

MAIDSTONE BOROUGH COUNCIL

**PLANNING, TRANSPORT AND DEVELOPMENT OVERVIEW &
SCRUTINY COMMITTEE**

MONDAY 3 NOVEMBER 2014

REPORT OF HEAD OF PLANNING & DEVELOPMENT

Report prepared by Sarah Anderton

1. NEIGHBOURHOOD PLANNING UPDATE

1.1 Issue for Consideration

1.1.1 To consider the progress being made with Neighbourhood Plans in the borough and the measures being put in place to improve the support being given to parish councils and neighbourhood plan groups by the Council.

1.2 Recommendation of Head of Planning & Development

1.2.1 That the Committee considers the improvement measures set out in paragraphs 1.3.19 to 1.3.24 of this report; and

1.2.2 That the Committee considers the amendment to the decision making arrangements set out in paragraph 1.3.28 to 1.3.30 of this report.

1.3 Reasons for Recommendation

Introduction

1.3.1 The Localism Act 2011 (the Act) empowers local communities to take responsibility for the preparation of aspects of planning policy for their area through a Neighbourhood Development Plan. The National Planning Policy Framework (NPPF) states that "neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need"¹.

1.3.2 Crucially, a neighbourhood plan becomes part of the Development Plan once it is adopted. It will have statutory weight in the

¹ Paragraph 183

council's decisions on planning applications. Planning legislation requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise². There is a duty on the council to provide advice or assistance to those preparing neighbourhood plans³.

1.3.3 Emerging plans, including emerging neighbourhood plans, may be given weight in the determination of planning applications. The degree of weight that may be given will be dependent on how far advanced the plan is, the extent of objections to the plan and its consistency with the NPPF⁴.

1.3.4 In overview, the steps in the preparation of a neighbourhood plan are as follows:

Stage	Regulation ⁵
Designation of the neighbourhood area. This is the area which the plan will cover	Regulation 5,6,7
Neighbourhood group prepares a draft plan	
Neighbourhood group undertakes 6 week public consultation on the draft plan, with publicity co-ordinated by MBC.	Regulation 14
Neighbourhood group submits the finalised plan to MBC. MBC issues a decision notice to confirm whether the legal requirements have been met.	Regulation 15
MBC co-ordinates formal public consultation on the plan for at least 6 weeks.	Regulation 16
Examination by an independent Inspector	Regulation 17
Based on Examiner's report, MBC determines whether to approve/reject the plan with/without modifications.	Regulation 18
Referendum held and, if the outcome is positive, MBC adopts the Plan.	Regulation 19,20

1.3.5 The various duties and responsibilities placed on the Council by the Regulations can be summarised as follows:

- Providing technical advice and support to those preparing neighbourhood plans;
- Checking that the plan meets all the technical and legal requirements;
- Publicising the Plan and receiving representations;
- Organising and paying for the examination including appointing an examiner;
- Organising and paying for the referendum.

² Planning & Compulsory purchase Act 2004 section 38(1).

³ Town & Country Planning Act 1990 (as amended) paragraph 3, schedule 4B.

⁴ NPPF paragraph 216

⁵ Neighbourhood Planning (General) Regulations (2012)

- 1.3.6 With respect to the technical and legal requirements, the Planning Advisory Service (PAS) has produced a useful checklist⁶ for local authorities to use when checking whether the submitted plan has met its legal requirements (see Regulation 15 in the table above).
- 1.3.7 A neighbourhood plan must pass an examination before it can go forward to a referendum and thereafter be adopted. It is the examiner's role to test whether the plan meets the specified 'basic conditions' that the plan:
1. Has had regard to national policy and guidance from the Secretary of State;
 2. Contributes to sustainable development;
 3. Is in general conformity with the adopted strategic policies of the development plan for the area or any part of that area; and
 4. Does not breach or is otherwise compatible with EU obligations (including the Strategic Environmental Assessment Directive).
- 1.3.8 The plan must also be a genuine land use plan with policies which relate to the development and use of land. This would not include statements which simply relate to the community's aspirations or objectives; policies should be capable of being applied in the determination of planning applications.
- 1.3.9 Plans should also be supported by a proportionate evidence base. The evidence base supporting the emerging Local Plan is extensive and neighbourhood groups can make use of this evidence in determining how borough needs will be delivered at the local level.
- 1.3.10 The focus of the council's advice to neighbourhood groups should relate to whether the emerging plan meets the basic requirements. This is where the council's input can be of the greatest value as these are the matters which will determine the success of the plan at examination.

General conformity

- 1.3.11 One of the basic conditions is that a neighbourhood plan must be in general conformity with the strategic policies of the development plan. For this borough, the development plan comprises:
- saved policies of the adopted Maidstone Borough-wide Local Plan (2000)
 - Open Space DPD (2006); Affordable Housing DPD (2006) and
 - saved policies in the adopted Kent Waste Plan and specific Kent minerals plans (KCC)

⁶ A Guide for Councils: meeting your authority's legal requirements for Neighbourhood Development Plans, PAS (November 2013)

- 1.3.12 For clarity, the policies from these documents which are both strategic and have a degree of consistency with the NPPF have been identified and are listed on the council's website. These are the policies with which a neighbourhood plan must be in general conformity.
- 1.3.13 It is not an absolute requirement for a neighbourhood plan to be in conformity with the emerging Local Plan. It is nonetheless clear that the emerging strategic policies and priorities, and importantly the substantial evidence which underpin them, are relevant to neighbourhood plans, particularly if the neighbourhood plan is to have a lifespan after the adoption of the Local Plan. A neighbourhood plan which provides additional detail to help shape the development proposed in the emerging Local Plan could be particularly valuable.

Progress of neighbourhood plans in the borough

- 1.3.14 The schedule at Appendix A sets out the position for each of the parish councils/neighbourhood forums intending to prepare a neighbourhood plan.
- 1.3.15 A total of 14 parishes/groups have started the process of preparing a neighbourhood plan. Three plans (Coxheath, Harrietsham and North Loose) have reached the formal 'submission' stage and officers are prioritising meetings with these groups to identify issues and to offer advice on a way forward.

MBC's Actions

- 1.3.16 It can be seen from the list in Appendix A that there has been significant level of interest from parish councils, plus one neighbourhood forum, in preparing neighbourhood plans.
- 1.3.17 What has become apparent is that, in the face of the clear priority to progress the Local Plan, there have been shortcomings in the delivery of key advice at the right time by officers to the groups preparing plans. For some (Coxheath and Harrietsham in particular), advice was given verbally but not followed up with timely written feedback which would have provided a clear audit trail. Overall, this has resulted in significant inconvenience and frustration for local groups. For some, abortive work has been undertaken which now needs to be rectified resulting in delay and additional costs for the groups involved. Steps are needed to re-establish the scope and timing of the officer-level advice and support to the local groups in a way which is both fit for purpose

whilst still enabling the timetable for the Local Plan to be maintained.

- 1.3.18 The following measures have been taken to improve and focus the support that officers are providing for local groups:
- 1.3.19 Consultant advice: an expert planning consultant has been appointed to advise on Local Plan conformity issues on the plans which have reached draft plan stage. Draft Plans must also be screened to determine whether their content triggers the need for a Strategic Environmental Assessment (SEA). The consultant is leading the preparation of the screening opinions for all the plans which have reached draft plan stage.
- 1.3.20 Guidance notes: to assist neighbourhood groups, guidance notes have been prepared setting out the council's involvement at key stages in the neighbourhood plan preparation process. These guidance notes have been published on the neighbourhood planning section of the website and cover the following topics:
- a) Flowchart showing the steps in the neighbourhood plan preparation process;
 - b) Strategic Environmental Assessment and Sustainability Appraisal; and
 - c) Conformity with adopted strategic development plan policies (this note includes the list of strategic development plan policies).
- 1.3.21 Feedback on emerging neighbourhood plans: as set out above, meetings are being held with the parishes/groups which are furthest advanced to advise on compliance with the legal requirements.
- 1.3.22 Communication: it is considered important that there are clearer lines of communication between the neighbourhood planning groups and the Spatial Policy team and that the team is sufficiently resourced to provide proportionate and timely support. To achieve this, Rachel Elliot (Planning Officer) will continue to be the first point of contact in the team for neighbourhood planning matters. In addition, senior support and oversight will be provided by Jillian Barr (Principal Planning Officer) with Sue Whiteside (Team Leader) taking the overall lead. The role of the planning consultant also provides some resilience against resourcing conflicts between the Local Plan timetable and neighbourhood plan demands.
- 1.3.23 Also relevant is the current cycle of meetings which the Cabinet member for Planning, Transport and Development and Spatial Policy officers are having with all the parish councils, resident and

campaign groups. Whilst the focus of these meetings has been the Local Plan, there has also been the opportunity for neighbourhood plan matters to be discussed. The Cabinet Member is keen that this level of dialogue continues.

- 1.3.24 Those groups progressing neighbourhood plans will also be encouraged to share an early draft of the plan with officers, prior to it being published for its first stage of consultation (Regulation 14). This will enable issues that may affect the success of the plan to be identified early, at a point when they can be addressed without prejudicing the progress of the plan. Plans are most likely to meet legal requirements and the 'basic conditions' if there is discussion with officers at an early stage.

Budget position

- 1.3.25 At its meeting on 13th June 2012, Cabinet considered the arrangements for neighbourhood planning in the borough. As part of its consideration, Cabinet agreed a budget of £40k for direct funding support for groups undertaking neighbourhood planning. Grants have been awarded to Boughton Monchelsea, Staplehurst, Coxheath, Harrietsham and Broomfield & Kingswood parish councils and North Loose Residents Association. At the time of writing, a balance of some £27,000 from this allocation remains available.

- 1.3.26 Over the past two financial years, local authorities have been able to apply to the government for grants in recognition of the duties that local authorities have in relation to neighbourhood planning. To date, MBC has received some £35k. This money could be reserved to contribute to the costs of forthcoming neighbourhood plan examinations and the subsequent referendums which will fall to this council to fund. There is no certainty about how long the government will continue to offer these grants.

Decision-making process

- 1.3.27 In June 2012 Cabinet agreed a framework for decision-making at key stages in the plan preparation process. The agreed framework is reproduced below.

	Stage	Decision method	Decision taker
1	Designation of the neighbourhood area (Regulations 6/7)	Internal consultation with ward members/ adjoining ward members	If officer view is to approve, and there is no contrary Member view, decision delegated to officers. If officer and/or Member

	Stage	Decision method	Decision taker
			view is to refuse, refer decision to Cabinet Member*.
2	Designation of neighbourhood forum (if no Parish Council) (Regs 8/9/10)	Internal consultation with ward members/ adjoining ward members	If officer view is to approve, and there is no contrary Member view, decision delegated to officers. If officer and/or Member view is to refuse, refer decision to Cabinet Member*.
3	MBC consulted on draft neighbourhood plan/neighbourhood development order/community right to build order (Reg 14/21)	Internal consultation with ward members/ adjoining ward members/Cabinet Member [NB parish/forum is responsible for consulting neighbouring authorities, including adjoining parishes and KCC, on its plan/order]	Cabinet Member Report* to consider MBC comments on draft plan/order
4	Decision to approve/reject/modify the plan/order post Examiners Report (Reg 18/25)	Cabinet Report	Cabinet*
5	Decision to adopt plan/order post Referendum (Reg 19/20/26/27)	Cabinet Report	Cabinet* then Full Council

* subject to normal call in procedures.

1.3.28 This agreed framework does not provide for a formal council response to the submitted version of the plan (Regulation 16). On reflection, it is considered important that the council makes a response at this formal stage and that this response has the weight of a Cabinet Member decision. The Examiner will want to know whether the council, as the local planning authority, is in agreement or not with the plan as it has been submitted and this can best be done through a response during this formal consultation stage.

1.3.29 It is therefore proposed that the following stage be inserted inbetween stages 3 and 4 in the decision making framework:

3a	MBC consulted on submission version of the neighbourhood plan (Reg 16)	Internal consultation with ward members/ adjoining ward members/Cabinet Member	Cabinet Member Report* to consider MBC comments on submission draft plan.
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1.3.30 Subject to this Committee’s views on this suggested change, it is proposed that a short report be prepared for Cabinet seeking agreement to this addition to the decision making process for neighbourhood plans.

1.4 Alternative Action and why not Recommended

1.4.1 In view of the community interest in neighbourhood planning, it is considered important that progress and actions be set out and discussed in this public forum.

1.5 Impact on Corporate Objectives

1.5.1 The way the Council supports neighbourhood planning will have an influence on the objective to make Maidstone a decent place to live.

1.6 Other Implications

1.6.1

1.	Financial	X
2.	Staffing	X
3.	Legal	X
4.	Equality Impact Needs Assessment	
5.	Environmental/Sustainable Development	
6.	Community Safety	
7.	Human Rights Act	
8.	Procurement	

9. Asset Management

1.6.2 Financial, staffing and legal impacts are set out in the body of the report.

1.7 Relevant Documents

1.7.1 Appendices

Appendix A – neighbourhood plans progress.

1.7.2 Background Documents

None.

<u>IS THIS A KEY DECISION REPORT?</u>		<u>THIS BOX MUST BE COMPLETED</u>	
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If yes, this is a Key Decision because:			
.....			
Wards/Parishes affected:			
.....			