

CABINET 2nd December 2021

Benenden Neighbourhood Development Plan

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 Officer

Classification: Public document (non-exempt)

Wards Affected: Benenden & Cranbrook ward

Approval Timetable	Date
Management Board	3 rd November 2021
Planning & Transportation CAB	15 th November 2021
Cabinet	2 nd December 2021

Recommendations

This report makes the following recommendations to Cabinet:

1. That the independent examiner's Report on the Benenden Neighbourhood Development Plan (BNDP) received on 31 August 2021 at **Appendix A** and the **Appendix B (Addendum)** be noted and published.
2. That the BNDP be modified in part as set out in **Appendix C**, according to the examiner's recommendations, following discussion with Benenden Parish Council.

3. That Cabinet agrees the publication of the Decision Statement at **Appendix D** and decides to progress the BNDP as set out at **Appendix E**¹ to referendum, to ensure the community has the final say on whether the neighbourhood plan comes into force or not. The referendum area is that of the Neighbourhood Area i.e., Benenden Parish plus seven addresses identified by the examiner, located adjacent to the Benenden Hospital site at East End and falling within Biddenden Parish (Ashford District Council).
4. That Cabinet recommends to Council that in the event that the referendum result on the BNDP is positive with more than 50% of the vote, the Council formally makes the BNDP as set out in **Appendix E** which will be subsequently considered at the next Full Council post-referendum², so that it has effect as part of the statutory Development Plan for the Neighbourhood Area (Benenden Parish).

¹ The BNDP presented to Cabinet at Appendix E includes all the recommended changes following the examination, set out in the Examiner's Final Report (Appendix A and Appendix B), and summarised in Appendix C. The version of the BNDP included with this Cabinet Report is the Final Referendum Version. There may be some further minor presentational changes made post-Cabinet to ensure the referendum version complies with the requirements of the new accessibility regulations (The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018) that came into force for public sector bodies on 23 September 2018.

² Subject to report lead in times.

1. Introduction and Background

- 1.1 The Benenden Neighbourhood Development Plan (BNDP) has been successful at examination, with the independent examiner recommending that the BNDP should proceed to referendum, subject to a number of recommended modifications.
- 1.2 The borough council as the Local Planning Authority is responsible for deciding what action to take in response to the examiner's recommendations. This report sets out the recommendations and the proposed amendments to be made to the BNDP, which have been made with the involvement of Benenden Parish following receipt and consideration of the examiner's report.
- 1.3 The examiner's recommendations in respect of a neighbourhood development plan (NDP) are different to those made by inspectors when considering local plans. Whilst neither set of recommendations is binding, in the case of a NDP instead of the requirement of meeting the test of 'soundness' a NDP must meet a 'Basic Conditions' test, providing more scope for interpretation. Whereas a borough/district/county council's acceptance of the inspector's recommendations in a local plan are necessary for soundness, in the case of the examiner's recommendations on a NDP, these are open to alternative modification so long as those modifications still result in the NDP meeting the 'Basic Conditions' test.
- 1.4 A brief overview of the neighbourhood planning process is set out in the following section of this report.

Background to Neighbourhood Planning

- 1.5 Details of the neighbourhood planning process can be accessed on the TWBC webpages
<https://tunbridgewells.gov.uk/planning/planning-policy/neighbourhood-plans>
- 1.6 The production of a neighbourhood development plan (or neighbourhood plan, as they are more commonly known) is the means by which a local community can take responsibility for land use planning in their area, potentially covering matters such as the location of houses, shops and community facilities, the setting of design standards for new development, or the identification and conservation of local heritage assets and green spaces.
- 1.7 Neighbourhood plans, when finally approved (and then referred to as a 'made' neighbourhood plan), become part of the development plan for the area to which they geographically apply (which in the case of this neighbourhood plan is

Benenden parish), which means that they are a key document in the determination of planning applications in that area.

- 1.8 The legal context for preparation of neighbourhood plans is provided by the Localism Act 2011
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5959/1896534.pdf, the Neighbourhood Planning Regulations 2012 (as amended)
https://www.legislation.gov.uk/ukxi/2012/637/pdfs/ukxi_20120637_en.pdf, and The Neighbourhood Planning Act 2017 (as amended)
<https://www.legislation.gov.uk/ukpga/2017/20/part/1/crossheading/neighbourhood-planning/enacted>.
- 1.9 Policies in neighbourhood plans need to be in general conformity with the strategic policies of the local plan, as well as having regard to the National Planning Policy Framework (NPPF) and any other relevant legislation.
- 1.10 The borough council has a statutory duty to assist communities during the preparation of NDPs and to take these plans through a process of examination and referendum. There are two 'made' NDPs within the borough (for Hawkhurst Parish and Lamberhurst Parish) and currently ten NDPs being prepared for parish and town councils including Benenden.

2. Preparation of the Benenden Neighbourhood Development Plan (BNDP)

- 2.1 The BNDP has been subject to the regulatory stages required under the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 (as amended). Details of the BNDP progression from designation to its current stage can be found on the TWBC webpages
<https://tunbridgewells.gov.uk/planning/planning-policy/neighbourhood-plans/benenden>
- 2.2 The BNDP has been prepared for a designated Neighbourhood Area, which follows the Benenden parish boundary and will have a plan period from 2020 to 2038. The neighbourhood area was designated by the borough council on 31 August 2017. Plan preparation by the parish council commenced shortly after this date.
- 2.3 TWBC officers have met with representatives of the parish council on a regular basis throughout the preparation of the BNDP to provide advice and support and have made comments at key stages. The parish council carried out a pre-submission consultation on a draft BNDP (Regulation 14 consultation) between 25 August to 31 October 2019. At this consultation stage, a detailed response was provided by TWBC officers that included comments about how policies could be improved.

- 2.4 The submitted version of the BNDP was published and consulted on by the borough council from 30 October to 11 December 2020. Details can be found on the borough council webpages <https://tunbridgewells.gov.uk/planning/planning-policy/neighbourhood-plans/benenden> as well as on the Benenden Parish Council website.
- 2.5 The BNDP (submission plan) which was consulted upon can be found here - https://tunbridgewells.gov.uk/_data/assets/pdf_file/0008/375443/01_Benenden-NDP-Regulation-16-draft-for-consultation.pdf
- 2.6 Comments were made by TWBC to this consultation in the form of a Delegated Portfolio Holder Report dated 11th December 2020.
<https://democracy.tunbridgewells.gov.uk/ieDecisionDetails.aspx?ID=1550>
- 2.7 The BNDP includes policies relating to the landscape and environment, design and built environment, business and the local economy, and transport and infrastructure. It also includes policies that propose to allocate sites for built development. The BNDP is supported by a local evidence base.
- 2.8 Mr John Slater MRTPI was appointed as the independent examiner by the borough council with the agreement of the parish council and the examination commenced in January 2021. The examiner was appointed to assess whether the BNDP met certain statutory requirements for NDPs, known as the 'Basic Conditions'.
- 2.9 These state that NDPs should:
- 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;
 - not breach, and is otherwise compatible with, EU obligations (including Human Rights Act); and
 - not breach requirements of the Conservation of Habitats and Species Regulations.
- 2.10 One of the considerations in addressing these matters is whether the Plan policies support sustainable development and the three overarching objectives of the planning system (economic, social and environmental) including ensuring 'a sufficient number and range of homes can be provided to meet the needs of present and future generations' (para 8 of the National Planning Policy Framework, NPPF – 2019/2021). In addition, para 13 of the NPPF states that neighbourhood plans should support the strategic development needs as set out in the Local Plan.

- 2.11 Following site visits, the Examiner prepared a document entitled Initial Comments of the Independent Examiner, dated 26 March 2021, seeking clarification on a number of matters, which was sent to both the Parish Council and Tunbridge Wells Borough Council. This note also asked questions of the Benenden Healthcare Society (promoters of the two sites being proposed for allocation at East End) and the Friends of East End (a group of local East End residents largely opposed to the allocations at East End). (note: East End is the area to the north of Benenden village that includes Benenden Hospital and associated buildings, as well as a number of private residential buildings)
- 2.12 The responses prompted the Examiner to issue a Further Comments document, on 31 May 2021, within which he set out the decision to call for a hearing to explore a number of specific issues regarding the proposed two allocations at East End.
- 2.13 The following groups were invited to provide a representative to attend the hearing: the Borough Council, Benenden Parish Council, Biddenden Parish Council (Biddenden Parish boundary is adjacent to part of the Benenden Hospital site), the Friends of East End, Benenden Healthcare Society, the High Weald AONB Unit and KCC Highways. The hearing took place on 25 June 2021, held via video conferencing. A copy of the recording of the hearing is available at https://tunbridgewells.public-i.tv/core/portal/webcast_interactive/580572. At the hearing the Friends of East End and Benenden Healthcare Society were each represented by barristers.
- 2.14 The BNDP has been successful at examination, with the independent examiner recommending that the Plan should proceed to referendum, subject to a number of recommended modifications. These modifications are required to ensure the BNDP meets the basic conditions. The independent examiner's report is in **Appendix A and Appendix B** (addendum).
- 2.15 This amended BNDP, incorporating all the modifications as shown at **Appendix E**, will be the version that is considered by the borough council prior to referendum and will be the version subject to referendum. This will be known as the Referendum BNDP.
- 2.16 Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires the local planning authority to outline what action to take in response to the recommendations of an examiner following the formal examination. The Regulations provide that where the council disagrees with the examiner's report it can make alternative modifications, subject to re-consultation and potentially a further Examination.
- 2.17 The table set out at **Appendix C** to this report presents the modifications identified as being necessary by the examiner, with a commentary to provide a background for each proposed modification. As recommended by the examiner,

the BNDP group has considered the changes, and discussed with TWBC officers as necessary.

- 2.18 The BNDP group provided a draft amended BNDP that was presented to P&T CAB on 15th November 2021. This has been subject to final checks by officers to ensure the modifications recommended by the independent examiner have been incorporated). The final version (known as the Referendum version) of the BNDP, incorporating the modifications, as well as a number of presentational changes is the subject of this report along with the formal Decision Statement at **Appendix D**.
- 2.19 Please note (as explained in footnote (1)), there may be some further minor presentational changes made post-Cabinet to ensure the BNDP fully complies with the requirements of the new accessibility regulations (The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018) that came into force for public sector bodies on 23 September 2018.

General Conformity of the Benenden Neighbourhood Development Plan with the strategic policies contained in the development plan for Tunbridge Wells borough

- 2.20 It is the case that the BNDP has been prepared with reference to the current adopted development plan for the borough. The BNDP needs to be in general conformity with strategic policies contained in the development plan for Tunbridge Wells Borough. At this time, this requirement relates to strategic policies contained in the following planning documents adopted by Tunbridge Wells Borough Council:
- Saved policies in the Tunbridge Wells Borough Council Local Plan 2006;
 - Tunbridge Wells Core Strategy Development Plan Document 2010;
 - Tunbridge Wells Borough Council Site Allocations Local Plan 2016;
 - Kent Minerals and Waste Local Plan 2013 to 2030.
- 2.21 The BNDP also needs to be in general conformity with national planning policy as set out in the National Planning Policy Framework (NPPF) 2019 and 2021 – the BNDP was prepared against the NPPF 2019 but the examiner also considered it against the 2021 NPPF
- 2.22 In considering the Basic Conditions for the BNDP consideration was made to how the neighbourhood plan is in conformity with the Regulation 18 Draft Local Plan, as well as the current development plan documents. It is considered that the policies included in the BNDP are in general conformity with the strategic

policies contained in the adopted development plan for Tunbridge Wells Borough.

- 2.23 In terms of conformity with the TWBC Regulation 19 Pre-Submission Local Plan (PSLP), the examiner at para 55 of the Examiner's Final Report comments that the PSLP, whilst indicating a clear direction of travel in terms of the development of planning policy, based on an up-to-date assessment of housing need and more up to date Government advice, contains what are currently only draft policies which will be subject to further public consultation and public examination and have not been adopted as development plan policy. Therefore, the examiner has concluded that the PSLP is not relevant to the test of general conformity with strategic policies in the development plan as set out in the basic conditions but can be material to a number of other basic conditions.
- 2.24 The examiner also notes that there are number of non-strategic policies in the PSLP that cover matters which are also covered by the Benenden Neighbourhood Plan such as designation of local green space. It is noted that the Borough Council has previously indicated its intention to remove those parts of the policies which affect Benenden Parish from future versions of the local plan, if the neighbourhood plan is 'made' first, to prevent unnecessary duplication of planning policy.
- 2.25 The examiner's overall conclusion is that the BNDP, apart from where noted in the Final Report commentary on individual policies, is in general conformity with these strategic policies in the Tunbridge Wells Core Strategy and the saved policy within the Tunbridge Wells Local Plan 2006, when looked at in the "round".

3. Independent examiner's report to the local planning authority and qualifying body

- 3.1 The independent examiner has concluded that the BNDP, if amended in line with his recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the BNDP, as amended, be made.
- 3.2 He has therefore recommended to Tunbridge Wells Borough Council that the BNDP, as modified by his recommendations, should proceed, in due course, to referendum. The independent examiner also recommends that the referendum area should be that of the neighbourhood area i.e., Benenden Parish plus seven addresses identified by the examiner located adjacent to the Benenden Hospital site falling within Biddenden Parish (Ashford District Council) to ensure the community has the final say on whether the neighbourhood plan comes into force or not
- 3.3 The table in **Appendix C** lists the modifications.

Commentary on Independent Examiner's Report for the BNDP:

- 3.4 The Examiner congratulates Benenden Parish Council on producing a locally distinctive neighbourhood plan, stating that it is clear that a lot of hard work has been carried out by a group of volunteers. The Examiner confirms that he is satisfied that the Parish Council has adopted a robust and objective assessment of the sites which were put forward through the call for sites. The selection has been strongly influenced by the stated desire of the local community to direct new housing to land which had been previously developed, rather than focussing on greenfield sites.
- 3.5 The Examiner identifies that whilst there may have been a preference for smaller development, the plan has taken a sensible and pragmatic decision to allocate sites of over 10 units as smaller developments would not trigger the need to provide onsite affordable housing.
- 3.6 The Examiner comments that the only greenfield site being allocated will be on land owned by a local housing charity which will deliver a significant number of affordable houses (a higher proportion than would be required by the current and proposed TWBC affordable housing policies), funded by enabling market housing. This could be viewed in the same way as some rural exception sites. That site, on land adjacent to Feoffee Cottages, already has a resolution to approve (19/00822) to deliver 25 dwellings of which 12 will be almshouses (affordable housing). (ref BNDP Policy SSP1; TWBC Pre Submission Local Plan (PSLP) Policy AL/BE2).
- 3.7 Land at Uphill, New Pond Road (ref BNDP Policy SSP2; PSLP Policy AL/BE1) – the Examiner considers the development of this site will form a logical extension to the village and its impact on the AONB will be mitigated by the screening along the site boundary. In terms of the specific requirements of the policy, it is suggested that it should be explicit in terms of requiring 40% affordable housing. (Note: Policy AL/BE1 in the PSLP includes the requirement for 40% affordable housing.)
- 3.8 Proposed development at East End (Benenden Hospital) (ref BNDP Policies SSP3 & 4; PSLP Policies AL/BE3 & AL/BE4:
- 3.9 The Examiner explains that he has placed significant weight on the Governments desire that it should be the local community's right, through the neighbourhood plan process, to decide which sites should be allocated. He states that he was not surprised that the redevelopment of brownfield sites owned by Benenden Healthcare Society were favoured over greenfield sites. As set out in para 69 of the Examiner's Report, the Examiner 'does not accept the argument that it was a tainted process, a case made by some could, perhaps, be summarised as of "pushing new housing to the edge of the parish to protect the amenities of the

Benenden and Iden Green residents”. The two hospital sites lie outside of the AONB, albeit close to the boundary and affects its setting. These are already substantially developed sites, and one has already received planning permission on part of the allocation site for 24 houses’. The Examiner also places ‘weight upon the fact that the chosen sites have also been through the sustainability appraisal process, both as part of the neighbourhood plan and the emerging local plan.’

- 3.10 Regarding the sustainability of the East End location, pointing to the lack of its own facilities and therefore whether these are a suitable location for major housing development, the Examiner comments at para 71 that the ‘limitations of the site’s location are acknowledged in the plan as well as the SEA, but as in many such decisions, any judgement needs to balance conflicting factors – the fact that the sites are already developed, are outside the AONB, there is already consented development on the SE quadrant site and existing housing on the NE quadrant, all of which are likely to be car dependant to be able to access existing facilities, mean that the potential to deliver more homes, many of which will be affordable, must be balanced with the fact that the settlement does not enjoy many of the day to day amenities within walking distance, which are available, say within Benenden village’.
- 3.11 The Examiner finds as very persuasive the unchanged advice in paragraphs 78 to 79 of the NPPF 2021 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf dealing with rural housing which states that housing should be located where it will enhance or maintain the vitality of rural communities. Of particular relevance is the recognition that development in one village may support services in a village nearby. The Examiner considers that development at East End can support community services in Benenden.
- 3.12 The Examiner has concluded that East End can be classed as a settlement, although not necessarily as a village. Whilst the existence of the Hospital may have been the driving force for its initial development, and Benenden Hospital is still the predominant land user, East End contains a mixture of uses, including residential properties which are no longer occupied by hospital employees but are rented out. Similarly, the recreational and community facilities at the hospital are used by the wider community and not solely used by hospital staff / visitors. The collection of houses off Mockbeggars Lane equally appear to form part of the settlement of East End.
- 3.13 The residents of East End will already look to other villages, both within the parish and across the borough boundary for their community facilities, whether it be the primary school, community hall or the shops and other businesses. Both the local plan and the neighbourhood plan seek to provide, or at least ameliorate, some of the deficiencies in the services available for the existing and new residents, by seeking to secure access to the hospital cafe (shop), community buildings and sports facilities. This partial mitigation, to reflect the lack of facilities

in East End, should enhance to some extent its sustainability as a community. The Examiner also points to other infrastructure improvements which are discussed in the specific policies, which arise fully or in part as a result of the developments, including seeking funding for a cycleway /footpath linking East End to Benenden Village.

- 3.14 The Examiner is satisfied that the plan will contribute to the delivery of sustainable development within the Benenden parish. The scale and type of housing will meet the social objective of ensuring sufficient homes for the present and future generations, providing for high quality design, which is in keeping with the character of the built environment set in a wonderful landscape, whilst seeking to protect existing businesses and commercial areas and providing for the necessary infrastructure, whilst at the same time making best use of brownfield sites, minimising the use of greenfield sites, protecting the landscape and the parish's fine views, especially from the ridgelines and protecting the green spaces that are valued by the community.
- 3.15 It should be noted that in relation to Policy LE3: Local Green Space (LGS), the Examiner's recommendations at para 89 of the Examiner's Final Report (**Appendix A**) omits 'Glebe Field/Playing Fields' in the list of Local Green Spaces (LGS) to be included in the referendum version of the BNDP. This examiner has confirmed that this is a clerical error during the drafting of the report. **Appendix B** Independent Examiner's Report to the Benenden Neighbourhood Development Plan (Addendum) confirms that this is the case and that Glebe Field/Playing Fields should be included in the list of LGSs in Policy LE3.
- 3.16 There has been some concern expressed by a limited number of TWBC Members, both at the Full Council in February 2021 and since, regarding the allocations at East End. These have been subject to the independent examination that included a one day hearing, where objectors were represented by a barrister, and have been found to be appropriate. This endorsement of the allocations at East end, and also those at Benenden village, is highly positive for the Local Plan.

Next Steps

- 3.17 The recommended modifications are reflected in the amended final version of the BNDP that will be subject to referendum presented in **Appendix E**. It should be noted that the referendum version of the BNDP may have some minor presentational amendments to ensure it complies with the requirements of the accessibility regulations that came into force for public sector bodies on 23 September 2018 (The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018
<https://www.legislation.gov.uk/uksi/2018/952/contents/made>)

- 3.18 The Regulations state that a Local Planning Authority must publish what action will be taken in response to the recommendations of an examiner. This is known as the 'Decision Statement' and is presented in **Appendix D**.
- 3.19 Subject to the Cabinet decision on the recommendations in this report, the borough council will arrange for a local referendum to be held to ensure that the local community has the final say on whether the BNDP comes into force or not.
- 3.20 Planning Practice Guidance (PPG) sets out at <https://www.gov.uk/guidance/neighbourhood-planning--2> that a neighbourhood plan comes into force as part of the statutory development plan once it has been approved at referendum (that is, more than 50% of the votes cast being in favour of the draft neighbourhood plan).
- 3.21 It is the case that in these circumstances the neighbourhood plan must be made by the local planning authority (that is the neighbourhood plan is adopted). There are narrow circumstances where the local planning authority is not required to make the neighbourhood plan. These are where it considers that the making of the neighbourhood plan would breach, or otherwise be incompatible with, any EU or human rights obligations (see [section 61E\(8\) of the Town and Country Planning Act 1990 Act as amended](#)). Paragraph: 064 Reference ID: 41-064-20170728
- 3.22 It is therefore requested that the Cabinet decision includes as part of resolution 4 that in the circumstances where the referendum result is positive, then the Benenden Neighbourhood Development Plan can, post-referendum, go firstly to Management Board then directly to be considered at the TWBC Full Council, with a recommendation for it to be 'made'(adopted), therefore removing the other committee meetings (Planning and Transportation Cabinet Advisory Board, and Cabinet) from the post-referendum/second half of the process.

4. Options Considered

- 4.1 **Option 1:** Note the examiner's report dated 31 August 2021 and the recommended amendments, agree the Decision Statement and progress the Benenden Neighbourhood Development Plan to referendum.
- 4.1.1 The Examiner congratulates Benenden Parish Council on producing a locally distinctive neighbourhood plan, stating that it is clear that a lot of hard work has been carried out by a group of volunteers. The Examiner confirms that he is satisfied that the Parish Council has adopted a robust and objective assessment of the sites which were put forward through the call for sites. The selection has been strongly influenced by the stated desire of the local community to direct new housing to land which had been previously developed, rather than focussing on greenfield sites.

- 4.2 It is considered that it would be a missed opportunity to not progress a plan that provides the opportunity to incorporate local planning policies into the borough's development plan that reflect local needs and aspirations.
- 4.3 **Option 2:** Note the examiner's report dated 31 August 2021 and the recommended amendments, but do not agree the Decision Statement and do not progress the Benenden Neighbourhood Development Plan to referendum.
- 4.4 The examiner's report is largely positive, and it is considered it would be a missed opportunity to not progress a plan that provides the opportunity to incorporate local planning policies into the borough's development plan that reflect local needs and aspirations.

5. Preferred Option and Reason

- 5.1 The preferred option is **Option 1:** note the examiner's report dated 31 August 2021 and the recommended amendments, agree the Decision Statement, and progress the Benenden Neighbourhood Development Plan to referendum.
- 5.2 This option reflects the outcome of the independent examination, the examiner's report praising the approach taken in the BNDP and which clearly sets out to achieve sustainable development. The relatively small number of amendments proposed by the examiner have been considered by the Benenden Parish Council. The version of the BNDP that will be subject to Referendum (**Appendix E**) reflects this.

6. Consultation on Options

- 6.1 If agreed by Cabinet, the Decision Statement set out in **Appendix D** be agreed and progress the amended Benenden Neighbourhood Development Plan presented in **Appendix E** to referendum. Option 1 above refers.

Recommendation from Cabinet Advisory Board

- 6.2 The Planning and Transportation Cabinet Advisory Board were consulted on 15th November and agreed to support the recommendations to Cabinet.

7. Implementation

- 7.1 If the report recommendations are agreed by Cabinet, the Benenden Neighbourhood Development Plan will then proceed to Referendum scheduled for the 3rd February 2022. If successful at referendum, the Benenden Neighbourhood Plan will be taken to Full Council on the 23rd February 2022 to be 'made' by the Council. Once made, the Plan becomes part of the Development Plan for Benenden parish and will be a material consideration in future planning decisions in the parish.

8. Appendices and Background Documents

Appendices:

- **Appendix A:** Independent Examiner's Report to the Benenden Neighbourhood Development Plan
- **Appendix B (Addendum):** Independent Examiner's Report to the Benenden Neighbourhood Development Plan (Addendum)
- **Appendix C:** Table of changes made to the submission version of the Benenden Neighbourhood Development Plan to reflect amendments suggested by the Independent Examiner
- **Appendix D:** Benenden Neighbourhood Development Plan Decision Statement
- **Appendix E:** Version of the Benenden Neighbourhood Development Plan that will be subject to Referendum (see footnote 1)

Background Papers:

Submission version of the Benenden Neighbourhood Development Plan consulted on 30 October to 11 December 2020, and subject to independent examination https://tunbridgewells.gov.uk/_data/assets/pdf_file/0008/375443/01_Benenden-NDP-Regulation-16-draft-for-consultation.pdf

9. 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) 27th October 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 (Department for Levelling Up, Housing & Communities) 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.

Jane Fineman, Head of Finance, Procurement and Parking 29th October 2021

C. Staffing

There are no staffing implications.

Anita Lynch, HR Manager 18th October 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 3rd November 2021

E. Environment and Sustainability

No environmental and sustainability implications are identified. Section 3 of the Basic Conditions Statement submitted with the Submission Benenden Neighbourhood Plan

provides information to demonstrate how the Benenden Neighbourhood Plan is in Conformity with Sustainable Development, https://tunbridgewells.gov.uk/_data/assets/pdf_file/0010/375445/03_IA2_Basic-Conditions-Statement.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 BNDP (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 3rd November 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 27th October 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: Benenden Parish Council will be responsible for demonstrating due regard to this in the production of an NDP.

Abigayle Sankey, Corporate Governance Officer 27th October 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 27 October 2021

I. Health and Safety

No implications for Health and Safety.

Mike Catling, Corporate Health and Safety Advisor 15th October 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 1st November 2021