

Lenham Neighbourhood Plan (Regulation 17A)

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Anna Ironmonger, Strategic Planning, Planning Officer
Classification	Public
Wards affected	The report particularly affects the wards of Harrietsham & Lenham, Headcorn, Leeds and North Downs

Executive Summary

The Lenham Neighbourhood Development Plan 2017 – 2031 was examined by an independent examiner, who recommended that the Plan (as modified) move to local referendum (Background Document 1). Under the Neighbourhood Planning (General) Regulations 2012 (as amended), the planning authority is required to make a decision on what action to take in response to the examiner's recommendation. This report seeks approval to move the Lenham Neighbourhood Plan, as modified, to local referendum (Appendix 1). Following a successful referendum, the neighbourhood plan forms part of the Maidstone Development Plan and must be made (adopted) by Council.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. The modifications to the Lenham Neighbourhood Development Plan as set out in the examiner's report be agreed
2. The minor modifications agreed with Lenham Parish Council, as set out in paragraph 1.8 of this report, be agreed.
3. The Lenham Neighbourhood Development Plan proceeds to local referendum

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	22 September 2020

Lenham Neighbourhood Plan (Regulation 17A)

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 the plan will form part of the Maidstone Development Plan following a successful referendum, and will assist in the delivery of the Council's four strategic objectives.	Rob Jarman, Head of Planning
Cross Cutting Objectives	Following a successful referendum, the Lenham Neighbourhood Plan will form part of the Maidstone Development Plan, and will assist in the delivery of the Council's four strategic objectives. (See paragraph 1.15 of this report).	Rob Jarman, Head of Planning
Risk Management	See section 5	Rob Jarman, Head of Planning
Financial	The proposals set out in the recommendations are all within already approved budgetary headings and so need no new funding for implementation is needed. The costs for the referendum and adoption of the Lenham 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	We will deliver the recommendations with our current staffing.	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 Protection	Accepting the recommendations will increase the volume of data held by the Council. The data will be held in line with the Council's, records retention policy, data protection policies and the GDPR.	Anna Collier Policy and Information Manager

Equalities	The Council has a responsibility to support communities in developing a Neighbourhood Plan. This responsibility is set out in the Maidstone Statement of Community Involvement. The neighbourhood planning process provides an opportunity for communities to develop a plan that meets the needs of its population.	Anna Collier Policy & Information Manager
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	[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 was 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 Neighbourhood Plans can be prepared by parish councils and designated neighbourhood forums for their neighbourhood area. A neighbourhood plan will 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 a neighbourhood area and the preparation of a neighbourhood plan are set out in the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 2.2 The Neighbourhood Planning Area, which comprises the whole of Lenham parish, was designated on 27 November 2012. Extensive consultation on the Lenham Neighbourhood Plan was undertaken during the early stages of plan preparation. A formal six weeks consultation on the pre-submission draft plan and supporting documents (Regulation 14) took place between 24 September and 12 November 2018.
- 2.3 The Regulation 15 Submission Plan and supporting documents were submitted to the Borough Council on 17 December 2019. The Plan was subject to a further six weeks consultation from 17 February 2020 to 17 April 2020 (which was extended to account for the Coronavirus pandemic). In accordance with the agreed neighbourhood planning protocol, the Borough Council submitted representations to both consultations. The Regulation 14 response was submitted under the delegated authority of the Head of Planning and Development. The Regulation 16 response was submitted following the agreement of this committee at its meeting of 10 March 2020.
- 2.4 Throughout the preparation of the Lenham Neighbourhood Plan, communication with the parish council has been maintained. Officers have

offered advice and support to the parish council on a range of issues, including draft iterations of the plan.

2.5 The appointment of Derek Stebbing (from Intelligent Plans and Examinations) as an independent examiner was agreed with Lenham Parish Council. The independent examiner was appointed through the Council's procurement waiver signed by the Director of Finance and Business Improvement. The Lenham Neighbourhood Plan and supporting documents, together with the representations received during Regulation 16 consultation, were forwarded to the examiner who dealt with the examination through written representations, concluding that a public hearing was not necessary. The examiner's report was received on 30 June 2020 and has been published on the Borough and Parish Councils' website (see background document 1).

2.6 The examiner concluded that

"...subject to modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that

- The plan has been prepared and submitted for examination by a qualifying body – Lenham Parish Council (the Parish Council);
- The Plan has been prepared for an area properly designated – the Neighbourhood Plan Area, as identified on the Map at Page 46 of the Plan;
- The Plan specifies the period to which it is to take effect – from 2017 to 2031; and
- The policies relate to the development and use of land for a designated neighbourhood plan area."

2.7 The examiner recommended that the Lenham Neighbourhood Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

2.8 An minor factual update that does not affect the policies of the plan has been agreed with the Parish Council. An addendum has been inserted to the front of the plan to say:

"An advice note has been published by Natural England in July 2020. The advice note may well have implications for sites allocated in the Lenham Neighbourhood Plan. As such, the advice note should be taken into account when assessing planning applications."

2.9 The insertion of this text is a result of new advice published by Natural England. Lenham falls within the catchment of the Upper Stour. The Stodmarsh water environment is internationally important for its wildlife and has protection under the Water Environment regulations and Conservation of Habitats and Species regulations. The guidance published by Natural England outlines that there are high levels of phosphates and nitrates inputting into the stour catchment. There is uncertainty as to whether new growth will impact on the Stodmarsh water environment. But it is likely that all types of development that would result in a net increase

in population served by a water system. Therefore, the Lenham Neighbourhood Plan should have consideration. The update has been incorporated into the plan (Appendix 1).

- 2.10 In accordance with the neighbourhood planning regulations (Regulation 18), the local planning authority is required to make a decision on what action to take in response to the examiner's recommendations (i.e. to proceed to local referendum).
- 2.11 In order to proceed to referendum, the local authority must be satisfied that the Lenham Neighbourhood Plan has met the basic conditions outlined in paragraph 8(2) of the Schedule 4B to the Town and Country Planning Act 1990 (as amended). The neighbourhood plan must:
- Have regard to national policies and advice contained in guidance issues by the Secretary of State;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies contained in the development plan for the area of the authority;
 - Be compatible with and not breach EU obligations; and
 - Meet prescribed conditions relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plans.
- 2.12 Regulation 32 of the 2012 Regulations prescribes a further basic condition for a neighbourhood plan, which requires that the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulation 2017.
- 2.13 It is for this Committee to decide what action to take in response to the examiner's report. The committee can either
- Accept the examiner's report (with or without modifications)
 - Decline to accept the report
 - Accept the report (with or without modifications) together with further modifications the Council deems necessary
- 2.14 If the Committee is satisfied that the Lenham Neighbourhood Plan meets the basic conditions; is compatible with the European Convention on Human Rights; and complies with the statutory requirements set out in the Town and Country Planning Act 1990 (as amended), or would do so with modifications then it must decide to move the neighbourhood plan to local referendum.
- 2.15 Lenham is designated as a broad location in the Maidstone Borough Local Plan 2017 to deliver 1000 homes between 2021 and 2031. Specific site allocations could be made through a local plan review or the production of a Lenham Neighbourhood Plan. The parish council decided to prepare a neighbourhood plan and to allocate housing sites in order to deliver 1,000 dwellings in its plan. In addition to making site allocations for residential development, the plan includes policies on design quality; sustainable travel; enhancing and protecting green space; employment, community facilities and tourism; and air quality.

- 2.16 It is considered by officers that the Lenham Neighbourhood Plan has met the statutory requirements, including its policies being in general conformity with the strategic policies of the Maidstone Borough Local Plan 2017. It is recommended by officers that the Committee approves the examiner's modifications set out in his report and makes a decision to move the Lenham Neighbourhood Plan to local referendum.
- 2.17 In response to the coronavirus pandemic, the Government has published guidance to help prevent the spread of the virus and as a result the way in which people are able to engage in neighbourhood planning has been impacted. Neighbourhood Plan referendums have been suspended until 6th May 2021. Following a successful referendum a neighbourhood plan becomes part of the development plan. In line with government guidance on coronavirus, the Neighbourhood Planning Protocol was recently updated and a post examination neighbourhood plan is a significant material consideration.
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3. AVAILABLE OPTIONS

- 3.1 Option A: The Committee agrees the recommended modifications outlined in the examiner's report and moves the Lenham Neighbourhood Plan to local referendum
- 3.2 Option B: The Committee agrees to decline the Examiner's report recommendations, and moves the Lenham Neighbourhood Plan to local referendum without any modifications being made
- 3.3 Option C: The Committee does not agree to move the Lenham Neighbourhood Plan to local referendum.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is option A and the Committee agree to move the Lenham Neighbourhood Plan, as modified, to local referendum. If the local authority is satisfied that the statutory requirements have been met, then it is required to move the neighbourhood plan to referendum.
- 4.2 The Lenham Neighbourhood Plan has met the prescribed legislative requirements and there are no reasons to reject the examiner's proposed modifications. The modifications ensure that the policies are compliant with national policy. To not move the plan to local referendum would prevent any further progress and could compromise the good working relationship that officers have with Lenham Parish Council.
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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

paragraphs 4.1 and 4.2. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The Lenham Neighbourhood Plan has been subject to two rounds of formal public consultation, and the representations have been submitted to examiner for consideration. The representations, including those submitted by the Borough Council, have helped to shape the neighbourhood plan.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 The decision of this Committee will be published. Officers will work with Electoral Services to arrange a local referendum, in accordance with The Neighbourhood Planning (Referendums) Regulations 2012. Subject to the outcome of the referendum, a report on the results will be brought back to this committee and, if successful, a recommendation to Council to make the neighbourhood plan will be sought.

8. REPORT APPENDICES

- Appendix 1: Lenham Neighbourhood Plan 2017 – 2031
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9. BACKGROUND PAPERS

- Background Document 1: Examiner's report on the Lenham Neighbourhood Plan 2017 – 2031
<https://localplan.maidstone.gov.uk/home/documents/neighbourhood-plans/lenham/r17-examination/Lenham-Neighbourhood-Plan-Examiner-Report-300620.pdf>