

## **CABINET**

**7 FEBRUARY 2023**

### **CLIFFE AND CLIFFE WOODS NEIGHBOURHOOD PLAN – REQUEST TO SEND TO REFERENDUM**

Portfolio Holder: Councillor Jane Chitty, Portfolio Holder for Planning, Economic Growth and Regulation

Report from: Richard Hicks, Director of Place and Deputy Chief Executive

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#### **Summary**

This report considers the outcomes of the independent examination of the Cliffe and Cliffe Woods Neighbourhood Plan. It sets out the Examiner's assessment of the submitted plan, and his recommendations, which include some modifications to the plan.

It is recommended that the Council accepts the Examiner's recommendations and approves sending the plan to referendum.

#### **1. Budget and policy framework**

1.1. Neighbourhood Plans were introduced through the Localism Act 2011 and are considered to be one means of encouraging wider participation of local communities in planning for the future of their local areas. Once adopted, or 'made', the Neighbourhood Plan, alongside the Medway Local Plan, forms part of the Development Plan for the local planning authority. The Development Plan forms part of the Council's policy framework.

1.2. The Council has the responsibility for the costs of the independent examination and arranging a referendum. The government provides a Neighbourhood Planning grant that is anticipated to meet the costs of examination and the referendum. Local planning authorities can claim a £20,000 grant from when they issue a decision statement detailing their intention to send the plan to referendum. The wider work of the local planning authority in relation to supporting neighbourhood planning is met within the Planning Service budget.

## 2. Background

- 2.1. Cliffe and Cliffe Woods Parish was designated as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan in June 2015. The local community has led on the research, engagement and preparation of the draft plan. Cabinet considered the draft plan at its meeting on 8 March 2022 and approved the publication of the plan at Regulation 16. The Council subsequently arranged for the independent examination of the plan.
- 2.2. Christopher Lockhart-Mummery, KC, was appointed to undertake the examination of the Neighbourhood Plan. He confirmed that the examination could proceed through written representations. His report notes that the examination of a Neighbourhood Plan is confined to considering compliance with the basic conditions and does not consider the wider 'test of soundness' that is integral to the examination of a Local Plan.
- 2.3. The Examiner provided a draft of his report for fact checking purposes to Medway Council and Cliffe and Cliffe Woods Parish Council on 20 January 2023, and asked for comments relating to errors of fact, dates, documents etc. Both parties identified some inaccuracies and provided clarifications. These included the clarification that Kent County Council was not the local highways authority for the area. The Parish Council also requested that the plan period align with the new Medway Local Plan, from 2022 to 2040. These were reflected in the final version of the Examiner's report which was issued on 27 January. The Examiner's report is set out at Appendix 1. For purposes of referencing, the submission draft of the Cliffe and Cliffe Woods Neighbourhood Plan is available to view at:  
  
<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=62468>
- 2.4. The Neighbourhood Planning Cabinet report of 18 October 2022 outlined the key stages of preparation of a Neighbourhood Plan and the Council's responsibilities throughout the process. Following the receipt of the Examiner's report, the Council must decide within five weeks whether to accept the Examiner's recommendations and to send the plan to referendum. If the Council does not accept the full recommendations, then it must formally consult on its proposed decision, and the reason for it, for a period of six weeks. This may involve a further examination process following the representations. Where the Council has not followed all of the Examiner's recommendations, the qualifying body, Cliffe and Cliffe Woods Parish Council, can request the Secretary of State to intervene.
- 2.5. If the Council accepts the full recommendations of the Examiner, it must arrange the referendum following the process set out in legislation. The Council's Electoral Services team will liaise with the parish council on the arrangements for the referendum. It is proposed that the referendum be held on 4 May 2023 to coincide with the Council elections.
- 2.6. If the majority of people who vote in a referendum are in favour of the draft Neighbourhood plan, it must then be 'made', or adopted by the Council, and

forms part of the development plan. It is used in making decisions on planning applications.

### 3. Options

3.1. Two broad options have been considered:

- Option 1 – accept the recommendations in the Examiner’s report and approve sending the plan to referendum
- Option 2 – reject or modify the Examiner’s recommendations and carry out further consultation on the proposed amendments.

3.2. The Planning Service has considered the recommendations in the Examiner’s report and view that is appropriate to accept his proposed modifications, and to progress to the referendum on the plan. The Examiner’s comments propose useful updates on contextual information, improved mapping, and clarification on policy wording. The Council has had the opportunity to comment on the emerging and draft Neighbourhood Plan. The Neighbourhood Planning group accepted amendments to the emerging plan on the basis of the Council’s early comments. The Planning Service does not consider it necessary or appropriate to make additional modifications to the plan, beyond the Examiner’s recommendations.

### 4. Advice and analysis

4.1. The Examiner’s report clearly sets out how the Plan meets the basic conditions for Neighbourhood Plans, which is the basis of the examination process. He proposes a limited number of modifications, which are set out in his report at Appendix 1. Planning Service officers have reviewed the recommendations and agree that these provide useful clarifications and updates to the Plan. Cliffe and Cliffe Woods Parish Council also considered the Examiner’s recommendations set out in the draft report for fact checking. The Parish Council has confirmed that it seeks to align the plan period to that of the new Medway Local Plan, from 2022 to 2040, and has confirmed their support for the proposed modifications to the Plan. It is therefore proposed that the Council accepts the full recommendations of the Examiner, which will involve specific modifications to references, mapping and policy wording in the Plan, and to approve that the Plan be sent to referendum.

4.2. The purpose of this report is to consider the Council’s response to the examiner’s recommendations, and to decide on whether to send the Neighbourhood Plan to referendum. A Diversity Impact Assessment is not appropriate to these procedural considerations.

4.3. The Neighbourhood Plan promotes sustainable development, and if ‘made’, or adopted will form part of the statutory development plan for Medway.

## 5. Risk management

- 5.1. This report concerns the consideration of the Examiner's report and the Council's response to his recommendations. There are limited risks associated with this matter. The options open to the Council and the respective processes are set out in legislation. The key risk relates to the Council not meeting the prescribed timings and being at risk of intervention by the Secretary of State.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Decision making is delayed and does not meet legal requirements.	A failure to meet legal timescales could result in reputational damage for the Council.	Cabinet report presented on grounds of urgency. Proceed with decision making on Examiner's report and approve sending plan to referendum in May.	E3

For risk rating, please refer to the following table

Likelihood	Impact:
A Very high B High C Significant D Low E Very low F Almost impossible	1 Catastrophic (Showstopper) 2 Critical 3 Marginal 4 Negligible

## 6. Consultation

- 6.1. This is not a consultation stage. If the Council accepts the Examiner's recommendations, it must then send the plan to referendum. It is only where the Council does not follow all of the Examiner's recommendations, or proposes further modifications, that consultation would be required.
- 6.2. There has been substantial and iterative consultation on the emerging and draft Neighbourhood Plan in recent years. Details of the work carried out by the Neighbourhood Planning group have been provided in the Consultation Statement submitted with the plan to Medway Council. Comments received on Regulation 16 consultation in 2022 were provided to the Examiner as part of the examination documents and materials.

## 7. Climate change implications

- 7.1. This report considers the Council's response to the Examiner's report on the Neighbourhood Plan, not the plan's specific content. However, it is noted that the plan promotes sustainable development and policies. Climate change is recognised in the plan's objectives and in a number of policies, such as protecting biodiversity and promoting walking and cycling.

## 8. Financial implications

- 8.1. The costs of preparing the Neighbourhood Plan have largely been met by the Parish Council and Neighbourhood Planning group. The Council has responsibility for the costs of the independent examination and referendum. The government provides a Neighbourhood Planning grant that is anticipated to meet the costs of examination and the referendum. Local planning authorities can claim a £20,000 grant from when they issue a decision statement detailing their intention to send the plan to referendum. The wider work of the local planning authority in relation to supporting neighbourhood planning is met within the Planning Service budget.

## 9. Legal implications

- 9.1. The proposals in this report follow the requirements of the neighbourhood planning processes. The rules covering all aspects of organising and conducting the polls can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012.
- 9.2. The Neighbourhood Plan comes into force as part of the statutory development plan once it has been approved at referendum.

## 10. Recommendation

- 10.1. It is recommended that Cabinet approves that the Neighbourhood Plan be modified in accordance with the Examiner's report and that the Neighbourhood Plan as modified should proceed to Referendum on Thursday 4 May 2023.

## 11. Suggested reasons for decision

- 11.1. To enable timely decision making in the Neighbourhood Plan process.

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## Appendices

Appendix 1: Cliffe and Cliffe Woods Neighbourhood Plan – Report of Examination

## Background papers

Cliffe and Cliffe Woods Neighbourhood Plan – Submission version available at:  
<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=62468>