

# Cabinet Member for Planning Policy and Management

11 July 2024

## Headcorn Neighbourhood Plan Regulation 16 Response

| <b>Timetable</b>                                                      |             |
|-----------------------------------------------------------------------|-------------|
| <b>Meeting</b>                                                        | <b>Date</b> |
| Planning and Healthier Stronger Communities Policy Advisory Committee | 9 July 2024 |
| Cabinet Member for Planning Policy and Management                     | TBD         |

|                                       |                                                                          |
|---------------------------------------|--------------------------------------------------------------------------|
| <b>Will this be a Key Decision?</b>   | No                                                                       |
| <b>Urgency</b>                        | Not Applicable                                                           |
| <b>Final Decision-Maker</b>           | Cabinet Member for Planning Policy and Management                        |
| <b>Lead Head of Service</b>           | Karen Britton, Head of Spatial Planning & Economic Development           |
| <b>Lead Officer and Report Author</b> | Erik Nilsen, Principal Planning Officer; Nicola Stokes, Planning Officer |
| <b>Classification</b>                 | Public                                                                   |
| <b>Wards affected</b>                 | Headcorn and Sutton Valence                                              |

### Executive Summary

Headcorn Parish Council have prepared the Headcorn Neighbourhood Plan (Appendix 2 of this report) and submitted it to Maidstone Borough Council. In accordance with the Neighbourhood Planning (General) Regulations 2012, as amended, it is the role of the Borough Council to ensure that certain conditions have been satisfied at this stage, and to facilitate a statutory public consultation on the submission Plan and supporting documents. It is confirmed that Borough Council officers are satisfied that regulatory requirements under the Regulations 14 and 15 have been met during the preparation of the plan. A public consultation is therefore being carried out in accordance with Regulation 16, running for a period of 7-weeks from 24 June to 12 August 2024.

The Borough Council is also a statutory consultee for the purpose of making representations on the Headcorn Neighbourhood Plan. The Cabinet Member is requested to consider the Council's formal response to the consultation (attached as Appendix 1 to the report), prior to it being passed on to the Cabinet Member for Planning Policy and Management. It is intended that the response is formally

submitted prior to the close of the consultation, in accordance with Regulation 16. Following the consultation period, the submission documents and all representations received will be passed to the independent Examiner for examination into the plan.

**Purpose of Report**

Recommendation to Cabinet Member.

**The report asks the Cabinet Member to consider the following recommendation:**

1. That the Council's representation in response to the Regulation 16 consultation on the Headcorn Neighbourhood Plan, attached at Appendix 1 to the report, be approved.

# Headcorn Neighbourhood Plan Regulation 16 Response

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue                                 | Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Sign-off                                                           |
|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| <b>Impact on Corporate Priorities</b> | <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> <p>It is not expected that the recommendations will by themselves materially affect achievement of corporate objectives; however, following a successful examination and referendum, the Headcorn Neighbourhood Plan will form part of the Maidstone Development Plan, which will assist in the delivery of the Council's Strategic Plan.</p>                                                                 | Karen Britton<br>– Head of Spatial Planning & Economic Development |
| <b>Cross Cutting Objectives</b>       | <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> <p>It is not expected that the recommendations will by themselves materially affect achievement of corporate objectives; however, following a successful examination and referendum, the Headcorn Neighbourhood Plan will form part of the Maidstone Development Plan, which will assist in the delivery of the Council's Strategic Plan.</p> | Karen Britton<br>– Head of Spatial Planning & Economic Development |
| <b>Risk Management</b>                | <p>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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Karen Britton<br>– Head of Spatial Planning & Economic Development |
| <b>Financial</b>                      | <p>The proposals set out in the recommendations are within already approved budgetary</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Adrian Lovegrove –                                                 |

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                         |
|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
|                               | <p>headings and so need no new funding for implementation. The costs for consultation (Regulation 16), examination, referendum and adoption of the Headcorn Neighbourhood Plan are borne by the Borough Council. There is a dedicated budget for this purpose, funded by the government Department for Levelling Up, Housing and Communities neighbourhood planning grants.</p>                                                                              | <p>Head of Finance</p> <p>Mark Green - Section 151 Officer</p>                                          |
| <b>Staffing</b>               | <p>The recommendations can be delivered with our current staffing.</p>                                                                                                                                                                                                                                                                                                                                                                                       | <p>Karen Britton – Head of Spatial Planning &amp; Economic Development</p>                              |
| <b>Legal</b>                  | <p>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).</p>                                                                                                                | <p>Russell Fitzpatrick - MKLS (Planning)</p>                                                            |
| <b>Information Governance</b> | <p>The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes.</p> <p>The Borough Council will carry out the Regulation 16 stage public consultation in accordance with legislation and its adopted Statement of Community Involvement (2020).</p>                                                                                                                                    | <p>Lauren McNicol - Information Governance Team</p> <p>Georgia Harvey – Information Governance Team</p> |
| <b>Equalities</b>             | <p>The recommendations do not propose a change in service therefore will not require an equalities impact assessment.</p> <p>The Council has a responsibility to support community groups, where they are designated neighbourhood forums, and parish councils in preparing neighbourhood plans. The neighbourhood planning process provides an opportunity for communities to shape a plan that meets the housing and other needs in their local areas.</p> | <p>Karen Britton – Head of Spatial Planning &amp; Economic Development</p>                              |

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|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <b>Public Health</b>                   | It is not expected that the recommendations will by themselves materially affect public health; however, following a successful examination and referendum, the Headcorn Neighbourhood Plan will form part of the Maidstone Development Plan, the delivery of which will have a positive impact on population health or that of individuals.                                                                                              | Karen Britton<br>– Head of Spatial Planning & Economic Development         |
| <b>Crime and Disorder</b>              | There are no implications to Crime and Disorder.                                                                                                                                                                                                                                                                                                                                                                                          | Karen Britton<br>– Head of Spatial Planning & Economic Development         |
| <b>Procurement</b>                     | An independent plan Examiner has been appointed from Intelligent Plans and Examinations (IPE). One quote was requested and received for this appointment, and the cost falls well within the threshold that would be required for a competitive tender process. The appointment will be signed by the Head of Spatial Planning and Economic Development.                                                                                  | Adrian Lovegrove – Head of Finance<br><br>Mark Green - Section 151 Officer |
| <b>Biodiversity and Climate Change</b> | The implications of this report on biodiversity and climate change have been considered. It is not expected that the recommendations will by themselves materially affect the Biodiversity and Climate Change Action Plan; however, the submission version of the Headcorn Neighbourhood Plan broadly supports the Biodiversity and Climate Change Action Plan, and the report recommendations further seek to strengthen this alignment. | James Wilderspin - Biodiversity and Climate Change 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 Headcorn parish was designated a neighbourhood area on 8 April 2013. The parish council undertook a 6-week public consultation on the pre-submission version of the neighbourhood plan (Regulation 14) between 22

June and 14 August 2023. The Council submitted a representation on the draft plan). Following consultation, the parish council has made changes to the plan following receipt of the representations.

- 2.3 When a parish council or designated neighbourhood forum submits a neighbourhood plan, the Borough 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. Officers have reviewed the submission documents in accordance with the Borough Council's published Neighbourhood Planning Protocol, having regard to the legislation, and are satisfied that the requirements have been met.
- 2.4 The next stage of the plan process is a second round of public consultation, on the submission version of the neighbourhood plan (Regulation 16), prior to the plan being considered at independent examination. The Borough Council is only responsible for facilitating this consultation and has agreed the consultation dates with the Headcorn Parish Council, being 24 June to 12 August 2024. This is a 7-week consultation period, which is longer than the statutory minimum 6-weeks. An additional week has been provided in order to account for part of the consultation period occurring during the school summer break. The public consultation is being undertaken in accordance with the planning regulations, the Council's adopted Statement of Community Involvement and its Neighbourhood Planning Protocol.
- 2.5 The full set of submission documents for the Headcorn Neighbourhood Plan, are included with this report as Appendices 2, 3, 4 and 5. In addition, the Parish Council has compiled a suite of evidence base documents in support of the plan, including evidence which it has prepared itself in support of the plan. The evidence base is included as Appendix within the submission Headcorn Neighbourhood Plan (Appendix 2 to the report).
- 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 Headcorn Neighbourhood Plan and accompanying submission documents must be forwarded to the appointed Examiner, together with all representations received, for the Examiner's consideration. 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 obligations<sup>1</sup>
- 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 plan<sup>2</sup>
- 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 2017<sup>3</sup>.

2.8 At this stage (Regulation 16) of the development of the Headcorn Neighbourhood Plan, the Borough Council is also a statutory consultee and can submit comments on the plan during the 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.

#### Headcorn Neighbourhood Plan contents

2.10 The Headcorn Neighbourhood Plan is set out in 10 main chapters. It broadly comprises an introduction to the plan; a scene setting description of Headcorn and its surrounds; a future vision for Headcorn parish; and planning policies and guidance organised around thematic topic areas. There are also appendices with additional information.

2.11 The neighbourhood plan contains 6 planning policies covering a range of thematic topic areas, as follows:

- HNP Policy 1: Design policy for Headcorn
- HNP Policy 2: Siting, landscaping and protecting the natural and historic environment and setting
- HNP Policy 3: Connectivity and access
- HNP Policy 4: Infrastructure provision
- HNP Policy 5: New dwellings

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

<sup>2</sup> This applies to the need for an Environmental Impact Assessment for certain development proposals, and is not applicable to the Headcorn Neighbourhood Plan

<sup>3</sup> 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

- NHP Policy 6: The economy – supporting business development in Headcorn.

2.12 Section 5 of the Neighbourhood Plan includes Design Guidance for Headcorn, and supplements Policy HNP1: Design Policy for Headcorn. The guidance is wide ranging covering topics including local character; building materials; scale, space, layout and orientation; visual interest; building heights; boundary treatment; heritage and conservation; amenity; public realm; parking; and utilities connections.

#### Summary of Maidstone Borough Council response

2.13 Maidstone Borough Council's response to the Regulation 16 consultation on the Headcorn Neighbourhood Plan is included as Appendix 1 to the report.

2.14 The response is organised in two main parts. The first part is set out as a narrative with overarching comments on the plan and legal requirements. It highlights the change in the local planning policy context that has occurred since the Regulation 14 consultation on the pre-submission version of the Headcorn Neighbourhood Plan was undertaken. Specifically, the adoption of the Maidstone Local Plan Review (LPR) 2021-2038 on 20 March 2024. This is important as the adopted LPR contains the strategic policies that the neighbourhood plan must be in general conformity with, in order to meet the Basic Conditions. The second part of the response provides a schedule of detailed comments on specific sections, paragraphs and policies of the plan which expand on the first part.

2.15 Overall, the representation reflects concerns with specific elements of the plan which, as currently drafted, are not considered to be in general conformity with the adopted Local Plan Review. The principal concern is that these elements would preclude new development from coming in otherwise appropriate locations. This includes development in the countryside, in zones of flood risk and gypsy and traveller accommodation. In addition, there are detailed comments on certain provisions in the plan on specific policy matters, such as affordable housing and development density, which should be revised for conformity with national and local planning policies. It is noted that the Parish Council is aware of the adopted Local Plan Review, and it considers the Neighbourhood Plan to be in general conformity with the strategic policies contained within the LPR, as set out in their Basic Conditions Statement.

2.16 Without modification, the Headcorn Neighbourhood Plan is considered by the Borough Council to fail to meet the Basic Conditions for neighbourhood plans. Consequently, the representation seeks modifications to the neighbourhood plan, to address identified conformity issues. The Examiner will conclude on the matter and make recommendations accordingly.

2.17 Furthermore, whilst it is a matter for the Parish Council to decide what it wishes to include in the neighbourhood plan, and the level of specificity of the plan policies, the representation requests that the Examiner consider whether there are opportunities available to maximise opportunities for delivering sustainable development locally. For example, by considering



whether there is scope to strengthen policies dealing with climate change adaptation and resilience.

2.18 Finally, minor proposed modifications are intended to correct errors and achieve clarity.

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### **3. AVAILABLE OPTIONS**

- 3.1 Option A: To not make representation on the Headcorn 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 Headcorn Neighbourhood Plan, attached at Appendix 1 to the report.
- 3.3 Option C: To make changes to the consultation response (Appendix 1 to the report) and submit the representation on the Headcorn Neighbourhood Plan, provided this is done prior to the closure of the consultation period.
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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Option B is recommended. Subject to a neighbourhood plan passing the examination and being the subject of a successful referendum, it will form part of Maidstone's statutory Development Plan and used for planning decisions. This option affords an opportunity to inform the Examiner of the Council's position in respect of the Headcorn Neighbourhood Plan.
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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 Sections 3 and 4.
- 5.2 We 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. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 The Headcorn Neighbourhood Plan is subject to two rounds of public consultation. The first (Regulation 14) on a draft plan was undertaken by the Parish Council from 22 June to 14 August 2023 and the Borough Council made a representation. The comments received during consultation, together with the Parish Council's responses to the issues raised, are

summarised in the Consultation Statement (Appendix 3 to the report) 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 their consideration.
- 6.3 The matter was considered by the Planning and Healthier Stronger Communities Policy Advisory Committee on Tuesday 9 July 2024, with support expressed for the recommendations of this report.
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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 Examination of the Headcorn 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 their report and recommendations<sup>4</sup>. A report was presented to the Planning and Healthier Stronger Communities Policy Advisory Committee on 8 July 2024 outlining the Examiner's recommendations and seeking a decision on whether to move the plan to referendum<sup>5</sup>. 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).
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## **8. REPORT APPENDICES**

- Appendix 1: Maidstone Borough Council response to the Headcorn Neighbourhood Plan Regulation 16 consultation.
  - Appendix 2 – Headcorn Neighbourhood Plan (submission version)
  - Appendix 3 – Consultation Statement
  - Appendix 4 – Basic Conditions Statement
  - Appendix 5 – Map identifying the area to which the proposed neighbourhood plan relates
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## **9. BACKGROUND PAPERS**

None.

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

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