

**Marden Neighbourhood Plan (Regulation 17A)**

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service</b>	Rob Jarman, Head of Planning and Development
<b>Lead Officer and Report Author</b>	Mark Egerton, Strategic Planning Manager and Sue Whiteside, Principal Planning Officer
<b>Classification</b>	Public
<b>Wards affected</b>	The report particularly affects the wards of Marden & Yalding; Coxheath & Hunton; Staplehurst; Boughton Monchelsea & Chart Sutton

Due to the cancellation of the Strategic Planning and Infrastructure Committee meeting on 3 December 2019, this report is included as an urgent item on the agenda of the 19 November 2019 meeting. The reason for bringing the report forward is Regulation 17A of The Neighbourhood Planning (General) Regulations 2012 (as amended). The prescribed period for the Council to make a decision on whether to move a neighbourhood plan to referendum must be made within five weeks of receipt of the Examiner's report, or by a date agreed with the Parish Council. It would be unreasonable to delay the report to 7 January 2020, and Marden Parish Council has agreed the change.

**Executive Summary**

The Marden Neighbourhood Development Plan was examined by an independent examiner, who recommended that, subject to modifications, the neighbourhood plan proceeds to local referendum (Background Document 1). Under the Neighbourhood Planning (General) Regulations 2012 (as amended), the planning authority is required to make a decision on what action to take in response to the examiner's recommendation. This report seeks approval to move the Marden Neighbourhood Plan, as modified, to local referendum (plan attached at Appendices 1-3). Following a successful referendum, the neighbourhood plan forms part of the Maidstone Development Plan and must be made (adopted) by Council.

**Purpose of Report**

Decision.

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

That:

1. The modifications to the Marden Neighbourhood Development Plan as set out in the examiner's report be agreed.
2. The two minor modifications agreed with Marden Parish Council, as set out in paragraph 2.10 of this report, be agreed.
3. The Marden Neighbourhood Development Plan proceeds to local referendum.

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<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Strategic Planning and Infrastructure Committee	19 November 2019

# Marden Neighbourhood Plan (Regulation 17A)

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	It is not expected that the recommendations will by themselves materially affect achievement of corporate priorities, but the plan will form part of the Maidstone Development Plan following a successful referendum, and will assist in the delivery of the Council's four strategic objectives.	Rob Jarman Head of Planning and Development
<b>Cross Cutting Objectives</b>	Following a successful referendum, the Marden Neighbourhood Plan will form part of the Maidstone Development Plan, and will assist in the delivery of the Council's four strategic objectives. (See paragraph 2.11 of this report).	Rob Jarman Head of Planning and Development
<b>Risk Management</b>	Section 5 sets out the risks associated with not moving the Marden Neighbourhood Plan to local referendum.	Rob Jarman Head of Planning and Development
<b>Financial</b>	The proposals set out in the recommendations are all within already approved budgetary headings and so need no new funding for implementation is needed. The costs for the referendum and adoption of the Marden Neighbourhood Plan are borne by the Borough Council. There is a dedicated budget for this purpose, funded by MHCLG neighbourhood planning grants.	Senior Finance Manager (Client)
<b>Staffing</b>	The recommendations can be delivered within current staffing levels.	Rob Jarman Head of Planning and Development
<b>Legal</b>	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).	MKLS (Planning)
<b>Privacy and Data Protection</b>	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	Policy and Information Team

	protection policies and the GDPR.	
<b>Equalities</b>	The Council has a responsibility to support communities in developing a Neighbourhood Plan. This responsibility is set out in the Maidstone Statement of Community Involvement. The neighbourhood planning process provides an opportunity for communities to develop a plan that meets the needs of its population.	Equalities and Corporate Policy Officer
<b>Public Health</b>	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
<b>Crime and Disorder</b>	There are no implications for crime and disorder.	Rob Jarman Head of Planning and Development
<b>Procurement</b>	The appointment of an independent examiner from IPE was 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

- 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. The 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 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. Maidstone Borough Council facilitated a second 6-week public consultation (Regulation 16) between 14 June and 26

July 2019. In accordance with the agreed neighbourhood planning protocol, the Council submitted representations during both consultations: the first under the delegated authority of the Head of Planning and Development, and the second by agreement of this Committee at its meeting of 9 July 2019.

2.4 The appointment of an independent examiner was agreed with the 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 Marden 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. The examiner's report was received on 14 October 2019 and has been published on the Borough and Parish Councils' websites (see background document 1).

2.5 The examiner concluded that:

"The Marden Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the supporting documents submitted with it."

"I have made recommendations to modify a number of policies and other matters to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum."

2.6 Twenty modifications have been proposed in the examiner's report (background document 1). These do not alter the direction of the Marden Neighbourhood Plan, but provide clarity and ensure that policies and text are compliant with the basic conditions, relevant legislation, national policy and the strategic policies of the adopted Maidstone Borough Local Plan. The examiner's recommended modifications have been incorporated into the final Marden Neighbourhood Plan attached at Appendices 1-3.

2.7 In accordance with neighbourhood planning regulations<sup>1</sup>, the local planning authority is required to make a decision on what action to take in response to the examiner's recommendations.

2.8 In order to proceed to referendum, a local authority must be satisfied that a neighbourhood plan meets the basic conditions<sup>2</sup>:

- The neighbourhood plan has regard to national policies and advice contained in guidance issued by the Secretary of State;

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<sup>1</sup> Regulation 17A of The Neighbourhood Planning (General) Regulations (as amended)

<sup>2</sup> As set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)

- 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;
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; 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 plans.

Regulation 32 of the 2012 Regulations<sup>3</sup> prescribes a further basic condition for a neighbourhood plan, which requires that 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.

2.9 It is for this Committee to decide whether to accept the examiner's report (with or without modifications), to decline to accept the report, or to accept the report (with or without modifications) together with further modifications the Council deems necessary. If the Committee is satisfied that the Marden Neighbourhood Plan:

- Meets the basic conditions;
- Is compatible with the European Convention on Human Rights; and
- Complies with statutory requirements set out in the Town and Country Planning Act 1990 (as amended), or would do so with modifications,

then the Committee must decide to move the neighbourhood plan to local referendum.

2.10 There are two further minor factual amendments arising from the examiner's modifications, which have been agreed with Marden Parish Council and incorporated into the neighbourhood plan attached at appendices 1-3. These are:

a) Page 42 (top line) – supporting text for Policy E2. This amendment arises from the examiner's modification PM19. Delete the following strikethrough text: "... both the settlement boundary and ..."; and

b) Page 49 Further Actions. This amendment arises from the examiner's modification PM19. Delete 4<sup>th</sup> and 5<sup>th</sup> further actions.

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

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<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

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 In conclusion, it is considered that the Marden Neighbourhood Plan has met statutory requirements, including its policies being in general conformity with the strategic policies of the Maidstone Borough Local Plan 2017. It is recommended that the Committee approves the examiner's modifications set out in his report, approves the two minor modifications set out in paragraph 2.10, and makes a decision to move the Marden Neighbourhood Plan to local referendum.

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### **3. AVAILABLE OPTIONS**

- 3.1 Option A: The Committee agrees the recommended modifications outlined in the examiner's report, together with the two factual modifications, and moves the Marden Neighbourhood Plan to local referendum.
  - 3.2 Option B: The Committee agrees to decline the Examiner's report recommendations, and moves the Marden Neighbourhood Plan to local referendum without any modifications being made.
  - 3.3 Option C: The Committee does not agree to move the Marden Neighbourhood Plan to local referendum.
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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The Committee is recommended to agree Option A and to move the Marden Neighbourhood Plan, as modified, to local referendum. If the local authority is satisfied that the statutory requirements have been met, then it must move the plan to referendum. It is deemed that the Marden Neighbourhood Plan has met the prescribed legislative requirements and there are no reasons to reject the examiner's proposed modifications, which ensure that policies have clarity and are compliant with national policy. Following a successful referendum (more than 50% of people who cast their vote approve the plan), the neighbourhood plan forms part of the Maidstone Development Plan and must be made (adopted) by Council.
- 4.2 To not move the Marden Neighbourhood Plan to local referendum would prevent any further progress to the current neighbourhood plan, and could compromise the good working relationship that officers have with Marden Parish Council. The decision notice must set out the reasons for not moving the plan to referendum, and it would be open to challenge. The statutory steps to be followed in this case are set out in the Town and Country Planning Act 1990, Schedule 4B, paragraph 13; and Regulation 17A of the Neighbourhood Planning (General) Regulations 2012 (as Amended).

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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 under section 4. Officers 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 Marden Neighbourhood Plan has been subject to two rounds of mandatory public consultation, and the representations submitted during consultations have been considered by the examiner in his report. The representations, including those submitted by the Borough Council, have helped to shape the neighbourhood plan.

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

- 7.1 The decision of this Committee will be published, and those who requested to be advised of the publication of the decision will be notified. Officers will work with Electoral Services to arrange a local referendum, in accordance with The Neighbourhood Planning (Referendums) Regulations 2012. Subject to the outcome of the referendum, a report on the results will be brought back to this Committee and, if successful, a recommendation to Council to make the neighbourhood plan will be sought.

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## **8. REPORT APPENDICES**

- Appendix 1: Marden Neighbourhood Plan 2011-2031
- Appendix 2: Marden Neighbourhood Plan Annex 1 – Further Actions Plan
- Appendix 3: Marden Neighbourhood Plan Annex 2 – Floodplain Map

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## **9. BACKGROUND PAPERS**

- Background Document 1: Examiner's Report on the Marden Neighbourhood Plan  
[http://www.maidstone.gov.uk/\\_data/assets/pdf\\_file/0004/311539/Marden-NP-Final-Examiner-Report.pdf](http://www.maidstone.gov.uk/_data/assets/pdf_file/0004/311539/Marden-NP-Final-Examiner-Report.pdf)