

# CABINET 2<sup>nd</sup> December 2021

## Goudhurst 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:** Ellen Gilbert, Principal Planning Officer

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

**Wards Affected:** Goudhurst & Lamberhurst ward

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

### Recommendations

This report makes the following recommendations to Cabinet:

1. That the independent examiner's Report on the Goudhurst Neighbourhood Development Plan (GNDP) received on 2<sup>nd</sup> September 2021 at **Appendix A** be noted and published.
2. That the GNDP be modified in part as set out in **Appendix B**, according to the examiner's recommendations, following discussion with Goudhurst Parish Council.

3. That Cabinet agrees the publication of the Decision Statement at **Appendix C** and decides to progress the GNDP as set out at **Appendix D**<sup>1</sup> 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., Goudhurst Parish.
4. That Cabinet recommends to Council that in the event that the referendum result on the GNDP is positive with more than 50% of the vote, the Council formally makes the GNDP as set out in **Appendix D** which will be subsequently considered at the next Full Council post-referendum<sup>2</sup>, so that it has effect as part of the statutory Development Plan for the Neighbourhood Area (Goudhurst Parish).

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<sup>1</sup> The GNDP presented to Cabinet at Appendix D includes all the recommended changes following the examination, set out in the Examiner's Final Report (Appendix A), and summarised in Appendix B. The version of the GNDP 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.

<sup>2</sup> Subject to report lead in times.

# 1. Introduction and Background

- 1.1 The Goudhurst Neighbourhood Development Plan (GNDP) has been successful at examination, with the independent examiner recommending that the GNDP 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 GNDP, which have been made with the involvement of Goudhurst 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

Goudhurst 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](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](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 a number of parish and town councils including Goudhurst.

## **2. Preparation of the Goudhurst Neighbourhood Development Plan (GNDP)**

- 2.1 The GNDP 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 GNDP progression from designation to its current stage can be found on the TWBC webpages  
<https://tunbridgewells.gov.uk/planning/planning-policy/neighbourhood-plans/goudhurst>
- 2.2 The GNDP has been prepared for a designated Neighbourhood Area, which follows the Goudhurst parish boundary and will have a plan period from 2013 to 2033. The neighbourhood area was designated by the borough council on 7<sup>th</sup> November 2016. Plan preparation by the parish council commenced shortly after that date.
- 2.3 TWBC officers have met with representatives of the parish council on a regular basis throughout the preparation of the GNDP to provide advice and support and have made comments at key stages. The parish council carried out a pre-submission consultation on a draft GNDP (Regulation 14 consultation) between 5<sup>th</sup> November 2018 and 14<sup>th</sup> January 2019. At this consultation stage, a detailed response was provided by TWBC officers that included comments about how policies could be improved.

The submitted version of the GNDP was published and consulted on by the borough council from 11<sup>th</sup> January to 22<sup>nd</sup> February 2021. Details can be found on the borough council webpages (link in para 2.1 above) as well as on the Goudhurst Parish Council website.

[https://tunbridgewells.gov.uk/data/assets/pdf\\_file/0007/382471/1610009464\\_01GoudhurstNeighbourhoodPlanRegulation16.pdf](https://tunbridgewells.gov.uk/data/assets/pdf_file/0007/382471/1610009464_01GoudhurstNeighbourhoodPlanRegulation16.pdf)

- 2.4 Comments were made by TWBC to this consultation in the form of a Delegated Portfolio Holder Report, agreed by decision notice dated 22<sup>nd</sup> February 2020. <https://democracy.tunbridgewells.gov.uk/documents/s53609/Decision%20Notice%20-%20Goudhurst.pdfdated>
- 2.5 The GNDP includes policies relating to the landscape and environment, community and wellbeing, housing, business and employment, design, traffic and transport. It does not include policies that propose to allocate sites for built development. The GNDP is supported by a local evidence base.
- 2.6 Mr Andrew Ashcroft MRTPI was appointed as the independent examiner by the borough council with the agreement of the parish council and the examination of the GNDP commenced in May 2021. The examiner was appointed to assess whether the GNDP met certain statutory requirements for NDPs, known as the 'Basic Conditions'.
- 2.7 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.
- 2.8 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.
- 2.9 The examiner's final report was received on 2<sup>nd</sup> September 2021 and is presented at **Appendix A** to this report. It concluded that the GNDP should

proceed to referendum subject to it being amended in line with a number of recommended modifications. These modifications are required to ensure the GNDP meets the basic conditions.

- 2.10 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.
- 2.11 The table set out at **Appendix B** to this report presents the modifications identified as being necessary by the examiner, with a commentary to provide a background for each proposed modification.
- 2.12 The GNDP group has considered the modifications recommended by the independent examiner and has amended the GNDP in accordance with the recommendations.
- 2.13 The amended GNDP is presented at **Appendix D** to this report. This incorporates the modifications (and may be subject to further presentational changes for accessibility reasons) and is the version that is considered by the borough council prior to referendum – it is also the version that will be subject to the referendum in February 2022. This will be known as the Referendum GNDP.
- 2.14 The GNDP group provided a draft amended GNDP that was presented to P&T CAB on 15<sup>th</sup> November 2021. This has been subject to final checks by officers to ensure the modifications recommended by the independent examiner have been incorporated. P&T CAB also considered the formal Decision Statement at **Appendix C**. As set out at paragraph 2.12, modifications have been incorporated except a couple of changes minor in nature, which are in process of being done, to ensure consistency (a number of Local Green Spaces (LGS) to be removed from the LGS maps (Figures 7 & 9) to reflect the recommendations made by the examiner, and an amendment to footnote (2)). For clarity it is noted that the draft amended GNDP presented to P&T CAB on the 15<sup>th</sup> November is the version presented at Appendix D of this Cabinet report.
- 2.15 Please note (as explained in footnote (1), there may be some further minor presentational changes made post-Cabinet to ensure the GNDP 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 Goudhurst Neighbourhood Development Plan with the strategic policies contained in the development plan for Tunbridge Wells borough**

2.16 It is the case that the GNDP has been prepared with reference to the current adopted development plan for the borough. The GNDP 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.

2.17 The GNDP 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 GNDP was prepared against the NPPF 2019 but the examiner also considered it against the 2021 NPPF.

2.18 In considering the Basic Conditions for the GNDP consideration was made to how the neighbourhood plan is in conformity with the emerging Local Plan, as well as the current development plan documents. It is considered that the policies included in the GNDP are in general conformity with the strategic policies contained in the adopted development plan for Tunbridge Wells Borough.

2.19 The independent examiner advises he has sought to ensure that the GNDP has an appropriate relationship with the emerging Core Strategy Review (the emerging Local Plan), finding that the GNDP is considered to be in general conformity with strategic policies in the emerging Local Plan (the TWBC Pre-Submission Local Plan), which once adopted will form part of the borough's development plan and will supersede the Site Allocations Local Plan 2016; the Core Strategy 2010 and the saved policies of the Local Plan 2006.

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

3.1 The independent examiner has concluded that the GNDP, 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 GNDP, as amended, be made.

- 3.2 He has therefore recommended to Tunbridge Wells Borough Council that the GNDP, 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., Goudhurst Parish.
- 3.3 The table in **Appendix B** lists the modifications.
- 3.4 The most significant outcomes from the Examiner's Report are:
- Removal of GNP community and wellbeing policy C3 Developer Contribution. The examiner concludes that this is not directly a policy and that it is description of a process.
  - Removal of housing policy H2 Affordable Housing. The examiner concludes that he is not satisfied that the proposed policy adds any distinctive value to the existing policy context.
  - Removal of housing policy H3 Allocating Affordable Housing. The examiner concludes that the approach of the policy (using a Community Land Trust) is not a land use matter, and neither is the eventual allocation of affordable housing.
  - Removal of design policy D5 Outside the Conservation Areas. The examiner advises that this covers the vast majority of the parish and does not provide the granular level of detail required for the wide area. The examiner considers that issues are adequately captured in other policies.
  - Removal of three Local Green Spaces from the Plan because it is considered they are not 'demonstrably special' and as such do not meet the high tests for LGS designation in the NPPF. These are:
    - LGS 102 Land located east of Goudhurst;
    - LGS AS 2 located south of LGSAS1 to the immediate south of Jarvis Lane;
    - LGS AS 20 Green Space adjacent to Lukins Rise.

## Next Steps

- 3.5 The recommended modifications are reflected in the amended referendum version of the GNDP that will be subject to the referendum and which is presented in **Appendix D**. It should be noted that the referendum version of the GNDP may have some further 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/ukxi/2018/952/contents/made>)
- 3.6 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 C**.

- 3.7 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 GNDP comes into force or not.
- 3.8 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).
- 3.9 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
- 3.10 It is therefore requested that the Cabinet decision includes as part of the resolution 4 that in the circumstances where the referendum result is positive, that the Goudhurst 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 2<sup>nd</sup> September and the recommended amendments, agree the Decision Statement and progress the Goudhurst Neighbourhood Development Plan to referendum.
- 4.2 The examiner praises the GNDP, identifying that the Plan has sought an inclusive approach to seeking opinions from all those concerned throughout the process and that the Plan has set out to achieve sustainable development. The examiner identifies that the wider community and Parish Council have spent time and energy in identifying the issues and objectives that they wish included in the plan – this sits at the heart of the localism agenda. The examiner praises many aspects of presentation and notes that it would sit comfortably as part of the wider development plan in the event that it was 'made'. The Plan sets out a positive vision for the future of the neighbourhood area (Goudhurst parish).
- 4.3 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.

- 4.4 **Option 2:** Note the examiner's report dated 2<sup>nd</sup> September 2021 and the recommended amendments, but do not agree the Decision Statement and do not progress the Goudhurst Neighbourhood Development Plan to referendum.
- 4.5 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 2<sup>nd</sup> September 2021 and the recommended amendments, agree the Decision Statement and progress the Goudhurst 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 GNDP and which clearly sets out to achieve sustainable development. The relatively small number of amendments proposed by the examiner have been considered and agreed by the GNDP group. The referendum version of the GNDP that will be subject to Referendum (**Appendix D**) reflects this.

## 6. Consultation on Options

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

### Recommendation from Cabinet Advisory Board

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

## 7. Implementation

- 7.1 If the report recommendations are agreed by Cabinet, the Goudhurst Neighbourhood Development Plan will proceed to Referendum scheduled for the 3<sup>rd</sup> February 2022. If successful at referendum, the Goudhurst Neighbourhood Plan will be taken to Full Council on the 23<sup>rd</sup> February 2022 to be 'made' by the

Council. Once made, the Plan becomes part of the Development Plan for Goudhurst 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 Goudhurst Neighbourhood Development Plan
- **Appendix B:** Table of modifications recommended by the Independent Examiner
- **Appendix C:** Goudhurst Neighbourhood Development Plan Decision Statement
- **Appendix D:** Version of the Goudhurst Neighbourhood Development Plan that will be subject to Referendum (see footnote 1).

Background Papers:

- Submission version of the Goudhurst Neighbourhood Development Plan consulted on 11<sup>th</sup> January to 22<sup>nd</sup> February 2021 and subject to independent examination  
[https://tunbridgewells.gov.uk/data/assets/pdf\\_file/0007/382471/1610009464\\_01GoudhurstNeighbourhoodPlanRegulation16.pdf](https://tunbridgewells.gov.uk/data/assets/pdf_file/0007/382471/1610009464_01GoudhurstNeighbourhoodPlanRegulation16.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) 14<sup>th</sup> 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 and 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 14<sup>th</sup> October 2021

### C. Staffing

There are no staffing implications.

Anita Lynch, HR Manager 18<sup>th</sup> 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 3<sup>rd</sup> November 2021

### E. Environment and Sustainability

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

provides information to demonstrate how the Goudhurst Neighbourhood Plan is in Conformity with Sustainable Development, [https://tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0009/382473/1610009471\\_02BasicConditionsStatement.pdf](https://tunbridgewells.gov.uk/_data/assets/pdf_file/0009/382473/1610009471_02BasicConditionsStatement.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 GNDP (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 3<sup>rd</sup> 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 14<sup>th</sup> 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: Goudhurst Parish Council will be responsible for demonstrating due regard to this in the production of an NDP.

Abigayle Sankey, Corporate Governance Officer 15<sup>th</sup> 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<sup>th</sup> October 2021

## **I. Health and Safety**

No implications for Health and Safety.

Mike Catling, Corporate Health and Safety Advisor 15<sup>th</sup> 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 18<sup>th</sup> October 2021