

Neighbourhood Planning Protocol Update

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	All Wards

Executive Summary

Since the approval of a revised protocol for neighbourhood planning by the Strategic Planning, Sustainability and Transportation Committee at its meeting on 10 July 2018, there have been a number of changes to the Council's practices for processing neighbourhood plans. A review of the protocol has also identified a need to clarify actions at certain stages of plan preparation, and to accentuate the prescribed dates for processing tasks. Additionally, in response to government guidance on the neighbourhood planning process during the coronavirus pandemic, the Committee has approved an addendum to the Maidstone Statement of Community Involvement (SCI). The protocol will comply with the SCI addendum which, for neighbourhood planning, predominantly affects the availability of material at inspection points. This report seeks the Committee's approval of an updated protocol for neighbourhood planning (attached at Appendix 1). For ease of reference, the updates are highlighted in the attachment but will not appear in the published version.

Purpose of Report

For decision.

This report makes the following recommendations to this Committee:

1. That the revised Neighbourhood Planning Protocol attached at Appendix 1 be approved.

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	7 July 2020

Neighbourhood Planning Protocol Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The recommendations will by themselves not materially affect achievement of corporate priorities.	Rob Jarman, Head of Planning and Development
Cross Cutting Objectives	The recommendations will by themselves not materially affect achievement of cross-cutting objectives.	Rob Jarman, Head of Planning and Development
Risk Management	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. Officers are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the policy.	Rob Jarman, Head of Planning and Development
Financial	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Section 151 Officer & Finance Team
Staffing	The recommendations can be delivered within current staffing levels.	Rob Jarman, Head of Planning and Development
Legal	The protocol, as drafted, reflects the individual regulatory stages of plan making, and ensures that statutory requirements are clear to those involved. Where more complex issues in plan making arise and which are not covered by the protocol, separate advice can be provided upon request.	Russell Fitzpatrick MKLS (Planning)
Privacy and Data Protection	Accepting the recommendations will not increase the volume of data held by the Council.	Equalities and Corporate Policy Officer
Equalities	The Council has a responsibility to support communities in developing a neighbourhood plan. The neighbourhood planning process provides an opportunity for communities to shape a plan that meets the needs of its population.	Equalities and Corporate Policy Officer
Public Health	There are no implications for public health.	[Public Health Officer]
Crime and Disorder	There are no implications for crime and disorder.	Rob Jarman, Head of Planning and

		Development
Procurement	A procurement waiver is in place for the appointment of examiners for neighbourhood plan examinations.	Rob Jarman, Head of Planning & Development & [Section 151 Officer]

2. INTRODUCTION AND BACKGROUND

Introduction

- 1.1 The Strategic Planning, Sustainability and Transportation Committee approved an amended protocol for neighbourhood planning at its meeting on 10 July 2018. Since then, there have been changes to the legislation that governs neighbourhood planning¹, but these have not had a direct impact on the protocol. However, when reviewing the protocol, it is evident that a further update is desirable to reflect changes in the Council's practices for processing neighbourhood plans, and to improve clarity for the reader. Further, the protocol must comply with the Statement of Community Involvement addendum, which was approved by this Committee on 9 June 2020 in response to government guidance on the neighbourhood planning process during the coronavirus pandemic. As a consequence, this report seeks the Committee's approval of an updated protocol which, for transparency, illustrates the proposed changes at Appendix 1. These will not appear in the published version of the protocol.
- 1.2 The Council's policy for supporting neighbourhood planning groups is set out in the Maidstone Statement of Community Involvement (SCI). The SCI also explains how the Council will consult statutory bodies, stakeholders and the public at each stage of the neighbourhood plan making process. The neighbourhood planning protocol, in addition to satisfying consultation requirements, includes detailed actions for all regulatory stages and, equally important, specifies the decision making processes for each stage.

Changes in practices for processing neighbourhood plans

- 1.3 The key updates are set out below, together with a synopsis of why changes have been made.
- 1.4 **A) Making clear the status of neighbourhood plans at certain stages of the plan making process.** Once a decision is made to move a plan to referendum (Regulation 17A), a 'post-examination draft neighbourhood plan' becomes a material consideration in decisions on planning applications. Following a successful referendum, the neighbourhood plan immediately becomes part of the Maidstone Development Plan (unless material considerations indicate otherwise), and the Council must 'make' the plan within 8 weeks of the referendum date.
- 1.5 **B) Adding clarity to the roles of the Borough Council and qualifying bodies in respect of the Environmental Statement at submission**

¹ The Neighbourhood Planning (General) Regulations 2012 (as amended)

(Regulation 15). At pre-submission consultation (Regulation 14), the Council is responsible for preparing an initial Screening Report to determine if a neighbourhood plan needs an SEA/HRA². If an SEA/HRA is required, the qualifying body is responsible for its scoping and preparation. The protocol needs to make clear that the Council is only obliged to update the initial Screening Report at submission stage (Regulation 15) if (a) an SEA/HRA was not initially required and (b) a significant change to the plan has occurred as a result of pre-submission consultation, which results in a 'likely significant effect' on the environment.

- 1.6 **C) Deletion of references to the use of the Council's consultation database for neighbourhood planning consultations** (Regulation 16). When publicising a neighbourhood plan consultation that is facilitated by the Council, the Council must publicise details on its website and in such other manner as considered "likely to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area³". The Council must also notify any consultation body referred to in the qualifying body's Consultation Statement. Currently, the Council publicises documents and details of the consultation on its website, places a public notice in the local newspaper and notifies the relevant consultation bodies (including local and adjacent parish councils, neighbourhood forums and ward councillors). The qualifying body is also encouraged to undertake local publicity.
- 1.7 To date, the consultation database has been used to inform the public of neighbourhood plan consultations and to manage representations. The public's preferred means of submitting comments on neighbourhood plans is by email or post, which officers have to upload to the database. This is not an efficient approach and is proving to be costly in terms of officer time and hard-copy notifications for those consultees without an email address. Such widespread notification through the database is not necessary for neighbourhood plan consultations, which focus on local policies for specific areas of the borough that are already subject to the overarching planning framework of the adopted local plan. Representations can still be made by email or post, and will be published on the neighbourhood plans webpage.
- 1.8 **D) Deletion of reference to summarisation of the main issues arising through consultation** (Regulation 17). There is no statutory obligation for the Council to summarise the key issues arising from representations made during Regulation 16 consultation. In fact, offers to do so have been declined by the examiners of recent neighbourhood plans.
- 1.9 **E) Emphasis of prescribed dates** for undertaking certain stages of the neighbourhood planning process. Accentuating deadlines by which tasks must be completed offers greater clarity for the reader.
- 1.10 **F) The addition of explanatory notes** that the Head of Planning and Development has elected not to use his delegated authority at Regulation 16 and Regulation 17A stages of the neighbourhood plan making process, to ensure that the Committee has an opportunity to input into a plan that will

² Strategic Environmental Assessment/Habitats Regulations Assessment

³ Regulation 16 of The Neighbourhood Planning (General) Regulations 2012 (as amended)

form part of the Maidstone Development Plan. This will remove the need to reiterate the Head of Planning and Development's decision for all neighbourhood planning reports.

Changes to Government guidance due to the coronavirus pandemic

- 1.11 In response to government guidance on the neighbourhood planning process during the coronavirus pandemic, the Committee has approved an addendum to the Maidstone Statement of Community Involvement (SCI). The neighbourhood planning protocol will comply with the SCI addendum, which predominantly affects the availability of material at inspection points.
- 1.12 Neighbourhood planning grants and technical support will continue to be available, and national advice from Locality is operating normally.

Progress of neighbourhood plans and funding

- 1.13 The Committee is aware that neighbourhood planning is very active in Maidstone. There are three 'made' (adopted) neighbourhood plans for Loose, North Loose and Staplehurst. Marden also forms part of the Maidstone Development Plan following a successful referendum. At its meeting on 9 June 2020, this Committee recommended that Council make the Marden Neighbourhood Plan. The Lenham Neighbourhood Plan is at examination (Regulation 17). The Boughton Monchelsea Neighbourhood Plan has been submitted, and Officers are liaising with the Parish Council to agree dates for public consultation (Regulation 16), which will be undertaken in accordance with the SCI and its addendum. Otham Neighbourhood Plan is expected to be submitted in the near future for consultation (Regulation 16), and three more plans are being prepared for pre-submission consultation (Regulation 14).
- 1.14 The processing of neighbourhood plans is managed within existing staff resources. Ongoing liaison with the parish councils or neighbourhood forums preparing plans helps to mitigate the impact of neighbourhood planning on the competing work priorities of the Strategic Planning team, but the number of plans and the timing of their submission to the team for actions are not within the team's control.
- 1.15 There is a dedicated budget for neighbourhood planning which is grant funded by MHCLG⁴. Under current funding arrangements, the Council cannot receive a grant for designating a neighbourhood area because a threshold of five areas has been exceeded. Claims can be made for the following stages.
 - £20,000 once the Council has set a date for a referendum following a successful examination, and where a neighbourhood plan has not previously been made for that area.
 - £5,000 for the first five neighbourhood forums that the Council designates. The limit applies to the total number of areas designated in the borough (i.e. it includes claims made for past designated forums), and includes the re-designation of forums.

⁴ Ministry of Housing, Communities & Local Government

- £10,000 for a revised neighbourhood plan that makes substantive modifications (requiring an examination but no new referendum because the nature of the plan has not changed). A claim can be made after the revised plan comes into force following examination. Once such a claim is made, further updates to that specific plan will be restricted to one every 5 years.
- £20,000 for a revised neighbourhood plan that makes substantive modifications (requiring an examination and a new referendum). A claim can be made after a successful examination with the setting of a new referendum date. Once such a claim is made, further updates to that specific plan will be restricted to one every 5 years.
- Further grants are available for the designation of business areas and the making of an NDO or a CRtBO⁵. (None are proposed at present).

1.16 This report is recommending that the Committee approves the updated neighbourhood planning protocol attached at Appendix 1.

3. AVAILABLE OPTIONS

- 3.1 Option A: The Committee could decide not to approve the revised protocol for neighbourhood planning. The protocol would not then align with changes in practice regarding the management and processing of neighbourhood plans, and the SCI addendum. This option would diminish the value of the protocol.
- 3.2 Option B: The Committee could decide to approve the revised protocol for neighbourhood planning.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option B is recommended so that the neighbourhood planning protocol (Appendix 1) reflects the changes in practice regarding the management and processing of neighbourhood plans, and aligns with the SCI addendum.
- 4.2 Statutory requirements for neighbourhood plan making will prevail if there is a conflict with the Council's neighbourhood planning protocol. The protocol makes clear who is responsible for the detailed actions at various stages of the neighbourhood planning process, and confirms the decision making authority agreed by this Committee and the expected outcomes from each stage of the process. The protocol provides consistency of approach, and helps to manage the expectations of those groups preparing plans. It is a valuable tool for Councillors, officers, parish councils and neighbourhood forums when plans are in preparation.
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5. RISK

⁵ Neighbourhood Development Orders (NDO) and Community Right to Build Orders (CRtBO)

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. Officers are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the policy.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 If approved, the neighbourhood planning protocol will be published on the neighbourhood plans webpage.

7. REPORT APPENDICES

The following document is to be published with this report and forms part of the report:

- Appendix 1: Neighbourhood Planning Protocol
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8. BACKGROUND PAPERS

None