

Marden Neighbourhood Plan (Regulation 19)

Final Decision-Maker	Full Council
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Anna Ironmonger, Planning Officer, Strategic Planning
Classification	Public
Wards affected	Marden & Yalding; Coxheath & Hunton; Staplehurst; Boughton Monchelsea & Chart Sutton

Executive Summary

This committee resolved on 19th November 2019 that the Marden Neighbourhood Plan, subject to modifications, should proceed to referendum (background document 1). The referendum was held on 27th February 2020 and was successful with 90.4% voting in favour of the neighbourhood plan (background document 2). Under Section 38A(4) of the Planning and Compulsory Purchase Act 2004, where more than half of those who voted, vote in favour of a neighbourhood plan, the plan must be made (adopted) by the Council within 8 weeks. Due to Covid-19 the April meetings of SPI and Full Council were cancelled, meaning that the Council was unable to meet its deadline. Agreement to postpone the decision was gained from the Parish Council. This is therefore the first opportunity for this report to be considered by the Committee. This Committee is asked to consider the referendum result, and in accordance with the agreed Neighbourhood Planning Protocol, make a recommendation to Full Council that the Neighbourhood Plan is made (adopted). Following a successful referendum, the Marden Neighbourhood Plan becomes part of the Development Plan for Maidstone (Section 38 (3A) of the Planning and Compulsory Purchase Act 2004).

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. The result of the referendum held on 27th February 2020 on the Marden Neighbourhood Plan be noted.
2. Council be recommended to make the Marden Neighbourhood Plan.

Timetable

Meeting	Date
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Strategic Planning and Infrastructure	9 th June 2020
Council	15 th July 2020

Marden Neighbourhood Plan (Regulation 19)

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. Section 38(3A) of the Planning and Compulsory Purchase Act 2004 outlines that once a neighbourhood plan is approved at referendum it comes into force as part of the statutory development plan. This means it will assist in the delivery of the Council's four strategic objectives (see section 3).	Head of Planning & Development
Cross Cutting Objectives	Following the successful referendum result, the Marden Neighbourhood Plan is part of the Maidstone Development Plan. It will therefore assist in the delivery of all four cross-cutting objectives.	Head of Planning & Development
Risk Management	Already covered in the risk section	Head of Planning & Development
Financial	The costs for referendum and adoption of neighbourhood plans are borne by the Borough Council. There is a dedicated budget for this purpose, funded by MHCLG neighbourhood planning grants. The Council will apply for £20,000 from MHCLG due to costs incurred.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Head of Planning & Development
Legal	Accepting the recommendations will fulfil the Council duties under the Town and Country Planning Act 1990 (as amended), and the Neighbourhood Planning (General) Regulations 2012 (as amended). The statutory duty under the Planning and Compulsory Purchase Act 2004 to make the plan within 8 weeks of a successful referendum cannot be met owing to the extenuating circumstances stemming from the Covid-19 pandemic. It is, however, considered that the risks of non-compliance by the Council are low, since the plan, post referendum, already forms part of the development plan for the borough and it is not anticipated that anyone	Cheryl Parks, Mid Kent Legal Services (Planning)

	will be unduly affected by the delay in making this decision.	
Privacy and Data Protection	The recommendations will not have any implications for the volume of data held by the Council.	Policy and Information Team
Equalities	The Council has a responsibility to support in developing a Neighbourhood Plan. The Neighbourhood Plan process provides an opportunity for communities to develop an inclusive plan that meets the needs of its population.	Equalities and Corporate Policy Officer
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	There are no implications for Crime and Disorder	Head of Planning & Development
Procurement	There are no procurement requirements	Head of Planning & Development & Section 151 Officer

2. INTRODUCTION AND BACKGROUND

- 1.1 The Marden Neighbourhood Plan has reached the final stage of the Neighbourhood Planning process. The procedures for designating neighbourhood areas and preparing neighbourhood plans are set out in The Neighbourhood Planning (General) Regulations 2012 (as amended). Marden parish was designated a neighbourhood area on 14th January 2013. The Neighbourhood Plan was subject two rounds of mandatory consultation. Firstly, the parish council undertook a 6-week public consultation on the pre-submission version of the Marden Neighbourhood Plan (Regulation 14) between 9th June and 21st July 2018. Secondly, Maidstone Borough Council facilitated a further 6-week public consultation (Regulation 16) between 14th June and 26th 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 9th July 2019.
- 1.2 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. In the

examiner's report which was received on 14th October 2019, the examiner's recommendation was that, subject to modifications, the Marden Neighbourhood Plan should proceed to referendum.

- 1.3 In line with the Neighbourhood Planning (General) Regulations and the locally adopted Neighbourhood Planning Protocol, this committee made a decision on 19th November 2019 that the Marden Neighbourhood Plan, subject to modifications, should proceed to referendum. The Marden Neighbourhood Plan is attached as background document 1 of this report.
- 1.4 The referendum was held on 27th February 2020. Voters were asked "Do you want Maidstone Borough Council to use the Neighbourhood Plan for Marden to help it decide planning applications in the neighbourhood area?". In total, 90.4% voted in favour of the neighbourhood plan (background document 2). There was a turnout of 26.8%.
- 1.5 This Committee can decide not to recommend that Council make the Marden Neighbourhood Plan if to do so would breach or otherwise be incompatible with, any EU obligation or an of the convention rights. The Neighbourhood Plan's compatibility with EU obligations and directives is testing during the examination process and cannot proceed to referendum otherwise. Unless there are any new matters in relation to this point which the Committee considers were not raised by the Examiner then the Council is under a statutory duty to make the plan following the "Yes" result. It is officers' view that there no such matters arising.
- 1.6 Following a successful referendum, i.e. where more than half of those who voted, cast a vote in favour of a neighbourhood plan, the Council must make (adopt) a neighbourhood plan within 8 weeks in line with Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A). Section 38(3A) of the Planning and Compulsory Purchase Act 2004 outlines that once a neighbourhood plan is approved at referendum it comes into force as part of the statutory development plan. This means that the Marden Neighbourhood Plan will now be used in the consideration of planning applications in Marden.
- 1.7 The Neighbourhood Planning Protocol is used alongside the Statement of Community Involvement. In response to government guidance a Statement of Community Involvement Covid-19 Temporary Addendum has been produced which outlines how the Neighbourhood Planning process will be impacted as a result. This can be found elsewhere in this agenda. The committee system has also been impacted by Covid-19, with the April meetings of SPI and Full Council being cancelled and postponement the decision was agreed by the Parish Council.
- 1.8 This is therefore the first opportunity that the Committee has had to consider the results of the referendum of the Marden Neighbourhood Plan. The Committee is asked to consider the referendum result, and in accordance with the agreed Neighbourhood Planning Protocol, make a recommendation to Full Council that the Neighbourhood Plan is made (adopted). The Neighbourhood Planning Protocol Update will be discussed elsewhere on this agenda.

3. AVAILABLE OPTIONS

- 3.1 Option A: The Committee recommends to Full Council on 15th July 2020 that the Marden Neighbourhood Plan is made. The Planning and Compulsory Purchase Act 2004 outlines that once a neighbourhood plan is approved at referendum it comes into force as part of the statutory development plan. The development plan will assist in the delivery of the Council's strategic objectives. Taking the decision to a later meeting of Full Council will further delay the formal adoption of the Marden Neighbourhood Plan and therefore mean that the Council would be in breach of its requirement under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A) to make the neighbourhood plan within 8 weeks of the referendum date. Whilst the 8 week period has already expired, and as set out in this report, the delays to date owing to the Covid-19 pandemic are considered to be acceptable given the restrictions imposed. Any further delay, now that regulations have been introduced and virtual meetings have commenced, is unlikely to be held to be reasonable.
- 3.2 Option B: The Committee decides not to recommend to Full Council that the Marden Neighbourhood Plan is made. This would be in breach of Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A) which is outlined in paragraphs 1.4, 1.5 and 1.6, unless there are reasons for doing so as set out in paragraph 1.5 of this report.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option A outlined in paragraph 3.1. The result of the referendum illustrates a very strong level of support amongst those who voted for the Marden Neighbourhood Plan. There are no clear reasons for not doing so and statute is clear as to the requirement to make the plan in such circumstances.
- 4.2 Not making the Marden Neighbourhood Plan would mean the Council is acting in conflict with the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012.

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. Consideration is shown in this report at paragraphs 1.5, 3.1 and 3.2. We 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 has been through two rounds of public consultation known as Regulation 14 (pre-submission consultation) and Regulation 16 (submission consultation). The Committee considered the Marden Neighbourhood Plan at the Regulation 16 Consultation stage. The Neighbourhood Plan has also been considered by this committee in November 2019 after the receipt of the Examiner's report and recommendations.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 A recommendation will be taken to Full Council on 15th July 2020. Following a decision from Full Council to make the Marden Neighbourhood Plan, the decision and the Plan will be published on the website and the relevant bodies will be notified.

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

Background document 1 – Marden Neighbourhood Plan

<https://localplan.maidstone.gov.uk/home/documents/neighbourhood-plans/MNP-Amended-November-2019-v4.pdf>

Background document 2 – Referendum result

<https://localplan.maidstone.gov.uk/home/neighbourhood-planning>