

Lenham 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	This report particularly affects the wards of Harrietsham & Lenham, Headcorn, Leeds and North Downs.

Executive Summary

The Lenham Neighbourhood Plan (Background Paper 1) has been submitted and published for a second round of public consultation, which runs from 14 February to 27 March 2020. It is the role of the Borough Council to ensure that certain conditions have been satisfied at this stage, and to facilitate the consultation. It is confirmed that the regulatory requirements under Regulations 14 and 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) have been met during the preparation of the plan.

The Borough Council is also a statutory consultee for the purpose of making representations on the Lenham Neighbourhood Plan. The Committee is requested to consider the Council's formal response to the consultation, attached as Appendix 1, in accordance with Regulation 16. Following the close of consultation, the submission documents¹ and all representations received will be passed to the independent Examiner for examination into the plan.

Purpose of Report

Decision.

The Head of Planning and Development has considered the agreed neighbourhood planning protocol in the context of the Constitution, and he has elected not to use his delegated authority at Regulation 16 because it is important that the Committee has the opportunity to have input into a document that becomes part of the Maidstone Development Plan.

¹ Submission documents have been forwarded in advance at the Examiner's request

This report makes the following recommendations to this Committee:

1. That the Lenham Neighbourhood Plan be generally supported, subject to the resolution of matters raised in the Council's representation (Appendix 1).
2. That the Council's representation on the Lenham Neighbourhood Plan, attached at Appendix 1, be approved.

Timetable

<i>Meeting</i>	<i>Date</i>
Strategic Planning and Infrastructure Committee	10 March 2020

Lenham Neighbourhood Plan Regulation 16

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, following a successful examination and referendum, the Lenham Neighbourhood Plan 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 Lenham Neighbourhood Plan, which will eventually become part of the Maidstone Development Plan.	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 meets 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 Lenham 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	Facilitating the consultation 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.	Anna Collier Policy and Information Manager
Equalities	The Council has a responsibility to support communities in developing a Neighbourhood Plan. The Neighbourhood Planning process provides an opportunity for communities to	Anna Collier Policy & Information Manager

	shape a plan that meets the housing needs of its population.	
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 Lenham Neighbourhood Plan.	Paul Clarke, 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

1. INTRODUCTION AND 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 Lenham parish was designated a neighbourhood area on 27 November 2012. The parish council undertook a 6-week public consultation on the pre-submission version of the Lenham Neighbourhood Plan (Regulation 14) between 24 September and 9 November 2018. 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 in response to relevant issues raised in representations.
- 1.3 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, 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. These requirements have been met.
- 1.4 The next stage is a second 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 February to 27 March 2020. The consultation is being undertaken in accordance with neighbourhood planning regulations, the Council's Statement of Community Involvement 2018, and the neighbourhood

planning protocol.

- 1.5 The full set of consultation documents for the Lenham Neighbourhood Plan, which are listed in full below, can be viewed on the neighbourhood plans webpage (Background Papers 1 and 2). For convenience, the Lenham Local Policies Map has been reproduced at Appendix 2.

LNP1	Documents List
LNP2	Lenham Neighbourhood Plan (Regulation 16 Submission Version)
LNP3	Basic Conditions Statement
LNP4	Consultation Statement
LNP5	Strategic Environmental Assessment
LNP6	Masterplanning Report
LNP7	Landscape and Visual Assessment
LNP8	Transport Assessment
LNP9	Archaeological Desk Based Assessment
LNP10a	Financial Viability Statement
LNP10b	Financial Viability Statement Lenham Typologies
LNP11	Housing Needs Assessment
LNP12	Agricultural Land Quality
LNP13	Health Statement
LNP14	Lenham Neighbourhood Plan (Regulation 14 Draft)
LNP15	Lenham Policies Consultation Draft (Regulation 14 Draft)
LNP16	Lenham Infrastructure Delivery (Regulation 14 Draft)
LNP17	Local Green Space Report (Regulation 14 Draft)
LNP18	Lenham Neighbourhood Plan (Regulation 14 Draft)
LNP19	Lenham Public Statement (Regulation 14 Draft)
LNP20	Lenham Parish Basic Conditions (Regulation 14 Draft)

- 1.6 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 Lenham Neighbourhood Plan and accompanying submission documents must be forwarded to the Examiner, together with all representations received, for the Examiner's consideration. Mr Derek Stebbing has been appointed to examine the plan and, at his request, all submission documents have been forwarded to him in advance of the close of consultation. The representations will be collated and forwarded at the end of the consultation. 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.
- 1.7 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 obligations²;
- 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 plan³; 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 2017⁴.

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

1.9 The Maidstone Borough Local Plan 2017 designates Lenham as a broad location for housing growth, to deliver 1,000 homes between 2021 and 2031. Specific site allocations could be made through a local plan review or the production of a Lenham Neighbourhood Plan. The parish council decided to prepare a neighbourhood plan and to allocate housing sites in order to deliver 1,000 dwellings in its plan. In addition to making site allocations for residential development, the plan includes policies on design quality; sustainable travel; enhancing and protecting green space; employment, community facilities and tourism; and air quality.

1.10 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. The Council has also assisted with funding, securing a £75,000 HCA grant for transport planning, and exploring the availability of a free government-funded package to assist with the preparation of the Strategic Environmental Assessment. Contact with the parish council has been maintained throughout the plan's preparation. The parish council has afforded the Council opportunities to informally comment on draft iterations of the plan and/or policies, and the parish council has responded positively to the advice given. However, submission is the first opportunity that officers have had to view the final Lenham Neighbourhood Plan and the full suite of evidence, to enable a formal position on the plan to be taken for this Committee's agreement.

1.11 Although there is general support for the plan, subject to the proposed modifications schedule set out in Appendix 1, there are concerns about the robustness of the evidence base and the lack of a strategy to deliver 1,000

² For example, the need for a Strategic Environmental Assessment and/or Habitats Regulation Assessment

³ This applies to the need for an Environmental Impact Assessment for certain development proposals, and is not applicable to the Lenham Neighbourhood Plan

⁴ 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

homes with supporting infrastructure between 2021 and 2031 (i.e. 100 dwellings p.a. over 10 years), in accordance with the strategic policies of the Maidstone Borough Local Plan, namely:

- Policy SP8 – Lenham Rural Service Centre, in particular criteria 4 and 6;
- Policy H2 – Broad locations for housing growth; and
- Policy H2(3) – Lenham broad location for housing growth.

1.12 These concerns must be addressed. As an overview, a key omission from the neighbourhood plan is a delivery strategy for the southern road route. This route requires engagement with the landowners of non-allocated sites⁵, where the landowners have no direct benefit from the wider neighbourhood plan allocations and thus limited motivation to engage. It also requires improvements to inadequate infrastructure. The plan contains no strategy in relation to, say, land acquisition or funding. This could be addressed, for example, by some form of Memorandum of Understanding or equalisation agreement between landowners.

1.13 Site 3 is severed from the main village by the railway which is a substantial barrier. It is in effect landlocked, placing a burden on others to deliver infrastructure. The site is only accessible from the west, with the western Smokey Bridge route sub-standard due to the constraints of the bridge. Its location and detachment do not promote sustainable patterns of travel, and it is reliant on the landowners of other sites for delivery. Hence a delivery strategy is needed.

1.14 It is understood that the owners of Site 4 have announced that the appeal scheme (to the north of site 4) will not be amended to widen the access road, so site 4 needs to allow for an access road capable of delivering the bus route should it be required.

1.15 Land outside of the ownership of Site 5 is required for the new road connection to the A20. The landowner of the appeal site to the north of Site 5 could refuse a land deal to facilitate the A20 junction improvements necessary for the new road, resulting in a failure of the plan's Strategic Housing Delivery Sites strategy. Evidence of agreement with the landowner is needed to demonstrate deliverability of the road, and hence the residential allocation within the plan period. Otherwise, there is a material risk that the plan could fail to deliver the required 1,000 units.

1.16 The sports pitches at William Pitt Field (Site 6) are proposed to be relocated to Site 1, to enable Site 6 to be redeveloped for housing. There is a lack of justification for their relocation, particularly given their proximity to housing sites 5 and 7. The relocation site for the pitches is bisected by PROW KH399A, and its diversion has not yet been secured. This could take up to 3 years under the Highways Act 1980, and is not guaranteed to be granted. Sport England has not confirmed whether the indicative layout of the relocated pitches at Site 1 would be viewed as an adequate replacement of

⁵ Two appeal sites to the north of Sites 4 and 5, as shown on the Lenham Local Policies Map on page 47 of the Lenham Neighbourhood Plan (attached as Appendix 2)

the William Pitt pitches lost on Site 6.

- 1.17 Objection is raised to the designation of Royton Avenue as Local Green Space (LGS) under Policy LGS1(6). The site does not meet NPPF criteria for the designation of LGS (NPPF paragraph 100), and its designation would set a precedence for similar sites elsewhere in the borough. In fact, in its Consultation Statement (page 31), the parish council rejects a proposal to designate this site as LGS. The site is not in the ownership of Maidstone Borough Council, and officers are not aware of any engagement that has been undertaken with the landowner.
- 1.18 Policy DM19 of the Maidstone Borough Local Plan sets standards for the provision of publicly accessible open space throughout the borough. Although this is not a strategic policy⁶, the neighbourhood plan should demonstrate how it has had regard to Policy DM19 and how the public open space levels across all of the Strategic Housing Delivery Sites have been determined.
- 1.19 These issues, together with the schedule of additional amendments intended to achieve conformity with national and local policies, and greater clarity and consistency throughout the plan, are set out in the Council's representation on the plan (attached at Appendix 1). The Committee is recommended to generally support the Lenham Neighbourhood Plan, subject to the resolution of matters raised in the representation, and to approve the Council's representation attached at Appendix 1.
-

2. AVAILABLE OPTIONS

- 2.1 Option A: To not make representation on the Lenham 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.
- 2.2 Option B: To approve the Borough Council's representation on the Lenham Neighbourhood Plan, attached at Appendix 1.
-

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 Option B is recommended. Once a neighbourhood plan is the subject of a successful referendum, 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 Lenham Neighbourhood Plan
-

4. RISK

⁶ Neighbourhood plans must conform to the strategic policies of the adopted local plan for the area.

- 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 3.1.
- 4.2 There are some risks to the examination of the Lenham 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 and/or policies; by ensuring compliance with regulatory requirements; by raising matters for the Examiner's consideration with regard to conformity with the strategic policies of the Maidstone 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.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The Lenham 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 by 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.
- 5.2 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 documents⁷, for his consideration.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Examination of the Lenham 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 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.

7. REPORT APPENDICES

⁷ Submission documents have been forwarded in advance at the Examiner's request

- Appendix 1: Response to Lenham Neighbourhood Plan R16 Consultation
 - Appendix 2: Lenham Local Policies Map (extract from the Lenham Neighbourhood Plan)
-

8. BACKGROUND PAPERS

- Background Paper 1: Lenham Neighbourhood Plan
http://www.maidstone.gov.uk/_data/assets/pdf_file/0004/326866/LNP-2-Regulation-16-Submission-Version.pdf
- Background Papers 2: Lenham Neighbourhood Plan Submission Documents
<http://www.maidstone.gov.uk/home/primary-services/planning-and-building/primary-areas/local-plan-information/tier-3-additional-areas/neighbourhood-plans/lenham-neighbourhood-plan>