

To: All Members of the Council

Please ask for:

Extension: 3219

Direct line: 01892 554219

e-mail: [nick.peeters@tunbridgewells.gov.uk](mailto:nick.peeters@tunbridgewells.gov.uk)

Our ref: Portfolio holder decision

Date: 3 April 2014

Dear Members

**PORTFOLIO HOLDER NON-KEY DECISION**

**PUBLICATION DATE: 3 April 2014**

I enclose a non-key decision taken by the Leader of the Council as follows:

**Subject**

**Portfolio**

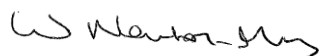
Hawkhurst Parish Council – Application to  
Tunbridge Wells Borough Council for Approval  
of the Hawkhurst Neighbourhood Area

Planning and Transportation

A non-key decision can be called in by the date specified below (i.e. within five clear working days of the publication date above), by the Chairman of the Overview & Scrutiny Committee or at least any three members of the Council in accordance with Overview and Scrutiny Procedure Rule 12 of the Constitution. The Overview & Scrutiny Committee would then convene a meeting to discuss the call-in.

Any request for call-in must be in writing or by fax (01892 534227) bearing the signature(s) of the Council member(s) initiating the call-in, or by email ([mike.mcgeary@tunbridgewells.gov.uk](mailto:mike.mcgeary@tunbridgewells.gov.uk)) which, if from several persons, shall require a separate identical email from each of them. Any request for call-in must state the reason(s) for the call-in. Issues that must be cited before invoking the call-in procedure are shown overleaf, extracted from Overview and Scrutiny Committee Procedure Rule 12. The request should reach Mike McGeary, Democratic Services Officer by **5pm on Thursday 10 April 2014**.

Yours sincerely



Wendy Newton-May

Interim Local Democracy Officer

Town Hall Royal Tunbridge Wells Kent TN1 1RS

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## **Extract from Overview and Scrutiny Committee Procedure Rule 12**

### **Call-in**

- 12.1. Call-in is the procedure whereby a decision of the Cabinet, the Leader or a Portfolio Holder, or a member or officer with delegated executive authority, taken but not implemented may be examined by the Overview and Scrutiny Committee prior to implementation.

In paragraphs 12, 13, and 14 of these rules, decisions referred to in the previous sentence are called executive decisions. The Committee may recommend that the Cabinet, the Leader or Portfolio Holder, or a member or officer with delegated executive authority, reconsider the decision. A decision may only be subject to the call-in procedure once. The procedure will not apply to decisions, to which the urgency procedure in 14 of these rules is applied, to decisions taken by Council officers, or to recommendations to or decisions of full Council.

- 12.2. As soon as possible after an executive decision as referred to in paragraph 12.1 above is made, and normally within two clear working days, the Chief Executive will notify the decision to all Council members and a note of the decision will be available at the Town Hall, Tunbridge Wells. The notice may be given by paper or e-mail.
- 12.3. The notice is to include the publication date and is to specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called-in for scrutiny during this “call-in period” by the Overview and Scrutiny Committee.
- 12.4. During the call-in period, either the Chairman of the Overview and Scrutiny Committee or at least three Council members not serving on the Executive can by notification to the Proper Officer, request call-in. The notification must be in writing or bearing the signature(s) of the Council member(s) initiating the call-in, or by e-mail which, if from several members, will require a separate email from each of them.
- 12.5. A notice invoking the call-in procedure must meet at least one of the following grounds in support of the request for call-in of a decision:
- 12.5.1. inadequate consultation with stakeholders prior to decision;
  - 12.5.2. the absence of adequate evidence on which to base a decision;
  - 12.5.3. the decision would require a departure from or a change to the agreed budget and policy framework;
  - 12.5.4. the action decided upon would not be proportionate to the desired outcome;
  - 12.5.5. the decision would be open to a human rights challenge;
  - 12.5.6. insufficient consideration of legal and financial advice; or
  - 12.5.7. the decision is not within the Cabinet’s powers or terms of reference or within the portfolio of the Leader or Portfolio Holder or member or Officer with delegated executive powers who took it.

## **Hawkhurst Parish Council – Application to Tunbridge Wells Borough Council for Approval of the Hawkhurst Neighbourhood Area**

**To:** Portfolio holder Delegated Decision

**Date:** 3 April 2014

**Main Portfolio Area:** Planning & Transportation

**Author of report:** Jean Marshall, Planning Policy Manager

**Classification:** Non-Exempt

**Ward:** Hawkhurst & Sandhurst

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### **SUMMARY**

Hawkhurst Parish Council applied to the Borough Council on 9 January 2014 for the designation of a Neighbourhood Area. The proposal covers the whole of the parished area of Hawkhurst and is the first step for the Parish Council in preparing a Neighbourhood Plan for Hawkhurst. A six-week public consultation was carried out by the Borough Council and one response was received to the consultation, which is reported here.

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### **LINK TO STRATEGIC COMPASS**

Passionate about our Community  
A prosperous Tunbridge Wells

Passionate about our Customers  
Customers are effectively communicated with  
Customers are understood and their needs are met

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### **Report status**

For decision by Portfolio holder.

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### **Route to Implementation/Timetable:**

Following agreement by the Portfolio for Planning and Transportation, Hawkhurst Parish Council will be informed that their Neighbourhood Area Application has been approved.

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### **Portfolio Holder Decisions**

I confirm that I have read the report and approve the recommendation.



Signed: **Councillor Alan McDermott**

Dated: **3 April 2014**

## **BACKGROUND/INTRODUCTION**

1. The Localism Act 2011 introduced Neighbourhood Planning as a way of passing decision-making to a more local level. This allows local communities the option of producing their own Neighbourhood Plan, Neighbourhood Development Orders or Community Right to Build Orders for their areas.
2. A Neighbourhood Plan is a document produced by the community, for the community, to shape and guide its future development. It may contain a vision, aims, policies and proposals for providing new development or improving existing facilities and it may also allocate sites for specific development. Such plans need to be developed through cooperative working and extensive community engagement and be in general conformity with the strategic policies set out in local planning policy documents and national policy. The National Planning Policy Framework (NPPF) states that *“Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies”* (paragraph 184). There is a formal procedure for producing Neighbourhood Plans and, if adopted after successful examination and a local referendum, a Neighbourhood Plan will form part of the statutory development plan for the area, giving it more weight than other forms of community-led plan.

## **WHAT IS THE ISSUE THAT REQUIRES A DECISION AND WHAT DOES THIS MEAN FOR THE PEOPLE OF TUNBRIDGE WELLS?**

### **Hawkhurst Parish Council Neighbourhood Area Application**

3. Hawkhurst Parish Council applied to the Borough Council for the designation of a Neighbourhood Area in accordance with The Neighbourhood Planning (General) Regulations 2012. The proposal covers the whole of the parished area of Hawkhurst and is the first step for the Parish Council in preparing a Neighbourhood Plan. The Borough Council carried out a six-week public consultation seeking comments on the extent of the Neighbourhood Area and now seeks approval by the Portfolio for Planning and Transportation of the extent of the Neighbourhood Area in order that Hawkhurst Parish Council can move on with the next steps in the production of a Neighbourhood Plan.

## **WHO HAVE WE CONSULTED AND HOW? (OR WHO WILL WE CONSULT FOLLOWING THE DECISION?)**

### **Consultation comments**

4. Consultation on the Neighbourhood Area application ran for six weeks from 10 February to 21 March 2014. This consultation was solely focused on the designation of the Neighbourhood Area and was not a consultation on the Neighbourhood Plan itself. A consultation on the Neighbourhood Plan will follow in due course should the application to designate the area be approved by the Borough Council.
5. The consultation documents were posted on the Borough Council's website. Adjoining Parish Councils (inside and outside Tunbridge Wells Borough), adjoining local authorities, Hawkhurst & Sandhurst Ward Members and local businesses were informed of the consultation and Hawkhurst Parish Council carried out its own publicity for the consultation. Paper copies of the documents were also placed in the Hawkhurst Library and at the Gateway in Tunbridge Wells.
6. One comment was received during the six-week consultation, from Rother District Council and that comment is attached in full at Appendix B to this report. The District Council stated that they have no comments on the extent of the Neighbourhood Area, but would expect to be consulted on the Hawkhurst Neighbourhood Plan during the respective consultation stages. While this comment is noted, it is not deemed fundamental and therefore no changes are recommended in response.

## **HOW WILL THE DECISION BE COMMUNICATED?**

7. Following approval of the extent of the Hawkhurst Neighbourhood Area, Hawkhurst Parish Council will be informed of the decision. The Parish Council will then begin to draft the Neighbourhood Plan, working closely with local people and relevant bodies. The Plan will then be formally consulted on and examined at a public examination by an independent Inspector. A referendum would then be held and, if a majority of those who vote are in favour of the Plan, it would then be adopted by the Borough Council as part of its Development Plan.

## **WHAT ALTERNATIVE ACTION COULD WE TAKE? (where appropriate)**

8. The alternative is that the Borough Council does not approve the application by Hawkhurst Parish Council to establish a Neighbourhood Area. However, as detailed above, it is considered that the single consultation comment does not raise any fundamental issues that challenge the Parish Council's application.

## **CONCLUSIONS**

9. Following a six-week public consultation on the extent of the Hawkhurst Neighbourhood Area, it is requested that the Neighbourhood Area is approved in order that Hawkhurst Parish Council can commence the drafting of their Neighbourhood Plan.

## **RECOMMENDATION**

- 1) That the Hawkhurst Neighbourhood Area is approved.

## **REASON FOR RECOMMENDATION**

In order that Hawkhurst Parish Council can begin the process of drafting of its Neighbourhood Plan.

**Contact Officer:** Jean Marshall, Planning Policy Manager, Ext 2112

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### **Name of Director/Head of Service**

James Freeman, Head of Planning Services

### **Background Papers**

Hawkhurst Parish Council Neighbourhood Area Application letter  
Hawkhurst Parish Council Map showing extent of Neighbourhood Area

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## **APPENDICES TO REPORT**

APPENDIX A Cross Cutting Issues

APPENDIX B Response to consultation

**LEGAL**

## Legal

1. Hawkhurst Parish Council is a relevant body under Section 61(G) of the Localism Act 2011 and pursuant to that Section is empowered to apply to the Council as local planning authority for the designation of a specified area as a “neighbourhood area”. The application is valid and in compliance with the Neighbourhood Planning (General) Regulations 2012.
2. Designation as a neighbourhood area enables a local community, through a relevant body, to pursue the making of a Neighbourhood Plan, Neighbourhood Development Orders and Community Right to Build Orders.
3. In determining the application, the Council must have regard to the desirability of designation of the whole area of the Parish Council as a neighbourhood area and the desirability of maintaining any existing boundaries of areas already designated as neighbourhood areas.
4. If the Council refuses a valid application for the reason that they consider that the specified area is not an appropriate area to be designated as a neighbourhood area, the authority must exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas.
5. If a valid application is refused for any other reason, the Council must give reasons for refusing to the applicant.

## Human Rights Act

2. It is not considered that the application to establish a Neighbourhood Area at Hawkhurst raises any issues under the Human Rights Act.

**VALUE FOR MONEY AND USE OF RESOURCES**

## Finance and other resources, including ICT

3. The application to approve the Hawkhurst Neighbourhood Area does not raise any financial or resource implications for the Borough Council at this stage.

If approved, the Parish Council will then start to prepare a Neighbourhood Plan for Hawkhurst. There is a duty on the Borough Council to support the Parish Council in this process, although this support is not prescriptive. At present there is no specific budget allowance for supporting Neighbourhood Plans as it is not known how many communities may wish to draft Neighbourhood Plans – Hawkhurst Parish Council is the second community organisation within Tunbridge Wells Borough to progress to this, the first stage in the process. Budget implications will therefore need to be kept under review.

There are sources of external assistance and advice that the Parish Council can draw on, including from Planning Aid, Locality, Department of Communities and Local Government and the Planning Advisory Service.

## Staffing

4. The application to approve the Hawkhurst Neighbourhood Area does not raise any staff implications for the Borough Council at this stage.

5. As noted, there is a duty on the Borough Council to support the Parish Council in this process, although this support is not prescriptive. At present there is no specific budget allowance for supporting Neighbourhood Plans as it is not known how many communities may wish to draft Neighbourhood Plans.

#### Value for Money

6. It is considered that the Neighbourhood Plan process provides value for money in that it helps engage local people to plan for the future of their communities and supports the local plan process undertaken by local planning authorities. The Borough Council is finalising the Site Allocations Development Plan Document for the Borough and the Hawkhurst Neighbourhood Plan will complement this document.

#### Risk Management

7. If the Neighbourhood Area application is approved, the Parish Council will be responsible for advancing the next stages of the Neighbourhood Plan process. Risks to this can be reduced by the Borough Council providing effective advice and guidance throughout the process.

### COMMUNITY

#### Safer & Stronger Communities

8. No direct implications at this stage. The Neighbourhood Plan may have positive impacts on crime and the fear of crime, depending on the issues identified by local people and the interventions that it delivers.

#### Section 17, Crime and Disorder Act 1998

9. No direct implications at this stage. The Neighbourhood Plan may help to reduce crime, depending on the issues identified by local people and the interventions that it delivers.

#### Environment / Sustainability

10. No direct implications at this stage. The Neighbourhood Plan may have a positive impact on the local environment and sustainability, depending on the issues identified by local people and the interventions that it delivers.

#### Equalities

11. No direct implications at this stage. The Neighbourhood Plan may have a positive impact on equalities, depending on the issues identified by local people and the interventions that it delivers.

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	The recommended decision is to approve the principle of a Neighbourhood Area for Hawkhurst. If approved it will be the responsibility of Hawkhurst Parish Council to draft the Neighbourhood Plan with advice and support from Tunbridge Wells Borough Council. This advice can help ensure that there is no disadvantage or discrimination against different groups in the community.
b. Does the decision being made or recommended through this paper have the potential to promote	/ No	The recommended decision is to approve the principle of a Neighbourhood Area for Hawkhurst. If

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
equality of opportunity?		approved it will be the responsibility of Hawkhurst Parish Council to draft the Neighbourhood Plan with advice and support from Tunbridge Wells Borough Council. This advice can help ensure that the Neighbourhood Plan promotes equality of opportunity.
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		See above.

#### Health and Wellbeing

12. No direct implications at this stage. The Neighbourhood Plan may have a positive impact on health and wellbeing, depending on the issues identified by local people and the interventions that it delivers.



## CONSULTATION RESPONSE REPORT

**1. Rother District Council**

*I can advise that Rother District Council does not have any comments on the proposed designation of a Neighbourhood Area for Hawkhurst Parish. It will of course expect to be consulted on the neighbourhood plan during the respective consultation stages.*