the hearing regarding the volumes of traffic on Heath Road (the B2163). Development at LPRSA312 would require principal access onto this road. The Local Highway Authority have raised no fundamental objection to the allocation of Site LPRSA312 subject to securing contributions to improvements at the nearby Linton crossroads. I agree that a reference to such contributions should form part of a proposed main modification. The alternative site at LPRSA202 would similarly generate traffic onto Heath Road but also with an increased prospect of vehicular traffic diverting north onto the very rural Stockett Lane to get into Maidstone. Accordingly, Site LPRSA202 offers no significant sustainability benefits in terms of highways and vehicle movements.
12. Bringing this altogether, I cannot recommend that it would be necessary for soundness to delete Site LPRSA312 and substitute it with Site LPRSA202. Accordingly, the principal of identifying Site LPRSA312 in the proposed submission plan was soundly based and it should remain in the Plan. I note

that in ED110, the Borough Council have identified an amended site boundary to LPRSA312 that would contain the residential development to the southern two fields of the wider site, utilising existing vegetation along the northern boundary to delineate the extent of this development. If that is to be pursued that would further assuage concerns regarding coalescence and is something which I could recommend provided there is a clear cross-reference in the schedule of main modifications to the schedule of Policies Map changes. Additionally, in order for the policy for Site LPRSA312 to be sound I recommend that the proposed additional detail regarding site area and extent of landscape buffers as set out in Examination Document ED110 is included.

Policy LPRSP9 Countryside

13. As currently submitted Policy LPRSP9 provides a strategic policy for development outside of the Maidstone Urban Area and the settlement boundaries identified for Rural Service Centres and Larger Villages. Notwithstanding the content of Policy LPRSP8 for smaller villages, as submitted it follows that smaller villages and hamlets would also be subject to Policy LPRSP9. The spatial strategy in Policy LPRSS1 identifies that smaller villages may have the potential to accommodate limited growth together with various policies in the Plan which seek to support the rural economy of the Borough. The first criterion of Policy LPRSP9 requires, amongst other things, that development proposals in the countryside will not harm the rural character and appearance of the area. Development proposals invariably generate change, which is often equated or perceived as being a harm in and of itself. Accordingly, I am concerned that without suitable qualification, this part of Policy LPRSP9 could be applied zealously to inhibit otherwise appropriate development. The National Planning Policy Framework (NPPF) grapples with what is meant by sustainable development at paragraph 11 and says for decision-making adverse impacts should be significant and demonstrable. Accordingly, I recommend a main modification that criterion 1 of LPRSP9 is amended to qualify that “significant harm” will not be permitted.

Homes for Gypsies & Travellers

14. The timeframe for preparing the Local Plan Review coincided with the challenges of the Covid-19 pandemic. One area where this has had significant bearing is on updating the Gypsy and Traveller Accommodation Assessment (GTAA) including the ability to conclude face-to-face interviews. An Interim GTAA was provided to the examination in March 2023 [ED76]. This identified an emerging need for 604 pitches over the period 2019-2039/40 for all needs³ and 7 plots for travelling showpeople. Work remains ongoing on the GTAA and a final draft is anticipated in July following the earlier completion of remaining face-to-face interviews.

³ Both those who meet the planning definition as set out in the Planning Policy for Traveller Sites and those households of gypsy and traveller ethnicity who do not travel but seek culturally appropriate accommodation.

15. The submitted plan contains strategic Policy LPRSP10(c) 'Gypsy & Traveller Site Allocations'. Alongside Policy LPRSP10(c) the submitted Local Plan Review reproduces the extant gypsy and traveller site allocation policies from the 2017 Local Plan, which are also shown on the Policies Map. The plan also contains Policy LPRHOU8 to manage individual planning proposals for gypsy and traveller accommodation. Policy LPRSP10(c) provides a hook for retaining the 2017 Local Plan allocations and states that a new Gypsy, Traveller and Travelling Showpeople Development Plan Document (GTTSDPD) will be produced. The GTTSDPD is set out in the latest Local Development Scheme (LDS) and is programmed to be adopted in 2025. A Regulation 18 consultation on the GTTSDPD was undertaken in the first half of 2023 and included a call for sites (the third such call for sites).
16. Clearly, there is a significant (and potentially unparalleled) housing need in Maidstone Borough for gypsies and traveller households, both nomadic and settled, who seek appropriate pitch provision. To seek to fully address the likely total need as part of the Local Plan Review would be challenging and potentially create significant delay. I also note that the final level of identified need would be subject to an assessment of existing pitch provision (including extant planning permissions (including on appeal)) to determine the scale of potential allocations. In my view there are exceptional circumstances in Maidstone Borough that support the timely preparation of the GTTSDPD as the mechanism to address total need rather than the Local Plan Review. In coming to this view, I note in the LDS, that the GTTSDPD is proposed to contain 'strategic policy' in addition to site allocations and development management policies. If that it is the case, then any strategic policy element as a potential replacement of LPRSP10(c) would be subject to the duty to cooperate or any successor mechanism.
17. In endorsing the approach of a GTTSDPD I am assured that work to date on this plan document, including initial consultation, demonstrates the Borough Council's commitment to put this plan in place to meet an important housing need. Failure to deliver the GTTSDPD in a timely manner would leave the Borough Council in a position of not having a plan-led ability to manage pitch and plot provision in the Borough and as such this is likely to necessitate an early review of the Local Plan. In the interim before the GTTSDPD is adopted, the retention of remaining allocations from the 2017 Local Plan would provide for some 22 additional pitches. Policy LPRHOU8 would provide a positively worded development management policy to support additional windfall provision.
18. To ensure the Local Plan Review is consistent with national planning policy I recommend that Policy LPRSS1 (Spatial Strategy) is amended to reference that the accommodation needs of gypsy, travellers and travelling showpeople over the plan period will be met in full. Paragraph 5.19 of the Plan should be

amended to reflect the latest position with the GTAA and new text inserted setting out the likely pitch and plot requirements that the GTTSDPD would need to address. I accept that currently, the level of need referred to in the Local Plan Review may need to be caveated but I would be happy to liaise further with the Council when the final GTAA is delivered in terms of further potential revisions to this part of the plan.

19. The Council have suggested deleting Policy LPRSP10(c) and the detailed site allocation policies and adding them to the schedule of other 'saved' policies of the 2017 Local Plan similar to remaining housing and employment allocations. Again, and similar to Coxheath, I do not consider the Council's suggestion would be necessary for soundness. Policy LPRSP10(c) provides a positive commitment to preparing the GTTSDPD which I consider essential. Having consulted on a plan that has embedded the 2017 Local Plan gypsy and traveller site allocations, I see no advantage or soundness reason to modify the Local Plan Review now to remove them. On adoption of the Local Plan Review these allocations would be indisputably 'up-to-date' and given full weight in decision-making. I am therefore unable to recommend deleting LPRSP10(c) or the suite of allocations at LPRGT(1)-(11) as shown on the Policies Map.
20. In respect of Policy LPRHOU8, which I understand is largely rolled forward from Policy DM15 of the 2017 Local Plan, and having regard to the recent Court of Appeal decision in *Lisa Smith v. SSLUHC, North West Leicestershire et al*⁴ on the purpose and effect of the tighter planning definition in the PPTS, I will need to recommend that criterion 2 of the policy be deleted. Alternatively, I could recommend an amendment to criterion 2, provided the wording makes clear that proposals from those households of a gypsy and traveller ethnicity who have ceased travelling and seek culturally appropriate accommodation would not be discriminated against.

Leeds Langleigh Relief Road

21. The examination considered the policy framework for the proposed Leeds Langleigh Relief Road and its delivery in time through enabling development (approximately 4,000 homes). My Stage 1 findings [ED70] recommended deletion of the submitted Policy and associated safeguarding area, concluding that such a strategic broad location for growth was not necessary to meet needs in this plan period and should be looked again as part of the next plan review alongside other options. This was reluctantly accepted by the Borough Council in moving forward to Stage 2 hearings, and I am under no illusion that delivering a relief road solution to ease traffic flows in communities to the south (east) of Maidstone remains important to the Council. Accordingly, the Council has sought in document ED108 to suggest additional policy content to LPRSP13, the strategic policy on transport, to provide a hook that the relief road remains a strategic objective.

⁴ [2002] EWCA Civ 1391

22. Bearing in mind that Policy LPRSP13 is a strategic policy on transport, I do not consider that the proposed additional criterion referencing an ongoing commitment for the Borough Council to explore the funding and delivery of a Leeds Langley Relief Road and associated enabling development to be prejudicial to future plan-making. Inclusion within Policy LPRSP13 provides a basis for ongoing discussion, with the prime objective of delivering local infrastructure. What is proposed in ED108 is markedly different to submitted Policy LPRSP5(a) which defined and safeguarded an area for potential future development. I will therefore recommend that the wording regarding the Leeds Langley Relief Road in ED108 form part of the schedule of proposed main modifications for consultation. I will set out the full reasoning in my final report.

Transport and Infrastructure

23. At the respective Stage 2 sessions for Heathlands, Lidsing and the Strategic Transport and Infrastructure policies (LPRSP12 and LPRSP13) it was clear that during the examination the evidence has evolved on the likely infrastructure required to support sustainable growth in the Plan. Furthermore, the advent of Department for Transport Circular 01/22 will have implications for infrastructure planning over the plan period. Having in mind, the submissions of National Highways and Kent County Council as Local Highway Authority, and to some extent Medway Council, I am anticipating additional plan content in the form of further specificity around likely highway interventions to support sustainable growth at Heathlands and Lidsing. More generally, I am also expecting modified plan content to reflect the new approach in Circular 01/22 (for the strategic road network) as part of a positive approach to supporting the transition to net zero and potentially unlocking early growth. Underpinning proposed main modifications in this area, I was advised that the Infrastructure Delivery Plan (IDP) and Integrated Transport Strategy (ITS) would be updated alongside proposed main modifications and that is something I consider necessary. Additionally, an addendum to the Plan-wide Viability Appraisal would also be necessary given various infrastructure requirements have crystallised during the examination to date, notably for Heathlands and Lidsing.

24. The Stage 2 hearings also revisited the issue of school provision on the Invicta Barracks site in Maidstone and I have heard and read respective evidence and positions on the proposed approach and the indicated school location and cost. This will be the subject of proposed main modifications and I am not at this stage recommending any further changes to those previously considered at Stage 1. School provision on the Invicta Barracks site has been identified in the IDP that accompanied the submitted plan and I leave it to the Council to look at the identified cost and timing of the project when revisiting the IDP to accompany the proposed main modifications consultation.

accommodate a significant uplift in local housing need, follows closely on from the adoption of the 2017 Local Plan, takes a generally generous approach to site allocation capacities and would ensure an appropriate deliverable supply in the short to medium term, I do not consider it necessary for soundness that this small shortfall is remedied now.

30. In summary, I recommend that the proposed stepped housing trajectory in ED100 subject to factual refinements be a proposed main modification. The

stepped trajectory should replace that provided at Appendix 1 of the submitted plan. To accompany the main modifications, I will require the Council to publish more of the detail behind the trajectory to enable comment and ensure that the trajectory is consistent with other main modifications on individual sites. The trajectory is presently based on monitoring data up to and including the 2021/22 monitoring period. I consider that to be sufficient and there would be no obligation on the Council to update the trajectory to account for outputs for the 2022/23 monitoring period unless it was in a position to do so.

Moving to Proposed Main Modifications

31. Whilst the majority of proposed main modifications were identified and agreed at the respective hearing sessions, I trust that this letter addresses the small number of areas where I advised the Council I would reflect further and now enables the Council to finalise a draft schedule of proposed main modifications. I will need to see the schedule and agree its contents. Consultation on the proposed main modifications is identified in the latest LDS for September/October 2023. I would encourage that this timetable is met.
32. The schedule of proposed main modifications would need to be available for public consultation for at least six weeks. The proposed main modifications should also be accompanied by a separate schedule of proposed changes to the Policies Map for transparency and completeness. Whilst not required to do so, I would also encourage the Council to publish a separate list of additional modifications (minor changes to the Plan not necessary for plan soundness) to accompany the consultation. Whilst I will only consider comments made in relation to the proposed main modifications, publishing the additional modifications would enable a complete picture of all changes to the Plan is provided.
33. I would like to take this opportunity to re-iterate my thanks to you, Mr Egerton and your colleagues for your constructive and helpful approach throughout the examination to date. If you require any further clarification on any of the content of this letter please let me know via the Programme Officer.
34. A copy of this letter should be placed on the examination website as soon as possible.

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Yours sincerely,

David Spencer

Inspector.

Habitats Regulation Assessment

25. The Stage 2 hearings considered water quality in relation to Heathlands and air quality, principally in relation to Lidsing. The Council will need to update the Habitats Regulation Assessment (HRA) for the Plan to: (i) reflect latest evidence and dialogue with Natural England; and (ii) respond to proposed main modifications, including, where a potential adverse effect cannot be ruled out, any main modifications to policies in the Plan that would be necessary by way of mitigation, so as to enable a positive conclusion as part of the appropriate assessment within HRA.
26. In respect of water quality and in particular the Stour catchment and the Stodmarsh Ramsar, SPA and SAC site, various main modifications were identified as part of the Stage 1 hearings process. From the various statements of common ground and submissions from Natural England I am anticipating that an HRA addendum will arrive at a positive appropriate assessment conclusion.
27. In relation to air quality and nitrogen deposition in the North Downs Woodland SAC, it was confirmed at the Stage 2 hearings that whilst there would be no in-combination effect, intriguingly the Plan's proposals in isolation may very marginally exceed the 1% threshold thus triggering an adverse effect. I was advised at the hearings that potential mitigations exist which in turn may need to be embedded within proposed main modifications.

Housing Trajectory

28. The overall housing trajectory was considered as part of the Stage 1 hearings and various adjustments recommended in respect of delivery timeframes on strategic sites. I also set out after the Stage 1 hearings why I considered the circumstances in Maidstone, including the submitted spatial strategy, aligned with the advice of the Planning Practice Guidance regarding stepped housing trajectories. The Borough Council has presented in document ED100 a stepped trajectory which accounts for high levels of delivery in the first 3 years of the plan period, then marginally steps down for years 4-8 (albeit to a level higher than the current housing requirement) before stepping up again in the latter half of the plan period when the garden communities can start delivering in earnest. From all that I have read and heard for the Stage 2 hearings, I am satisfied that, in principle, this trajectory would be necessary for plan soundness. I understand the Council wishes to make some amendments following a recent planning appeal decision (which re-profiled delivery on some sites) and to take account of proposed amendments discussed during Stage 2 hearings – for example the increased capacity at land at Pested Bars Road.
29. Based on the stepped trajectory provided by the Council in document ED100 there would be a modest shortfall towards the very end of the plan period (approximately 300 homes). Given the Local Plan Review seeks to