

**Lenham Neighbourhood Plan (Regulation 19)**

<b>Final Decision-Maker</b>	Full Council
<b>Lead Head of Service</b>	Rob Jarman, Head of Planning and Development
<b>Lead Officer and Report Author</b>	Anna Ironmonger, Planning Officer, Strategic Planning and Tom Gilbert, Principal Planning Officer, Strategic Planning
<b>Classification</b>	Public
<b>Wards affected</b>	Harrietsham and Lenham; North Downs; Leeds; and Headcorn

**Executive Summary**

On 8 September 2020, this Committee resolved that the Lenham Neighbourhood Plan, once modified<sup>1</sup>, should proceed to referendum. In light of the Coronavirus pandemic, Neighbourhood Plan referendums were suspended until 6 May 2021. A referendum was carried out alongside the local, county and Police & Crime Commissioner elections on 6 May 2021.

The referendum was successful, with 92% voting in favour<sup>2</sup> of the neighbourhood plan. As a result, the Lenham Neighbourhood Plan becomes part of the Development Plan for Maidstone (Section 38 (3A) of the Planning and Compulsory Purchase Act 2004).

Under Section 38A(4) of the Planning and Compulsory Purchase Act 2004, where more than half of those who voted, vote in favour of the Lenham Neighbourhood Plan, the plan must be made (adopted) by Full Council within 8 weeks. Under 'normal' circumstances the timetable for referendum, and committee consideration, including consideration by Full Council is carefully planned to ensure the statutory timetables are met. On this occasion, the statutory duty will not be met owing to the delayed referendum as a result of the Coronavirus pandemic. Local elections were also postponed and rescheduled to take place on 6 May 2021. As a result committees have been suspended, and this is therefore the first opportunity for this report to be considered by this Committee. Agreement to postpone the decision was gained from the Parish Council.

This Committee is asked to consider the result of the referendum, and in accordance with the agreed Neighbourhood Planning Protocol, make a recommendation to Full Council that the Neighbourhood Plan is made (adopted).

**Purpose of Report**

Decision

<sup>1</sup> The Lenham Neighbourhood Plan, with modifications incorporated, can be found at background document 1.

<sup>2</sup> Referendum results can be found at background document 2.

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

1. The result of the referendum held on 6 May 2021 on the Lenham Neighbourhood Plan be noted.
2. Council be recommended to make the Lenham Neighbourhood Plan.

<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Committee	8 June 2021
Council	14 July 2021

# Lenham Neighbourhood Plan (Regulation 19)

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. Section 38(3A) of the Planning and Compulsory Purchase Act 2004 outlines that once a neighbourhood plan is approved at referendum it comes into force as part of the statutory development plan. This means it will assist in the delivery of the Council's four strategic objectives (see section 3).</p> <p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul>	Rob Jarman, Head of Service
<b>Cross Cutting Objectives</b>	<p>The report recommendations support the achievement of all four cross cutting objectives. Following a successful referendum result, a neighbourhood plan forms part of the development plan.</p> <p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected.</li> </ul>	Rob Jarman, Head of Service
<b>Risk Management</b>	Already covered in the risk section.	Rob Jarman, Head of Service
<b>Financial</b>	<p>The costs for referendum and adoption of neighbourhood plans are borne by the Borough Council. There is a dedicated budget for this purpose, funded by MHCLG neighbourhood</p>	Mark Green, Section 151 Officer & Finance Team

	planning grants. The Council will apply for £20,000 from MHCLG due to costs incurred.	
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Rob Jarman, Head of Service
<b>Legal</b>	<p>Accepting the recommendations will fulfil the Council's duties under the Town and Country Planning Act 1990 (as amended), and the Neighbourhood Planning (General) Regulations 2012 (as amended).</p> <p>The statutory duty under the Planning and Compulsory Purchase Act 2004 to make the plan within 8 weeks of a successful referendum will not be met owing to the delayed referendum as a result of the Coronavirus pandemic and suspension of committees during the election period.</p> <p>It is, however, considered that the risks of non-compliance by the Council are low, since the plan, post referendum, already forms part of the development plan for the borough and it is not anticipated that anyone will be unduly affected by the delay in making this decision.</p>	Cheryl Parks Mid Kent Legal Services (Planning)
<b>Privacy and Data Protection</b>	The recommendations will not have any implications for the volume of data held by the Council.	Policy and Information Team – Orla Sweeney
<b>Equalities</b>	The Council has a responsibility to support in developing a Neighbourhood Plan. The Neighbourhood Plan process provides an opportunity for communities to develop an inclusive plan that meets the needs of its population.	Senior Equalities and Engagement Officer
<b>Public Health</b>	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer Jolanda Gjoni
<b>Crime and Disorder</b>	There are no implications for crime and disorder.	Rob Jarman, Head of Service
<b>Procurement</b>	There are no implications for procurement.	Rob Jarman, 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). The Lenham Neighbourhood Plan has reached the final stage of the Neighbourhood Planning process.

### Lenham Neighbourhood Plan: progress

- 2.2 The Lenham Neighbourhood Planning Area comprises the whole of Lenham Parish and was designated on 27 November 2012.
- 2.3 The Neighbourhood Plan was then subject two rounds of mandatory consultation. Firstly, the Parish Council undertook a formal 6-week public consultation on the pre-submission draft of the Lenham Neighbourhood Plan (Regulation 14) between 24 September and 12 November 2018.
- 2.4 Secondly, Lenham Parish Council submitted the Regulation 15 Submission Plan and supporting documents to the Borough Council on 17 December 2019. Maidstone Borough Council facilitated a further 6-week public consultation (Regulation 16) between 14 February 2020 to 27 March 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.
- 2.5 The appointment of an independent examiner was agreed with Lenham Parish Council, and Derek Stebbing (of Intelligent Plans and Examinations) 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 all representations received, were forwarded to the examiner who dealt with the examination through written representations, concluding that a public hearing was not necessary.
- 2.6 The examiner's report was received on 30 June 2020 and recommended that the Lenham Neighbourhood Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements. In addition to the proposed modifications, a minor factual update that does not affect the policies of the plan was agreed with Lenham Parish Council and inserted to the front of the Neighbourhood Plan. The insertion of this text is a result of new advice published by Natural England.
- 2.7 In line with the Neighbourhood Planning (General) Regulations 2012 and the locally adopted Neighbourhood Planning Protocol, this Committee made

a decision on 8 September 2020 that the Lenham Neighbourhood Plan, subject to the above modifications, should proceed to referendum<sup>3</sup>.

#### Lenham Neighbourhood Plan: referendum

- 2.8 In response to the Coronavirus pandemic, neighbourhood plan referendums were suspended until 6 May 2021. The delayed referendum was carried out alongside the local, county and Police & Crime Commissioner elections on 6 May 2021. Voters were asked "Do you want Maidstone Borough Council to use the Neighbourhood Plan for Lenham to help it decide planning applications in the neighbourhood area?".
- 2.9 The referendum was successful, with 92% voting in favour of the neighbourhood plan<sup>4</sup>. Following a successful referendum, a neighbourhood plan becomes part of the development plan for the borough (Section 38 (3A) of the Planning and Compulsory Purchase Act 2004).

#### Lenham Neighbourhood Plan: recommendation

- 2.10 Under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A), where a referendum is successful and more than half of those who voted, vote in favour of the Lenham Neighbourhood Plan, the plan must be made (adopted) by Full Council within 8 weeks. As such, this Committee are asked to consider the result of the referendum, and in accordance with the agreed Neighbourhood Planning Protocol, make a recommendation to Full Council that the Neighbourhood Plan is made (adopted).
- 2.11 This Committee can decide not to recommend that Full Council make the Lenham Neighbourhood Plan, to do so, would breach or otherwise be incompatible with any EU obligation or any of the convention rights. The compatibility of the Lenham Neighbourhood Plan with EU obligations and directives was tested during the examination process and could not proceed to referendum otherwise. Unless there are any new matters in relation to this point which the Committee considers were not raised by the Examiner then the Council is under a statutory duty to make the plan following the "Yes" result. It is the view of officers that there no such matters arising.
- 2.12 As mentioned in paragraph 2.10 there is a statutory duty to make the Lenham Neighbourhood Plan within 8 weeks of the successful referendum. On this occasion, the statutory duty will not be met owing to the delayed referendum as a result of the Coronavirus pandemic and government requirement to minimise social contact. Local elections were also postponed and scheduled to take place on 6 May 2021, hence committees have been suspended and this is the first opportunity for this report to be considered by this Committee. Agreement to postpone the decision was gained from the Parish Council. Paragraph 2.9 outlines that following a successful referendum, the Lenham Neighbourhood Plan has already become part of the development plan for Maidstone and can be used in the consideration of

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<sup>3</sup> See background document 1.

<sup>4</sup> See background document 2.

planning applications in Lenham. The plan will assist in the delivery of the Council's four strategic objectives.

- 2.13 To summarise, this Committee are asked to consider the result of the referendum of the Lenham Neighbourhood Plan and make a recommendation to Full Council that the Neighbourhood Plan is made.

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### **3. AVAILABLE OPTIONS**

- 3.1 Option 1: The Strategic Planning and Infrastructure Committee recommends to Full Council on 14 July 2021 that the Lenham Neighbourhood Plan is made. Once a neighbourhood plan passes referendum it comes into force as part of the statutory development plan and will assist in the delivery of the Council's four strategic objectives. Under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A), following successful referendum, the Council must make the Lenham Neighbourhood Plan within 8 weeks of the referendum date. It is accepted that this statutory duty cannot be met. The delays are owing to the coronavirus pandemic and are considered to be acceptable given the restrictions on social contact that were imposed. Any further delay, now that referendums and committee meetings have resumed following the May elections, is unlikely to be held to be reasonable. By taking the decision to a later meeting of Full Council and further delaying the formal adoption of the Lenham Neighbourhood Plan would mean that the Council would be in breach of its requirement under the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012.
- 3.2 Option 2: The Committee does not recommend to Full Council that the Lenham, Neighbourhood Plan is made. This would be in breach of Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A) which requires a neighbourhood plan to be made within 8 weeks of a successful referendum. The reasons for the decision of making the Lenham Neighbourhood Plan going beyond the 8-week period have been discussed elsewhere in this report and is considered to be acceptable given the restrictions on social contact that were imposed. The only justification for this Committee not recommending that Full Council make the Lenham Neighbourhood Plan is if the Committee considers that there are new matters that would mean that to make the plan would breach or otherwise be incompatible with any EU obligation or any of the convention rights (discussed at paragraph 2.11). It is the view of officers that there are no new matters arising that would prevent Full Council making the plan.

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

- 4.1 The preferred option is Option 1. The referendum result shows strong support for the Lenham Neighbourhood Plan. As outlined in paragraph 2.11

the Committee can decide not to recommend that Full Council make the Lenham Neighbourhood Plan if members consider that there are new matters that would mean that to make the plan would breach or otherwise be incompatible with any EU obligation or any of the convention rights. It is the view of officers that there are no such matters and statute is clear as to the requirement to make the plan in such circumstances.

- 4.2 As set out in paragraph 3.1 it is accepted that the Council has not met the statutory duty to make the Lenham Neighbourhood Plan within 8 weeks of the referendum. The delays are considered to be acceptable given the coronavirus pandemic. Any further delay is unlikely to be held to be reasonable and the Council would be in breach of its requirement under the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012.

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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. Consideration is shown in this report at paragraphs 2.11, 2.12 3.1, 3.2, 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 has been through two rounds of public consultation known as Regulation 14 (pre-submission consultation) and Regulation 16 (submission consultation). The Borough Council's Regulation 14 response was submitted under the delegated authority of the Head of Planning and Development. The Borough Council's Regulation 16 response was submitted following the agreement of this Committee at its meeting of 10 March 2020.
- 6.2 This Committee agreed at its meeting on 8 September 2020 that the neighbourhood plan, subject to modification, should move to referendum.

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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 A recommendation will be taken to Full Council on 14 July 2021. Following a decision from Full Council to make the Lenham Neighbourhood Plan, the decision and the Plan will be published on the website and the relevant bodies will be notified.
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## **8. REPORT APPENDICES**

None

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## **9. BACKGROUND PAPERS**

Background document 1 – Lenham Neighbourhood Plan

<https://localplan.maidstone.gov.uk/home/documents/neighbourhood-plans/lenham/r18-referendum/Appendix-1-Lenham-neighbourhood-plan-2017-2031.pdf>

Background document 2 – Referendum result

<https://localplan.maidstone.gov.uk/home/neighbourhood-planning>