

Boughton Monchelsea Neighbourhood Plan Regulation 16

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Mark Egerton, Strategic Planning Manager Sue Whiteside, Principal Planning Officer
Classification	Public
Wards affected	Boughton Monchelsea & Chart Sutton, Sutton Valence & Langley, Staplehurst, Marden & Yalding, Coxheath & Hunton, Loose, South, and Park Wood.

Executive Summary

The Boughton Monchelsea Neighbourhood Plan (Background Paper 1) has been submitted and published for a second round of public consultation, which runs from 14 August to 28 September 2020. It is the role of the Borough Council to ensure that certain conditions have been satisfied at this stage, and to facilitate the consultation. It is confirmed that the regulatory requirements under Regulations 14 and 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) have been met during the preparation of the plan.

The Borough Council is also a statutory consultee for the purpose of making representations on the Boughton Monchelsea Neighbourhood Plan. The Committee is requested to consider the Council's formal response to the consultation, attached as Appendix 1, in accordance with Regulation 16. Following the close of consultation, the submission documents and all representations received will be passed to the independent Examiner for examination into the plan.

Purpose of Report

Decision.

This report makes the following recommendations to this Committee:

1. That the Boughton Monchelsea Neighbourhood Plan be supported, subject to the resolution of matters raised in the Council's representation (Appendix 1).
2. That the Council's representation in response to the Regulation 16 consultation on the Boughton Monchelsea Neighbourhood Plan, attached at Appendix 1, be approved.

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	22 September 2020

Boughton Monchelsea Neighbourhood Plan Regulation 16

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	It is not expected that the recommendations will by themselves materially affect achievement of corporate priorities but, following a successful examination and referendum, the Boughton Monchelsea Neighbourhood Plan will form part of the Maidstone Development Plan, which will assist in the delivery of the Council's four strategic objectives.	Rob Jarman, Head of Planning
Cross Cutting Objectives	The report recommendations support the achievement of the four cross-cutting objectives through the Boughton Monchelsea Neighbourhood Plan, which will eventually become part of the Maidstone Development Plan.	Rob Jarman, Head of Planning
Risk Management	Risks are set out in Section 5 of the report. This consultation (Regulation 16) is being run to ensure that the plan meets the requirements of national legislation.	Rob Jarman, Head of Planning
Financial	The proposals set out in the recommendations are within already approved budgetary headings and so need no new funding for implementation. The costs for consultation (Regulation 16), examination, referendum and adoption of the Boughton Monchelsea Neighbourhood Plan are borne by the Borough Council. There is a dedicated budget for this purpose, funded by MHCLG neighbourhood planning grants.	[Section 151 Officer & Finance Team]
Staffing	The recommendations can be delivered within current staffing levels.	Rob Jarman, Head of Planning
Legal	Accepting the recommendations will fulfil the Council's duties under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, the Housing and Planning Act 2016, and the Neighbourhood Planning Act 2017. The recommendations also comply with the Neighbourhood Planning (General) Regulations 2012 (as amended).	Cheryl Parks, Mid Kent Legal Services (Planning)
Privacy and Data	Facilitating the consultation will increase the volume of data held by the Council. The data	Anna Collier Policy and

Protection	will be held in line with the Council's data protection policies and the GDPR.	Information Manager
Equalities	The Council has a responsibility to support communities in developing a Neighbourhood Plan. The Neighbourhood Planning process provides an opportunity for communities to shape a plan that meets the housing needs of its population.	Anna Collier Policy and Information Manager
Public Health	It is recognised that the recommendations will have a positive impact on population health or that of individuals through the policies of the Boughton Monchelsea Neighbourhood Plan.	[Public Health Officer]
Crime and Disorder	There are no implications for Crime and Disorder.	Rob Jarman, Head of Planning
Procurement	The appointment of an independent Examiner from IPE has been made under the procurement waiver signed by the Director of Finance and Business Improvement.	[Head of Service & Section 151 Officer]

2. INTRODUCTION AND BACKGROUND

- 2.1 Parish councils and designated neighbourhood forums can prepare neighbourhood development plans, also known as neighbourhood plans, for their designated neighbourhood areas. Neighbourhood plans are required to have regard to national policy and be in general conformity with the strategic policies of the development plan for the area. Neighbourhood plans go through two rounds of mandatory public consultation before independent examination, local referendum and being 'made' (adopted) by Maidstone Borough Council. The procedures for designating neighbourhood areas and preparing neighbourhood development plans are set out in The Neighbourhood Planning (General) Regulations 2012 (as amended).
- 2.2 Boughton Monchelsea parish was designated a neighbourhood area on 29 October 2012. The parish council undertook a 6-week public consultation on the pre-submission version of the neighbourhood plan (Regulation 14) between 26 April and 11 June 2019. The Council submitted a representation on the plan under the delegated authority of the Head of Planning and Development. Following consultation, the parish council has amended the plan in response to relevant issues raised in representations.
- 2.3 When a parish council or designated neighbourhood forum submits a neighbourhood plan to the Borough Council, the Council has a responsibility to ensure that regulatory requirements have been met, i.e. that public consultation on the pre-submission draft plan was carried out in accordance with Regulation 14, and that the submission plan and supporting documentation meet Regulation 15 obligations. These requirements have been met.

- 2.4 The next stage is a second 6-week public consultation on the submission plan (Regulation 16), prior to the plan's submission for independent examination. The Borough Council is responsible for facilitating this consultation and has agreed the consultation dates with the parish council: 14 August to 28 September 2020 (taking account of the August bank holiday). Considering recent government guidance on the Covid-19 pandemic, changes have been made to the way consultations are carried out. These changes were addressed by this committee at meetings held in June (statement of community involvement) and July (neighbourhood planning protocol). As such, this consultation is being undertaken in accordance with neighbourhood planning regulations, the Council's Statement of Community Involvement 2018 (as amended), and the neighbourhood planning protocol.
- 2.5 The full set of submission documents for the Boughton Monchelsea Neighbourhood Plan, which are listed below, can be viewed on the neighbourhood plans webpage (Background Papers 1 and 2).
- Boughton Monchelsea Parish Council covering letter with a Summary of Key Issues raised in Consultation
 - Boughton Monchelsea Neighbourhood Plan, submission draft, March 2020
 - Consultation Statement and Appendices October 2019
 - Consultation Statement Appendix G – Regulation 14 list of consultees
 - Basic Conditions Statement March 2020
 - Environmental Statement 2019, which concludes that neither a Strategic Environmental Assessment nor a Habitat Regulations Assessment is required
 - Colvin and Moggridge, Boughton Monchelsea Landscape Management and Masterplan 2018
 - Colvin and Moggridge, Boughton Monchelsea Priority Local Landscape 2019
 - Boughton Monchelsea Housing Needs Survey 2018, Action for Rural Communities Kent
 - A folder of additional parish-specific Evidence on Flood Risk, MBC Housing Register and Housing Density.
- 2.6 The Borough Council is responsible for appointing an independent Examiner (in agreement with the parish council) and for arranging the examination following the close of consultation. The Boughton Monchelsea Neighbourhood Plan and accompanying submission documents must be forwarded to the Examiner, together with all representations received, for the Examiner's consideration. Mr Derek Stebbing (Intelligent Plans and Examinations) has been appointed to examine the plan. A neighbourhood plan examination is usually dealt with by written representations, although an Examiner can move to a hearing for more complex plans or issues.
- 2.7 The Examiner's role is limited to testing the submitted plan against the 'Basic Conditions' tests for neighbourhood plans set out in legislation, rather than considering its 'soundness' or examining other material considerations. It is the role of the local planning authority to be satisfied that a basic condition statement has been submitted, but it is only after the independent examination has taken place and after the examiner's report has been

received that the local planning authority comes to its formal view on whether the draft neighbourhood plan meets the basic conditions. The basic conditions are met if:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations¹
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan²
- The making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017³.

2.8 At this stage (Regulation 16) of the development of the Boughton Monchelsea Neighbourhood Plan, the Borough Council is also a statutory consultee and can submit comments on the plan during consultation for consideration by the Examiner.

2.9 During the preparation of the plan, the Council has offered advice and support to the parish council on matters such as the neighbourhood planning process, the evidence base, the plan's regard to national policy, and general conformity with the strategic policies of the Maidstone Development Plan. The parish council has responded positively to the advice offered.

2.10 The neighbourhood plan contains a range of policies, including policies relating to:

- Sustainability
- Design
- New non-designated heritage assets
- Maintaining village character and the separation of settlements
- Protection of the landscape and woodlands
- Designation of a new 'Priority Local Landscape'
- Biodiversity
- Infrastructure and community facilities
- Connectivity
- Endorsement of adopted local plan housing site allocations
- Affordable Housing

¹ For example, the need for a Strategic Environmental Assessment and/or Habitats Regulation Assessment

² This applies to the need for an Environmental Impact Assessment for certain development proposals, and is not applicable to the Boughton Monchelsea Neighbourhood Plan

³ This Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

- The rural economy.

2.11 The neighbourhood plan is clear and well written and, with one exception, its policies conform to the strategic policies of the Maidstone Borough Local Plan 2017. Neighbourhood plan policies PWP4(B)(ii): Provision for new housing development; RH2: Affordable housing – local priority; and RH3(c): Redevelopment and/or remodelling of existing affordable housing provision, refer to the occupation of affordable housing being prioritised for applicants with a local connection. Strategic policy SP20 of the Maidstone Borough Local Plan seeks the provision of affordable housing as a percentage of market housing schemes to meet a borough-wide need. The criteria for the occupation of affordable housing provided under this policy is set by the Borough Council, and does not prioritise occupation for people with a proven local connection. Non-strategic policy DM13 of the Local Plan brings forward affordable local needs housing on rural exception sites, and people with a local connection are prioritised for the occupation of these homes. Policies RH2 and RH3(c) of the neighbourhood plan are not rural exception site policies. Definitions for 'affordable housing' and 'rural exception sites' are clearly set out in the glossary of the NPPF.

2.12 This point was in fact raised by the Council in its representation on the neighbourhood plan at Regulation 14 consultation. In its Consultation Statement, which includes the parish council's responses to the issues raised by respondents, the parish council stated:

"Noted. It is understood that MBC does not currently prioritise people with local connections. However this was an important issue in community engagement, and it was felt that people with local connections should have the opportunity to occupy affordable housing in the parish, and contribute to the sustainability of the local community by being able to live where they have a positive connection, while not debarring others from moving into the parish. The policies apply "outside the Maidstone Urban Area" which means that they do not apply to the largest housing sites in the parish, but do apply in the more rural part of the parish where facilities are more limited. The Neighbourhood Plan has to "generally conform" to MBC strategic policies, and this is felt to be an appropriately balanced approach. No change."

2.13 Despite being an important issue for the community, the approach is not in general conformity with the strategic policies of the adopted local plan, and the Council has exclusive rights to nominate suitable households in housing need in accordance with its Allocations Scheme. Affordable housing for occupants with a local connection can be provided on rural exception sites (either through sites allocated in local plans or neighbourhood plans, or through the planning application process). The reality of the situation is that those who are on the Council's Housing Register who might have a local connection to Boughton Monchelsea, would have the opportunity to bid on any affordable properties that are advertised in their particular band and bed-need.

2.14 Without modification, the Boughton Monchelsea Neighbourhood Plan fails to meet the basic conditions for neighbourhood plans, as required by Government, with regard to conformity to the adopted local plan's strategic

policy SP20. Further, the Government seeks conformity and consistency between local plans and neighbourhood plans. Parish councils preparing other neighbourhood plans in the borough have removed affordable housing policies seeking a local connection from their plans (prior to submission) in order to meet the basic conditions at examination.

2.15 Consequently, the representation attached at Appendix 1 seeks a modification to the neighbourhood plan, to delete references to prioritising affordable housing for people with a local connection to Boughton Monchelsea parish. The Examiner will conclude on the matter and make recommendations accordingly. Further minor proposed modifications are intended to correct errors and achieve clarity.

2.16 The Committee is recommended to support the Boughton Monchelsea Neighbourhood Plan, subject to the resolution of matters raised in the representation, and to approve the Council's representation attached at Appendix 1.

3. AVAILABLE OPTIONS

3.1 Option A: To not make representation on the Boughton Monchelsea Neighbourhood Plan. The consultation is being run in accordance with the requirements of national legislation, but there is no requirement for the Council to submit a representation on the neighbourhood plan. However, to follow this option means that the Council's overall view as the local planning authority is not asserted. This approach would compromise the Council's opportunity to inform the Examiner of its position on the plan.

3.2 Option B: To approve the Borough Council's representation on the Boughton Monchelsea Neighbourhood Plan, attached at Appendix 1.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 Option B is recommended. Once a neighbourhood plan is the subject of a successful referendum, it becomes part of the Maidstone Development Plan and is used for development management decisions. This option affords an opportunity to inform the Examiner of the Council's position in respect of the Boughton Monchelsea Neighbourhood Plan.

5. RISK

5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at sections 3 and 4.

5.2 The risks associated are within the Council's risk appetite and will be managed as per the Council's policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Boughton Monchelsea Neighbourhood Plan is subject to two rounds of public consultation. The first (Regulation 14) was undertaken by the parish council in 2019, and the Council's representation on the plan was submitted under delegated authority by the Head of Planning and Development. The comments received during consultation, together with the parish council's responses to the issues raised, are summarised in the Consultation Statement, and the plan has been amended as a result.
- 6.2 The current consultation (Regulation 16) is facilitated by the Borough Council, and all representations will be collated by the Borough Council and forwarded to the independent Examiner of the plan, together with the submission documents, for his consideration.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Examination of the Boughton Monchelsea Neighbourhood Plan will be dealt with by written representations and/or a hearing, and Maidstone Borough Council is required to pay for the costs of the examination. Following the examination, the Examiner will issue his report and recommendations⁴. A report will be presented to this Committee outlining the Examiner's recommendations and seeking a decision on whether to move the plan to referendum⁵. If more than half of those voting in the referendum have voted in favour of the plan being used to inform planning applications in the area, the plan becomes part of the Maidstone Development Plan and will move forward to being made (adopted) by full Council.
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8. REPORT APPENDICES

- Appendix 1: Response to the Boughton Monchelsea Neighbourhood Plan Regulation 16 Consultation
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9. BACKGROUND PAPERS

- Background Paper 1: Boughton Monchelsea Neighbourhood Plan https://localplan.maidstone.gov.uk/home/documents/neighbourhood-plans/boughton-monchelsea/r15-submission2/200309-Parish-Doc_2020_LR.pdf

⁴ Following a successful examination, a neighbourhood plan becomes a significant material consideration in decisions on planning applications within the neighbourhood area (Neighbourhood Planning Protocol).

⁵ Once a decision is made to move to referendum, a neighbourhood plan has significant weight in decision making for the neighbourhood area.

- Background Papers 2: Boughton Monchelsea Neighbourhood Plan Submission Documents <https://localplan.maidstone.gov.uk/home/neighbourhood-planning> ('Consultations' tab)