

Marden Neighbourhood Plan Regulation 16

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	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 the wards of Marden & Yalding, Coxheath & Hunton, Boughton Monchelsea & Chart Sutton, and Staplehurst

Executive Summary

The Marden Neighbourhood Plan (Background Document 1) has been published for a second round of public consultation. It is the role of the Council to ensure that certain conditions have been satisfied, and it is confirmed that:

- Regulatory requirements have been met during the preparation of the plan;
- The plan's policies are in general conformity with the strategic policies of the Maidstone Development Plan; and
- There is no requirement for a Strategic Environmental Assessment and/or Habitats Regulation Assessment.

At this stage, the Council is also a statutory consultee for the purpose of making representations on the Marden Neighbourhood Plan. In summary, the plan is an inclusive and well-written document that contains a cross-section of local policies. These policies not only conform to strategic Maidstone Development Plan policies, but also assist in delivering the priorities and cross-cutting objectives of the Maidstone Strategic Plan. Nevertheless, certain paragraphs in the neighbourhood plan require correction and/or greater clarification, and these points are raised in this report and in the Council's response to the Marden Neighbourhood Plan consultation attached at Appendix 1.

The Committee is to consider the Council's formal response to the consultation on the Marden Neighbourhood Plan (Appendix 1), in accordance with Regulation 16 of the Neighbourhood Planning Regulations 2012 (as amended). Following the close of consultation, the submission documents and all representations received will be passed to the independent Examiner for examination into the plan.

The Neighbourhood Planning Protocol was approved by the Strategic Planning, Sustainability and Transportation Committee on 10 July 2018 (Background Document 2). The protocol sets out the various tasks to be undertaken at each neighbourhood plan making stage, identifies who is responsible for completing the tasks, and delegates authority to the Head of Planning and Development for decision

making at certain regulatory stages. For the most part, decision making responsibilities set out in the protocol align with the Council's Constitution. However, the Constitution gives the Head of Planning and Development delegated authority to approve the Council's response to a Regulation 16 consultation on a neighbourhood plan, and to make the decision to move (or otherwise) a neighbourhood plan to referendum (Regulation 17A). In both cases the protocol seeks a Committee decision. The Head of Planning and Development has considered the agreed protocol in the context of the Constitution, and he has elected not to use his delegated authority at Regulations 16/17A because it is important that the Committee has the opportunity to have input into a document that becomes part of the Maidstone Development Plan.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

That:

1. The Marden Neighbourhood Plan be supported.
2. The Council's representation on the Marden Neighbourhood Plan, attached at Appendix 1, be approved.

Timetable

<i>Meeting</i>	<i>Date</i>
Strategic Planning and Infrastructure Committee	9 July 2019

Marden Neighbourhood Plan Regulation 16

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, when the Marden Neighbourhood Plan is made (adopted), it will form part of the Maidstone Development Plan, which will assist in the delivery of the Council's four strategic objectives.	Rob Jarman, Head of Planning and Development
Cross Cutting Objectives	The report recommendations support the achievement of the four cross-cutting objectives through the Marden Neighbourhood Plan, which will eventually become part of the Maidstone Development Plan. (See paragraph 2.11 of this report).	Rob Jarman, Head of Planning and Development
Risk Management	Risks are set out in Section 5 of the report. 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 proposals set out in the recommendations are all within already approved budgetary headings and so need no new funding for implementation. The costs for consultation (Regulation 16), examination, Referendum and adoption of the Marden Neighbourhood Plan are borne by the Borough Council. There is a dedicated budget for this purpose, funded by HCLG neighbourhood planning grants.	Section 151 Officer & 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 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 data protection policies and the GDPR.	Policy and Information Team

Equalities	The Council has a responsibility to support communities in developing a Neighbourhood Plan. The Neighbourhood Planning process provides an opportunity for communities to develop a plan that meets the housing need of its population.	Equalities and Corporate Policy Officer
Public Health	It is recognised that the recommendations will have a positive impact on population health or that of individuals through the policies of the Marden Neighbourhood Plan.	Senior Public Health Officer
Crime and Disorder	There are no implications for Crime and Disorder.	Rob Jarman, Head of Planning and Development
Procurement	The appointment of an independent Examiner from IPE has been made under the procurement waiver signed by the Director of Finance and Business Improvement.	Rob Jarman, Head of Planning and Development [& Section 151 Officer]

2. INTRODUCTION AND BACKGROUND

The neighbourhood planning process

- 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 Marden parish was designated a neighbourhood area on 14 January 2013. Contact with the parish council has been maintained during the preparation of the Marden Neighbourhood Plan, and officers have offered advice and support to the parish council on a range of issues. The parish council has afforded officers the opportunity to informally comment on draft iterations of the plan, and it has responded positively to the advice given.
- 2.3 The parish council undertook a 6-week public consultation on the pre-submission version of the Marden Neighbourhood Plan (Regulation 14) between 9 June and 21 July 2018. In accordance with the agreed 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.

- 2.4 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 meet Regulation 15 obligations. These requirements have been met.
- 2.5 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 has agreed the consultation dates with the parish council: 14 June to 26 July 2019. The consultation is being undertaken in accordance with neighbourhood planning regulations, the Council's Statement of Community Involvement 2018, and the neighbourhood planning protocol.
- 2.6 The full set of consultation documents for the Marden Neighbourhood Plan can be viewed on the neighbourhood plans webpage at <https://www.maidstone.gov.uk/neighbourhoodconsultations> Documents comprise:
- Submission letter;
 - Marden Neighbourhood Plan;
 - Consultation Statement;
 - Basic Conditions Statement;
 - Basic Conditions Checklist; and
 - Environmental Statement with SEA/Screening Report.
- 2.7 The Borough Council has a duty to screen the neighbourhood plan in respect of the need for a Strategic Environmental Assessment and/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.
- 2.8 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 Marden Neighbourhood Plan and accompanying submission documents will be forwarded to the Examiner, together with all representations received, for the Examiner's 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.
- 2.9 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 obligations¹;
- 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 plan²; and
- 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 2017³.

The Marden Neighbourhood Plan - Representation

2.10 At this stage of the development of the Marden Neighbourhood Plan 2017-2031 (Draft for Regulation 16), the Borough Council is also a statutory consultee and can submit comments on the plan for consideration by the Examiner.

2.11 The Marden Neighbourhood Plan does not make site allocations for development, but relies on the allocations of the adopted Maidstone Borough Local Plan 2017. The neighbourhood plan contains policies that conserve and enhance the natural and built environments, which respect the parish's heritage, biodiversity and environmental sustainability. The plan includes policies for the conversion of rural buildings, the provision of new farm buildings and accommodation for seasonal workers. It seeks the retention of community and retail facilities and open space, and encourages the creation of new facilities. Policies support the expansion of education and healthcare facilities, and sustainable transport links are endorsed. Support is given to maximising employment opportunities within the parish, and to the development of small-scale Gypsy and Traveller sites. Policies provide for affordable housing on rural exceptions sites to meet identified local needs, and housing for older people

2.12 The Marden Neighbourhood Plan is inclusive and well-written, and its policies are considered to be in general conformity with the strategic policies of the Maidstone Development Plan. However, the text of the plan requires correction and/or greater clarification in some areas:

¹ For example, the need for a Strategic Environmental Assessment and/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 Marden Neighbourhood Plan

³ This new 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

Page no.	Paragraph/Policy no.	Representations
	General: References to 'visual continuity'	Amendment: The Marden Neighbourhood Plan makes several references to 'visual continuity'. Replace with 'landscape and visual effects.' Reason: For clarity. The impacts of development are often more than just visual, so impacts on the landscape, and therefore landscape effects, may also need to be considered.
9	Paragraph 3, Aim 7: Priority habitats and species	Amendment: Add emboldened text. 'Promoting the conservation, restoration and enhancement of priority habitats and species.' Reason: For clarity.
13	Paragraph 1: Historic hedgerows	Amendment: Replace 'heritage' hedgerows with 'historic' hedgerows. Reason: Correction.
16	Paragraph 1: Retention of existing shrubs and trees	Amendment: Add emboldened text and delete strikethrough text. '... all existing shrubs and trees of appropriate condition not on historic hedgerow alignments ... If established habitats and natural visual features are ...' Reason: For clarity.
17	Paragraph 1 and Policy NE5: Landscape planting	Amendment paragraph 1: Add emboldened text and delete strikethrough text. 'As noted above all new planting where appropriate on boundaries should be characteristic traditional , native species of local provenance.' Reason: For clarity. Species optimising wildlife benefits are not necessarily native and, because of their habit, natives are too robust for many restricted locations. Amendment Policy NE5: Add emboldened text and delete strikethrough text. 'New landscape planting in Marden must be selected from predominantly native species of local provenance for landscape and visual effects continuity ...' Reason: For clarity.
24	Paragraph 2: Conversion of rural buildings	Amendment: Add sentence to explain that planning policies should avoid isolated dwellings in the countryside. Exceptions to this are set out in NPPF paragraph 79. Reason: For clarity.
37	Paragraph 3: Affordable Housing	Amendment: Add "to meet a borough-wide need" at the end of paragraph 3, to distinguish this paragraph

Page no.	Paragraph/Policy no.	Representations
		<p>from preceding and following paragraphs that refer to affordable housing delivered on rural exception sites that meet a local need.</p> <p>Reason: For clarity.</p>
38	Paragraph 3: Housing for Gypsies and Travellers	<p>Amendment: Delete references to "established links with the parish" in paragraph 3 and elsewhere in the neighbourhood plan.</p> <p>Reason: The accommodation needs for Gypsies and Travellers is an established borough-wide need and cannot be restricted to persons with links to the parish. 'Planning policy for traveller sites', DCLG 2015, does not sanction the inclusion of a local connection criterion.</p>
41-42, 47, 47a, and 49	Page 41 final paragraph and elsewhere in the plan, and Annex 1 and Map: References to Claygate distribution warehouse	<p>Amendments: Delete references to modifying the adopted Local Plan 2017 at its next review in respect of the Claygate distribution warehouse site. The adopted Local Plan already includes this site within the Marden settlement boundary and within the designated Economic Development Area (policy SP22(vii)). Amend Annex 1 and Map (FA3 & FA4) to reflect the Local Plan Policies Map.</p> <p>Reason: Correction.</p>
47a	Annex 1 Map	<p>Amendments: Adjust Marden settlement boundary to reflect the adopted Local Plan at FA3 & FA4 (see above), and to the north-west where EMP1(3) adjoins the MBC Economic Development Area. Reference on the Map to policy I4 (Station) should be In4.</p> <p>Reason: Correction.</p>
44	Paragraph 1: Developer contributions	<p>Amendment: Delete "The contributions can also be sought through the Community Infrastructure Levy (CIL), which is a financial contribution charged at a standard rate. MBC approved the Community Infrastructure Levy charging schedule effective from October 2018"; and replace with "MBC approved the Community Infrastructure Levy charging schedule effective from October 2018. CIL is a non-negotiable levy on new floor space (which meets the specific criteria set out in legislation and the Council's adopted CIL charging schedule)."</p> <p>Reason: To clarify that CIL is a non-negotiable charge.</p>
48-49	Further Actions	<p>Observation: There are several 'further actions' for the Borough Council identified in the table and elsewhere in the plan. Whilst these recommended actions can be considered by the Borough Council</p>

Page no.	Paragraph/Policy no.	Representations
		during the review of the adopted Local Plan, a commitment to amend the Local Plan cannot be made at this point. It would be preferable if the neighbourhood plan referred instead to a parish council action to submit representations seeking amendments during public consultations on the Local Plan review.

2.13 The Committee's approval of the Council's representation on the Marden Neighbourhood Plan, attached at Appendix 1, is sought.

3. AVAILABLE OPTIONS

- 3.1 Option A: To not make representation on the Marden 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 Marden Neighbourhood Plan, attached at Appendix 1.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 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 Marden Neighbourhood Plan.

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 paragraph 3.1.
- 5.2 There are some risks to the examination of the Marden Neighbourhood Plan if statutory requirements are not met. These risks have been mitigated by the parish council's positive response to the constructive advice offered by officers on draft iterations of the plan, by ensuring compliance with regulatory requirements and the strategic policies of the Maidstone Development Plan, and by undertaking consultation (regulation 16) in

accordance with the Statement of Community Involvement.

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

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Marden Neighbourhood Plan is subject to two rounds of public consultation. The first (Regulation 14) was undertaken by the parish council in 2018, and the Council's representation on the plan 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, 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 his consideration.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Examination of the Marden Neighbourhood Plan is expected to be dealt with by written representations, rather than a hearing, and Maidstone Borough Council is required to pay for the costs of the examination. Following the examination, the Examiner will issue his 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.

8. REPORT APPENDICES

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

- Appendix 1: Response to Marden Neighbourhood Plan R16 Consultation

9. BACKGROUND PAPERS

1. Marden Neighbourhood Plan and Submission Documents
<https://www.maidstone.gov.uk/neighbourhoodconsultations>
2. Neighbourhood Planning Protocol
<https://meetings.maidstone.gov.uk/documents/s61500/Appendix1%20Neighbourhood%20Planning%20Protocol.pdf>