

# Lamberhurst Neighbourhood Development Plan

For Full Council on 06 October 2021

## Summary

**Lead Member:** Councillor Alan McDermott, Portfolio Holder of Planning and Transportation

**Lead Director:** Lee Colyer, Director of Finance, Policy and Development (s151 Officer)

**Head of Service:** Stephen Baughen, Head of Planning

**Report Author:** Deborah Dixon, Principal Planning Policy Officer

**Classification:** Public document (non-exempt)

**Wards Affected:** Goudhurst & Lamberhurst ward

Approval Timetable	Date
Management Board	22 September 2021
Full Council	6 October 2021

## Recommendations

This report makes the following recommendations to Full Council:

1. Following a favourable local Referendum result in relation to the use of the Lamberhurst Neighbourhood Development Plan (LNDP) to help in the determination of planning applications in the Parish Neighbourhood Area, that the Lamberhurst Neighbourhood Development Plan be formally 'made' (adopted) and become part of the statutory Development Plan for the area with immediate effect;
2. The Lamberhurst Neighbourhood Development Plan Decision Statement (post-Referendum) shown at Appendix A also be published; and
3. The Lamberhurst Neighbourhood Development Plan SEA Adoption Statement also be drafted and published shortly after the NDP is 'made'.

# 1. Introduction and Background

1.1 The Lamberhurst Neighbourhood Development Plan (LNDP) has been successful at examination, with the independent examiner recommending that the LNDP should proceed to referendum, subject to a number of recommended modifications.

1.2 The Report presented to Cabinet on 29 July 2021 set out the independent examiner's recommendations and the proposed amendments to be made to the LNDP, which were made with the involvement of Lamberhurst Parish

following receipt and consideration of the examiner's report. The following documents referred to in this report can be accessed via Item CAB42/21 of this Cabinet meeting at

<https://democracy.tunbridgewells.gov.uk/ieListDocuments.aspx?CId=118&MId=4953&Ver=4>:

- (pre-Referendum) Decision Statement
- Referendum version of the LNDP
- Examiner's Report

1.3 It was agreed by Cabinet to note the examiner's report dated 7<sup>th</sup> May 2021 and the recommended amendments, agree the (pre-Referendum) Decision Statement and progress the LNDP to referendum.

1.4 The version of the LNDP that was subject to Referendum reflects subsequent discussions between the parish council and TWBC planning officers.

## Background to the Lamberhurst Neighbourhood Development Plan (LNDP)

1.5 Lamberhurst Parish Council, as the Qualifying Body (QB), applied for Lamberhurst Parish to be designated a Neighbourhood Area under Part 2 of the Neighbourhood Planning (General) Regulations 2012. The area was designated on 18 December 2017.

1.6 Following consultation on a draft (pre-submission) Plan, the LNDP was submitted to the Borough Council on 7 October 2020. The LNDP and its supporting documents were publicised and representations invited. The period of formal consultation ran from 30 October to 11 December 2020. Independent examination followed and the Examiner, Mr. John Slater, published his report in May 2021, concluding that the LNDP, subject to certain modifications proposed in his report, did meet the basic conditions as set out in legislation and

is compatible with Schedule 4B of the Town and Country Planning Act 1990 and could therefore proceed to local referendum.

- 1.7 On 29 July 2021, the Borough Council resolved that the Neighbourhood Plan – Submission Plan (as amended in line with the Examiner’s proposed modifications) should proceed to local Referendum. This decision and a revised version of the LNDP, agreed by the Lamberhurst Parish Council (the QB) was published on TWBC website. The ‘referendum area’ was determined to be Lamberhurst Parish as recommended by the Examiner

## 2. The Referendum

- 2.1 A Referendum was held on 16 September 2021. The referendum question was ‘*Do you want Tunbridge Wells Borough Council to use the Neighbourhood Plan for Lamberhurst to help it decide planning applications in the neighbourhood area?*’ The designated neighbourhood area followed that of the Lamberhurst parish boundary
- 2.2 The results of the referendum were:
  - Yes = 321 (92.2%)
  - No = 27 (7.8%)
  - Unmarked or Void = 0 (0%)
  - Number of Votes = 348
  - Turnout = 27.6%

## 3. Conclusion

- 3.1 Paragraph 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 requires the Council to ‘make’ a Neighbourhood Plan if more than half of those voting in a referendum have voted in favour of the Plan being used to help to decide planning applications in the area. This needs to be achieved within eight weeks of the referendum result.
- 3.2 The Council has also assessed and concluded that the Plan, including its preparation, does not breach and would not otherwise be incompatible with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). This includes compliance with the newly introduced basic condition regarding compliance with the Habitat Regulations.
- 3.3 Therefore, it is proposed that Full Council be recommended to formally ‘make’ the LNDP with immediate effect. This will bring it into legal force.

- 3.4 The principal effect of this is that the LNDP will become part of the statutory 'development plan' for the area. Hence, planning applications within Lamberhurst Parish will be determined against the LNDP, alongside relevant Local Plan policies, also having regard to the National Planning Policy Framework.
- 3.5 The post-referendum decision to make the LNDP (**Appendix A**) will need to be publicised and notified to those who had asked to be advised. A statement setting out how environmental considerations (the SEA Adoption Statement) have been integrated into the Plan also needs to be published and consultees informed.

## 4. Appendices and Background Documents

Appendices:

- **Appendix A:** Lamberhurst Neighbourhood Development Plan Decision Statement (post-Referendum)

## 5. Cross Cutting Issues

### A. Legal (including the Human Rights Act)

Accepting the recommendations in this report 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) 17th September 2021

### B. Finance and Other Resources

There is no associated cost beyond those factored into the budget of Planning Services in organising the independent examination and meeting the independent examiner's invoiced costs. Tunbridge Wells Borough Council can claim **£20,000** from the government (Ministry of Housing, Communities and Local Government, MHCLG) once they have set a date for a referendum following a successful examination where a neighbourhood plan has not previously been made for that area. The referendum will be carried out by the borough council.

A claim for £20,000 has been made to the MHCLG by TWBC

*Jane Fineman, Head of Finance, Procurement and Parking 2021*

### C. Staffing

There are no staffing implications.

Anita Lynch, HR Manager 22 September 2021

### D. Risk Management

All risks associated with this report are within the Council's current risk appetite and managed in accordance with its risk management strategy.

*Stephen Baughen, Head of Planning 2021*

## **E. Environment and Sustainability**

No environmental and sustainability implications are identified. Section 3 of the Basic Conditions Statement submitted with the Draft Lamberhurst Neighbourhood Plan provides information to demonstrate how the Lamberhurst Neighbourhood Plan is in Conformity with Sustainable Development, [https://www.tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0007/375469/03BasicConditionsStatementLamberhurstNDP.pdf](https://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0007/375469/03BasicConditionsStatementLamberhurstNDP.pdf) and one of the roles of the independent examiner has been to consider whether the plan contributes to the achievement of sustainable development. The LNDP (when 'made') will form part of the borough's development plan, to be read alongside the Local Plan which contains policies to support the climate and biodiversity emergency.

*Stephen Baughen, Head of Planning 2021*

## **F. Community Safety**

No community safety issues arise as a result of this report

Section 17, Crime and Disorder Act 1998

Terry Hughes, Community Safety Manager 17 September 2021

## **G. Equalities**

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users. Furthermore, the Public Sector Equality Duty applies to parish councils: Lamberhurst Parish Council will be responsible for demonstrating due regard to this in the production of an NDP.

Abigayle Sankey, Corporate Governance Officer 17 September 2021

## **H. Data Protection**

Representations made to the Regulation 16 consultation cannot be treated in confidence. Regulation 22 and 35 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended, require copies of all representations to be made publicly available. The Council will publish names and associated representations on its website but will not publish personal information such as telephone numbers, emails or private addresses. All representations will be forwarded for consideration by the person appointed to carry out an examination of the Plan.

There is no identified risk to individuals' interests under the General Data Protection Regulation.

Article 5, General Data Protection Regulation 2016

*Jane Clarke, Head of Policy and Governance 2021*

## **I. Health and Safety**

No implications for Health and Safety.

Mike Catling, Corporate Health and Safety Advisor 17 September 2021

## **J. Health and Wellbeing**

No implications on any social, economic and environmental factors which impact on people's health and wellbeing.

Rebecca Bowers, Health Improvement Team 17 September 2021