

**STRATEGIC PLANNING,
SUSTAINABILITY AND
TRANSPORTATION COMMITTEE**

10 July 2018

Neighbourhood Planning Protocol

Final Decision-Maker	Strategic Planning, Sustainability and Transportation Committee
Lead Head of Service/Lead Director	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 this Committee approved a protocol for neighbourhood planning at its meeting on 18 April 2016, there have been a number of changes to neighbourhood planning legislation and to the Council's practices for processing neighbourhood plans. As a consequence, this report seeks the Committee's approval of a revised protocol for neighbourhood planning (attached at Appendix 1).

This report makes the following recommendations to this Committee:

1. That the Committee approves the revised protocol for neighbourhood planning attached at Appendix 1.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transportation Committee	10 July 2017

Neighbourhood Planning Protocol

1. INTRODUCTION AND BACKGROUND

- 1.1 This Committee approved a protocol for neighbourhood planning at its meeting on 18 April 2016. Since then, there have been a number of changes to neighbourhood planning and related legislation¹ and to the Council's practices for processing neighbourhood plans. As a consequence, this report seeks approval of a revised protocol (attached at Appendix 1).
- 1.2 The Council's policy for supporting neighbourhood planning groups is included in the emerging consultation draft of its Statement of Community Involvement (SCI). The draft SCI also explains how and when 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, sets out detailed actions for each regulatory stage and, equally important, includes the decision making processes for each stage.
- 1.3 Recent key legislative changes to the process of making neighbourhood plans include:
- a. A simplified process for modifying neighbourhood plans where the modification does not have a significant or substantial impact on the plan. Where there is a significant or substantial impact, the modification proposal is subject to the same regulations as the making of a neighbourhood plan.
 - b. If a parish council submits an application seeking the designation of the whole of its parish area as a neighbourhood plan area, then there is no longer a requirement to undertake public consultation on the application.
 - c. A requirement for the Council to undertake a 6-week consultation on a decision it may take that is contrary to an Examiner's report recommendations.
 - d. The inclusion of additional prescribed dates within which regulatory requirements must be met. These are set out in the protocol.
- 1.4 The primary change to the Council's practices for processing neighbourhood planning is that consultancy support is no longer in place. Consequently, certain support for parish councils or neighbourhood forums, the assessment of plans for conformity with local and national policies, and preparation of the environmental assessment screening report² are tasks that are now additionally undertaken by the Strategic Planning team. The Electoral Services team carries out the referendum.
- 1.5 There are no proposed changes to the decision making arrangements previously approved by this Committee. These were put in place to ensure that democratic decision processes were not an obstacle to the making of

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

² Strategic Environmental Assessment and/or Habitats Regulations Assessment

neighbourhood plans. The delegated authority given to the Head of Planning and Development for the early stages of plan preparation have undoubtedly helped to streamline the process, improving efficiency.

- 1.6 A procurement waiver³ to make use of Intelligent Plans and Examinations (IPE) in addition to Neighbourhood Planning Independent Examiner Referral Service (NPIERS) to select candidate examiners for neighbourhood plans was approved by the Director of Finance and Business Improvement on 8 March 2017. This will offer a greater selection of candidates and should improve timescales for completing examinations on neighbourhood plans, which have proved problematic in the past.
- 1.7 Neighbourhood planning is very active in Maidstone. The Committee will be aware that there are two made (adopted) neighbourhood plans for North Loose and Staplehurst. Recent activity and engagement with parish councils and the neighbourhood forum is set out in the following table.

Neighbourhood Area	Progress
Boughton Monchelsea	Officer informal comments submitted on an early draft plan. Public consultation on a draft pre-Regulation 14 plan commenced May 2018. Formal consultation (Regulation 14) imminent.
Lenham	Officer informal comments submitted on an early draft plan. Public consultation on a draft pre-Regulation 14 plan completed September 2017. Consultants appointed to undertake an SEA/HRA ⁴ . Consultants appointed to undertake a transport study ⁵ . Formal consultation (Regulation 14) expected before the end of the year.
Loose	Public consultation on a Regulation 14 draft plan completed. Officer informal comments submitted on an early submission draft plan. Submission (Regulation 15) imminent.
Marden	Officer informal comments submitted on an early draft plan. Parish Council is consulting on its Regulation 14 draft plan 9 June to 21 July 2018. MBC's representation to be submitted via delegated authority in accordance with the protocol.
North Loose	Following the expiry of the neighbourhood forum designation after 5 years, no objections to the application for re-designation were received during public consultation. Application approved under delegated authority on 20 June 2018.
Otham	Neighbourhood Area designated 1 August 2017. Early stages of plan preparation.
Sutton Valence	Officer informal comments submitted on an early draft plan. Formal consultation (Regulation 14) imminent.

³ In accordance with section 13.1.4 of the Council's Contract Procedure Rules

⁴ MBC secured a support package for this purpose via HGLG neighbourhood planning grant funding.

⁵ MBC secured HCA grant funding for this purpose.

Tovil	Neighbourhood Area designated 12 December 2017. Early stages of plan preparation.
Yalding	Neighbourhood Area designated 19 April 2018. Early stages of plan preparation.

- 1.8 The processing of neighbourhood plans is managed within existing staff resources. Ongoing liaison with parish councils or neighbourhood forums who are 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.
- 1.9 There is a dedicated budget for neighbourhood planning which is grant funded by HCLG. Under current funding arrangements, the Council cannot receive a grant for designating a neighbourhood area because a threshold of five areas has been exceeded. The Council can claim:
- £20,000 once the Council has set a date for a referendum following a successful examination where a neighbourhood plan has not previously been made for that area.
 - £5,000 only for the first five neighbourhood forums the Council designates. The limit of five forums applies to the total number of areas designated in the borough (i.e. it includes claims made in the past for forums designated) and includes the re-designation of forums.
 - £10,000 after a revised plan making material modifications (requiring a new examination but no new referendum for a neighbourhood plan) passes its examination and is adopted by the Council. Once a claim for a modified neighbourhood plan has been submitted, further claims for revisions to that specific neighbourhood plan will be restricted to one every 5 years.
 - £20,000 after a revised plan making a more substantive ('Major') material modifications (requiring a new examination and new referendum to be held for a neighbourhood plan) passes its examination with the setting of a new referendum date by the Council. Once a claim for a modified neighbourhood plan has been submitted, further claims for revisions to that specific neighbourhood plan will be restricted to one every 5 years.
 - Further grants are available for the designation of business areas and making of an NDO or a CRtBO⁶. None are proposed at present.
- 1.10 This report is recommending that the Committee approves the revised neighbourhood planning protocol attached at Appendix 1.

2. AVAILABLE OPTIONS

- 2.1 Option A: The Committee could decide not to approve the revised protocol for neighbourhood planning attached at Appendix 1. The protocol would not then align with regulatory changes or reflect the changes in practice regarding the management and processing of neighbourhood plans. This option would diminish the value of the protocol.

⁶ Neighbourhood Development Orders (NDO) and Community Right to Build Orders (CRtBO)

- 2.2 Option B: The Committee could decide to approve the revised protocol for neighbourhood planning attached at Appendix 1.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 Option B is recommended so that the neighbourhood planning protocol (attached at Appendix 1) aligns with regulatory changes and stages of plan production, and reflects the changes in practice regarding the management and processing of neighbourhood plans.
- 3.2 Statutory requirements for neighbourhood plan making will prevail if there is a conflict with the Council's neighbourhood planning protocol. There are no proposed changes to the decision making processes set out in the previously agreed protocol. However, 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.

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

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 If approved, the neighbourhood planning protocol will be circulated to all ward Councillors, parish councils and the neighbourhood forum for information.

6. 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
Risk Management	The risks associated with this	Rob Jarman,

	proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.	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	We will deliver the recommendations with our current staffing.	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.	Cheryl Parks, Mid Kent Legal Services (Planning)
Privacy and Data Protection	Accepting the recommendations will not increase the volume of data held by the Council.	Cheryl Parks, Mid Kent Legal Services (Planning)
Equalities	N/A	[Policy & Information Manager]
Crime and Disorder	N/A	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 and Development [Section 151 Officer]

7. REPORT APPENDICES

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

- Appendix 1: Neighbourhood Planning Protocol
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8. BACKGROUND PAPERS

None