

Neighbourhood Planning Protocol Update

Timetable	
Meeting	Date
Planning and Infrastructure Policy Advisory Committee	6 July 2022
Executive	27 July 2022

Type of Decision	Key
Urgency	Not Applicable
Final Decision-Maker	Executive
Lead Head of Service	Phil Coyne (Interim Director, Local Plan Review), Rob Jarman (Head of Planning and Development)
Lead Officer and Report Author	Anna Ironmonger (Planning Officer, Strategic Planning)
Classification	Public
Wards affected	All

Executive Summary

Strategic Planning and Infrastructure Committee approved amendments to the Neighbourhood Planning Protocol at its meeting on 7 July 2020. The changes can be categorised as a) changes to reflect amended practices used by the Council and b) changes to reflect the Statement of Community Involvement addendum (which the Neighbourhood Planning Protocol must comply with) in response to government guidance issued during the Coronavirus pandemic. As restrictions relating to the Coronavirus pandemic have now been lifted, an amendment is required to the Neighbourhood Planning Protocol to remove reference to the Coronavirus measures. Further changes to the Neighbourhood Planning Protocol are proposed to provide more detail on the modification of 'made' neighbourhood plans and to ensure that the Protocol reflects recent changes to the Council's decision making process (new Executive model). This report is to be considered by the Policy Advisory Committee before being passed to the Executive for decision.

Purpose of Report

To provide the updated Neighbourhood Planning Protocol (Appendix 1) and to seek views from this Policy Advisory Committee, prior to decision by the Executive.

This report asks the Committee to consider the following recommendation to the Executive:

1. That the Neighbourhood Planning Protocol, attached at Appendix 1 to the report, be approved.
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Neighbourhood Planning Protocol Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The recommendations will by themselves not materially affect achievement of cooperate priorities.	Head of Planning and Development
Cross Cutting Objectives	The recommendations will by themselves not materially affect achievement of cross-cutting objectives.	Head of Planning and Development
Risk Management	Already covered in the risk section.	Head of Planning and Development
Financial	The work of the team in supporting Neighbourhood Planning groups is funded in the first instance from Government grant that has been made available for this purpose.	S151 Officer and Finance Team
Staffing	We will deliver the recommendation with our current staffing.	Head of Planning and Development
Legal	The protocol, as drafted, reflects the individual regulatory stages of plan making as set out in the Neighbourhood Planning (General) Regulations 2012, and ensures that statutory requirements are clear to those involved.	Senior Lawyer (Planning); Mid Kent Legal Services
Information Governance	Accepting the recommendations will not increase the volume of data held by the Council.	Information Governance Team
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
Public Health	There are no implications for public health.	Public Health Officer
Crime and Disorder	There are no implications for crime and disorder.	Head of Planning and Development
Procurement	A procurement waiver is in place for the appointment of examiners for neighbourhood plan examinations.	Head of Planning and Development

Biodiversity and Climate Change	There are no implications on biodiversity and climate change.	Biodiversity and Climate Change Manager
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2. INTRODUCTION AND BACKGROUND

- 2.1 The Council’s policy for supporting neighbourhood planning groups is set out in the Maidstone Statement of Community Involvement (SCI). The SCI also explains how the Council will consult statutory bodies, stakeholders and the public at each stage of the neighbourhood plan making process. The Neighbourhood Planning Protocol (the Protocol) must comply with the SCI. The Protocol, in addition to satisfying consultation requirements, includes detailed actions for all regulatory stages and, equally important, specifies the decision-making processes for each stage of the neighbourhood planning process.
- 2.2 Strategic Planning and Infrastructure Committee approved amendments to the Neighbourhood Planning Protocol at its meeting on 7 July 2020. The changes which were made can be summarised as:
- A. Changes to reflect amended practices used by the Council for processing neighbourhood plans and therefore improving clarity for the reader
 - B. Changes to reflect the Statement of Community Involvement addendum¹, in response to government guidance issued during the Coronavirus pandemic.
- 2.3 Government guidance issued in response to the Coronavirus pandemic has now been lifted and the neighbourhood planning process has returned to how it was prior to the pandemic. An amendment is therefore required to the Protocol to remove any reference to the Coronavirus measures.
- 2.4 It is also desirable to make further changes to the Protocol to cover the modification of ‘made’ neighbourhood plans. The current Protocol makes reference to the modification of ‘made’ Neighbourhood Plans but does not provide detail. Proposed changes will provide clarity as to how modifications to a made Neighbourhood Plan will be dealt with.
- 2.5 The Neighbourhood Planning Protocol outlines that at key stages Council Members are required to make a decision. The Council has recently moved to a new Executive model whereby decisions are made by Members on the Executive, rather than committees. Amendments have been proposed to ensure the Neighbourhood Planning Protocol reflects this change in the decision making process.

Post Coronavirus pandemic

- 2.6 The amendments made to both the SCI and the Neighbourhood Planning Protocol in response to the Coronavirus pandemic predominately affected the availability of material at inspection points. SPI committee at its July 2020

¹ SPI 9 June 2020

meeting also resolved to amend the referendum process. Where a referendum could not take place, the Protocol gave significant weight to Neighbourhood Plans ahead of a referendum decision².

- 2.7 The Government guidance in response to the Coronavirus pandemic has now been lifted and the neighbourhood planning process has returned to how it was prior to the pandemic. An amendment to the Neighbourhood Planning Protocol is therefore required to remove reference to the Coronavirus measures.

Modifications to Neighbourhood Plan

- 2.8 Neighbourhood Planning is very active in the Borough with 7 'made' Neighbourhood Plans. Some of these plans are now at a stage where the relevant Parish Council has indicated it would like to review and modify its Neighbourhood Plan.

- 2.9 The current Protocol refers to the modification of 'made' Neighbourhood Plans but does not provide detail of the specific regulations³. Having consideration for the popularity of Neighbourhood Planning in the Borough and requests by Parish Councils to review and modify their Plans, it is desirable to make further changes to the Neighbourhood Planning Protocol to provide clarity as to how modifications to Neighbourhood Plan will be dealt with.

Change in decision making process

- 2.10 The Neighbourhood Planning Protocol outlines that at key stages Council Members are required to make decisions on individual neighbourhood plans. These decisions include a decision to move to referendum or decision to formally adopt (make) a neighbourhood plan.

- 2.11 The Council has recently moved to a new Executive model whereby decisions are made by Members on the Executive, rather than committees as previously. Therefore, amendments have been proposed to ensure the Neighbourhood Planning Protocol reflects this change in the decision making process.

Summary

- 2.12 In summary there are three groups of changes to the Neighbourhood Planning Protocol which are being proposed. Firstly, removal of measures post Coronavirus pandemic. Secondly, to provide clarity for modifying Neighbourhood Plans. Thirdly, to ensure that the Protocol reflects recent changes to the Council's Executive decision making process. This report is recommending that Executive approves the updated Neighbourhood Planning Protocol attached at Appendix 1. For ease, updates are highlighted in the appendix document but will not appear in the final document. If approved, the Protocol will be uploaded to the Council's website.

² Following a successful referendum, unless material considerations indicate otherwise, the neighbourhood plan becomes part of the Maidstone Development Plan.

³ Regulation 30 of the Neighbourhood Planning (General) Regulations 2012

2.13 It is also of note that through the Levelling-Up and Regeneration Bill (that is in its early stages of passage through the Houses of Parliament and Lords) that the Government is proposing a raft of further changes to Neighbourhood Planning. Officers will monitor the passage of the Bill including future Royal Assent and any subsequent secondary legislation which will require further amendments to the protocol. Officers will report these to this Committee and the Executive as and when the need arises.

3. AVAILABLE OPTIONS

- 3.1 Option A: That the Planning and Infrastructure Policy Advisory Committee recommend that the changes to the updated Neighbourhood Planning Protocol (1) Post Coronavirus pandemic, 2) Modifications to Neighbourhood Plans and 3) Executive decision making process) are not approved by the Executive. The protocol would not then align with how Neighbourhood Planning is carried out in practice, nor will it be in alignment with the Statement of Community Involvement. This option would diminish the value of the protocol.
- 3.2 Option B: That the Planning and Infrastructure Policy Advisory Committee recommend that some of the changes to the updated Neighbourhood Planning Protocol (either 1) Post Coronavirus pandemic or 2) Modifications to Neighbourhood Plans or 3) Executive decision making process) are approved by the Executive. The protocol would not then align with how Neighbourhood Planning is carried out in practice, nor will it be in alignment with the Statement of Community Involvement. This option would diminish the value of the protocol.
- 3.3 Option C: That the Planning and Infrastructure Policy Advisory Committee recommend that the changes to the updated Neighbourhood Planning Protocol (1) Post Coronavirus pandemic, 2) Modifications to Neighbourhood Plans and 3) Executive decision making process) are approved by the Executive. The protocol would align with how Neighbourhood Planning is carried out in practice and it will be in alignment with the Statement of Community Involvement.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option C. Statutory requirements for neighbourhood plan making will prevail if there is a conflict with the Council's neighbourhood planning protocol. The protocol makes clear who is responsible for the detailed actions at various stages of the neighbourhood planning process and confirms relevant decision making authority and the expected outcomes from each stage of the process. The protocol provides consistency of approach and helps to manage the expectations of those groups preparing plans. It is a valuable tool for Councillors, officers, parish councils and neighbourhood forums when plans are in preparation.
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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 (paragraph 4.1). Officers are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the policy.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If agreed the response provided as Appendix 1 will be presented to the Executive and then, if approved, the Protocol will be uploaded to the Council's website.
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7. REPORT APPENDICES

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

- Appendix 1: Neighbourhood Planning Protocol
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8. BACKGROUND PAPERS

None.