

**Boughton Monchelsea Neighbourhood Plan (Regulation
17A)**

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Anna Ironmonger, Strategic Planning, Planning Officer
Classification	Public
Wards affected	Boughton Monchelsea & Chart Sutton, Sutton Valence & Langley, Staplehurst, Marden & Yalding, Coxheath & Hunton, Loose, South, and Park Wood.

Executive Summary

The Boughton Monchelsea Neighbourhood Development Plan was examined by an independent examiner, who recommended that the Plan (as modified) move 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 Boughton Monchelsea Neighbourhood Plan, as modified, to local referendum (Appendix 1). 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:

1. The modifications to the Boughton Monchelsea Neighbourhood Development Plan as set out in the examiner's report be agreed
2. The Boughton Monchelsea Neighbourhood Development Plan proceeds to local referendum

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	9 th February 2021

Boughton Monchelsea Neighbourhood Plan (Regulation 17A)

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 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
Cross Cutting Objectives	Following a successful referendum, the Boughton Monchelsea Neighbourhood Plan will form part of the Maidstone Development Plan, and will assist in the delivery of the Council's four strategic objectives.	Rob Jarman, Head of Planning and Development
Risk Management	See section 5	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 is needed. The costs for the referendum and adoption of the Boughton Monchelsea Neighbourhood Plan are borne by the Borough Council. There is a dedicated budget for this purpose, funded by MHCLG neighbourhood planning grants.	Section 151 Officer & Finance Team – Mark Green/Paul Holland
Staffing	We will deliver the recommendations with our current staffing.	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, records retention policy, data protection policies and the GDPR.	Policy and Information Manager
Equalities	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.	Senior Policy and Engagement Officer
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer – Paul Clarke
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 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 Neighbourhood Plans can be prepared by parish councils and designated neighbourhood forums for their neighbourhood area. A neighbourhood plan will 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 a neighbourhood area and the preparation of a neighbourhood plan are set out in the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 2.2 The Boughton Monchelsea Neighbourhood Planning Area, which comprises the whole of Boughton Monchelsea Parish, was designated on 29 October 2012. A formal six week consultation on the pre-submission draft plan Boughton Monchelsea Neighbourhood Plan and supporting documents (Regulation 14) took place between 26 April 2019 and 11 June 2019.
- 2.3 The Regulation 15 Submission Plan and supporting documents were submitted to the borough council on 10 March 2020. The Plan was subject to a further six weeks consultation from 14 August 2020 to 28 September 2020 (additional dates added to accommodate the August Bank Holiday). This is known as the Regulation 16 consultation.
- 2.4 In accordance with the agreed neighbourhood planning protocol, the borough council submitted representations to both consultations. The Regulation 14 response was submitted under the delegated authority of the Head of Planning and Development. The Regulation 16 response was submitted following the agreement of this committee at its meeting of 8 September 2020.
- 2.5 Through the preparation of the Boughton Monchelsea Neighbourhood Plan, communication with the parish council has been maintained. Officers have offered advice and support to the parish council on a range of issues, including draft iterations of the plan.
- 2.6 The appointment of Derek Stebbing (from Intelligent Plans and Examinations) as an independent examiner was agreed with Boughton Monchelsea Parish Council. The independent examiner was appointed through the council's procurement waiver signed by the Director of Finance and Business Improvement. The Boughton Monchelsea Neighbourhood Plan and supporting documents, together with the representations received during Regulation 16 consultation, 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 17 December 2020 and has been published on the borough and parish councils' website (background document 1).
- 2.7 The examiner concluded that

"...subject to modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that

- The plan has been prepared and submitted for examination by a qualifying body – Boughton Monchelsea Parish Council (the Parish Council);
- The Plan has been prepared for an area properly designated – the Neighbourhood Plan Area, as identified on the Map at Page 7 of the Plan;
- The Plan specifies the period to which it is to take effect – up to 2031; and
- The policies relate to the development and use of land for a designated neighbourhood plan area."

- 2.8 The examiner had consideration to the Borough Council's Regulation 16 consultation response. Modifications have been proposed to ensure that policies within the plan have regard to national policies and are in general conforming with the strategic policies of the adopted Local Plan (see background document 1). The proposed modifications are minor and include inserting supporting justification text before a number of policies, improving the clarity of text, policies and maps to improve interpretation, and correcting typing errors.
- 2.9 The examiner recommended that the Boughton Monchelsea Neighbourhood Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements. The modified plan which incorporated the examiner's recommended modifications can be found at Appendix 1 to this report.
- 2.10 In accordance with the neighbourhood planning regulations (Regulation 18), the local planning authority is required to make a decision on what action to take in response to the examiner's recommendations (i.e. to proceed to local referendum).
- 2.11 In order to proceed to referendum, the local authority must be satisfied that the Boughton Monchelsea Neighbourhood Plan has met the basic conditions outlined in paragraph 8(2) of the Schedule 4B to the Town and Country Planning Act 1990 (as amended). The neighbourhood plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies contained in the development plan for the area of the authority;
 - Be compatible with and not breach EU obligations; and
 - Meet prescribed conditions and comply with prescribed matters.

- 2.12 Regulation 32 of the 2012 Regulations 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 Regulation 2017.
- 2.13 It is for this committee to decide what action to take in response to the examiner's report. The committee can either
- Accept the examiner's report (with or without modifications)
 - Decline to accept the report
 - Accept the report (with or without modifications) together with further modifications the Council deems necessary
- 2.14 If the committee is satisfied that the Boughton Monchelsea Neighbourhood Plan meets the basic conditions; is compatible with the European Convention on Human Rights; and complies with the statutory requirements set out in the Town and Country Planning Act 1990 (as amended), or would do so with modifications then it must decide to move the neighbourhood plan to local referendum (see Appendix 1 for the modified plan).
- 2.15 The Boughton Monchelsea Neighbourhood Plan includes parish wide policies covering local landscapes and sustainability; health and wellbeing policies; rural housing policies covering design of new housing and references housing allocations in the adopted Local Plan; and local rural economy policies. The Neighbourhood Plan does not allocate any development sites. Developments sites will be allocated as part of allocated as part of the Local Plan process.
- 2.16 It is considered by officers that the Boughton Monchelsea Neighbourhood Plan has met the statutory requirements, including its policies being in general conformity with the strategic policies of the Maidstone Borough Local Plan 2017. It is recommended by officers that the committee approves the examiner's modifications set out in his report and makes a decision to move the Boughton Monchelsea Neighbourhood Plan to local referendum (see Appendix 1 for the modified plan).
- 2.17 In response to the coronavirus pandemic, the Government has published guidance to help prevent the spread of the virus and as a result the way in which people are able to engage in neighbourhood planning has been impacted. Neighbourhood Plan referendums have been suspended until 6 May 2021. In response to this any referendum will not be able to be held until at least 6 May 2021. Officers will work with the Electoral Services team to make the necessary arrangements including confirming an appropriate date, should this committee resolve to move the plan to a referendum.
- 2.18 Following a successful referendum, a neighbourhood plan becomes part of the development plan. Where a local plan authority agrees to send a neighbourhood plan to referendum, the plan will be given

significant weight in decision making. The Neighbourhood Planning Protocol was recently updated, and a post examination neighbourhood plan is a significant material consideration.

3. AVAILABLE OPTIONS

- 3.1 Option A: The Committee agrees the recommended modifications outlined in the examiner's report and moves the Boughton Monchelsea Neighbourhood Plan to local referendum. If the local authority is satisfied that the statutory requirements have been met, then it is required to move the neighbourhood plan to referendum. The modifications ensure that the policies are compliant with national policy and in general conformity with the strategic policies of the adopted local plan. The Boughton Monchelsea Neighbourhood Plan has met the prescribed legislative requirements and there are no reasons to reject the examiner's proposed modifications.
 - 3.2 Option B: The Committee agrees to decline the Examiner's report recommendations and move the Boughton Monchelsea Neighbourhood Plan to local referendum without any modifications being made. Not to make the proposed modifications would mean that the Plan is not compliant with national policy and not be in general conformity with the strategic policies of the adopted local plan.
 - 3.3 Option C: The Committee does not agree to move the Boughton Monchelsea Neighbourhood Plan to local referendum. Following a successful referendum, a neighbourhood plan becomes part of the development plan. Not to move to referendum would halt progress on the Neighbourhood Plan and it becoming part of the development plan.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is option A and the Committee agrees to move the Boughton Monchelsea Neighbourhood Plan, as modified, to local referendum. If the local authority is satisfied that the statutory requirements have been met, then it is required to move the neighbourhood plan to referendum.
- 4.2 The Boughton Monchelsea Neighbourhood Plan has met the prescribed legislative requirements and there are no reasons to reject the examiner's proposed modifications. The modifications ensure that the policies are compliant with national policy and in general conformity with the strategic policies of the adopted local plan.
- 4.3 Following a successful referendum, a neighbourhood plan becomes part of the development plan. Where a local plan authority agrees to send a neighbourhood plan to referendum, the plan will be given

significant weight in decision making. The Neighbourhood Planning Protocol was recently updated, and a post examination neighbourhood plan is a significant material consideration. To not move the plan to local referendum would prevent any further progress and could compromise the good working relationship that officers have with Boughton Monchelsea Parish Council.

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 paragraphs 3.1 to 4.3. 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 Boughton Monchelsea Neighbourhood Plan has been subject to two rounds of formal public consultation, and the representations have been submitted to an independent examiner for consideration. The representations, including those submitted by the Borough Council, have helped to shape the neighbourhood plan.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 The decision of this Committee will be published on the Maidstone Borough Council's website. 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.

8. REPORT APPENDICES

Appendix 1: Boughton Monchelsea Neighbourhood Plan

9. BACKGROUND PAPERS

Background Document 1: Examiner's report on the Boughton Monchelsea Neighbourhood Plan

<https://localplan.maidstone.gov.uk/home/documents/neighbourhood-plans/boughton-monchelsea/r17-examination/Boughton-Monchelsea-NDP-Examiner-Final-Report-171220.pdf>