



Medway Core Strategy Plan Public Examination 2012

Matter 1: Legal Process and Requirements

**HEARING SESSION ON
12th JUNE 2012 (A.M.)**

**STATEMENT BY
MEDWAY COUNCIL**



Matter 1: Legal process and requirements

Matter 1a: Has the Council complied with the duty imposed on them by section 33A of the 2004 Act (the duty to co-operate).

1. The Council is satisfied that the 'duty to cooperate' as set out by S33A of the 2004 Act (as amended) has been met. The Council has produced a Cross Boundary Issues Background Paper (LD02), supporting the Submission draft of the Core Strategy, which explains how the Council has taken account of strategic planning issues that impact across the boundaries of other local authorities, and how it has fulfilled its duty to cooperate with neighbouring authorities in accordance with the Localism Act 2011: Section 110 - Duty to co-operate in relation to planning of sustainable development.

Matter 1b: Has the Core Strategy been prepared in accordance with the Local Development Scheme?

2. The Medway Local Development Scheme (LDS) first came into effect in April 2005. It was subsequently updated in March 2007, then in September 2008, December 2009 and August 2011. The current LDS (reference MC13) was approved by Medway Council's Cabinet on 2nd August 2011. The updated version took account of changes in national policy, the introduction of a pre-publication draft stage of the Core Strategy to extend engagement in the plan making process, and changes to the timetable taking account of the 'purdah' period leading up to the council's elections in May 2011.
3. The revised LDS, covering the period until 2014, is published on the Council's website. The Core Strategy has been prepared in broad accordance with the Local Development Scheme. However it should be noted that submission of the draft plan was achieved a month ahead of the target date, in February 2012, rather than March, as previously envisaged.

Matter 1c: Has the CS been prepared in compliance with the Statement of Community Involvement?

4. Medway Council has a strong commitment to effective and meaningful engagement in planning. The Regulation 30 (d) Consultation Statement (reference MC10) details how commitments in the Council's Statement of Community Involvement (SCI) regarding public and stakeholder consultation have been met.
5. The current SCI (reference MC06) was adopted by the Council in January 2012, replacing the original SCI (reference MC05) that had been adopted in December 2006. The document was updated to take

account of changes in national policy and the local context of community groups, agencies and partnerships. The SCI sets out how the community and other stakeholders are to be engaged in the process of preparing Local Development Framework Documents, such as the Core Strategy and Land Allocations & Development Management Policies DPD, and on planning applications. The SCI has been prepared in accordance with the Town and Country Planning (Local Development) (England) Regulations 2004 (as amended). It has sought to actively encourage participation from many organisations and groups.

6. All Core Strategy consultation stages have been in accordance with the SCI, as per Section 19(2)(3) of the 2004 Planning and Compulsory Purchase Act.
7. In accordance with the SCI, engagement in the production of the Core Strategy was frontloaded to promote early community involvement. The methods used were transparent, accessible and relevant to the local communities and groups and were designed to encourage and facilitate broad local involvement. These included the use of local media, online communications, leaflets, exhibitions, stakeholder meetings, local forums and focus group workshops.
8. The Core Strategy has been prepared in full accordance with the Statement of Community Involvement. The Statement of Community Involvement is part of the Submission Documents submitted to the Secretary of State and is published on the website. The Core Strategy has also been prepared in accordance with relevant regulations set out in the Town and Country Planning (Local Development) (England) Regulations 2004 (as amended).
9. A Consultation Statement (reference MC10) has been submitted as part of the Submission Documents to the Secretary of State and is published on the website. Details of how the legal requirements are met are set out in the Council's published Legal Compliance and Soundness Self Assessments (MC16 and MC17).

Matter 1d: Has the CS had regard to the Sustainable Community Strategy?

10. The Core Strategy Submission Document takes account of the Council's other plans, particularly the Sustainable Community Strategy, and the key priorities of the Council and provides a strong policy framework for their delivery. The Core Strategy is considered to provide the spatial expression of the Sustainable Community Strategy. Figure 3-2 (pages 24 – 26) illustrates how the spatial vision set for the plan links to the Community Strategy, the strategic objectives and individual policies in the Core Strategy.

11. The Medway 'Sustainable Community Strategy 2010-26 – city of Medway: rich heritage, great future' was adopted in April 2010 (EB87). The Strategy is part of the Submission Documents to the Secretary of State and is also published on the Council's website. It superseded the Medway Community Plan 2007-10, which was the third community plan produced by the Local Strategic Partnership (LSP).
12. The preparation of the Core Strategy was closely aligned to work on the development of the Medway Sustainable Community Strategy. This involved joint work, through consultation and engagement events, and collaborative working through officer project groups. There was substantive consultation regarding the content of the SCS. The engagement work included large Plenary Meetings involving many different organisations and stakeholders, as part of the wider Medway Local Strategic Partnership, representing over 350 organisations.
13. Close liaison took place between officers responsible for producing the SCS and the Core Strategy in order to ensure that their content was closely aligned. The council established a corporate working group to guide the development of the Core Strategy, and this involved the lead officer responsible for the production of the SCS. In particular, Chapter 3 of the Submission Core Strategy (Vision and Strategic Objectives) directly reflects the content and findings of the SCS, as a collective vision set for the area.

Matter 1e: Is the CS in compliance with the Regional Spatial Strategy (RSS)?

14. The Core Strategy is in general conformity with the South East Plan, which is the Regional Spatial Strategy for the area. Details of how this has been achieved are set out in the Council's Background Paper on the conformity of the Core Strategy Publication Document with national and regional policy (LD01). The extent to which the Core Strategy Submission draft is in general conformity with the South East Plan has not been confirmed. As part of the Government's reform to the planning system, the regional tier of planning was abolished. Consequently, the Government Office for the South East (GOSE) was closed by the time that the Core Strategy Publication Document was published and submitted.

Matter 1f: Has the CS been subject to adequate Sustainability Appraisal?

15. A Sustainability Appraisal has assessed the economic, social and environmental impacts of the Core Strategy at each stage of its development, and findings used to inform the plan's content and strengthen policy.

16. The council commissioned independent consultants with specialist knowledge in this area of work to carry out the sustainability assessment of the draft plan.
17. A Sustainability Appraisal report (reference MC07) setting out the findings of the sustainability appraisal has been prepared and is part of the Submission Documents to the Secretary of State. It is also published on the website. The Sustainability Appraisal report has been prepared in accordance with relevant legislation and best practice guidance provided by Government.
18. In line with requirements, the process of Sustainability Appraisal was ongoing throughout the preparation of the draft Core Strategy. This assessed the potential impacts of the emerging plan, at each key stage of the plan making process. The final Sustainability Appraisal document contains clear conclusions in terms of likely long-term impacts of the policies and sets out recommended mitigation measures. These measures, eg, opportunities for improved management of air quality, have been incorporated into the Submission draft Core Strategy.
19. Medway Council is satisfied that an effective sustainability appraisal has been carried out on the production of the Core Strategy, and that proper consideration has been given to the recommendations arising from the assessments. It therefore believes that the Core Strategy has been subject to adequate Sustainability Appraisal.

Matter 1g: Has the CS been prepared in accordance with the Habitat Directive?

20. Medway Council places much importance on the natural environmental assets in the local area, and recognises that a number of sites are designated at a European level for their wildlife value. The Core Strategy therefore seeks to protect and enhance these assets, in line with statutory requirements. The council leads a working group of north Kent planning authorities and key environmental organisations, the North Kent Environmental Planning Group. The group works collaboratively and positively in planning for the sensitive qualities of the natural environment, particularly the Special Protection Areas (SPA) and Ramsar sites of the marshes and estuaries off the north Kent coast. The group has commissioned research to further inform policy development and management regimes in these protected areas.
21. The final version of the Medway Core Strategy Habitats Regulation Assessment (Appropriate Assessment) report was published in December 2011. It set out the method, findings and conclusions of the Screening and Appropriate Assessment (AA) stages of the HRA (Habitats Regulation Assessment) process. This document was

submitted to the Inspector as part of the Core Strategy's evidence base (MC09) and can be viewed on the Council's website.

22. In order to comply with the Habitat and Species Regulations 2010 (as amended 2011), the Council commissioned independent specialist consultants (Enfusion) to undertake a Habitat Regulations Assessment (HRA) for the Core Strategy. This assessed the potential impact of the Core Strategy on European-level protected wildlife sites. The HRA was an ongoing process throughout preparation of the Core Strategy.
23. In conjunction with the consultation period on the Publication draft of the Core Strategy in autumn 2011, the council issued a draft HRA for review and comments. The consultation period ran in parallel to that on the Publication draft plan. Following the end of the consultation period, a workshop was arranged with key stakeholder organisations, such as Natural England, RSPB and Kent Wildlife Trust, to discuss the views that they had raised in the consultation. This gave an opportunity to respond to the issues raised, and to work collaboratively in seeking suggestions on strengthening the final version of the HRA. The recommendations in the HRA were then considered by the council, and a number of minor changes (reference MC15) made to the wording of the draft Core Strategy to aid clarity and the effectiveness of policy in meeting the statutory requirements for the protection of European sites. These are considered further below.
24. The Appropriate Assessment (AA) considered the potential for the Core Strategy (both alone and in combination) to have adverse effects on the integrity of identified European sites through reduced air quality and reduced water levels and quality. Based on the sensitivity of the European sites, as well as mitigation provided through Core Strategy Policies and recommendations made by the AA, it was assessed that the Core Strategy alone would not have adverse effects on the European sites through reduced air quality. However, given a lack of available evidence the AA was unable to conclude with certainty that the Core Strategy would not have adverse effects on the integrity of the identified European sites through reduced air quality (in combination) and reduced water levels and quality (in combination) and reduced water levels and quality (both alone and in combination). To strengthen the mitigation already proposed in the Plan the AA recommended a number of policy safeguards to help provide effective plan level mitigation that will contribute to minimising the impacts of proposed development on air quality, water levels and water quality.
25. In terms of potential adverse effects on the estuarine and coastal SPA's and Ramsar sites the AA concluded that as the majority of development is being directed on previously developed land and the Lodge Hill area does not contain any suitable habitat for designated bird species, the Core Strategy will not have adverse effects on European site integrity through habitat fragmentation or loss, provided the recommendations of the AA were incorporated in to the Plan.

26. The Council considers that the Submission draft Core Strategy appropriately reflects the findings of the Appropriate Assessment and the ongoing collaborative work that it is undertaking with neighbouring local authorities as part of the North Kent Environmental Planning Group in relation to matters such as bird disturbance (reference EB161 and EB162).

Matter 1h: Have all the procedural requirements for publicity been met?

27. The Council believes that to the best of its knowledge that it has fully complied with all procedural requirements for publicity, and is not aware of any fundamental procedural shortcomings. The council has issued public notices at key stages of the plan making process in line with requirements.
28. The council website has been regularly updated and used as a widely accessible resource of information on the plan making process. Copies of key documents have been placed in council buildings and public libraries. The council has been committed to the wider promotion of the plan, in seeking effective engagement from all stakeholders in the development of the Core Strategy.