

Westgate-on-Sea Neighbourhood Plan - Regulation 16 consultation - Formal Response from Thanet District Council

Cabinet	20 October 2022
Report Author	Adrian Verrall, Strategic Planning Manager
Portfolio Holder	Councillor Ashbee, Leader of the Council
Status	For Decision
Classification:	Unrestricted
Key Decision	Budget and Policy Framework
Ward:	Westgate-on-Sea

Executive Summary:

The Council is currently running a public consultation (Regulation 16) on the Westgate-on-Sea 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 the comments in Annex 1 to this report are approved as the Council's formal response to the Westgate-on-Sea Neighbourhood Plan.

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 at least partly 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, which relates to the Council's proposed response to the draft Westgate Neighbourhood Plan.

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 Westgate-on-Sea Neighbourhood Area (to which the neighbourhood plan relates) was designated on 20 October 2016 and comprises the area within the Town Boundary.
- 1.4 Westgate-on-Sea Town Council carried out a variety of consultation events before carrying out their first formal consultation (Reg14) between 24 September - 19 November 2021. The Council provided a formal response to that consultation - some of those comments were taken into account.
- 1.5 The Town Council then submitted their proposed Neighbourhood Plan to the Council, along with their Consultation Statement, Responses to Comments, Schedule of Changes, Basic Conditions Statement and Strategic Environmental Assessment and Habitats Regulations screening reports. The Council issued a statement confirming that the Town Council had met the various legal requirements, and prepared and opened the Regulation 16 consultation which is currently ongoing until 27 October 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 Town 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).

2.0 The Current Situation

- 2.1 The Council's recommended response to the Draft Neighbourhood Plan as submitted for the Regulation 16 consultation is set out in Annex 1. The amendments to the draft Plan go some way to meeting the concerns previously raised in response to the Regulation 14 consultation. However, there are still some aspects of the draft Plan 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 (specifically in relation to the Westgate Countryside triangle and some elements of Local Green Space policy). The main areas of concern are as follows:
- Guidelines and policies from external sources are referred to in neighbourhood plan policies (local parking guidelines, conservation area

policies) but with no links or names of the documents or policies. The person reading the policy needs to know where to find these

- The process for compiling a Local Heritage List needs to be set out to demonstrate that the process set out by Heritage England has been followed and the List can be afforded full weight in the neighbourhood plan
- Factual corrections - incorrect reference to the provision of electric vehicle charging points in the Local Plan, and incorrect name of Building Regulations Part L
- Objection to some proposed Local Green Spaces. The Neighbourhood Plan states that the LGSs listed have been allocated in the Local Plan. This is incorrect. Three of the sites are not included in the Local Plan. One site - Esplanade Gardens - was not included in the Local Plan as the Council's approach to all clifftop sites was that they are already allocated open spaces and not appropriate as LGSs. The neighbourhood plan also suggests that the Local Plan allocates Lymington Road allotment as Local Green Space. Again this is incorrect - the Local Plan only allocates it under the open space/allotment policy.
- Comments relating to flood risk due to changes to Planning Practice Guidance
- Objection to the allocation of the 'Westgate Countryside Triangle' as protected open space. The site boundary of the current planning application (Local Plan Policy SP17 refers) extends beyond the allocation boundary included in the Local Plan. This was discussed at the Local Plan Examination and the Inspector concluded that the boundary should be agreed during the planning application process. There is also no evidence to justify why the area should warrant a higher level of protection than that already afforded by Local Plan policy SP24
- There should be a requirement to provide Biodiversity Net Gain in the protection of wildlife and biodiversity policy
- Objection to policy requiring a 'functional green corridor' between the existing urban edge and the new SP17 development. This was discussed at the Local Plan Examination in Public but not supported by the Inspectors

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: 15 September - 27 October 2022 - Westgate-on-Sea Neighbourhood Plan - Formal comments from Thanet District Council

Background Papers

Title: [*Westgate Neighbourhood Plan Draft*](#)

Corporate Consultation

Finance: Chris Blundell (Acting Deputy Chief Executive and S151 Officer)

Legal: Sameera Khan (Interim Head of Legal & Monitoring Officer)