

APPLICATION TO AMEND A NEIGHBOURHOOD AREA BY WITCHFORD PARISH COUNCIL

Committee: Delegated decision on behalf of Full Council

Date: 05 February 2019

Author: Edward Dade – Strategic Planning Officer

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1.0 ISSUE

- 1.1 To determine Witchford Parish Council's application to amend the Witchford Neighbourhood Area.
- 1.2 Determination of the application is delegated to the Director (Commercial) (hereafter *the Director*), in accordance with the Council's governance arrangements for neighbourhood planning¹.

2.0 RECOMMENDATION(S)

- 2.1 It is recommended that the Director:

- i. approve the application by Witchford Parish Council to amend the boundary of the designated Witchford Neighbourhood Area.

3.0 BACKGROUND/OPTIONS

- 3.1 The parish of Witchford was designated as a Neighbourhood Area for the purposes of neighbourhood planning by East Cambridgeshire District Council (ECDC) on 26 August 2016. The boundary of the designated Neighbourhood Area is coterminous with the current parish boundary. Following designation of the Neighbourhood Area, Witchford Parish Council began preparing a Neighbourhood Plan.
- 3.2 In 2018, ECDC undertook a Community Governance Review (CGR), which sought to make minor amendments to a number of parish boundaries, including the parish of Witchford. Details of the CGR are available on the Council's website². The amended parish boundaries will come into effect on 02 May 2019.
- 3.3 Witchford Parish Council submitted a new Neighbourhood Area application on 12 December 2018. The new application requested the Neighbourhood

¹ Governance arrangements for neighbourhood planning were agreed by Full Council on 08 January 2015:

https://www.eastcambs.gov.uk/sites/default/files/agendas/fc080115_P157.pdf

² <http://www.eastcambs.gov.uk/meetings/council-12072018>

Area be adjusted to reflect the forthcoming changes to the parish boundary. A copy of the application is provided in Appendix 1.

- 3.4 As a parish council, Witchford Parish Council is a 'relevant body' for the purposes of neighbourhood planning. The application consists of a letter, providing justification for the proposed change, and a map of the proposed Neighbourhood Area. The application was therefore considered to be valid.
- 3.5 Where a proposed Neighbourhood Area follows a parish boundary, regulation 5A of the Neighbourhood Planning (General) Regulations 2012 (as amended) removes the requirement for publication. However, the new parish has not yet been brought into effect, and therefore the proposed Neighbourhood Area boundary is not coterminous with the current parish boundary. The proposed Neighbourhood Area boundary includes pockets of land currently located in the parishes of Ely, Wentworth and Wilburton.
- 3.6 Where the proposed Neighbourhood Area differs from the parish boundary, regulation 6 requires the application be publicised 'as soon as possible' for a period of 'not less than six weeks'. Following submission of the application, it was necessary to discuss and agree with Witchford Parish Council the process for determining the correct course of action for this application. The application was subsequently published for consultation on 21 December 2018 to 04 February 2019.
- 3.7 The application was placed on the Council's website and in its Customer Service Centre at The Grange, Nutholt Lane, Ely. Respondents were invited to comment on the application in writing, by post or email.
- 3.8 Response rates to the publication of Neighbourhood Area applications are typically low. One response was received from Gladman Developments Limited. In summary, the respondent requested to be kept informed during preparation of the Witchford Neighbourhood Plan, and highlighted many features of the neighbourhood planning process - but did not make specific comments on the appropriateness of the proposed boundary. The content of the response is set out in Appendix 2.
- 3.9 In determining the application, consideration has to be given as to whether or not the specific area is an appropriate area to be designated as a Neighbourhood Area.
- 3.10 Under Section 61 of Town and Country Planning Act 1990 (as amended), the following factors are taken into account as part of the assessment of the appropriateness of the area:
 - Whether the specified area falls entirely within East Cambridgeshire District Council's area;
 - Whether the specified area, in whole or part, has already been designated as a neighbourhood area, and whether there are any other outstanding

applications to designate any part of the area specified as a neighbourhood area;

- The reasons provided by the Parish Council as to why the area is appropriate;
- All representations received during the consultation period;
- Whether the proposed area should be designated as a business area.

The authority is not permitted in law to reject the proposal outright.

3.11 East Cambridgeshire District Council therefore has to choose one of the following options:

- Option A: area approved without amendment;
- Option B: area approved with minor amendments;
- Option C: minded to approve an area, but only if significant amendments are made which are subject to a further round of consultation

3.12 In relation to the matter of whether to also designate the area as a 'Business Area', the Localism Act, Schedule 9, Part 1, requires that whenever a Council considers an application to designate a Neighbourhood Area that it also considers whether the area should be designated as a Business Area. A key factor in this decision is whether the area concerned is wholly or predominantly business in nature. In simple terms, if an area is designated as a Business Area, then businesses that operate in the area have a much greater say over future neighbourhood planning proposal in the area, even if the occupiers of such businesses don't live in the area. Nationally, very few areas are designated as Business Areas, and it would be surprising if any proposal in East Cambridgeshire (not just Witchford) was designated as a Business Area.

4.0 ARGUMENTS/CONCLUSIONS

4.1 The application has been appraised against the criteria set out in paragraph 3.11:

- The specified area falls entirely within East Cambridgeshire District.
- The vast majority of the specified area is already designated as the Witchford Neighbourhood Area. There are no other outstanding applications to designate any part of the area specified.
- In light of forthcoming changes to the parish boundary as a result of the CGR, the existing Neighbourhood Area will no longer reflect the parish boundary. The Parish Council's justification for amending the Neighbourhood Area is to align the Neighbourhood Area with the new parish boundary.
- Representations received do not justify any alternative boundary for the Neighbourhood Area to be designated.

- 4.2 The proposal will align the Neighbourhood Area with the new parish boundary, as it will be at the time the Neighbourhood Plan is submitted. It is accepted practice that a parish boundary is an appropriate geography for a Neighbourhood Area. Nationally, this is by far the most common area to designate (i.e. aligned to a parish boundary), and there would have to be exceptional reasons not to do so. In the case of this application, no such reasons exist.
- 4.3 Witchford Parish Council's proposed amendment to the Neighbourhood Area boundary is therefore logical and appropriate. Amending the boundary now will provide greater clarity about the area in which the emerging plan's policies will apply.
- 4.4 In terms of whether the Neighbourhood Area should be designated as a Business Area, the parish is clearly not wholly or predominantly business in nature. It should not, therefore, be designated as a Business Area.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 5.1 There are no financial implications associated with the designation of a neighbourhood area. However, during the preparation and adoption stages of any neighbourhood plan and/or order, there will be financial implications arising from the provision of assistance and delivery of the authority's legal obligations prescribed by primary and secondary legislation. These will be met from existing budgets.

- 5.2 An Equality Impact Assessment is not required.

6.0 APPENDICES

- 6.1 Appendix 1 - Witchford Neighbourhood Area application
 Appendix 2 - Table of consultation responses received

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
None	N/a	Edward Dade Position: Strategic Planning Officer E-mail: edward.dade@eastcambs.gov.uk

Appendix 1: Neighbourhood Area application



Ed Dade
Strategic Planning Officer
ECDC

BY EMAIL

12th December 2018

Dear Mr Dade,

Witchford Neighbourhood Plan Area

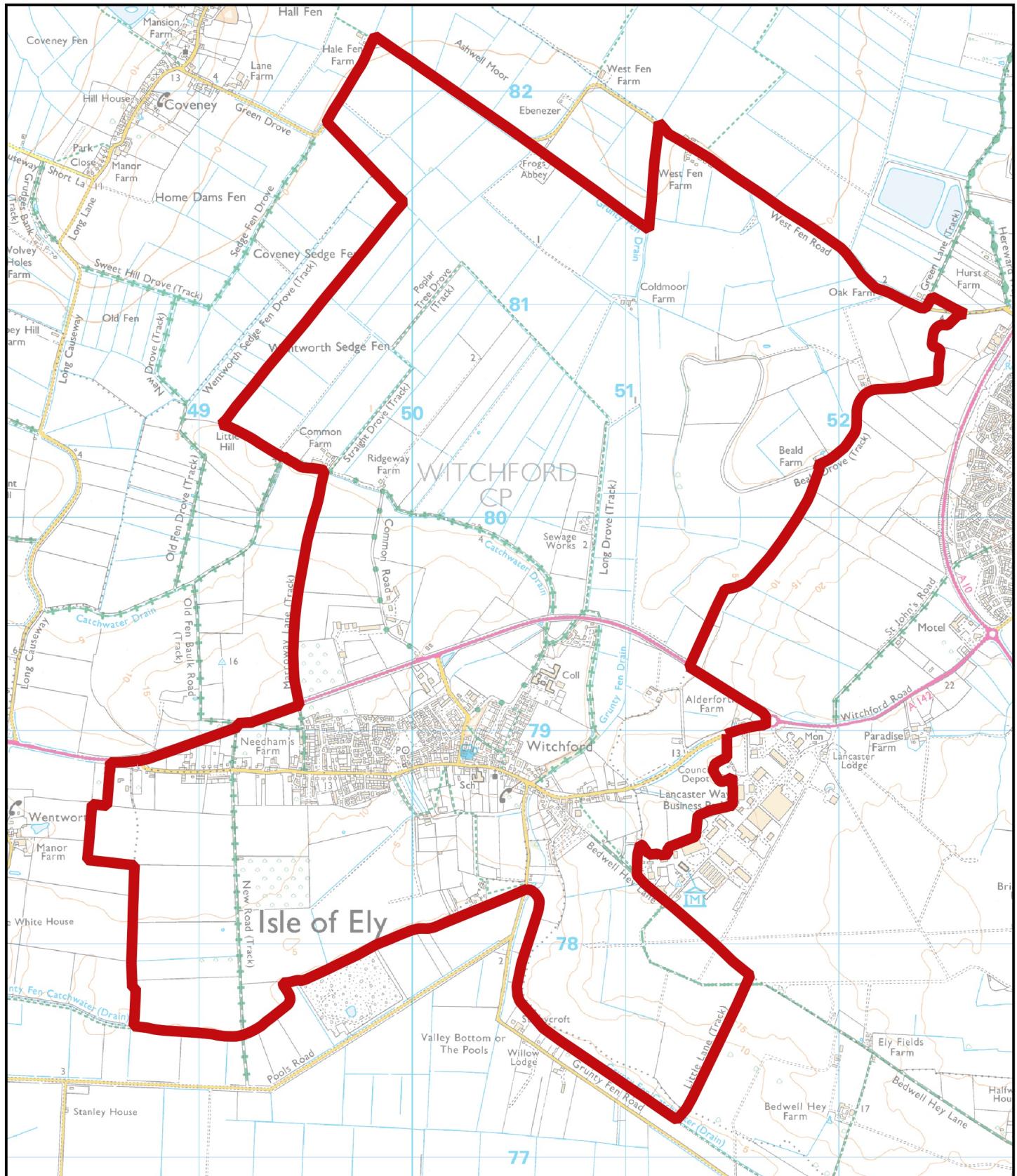
Witchford Parish Council's Neighbourhood Plan Committee notes that the Boundary Commission has now granted permission for the District Council to put into force the provisions of the East Cambridgeshire District Council (Reorganisation of Community Governance) Order 2018.

This Order includes revisions to the boundary of the Parish of Witchford, as shown on the map sent with this letter.

As the Witchford Neighbourhood Plan Area is coterminous with the Witchford parish boundary, the Neighbourhood Plan Committee formally requests that the Witchford Neighbourhood Plan Area be changed to follow the new parish boundary that will apply when the East Cambridgeshire District Council (Reorganisation of Community Governance) Order 2018 comes into force. This is expected to be in February or March 2019.

Yours sincerely,

Mrs A Hodges
Clerk to Witchford Parish Council



Witchford Neighbourhood Area - proposed boundary (Dec 18)



Legend

Proposed Witchford Neighbourhood Area

**East Cambridgeshire
District Council**

Date: 17/12/2018

Scale: 1:25,000

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Appendix 2: Table of responses received, publication of Neighbourhood Area application

Name	Comments
Andrew Collis, Gladman Developments Received by email – 04 Feb 2019	<p>This letter provides the response of Gladman Developments (hereafter referred to as “Gladman”) on the application made by Witchford Parish Council for the designation of a neighbourhood area, for the purposes of preparing a neighbourhood development plan. The application made by the Parish Council requests that the current Neighbourhood Area be amended to reflect the forthcoming changes to the parish boundary.</p> <p>As this is the first formal stage of preparing a neighbourhood plan, Gladman would like to take this opportunity to comment on the Witchford Neighbourhood Area application to highlight a number of key requirements to which the development of the emerging neighbourhood area should have regard to.</p> <p>Gladman wish to participate in the neighbourhood plan’s preparation and to be notified of further developments and consultations in this regard and request to be added to the consultation database. We would also like to offer our assistance in the preparation of neighbourhood plan and invite the Steering Group to contact us in this regard.</p>

Legal requirements

Before a neighbourhood plan can proceed to referendum it must be tested against a set of Neighbourhood Plan Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended by section 28a of the Planning and Compulsory Purchase Act 2004). The Basic Conditions which the Neighbourhood Plan must be found in compliance with are as follows:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- (b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order;
- (c) Having regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order;
- (d) The making of the neighbourhood plan contributes to the achievement of sustainable development;
- (e) The making of the neighbourhood plan is in general conformity with the strategic policies contained within the development plan for the area of the authority; and
- (f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
- (g) The making of a neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

Through the preparation of the Neighbourhood Plan it is important for the Steering Group to ensure that the policies contained in the Plan are in accordance with the Basic Conditions as set out above. If regard has not been given to the basic conditions through the drafting of policies that are to be

	<p>contained in the neighbourhood plan, then there is a real risk that the policies will be found inconsistent with the basic conditions when it reaches independent examination and may be unable to proceed to referendum.</p> <p>National Planning Policy Framework</p> <p>The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how these are expected to be applied. In doing so it sets out the requirements of the preparation of Neighbourhood Plans within which locally-prepared plans for housing and other development can be produced.</p> <p>In 2018, the Minister of Housing, Communities & Local Government (MHCLG) introduced the first changes to the Framework (the Revised Framework) which has since brought about fundamental changes to the planning system. Indeed, paragraph 13 of the Revised Framework clearly states:</p> <p>"The application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies."</p> <p>The Revised Framework also provides further clarification on the Written Ministerial Statement. Paragraph 14 states that:</p> <p>"In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:</p> <ul style="list-style-type: none"> a. The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made; b. The neighbourhood plan contains policies and allocations to meet its identified housing requirement; c. The local planning authority has at least a three-year supply of deliverable housing sites (against its five-year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and d. The local planning authority's housing delivery was at least 45% of that required over the previous three years." <p>The Revised Framework also sets out how neighbourhood planning gives communities the power to develop a shared vision for their area in order to shape, direct and help deliver sustainable development.</p> <p>However, neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies contained in higher order documents.</p> <p>It is therefore clear from the above that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted Development Plan.</p> <p>The Steering Group should also ensure that its policies and proposals are in compliance with the Planning Practice Guidance (PPG) which also makes clear</p>
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that blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided. Accordingly, the neighbourhood plan should not include policies that would act to arbitrarily preclude the delivery of sustainable development coming forward within the neighbourhood area.

Relationship with Local Plans

To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, neighbourhood plans should be prepared to conform to the requirements set out in the adopted Development Plan. Where an up-to-date Local Plan has been adopted and is in place for the wider authority area, it is the strategic policy requirements set out in this document that a neighbourhood plan should seek to support and meet.

When a Local Plan is emerging, or is yet to be found sound at Examination, there will be a lack of certainty over what scale of development a community must accommodate or the direction the policies in the neighbourhood plan should take. In these instances, the Steering Group should seek to engage with the Local Planning Authority at an early stage in the plan preparation process and request an indicative housing figure which takes into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority. Furthermore, policies in the neighbourhood plan should be drafted as flexibly as possible to ensure that they remain effective over the course of the plan period.

Adopted Local Plan

The adopted Development Plan relevant to the preparation of the WNP is the East Cambridgeshire Local Plan 2015, which sets out the vision, objectives, spatial strategy and policies for future development of the district up to 2031.

Emerging Local Plan

The Council is currently preparing a new Local Plan for East Cambridgeshire, which when adopted will replace the existing Local Plan. The emerging Local Plan was submitted to the Secretary of State in February 2018 with the hearing sessions having taken place in Summer 2018. It is relevant to note that the emerging Local Plan proposes a very different planning strategy to the adopted Local Plan. In particular, it proposes a higher housing requirement and a more dispersed spatial distribution, with more housing and other development being directed towards the villages. The WNP will need to ensure there is sufficient flexibility in the policies of the plan to minimise any potential conflicts with the emerging Local Plan upon adoption.

Neighbourhood Plan Policies and Proposals

In accordance with the Neighbourhood Plan Basic Conditions, neighbourhood plan policies should align with the requirements of the Framework (2018) and the wider strategic policies for the area set out in the Council's Local Plan. Neighbourhood plans should provide a policy framework that complements and supports the requirements set out in the higher-tier development plan documents, setting out further, locally-specific requirements that will be applied to development proposals coming forward.

The Framework is clear that neighbourhood plans cannot introduce policies

	<p>and proposals that would prevent sustainable development from going ahead. They are required to plan positively for new development, enabling sufficient growth to take place to assist in meeting the strategic development needs for the area. Policies that are not clearly worded or intended to place an unjustified constraint on further sustainable growth opportunities taking place would not be consistent with the requirements of the Framework or meet the Neighbourhood Plan Basic Conditions.</p> <p>Communities should not seek to include policies in neighbourhood plans that have no planning basis or are inconsistent with national and local policy obligations. Proposals should be justified by the findings of a supporting evidence base and must be sufficiently clear to be capable of being interpreted by applications and decision makers. Policies and proposals should be designed to add value to policies set out in Local Plan and national guidance, as opposed to replicating their requirements.</p> <p>The community should liaise with the Council's planning team and interested parties such as those who have land interests in the neighbourhood area to seek advice on the appropriateness of the neighbourhood plan's proposals.</p> <p>Strategic Environmental Assessment</p> <p>The preparation of a neighbourhood plan may fall under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a Strategic Environmental Assessment (SEA) to be undertaken where a Plan's proposals would be likely to have significant adverse environmental effects. The requirement to undertake an SEA will be dependent on a neighbourhood plan's proposals, but is likely to be necessary where a plan is proposing specific allocations or site designations.</p> <p>In accordance with Schedule 1 of the SEA Regulations, a Screening Assessment of a neighbourhood plan's proposals should be completed to assess whether an SEA must be prepared. Where an SEA is required this should commence at the earliest opportunity, alongside the preparation of the emerging neighbourhood plan, to ensure the neighbourhood plan's proposals have been properly considered through the SEA process, and appropriately justified against other reasonable alternatives. Where an adequate SEA has not been undertaken a neighbourhood plan is unlikely to meet the Neighbourhood Plan Basic Conditions.</p> <p>Although neighbourhood plans do not require a Sustainability Appraisal (SA) of their proposals, preparing an SA can help to show how a neighbourhood plan will contribute to the achievement of sustainable development, a Neighbourhood Plan Basic Condition. Where an SEA is required, extending this assessment to the preparation of an SA is unlikely to require significant additional input.</p> <p>The Council's planning team will be able to advise on the likely need for an SEA of the neighbourhood plan's proposals. To be compatible with EU obligations, further appraisals, such as a Habitats Regulations Assessment, may also be required depending on local circumstances.</p> <p>Should you require any further information about the contents of this response or would like to arrange a meeting with a representative from Gladman then please do not hesitate to contact me.</p>
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