

This Report will be made public on 4 July 2023



Report Number **C/23/11**

To: Cabinet
Date: 12th July 2023
Status: Non key
Responsible Officer: Rebecca Chittock, Strategy & Policy Senior Specialist
Cabinet Member: Cllr Jim Martin, Leader of the Council and Portfolio Holder for Otterpool Park and Planning Policy

SUBJECT: Housing and economic land availability assessment (HELAA)

SUMMARY: This report sets out what a HELAA is and how we plan to produce one. This is an important evidence base document needed when reviewing a local plan to identify sufficient land to meet the district's housing need over the plan period.

REASONS FOR RECOMMENDATIONS:

To allow initial steps to be taken to update the supply of development land within the district to provide evidence for a review of the local plan.

RECOMMENDATIONS:

1. To receive and note report C/23/11.
2. To agree that officers carry out a call for sites and methodology public consultation in early autumn 2023, subject to any recommendations of Cabinet regarding the process.
3. Cabinet gives delegated authority to the Assistant Director of Governance, Law & Service Delivery, in consultation with the Leader, to make any minor amendments to the methodology following consultation.

1. INTRODUCTION

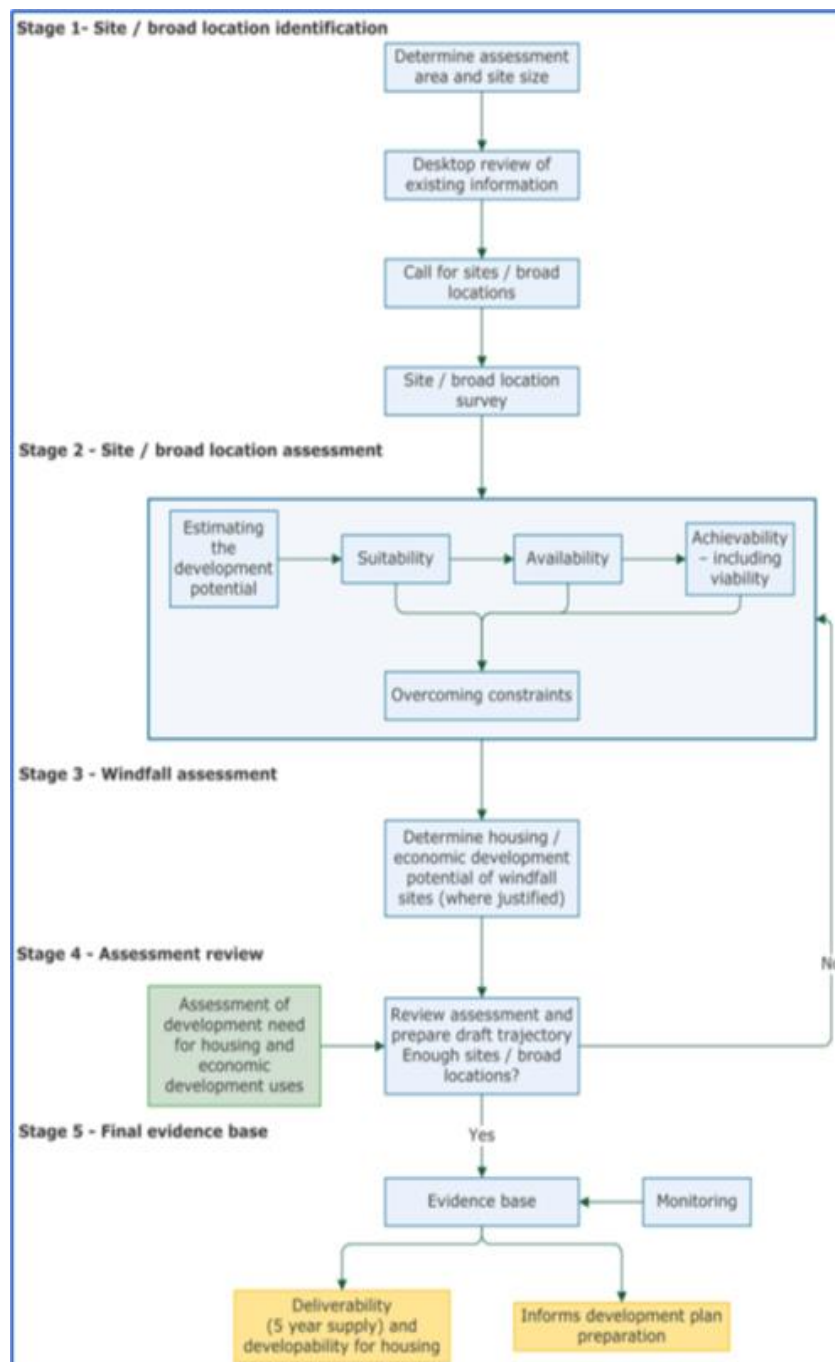
- 1.1 The council has two recently adopted local plans, the Places and Policies Local Plan (PPLP) in 2020 and the Core Strategy Review (CSR) in 2022. The National Planning Policy Framework (NPPF) currently states that local planning authorities (LPA) should review their plans at least once every five years taking account of any changes in national policy or changing circumstances affecting the area (Paragraph 33). However, the government is proposing to bring in fundamental changes to the planning system through the Levelling Up and Regeneration Bill, which is currently before the House of Lords. There are proposals for local authorities to produce new style local plans within a 30-month timescale, when the bill becomes law.
- 1.2 To prepare for this, ahead of the new legal requirements coming into force, work is beginning on reviewing the evidence base so that the council is best placed to begin a new local plan when the statutory requirements are confirmed.
- 1.3 The NPPF requires LPAs to produce as part of their evidence base a strategic housing land availability assessment (SHLAA) to identify sufficient land to meet their housing need over the plan period (NPPF, paragraph 68). While this evidence will inform the preparation of the new local plan, the NPPF makes it clear that local authorities should undertake regular reviews of these assessments (NPPF, paragraph 122).
- 1.4 The National Planning Practice Guidance (NPPG) goes on to state that local planning authorities may carry out land availability assessments for housing and economic development as part of the same exercise, in order that sites may be identified for the use(s) which is most appropriate (Paragraph: 001 Reference ID: 3-001-20190722).
- 1.5 The previous SHLAA was undertaken in 2009/10, updated in 2011/12, 2015/16, 2016/17 and last updated in 2017/18. The SHLAA identified and assessed more than 500 sites; 55 sites were allocated for development in the Places and Policies Local Plan and Core Strategy Review.
- 1.6 Therefore, to inform the preparation of a new local plan the Strategy and Policy Team are proposing to start work on producing a housing and economic land availability assessment (HELAA) for the district. The HELAA will identify the location of potential housing, employment and other sites (where appropriate) in the district to inform plan-making, decision-taking and the identification of a 5-year supply of housing land. It does not in itself determine whether a site should be allocated for development but is the first step in the process.
- 1.7 The purpose of the HELAA is to:
 - Identify sites and broad locations with potential for development;
 - Assess their development potential; and
 - Assess their suitability for development and the likelihood of development coming forward (availability and achievability).

- 1.8 It is intended to carry out a separate and parallel process to identify sites to be considered for new open spaces, local green spaces, and Biodiversity Net Gain sites. It is proposed that this would follow the same timescales as the HELAA process. Sites with potential as green spaces would then be assessed and could feed into the Green & Blue Infrastructure Strategy, the Local Nature Recovery Strategy (a strategic plan being prepared by Kent County Council for the Kent and Medway) or local plan policies which protect sites and areas from development.

2. WHAT PROCESS WILL WE FOLLOW?

- 2.1 The NPPG sets out guidance on the methodology to be used when carrying out a HELAA, detailing what inputs and processes can lead to a robust assessment of land availability. The suggested NPPG methodology is set out in Figure 1 below. It is also available to view at [land-availability.pdf \(publishing.service.gov.uk\)](https://land-availability.pdf.publishing.service.gov.uk). A site assessment form is included as Appendix A to this report. We propose to follow the broad stages set out in this diagram and consult on this methodology at the same time as the call for sites consultation is carried out.
- 2.2 While the broad methodology is set out in national planning guidance, there are some judgements that will need to be made on the detailed suitability of sites that local people, parish and town councils and others may wish to comment on. These could include issues such as whether different weighting should be given to previously developed (brownfield) sites and greenfield sites and whether the proposed threshold distances to particular services (such as shops or GP surgeries) are appropriate for rural and/or urban areas.
- 2.3 For these reasons it is proposed to run the methodology consultation in parallel with the 'call for sites' consultation. This exercise will provide people with the opportunity to comment at an early stage and will provide support if the council's approach is challenged later by objectors or the planning Inspectors at the examination. Officers are in the process of procuring a digital engagement and analysis platform (see paragraph 4.4 below) that should allow the assessment process to be rerun quickly with amended criteria, so if changes are made following consultation on the methodology this should not impact significantly on timescales.

Figure 1- Methodology flowchart



3. WHAT TYPES OF SITES ARE WE LOOKING FOR?

3.1 The council must consider the need for all types of development in preparing the local plan and we propose to look for sites for the following types of development:

- Homes – sites suitable for development for houses, sheltered housing or flats.
- Self-build homes – sites suitable for individuals or groups to build their own homes.

- Sites suitable to also add to the Brownfield Land Register.
- Gypsy and traveller pitches – sites suitable for pitches for gypsy and travellers or plots for travelling showpeople.
- Employment and retail – sites suitable for shops, offices, manufacturing, warehouses or other types of business activity.
- Community – sites suitable for health, community, or religious buildings.
- Leisure – sites suitable for sports, leisure or recreation buildings and spaces.
- Mixed-use – sites suitable for a mix of uses, such as developments including new homes, offices and leisure facilities or flats above shops.

3.2 In addition, capacity for the treatment and recycling of waste is known to be a constraint within the district and so it is proposed to contact Kent County Council to see whether there would be any value in including sites for waste processing and recycling facilities as part of the HELAA ‘call for sites’ process. If any sites were identified, they would need to feed into the assessment process for the county council’s draft Minerals and Waste Local Plan 2023-38.

3.3 The new local plan will not identify every development site in the district; it would not be possible or practical to identify very small sites in the local plan. This is why, as part of the HELAA process, we are proposing to look for sites capable of delivering five or more dwellings, or for economic development sites of 0.25 hectares (or 500 square metres of floor space) or more. Smaller sites (such as back gardens that could accommodate a single house) will continue to come forward as planning applications and do not need to be submitted for assessment through the HELAA process; an allowance will be made for these smaller ‘windfall’ sites in the new local plan, based on past trends, so they will still be accounted for in the district’s housing land supply.

4. HOW WILL WE IDENTIFY SITES AND BROAD LOCATIONS WITH POTENTIAL FOR DEVELOPMENT?

Desktop analysis

4.1 The NPPG makes it clear that LPAs should not simply rely on sites that they have been informed about, but actively identify sites through a desktop review process that may assist in meeting the development needs of an area. This could include identifying surplus public sector land, existing housing allocations and land allocated or with permission for other uses which may no longer be required for those uses. We also propose to contact larger landowners, government departments and institutions to see if they have surplus land that could be considered for development.

Call for sites

4.2 One of the main ways for us to identify potential sites, is to ask people to put forward sites for the council to assess: this is known as a ‘call for sites’. We intend to carry out a call for sites to provide an opportunity for members of the public, landowners, developers, parish and town councils and others to promote sites to be assessed for their suitability and deliverability for development. It is important to try and reach as wide an audience as is

practicable so that those not normally involved in property development have the opportunity to contribute. We will work closely with the communications team to ensure that the purpose and status of the HELAA is explained as clearly as possible before the 'call for sites' begins.

- 4.3 The call for sites will be advertised widely through the council's social media channels, planning agents' forum, local press and targeted mailouts for example to developer groups and promoted with town and parish councils.
- 4.4 The team is procuring new software to improve the digital services that we offer in plan making. The new software will be used to expand the call for sites process by enabling us to have two different routes for sites to be submitted on our web portal. One route will be aimed at members of the public and one for developers and landowners. The route aimed at members of the public is a simpler route requiring less information. Responders will have the option to select the site boundary on a map, or upload an image/video, they will also be able to select the land use they want to put the site forward for and add any additional information. Officers can then check land registry details and contact landowners to see if they would be willing to bring the land forward.
- 4.5 The call for sites route aimed at developers and landowners will ask for more detailed information from responders when submitting sites, including the following:
- site location, including a map;
 - ownership details;
 - land registry information;
 - suggested potential type of development;
 - the scale of development;
 - constraints to development; and
 - an indication of potential build out timescale where known.
- 4.6 We will adhere to data protection regulations when personal identifying details are submitted alongside sites (such as people's signatures, personal telephone numbers, email addresses and postal addresses); however it is proposed that the submitted land parcels will be published for public viewing alongside the name of the individual or organisation that submitted the site. It is important to note that where land has changed ownership in the recent past, the ownership details can be readily obtained from the land registry and these records also include some contact details, such as postal addresses.

5. HOW WILL WE ASSESS THE SITES?

- 5.1 All sites submitted and those identified by the team will need to be assessed using the same methodology. For this technical process a HELAA form has been created to collate the information and enable the assessment process to be clear and concise (Appendix A). People will be directed in the first instance to the new digital platform (see paragraph 4.4) to enter the information and digitise the site's boundaries themselves. The digital platform will be structured to capture the same information that is set out in the fields in the form in Appendix A.

- 5.2 Some of the information needed to populate the form will come direct from responders who submit sites, and some may need to be obtained from further investigations and consultation with internal teams, such as property, development management, housing, economic development and environmental health, and external colleagues such as Kent Highways, the Environment Agency, the Kent Downs Area of Outstanding Natural Beauty (AONB) Unit and infrastructure providers. In addition, there may be some sites where it would be necessary to seek comments from neighbouring local authorities, for example if the site adjoins the district's boundary. Officers will also visit the sites to take photographs, verify the submitted information and record any other relevant information.
- 5.3 The form is set out in five stages and a site must successfully pass each stage before progressing to the next more detailed stage. The previous SHLAA used a traffic light system (green, amber, red) to record the outputs of the assessment, however this time around we are proposing to make the system clearer and more concise with sites being either in or falling out of the assessment process. However, where constraints have been identified, the assessment will need to consider what action could be taken to overcome them before the site is removed. If land is submitted by a person that does not own it, or have authorisation from the owner to do so, the site's availability will need to be checked before the site can be assessed.
- 5.4 The first two stages assess the suitability of a site for development, for example by checking the size of the site, whether it has any national or local designations (SSSI, AONB etc), the site's relationship to nearby settlements and if there would be an impact on the wider area if it were to be developed. We are proposing to prioritise brownfield sites at this point.
- 5.5 Then the form examines the likelihood of development coming forward by gathering information on the availability and achievability of the site. The NPPG advises that a site is considered achievable for development where there is a reasonable prospect that it will be developed at a particular point in time. The team will need to make a judgement about the economic viability of the site, and the capacity of the developer to complete and let or sell the development over a certain period. (Some digital platforms include a viability module that can generate indicative costs and profits based on different development types which would make this part of the process much quicker).
- 5.6 The form also assesses the timescale within which each site is capable of development. Given that the new local plan, when drafted, will be looking forward at least fifteen years, these time periods are split between 1-5 years and 6-15 years. The advice of developers and local agents could be helpful here, in assessing lead-in times and build-out rates by year.
- 5.7 Once the sites have been assessed, the development potential of all sites can be collected to produce an indicative trajectory. This will set out how much housing and the amount of economic development that can be provided, and at what point in the future (i.e. within years 1-5 and years 6-15 and beyond).

- 5.8 Depending on the number and suitability of sites submitted, and the development targets emerging from government when the new local plan is being drafted, the 'call for sites' process may have to be repeated if additional sites need to be identified.
- 5.9 When the assessment is complete the promoters of the sites will be given the opportunity to fact check the information contained in the assessments for their own sites and respond accordingly. If the assessment concludes that the site is not appropriate for development, the landowner or promoter will be given the opportunity to question the reasons for this or submit further supporting information, if necessary.

6. WHAT STATUS WILL THE HELAA HAVE?

- 6.1 When the HELAA process is complete, a summary document and the individual site assessments will be published on the council's website. The finalised HELAA should be seen as a wide-ranging 'pool of sites' which will be used to inform possible choices for a new local plan, when considered with other evidence and the council's corporate objectives. It is an aid to plan-making only, presenting the facts about available land. It is not a statement of council policy and does not rank or compare sites, other than identifying them as included or excluded (see paragraph 5.3).
- 6.2 The HELAA is a technical evidence document and does not have the formal, legal status of a local plan. It does not allocate land, pre-empt, or prejudice any decision the council may make in the future on any site or settlement and does not alter any existing policies or land use designations as set out in the development plan. In essence, it is a 'sifting' exercise that looks at the land promoted for development and assesses each individual site on the same basis.
- 6.3 If a site scores positively in the HELAA assessment, the council may still decide not to include it in the new local plan, if, for example, sufficient land has already been identified. (As noted in section 1, the previous assessment identified more than 500 sites and 55 were allocated in the development plan.) If a site scores negatively it is unlikely to be included in the local plan, but the landowner can still submit a planning application for development on the site and the council will have to decide the application based on its merits and any other relevant information.
- 6.4 The council will need to keep the HELAA under regular review and update appendices as necessary, for example, if sites are sold, landowners' intentions change, or the closure of facilities or provision of new infrastructure alters the conclusions of site assessments. As noted in section 1, national planning policy states that these assessments should be regularly reviewed.

7. CONCLUSION

- 7.1 Although not a local plan document itself, the HELAA will be an important step in producing the next local plan. Interest among developers, parish and town councils and special interest groups is likely to be high and

communications will need to be clear if people are to understand the purpose of the 'call for sites' exercise and status of the HELAA document.

8. RISK MANAGEMENT ISSUES

8.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
That the assessment is not produced in a timely way and holds up progress on a new local plan.	High	Low	New legislation is currently before Parliament and the timescale for planning reform is not clear at this stage. However, by working on new evidence now, the council will be best placed to meet new requirements when they come into force. The council can also make the process more efficient by making maximum use of technology, reducing the use of paper forms and encouraging participants to supply full information with their submissions.
That the assessment process is challenged by a dissatisfied landowner or developer.	Medium	Medium	Consulting on the methodology will show that the council has been transparent about the process. A new digital platform should aid record keeping and ensure that decisions on sites are properly evidenced and recorded.
That a planning Inspector finds failings in the assessment process at a future public examination of	High	Low	Consulting on the methodology will show that the council has been transparent about the process. The council is proposing to follow the broad methodology set out in

the new local plan.			national planning guidance, subject to any detailed amendments that might be identified from consultation on the methodology.
That the findings of the assessment or the circumstances of particular sites become out-of-date.	High	Medium	The assessment will need to be regularly reviewed to ensure that conclusions on the suitability of sites does not change. If planning reform introduces significant changes to national planning policy or guidance these will need to be assessed and may require a review of the assessment.

9. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

9.1. Legal Officer's Comments (NM)

The NPPF requires every local planning authority to assess the amount of the land that is available for housing and economic development in its area. The HELAA will ensure that the Council is complying with the NPPF requirements.

9.2. Finance Officer's Comments (LK)

The approved 23/24 budget includes a growth item of £20k for new Local Plan software. Therefore, the costs associated with producing and implementing the HELAA, including procuring new software, will be contained within the approved budget.

9.3. Diversities and Equalities Implications (RC)

The new software the team are procuring will improve the digital services that the team are able to offer in plan making, making it more straight forward for members of the public to put forward sites in the HELAA process.

9.4. Climate Change Implications (AT)

There are no climate change implications arising directly from this report. As set out in Section 6 of the report, the HELAA does not allocate sites for development – it is evidence that will inform the next local plan. The local plan will need to go through a process of sustainability appraisal (SA) and habitat regulations assessment (HRA) at key stages in its preparation and

will be subject to an examination-in-public, and the results of these processes will inform the local plan allocations.

10. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

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The following background documents have been relied upon in the preparation of this report:

Appendices:

Appendix A: HELAA Form