

Birchington Neighbourhood Plan - Regulation 16 consultation - Formal Response from Thanet District Council

Overview & Scrutiny Panel 17 February 2022

Report Author Adrian Verrall, Strategic Planning Manager

Portfolio Holder Councillor Ashbee, Leader of the Council

Status For Recommendation to Cabinet

Classification: Unrestricted

Key Decision Budget and Policy Framework

Previously considered by: N/A

Ward: Birchington North, Birchington South

Executive Summary:

The Council is currently running a public consultation (Regulation 16) on the Birchington Neighbourhood Plan. This is the last chance for comments to be made on the plan before it is examined by an Independent Examiner.

Officers are recommending that the Council submits a formal response to the consultation, as appended to this report.

Recommendation(s):

That OSP reviews the recommendations to Cabinet, including in Annex 1 to this report, and makes any comments for Cabinet to consider.

Corporate Implications

Financial and Value for Money

No costs directly associated with this report.

The Examination process itself will have costs, but these should be largely covered by the Neighbourhood Planning grants the Council receives from Central Government.

Legal

The current consultation and subsequent Examination are required under Regulations 16 and 17 of the Neighbourhood Planning (General) Regulations 2012.

Corporate

It is important that the Council meets its statutory duties in relation to Neighbourhood Plans. It is also important to ensure that emerging neighbourhood plans are in general conformity with the Council's adopted Local Plan.

Equality Act 2010 & Public Sector Equality Duty

The PSED is not engaged by the matters raised in this report.

CORPORATE PRIORITIES

This report relates to the following corporate priorities:

- Environment

1.0 Introduction and Background

- 1.1 Under the Localism Act 2011, local communities can produce Neighbourhood Plans, setting out policies on the development and use of land in their area. If the plans are adopted by the District Council they will have the same weight as other Development Plan documents for the District.
- 1.2 A Neighbourhood Plan is a community-led framework for guiding the future development and growth of an area. It may contain vision, aims, planning policies, proposals for improving the area or providing new facilities, or allocation of key sites for specific kinds of development. It may deal with a wide range of issues (like housing, employment, heritage and transport) or it may focus on one or two issues that are of particular importance in a local area.
- 1.3 The Birchington Neighbourhood Area (to which the neighbourhood plan relates) was designated on 8 December 2016 and comprises the area within the Parish Boundary.
- 1.4 Birchington Parish Council carried out a variety of consultation events before carrying out their first formal consultation (Reg14) between 8 September - 20 October 2021. The Council provided a formal response to that consultation - most of those comments were taken into account.
- 1.5 The Parish Council then submitted their proposed Neighbourhood Plan to the Council, along with their Consultation Statement, Basic Conditions Statement and Strategic Environmental Assessment and Habitats Regulations screening reports. The Council issued a statement confirming that the Parish Council had met the various legal requirements, and prepared and opened the Regulation 16 consultation which is currently ongoing until 24 February 2022.
- 1.6 This is the last opportunity for the Council to comment on the draft Neighbourhood Plan. All comments received at the Regulation 16 stage are passed to the Independent Examiner for their consideration as part of the examination process.
- 1.7 The Examiner will test whether or not the neighbourhood plan meets the 'Basic Conditions' which are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan
- 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 (or any part of that area)
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations
- 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 plan

- 1.8 Following the Examination, the Examiner will submit a report to the Council and the Parish Council, setting out the conclusions of the Examination, and recommending any modifications that need to be made to the neighbourhood plan in order for it to meet the Basic Conditions.
- 1.9 The Council then has to consider whether or not the modified Neighbourhood Plan meets the Basic Conditions and is appropriate for eventual adoption. If the Council considers further modifications are needed other than those recommended by the Examiner, those changes would require a further public consultation and possibly a second Examination. The Council reduces the risk of finding the plan unacceptable post Examination, by making a formal comment to this consultation.
- 1.10 The Council must issue a statement that it considers that the modified Neighbourhood Plan meets the Basic Conditions and can proceed to Referendum. Once that statement has been published, the Neighbourhood Plan becomes a material consideration in determining planning applications. The Council will then organise the referendum, and a vote of 51% or more in favour of the neighbourhood plan will bring it into force. It will then be reported to Full Council to be 'made' (adopted).
- 1.11 The recommended response is set out in Annex 1. The amendments to the draft Plan go some way to meeting the concerns previously raised. However, there are still some aspects of the draft Plan, and some new elements, that are of concern in terms of its relationship to the Local Plan (and national guidance) - it is considered that some elements of the Plan, as submitted, do not meet the Basic Conditions. The main areas of concern are as follows:
- Absence of a local list of Heritage Assets and a proposed amendment to bring policy in line with the NPPF
 - Requirement for 'assurance statements' from utility service providers considered unreasonable
 - Ambiguous wording relating to development in the countryside or overlooking the coast - amendment suggested
 - Absence of a clear identification of commercial areas referred to in policies
 - Objection to the proposed Green Wedges. The existing Green Wedges have been long established and protected by Local Plan policies since the 1980s. The proposed Green Wedges would undermine the Local Plan policy as they do not conform with the aims of Local Plan policy SP25 (Safeguarding the

Identity of Thanet's Settlements). This relates to the land marked 12, 27, 28 and 29 on the Green & Open Spaces map on p41 of the draft Neighbourhood Plan. The areas marked 7 and 10 are covered by the Local Plan Green Wedge designation. It should be noted that the areas of countryside to which this relates are already protected by virtue of general countryside policies, with the urban boundary drawn tightly around Birchington (including the strategic site allocated in the Local Plan). Not having a Green Wedge policy for these areas does not mean that these areas are suitable for new development. Please refer to the table in Annex 1 for a more detailed response.



3.0 Options

- 3.1
- 1) That the comments in Annex 1 of this report are agreed to be submitted as the Council's formal response to the Regulation 16 Consultation.
 - 2) That the comments are amended before being submitted as the Council's formal response to the Regulation 16 Consultation.
 - 3) That the Council does not respond to the Regulation 16 Consultation.

If the Council chooses not to respond to the Regulation 16 Consultation, there is a risk that additional modifications will be considered necessary after the Examination and the receipt of the Examiners Report. Option 3 is therefore not recommended.

Contact Officer: Adrian Verrall, Strategic Planning Manager

Reporting to: Bob Porter, Director of Housing & Planning

Annex List

Annex 1: Town and Country Planning (General) Regulations 2012: Consultation under Regulation 16: 13 January - 24 February 2022 - Birchington Draft Neighbourhood Plan - Formal Comments from Thanet District Council

Background Papers

Title: [*Birchington Neighbourhood Plan*](#)

Corporate Consultation

Finance: Chris Blundell (Director of Finance)

Legal: Estelle Culligan (Director of Law and Democracy)