

**Loose Neighbourhood Plan**

<b>Final Decision-Maker</b>	Strategic Planning and Infrastructure Committee
<b>Lead Head of Service/Lead Director</b>	Rob Jarman, Head of Planning and Development
<b>Lead Officer and Report Author</b>	Anna Houghton, Planning Officer – Strategic Planning
<b>Classification</b>	Public
<b>Wards affected</b>	South, Boughton Monchelsea and Chart Sutton, Coxheath and Hunton, and Loose

**Executive Summary**

The Loose Neighbourhood Development Plan was examined by an independent Examiner, who recommended that, subject to modifications, the Neighbourhood Plan proceed to 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. Therefore, this report is required to approve the Loose Neighbourhood Development Plan for referendum (Appendix 1). This is the final stage of the Neighbourhood Plan preparation process before, following a successful referendum, the Plan is made (adopted) and forms part of the Development Plan.

**This report makes the following recommendations to Strategic Planning and Infrastructure Committee**

That:

1. The modifications to the Loose Neighbourhood Development Plan as set out in the Examiner's report be agreed.
2. The minor modifications agreed with Loose Parish Council, as set out in paragraph 1.14 of this report, be agreed.
3. The Loose Neighbourhood Development Plan proceeds to referendum.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Strategic Planning and Infrastructure	25 June 2019

# Loose Neighbourhood Plan

## 1. INTRODUCTION AND BACKGROUND

- 1.1 The Neighbourhood Planning Protocol was approved by the Strategic Planning, Sustainability and Transportation Committee on 10 July 2018 (Background Document 2). The protocol sets out the various tasks to be undertaken at each neighbourhood plan making stage, identifies who is responsible for completing the tasks, and delegates authority to the Head of Planning and Development for decision making at certain regulatory stages. For the most part, decision making responsibilities set out in the protocol align with the Council's Constitution. However, the Constitution gives the Head of Planning and Development delegated authority to approve the Council's response to a Regulation 16 consultation on a neighbourhood plan, and to make the decision to move (or otherwise) a neighbourhood plan to referendum (Regulation 17A). In both cases the protocol seeks a Committee decision. The Head of Planning and Development has considered the agreed protocol in the context of the Constitution, and he elected not to use his delegated authority at Regulations 16/17A because it is important that the Committee the opportunity to have input into a document that becomes part of the Maidstone Development Plan.
- 1.2 Following designation as a Neighbourhood Plan Area in 2013, Loose Parish Council have prepared a neighbourhood plan. There are various stages in the neighbourhood planning process as outlined by the Neighbourhood Planning (General) Regulations 2012. Neighbourhood plans are subject to two rounds of mandatory public consultation, independent examination, and local referendum before being 'made' (adopted) by the local authority.
- 1.3 The Loose Neighbourhood Plan was subject to public consultation on the pre-submission version (Regulation 14) in 2016. Following the consultation and consideration of submitted representations, including a representation from the Council, the Neighbourhood Plan was amended before submission in July 2018. The Neighbourhood Plan was subject to further consultation on the submission version (Regulation 16) from 2<sup>nd</sup> November 2018 to 14<sup>th</sup> December 2018.
- 1.4 A report was presented to Strategic Planning, Sustainability and Transportation Committee in December 2018 to agree the Council's response to the Submission Regulation 16 Consultation. The response was split into two parts, firstly considering the Council's role as the local planning authority and secondly as a landowner. As the local planning authority, the Council supported the Neighbourhood Plan.

- 1.5 The submission version Neighbourhood Plan designated areas of land as Local Green Space (LGS). Local Green Space designation within a neighbourhood plan allows communities to protect green space of importance. The designation of LGS must meet the following NPPF criteria:
- a. "In reasonably close proximity to the community it serves;
  - b. Demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
  - c. Local in character and is not an extensive track of land."
- 1.6 Policies for managing developments within a Local Green Space should be consistent with those for Green Belts (NPPF, paragraph 101). Among the designated LGS was Council owned land known as Field to the rear of Herts Crescent and McAlpine Close (policy LP5). As a landowner, the Council objected to the designation of the site in such a way. It was considered that the designation was too inflexible, with the designation of the land as LGS preventing the land from being used for the benefit of the whole Borough's residents.
- 1.7 The Neighbourhood Plan has met the prescribed requirements of Regulation 14, Regulation 15 and Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended). The Loose Neighbourhood Plan has now reached the referendum stage, following examination by an independent examiner in March 2019. Mr Derek Stebbing was appointed by the Borough Council, with the agreement of the Parish Council, to undertake the examination of the Loose Neighbourhood Development Plan. On 25<sup>th</sup> March 2019, the Borough Council received the examiner's report in which he recommended that, subject to modifications, the Neighbourhood Plan proceed to referendum (Background Document 1).

### **Examination**

- 1.8 When examining the Neighbourhood Plan the Examiner's role is to determine:
- Whether the Plan meets the Basic Conditions;
  - Whether the Plan complies with the Planning and Compulsory Purchase Act 2004 (as amended);
  - Whether the Plan complies with the Neighbourhood Planning (General) Regulations 2012.

1.9 The role of the local authority under Regulation 24A<sup>1</sup> is to decide what action to take in response to each recommendation made by the Examiner's report. Regulation 25<sup>2</sup> requires that the local authority must publish their decision on what action they are to take in relation to the Examiner's recommendations along with a copy of his report. This includes any modifications it believes should be made to the Neighbourhood Plan which may or may not have been recommended by the Examiner.

1.10 To proceed to referendum, a local planning authority must be satisfied that a neighbourhood plan meets the basic conditions outlined in paragraph 8(2) of Schedule 4B to the Town and Planning Act (1990). The basic conditions are met if:

- The neighbourhood plan has regard to national policies and advice contained in guidance issued by the Secretary of State;
- 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;
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
- 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 plans.
- Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This 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 Regulations 2017<sup>3</sup>.

1.11 The Loose Neighbourhood Plan has been assessed against the basic conditions, and it is considered that they have been met.

### **Proposed Modifications and Conclusions**

1.12 The Examiner considered that, subject to modifications, the Neighbourhood Plan should proceed to referendum. In making his recommendations, the Examiner had given consideration to the NPPF; PPG; the consultation statement; the basic conditions statement; the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report; and representations made.

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<sup>1</sup> The Neighbourhood Planning (General) Regulations 2012

<sup>2</sup> The Neighbourhood Planning (General) Regulations 2012

<sup>3</sup> This revised 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.

1.13 The Examiner has proposed 14 modifications to the Neighbourhood Plan to ensure the Plan meets the Basic Conditions which are outlined in the Examiner's report (Background Document 1). In summary the modifications do not alter the direction of the Neighbourhood Plan, and provide clarity, ensure policies and text are compliant with relevant legislation, the Maidstone Borough Local Plan and the NPPF, and provide factual amendments. It is worth noting that proposed modification PM10 requires the removal of Field to the rear of Herts Crescent and McAlpine Close from Policy LP5. The modifications have been incorporated into the Neighbourhood Plan which is attached at Appendix 1 and will be subject to referendum.

1.14 A number of additional minor factual updates that do not affect the policies of the plan have been agreed with the Parish Council. These have also been incorporated into the plan attached at Appendix 1. The table below lists the minor modifications.

<b>Page No</b>	<b>Paragraph /Policy</b>	<b>Change</b>	<b>Origin of change</b>
6	1.1	Remove "This Submission version" to read "The Loose Neighbourhood Plan 2018-2031 has been prepared..."	Parish Council change
7	1.7	Replace "is being" with "was" to read "In Loose, the preparation of the neighbourhood plan <b>was</b> led by a steering group..."	Parish Council change
7	1.8	Amended to read "There was an ongoing dialogue between Loose Parish Council and Maidstone Borough Council during the preparation phase to ensure the neighbourhood plan policies conform with national and local policy, as required by the regulations."	Parish Council change
7		Amend top of column 2 to read "Progress 2013 - 2019"	Parish Council change
7	1.13	Line 5 = Changed received to receive Last line = Changed this to the	Parish Council change
8	1.21	Final sentence amended to read "This material became the basis for the draft plan."	Parish Council change
9	1.25	Line 3 = Changed and to which Line 5 = Changed was to were	Parish Council change
9	1.27	Line 4 = Removed been Last line = "Responses to the Pre-Submission Consultation Draft Plan were used to inform the Submission Plan."	Parish Council Change
9	1.29	New paragraph at 1.29 added "Examination 1.29 In March 2019, the Loose Neighbourhood Plan passed independent examination, subject to a series of	Parish Council change

		recommendations. These recommendations have been enabled to create this final version of the plan”.	
9	1.30	1.29 renumbered to 1.30 and final sentence amended to read “All these communications have invited opportunities for further feedback.”	Parish Council change
12	2.1	Line 4 = Changed stream to Stream	Parish Council change
12	2.5	Line 4 = Changed from “...parish, the housing stock....” to “...parish. The housing stock....”	Parish Council change
14	2.13	Line 3 = delete comma	Parish Council change
15	2.20	Amended references to Maidstone Borough Local Plan policies to read <ul style="list-style-type: none"> <li>- SP17 Countryside</li> <li>- SP18 Historic Environment</li> <li>- SP20 Affordable Housing</li> <li>- DM3 Natural Environment</li> <li>- DM4 Development Affecting Designated &amp; Non-Designated Heritage Assets</li> </ul>	Agreed proposed change
27	Policy AM1	Supporting text – “Between” removed	Parish Council change
29	5.12	Amended text to read: “The neighbourhood plan intends to support the maintenance of existing routes as a benefit to the Parish and make improvements to the PRow network, and to Kent County Council’s Rights of Way Improvement Plan 2018-2028 (ROWIP).”	Agreed proposed change
30	5.21	Removed “between”	Parish Council change
48	6.44	Reference to Figure 12 added	Parish Council change
65		Paragraphs 8.1 to 8.4 under Next steps removed  “Further Information” now reads “Contact details”	Parish Council Changes

1.15 As set out in paragraph 1.9 above Maidstone Borough Council as the local planning authority are required by the Neighbourhood Planning (General) Regulations 2012 to make a decision on what action to take in response to the examiner’s recommendation. In accordance with the agreed Neighbourhood Planning Protocol it is for this Committee to make a decision on whether to accept the Examiner’s report including any recommended modifications, to decline the report, or to accept the report and

recommended modifications along with any further modifications it considers necessary.

- 1.16 If the local authority considers that the Neighbourhood Plan meets the required basic conditions, is compatible with the European Convention on Human Rights and complies with statutory requirements set out in the Town and Country Planning Act 1990 (as amended), or would do so if modifications are made (whether or not recommended by the Examiner)<sup>4</sup> it must put the Neighbourhood Plan to a local referendum.
- 1.17 Where more than 50% of those who cast their vote approve the Neighbourhood Plan the local authority must then 'make' the Neighbourhood Plan which will then form part of the Development Plan for the local authority and will be used in the consideration of planning applications the Local Plan area.

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## **2. AVAILABLE OPTIONS**

- 2.1 Option A: The Committee agree the recommended modifications outlined in the Examiner's report and summarised in this report, together with the factual updates to the Neighbourhood Plan agreed with the Parish Council, and move the Neighbourhood Plan to local referendum.
- 2.2 Option B: The Committee agree to decline the Examiner's report and move to local referendum without any modifications being made to the Neighbourhood Plan.
- 2.3 Option C: The Committee do not agree to move the Neighbourhood Plan to a local referendum. This would prevent any further progress to the current neighbourhood plan. This could potentially compromise the good working relationship that has been built between the Strategic Planning Team and the Parish Council and would require the publication of the reasons for the decision which would then be open to challenge. There would be certain statutory steps that would need to be undertaken to notify the Parish Council and other prescribed persons and as set out in Schedule 4B paragraphs (10) – (13).

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<sup>4</sup> Town and Country Planning Act 1990 Schedule 4B paragraph 12(4)

### **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.1 The Committee is recommended to agree to Option A and approve the proposed modifications to the Neighbourhood Plan and move forward to referendum. The Neighbourhood Plan has met prescribed legislative requirements and there are no reasons why the Plan should not move to referendum. Following a successful referendum and decision by Full Council to 'make' the Neighbourhood Plan, it will become part of the Development Plan. The Development Plan guides the decision-making process on development.
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### **4. RISK**

- 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 paragraphs 2.3 and 3.1. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The Neighbourhood Plan has been subject to two public consultations. Representations made at Regulation 14 and Regulation 16 consultations have been considered by the Examiner in his report.
- 5.2 At its meeting in December 2018, SPST Committee resolved that: "The Loose Neighbourhood Plan be supported and an appropriate response be made by the Head of Planning and Development."
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### **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 Strategic Planning will publicise this Committee's decision on the Maidstone Borough Council website and notify those individuals who requested to be notified of the decision.

- 6.2 Strategic Planning will work with colleagues in Electoral Services to arrange the local referendum in accordance with the Neighbourhood Planning (Referendums) Regulations 2012.
- 6.3 Subject to the result of the referendum, a report will be brought back to this Committee setting out the results, and where this a successful referendum, seeking a recommendation to Full Council to make the plan.

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, if 'made' the Neighbourhood Plan will form part of the Development Plan. This will assist in the delivery of the Council's objectives.	Rob Jarman
<b>Risk Management</b>	Section 4 sets out the risks associated with not moving the Neighbourhood Plan to local referendum.	Rob Jarman
<b>Financial</b>	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
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Rob Jarman
<b>Legal</b>	Accepting the recommendations will fulfil the Council's duties under the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning (General) Regulations 2012 (as amended).	Cheryl Parks Mid Kent Legal Services (Planning)
<b>Privacy and Data Protection</b>	Any data held by the Council for the purposes of Neighbourhod Planning is done so in line with the Council's data protection policies and the GDPR.	Cheryl Parks Mid Kent Legal Services (Planning)

<b>Equalities</b>	An The Council has a responsibility to support communities in developing a Neighbourhood Plan. The Neighbourhood Planning process provides an opportunity for communities to develop a plan that meets the housing need of its population.	Equalities and Corporate Policy Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Rob Jarman
<b>Crime and Disorder</b>	There are no implications for Crime and Disorder	Rob Jarman
<b>Procurement</b>	There are no procurement requirements	Head of Service & Section 151 Officer

## 8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Loose Neighbourhood Plan

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## 9. BACKGROUND PAPERS

- Background Document 1: Report on Loose Neighbourhood Plan 2018 – 2031 (Examiner’s report):  
[https://www.maidstone.gov.uk/\\_data/assets/pdf\\_file/0007/269656/Loose-Neighbourhood-Plan-Examiner-Report.pdf](https://www.maidstone.gov.uk/_data/assets/pdf_file/0007/269656/Loose-Neighbourhood-Plan-Examiner-Report.pdf)
- Background Document 2: Neighbourhood Planning Protocol  
<https://meetings.maidstone.gov.uk/documents/s61500/Appendix1%20Neighbourhood%20Planning%20Protocol.pdf>