

19 April 2016 at 7.00 pm

Conference Room, Argyle Road, Sevenoaks  
Despatched: 11.04.16



# Planning Advisory Committee

## Membership:

Chairman, Cllr. Mrs. Hunter; Vice-Chairman, Cllr. Thornton  
Cllrs. Dr. Canet, Clark, Gaywood, Halford, Horwood, McGregor, Mrs. Morris,  
Parson, Piper and Scholey

## Agenda

	Pages	Contact
Apologies for Absence		
1. <b>Minutes</b> To agree the Minutes of the meeting of the Committee held on 2 February 2016, as a correct record.	(Pages 1 - 4)	
2. <b>Declarations of Interest</b> Any interest not already registered.		
3. <b>Actions from Previous Meetings (if any)</b>	(Pages 5 - 6)	
4. <b>Update from Portfolio Holder</b>		
5. <b>Referrals from Cabinet or the Audit Committee (if any)</b>		
6. <b>Building Control Services - Update</b>	(Pages 7 - 14)	Kevin Tomsett Tel: 01732 227368
7. <b>Local Land Charges - Update</b>	(Pages 15 - 20)	Kevin Tomsett Tel: 01732 227368
8. <b>Planning Enforcement Update</b>	(Pages 21 - 28)	Mark Turner Tel: 01732 227361
9. <b>Local Plan Work Programme</b>	(Pages 29 - 34)	Antony Lancaster Tel: 01732227326
10. <b>SHLAA and ELAA Progress Report</b>	(Pages 35 - 40)	Emma Boshell Tel: 01732227358
11. <b>Work Plan</b>	(Pages 41 - 42)	

## EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227247 or [democratic.services@sevenoaks.gov.uk](mailto:democratic.services@sevenoaks.gov.uk).

**PLANNING ADVISORY COMMITTEE**

Minutes of the meeting held on 2 February 2016 commencing at 7.00 pm

Present: Cllr. Mrs. Hunter (Chairman)

Cllr. Thornton (Vice-Chairman)

Cllrs. Dr. Canet, Clark, Halford, Horwood, McGregor, Mrs. Morris, and Piper

Apologies for absence were received from Cllrs. Gaywood, Parson and Scholey

Cllr. Ms. Tennessee was also present.

24. Minutes

Resolved: That the Minutes of the meeting of the Committee held on 13 October 2015 be approved and signed by the Chairman as a correct record subject to paragraph one of minute 14 being amended to read “7% as non greenbelt finding...” and paragraph five of minute 14 being amended to read “...attending a meeting concerning Gatwick with Kent County Council...”.

25. Declarations of Interest

No additional declarations of interest were made.

26. Actions from Previous Meetings

The actions were noted. The statistics on appeals showing the sizes of the applications on the appeals lost had been sent to Members via email on 21 January 2016. [Hard copies of the statistics](#) were available for Members.

Members thanked Officers for the statistics but thought it would have been beneficial to see a comparison between the dwelling types.

27. Update from Portfolio Holder

The Portfolio Holder for Planning advised Members that:

- The net number of units built for 2014/15 was 199 which exceeded the Council’s current target of 165 houses per year. This, was due, in part to a higher number of larger developments. With the revision of the Local Plan the target number of 165 houses will change;
- With reference to the Strategic Housing Land Availability Assessment (SHLAA), also being considered later on the agenda, the SHLAA progress was going well with Officers reviewing sites (which currently stood at approximately 250 sites). Once the assessment had been completed, all

## Agenda Item 1

### Planning Advisory Committee - 2 February 2016

sites would be reported to the committee for consideration. This had been schedule for June's meeting;

- The suggestion of charging pre-application planning advice had been considered by Cabinet but it has been rejected;
- Receipts from Community Infrastructure Levy (CIL) had been slow with approximately £120K of CIL funding generated so far;
- Sevenoaks District Council (SDC) was winning approximately 74% of planning appeals lodged;
- Upgrading the A21 dual carriageway to Hastings was being considered but was subject to funding;
- There would be no decision on additional airport capacity at Gatwick Airport until the summer; and
- He had attended a meeting on London's housing demand as there was a duty to inform local authorities of any proposals.

Members sought feedback on the Lower Thames Crossing proposals that had been announced recently. The Portfolio Holder informed Members that an update would be made available at the next meeting.

Members requested details/numbers of applicants on SDC's self build register which exempted the applicants from paying CIL.

*Action 1: Chief Planning Officer to provide Members with details/numbers of applicants on SDC's self build register.*

#### 28. Referrals from Cabinet or the Audit Committee

There were none.

#### 29. Strategic Housing Land Availability Assessment (SHLAA)

The Senior Planning Officer (Policy) presented a report on progress on the Strategic Housing Land Availability Assessment (SHLAA) and the Economic Land Availability Assessment (ELAA).

Currently, a quarter of the sites submitted so far had been visited. It was envisaged that the remainder of sites would have been visited by the end of March 2016. Officers would then engage with local members from mid-April onwards to discuss the sites in their individual wards.

An update would be brought before April's meeting with the SHLAA and ELAA being completed and reported to the committee in June for consideration.

Officers confirmed that all sites (both those recommended for approval and rejection) will be included in the completed SHLAA and ELAA so that this committee could consider each site on an equal basis ensuring a fair, honest and transparent evaluation.

Members were concerned about constituents lobbying individual members enquiring about specific sites which may have been logged/assessed within their wards.

Officers stressed the importance of Members refraining from releasing any information about sites until the SHLAA and ELAA had been made public. The SHLAA and ELAA needed to remain a clear and transparent process, any information released early would undermine/prejudice the work being undertaken.

#### Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the progress on the Strategic Housing Land Availability Assessment (SHLAA) and the Economic Land Availability Assessment (ELAA) be noted.

#### 30. Local Plan Update

The Strategic Planning Manager presented a report on progress with the work programme for preparing a Local Plan.

Members enquired whether tourism was considered when preparing a Local Plan. Officers confirmed that tourism was included in the Economic Study.

Members were advised that although some of the studies/plans being undertaken were not within the committees remit, these studies/plans would be presented to this committee as it had responsibility for the Local Plan and in such circumstances Members from other Advisory Committees would be invited and encouraged to provide feedback.

#### Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the progress with the work programme for preparing a Local Plan be noted.

#### 31. Work Plan

The work plan was updated as follows:

- 19 April 2016      Housing Strategy  
                             Local Plan Update  
                             Overview of Building Control  
                             Landcharges update  
                             Viability

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**Planning Advisory Committee - 2 February 2016**

Enforcement update (to include S215 notices)  
SHLAA Progress Report

- Summer 2016 Local Plan Update  
SHLAA and ELAA
- Autumn 2016 Local Plan Update

THE MEETING WAS CONCLUDED AT 8.25 PM

CHAIRMAN

**ACTIONS FROM THE MEETING HELD ON 2 FEBRUARY 2016**

<b>Action</b>	<b>Description</b>	<b>Status and last updated 06.04.16</b>	<b>Contact Officer</b>
ACTION 1	The Chief Planning Officer to provide Members with details/numbers of applicants on SDC's self build register.	There are currently 10 people registered on our Self- and Custom- Build Register	Richard Morris

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## **BUILDING CONTROL SERVICES- UPDATE**

### **Planning Advisory Committee - 19 April 2016**

Report of Chief Officer Environmental and Operational Services

Status: For information

Key Decision: No

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**Executive Summary:** This report provides an overview of the Building Control Services, background, performance and future considerations.

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**This report supports the Key Aim of Safe Communities**

**Portfolio Holder** Cllr. Piper

**Contact Officer** Kevin Tomsett - ext: 7368

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#### **Recommendation to Planning Advisory Committee:**

That the contents of the report be noted.

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#### **Introduction and Background**

- 1 The Building Control Service ensures that buildings are designed and constructed in accordance with the Building Regulations and associated legislation.
- 2 Building Regulations set standards for the design and construction of buildings to ensure the health and safety for people in or around those buildings. They also include requirements to ensure that fuel and power is conserved and that facilities are provided for people, including those with disabilities, to access and move around inside buildings.
- 3 On the 1st October 2014 Sevenoaks District Council and Tonbridge and Malling Borough Council entered into a joint working arrangement and formed the Building Control Partnership.
- 4 The Partnership aimed to build on the previous successful shared Management arrangements in building control, achieve efficiency savings for both Authorities and significantly increase the resilience for the Building Control Service by amalgamating two small teams into one larger team covering both authorities. It was also intended that the Partnership would enable both councils to fulfil their statutory obligations, meet agreed service

## Agenda Item 6

standards and be more competitive in attracting additional fee earning work.

### Team Structure

- 5 An important step was the identification of the appropriate level of staffing resource for the new arrangements. A process of staff consultations and recruitment took place resulting in the following structure which is formed by employees of both councils:

Building Control Manager - 1 FTE

Team Leaders - 2 FTE

Senior Surveyor - 1 FTE

Surveyors - 5 FTE

Technical Administration - 3 FTE

Total FTE - 12.0

- 6 The previous FTE across both services was 15.5 and so efficiency savings were achieved. Both teams were holding vacancies and all existing surveyors were accommodated in the Partnership Teams, while some administrative staff elected for redeployment elsewhere within the Councils.
- 7 The administration hub is hosted at SDC with 'hot desk' functionality available for the area surveyors and the Building Control Manager at the Kings Hill council offices and at the office in Tonbridge Castle. It was considered important that a presence was retained at both council offices for customers' interaction and for operational purposes. To date this approach is working well and there have been numerous occasions when the surveyors have worked flexibly across both Council areas to accommodate peaks in demand, holidays or sickness.

### Key Achievements

- 8 Working in Partnership has enabled the development of a number of initiatives and benefits, which will help deliver improved ways of working, further efficiencies and are described below:
- 9 Delivery of Shared Idox Uniform System - it was decided that as both council's used separate IDOX Uniform systems the priority would be to form a shared Uniform system and merge both datasets. This would enable the standardisation of letter templates, fee tables, inspection record keeping etc. The shared system would assist staff in accessing applications and cross boundary working rather than accessing two separate IT environments. Following a successful bid for £90,000 from the DCLG Transformation Challenge Award funding we were able to progress this. Idox were employed and a working group formed, comprising representatives from Building

Control and both IT Services, which resulted in the launch of the Shared System in November 2015.

- 10 Enterprise Performance Management - Idox Enterprise is a performance monitoring and management solution fully integrated with the BC Uniform database, as described above. Enterprise enables the monitoring of surveyors cases and the teams overall workload. The team leaders and manager are able to reallocate workload to deal with fluctuations and staff absence. Tasks have been set up to align with statutory and other key performance targets which track applications and warn in advance of impending target dates. Enterprise has been in place since November 2015 and process efficiencies are already being delivered e.g. tracking and payment of invalid applications and completion of site inspection records.
- 11 Mobile Working - to realise the efficiencies of the Partnership the surveyor areas were reviewed and changed to reflect workload, density, transport links and office locations. The surveying team now operates across Council boundaries and officers have been provided with laptop computers and mobile devices to enable remote working.
- 12 Electronic Correspondence - a full review of each council's letter templates commenced in October 2014 with a view of creating one set of newly branded letters and certificates. The letters have, where appropriate, been updated to reflect a more customer friendly tone and simplified English. All new letter templates are set up to email directly to the applicant or agent and automatically save into the document management system. All approval and completion certificates have also been redesigned to visually represent a 'certificate'. This project is approximately 70% complete and the ability to email all acknowledgement, application and decision letters will save significant time and create cost savings.
- 13 LABC Partner Agents - the BC Service is in competition with the private sector and the BC team has concentrated on retaining key agents whilst looking at opportunities to attract others and therefore increase revenue. In the past year the team have added a further two well respected local Architectural practices to bring a total of thirteen Agents who have entered into partnership agreement through the LABC scheme. This arrangement enables the BC team to carry out plan appraisals for any projects located in the country with site inspections being carried out by the local council.
- 14 Dangerous Structures - The Council is committed to responding to any dangerous structure within 2 hours of receipt. Having a larger pool of Surveyors available has enabled the Partnership to introduce a formal weekly rota and the ability to call upon others for assistance.

### **Future Considerations**

- 15 Looking ahead there are a number of service improvements planned, these are:

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- Online Application form fully integrated into Uniform and Payment system;
- Online payment facility for inspection fee invoices;
- Public Access for Approval and Completion certificates;
- Review of BC Standard Charges; and
- Marketing Strategy.

### Performance

16 Please see Appendix A.

### Charges

- 17 Direct costs associated with the Partnership are pooled and shared between the authorities on the basis of income generated by each authority in the 2013/14 Financial Year. This equates to a 45:55 split TMBC:SDC and has been adopted as a model for the first three years of the partnership.
- 18 The government requires local authority charges for building regulation work to cover the cost of the service only. Therefore the BC fees reflect the work involved on a project type basis. As neither council has updated the BC fee charges since 2013 the BC Service has decided to review the cost of providing the service based on the Fee Regulations and CIPFA guidance. The review will recalculate the chargeable officer hourly rate and will be used along with historic data on the number of site inspection for various project types to update the standard charges. The Partnership also offers individually determined charges and bespoke quotations. Its intended that the updated fee charges schedule will be in place for 1st October 2016.

### Key Implications

#### Financial

The Net budget for 2015/16 for SDC was a surplus of £159,348, comprising of income from plan and site inspections totalling £457,314, however the budget in 2015/16 contained income from the previous shared management arrangements which will not be realised as the shared service commenced on 1 October 2014, this income line has been removed from the 2016/17 budget.

#### Legal Implications and Risk Assessment Statement

The Building Control Service is a Statutory Service governed by The Building Act 1984.

#### Equality Assessment

There are no equalities impacts arising from this report.



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Building Control Partnership Performance 2016							
				SDC			T&M
PI No.	Target	2015/16 Target	2016/17 Target	2013/14 Outturn	2014/15 Outturn	2015/16 Outturn	2015/16 Outturn
LPI 39	Plans Checked 15 Days	95%	95%	93%	88%	99%	91%
LPI 38	Plans Checked 10 Days	90%	90%	85%	74%	83%	84%
LPI 37	Register and acknowledge Building Notices in 3 days	80%	90%	97%	98%	99%	80%
LPI 40	Respond to Dangerous Structures in 2 hours	100%	100%	100%	100%	100%	100%
MPI 53	Average Plan Check Days	7	7	7	8.1	6.1	7
MPI 21	Number of Inspections	5000	-	5030	4972	4158	3360
MPI 57	Building Regulation Fee Income	£457,314	TBC	£404,196	£429,138	£414,562	TBC
MPI 54	Number of Full Plan Applications	-	-	503	538	435	387
MPI 55	Number of Building Notices	-	-	406	396	389	414
	Number of Initial Notice's	-	-	283	339	325	364
MPI 56	Number of Dangerous structures	-	-	26	24	34	28

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## LOCAL LAND CHARGES - UPDATE

### Planning Advisory Committee - 19 April 2016

Report of Chief Officer Environmental and Operational Services

Status: For information

Key Decision: No

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**Executive Summary:** This report provides an overview of the Local Land Charges Service, background, performance and future considerations.

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**This report supports the Key Aim of Effective management of resources**

**Portfolio Holder** Cllr. Piper

**Contact Officer** Kevin Tomsett - ext: 7368

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#### **Recommendation to Planning Advisory Committee:**

That the contents of the report be noted.

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#### **Introduction and Background**

- 1 When a property or parcel of land is bought, leased, mortgaged or a valuation carried out, a request for a search is sent to the Local Land Charges team, the search is usually submitted by a solicitor or licensed conveyancer, either electronically or by a paper application form.
- 2 Local Land Charges inform potential buyers of property or land whether they will inherit any obligations or restrictions such as a tree preservation order or enforcement notice.

- 3 A search consists of three parts:

**Part one - LLC1** - the Official Certificate of Search Form, which covers obligations and restrictions on the property imposed by the Local Authority which will be inherited by any subsequent owner - for example financial charges (registered against the property by the local authority), improvement grants, tree preservation orders or listed building status.

**Part two - CON29R** - the Enquiries of Local Authorities Form covers things like planning history of the property, whether the road is publicly or privately maintained and whether there are any major road or rail proposals in the vicinity

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**Part three - CON290** - includes further (optional) enquiries which covers information about public paths or byways, houses in multiple occupation, hazardous substance consents and common land.

- 4 For the above searches, Sevenoaks District Council charges a fee as set out in Appendix A. The fee charges should be set to fully recover the costs of the service provided.

### Personal Searches

- 5 A personal search is legally defined as a search of the Local Land Charges Register (LLCR) carried out by a member of the public. CON29 Information is not included or provided by Local Land Charge Departments as part of a personal search.
- 6 Until August 2010, a fee of £11 was charged for inspection of the LLCR, as required by the Local Land Charges Regulations and set by Government. The fee was removed by Government as many Private Search Companies had complained that the fees set by authorities are incompatible with the Environmental Information Regulations 2004 (the "EIRs").
- 7 The EIRs were brought into force on 1 January 2005 as a means of implementing the 2003 EC Directive on Freedom of Information. The EIRs specifically state that environmental information contained on a register or list must be made available for personal inspection at no charge.
- 8 The result of the conflict between the EIRs and the existing legislation is that numerous private property search companies issued claims against authorities for charges levied from 1 January 2005 onwards which are alleged to be unlawful under the EIRs.
- 9 As these claims were raised against 369 Authorities, the Local Government Association (LGA) appointed Lawyers Bevan Brittan to act on behalf of all Authorities.
- 10 In June 2015 SDC, in collaboration with 368 other local authorities, the Local Government Association and lawyers Bevan Brittan, reached a mutually satisfactory settlement with members of the Amalgamated Personal Property Searches ("APPS") group, who had indicated their intention to bring claims against a number of authorities including Sevenoaks District Council. The terms on which the claims have been settled are and remain confidential to the parties. Agreement was reached after careful scrutiny of the claims and following a structured alternative dispute resolution process.
- 11 The result of the claims and settlement means Sevenoaks District Council now has to provide Personal Search information without charge.

### Team Structure

- 12 The team consist of a permanent 1.9 FTE, a Senior Local Land Charges Officer (1 FTE), a Local Land Charges Officer (0.6 FTE) and a shared administration resource (0.3 FTE).
- 13 Since December 2014 an additional temporary resource (0.6 FTE) has been employed to address increasing workload and to keep performance within targets.

### Performance

- 14 The annual income budget for 2015/16 for the service was £190,903, expenditure is mainly salaries, £70,161 and support service costs in terms of IT provision to support databases.
- 15 During 2015/16, the team received 1752 Searches and 1107 Personal Searches, the average time to process a Search was 7.7 working days.

### Charges

- 16 As previously mentioned, a current scheme of charges for the service are set out in Appendix A and are set to recover the costs of providing the service but not to create a surplus, however, from the 4 July 2016, HMRC have announced that certain elements of the service will require VAT to be charged. It is recommended that VAT will be added to our existing fees and will not be absorbed as this would not lead to full cost recovery.

### Land Registry Proposals

- 17 In 2010, HM Land Registry proposed that a single, standardised point of contact should be created for the provision of LLC information citing "*an issue with the lack of standardisation with the current provision system of LLC and CON29 searches*".
- 18 Since that time, legislation has been passed which will enable HMLR to assume responsibility and payment for the provision of LLC data from all Local Authorities including Sevenoaks District Council. SDC will be required to provide this data at no cost.
- 19 In 2010 migration was expected to be phased throughout 2015, the latest understanding is that migration will be phased through 2017-2022. When the service is migrated to HMLR, Sevenoaks District Council will be required to provide data, by a means not yet known but presumably electronically, on a daily basis to HMLR. From this date, SDC will no longer be able to charge a fee for information provided.
- 20 SDC have engaged with the HMLR and are actively working on how data is stored, the digitising of data and how this could most efficiently be achieved and discussion are ongoing.

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### **Key Implications**

#### Financial

The annual income budget for 2015/16 for the service was £190,903, if HMLR proposals come into force, no income will be generated.

#### Legal Implications and Risk Assessment Statement.

Local Land Charges is a statutory service.

#### Equality Assessment

There are no equalities impacts arising from this report.

#### **Appendices**

Appendix A - Current Charges

#### **Background Papers:**

None

**Richard Wilson**

**Chief Officer Environmental and Operational Services**

## Land Charges – FEES

Process	Fees From 1.4.10 to date.
<b>Electronic NLIS &amp; TM Searches</b>	
Combined Full Search	£86
LLC1	£16
CON29R	£70
<b>Paper &amp; Emailed Searches</b>	
Combined Full Search	£105
LLC1	£20
CON29R	£85
<b>Electronic &amp; Paper</b>	
CON29O Printed Enquiry (Each) Q4 – 22	£15
Additional Enquiry (Each)	£25
Additional Parcel Of Land	£15
Expedition (Turnaround time: 1 - 3 Working Days)	£30
<b>Personal Searches</b> (Of Local Land Charges Register <u>ONLY</u> )	<i>Free for collection.</i>
<b>Cancellation of Searches</b>	<i>We do not cancel searches once they have been accepted onto the system.</i>
<b>Copy Of Search</b>	£10

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## PLANNING ENFORCEMENT UPDATE

### Planning Advisory Committee - 19 April 2016

Report of Chief Planning Officer

Status: For Consideration

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**This report supports the Key Aim of Protecting the Green Belt**

Portfolio Holder Cllr Piper

Contact Officer Mark Turner, Development Manager, Ext. 7361

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### **Recommendation to the Planning Advisory Committee:**

That the contents of the report be noted.

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### **Introduction and Background**

- 1 This purpose of this report is to provide an update with regard to the planning enforcement function of the development management service.
- 2 The Government provides guidance to local authorities regarding planning enforcement. It states:  
  
*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”* (NPPF para. 207).
- 3 The Council adopted the Local Enforcement Plan on 5 March 2016. It states that the Council’s approach to enforcement is based on the following key principles.
  - We will ...investigate all complaints received about breaches of planning control (\*) and aim to visit the site concerned within three working days.
  - We will ...give priority to the most serious complaints based on the degree of harm caused by the development subject of the complaint.
  - We will ...use our statutory powers to remove harmful development.

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- We will ...explore solutions to remove harm caused by unauthorised development.
  - We will ...keep complainants and those who are the subject of complaints informed throughout our investigations.
  - We will ...keep the identity of complainants confidential.
- 4 It is acknowledged that undertaking formal planning enforcement action is a discretionary function. However, the Local Enforcement Plan underpins the Council's commitment to addressing unauthorised development where it can be established that the matter is contrary to the Development Plan and other material considerations.
- 5 This report will consider planning enforcement activity from 1 April 2015 to 1 April 2016.

### Staffing

- 6 The planning enforcement team is made up of a Senior Investigation Officer, two Investigation Officers and a Technician. All matters regarding allegations of unauthorised development come within the scope of the team as do matters appertaining to the collection of S106 and Community Infrastructure Levy (CIL) payments.

### Senior Investigation Officer

- 7 During the latter part of 2015 the Senior Investigation Officer, who has first line responsibility for managing the enforcement team as well as undertaking her own investigations, took an unexpected, extended period of sick leave. The Officer remains on sick leave at this time. Authorisation was given by SMT to appoint a temporary Senior Investigation Officer. This took some time to achieve due to the limited number of suitably qualified available candidates. An officer has now been appointed and will remain in place until the permanent member of staff has returned to full-time work. The prolonged period of this post's vacancy had an impact in terms of planning enforcement performance.

### Quantum

- 8 During the period 1106 complaints were received and 1012 cases were resolved (a discussion as to means of resolution is provided later). At this time 618 investigations remain open. The team has an informal target of reducing the number of outstanding complaints to 60 per officer - although some way off it is worth noting that good progress has been made in the first quarter of the year with 320 cases being closed though it should be noted these were mostly older, monitoring matters rather than live investigations.

## Timeliness

- 9 Performance in terms of timescale has long been a matter of discussion. Previous governments considered imposing a timescale for enforcement similar to that for determining planning applications. This proved an unsuitable measure because of the diversity of matters being dealt with, the occasional difficulty in establishing a breach, and the expectation that most matters will be resolved by negotiation with formal action being the exception rather than the norm. A graph is shown in Appendix A illustrating the time periods to close complaints.

## Time to commence investigation

- 10 It has recently become apparent that the means to measure time to commence investigation i.e. the lag between receipt of complaint and first site visit (presuming a site visit is necessary) is inaccurate. This is primarily because of the manner in which the Council's adopted software programme was being used. This process has been changed and it is anticipated that more accurate data can be provided in future reports. Improved procedures have been trialled for period 1/1/2016 - 1/4/2016 and these have shown that the investigation of 78% of cases was commenced within the 3 day timescale specified in the Local Enforcement Plan.

## Reasons for closure

- 11 Planning enforcement is possibly one of the most misunderstood areas of development management. The most commonly held beliefs are that any development without first obtaining planning permission is illegal and that retrospective planning applications are unacceptable. A full breakdown of the reasons for closing complaints during the 2015/16 period is provided in Appendix B. The most notable data being that 47% of the complaints closed were because a breach of development management had not occurred.

## “Getting away with it!”

- 12 A comment regularly made about unauthorised development is that the Council “let them get away with it”. There are statutory time limits after which the Council is barred from taking formal action. Data shows that only 2% of the cases closed in 2015/16 were closed because the breach was out of time (4 years/10 years).
- 13 The second strand of the “getting away with it” debate is complaints closed because a decision has been made that it is not appropriate to take formal action. Legislation requires the Council to determine whether or not a) a breach has occurred and b) it is expedient to take formal action having regard to the Development Plan and other material considerations (Town and Country Planning Act 1990 (as amended) Section 179).
- 14 The word “expedient” is not defined in legislation although the word has been used since the 1947 Act. The Oxford English Dictionary defines

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“expedient” as fit, proper or suitable to the circumstances of the case” and this is the manner in which it is used in the planning enforcement function.

- 15 Data shows that 3% of cases were closed in 2015/16 because it was not expedient to take formal action. The Local Enforcement Plan requires officers to receive confirmation from Ward Councillors if such a decision is to be made therefore the 3% referred to above were all with the confirmation of the respective Ward Member.

### Formal Action

- 16 On occasion formal enforcement action is an appropriate response to actual (or rarely apprehended) breaches of development management. During 2015/16 the team issued 18 Planning Contravention Notices and 21 Section 330 Notices. These are statutory based mechanisms for obtaining information from individuals regarding land use and ownership. These may often be all that is required for an individual to accept that what they have done requires planning permission and could be a driver for either the 13% of complaints that are resolved through negotiation or the 8% that result in a planning application being submitted to regularise the situation.
- 17 A total of 12 planning enforcement notices were served, 6 related to unauthorised operational development and 6 related to unauthorised material changes of use. The team also served 1 Temporary Stop Notice, obtained 1 planning injunction from the High Court and served two Article 4 Directions.

### Section 215 Notices

- 18 These types of formal notices are available to the Council when any land in its area is in such a condition that it adversely affects the amenities. It is worth noting that the term “amenities” is not defined in law. It is equally important to note that there are statutory grounds for appealing such notices and the only way in which they can be “appealed” is in the Magistrates’ Court.
- 19 The Council issued 4 Section 215 Notices in the 2015/16 period.  
1 has been partially complied with.  
2 have not been complied with and are the subject of legal proceedings  
1 has been complied with.
- 20 There is enthusiasm for working with Ward Members to identify sites of concern within the District that would be suitable for such action. It is anticipated that those matters currently the subject of legal proceedings will provide a useful benchmark to judge future complaints.
- 21 It is worth noting that 42 of the 1106 complaints received during the 2015/16 period related to “untidy sites”.

## Section 106 Payments

- 22 The planning enforcement team monitor new starts for construction to ensure compliance with pre-commencement conditions, S106 and CIL payments. In addition to the monies collected “normally” the team have successfully collected in excess of £25k in overdue payments.

## Comparisons

- 23 It is difficult to make a direct comparison with other Councils as the nature of the breaches of development management they address may differ considerably. Government collects data from all Councils and produces this nationally. Details of the amount and type of formal enforcement action undertaken by Kent Councils are produced in Appendix C. It should be noted that data with regard to Section 215 Notices is not available.

## Successes

- 24 The Council dealt with a number of high profile issues during the 2015/16 period. A selection of these has been anonymised and are summarised below.
- a) The Council received reports regarding a possible unauthorised incursion onto land by gypsies and travellers. The land is owned by an individual who identifies himself as a gypsy. The possible incursion was rumoured to occur over a Bank Holiday period. The Council was successful in applying for an emergency injunction, primarily because of the size of the site and its potential to accommodate a very large number of mobile homes/caravans. The injunction was subsequently confirmed by the Judge. It has been the subject of a possible challenge but the Council has been advised that this challenge will now not proceed.
  - b) A breach of development control with regard to a dwellinghouse that had been built incorrectly along with an unauthorised subterranean garage. 3 months of complex negotiations including site meetings were undertaken. The owner subsequently submitted a series of planning applications that received planning permission without the need to resort to formal action.
  - c) The Council had concerns with regard to the possible sale of a large area of land in plots. There was a possibility that the land would be subdivided with fencing and caravans placed onto the individual plots. Action was taken to serve an Article 4 Direction on the land removing these Permitted Development Rights thus requiring planning applications should the owner wish to carry out this form of development.
  - d) The Council was made aware of an individual’s intention to hold a market (car boot sales) on the land. Concern was expressed about using Permitted Development Rights to undertake this form of

## Agenda Item 8

development thus causing an unacceptable impact in highway, green belt and AONB terms. An Article 4 Direction was served to remove these rights and the individual concerned has confirmed his intention to postpone the proposed markets and apply for planning application in due course.

### Future Concerns

- 25 Planning Enforcement continues to receive criticism from some quarters although it is arguable these are based on historic issues rather than the performance today. It is hoped that 2015/16 saw an improvement in the enforcement team's communication with Members and the public with clearer explanations for decisions being taken. There is little doubt that the service can continue to improve.
- 26 It is anticipated that 2016/17 will see considerable improvements in the use of technology to undertake the planning enforcement function. A considerable amount of preparatory work is underway with the IT team to allow the enforcement team to adopt paper-less working to mirror that of the rest of the service.
- 27 The amount of case law focussing on planning enforcement continues to grow. It is important to ensure that officers remain up to date and a focus on training (particularly taking advantage of the current temporary Senior Investigation Officer's skills) is underway.

### Appendices

Appendix A - Time to close complaints

Appendix B - Reasons for closing complaints

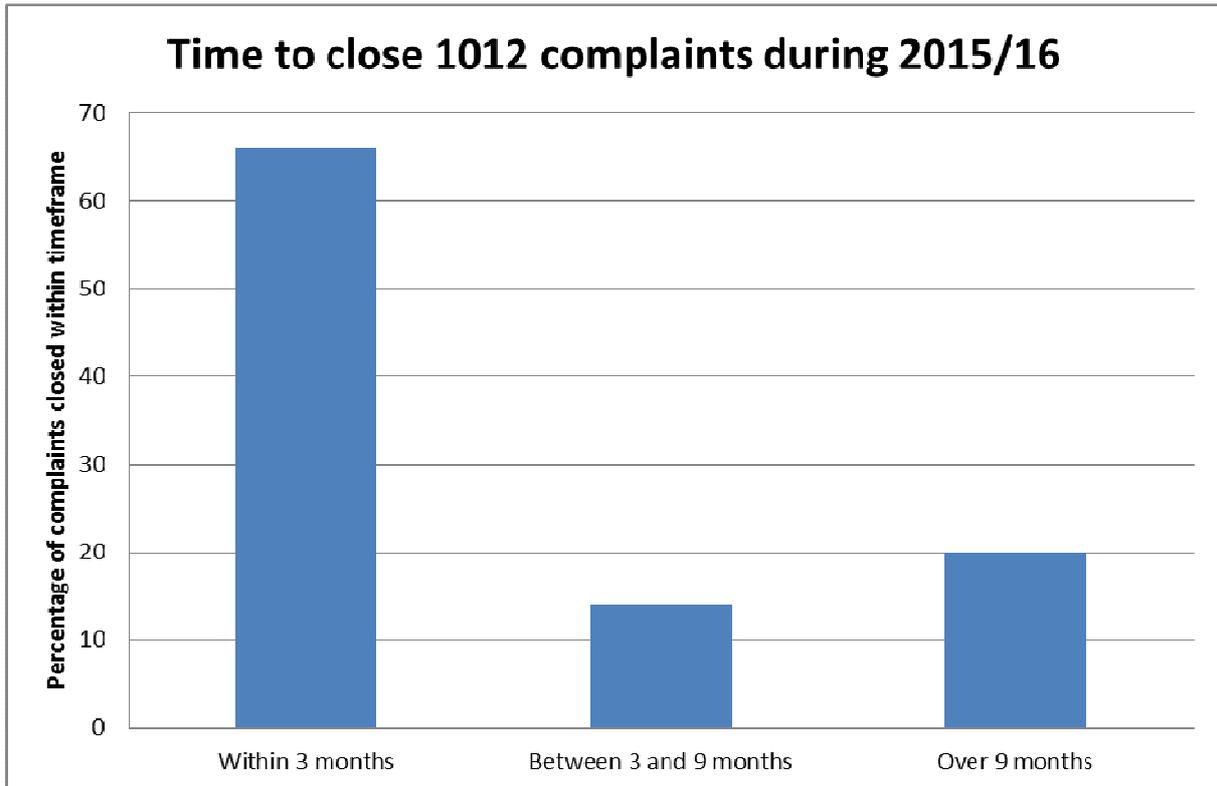
Appendix C - Enforcement Action in Kent Councils

### Background Papers:

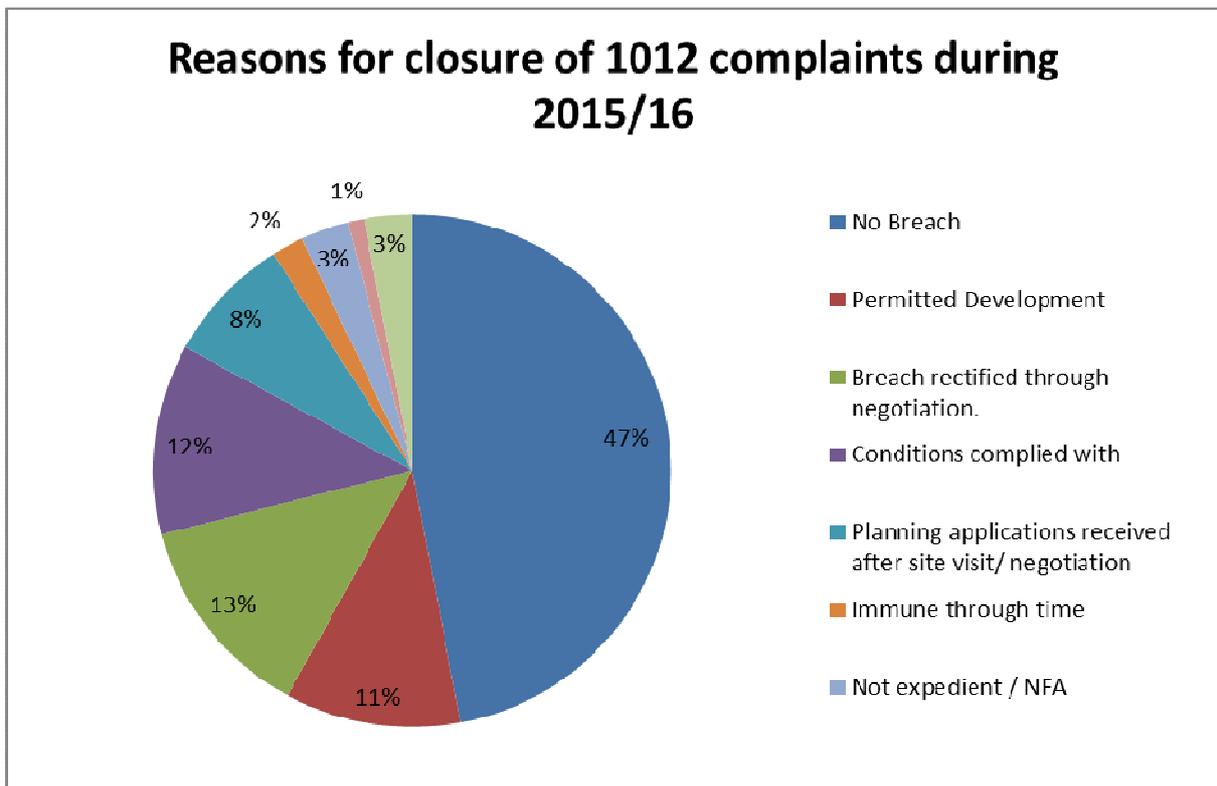
Local Enforcement Plan (Adopted 5 March 2015)

**Richard Morris**  
Chief Planning Officer

Appendix A



Appendix B



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### Appendix C

Planning authority	Enforcement Notices issued	Stop Notices issued	Temporary Stop Notices issued	Breach of Condition Notices served	Planning Contravention Notices served	Enforcement injunctions granted by High Court or County Court
Ashford	11	4	3	-	7	-
Canterbury	-	-	-	1	26	-
Dartford	5	-	-	-	-	-
Dover	10	-	-	-	-	-
Gravesham	2	-	-	1	-	-
Maidstone	4	2	1	-	4	-
Sevenoaks	16	-	-	2	9	1
Shepway	6	-	1	3	10	-
Swale	18	2	6	-	21	-
Thanet	27	-	-	-	1	-
Tonbridge and Malling	22	-	1	1	2	1
Tunbridge Wells	9	-	-	-	9	3

It is important to note that the statistics provided by DCLG to inform this table is based on 2015 only and therefore does not strictly mirror the 2015/16 period that is the focus of this report.

## LOCAL PLAN WORK PROGRAMME

### Planning Advisory Committee - 19 April 2016

Report of Chief Planning Officer

Status: For Consideration

Key Decision: No

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**This report supports the Key Aim of Protecting the Green Belt**

**Portfolio Holder** Cllr Piper

**Contact Officer** Antony Lancaster, Strategic Planning Manager Ext.7326

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#### **Recommendation to Planning Advisory Committee:**

To consider progress with the work programme for preparing a Local Plan

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**Reason for recommendation:** In order to enable discussion and advice on progress with the work programme for the preparation of a Local Plan.

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#### **Introduction and Background**

- 1 This report is concerned with providing an update on the Local Plan work programme agreed by the Planning Advisory Committee on 7 July 2015. The work plan was concerned with the initial stages of plan making until late 2016 focussing on preparation of a proportionate and robust evidence base and effective co-operation with other authorities.
- 2 The coming financial year's work programme is set out in appendix A. This now takes the form of a Provisional Forward Plan for preparing and approving Local Plan evidence for 2016/17. Key areas of recent progress are as follows:

#### **Local Development Scheme (LDS)**

- 3 The LDS provides the timetable for plan making. The current LDS was adopted in early 2015 and will need to be updated to reflect progress with the work programme and a revised anticipated timeframe for a new Local Plan. It is recommended that such an update should be prepared in late 2016/early 2017 and should reflect the following broad timescales:

Issues and Options - Summer 2017

## Agenda Item 9

Draft Local Plan - Spring 2018

Submission - Autumn 2018

Adoption - Summer 2019

### **Placemaking**

- 4 A series of six workshops have now been held at which invited representatives of all the Town and Parish Councils in the District provided initial input into the Local Plan process. Discussions focussed around what participants liked about their areas, what could be improved and what challenges could be identified. Comments are being collated and will form part of a summary report in late Summer 2016 that will eventually help contribute to the 'Issues and Options' stage of Local Plan making.

### **Housing**

- 5 The Council's housing policy service as provided via Gavin Missons and Liz Crockford is now being moved to planning services and located alongside planning policy under the Strategic Planning Manager. This reflects the close relationship between the work of the two services. Gavin and Liz will continue to report to Cllr Lowe.

### **Strategic Housing Land Availability Assessment and Employment Land Availability Assessment (SHLAA and ELAA)**

- 6 Update provided via item 8 to this committee meeting.

### **Economic Needs Study**

- 7 Turley Economics have been progressing this work. A stakeholder workshop was held at the Stag Theatre, Sevenoaks on 18 March. Work is progressing well and briefings for Portfolio Holders and Committee Members are provisionally being arranged for May/June.

### **Swanley and Hextable Masterplan**

- 8 Tibbalds consultants have been leading the preparation of the Masterplan work for Swanley and Hextable. A consultation week was held during week commencing 8 February. Invited stakeholder consultation events and public drop-in sessions were facilitated. About 1200 visitors came to the public drop in sessions and about 50 online responses have been received. Older age groups have so far formed the majority of responses and a younger perspective has since been sought via visits to Orchards Academy, High Firs, Downsview and the Youth Forum. The consultants are now preparing options with a view to having a draft document ready in time for consideration at Planning Advisory Committee in June.

### **Duty to Cooperate**

- 9 Regular/quarterly officer meetings continue with neighbouring local planning authorities and with other key stakeholders regarding cross-boundary issues. A brief 'shared statement' is being prepared with Dartford Borough Council in connection with their Development Policies Submission Document and subsequent examination to indicate co-operative working and planning policy agreement between the two authorities.

### **Retail Study**

- 10 A new retail study is now being commissioned and the project will be led by the Planning Policy team. Recruitment of consultants has commenced with interviews planned for 24 March. The Committee will be updated with any further progress at the meeting.

### **Open Space, Sport and Leisure Study**

- 11 The Communities and Business team are in the process of recruiting consultants to undertake an Open Space, Sport and Leisure Study in conjunction with the Planning Policy team. Consultants interviews are being planned during April. The study will be undertaken working with Towns and Parishes.

### **Strategic Flood Risk Assessment (SFRA)**

- 12 Recruitment of consultants is being planned through April to undertake this work, led by the Planning Policy team.

### **Other Options Considered and/or Rejected**

Preparation of a Local Plan is required by Government. Not preparing a local plan will leave the Council vulnerable to unwanted planning applications and appeal decisions. Recent Government announcements also indicate that the Government will intervene to prepare plans where they are not being prepared in a timely manner locally.

### **Key Implications**

#### Financial

Production of the Local Plan will be funded from the LDF reserve.

#### Legal Implications and Risk Assessment Statement.

Preparation of a Local Plan is a statutory requirement. There are defined legal requirements that must be met in plan making which are considered when the plan is examined by a Government Planning Inspector. Risks associated with Local Plan making are set out in the Local Development Scheme.

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### Equality Assessment.

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The preparation and adoption of a Local Plan will directly impact on end users. The impacts will be analysed via an Equalities Impact Assessment (EqIA) to be prepared alongside each key stage of plan making.

### **Conclusions**

Preparation of a Local Plan is required by Government. The current Core Strategy and Allocations and Development Management Plan are to be updated and combined in a new Local Plan for Sevenoaks District ensuring compliance of policy with any changes in national planning policy since their adoption. This report provides an update on the project plan for the work needed to achieve an adopted Local Plan.

### **Appendices**

Appendix A - Local Plan evidence - Provisional Forward Plan 2016/17

Appendix B - Agreed process for addressing housing need in the Local Plan

### **Background Papers**

Report to Planning Advisory Committee - 7 July 2015 - Local Plan work programme

**Richard Morris**  
Chief Planning Officer

## Appendix A

## Local Plan evidence - Provisional Forward Plan 2016/17

Project	PAC	Cabinet
SHLAA/ELAA update	19 April 2016	
SHLAA/ELAA site consideration. Start Green Belt Assessment	21 June 2016	
Swanley and Hextable Masterplan - draft document for consultation	21 June 2016	14 July 2016
Swanley and Hextable Masterplan - for consideration	22 Sept 2016	13 Oct 2016
Economic Needs Study	22 Sept 2016	
Retail Study	22 Sept 2016	
Leisure and Open Space	22 Sept 2016	
Strategic Flood Risk Assessment	22 Sept 2016	
Green Belt Assessment	17 Jan 2017	9 Feb 2017
Landscape Character Assessment and constraints mapping	17 Jan 2017	9 Feb 2017
Affordable Housing and Commercial Development Viability	2 March 2017	
Climate Change/Renewables	17 Jan 2017	
Duty to Co-operate Statement	2 March 2017	
Justification for Planning Standards	2 March 2017	
SHMA supplement to reflect updated projections, national changes in affordable housing policy and new guidance for Gypsies and Travellers accommodation needs	2 March 2017	20 April 2017

## Agenda Item 9

### Appendix B

#### Agreed process for addressing housing need in the Local Plan

<p><b>Step 1 Understanding Need</b></p> <p>Undertake Strategic Housing Market Assessment with Tunbridge Wells BC (SHMA)</p> <p>Understand other adjacent authorities need via Duty to Cooperate discussions</p>	
<p><b>Step 2 Maximising supply</b></p> <p>Undertake Strategic Housing Land Availability Assessment (SHLAA) including a call for Sites*</p> <p>Explore potential for increased site densities</p> <p>Explore potential for focussed increased site densities such as near railway stations</p> <p>Assess quantum of under-utilised employment land</p> <p>Assess potential contribution of windfalls</p> <p>Assess potential contribution of empty properties</p> <p>Assess potential contribution of office conversions</p> <p>Discuss supply options in other authority areas under the Duty to Cooperate</p>	
<p><b>Step 3 Understanding shortfall</b></p> <p>Match steps 1 and 2 findings for need and supply to understand level of any shortfall</p>	
<p><b>Step 4 Assessment of Green Belt Options</b></p> <p>Undertake full Green Belt Review of the District- assess parcels of land against the five purposes of Green Belt designation. Undertake detailed assessment at settlement boundaries and broad level assessment elsewhere</p>	
<p><b>Step 5 Other considerations</b></p> <p>Assess potential land options against other criteria, including:</p> <p>Category 1 constraints (national/international) e.g. Green Belt, AONB, flood risk</p> <p>Category 2 constraints (county/district) e.g. Conservation area, local wildlife sites</p> <p>Landscape Character</p> <p>Assessments undertaken in neighbouring authorities</p>	
<p><b>Step 6 Identification of land options for further consideration</b></p>	
<p><b>Step 7 Housing target identified</b></p>	

\*note at 1 April 2014 total housing supply for the current Core Strategy plan period 2006-26 was 4,732 (including 450 at Fort Halstead)

**STRATEGIC HOUSING LAND AVAILABILITY ASSESSMENT (SHLAA) AND ECONOMIC LAND AVAILABILITY ASSESSMENT (ELAA) - PROGRESS REPORT**

**Planning Advisory Committee - 19 April 2016**

Report of Chief Planning Officer

Status: For Consideration

Also considered by: N/A

Key Decision: No

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Portfolio Holder Cllr Piper

Contact Officer Emma Boshell, Senior Planning Officer Ext.7358

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**Recommendation to Planning Advisory Committee:**

To consider progress on the Strategic Housing Land Availability Assessment (SHLAA) and the Economic Land Availability Assessment (ELAA).

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**Reason for recommendation:** In order to enable discussion and advice on progress with the Strategic Housing Land Availability Assessment (SHLAA) and the Economic Land Availability Assessment (ELAA).

---

**Introduction and Background**

- 1 Following consideration of the Strategic Housing Market Assessment (SHMA) by this committee on 13 October 2015, and by Cabinet on 5 November 2015, the evidence base study was approved. The SHMA is based on the Government's latest population and household projections and identifies the objectively assessed housing need across the District. However, the objectively assessed need is an **unconstrained figure** and is **not the District's housing target**. The SHMA will be used as a starting point for developing the new Local Plan.
- 2 Subsequently, there are a number of steps we must take to arrive at a robust and deliverable housing target for the District - these steps were discussed and agreed by this committee on 7 July 2015 (attached at Appendix A).
- 3 The second of these steps is to assess the supply of land in the District to establish how much of the identified need can be realistically delivered over the plan period. This study is known as a Strategic Housing Land Availability Assessment (SHLAA). A similar process for employment land is also being undertaken, known as an Economic Land Availability Assessment (ELAA).

## Agenda Item 10

These studies are a requirement of the National Planning Policy Framework (paragraph 159).

### SHLAA and ELAA Progress

- 4 At the last committee meeting on 2 February 2016 it was confirmed that approximately 250 sites had been submitted across the District through the call for sites. At this point officers had just begun their site visits and hoped to complete them by the end of March 2016. I am now pleased to report that officers met this deadline and all sites have been visited. Officers have now begun writing up their assessments which are based on the suitability, availability and achievability of each site, ensuring consistency across the assessments.
- 5 In addition to the call for sites, and as explained at the last committee meeting on 2 February, the District Council is required to explore other elements of supply in addition to the call for sites in order to boost the supply of housing. Such elements to be explored include (but are not limited to):
  - Existing housing and economic development allocations without detailed planning permission / with unimplemented planning permission;
  - Planning applications that have been refused or withdrawn;
  - Land owned by the District Council including surplus / likely to become surplus council land;
  - Vacant and derelict land and buildings;
  - Additional opportunities e.g. making productive use of under-utilised facilities;
  - Business aspirations within the District;
  - Large scale redevelopment in urban areas.
- 6 Officers are making good progress in identifying opportunities for development from these sources, particularly ensuring that brownfield opportunities in existing settlements are maximised. This piece of work is ongoing and will form part of the SHLAA and ELAA when it's published.

### Member Engagement

- 7 The list of sites remains confidential until all corresponding site assessments are complete, and this information will be published in advance of the Planning Advisory Committee on 21 June 2016. However, we recognise the importance of engaging with local members early on about sites in their areas. The following opportunities have been arranged to engage members in the SHLAA and ELAA process:

- A ‘**bus tour**’ of the SHLAA and ELAA sites has been arranged for members of the Planning Advisory Committee on **Friday 13 May 2016**. This will provide committee members with an opportunity to visit the key sites ahead of their consideration at this committee on 21 June 2016.
- **Two evening sessions** have been arranged for all ward members on **Monday 16 May 2016** and **Wednesday 18 May 2016**. These will provide members with an opportunity to discuss, with officers, their views on the sites submitted in their areas ahead of the list being published.

8 Invitations to these events will be sent out shortly. For the two sessions on 16 and 18 May it is likely that officers will operate an appointment system to ensure that there is adequate time to meet with members from all wards.

### Timescales and Future Work

- 9 Following member engagement and completion of the site assessments, the list of sites and their accompanying assessments will be brought to this committee on 21 June 2016 for consideration.
- 10 The SHLAA and ELAA will provide evidence on the suitability, availability and achievability of land to inform the local plan strategy, however this is only one piece of evidence. Other evidence base studies are being undertaken - such as the Economic Needs Study, the Open Space, Sport and Leisure Study and the Strategic Flood Risk Assessment - which will provide additional detail that may affect the suitability, availability and achievability of the SHLAA and ELAA sites. Therefore, to ensure that the site assessments are as up to date and robust as possible, it is likely that they will be updated when this further evidence becomes available.
- 11 Given the District’s significant constraints, it is highly unlikely that the objectively assessed need will be met through identifying sites in the SHLAA and ELAA. This has been explained in paragraphs 1 and 2 above. Therefore following completion of the SHLAA and ELAA, and once the shortfall is understood (step 3), we must move onto the next step towards arriving at a robust and deliverable housing target for the District by undertaking a Green Belt assessment. Duty to cooperate discussions will also be ongoing at this stage.
- 12 An assessment of the District’s Green Belt is step 4 of the process discussed and agreed by this committee on 7 July 2015 (attached at Appendix A). Parcels of land will be assessed against the five purposes of the Green Belt, as set out in national policy. A thorough assessment will not only help to identify if there are any areas of land that could be considered further for potential development as part of the new local plan, but just as importantly, will provide strong evidence for justifying the retention of well-performing Green Belt in the longer term.

### Other Options Considered and/or Rejected

- 13 The preparation of a Strategic Housing Land Availability Assessment (SHLAA) and Economic Land Availability Assessment (ELAA) is required by Government and provide key evidence to support the new Local Plan. Not preparing these studies would risk the Local Plan being found unsound at examination and is not recommended.

### Key Implications

#### Financial

The production of the SHLAA and ELAA will be funded from the LDF budget.

#### Legal Implications and Risk Assessment Statement

Preparation of a Local Plan is a statutory requirement. There are defined legal requirements that must be met in plan making which are considered when the plan is examined by a Government Planning Inspector. Risks associated with local plan making are set out in the Local Development Scheme.

#### Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

#### **Appendices**

Appendix A - Agreed process for addressing housing need in the Local Plan

#### **Background Papers:**

Report to Planning Advisory Committee - 7 July 2015 - Local Plan work programme

**Richard Morris**  
**Chief Planning Officer**

Appendix A

Agreed process for addressing housing need in the Local Plan

<p><b>Step 1 Understanding Need</b></p> <p>Undertake Strategic Housing Market Assessment with Tunbridge Wells BC (SHMA)</p> <p>Understand other adjacent authorities need via Duty to Cooperate discussions</p>	
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<p><b>Step 6 Identification of land options for further consideration</b></p>	
<p><b>Step 7 Housing target identified</b></p>	

\*note at 1 April 2014 total housing supply for the current Core Strategy plan period 2006-26 was 4,732 (including 450 at Fort Halstead)

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**Planning Advisory Committee Work Plan 2015/16 (as at 06/04/16)**

<b>19 April 2016</b>	<b>21 June 2016</b>	<b>22 September 2016</b>	<b>17 January 2017</b>
Overview of Building Control Landcharges update Enforcement Update (to include S215 notices) Local Plan Update SHLAA and ELAA Progress Report	Local Plan Update SHLAA and ELAA Viability	Budget: Review of Service Dashboards and Service Change Impact Assessments (SCIAs) Local Plan Update	Local Plan Update

- Gypsy and Traveller Plan
- Development Plan Document
- Squaring the Housing Circle working group from the previous municipal year show the presentation given to the previous Housing & Community Safety Advisory Committee
- Housing Strategy

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