

**Strategic Planning,
Sustainability & Transportation
Committee**

**13 September
2016**

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

Yes

Examination of the Staplehurst Neighbourhood Plan

Final Decision-Maker	Strategic Planning, Sustainability & Transportation Committee
Lead Head of Service	Rob Jarman, Head of Planning & Development
Lead Officer and Report Author	Cheryl Parks, Project Manager – Local Plan
Classification	Public
Wards affected	Staplehurst; Headcorn; Marden & Yalding; Sutton Valence & Langley; Boughton Monchelsea & Chart Sutton;

This report makes the following recommendations to this Committee:

1. That the Committee notes the findings of the Examiner as set out in his report;
2. That the Committee agrees to the modifications as set out in the Examiner's report being made to the Staplehurst Neighbourhood Development Plan as submitted for examination; and
3. That the Committee agrees that the Neighbourhood Plan be taken forward, as amended, to a local referendum.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all -
- Securing a successful economy for Maidstone Borough – the plan once made will form part of the development plan for the borough.

Timetable

Meeting	Date
Strategic Planning, Sustainability & Transportation Committee	13 September 2016

Examination of the Staplehurst Neighbourhood Plan

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to present to the Committee the findings of the appointed Examiner in relation to the Neighbourhood Development Plan (NDP) for Staplehurst. The report makes recommendations based on the Examiner's report regarding modifications and a future local referendum.

2. INTRODUCTION AND BACKGROUND

- 2.1 The Committee will be aware, following consideration of several reports in recent months relating to the NDP's for both Staplehurst and Headcorn, that the Staplehurst NDP has had a difficult journey through the examination process.
- 2.2 In July 2016, the Committee were advised¹ that the newly appointed Examiner, Mr. Derek Stebbing would be commencing a new examination of the NDP on 15 June 2016.
- 2.3 Mr. Stebbing concluded his examination in mid-July, setting out his conclusions in a draft report that was then subject to rigorous quality assurance procedures by his employer, Intelligent Plans and Examinations.
- 2.4 On 2 August 2016, MBC officers received Mr. Stebbing's final report, a copy of which is included at Appendix 1 of this report, and shared this with the Parish Council.
- 2.5 According to adopted Neighbourhood Planning Protocols, it is for this Committee to review the Examiner's report, and any suggested modifications, and to decide whether to accept those modifications and whether to move the NDP to a local referendum.

Examiner's findings

- 2.6 The scope of a NDP examination is set out in Regulations² and it is the role of the Examiner to ascertain whether the NDP meets the Basic Conditions, complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act") (as amended) and finally, whether it complies with matters set out in the Neighbourhood Planning (General) Regulations 2012. The NDP should also not contravene the European Human Rights Convention.

¹

<https://services.maidstone.gov.uk/meetings/documents/s49645/Staplehurst%20and%20Headcorn%20Neighbourhood%20Plan%20Examinations%20Update.pdf>

² Paragraph 8(1), Schedule 4B, Town and Country Planning Act 1990 (as amended)

- 2.7 Amendments to the 2004 Act (s.38A and s.38B) were made by the Localism Act 2011 (Schedule 9) which provided for the production of Neighbourhood Plans. Section 38A of the 2004 Act sets out the meaning of 'Neighbourhood Development Plan' and explains who can undertake a NDP, and also the regulatory context. Section 38B explains the provision that may be made by a NDP and the limits of what can and cannot be included. Further detail followed in the aforementioned Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations").
- 2.8 In his deliberations, Mr. Stebbing has had regard to the saved policies of the adopted Maidstone Local Plan 2000, as well as other adopted Development Plan Documents, and the submitted Screening Opinion in relation to the requirement, or otherwise, for a Strategic Environmental Assessment. Additionally, he considered national policy as set out in both the National Planning Policy Framework ("NPPF") and also reference to the application of the NPPF in the National Planning Practice Guidance ("NPPG").
- 2.9 Whilst not a statutory requirement under the Basic Conditions, Mr. Stebbing notes the preparation of the NDP in the context of the emerging Maidstone Borough Local Plan 2011-31. Recent updates to the NPPG advise those preparing NDPs that they must take account of the evidence supporting emerging Local Plans and support the strategic development needs as set out in the Local Plan. The positive approach to development in the NDP illustrates how the Parish Council have worked to ensure continuity with emerging Local Plan policies with the aim of 'future-proofing' their NDP.
- 2.10 One particular policy in the NDP proposes a mixed use allocation at Lodge Road, which conflicts with the stance taken in the emerging Local Plan. This is not critical for the NDP as the emerging Local Plan is yet to be examined. However, it is important to understand the potential implications for the emerging Local Plan as a result of the endorsement of the policy in the NDP by Mr Stebbing in his report. If the NDP passes a future referendum and is made, it becomes the development plan for Staplehurst and this is likely to be prior to the adoption of the emerging Local Plan. The Local Plan should align with a NDP where it is reasonable for it to do so.
- 2.11 The NDP policy relates to the whole of the Lodge Road estate, including the currently vacant land at the western end, promoting a mix of residential and employment development. This conflicts with the submission Local Plan which designates the whole area (including the vacant land at the west which had extant consent for Class B uses at submission that has subsequently lapsed) as an existing employment site for retention in employment use.
- 2.12 Officers are reviewing the implications of the Examiner's recommendations for the Local Plan. A previous appraisal of the site by officers in the SHEDLAA assessed that the vacant land had a capacity of sixty (60) dwellings with scope for additional employment floorspace in a mixed use development. However, such an allocation was not agreed by Members through either the Scrutiny or Cabinet meetings in 2014, or by a subsequent review of SHEDLAA sites undertaken by this Committee in its very first meetings in 2015.

Interim report of the previous Examiner

- 2.13 The Committee will remember that in May 2016, prior to her withdrawal, the previously appointed Examiner issued an Interim Report which highlighted two areas of concern: the SEA Screening Opinion, and the site selection process undertaken by the Parish Council.
- 2.14 Mr. Stebbing was made fully aware of both the Interim Report and the responses to it from the Parish Council and MBC prior to commencing his examination but was also asked to examine the submitted NDP and supporting materials on their own merits in the first instance, before reviewing the Interim Report and responses. He confirms in his report, at paragraph 1.10, that this is the approach he has taken.
- 2.15 In his Examiner's report, Mr. Stebbing concludes that the Screening Opinion is robust, thus disagreeing with the previous Examiner's view, and also considers the approach taken to the allocation of sites to require no change, suggesting, in paragraph 4.17, that "no modifications to the Strategic Planning narrative of the plan." Elsewhere, reference is made to representations regarding the omission of sites from the NDP to be matters for the examination of the Local Plan rather than for determination as part of the examination of the NDP.

Modifications and minor corrections

- 2.16 Similar to the process for examining Local Plans, the Examiner of a NDP has the remit to suggest modifications that should be made to ensure regulatory compliance.
- 2.17 Having had regard to representations made, including by MBC, and in testing the policies in the NDP against both the NPPF and NPPG, Mr. Stebbing has made fourteen proposed modifications, which he sets out in bold type in the main body of his Examiner's report as well as summarising these in an appendix.
- 2.18 None of the proposed modifications alter the main thrust or meaning of the policies themselves but instead express them using different language to make them both more robust and also to ensure compliance with national policy and guidance.
- 2.19 Mr. Stebbing also helpfully identifies a small number of minor corrections to rectify typing errors in the NDP which do not constitute modifications but should perhaps be taken account of in the final drafting of the NDP.

Overall conclusions

- 2.20 Overall, Mr. Stebbing concludes that the NDP, as examined, meets the procedural requirements and, subject to the modifications suggested being made, also meets the Basic Conditions and legal requirements as set out in the 2012 Regulations.

2.21 Mr. Stebbing recognises in his conclusion the time and effort put in by the Parish Council in preparing the NDP and rightly commends them on their efforts.

3. AVAILABLE OPTIONS

3.1 The Committee could agree to the recommendations as set out at the start of this report, namely, noting the findings of the Examiner, agreeing to his proposed modifications and moving the NDP to a local referendum.

3.2 The Committee could alternatively resolve to move the NDP to a referendum unchanged, and without the modifications as proposed.

3.3 A third option for the Committee would be to resolve to not agree to a referendum, preventing any further progress of the NDP as currently drafted.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The Committee is recommended to agree to the option set out in paragraph 3.1 of this report. The findings of the independent Examiner support the policies of the NDP, subject to the suggested modifications, in regard to national and local policy.

4.2 The Parish Council has carried out a thorough and detailed assessment of the development needs and goals for its Parish and a considerable amount of time and effort has been spent in developing the NDP, which is supported by both MBC Officers and Members.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 Previously, the Committee has been very supportive of the concept of Neighbourhood Planning and the commitment and progress made by a number of Parish Councils and Neighbourhood Forums.

5.2 It is hoped that this continued support is noted by Parish Councils, as it clearly demonstrates the Borough Council's commitment to further encouraging Neighbourhood Planning.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 Subject to the resolution of the Committee, the Parish Council will be asked to produce a final draft of the NDP accommodating both the proposed modifications and minor changes as identified by the Examiner for the purposes of a local referendum.

- 6.2 MBC Officers will liaise with colleagues in the Electoral Services team to organise the local referendum as soon as is practicable, in accordance with the prescribed Regulations³ and in discussion with the Parish Council.
- 6.3 Following the close of the poll, and the publication of the result, a further report will be brought to this Committee setting out the results, and where this is a positive result, seeking a recommendation to Council regarding the making of the NDP.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	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, Head of Planning and Development
Risk Management	There are no identified risks to the Borough Council relating to this report.	Rob Jarman, Head of Planning and Development
Financial	The estimated costs for the Staplehurst Plan comprise elements of printing and postage (£500), consultancy support (£2,500), examination (£2,625 and £7,587) and future referendum (£4,000) totalling approx. £17,200. Once the referendum has been completed and the plan made a claim can be submitted to the next round of funding grants through LOGASNET to offset this cost.	Director of Finance & Business Improvement
Staffing	Officers have already notified the Electoral Services team about the progress with the Staplehurst NDP and the potential for a referendum. Once a referendum has been approved, officers will work closely with officers in the Electoral Services team to assist	Rob Jarman, Head of Planning and Development

³ The Neighbourhood Planning (Referendums) Regulations 2012 (as amended)

	in the planning of the referendum.	
Legal	Statute sets out the procedures to be followed with regard to Neighbourhood Planning. The Borough Council is obliged to follow statutory requirements.	Kate Jardine, Team Leader (Planning), Mid Kent Legal Services
Equality Impact Needs Assessment	The needs of different groups are considered throughout the development of the plans and recognised in the supporting materials that were part of the examination.	Anna Collier, Policy & Information Manager
Environmental/Sustainable Development	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. Reference is made in the examiner's report to the robustness of the assessment.	Rob Jarman, Head of Planning and Development
Community Safety	N/A	Rob Jarman, Head of Planning and Development
Human Rights Act	The examiner concludes that no contraventions to the Human Rights Convention are apparent.	Rob Jarman, Head of Planning and Development
Procurement	There are no particular procurement requirements or considerations that are not already in place at this stage.	Rob Jarman, Head of Planning and Development & Mark Green, Section 151 Officer
Asset Management	N/A	Rob Jarman, Head of Planning and Development

8. REPORT APPENDICES

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

- Appendix 1: Report on Staplehurst Neighbourhood Development Plan 2015-2031.
 - Appendix 2: Staplehurst Neighbourhood Development Plan (as submitted for examination)
-

9. BACKGROUND PAPERS

There are none.