

**Agenda Item No:**

**Report To: Cabinet**

**Date of Meeting: 11<sup>th</sup> April 2019**

**Report Title: Adoption of village envelope boundary maps**

**Report Author & Job Title:** Simon Cole, Head of Planning Policy

**Portfolio Holder:** Cllr. Paul Clokie

**Portfolio Holder for:** Planning and Development



**Summary:**

The newly adopted Local Plan includes policies that refer to the 'built-up confines' of settlements and, in consultation with parish councils, officers have prepared a series of village envelope maps to indicate where the Council currently considers the existing built-up confines of settlements are. These will help to clarify the written definition in the Local Plan for the purposes of decision-making on planning applications.

The report seeks the Cabinet's approval to adopt the village envelope boundaries as informal guidance for development management purposes.

**Key Decision:** YES

**Significantly Affected Wards:** Borough wide

**Recommendations:** **The Cabinet is recommended to:-**

- I. Adopt the village envelope boundaries shown in the appendix to this report as informal guidance for development management purposes; and,**
- II. Delegate authority to the Head of Planning Policy, following consultation with the Portfolio Holder for Planning & Development to amend, where relevant, a village envelope boundary to account for the construction of new development.**

**Policy Overview:** Local Plan policies HOU3a and HOU5 are important elements in the consideration of applications for new residential development in the borough. Their interpretation relies on a written definition of the 'built-up confines' of a settlement set out in the Plan. The proposed village envelope boundaries contained within this report reflect this interpretation in broad terms taking account of local geography and would be used as informal guidance to assist in the interpretation of what constitutes the 'built-up confines' in individual cases.

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|-------------------------------------|---|
| <b>Financial Implications:</b>      | There are no financial implications.            |
| <b>Legal Implications</b>           | None  |
| <b>Other material implications</b>  | None  |
| <b>Equalities Impact Assessment</b> | Not required.                                   |
| <b>Exempt from Publication:</b>     | <b>NO</b>                                       |
| <b>Background Papers:</b>           | None  |
| <b>Contact:</b>                     | simon.cole@ashford.gov.uk – Tel: (01233) 330642 |

## Report Title: Adoption of village envelope boundary maps

### Introduction and Background

1. Over successive Local Plans, the 'built-up confines' or village 'envelope' of a settlement has been defined in written terms as the "*limits of continuous and contiguous development forming the existing built-up area of the settlement, excluding any curtilage beyond the built footprint of the buildings on the site (e.g. garden areas)*".
2. For many years, where the built up confines of a settlement was judged to be was the key determinant of whether the principle of new residential development was acceptable or not when considering planning applications on non-allocated sites, with proposals within the 'confines' being generally acceptable in principle whilst those outside the 'confines' regarded as generally unacceptable.
3. Recently, however, this default position has changed. Firstly, the NPPF published in 2012 changed the national planning policy guidance on such matters by only seeking to restrict, in principle, new development in 'isolated' locations and subsequent caselaw has reinforced this definition so that it is now clear this would not apply to locations adjoining existing settlements.
4. Secondly, the recent examination, and subsequent adoption, of the Local Plan 2030 has led to a change in the Council's policies to which the definition of 'built-up confines' applies. Policy HOU3a of the new Local Plan now includes a longer list of settlements in the borough where the principle of development within the built-up confines will be acceptable, whilst policy HOU5 includes a shorter list of larger settlements where new residential development adjoining or close to the existing built-up confines, may be acceptable in principle.
5. Notwithstanding these changing circumstances, Members had also previously expressed the wish for some form of map-based definition of the 'built-up confines' in order to provide greater clarity for applicants, local residents as well as officers and members in their decision-making roles on planning applications. These maps would then sit alongside, and be in general consistency with, the written definition of built-up confines in the Local Plan.
6. Consequently, in November 2018, officers prepared draft village confines maps for the majority of settlements listed in policies HOU3a and HOU5 of the Local Plan. The only exceptions were Ashford, Tenterden and settlements where parish councils had indicated they were intending to draw their own village envelope boundary as part of an emerging Neighbourhood Plan (or, as in Wye's case, in an already adopted Neighbourhood Plan). This has been confirmed in the case of Boughton Lees, Egerton & Egerton Forstal and Rolvenden and Rolvenden Layne. The situation in Charing parish where the parish council is also in the process of preparing a Neighbourhood Plan is discussed in more detail below.

7. The draft confines maps were then sent to respective Parish Councils for comment and the offer to propose amendments to the confines boundaries if they considered changes should be made. At that stage it was also made clear that if the Parish Council wished to depart significantly from the broad definition of built-up confines in the Local Plan, then a locally-prepared Neighbourhood Plan would be the most appropriate route to take. Responses were sought by the 11<sup>th</sup> February to enable the Local Plan & Planning Policy Task Group sufficient time to consider the proposed Village envelope maps for each settlement in advance of this Cabinet report.

## Consultation Undertaken

8. The Local Plan & Planning Policy Task Group has met on three occasions (23<sup>rd</sup> January, 27<sup>th</sup> February and 15<sup>th</sup> March) to consider the proposals for the village envelope boundary maps contained in the appendix to this report. The Task Group has considered the original proposals from officers and all proposed amendments received from Parish Councils (and, in one case, from a local resident). In the large majority of cases, the Task Group has agreed either some or all of the respective parish council's proposed changes and these are reflected in the village envelopes recommended for adoption in the appendix.
9. The Task Group also requested, for the purposes of context, that the proposed village envelope maps in this report be annotated by relevant commitments where these adjoin the proposed boundary. These include any relevant Local or Neighbourhood Plan allocations or planning permissions and are presented for information only.
10. In one example, at Hastingleigh, the built up confines of the village appears to extend across the Borough boundary into Folkestone & Hythe District. In this case, it would only be appropriate for members to adopt a village envelope to guide development management decisions within this borough and this is shown on the relevant map in the appendix.

## Settlements where non-adoption is proposed

11. In a very limited number of cases, the Task Group has considered that a proposed village envelope boundary should not be adopted at this stage. These are discussed below:-
  - a) **Brook** – in Brook, the parish council has proposed an amendment to officer's proposed village envelope boundary which would exclude a small area of land that formed part of the former draft Local Plan residential allocation (S53) at Nat's Lane. There is a current planning application under consideration in the area in question and it was considered that the application should be determined prior to a decision being taken on where to draw the built-up confines boundary.
  - b) **Challock** – uniquely in the borough, Challock has an existing locally-prepared village envelope map that was adopted by the Council in 2014 to act as an informal guide for development management decisions on planning applications. This has been successful in enabling the development of some 60+ new properties in Challock on non-allocated

sites in the subsequent years. At the time of adoption, it was agreed by the Cabinet that the outcome of the exercise should be reviewed and this current exercise has provided the opportunity to do this.

Therefore, officers did prepare a draft village confines map for Challock and invited the parish council to respond. Initial discussions with the parish council has identified both a desire to retain the existing 'village envelope' but also limit the potential for additional windfall residential development. Given the change in adopted planning policy in the Local Plan since 2014 (Challock is a policy HOU5 settlement), there is a need to seek further clarification from the parish council as to how best to achieve their aspirations before a decision is taken. It is therefore, recommended that the outcome of any further discussions with the parish council are reported to a Cabinet meeting later this summer when a conclusion can be reached.

- c) **Charing Heath** – as indicated in paragraph 6 above, it had been expected that the parish council would publish proposed village envelope boundaries for both Charing and Charing Heath as part of their emerging Neighbourhood Plan. Consequently, officers have not drafted such maps for either settlement as part of this exercise.

Recently, however, it is understood that the timetable for publishing the first draft of the Neighbourhood Plan has now slipped to this summer and so the Council was asked by the parish council to consider their proposed village envelope maps under this exercise.

Whilst the proposal for Charing village is acceptable and is included in the list of settlement maps recommended for adoption in the appendix to this report, the proposal for Charing Heath could not reasonably be said to be in broad accordance with the written definition of built-up confines in the Local Plan. In these circumstances, inclusion with a proposed Neighbourhood Plan is the appropriate action and, in fact, this remains the intention of the parish council.

The situation is complicated by the presence of several undetermined planning applications for residential development in locations around the settlement where, as in Brook, the adoption of a settlement confines boundary at this stage would be material and potentially prejudicial to the decision-making process.

In this case, whilst the delay in the publication of the draft Neighbourhood Plan may be regrettable, that avenue remains the most appropriate means by which a village envelope of the scope sought by the parish council should be taken forward.

## **Implications and Risk Assessment**

12. If the Cabinet agree the recommendation, then the village envelope maps contained within the appendix will become material considerations in the application of policies HOU3a and HOU5 (as well as other Local Plan policies where reference to the built-up confines of settlements is made) in the determination of planning applications. For settlements listed under policy

HOU3a only, this is of greater relevance as this will establish guidance on the clear principle of whether development should be permitted or not.

13. It is recognised that the village envelope maps recommended for adoption are based on a broad interpretation of the written definition of built-up confines in the Local Plan. This results in some very minor inconsistencies where in some cases, for example, garden areas have been excluded and in others, included within the village envelope, or where some areas of ribbon development on roads entering settlements have or have not been included.
14. For these issues, an element of subjectivity and local context has been applied but this would also be the case where schemes would be determined in the context of just the written definition and so any level of risk here is regarded as minimal.

### **Other Options Considered**

15. In a situation where a village envelope was to be adopted that was not in broad conformity with the written definition of built-up confines in the Local Plan, this would potentially place any decisions taken to permit development to take place in locations outside where the written definition would suggest at risk of legal challenge, particularly in the context of settlements identified under policy HOU3a of the Local Plan only. Similarly, if it were proposed to limit the extent of a village envelope boundary where the location of existing development on the ground would not justify such a boundary in light of the written definition on the Local Plan, then again any decisions to refuse permission for development based on such a boundary would be at risk of legal challenge. Consequently, the written definition of built-up confines in the adopted Local Plan 2030 is considered to be the robust basis for this exercise.

### **Conclusion**

16. Debates about the precise position of where the built-up confines of settlements are located has been a long running theme in the determination of many planning applications over the years. In many settlements, the footprint of development will be fairly obvious in large part but often there will be a minority of places where it is inevitably a subjective view and could be defined in more than one way.
17. This exercise has helped to provide some greater clarity to this issue and establish a position where the Council's interpretation of the written definition of built-up confines for each settlement is now more transparent. In the majority of cases, the input from parish councils has helped to shape the precise village envelopes proposed to be adopted. It is anticipated that village envelope maps will be either displayed at Planning Committee meetings or otherwise included in Committee reports.
18. Of course, development is not static and villages may grow and evolve and village envelopes will need to respond to this. Therefore, any village envelope map will need to be a 'live' document and updates will be produced as and when new development that would naturally extend a village envelope is

constructed and reviewed on at least an annual basis as part of the Council's housing completions monitoring.

### **Portfolio Holder's Views (Cllr. Clokie)**

19. This has been a useful exercise in showing where the built up part of a village starts and ends, which has sometimes been seen as contentious in the past. Residents can now be clear where this line is and how this may influence development proposals in and around their villages in the future.

### **Contact and Email**

20. [Simon.cole@ashford.gov.uk](mailto:Simon.cole@ashford.gov.uk) 01233 330642