

# **BROADSTAIRS & ST.PETERS DRAFT NEIGHBOURHOOD PLAN**

Cabinet	<b>25th July 2019</b>
Report Author	<b>Tim Willis, Deputy Chief Executive</b>
Portfolio Holder	
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>
Key Decision	<b>No - Policy Framework</b>
Reasons for Key	<b>N/A</b>
Ward:	<b>Beacon Road, Kingsgate, Bradstowe, St Peters, Viking</b>

## **Executive Summary:**

Under the Localism Act 2011, Neighbourhood plans can be prepared by local communities and are led by Town or Parish Councils or a Neighbourhood Forum in areas which do not have a Town or Parish Council. If Thanet Council adopt a neighbourhood plan it would have the same significance as other Development Plan Documents (eg the Local Plan) for the district.

On 18th June 2015 Cabinet resolved to approve a neighbourhood plan area for Broadstairs & St Peters in order that the Town Council could prepare a neighbourhood plan for that area.

Since then, Broadstairs & St Peters Town Council have prepared a neighbourhood plan. It has been formally submitted to the Council and examined by an independent Examiner. The Council has received the Examiners report which includes recommendations for modifications to the neighbourhood plan, and recommends that it be subject to a referendum.

The Council now has to issue a Decision Statement as to whether or not it accepts the recommendations in the Examiners report, and, if not, what actions would be necessary. The Council also has to consider whether the draft Plan meets the “basic conditions” for a Neighbourhood Plan.

This report sets out relevant issues in the Examiners report for Cabinet’s decision which will also form the basis of the Decision Statement.

## **Recommendation(s):**

That the draft Neighbourhood Plan be modified as set out in this report, and that the proposed modifications be the subject of public consultation for a period of six weeks.

<b>CORPORATE IMPLICATIONS</b>									
<b>Financial and Value for Money</b>	Consultation costs only associated with this report, which will be met from existing budgets.								
<b>Legal</b>	National legislation and national policies apply.								
<b>Corporate</b>	It is important that the Local Planning authority consider the Examiner's recommendations and the "basic conditions" fully, as the decision on the draft Neighbourhood Plan may be subject to Judicial Review.								
<b>Equality Act 2010 &amp; Public Sector Equality Duty</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <table border="1" style="width: 100%;"> <thead> <tr> <th colspan="2">Please indicate which aim is relevant to the report.</th> </tr> </thead> <tbody> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td style="width: 10%;"></td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td></td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </tbody> </table> <p>The Local Planning Authority's role in the Neighbourhood Plan process does not engage the PSED.</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		Advance equality of opportunity between people who share a protected characteristic and people who do not share it		Foster good relations between people who share a protected characteristic and people who do not share it.	
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<b>CORPORATE PRIORITIES (tick those relevant) ✓</b>	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	
Supporting neighbourhoods	✓

<b>CORPORATE VALUES (tick those relevant) ✓</b>	
Delivering value for money	
Supporting the Workforce	
Promoting open communications	✓

## **1.0 Introduction and Background**

- 1.1 Broadstairs & St Peters Town Council have been progressing their Neighbourhood Plan. Part of the Neighbourhood Planning process is for the draft plan to be examined by an independent examiner to test whether or not the draft plan meets the 'basic conditions' and other procedural matters. The Plan was submitted to an Independent Examiner in March 2019, and the Council and the Town Council received the Examiners report on 14th June.

- 1.2 Thanet Council now has to take a decision, and publish that decision, on whether or not to accept the Examiners report and recommendations and send the draft neighbourhood plan to referendum. This is the first stage in the Neighbourhood Plan process that the local authority formally assesses a neighbourhood plan. This should be carried out within 5 weeks of receiving the report (5 week deadline being 19th July).
- 1.3 It is considered that the draft Neighbourhood Plan and the Examiner's recommendations are generally acceptable, and TDC Officers have supported the preparation of the draft NP (for example, with policy advice, and in carrying out the Strategic Environmental Assessment (SEA) scoping exercise required). However, officers have concerns about some of the allocations proposed in the neighbourhood plan for Local Green Spaces.
- 1.4 One of the 'basic conditions' is that a draft neighbourhood plan should be in general conformity, and not conflict with, national planning policy or local plan policies. It is considered that some of the Local Green Spaces (LGS) proposed do not meet the criteria for designation as set out in the National Planning Policy Framework (NPPF). As part of the council's consultation on the Proposed Revisions to the draft Local Plan (Preferred Options) in 2017, the council invited proposals for sites to be considered as Local Green Spaces for inclusion in the Local Plan. Some of the sites now being proposed in the neighbourhood plan were also submitted at this stage, but were not allocated in the Local Plan as they did not meet the designation criteria. It is considered that their allocation in the neighbourhood plan would therefore conflict with the Local Plan LGS allocations as they have already been considered unsuitable for designation.

## 2.0 The Current Situation

- 2.1 The Neighbourhood Plan process is outlined below (as set out in the Councils Statement of Community Involvement):

<b>The Neighbourhood Planning Process</b>	
<b>Make application for designation of a Neighbourhood Area</b>	
The Community must	Apply to the Council to designate a Neighbourhood Area, setting out a plan or statement identifying the land it covers, and a statement explaining why it should be designated
The Council must	Publicise the application, allow 6 weeks from the date it is first publicised for representations to the application, and detail how these can be made
<b>Neighbourhood Development Plans</b>	

The Community must	Prepare their plan and gather evidence to justify it. Publicise the proposal, carry out at least 6 week consultation period, consult relevant statutory consultees,
The Council must	The Council has a duty to support the community in preparing a Neighbourhood Plan, and will share any relevant evidence it holds to justify the proposals.
The Community must	Submit draft to the Council and include a plan or statement showing the area covered, consultation statement, written statement showing how it meets requirements of Schedule 4b of 1990 Town and Country Planning Act
The Council must	Publicise the proposal, allow 6 weeks for representation from the date the proposal is publicised and give details of how responses and representations can be made. Representations received will be considered by the Examiner
***The Council must***	Appoint an Examiner and send relevant documents and representations. The Examiner will send a report which is not binding. ***The Council will then decide if the Plan can be made.***
The Council must	Carry out a referendum in the relevant neighbourhood area. If 51% or more of those who vote are in favour of the plan, the Council must make that plan.
The Council must	Publish its decision on the website along with a statement of reasons for the decision and details of where they can be inspected.
The Council must	Once a plan has been made, publish the plan on the website along with details of where it is available

\*\*\* The current stage of the Broadstairs & St Peters Neighbourhood Plan is asterisked in the above table for ease of reference.

## Neighbourhood Plan Examination

2.2 The role of the Examiner is to recommend either:

- (a) that the neighbourhood plan is submitted to a referendum without changes; or
- (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

2.3 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:

- Whether the plan meets the Basic Conditions;
- Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development';
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
  - whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum;

and;

- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

2.4 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- 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 of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations;

and;

- meet prescribed conditions and comply with prescribed matters.

2.5 It is at this point in the process (and the first formal point in the process) that the Council must come to a formal view about whether the draft neighbourhood plan meets the basic conditions. Regulation 18 of the Neighbourhood Planning Regulations 2012 (as amended), and Schedule 4B of the Town and Country Planning Act 1990 require the local authority to propose any necessary modifications to a neighbourhood plan in order that it can meet the Basic Conditions.

2.6 The draft Neighbourhood Plan is generally supported - it has been positively prepared, and includes policies that generally conform with the emerging Local Plan. It is encouraging to see that the Town Council has included policies which would be too detailed or too specific for the Local Plan, and has a good evidence base to support them. For example, Important Views and Vistas and Seafront Character Zones identify particular local views and characteristics that are important to small specific areas. The neighbourhood plan also includes a policy for Areas of High Townscape Value - this policy is in the 2006 adopted local plan but was not carried forward in the emerging local plan as the Council did not have a sufficient evidence base to justify them on a district wide basis, whereas the Town Council can do so on a neighbourhood plan basis.

2.7 However, It is considered that the draft neighbourhood plan does not currently meet the basic conditions because some of the proposed Local Green Spaces do not meet the criteria set out in the National Planning Policy Framework (NPPF) and are not in general conformity with the strategic policies of the development plan for the area (emerging Thanet Local Plan).

2.8 The NPPF states that policies for managing development within sites designated as Local Green Spaces should be consistent with those for Green Belts (para 101) - the NPPF states that 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances' (para 143).

2.9 The NPPF also sets criteria for the designation of Local Green Spaces (para 100):

'The Local Green Space designation should only be used where the green space is:

- (a) in reasonably close proximity to the community it serves;
- (b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- (c) local in character and is not an extensive tract of land.'

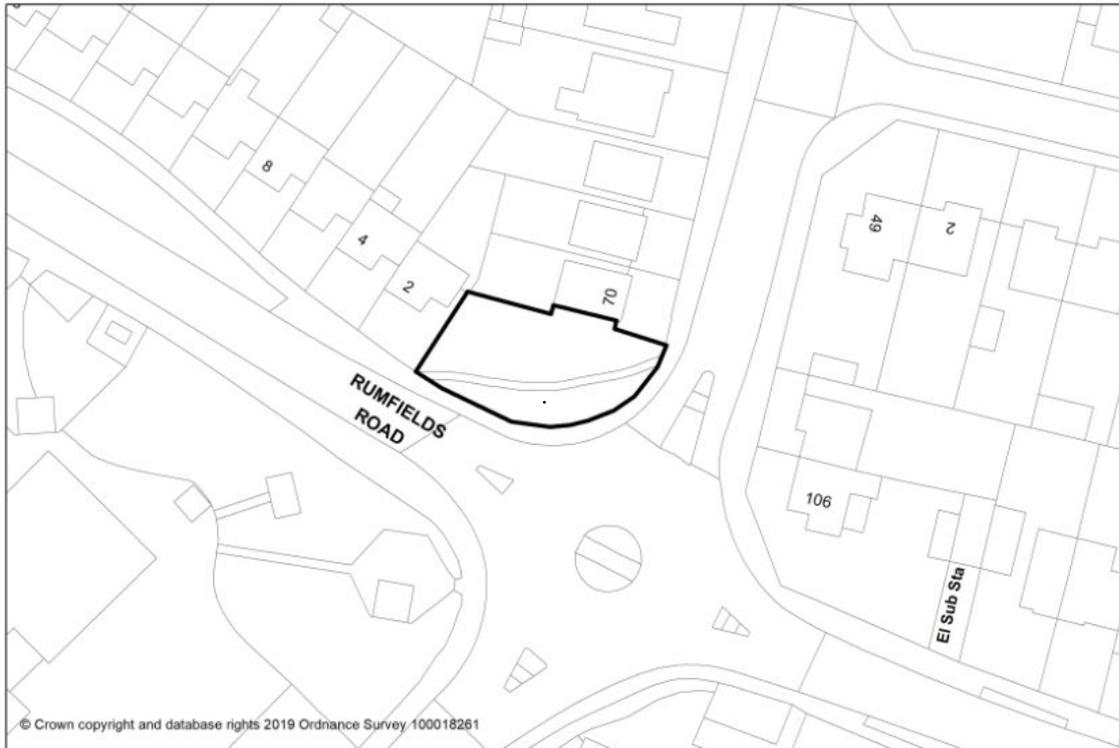
2.10 Proposed LGS sites were submitted to the Council during the Preferred Options Revisions consultation (20th January - 17th March 2017). Broadstairs Town Council have also assessed proposed LGS sites submitted during their consultation to include in their neighbourhood plan. The assessment criteria set out in the NPPF applies to LGS regardless of whether they are assessed and allocated in a Local Plan or a neighbourhood plan.

2.11 The BSNP allocates the following as Local Green Spaces under policy BSP5:

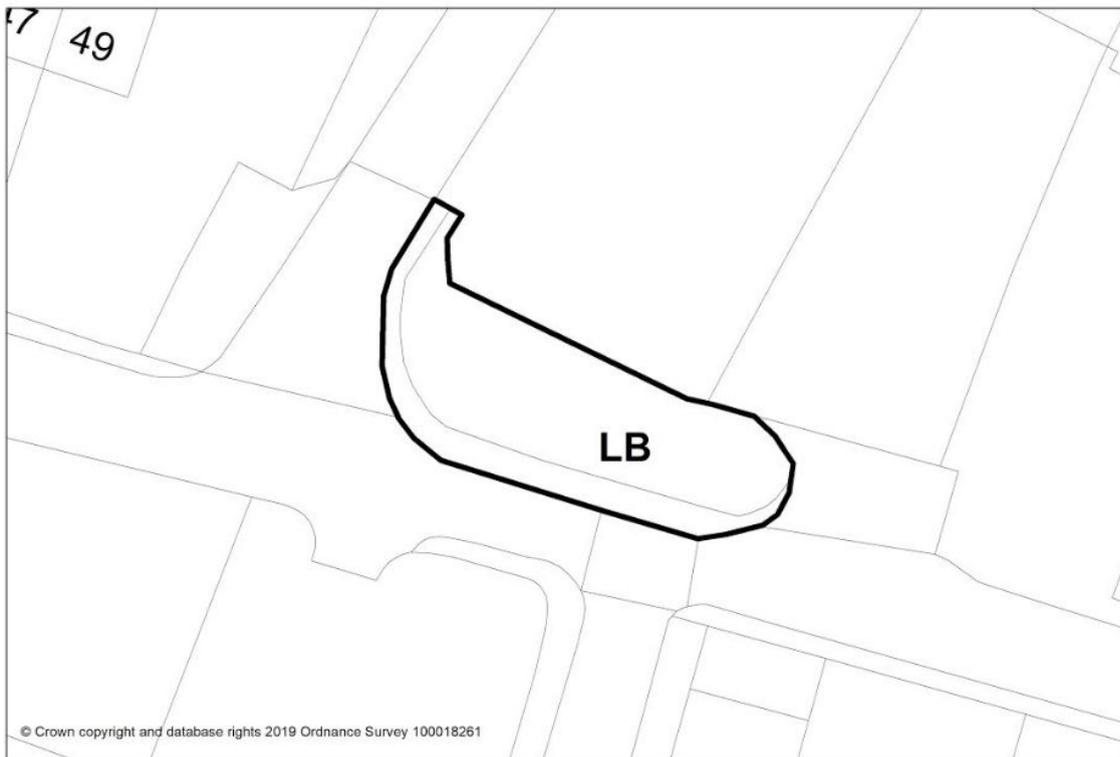
- Alderney Gardens
- Colburn Road Estate
- Culmers Amenity Land
- Dumpton Park Drive
- Fairfield Road/Rumfields Road
- Fair Street/Royal Close
- Hereson Road
- Hornet Close
- Kingfisher Walk
- Kitty's Green
- Ramsgate Road
- Reading Street
- St Peter's Village Green
- Salts Drive
- Selwyn Drive
- The Maples
- Victoria Parade & Nuckell's Gardens
- Vincent Close, also known as Northwood Park

2.12 Of these sites, four were submitted to the Council during the Local Plan consultation. Culmer's Amenity Land and Kitty's Green were submitted and included for allocation in the Local Plan as Local Green Spaces.

- 2.13 Fairfield Road/Rumfields Road was submitted under a slightly different name of 'Cross-roads of Fairfield Road and Bromstone Road'. The Council did not include this site for allocation in the Local Plan as a Local Green Space for the following reason: 'Possibly highway land on a busy roundabout. Site does not meet the NPPF criteria for designation'.



- 2.14 Reading Street was also submitted and was not included in the Local Plan for the following reason: 'Site is part of the grass verge adjacent to the highway. Site does not meet the NPPF criteria for designation'



2.15 Because these two sites have been considered inappropriate for designation in the Local Plan, their designation in the neighbourhood plan would also not be considered appropriate, would not be in general conformity with the emerging Local Plan, so would fail the Basic conditions.

2.16 It is therefore recommended that Fairfield Road/Rumfields Road and Reading Street are removed from the Local Green Space designations in the Broadstairs & St Peters Neighbourhood Plan.

### 3.0 Options

3.1 **Option 1 (Recommended)** - That Cabinet decide (under Reg 18 c and d of the Neighbourhood Planning Regulations 2012) to propose modifications to the St Peters and Broadstairs Neighbourhood Plan, removing the Fairfield Road/Rumfields Road and Reading Street Local Green Space designations. This would form the Council's Decision Statement which would be published on the Council's website. The Decision Statement will refuse the neighbourhood plan proposal on the basis that it does not meet the Basic Conditions. It will also propose the above modification to make the plan meet the Basic Conditions. The Council will then carry out a public consultation on the proposed modification.

3.2 **Option 2 (not Recommended)** - that the Proposed modifications are not taken forward. This could potentially leave the decision open to Judicial Review, if it is considered that the proposed modifications are necessary to ensure that the draft Plan meets the "basic conditions".

#### 4.0 Next Steps

- 4.1 If the recommendations in this report are accepted by Cabinet, the Proposed Modifications would need to be the subject of public consultation for a period of six weeks.

Contact Officer:	Adrian Verral, Strategic Planning Manager
Reporting to:	Bob Porter, Head of Housing & Planning

#### Annex List

None	N/A
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#### Background Papers

Title	Details of where to access copy
<i>Draft Broadstairs and St Peter's Neighbourhood Plan</i>	<a href="https://www.broadstairs.gov.uk/_UserFiles/Files/NeighbourhoodPlan/Regulation%2016%20NDP-compressed.pdf">https://www.broadstairs.gov.uk/_UserFiles/Files/NeighbourhoodPlan/Regulation%2016%20NDP-compressed.pdf</a>
<i>Examiner's report</i>	<a href="https://www.broadstairs.gov.uk/_UserFiles/Files/NeighbourhoodPlan/Final%20Examiners%20Report.pdf">https://www.broadstairs.gov.uk/_UserFiles/Files/NeighbourhoodPlan/Final%20Examiners%20Report.pdf</a>

#### Corporate Consultation

<b>Finance</b>	Matthew Sanham, Financial Services Manager
<b>Legal</b>	Tim Howes, Director of Corporate Governance