Strategic Planning, Sustainability and Transportation Committee	**4 December 2018**

Loose Neighbourhood Plan Consultation Response (Regulation 16)

Final Decision-Maker	Strategic Planning, Sustainability and Transportation Committee
Lead Head of Service/Lead Director	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Mark Egerton, Strategic Planning Manager, and Sue Whiteside, Principal Planning Officer
Classification	Public
Wards affected	The report particularly affects Loose Ward and the adjacent wards of South, Coxheath & Hunton, and Boughton Monchelsea & Chart Sutton

Executive Summary

The Committee is to consider the Council's formal response to the consultation on the Loose Neighbourhood Plan, in accordance with Regulation 16 of the Neighbourhood Planning Regulations 2012 (as amended). Representations, together with submission documents, will be passed to the independent Examiner at the next stage of the neighbourhood planning process. The report gives consideration to the neighbourhood plan, in the Council's role as the local planning authority and as a landowner of a designated Local Green Space site (Field to the rear of Herts Crescent and McAlpine Close). The report concludes that regulatory requirements have been met, that the neighbourhood plan is in general conformity with the strategic policies of the Maidstone Development Plan, and that a Strategic Environmental Assessment and/or Habitats Regulations Assessment is not required. However, an objection has been raised to the designation of the Council-owned site as Local Green Space.

This report makes the following recommendations to this Committee:

That:

1. As the local planning authority, the Council supports the Loose Neighbourhood Plan in general terms.

2. As a landowner, the Council objects to the specific designation of Local Green Space at the Field to the rear of Herts Crescent and McAlpine Close in the Loose

Neighbourhood Plan.

3. A consultation response be submitted in accordance with the Committees requirements.

Timetable	
Meeting	***Date***
Strategic Planning, Sustainability and Transportation Committee	4 December 2018

Loose Neighbourhood Plan Consultation Response (Regulation 16)

1. INTRODUCTION AND BACKGROUND

Background

1.1 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).

1.2 Loose Parish was designated as a neighbourhood area on 4 October 2013. During the preparation of the Loose Neighbourhood Plan, officers have 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. Contact with the parish council has been maintained throughout the plan's preparation. The parish council has afforded officers the opportunity to informally comment on draft iterations of the plan, and has responded positively to the advice given.

1.3 The parish council undertook public consultation on the pre-submission version of the Loose Neighbourhood Plan (Regulation 14) between 31 October and 13 December 2016. In accordance with this Committee's neighbourhood planning protocol, 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, as appropriate, in response to all consultation representations.

1.4 When a parish council submits a neighbourhood plan to the Borough Council, the Council has a responsibility to ensure that regulatory requirements have been met: 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 meets Regulation 15 obligations. These requirements have been met.

1.5 The next stage is a further 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 agreed the consultation dates with the parish council: 2 November to 14 December 2018. Consultation is being undertaken in accordance with neighbourhood planning regulations, the Council's

Statement of Community Involvement 2018, and the neighbourhood planning protocol.

1.6 The Loose Neighbourhood Plan is attached as a background document to this report. The full set of consultation documents can be viewed on the planning portal at http://maidstone-consult.limehouse.co.uk/portal/ , and comprise:

- The Loose Neighbourhood Plan
- Consultation Statement and Summary
- Basic Conditions Statement
- Environmental Statement and Appendix.

1.7 The Borough Council has a duty to screen the neighbourhood plan in respect of the need for a Strategic Environmental Assessment or Habitats Regulation Assessment, and to consult the statutory consultees set out in legislation (Natural England, Historic England and the Environment Agency). This exercise has been completed, and an SEA/HRA is not required for the plan.

1.8 At this stage, the Borough Council is also a statutory consultee and can submit comments on the plan for consideration by an independent Examiner. One of the policies of the neighbourhood plan, policy LP5(6) Field to the rear of Herts Crescent and McAlpine Close, affects land in the ownership of Maidstone Borough Council. **Consequently, the response set out in the report first considers the Council's role as the local planning authority and, second, as a landowner**.

1.9 The Borough Council is responsible for appointing the Examiner (in agreement with the parish council) and, following the close of consultation, for arranging the examination. The Loose Neighbourhood Plan and accompanying submission documents will be forwarded to the Examiner, together with all representations received, for his/her consideration. 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.

1.10 The Examiner's role is limited to testing the submitted neighbourhood 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[1]; and
- 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[2].

Local Planning Authority - Response to the Loose Neighbourhood Plan Consultation (Regulation 16)

1.11 As the local planning authority consultee, the Borough Council's focus is on testing the Loose Neighbourhood Plan against the strategic policies of the Maidstone Borough Local Plan and the Kent Minerals and Waste Local Plan. This is important because, once made (adopted), the neighbourhood plan forms part of the Maidstone Development Plan and will be used when determining planning applications within the neighbourhood area.

1.12 The Loose Neighbourhood Plan sets the context for the parish, and includes a vision and objectives that focus on local issues. The plan contains 10 policies that cover access and movement, landscape protection, and design quality; and includes the designation of 12 areas of Local Green Space. Policies are justified in supporting text with illustrative photos and plans.

1.13 Overall, the plan is inclusive and well-written, and is considered to be in general conformity with the strategic policies of the Development Plan.

1.14 The principle of designating Local Green Spaces in neighbourhood plans is supported. Following the pre-submission plan consultation (Regulation 14), the parish council agreed with the Borough Council's recommendation to remove a number of Local Green Space designations that did not meet NPPF criteria, i.e. that a designation is "(a) in reasonably close proximity to the community it serves;(b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and (c) local in character and is not an extensive tract of land" (NPPF, paragraph 100). Policies for managing development within a Local Green Space should be consistent with those for Green Belts (NPPF, paragraph 101).

1.15 The parish council has notified all landowners of designated Local Green Spaces and, in consultation with the community, has set out reasons for the designation of each site based on the criteria of the NPPF definition. All sites are in close proximity to the communities they serve, and none is considered to be an extensive tract of land. With regard to local significance and the value of individual Local Green Spaces to the community, the justification of the designations can be somewhat

[1] For example, the need for a Strategic Environmental Assessment 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 Loose Neighbourhood Plan

subjective. Regardless, none of the sites designated raises concerns.

1.16 The Loose Neighbourhood Plan (submission version) was first published in June 2018, prior to the publication of the revised NPPF in July 2018. This has resulted in two instances where the plan should be updated to reflect the new NPPF, in addition to two further factual errors noted:

- Paragraph 2.15 – The Loose Valley Conservation Area extends into Tovil Parish, but it abuts the Parish of Boughton Monchelsea rather than extends into it;
- Paragraph 2.18 – Reference to the General Permitted Development Order 2011 should be replaced by The Town and Country Planning (General Permitted Development) (England) Order 2015;
- Paragraph 4.5 – Amend quotation to reflect paragraph 29 of the NPPF 2018; and
- Paragraph 4.7 Objective 4 – Amend reference to carbon-neutral to a low carbon future, to reflect the NPPF 2018.

These are minor points that do not affect the policies of the plan.

1.17 In summary, the Loose Neighbourhood Plan is considered to be in general conformity with the strategic policies of the Maidstone Development Plan. Following assessment, a Strategic Environmental Assessment and/or Habitats Regulations Assessment is not required. The regulatory requirements for consultation (Regulation 14) and submission (Regulation 15) have been met.

1.18 IT IS RECOMMENDED THAT THE LOOSE NEIGHBOURHOOD PLAN (ATTACHED AS A BACKGROUND DOCUMENT) IS SUPPORTED, AND THAT THIS REPORT IS APPROVED AS THE COUNCIL'S RESPONSE TO THE CONSULTATION.

Landowner - Response to the Loose Neighbourhood Plan Consultation (Regulation 16)

1.19 A neighbourhood plan can designate land as Local Green Space, even if the landowner objects to the designation. Any objections to a designated site, supported by the reasons for the objection will be considered by the Examiner who will recommend the retention or deletion of the site in the neighbourhood plan. Although policies for managing development within a Local Green Space should be consistent with those for Green Belts, boundaries can be amended where exceptional circumstances are fully evidenced and justified, through the preparation or updating of development plans (NPPF, paragraph 136).

1.20 In the case of the Loose Neighbourhood Plan, the Borough Council is the landowner of one of the Local Green Space designations: Field to the rear of Herts Crescent and McAlpine Close (policy LP5, site 6). The land is managed for informal recreation has a football kick-about goal and is used by dog walkers.

1.21 Departmental officer-level consultations on the neighbourhood plan have included the Parks and Open Spaces Manager and the Corporate Property

Manager. The Council has no current plans for an alternative use of the site and is sympathetic to the aspirations expressed in the draft Neighbourhood Plan. However, it is considered that the specific 'Local Green Space' designation is too inflexible. The designation of the Field to the rear of Herts Crescent and McAlpine Close may at some future date prevent the land from being used for the benefit of the whole Borough's residents. It is also worth noting that there are already 11 other sites identified in the Plan as Local Green Space. Taken in the context of the Council's overall responsibilities and strategic priorities as a public body, it is therefore proposed that an objection be raised to this specific designation.

1.22 IT IS RECOMMENDED THAT, AS A LANDOWNER, AN OBJECTION IS RAISED TO THE DESIGNATION OF LOCAL GREEN SPACE AT FIELD TO THE REAR OF HERTS CRESCENT AND MCALPINE CLOSE (POLICY LP5, SITE NO. 6) IN THE LOOSE NEIGHBOURHOOD PLAN (ATTACHED AS A BACKGROUND DOCUMENT).

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2. AVAILABLE OPTIONS

2.1 Option A: To not to make representation on the Loose Neighbourhood Plan. The consultation is being run in accordance with the requirements of national legislation. 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 Planning Authority is not asserted and its objection as landowner to a specific designation within the Plan is not made to the neighbourhood body. This approach would compromise the Council's opportunity to inform the Examiner of its position on the Neighbourhood Plan.

2.2 Option B: To approve this report as the basis for the Borough Council's representation on the Loose Neighbourhood Plan including the objection to the designation of the land at the rear of Herts Crescent and McAlpine Close as Local Green Space.

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3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

3.1 Option B is recommended. Once a Neighbourhood Plan is made, 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 Loose Neighbourhood Plan.

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4. RISK

4.1 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 paragraph 2.1.

4.2 There are some risks to the examination including the Council's objection as landowner and the fact that it may fail if statutory requirements are not met in terms of the latter point. These risks have been mitigated by the parish council's positive response to the constructive advice offered by officers on draft iterations of the neighbourhood plan, by ensuring compliance with regulatory requirements and the strategic policies Development Plan, and by undertaking consultation (regulation 16) in accordance with the Statement of Community Involvement.

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

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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 The Loose Neighbourhood Plan is subject to two rounds of public consultation. The first (Regulation 14) was undertaken by the parish council in 2016. Maidstone Borough Council's representation to that consultation was submitted under delegated authority to 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. The plan has been amended as a result.

5.2 The current consultation (Regulation 16) is undertaken by the Borough Council on behalf of Loose Parish Council. 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/her consideration.

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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 Examination of the Loose Neighbourhood Plan would normally be expected to be dealt with by written representations rather than a Hearing. However, given that the council is objecting as landowner there is a possibility that a hearing may be necessary. Maidstone Borough Council is required to pay for the costs of the examination. Following the examination, the Examiner will issue his/her report and recommendations. A report will be presented to this Committee, outlining the Examiner's recommendations and seeking a decision on whether to move the plan to Referendum. 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 will move forward to being made (adopted) by full Council.

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7. 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. However, when the neighbourhood plan is 'made', it will form part of the Maidstone Development Plan, which will assist in the delivery of the Council's objectives, notably 'Keeping Maidstone Borough an attractive place for all'.	Rob Jarman, Head of Planning and Development
Risk Management	Risks are set out in Section 4. This consultation (Regulation 16) is being run to ensure that the plan maintains the requirements of national legislation.	Rob Jarman, Head of Planning and Development
Financial	The costs for consultation (Regulation 16), examination, Referendum and adoption of the Loose Neighbourhood Plan are borne by the Borough Council. There is a dedicated budget for this purpose, funded by HCLG neighbourhood planning grants. No additional budget is required for neighbourhood planning at this stage. The Council's position as landowner in relation to one site addressed by the Neighbourhood Plan is set out in paragraph 1.21 of the report.	Finance Team
Staffing	The recommendations can be delivered within current staffing levels.	Rob Jarman, Head of Planning and Development
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	Cheryl Parks, Mid Kent Legal Services (Planning)

	amended).	
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 data protection policies and the GDPR.	Cheryl Parks, Mid Kent Legal Services (Planning)
Equalities	The needs of all interested parties have been considered as part of the consultations. As part of the neighbourhood planning process it is for the parish council to consider equalities matters.	Strategic Planning Manager
Crime and Disorder	There are no implications for Crime and Disorder.	Rob Jarman, Head of Planning and Development
Procurement	The appointment of an Examiner from IPE or NPIERS can be made under the procurement waiver signed by the Director of Finance and Business Improvement.	Rob Jarman, Head of Planning and Development

8. REPORT APPENDICES

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

None

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9. BACKGROUND PAPERS

- Loose Neighbourhood Plan https://www.maidstone.gov.uk/__data/assets/pdf_file/0004/227542/Loose-Neighbourhood-Plan.pdf

- Consultation Statement and Summary, Basic Conditions Statement, Environmental Statement and Summary can be viewed at http://maidstone-consult.limehouse.co.uk/portal/