

## Agenda Item 15

<b>Executive Member</b>	Cllr Duncan Irvine		
<b>Strategic Management Team Lead Officer</b>	Jack Straw		
<b>Author</b>	Guy Davies		
<b>Telephone</b>	01306 879281		
<b>Email</b>	guy.davies@molevalley.gov.uk		
<b>Date</b>	7 February 2017		
<b>Wards affected</b>	Beare Green; Capel, Leigh & Newdigate; Leith Hill	<b>Key Decision</b>	Yes
<b>Subject</b>	Parish Wards of Beare Green, Capel and Coldharbour Draft Neighbourhood Development Plan		
<b>RECOMMENDATIONS</b>			
<ol style="list-style-type: none"> <li>1. That it be agreed that the draft Neighbourhood Development Plan complies with the procedural requirements for preparation and submission as defined in the Town and Country Planning Act 1990 and Neighbourhood Planning (General) Regulations 2012.</li> <li>2. That the draft Neighbourhood Development Plan be published for a period of six weeks during which people who live, work or carry out business in the Parish of Capel be consulted and given the opportunity to make representations. Publicity for the consultation will include: <ul style="list-style-type: none"> <li>• Publication of the draft Neighbourhood Development Plan on the Mole Valley District Council website and hard copies available for inspection at Pippbrook and Capel Parish Council offices</li> <li>• Notification of statutory bodies as required by regulation</li> <li>• Notification by letter of all households and businesses in the Capel Neighbourhood Area</li> </ul> </li> <li>3. That Mole Valley District Council makes a representation as part of the consultation process, as described in Annex 4.</li> <li>4. That arrangements be made for the draft Neighbourhood Development Plan to be independently examined after the end of the consultation period.</li> <li>5. That all representations received during the consultation be submitted to the examiner of the draft Neighbourhood Development Plan.</li> </ol>			
<b>EXECUTIVE SUMMARY</b>			
<p>In July 2015, Mole Valley District Council (MVDC) designated the civil Parish of Capel as a neighbourhood area.</p> <p>Following designation of the neighbourhood area, Capel Parish Council has been preparing its draft Neighbourhood Development Plan (NDP). This involved gathering evidence, drafting the NDP and carrying out community consultation. The version of the NDP submitted to MVDC has been modified to take account of responses made during the local consultation phase. Details of the process undertaken by the Parish</p>			

Council are summarised in their Statement of Community Involvement.

It is concluded that the draft NDP has been prepared in accordance with the Neighbourhood Planning (General) Regulations 2012 and other relevant legislation and the correct documents have been submitted. MVDC is now required to publicise the submitted draft NDP and invite people in the Parish to make representations. Following the consultation MVDC is required to arrange for the draft NDP to be independently examined.

While the draft NDP meets the procedural requirements for moving to the consultation and examination stages, there are a number of substantive planning issues contained in the NDP which are considered to conflict with national and Development Plan policies. Discussions with the Parish Council have been unable to resolve these issues. As a consequence, it is recommended that MVDC makes its own representation at the consultation stage, setting out the reasons why it considers elements of the draft NDP are not in general conformity with national and/or Development Plan policies. A draft response is attached.

All responses to the consultation on the draft NDP, including that made by MVDC, will be matters for the examiner to consider and make recommendations on as part of the examination process. MVDC will have an opportunity to formally consider whether the draft NDP meets the 'basic conditions' (which includes conformity with Development Plan policies), following receipt of the examiner's report.

### **Corporate Priority Outcomes**

#### **ENVIRONMENT: A highly attractive area with housing that meets local need**

Preparation of a neighbourhood development plan is one means through which the local community can take responsibility for developing plans for how land is used in their own neighbourhood. It sets out local priorities to guide development and protect the natural and built environment, within the framework of national and local strategic policies.

#### **PROSPERITY: A vibrant local economy with thriving towns and villages**

Where relevant, neighbourhood development plans can include land use planning policies geared towards helping rural communities and businesses thrive.

#### **COMMUNITY WELLBEING: Active communities and support for those who need it**

Neighbourhood development plans are developed by the local community. The process includes extensive community engagement and has the potential to foster community spirit through agreement of local land use planning priorities.

### **The Executive has authority to determine the recommendations**

## **1 Background**

- 1.1 A neighbourhood development plan (NDP) is a community-led plan for guiding the future development of a local area. When adopted, an NDP becomes part of the statutory development plan for the area and has to be taken into account by the local planning authority when determining planning applications. In parished areas, a neighbourhood development plan can only be prepared by the parish council.
- 1.2 MVDC is required to check that the submitted draft NDP and supporting documents

meet the requirements of the Regulations<sup>1</sup> including local consultation. If the draft NDP is found to have met these requirements, MVDC is responsible for carrying out the next stage of the neighbourhood planning process by publicising the draft NDP, inviting representations and arranging an independent examination.

- 1.3 At this stage, MVDC is not required to make any decision on whether the draft NDP meets the 'basic conditions'<sup>2</sup>. This will be a matter for the independent examiner to consider and make recommendations on, although it is open to MVDC to make representations when the draft NDP is published for consultation.

## **2.0 Submission Requirements**

2.1 The Regulations require the following to be submitted by Capel Parish Council:

- A map or statement which identifies the area to which the draft NDP relates
- A consultation statement containing details of who was consulted on the draft NDP, how they were consulted, a summary of the main issues and concerns received, a description of how those issues and concerns have been considered and, where relevant, addressed in the draft NDP
- A copy of the draft Neighbourhood Development Plan
- A statement on how the draft NDP fulfils the 'basic conditions'

### Map identifying the NDP area

2.2 A map showing the area to which the draft NDP relates is included on page 6 of the draft NDP (Annex 1). A statement confirming the neighbourhood area is also included in paragraph 6.9 of the Statement of Community Involvement (Annex 2). This accords with the neighbourhood area approved by MVDC in July 2015, which includes the whole of the civil parish of Capel.

### Consultation Statement

2.3 Capel have called their consultation statement a Statement of Community Involvement (Annex 2). It sets out the how the community were involved during preparation of the draft NDP, including public meetings, information leaflets and newsletters, and consultation on possible development sites. All documents have been made available on a dedicated website ([www.parishplan.co.uk](http://www.parishplan.co.uk)) which also allowed feedback as the draft NDP was being developed.

2.4 The Parish Council was required by the Regulations to:

- Publicise 'in a manner that is likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area' details of the proposed NDP, where it could be inspected, details of how to make representations, and the time period (being not less than six weeks) for doing so
- Consult where relevant the prescribed statutory bodies
- Submit a copy of the draft NDP to the local planning authority

2.5 The Parish Council met these requirements by publishing a pre-submission draft of the NDP on 9 July 2016 for a six week consultation period on their website. Publicity was provided with notices on all parish noticeboards. Hard copies of the pre-

---

<sup>1</sup> Neighbourhood Planning (General) Regulations 2012

<sup>2</sup> The 'basic conditions' set out in Schedule 4B to the TCPA 1990 require the NDP to: have regard to national planning policy and guidance; contribute to sustainable development; be in general conformity with the Development Plan; and be compatible with EU obligations (in particular those relating to strategic environmental assessment).

submission draft NDP were sent to all residential addresses in the Parish during the course of the consultation, and additional copies were available at the Parish Council offices in Capel. Relevant statutory bodies were consulted as listed in the Statement of Community Involvement, as were local landowners and businesses. A copy of the pre-submission draft NDP was submitted to MVDC.

- 2.6 A summary of the main issues and concerns raised in representations on the pre-submission draft NDP, and the Parish Council's response to them, is set out in the Statement of Community Involvement.

#### The Neighbourhood Development Plan

- 2.7 A copy of the submitted draft NDP is included in Annex 1. Its main provisions include:
- 29 policies relating to the whole of the neighbourhood area covering housing, employment, shopping, transport, community, leisure, environmental and design issues
  - A further 19 policies specific to the three villages within the parish (Beare Green, Capel and Coldharbour)
  - 8 allocated sites for recreation, housing, and employment development
  - Extensions to the Beare Green and Capel village boundaries
- 2.8 While the ambition of the NDP is acknowledged, it is considered to conflict in a number of respects with the Development Plan as well as suffering from shortcomings in policy wording, content and layout. These matters do not prevent the draft NDP from proceeding to the next stage of the process, but will be material issues for consideration during the independent examination.

#### Basic Conditions Statement

- 2.9 A copy of the Basic Conditions Statement is included at Annex 3. The purpose of the Basic Conditions Statement is to set out how, in the view of Capel Parish Council, the draft NDP:
- Has regard to national policy and guidance
  - Contributes to the achievement of sustainable development
  - Is in general conformity with the strategic policies of the Development Plan
  - Meets human rights requirements and EU obligations
- 2.10 The Basic Conditions Statement addresses each of the requirements and as such meet the requirements of the regulations. For the reasons already mentioned in this report and detailed in the draft consultation response at Annex 4, there is a difference of view as to whether parts of the draft NDP do meet some of the basic conditions, specifically those relating to national and Development Plan policies.
- 2.11 A Strategic Environmental Impact Assessment screening opinion has been undertaken by MVDC officers on behalf of the Parish Council, including consultation with statutory environment bodies. The screening opinion concludes that the draft NDP will not have any significant impact on sites of European importance and therefore meets EU obligations in that regard.
- 2.12 Capel Parish Council has also submitted a Housing and Community Survey Report and a Landscape and Character Appraisal for Capel Report as supporting evidence to the draft NDP. These documents will be made available to the Examiner as supporting information.

### **3.0 Next Steps**

- 3.1 It is considered that Capel Parish Council has complied with the requirements of Regulation 15 of the Regulations by submitting the required documents.
- 3.2 The next step is for MVDC to publicise the draft NDP, make it available for inspection and invite representations giving at least six weeks for reply from the date of publication. Copies of all representations will be forwarded to the independent examiner for consideration.
- 3.3 The draft NDP will be publicised by writing to each household and business in the neighbourhood area, publishing it on the MVDC website, and raising attention through social media channels. Capel Parish Council will assist by publishing a copy of the draft NDP on their website and publicising the consultation on parish noticeboards. MVDC will also notify those bodies and organisations referred to in the Consultation Statement and as required by the Regulations.
- 3.4 After the publication period MVDC is required to arrange an independent examination of the draft NDP. This involves appointing an appropriately qualified and experienced person to carry out the examination. The examiner will decide the scope of the examination having regard to the issues covered in the draft NDP and raised in responses to the consultation.
- 3.5 Following the examination, the examiner will issue a report giving advice on whether the draft NDP meets the basic conditions. If it does, the examiner will recommend that the NDP proceed to the referendum stage. If it does not, the examiner will either suggest modifications to the draft NDP so that it meets the basic conditions, or conclude that it cannot be sufficiently modified and recommend that it does not proceed any further. MVDC is responsible for considering the recommendations of the examiner and taking appropriate action.

### **4.0 Consultation Response to the Draft NDP**

- 4.1 A draft consultation response is included at Annex 4. There are three main areas of concern, together with more detailed criticisms which are set out in an attached schedule:
  - Allocated sites and the Green Belt – it is MVDC's view that Green Belt designation can only be altered through a review of the Development Plan, and not through the NDP. This results in a number of the development sites allocated in the draft NDP conflicting with Green Belt designation.
  - Revisions to settlement boundaries – proposed boundary changes for some of the allocated sites are inconsistent with the definition of settlements in the Development Plan. In particular, a proposal to extend the village settlement into open countryside south of Capel would be intrusive and run counter to the decision of MVDC to refuse permission for a similar recent proposal.
  - Policies – many of the policies suffer from being imprecise, unclear or repetitive. Previous suggestions for deletion or modification have not been addressed, but remain germane.
- 4.2 A few suggestions have also been made to improve the general layout of the draft NDP, although these are matters of style rather than substance.

### **5.0 Financial Implications**

- 5.1 Grant funding to cover part of the costs of neighbourhood planning is available from the Department for Communities and Local Government and will be recouped during

the process at the appropriate stage.

## **6.0 Legal Implications**

- 6.1 The draft NDP has been prepared in accordance with the provisions of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011), the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning (General) Regulations 2012.

## **7.0 Options**

- 7.1 Provided that the requirements of regulation 15 of the Neighbourhood Planning (General) Regulations 2012 are met (submission of specified documents), MVDC is required to proceed with publicising the draft NDP and to arrange an independent examination.
- 7.2 Capel Parish Council has met all the legal requirements of submitting a draft NDP to MVDC and there is no reasonable justification why the draft NDP should not be publicised and subsequently independently examined.

## **8.0 Corporate Implications**

### **Monitoring Officer commentary**

The Monitoring Officer confirms that all relevant legal implications have been taken into account.

### **S151 Officer commentary**

Confirms that all relevant financial risks and implications have been taken into account.

### **Risk Implications**

None for MVDC going forward to the next stage of the neighbourhood plan process. Refusal or delay in proceeding with arranging the consultation and examination could result in legal action against MVDC and/or loss of community confidence.

Capel Parish Council are taking a significant risk that the draft Plan will be found unsound or need to be heavily modified following examination because it fails the basic conditions set out in statute. The Parish Council has been advised of the consequences of such action, but has nevertheless chosen to continue with submission of the draft Plan in its current form.

### **Equalities Implications**

Not required at this stage. An equalities impact assessment will be carried out if necessary when MVDC is required to make a decision on the content of the NDP.

### **Employment Issues**

None.

### **Consultation**

See report.

## **Communications**

See report.

### **9.0 Background Papers**

1. Wards of Beare Green, Capel and Coldharbour Draft Neighbourhood Development Plan
2. Statement of Community Involvement (Consultation Statement)
3. Basic Conditions Statement
4. Draft consultation response by MVDC

