

# Strategic Planning, Sustainability and Transportation Committee

18 April 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

## Neighbourhood Plan Process

|                                       |   |
|---------------------------------------|---|
| <b>Final Decision-Maker</b>           | Strategic Planning, Sustainability and Transportation Committee |
| <b>Lead Head of Service</b>           | Rob Jarman, Head of Planning and Development                    |
| <b>Lead Officer and Report Author</b> | Cheryl Parks, Project Manager, Local Plan                       |
| <b>Classification</b>                 | Public  |
| <b>Wards affected</b>                 | All Wards   |

### This report makes the following recommendations to this Committee:

1. That the Committee considers and approves the revised protocol for Neighbourhood Planning set out in Appendix A, notably in regard to revised decision making arrangements at Regulation 18 of the Neighbourhood Planning (General) Regulations 2012.

### This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all;
- Securing a successful economy for Maidstone Borough – a made Neighbourhood Plan will form part of the Development Plan for Maidstone and will be used in the determining of planning applications for the Neighbourhood Plan area.

### Timetable

| <b>Meeting</b>  | <b>Date</b>   |
|---|---------------|
| Strategic Planning, Sustainability and Transportation Committee | 18 April 2016 |

# Neighbourhood Plan Process

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to propose a revised protocol and internal decision-making framework for neighbourhood planning.
  - 1.2 The changes are recommended as a result of experiences of officers and also the North Loose Neighbourhood Plan group and Parish Councils who have recently been through various stages of the process.
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## 2. INTRODUCTION AND BACKGROUND

- 2.1 On 9 June 2015 this Committee considered an officer report and urgent update relating to neighbourhood planning, and setting out proposed amendments to the internal decision making framework to reflect changes to a Committee system from the previous Executive governance arrangements.
- 2.2 The resulting framework set out more clearly the input required of officers and the decision making stages for Councillors, to enable the process to move forward in what was construed to be a timely manner, whilst offering the comfort to Councillors that they could input at a number of key stages.
- 2.3 At that time, although a number of neighbourhood plan areas were actively progressing Neighbourhood Plans, none had moved significantly through the stages of production toward the end of the process. The majority were still in the very early stages of preparation after area designation (Regulation 7). Four areas (North Loose, Coxheath, Staplehurst and Broomfield & Kingswood) were preparing for or undertaking consultation at the pre-submission stage (Regulation 14).
- 2.4 Both North Loose and Coxheath had previously submitted plans at Regulation 15 which were subsequently withdrawn. The North Loose plan had been consulted on under Regulation 16 and was being prepared for examination when progress was halted by the identification of procedural errors, resulting in its withdrawal and later re-submission. It has now completed the regulatory process and was made at a meeting of Council on 13 April.
- 2.5 There was significant dissatisfaction from Parish Councils in areas that were in the process towards the making of a Neighbourhood Plan and also from Neighbourhood Plan groups with what was perceived as a lack of support provided by Council officers.
- 2.6 Some ten months after that report was considered, there have been a number of notable changes that impact on the neighbourhood planning process.

- 2.7 There has been renewed attention to neighbourhood planning in the Parishes, alongside the further development and progress of the Maidstone Borough Local Plan towards submission to the Secretary of State for Examination in Public. This has been matched with increased Councillor support for the progression of Neighbourhood Plans in their areas.
- 2.8 Nationally, the Government has signalled its intention to continue to promote “localism” and neighbourhood planning. In the early part of 2015, in order to speed up decision making, changes were made to regulations<sup>1</sup> relating to area designation as the Government perceived that Local Planning Authorities were taking too long to determine such applications. Since then, through written ministerial statements and proposals in the Housing and Planning Bill, it has been made clear that, where Local Planning Authorities fail to make decisions on referenda or make unnecessary changes at the Examiner’s report stage (Regulation 18), the Government will intervene.
- 2.9 Proposals put forward in the Housing and Planning Bill, which is in its final stages of reading in the House of Lords, include the following:
- There should be a time period of five weeks (from the date the LPA receive the Examiner’s report) within which the decision must be taken by the LPA on whether to submit a Neighbourhood Plan or Order to a referendum;
  - That LPAs should hold a referendum within ten weeks of the decision that a referendum should be held (or 14 weeks where there is also a business referendum);
  - A Neighbourhood Plan or Order should be brought into force eight weeks from the date of the referendum, unless there are unresolved legal challenges.
- 2.10 Most significantly for Maidstone, several Neighbourhood Plans have advanced considerably through the regulatory stages and lessons have been learnt from the day to day work undertaken by officers in liaising with the Parish Councils and Neighbourhood Plan Groups.
- 2.11 What has become clear, having worked through the agreed framework with Parishes and others, most notably the North Loose Neighbourhood Plan Group, is that some modifications to the framework would greatly assist in the delivery of support from officers and allow the latter stages of the regulations to be met in a more streamlined and efficient manner.
- 2.12 Considering firstly officer support for Parish Councils and others, it became clear that there was insufficient information recorded on the detailed tasks associated with each regulatory stage, and who should be responsible for each task. This also created an opportunity to identify when and where external support from other teams would be required. Although some information was held in a number of different documents, there was no single collated list. This formed the starting point for the revised protocol attached at Appendix A and the subject of the recommendation of this report.

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<sup>1</sup> Neighbourhood Planning (General)(Amendment) Regulations 2015

- 2.13 A key lesson learnt from the progression of the North Loose Neighbourhood Plan was, where possible, to avoid the hiatus caused by the requirement to take reports to this Committee seeking recommendations to Full Council at two of the final three regulatory stages that should ideally follow in relatively quick succession. The regulations<sup>2</sup> use the words “as soon as possible” three times at Regulation 18, 19 and 20 to reinforce the desire for timely decision making.
- 2.14 As the Council only meets quarterly, under the current agreed framework, there is a delay of approximately two months between the agreement for referendum and the making of the plan that could currently only be overcome by the calling of an extraordinary meeting of Council.
- 2.15 At these latter stages, the Parish Council or Neighbourhood Plan Group are in receipt of the Examiner’s findings and naturally keen to test the Plan through local referendum and have it made. Having a delay of two months at the end of a long drawn out process of plan making is frustrating and unwelcome.
- 2.16 This report and the attached revised protocol aim to overcome this hiatus, which can be further exaggerated by periods of elections, or summer holidays, and to set out a clear, unambiguous framework for officers and Councillors that will aid greater support and timely decision making.
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### **3. AVAILABLE OPTIONS**

- 3.1 The Committee could agree the revised protocol as set out at Appendix A which provides a greater level of detail for officers, Parish Councils and Neighbourhood Plan Groups about the stages of preparation and key responsibilities for each task.
- 3.2 The main decision making proposed change is at Regulation 18 stage, whereby the existing arrangements require a recommendation of this Committee to Council that the Examiner’s findings be agreed and, where appropriate, a referendum should be called. On the attached protocol this stage of decision making would be solely the responsibility of this Committee. The involvement of Council would be at the making of the Neighbourhood Plan, post referendum, as required by the Council’s Constitution.
- 3.3 An alternative option for the Committee would be to reject the revised protocol attached at Appendix A and retain the currently agreed decision making framework as ratified through the decision of 9 June 2015 meeting of this Committee.
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<sup>2</sup> Neighbourhood Planning (General) Regulations 2012

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The Committee is recommended to agree to the option set out in paragraph 3.1 and in the main recommendation at the beginning of this report for the reasons as set out in the narrative above.
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#### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The processes and decision making framework have been considered by this Committee at earlier meetings. There is no formal requirement for consultation on the internal processes for neighbourhood planning.
- 5.2 Any Neighbourhood Plan is required to be the subject of at least two rounds of consultation as part of its progress through the regulatory procedures.
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#### **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 Should the Committee agree to the recommendations of this report, future consideration of neighbourhood plans will be undertaken with regard to the updated protocol and decision making. This will have particular impact on the Neighbourhood Plans for both Staplehurst and Headcorn that are currently at examination but will also benefit others in earlier stages of preparation.
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#### **7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

| <b>Issue</b>                          | <b>Implications</b>  | <b>Sign-off</b>                                       |
|---------------------------------------|--|---|
| <b>Impact on Corporate Priorities</b> | A Neighbourhood Development Plan once made will be part of the development plan for the borough, directly impacting on the Corporate Priorities through the determination of planning applications in the plan area.   | Rob Jarman,<br>Head of<br>Planning and<br>Development |
| <b>Risk Management</b>                | There is limited risk related to changing the decision making process, given the opportunity for any decision of a service committee to be referred if sufficient Councillors consider the need to do so under the constitution. The changes relating to officer task identification reduce the risk of errors and delays. | Rob Jarman,<br>Head of<br>Planning and<br>Development |

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| <b>Financial</b>                             | Elements of the related costs are recoverable through the Logasnet grant system.   | Paul Riley,<br>Section 151<br>Officer &<br>Finance Team                      |
| <b>Staffing</b>                              | There are staffing implications relating to Neighbourhood Planning, including guidance and liaison with parishes, processing of consultations and organisation of referenda. The staffing is undertaken by the Spatial Policy team with assistance from colleagues in Electoral Registration and other teams intermittently. | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Legal</b>                                 | Statute sets out the procedures to be followed in regard to Neighbourhood Planning. The Council is obliged to follow statutory requirements. The proposals in this report underpin and support those procedures.   | Kate Jardine,<br>Team Leader<br>(Planning),<br>Mid Kent<br>Legal<br>Services |
| <b>Equality Impact Needs Assessment</b>      | The needs of different groups are considered throughout the development of the plans.  | Anna Collier,<br>Policy &<br>Information<br>Manager                          |
| <b>Environmental/Sustainable Development</b> | Plans must have regard to sustainability and the natural environment including heritage assets as part of their policies. An assessment for the need for Strategic Environmental Assessment is carried out at an early stage and repeated at key stages of the plans development.  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Community Safety</b>                      | N/A  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Human Rights Act</b>                      | N/A  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |
| <b>Procurement</b>                           | There are no particular procurement requirements or considerations that are not already in place at this stage.  | Rob Jarman,<br>Head of<br>Planning and<br>Development                        |

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|-------------------------|-----|---|
|                         |     | & Paul Riley,<br>Section 151<br>Officer               |
| <b>Asset Management</b> | N/A | Rob Jarman,<br>Head of<br>Planning and<br>Development |

**8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A: Revised Neighbourhood Planning Protocols
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**9. BACKGROUND PAPERS**

There are none