

Planning & Development

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NOTIFICATION OF DECISION REGARDING THE APPLICATION FOR DESIGNATION OF A NEIGHBOURHOOD AREA UNDER SECTION 61G OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPLICANT:

Egerton Parish Council

APPLICATION:

Application dated 30^h March 2017 for the Designation of a Neighbourhood Area.

DECISION:

Under delegated authority stated in paragraph 15.1 of the Responsibility for Functions section of the Constitution, the Head of Planning and Development is authorised to determine such neighbourhood area applications. The Head of Planning and Development has delegated this to the Planning Policy Manager.

The application is approved and the parish of Egerton as shown on the plan attached is designated as a Neighbourhood Area under section 61G of the Town and Country Planning Act 1990 (as amended). The reasons for this decision are set out in the accompanying 'Neighbourhood Area Designation Application Report'.

Signed:

A handwritten signature in black ink, appearing to read 'S. Cole'.

Simon Cole
Head of Planning Policy
Dated: 13th July 2017



NEIGHBOURHOOD AREA DESIGNATION APPLICATION REPORT – OFFICERS DECISION ACTING UNDER DELEGATED POWERS

DESIGNATION OF EGERTON NEIGHBOURHOOD AREA

Background

1. Neighbourhood planning was introduced in the Localism Act 2011 and The Town and Country Planning England Neighbourhood Planning (General) Regulations 2012 prescribe the process that needs to take place to enable a Neighbourhood Plan to be produced and the procedures that need to be undertaken by the Local Planning Authority.
2. The first formal stage in the preparation of a Neighbourhood Plan is for an appropriate organisation to submit their proposed neighbourhood area to the local planning authority for designation as a Neighbourhood area. The Council then holds a public consultation on the application, and makes a decision on whether it is approved.
3. A Neighbourhood Plan is a planning document that covers a geographic area and sets out the vision for the area and contains policies for the development and use of land. Neighbourhood Plans must however be consistent with the adopted Local Plan.
4. The neighbourhood plan produced will also be subject to an independent examination into soundness, and if found to be sound, subject to a local referendum. If approved by the majority vote of the local community, the borough council must adopt the Neighbourhood Plan as part of the statutory development plan for that area and will be used in determining planning applications.

The Egerton Parish Application

5. The application from Egerton Parish Council for neighbourhood area designation was received on 30th March. The area requested is the entire parish of Egerton, as shown on the map at Appendix 1.
6. Egerton Parish Council forms the 'relevant body' (for the purposes of section 61G (2) of the Town and Country Planning Act 1990) and submitted an application for the designation of Egerton Neighbourhood Area. The application is for the whole area of Egerton Parish to be designated as a Neighbourhood Area for the purposes of Neighbourhood Planning and so satisfies section 61G(3) of the Act. The submission of the application complied with the regulations.

7. The regulations state that in determining this application, the council must have regard to (a) the desirability of designating the whole area of a Parish Council as a neighbourhood area, and (b) the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas. It also must assess if the area should be designated as a business area.

Public Consultation

8. In line with the requirements of the Regulations, the Borough Council published on its website the complete application for a neighbourhood area from Egerton Parish Council, with a map and details of how to make comments in support or objecting to the application. This was held over a six week period between 24th April and midday on 5th June 2017 and was advertised on the council's dedicated Neighbourhood Planning webpage, linked to the consultation portal. Email notifications of the application were sent to the ward member, all neighbouring parish councils and the ward members for adjoining wards.
9. Hard copies of the application and Map were placed on notice boards in the parish, and copies were available in the Charing Library.
10. The application was featured within the Parish Council's newsletter – the Egerton Update May 2017 and the PC also deposited the consultation documents locally.
11. 1 response to the application was received, which is a general response relating to the Neighbourhood Planning process, rather than specifically relevant to the Egerton application. The full response can be seen at Appendix 2.

Conclusion

12. The application states that the whole parish is appropriate as there is no reason to alter the existing parish boundary. The Council agrees with this statement. The specified area falls completely within the Council's area.
13. Egerton is not wholly or predominantly a business location in nature, and therefore it is inappropriate to designate as a business area.
14. Taking into consideration the application and the comments received during consultation, along with the 2012 Neighbourhood Planning Regulations, this Neighbourhood Area Application is acceptable. Egerton Neighbourhood Area is recommended for designation to the Head of Planning Policy.

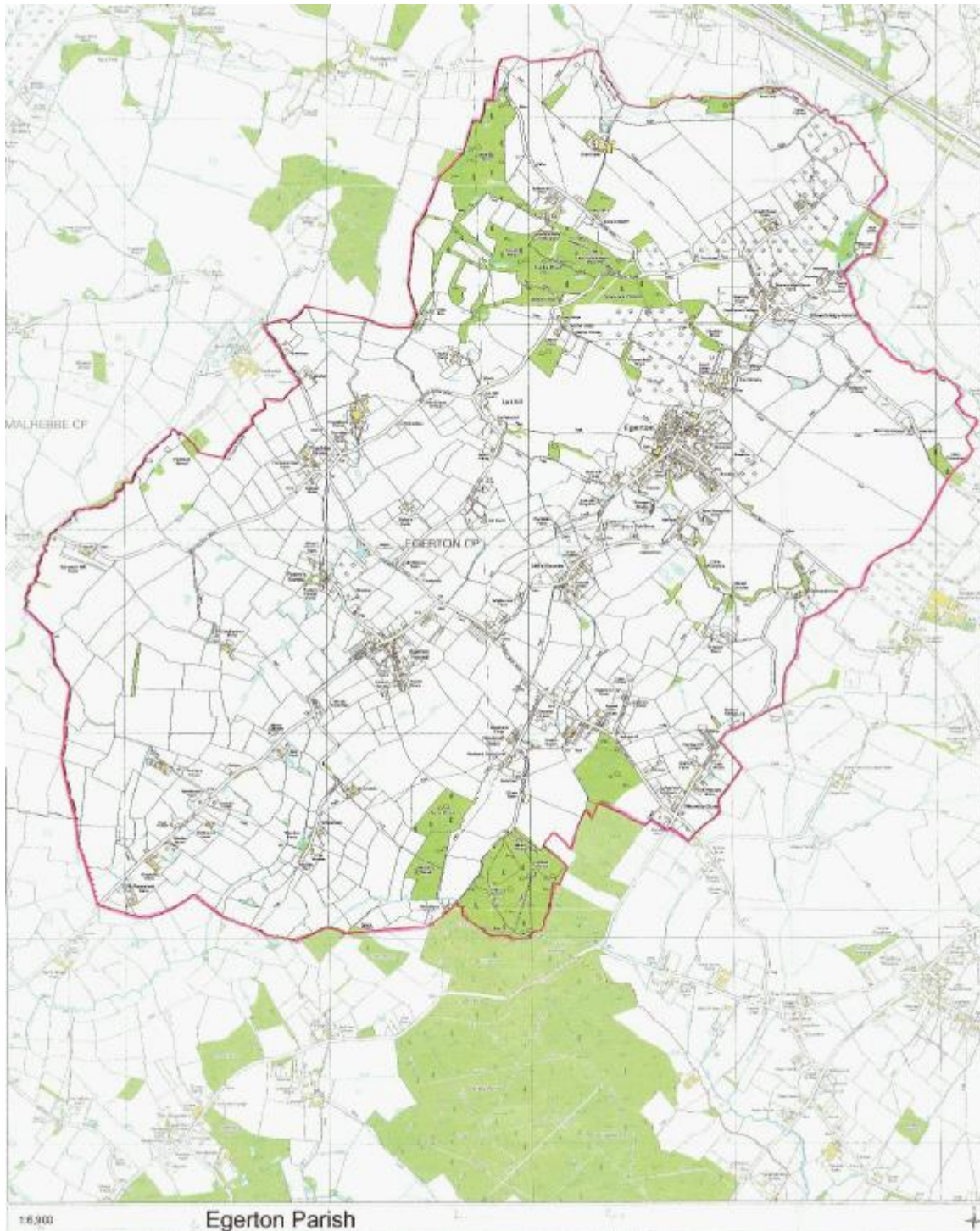
Decision

15. **The Designation of the Egerton Neighbourhood Area (as shown on Appendix 1) of this report is approved in accordance with section 61G of the Town and Country Planning Act 1990 as amended for the purposes of Neighbourhood Planning.**

Next Steps

16. The Council will publish the name and map of the area on the Council's website on the neighbourhood planning page, where a map of all neighbourhood areas must be kept. Public notices will also be placed in the parish. Residents or people that work in the parish will also be notified in other ways by the Parish Council.
17. Egerton PC and/or a designated neighbourhood plan group will then commence formal consultation and preparation of their draft Neighbourhood Plan.

Appendix 1 – Neighbourhood Area Boundary Map



Appendix 2 – Representation on Consultation

(Representation submitted by email to planningpolicy@ashford.gov.uk) 5th June 2017

Re: Egerton Neighbourhood Development Plan – Application for Neighbourhood Area Designation

Dear Sir/Madam,

Gladman Developments Ltd (Gladman) specialise in the promotion of strategic land for residential development with associated community infrastructure. This letter provides Gladman's representations on the application made by Egerton Parish Council for the designation of a neighbourhood area, for the purposes of preparing a neighbourhood development plan.

As this is the first formal stage of preparing a neighbourhood plan, Gladman would like to take this opportunity to comment on the Egerton Neighbourhood Area application to highlight a number of key requirements to which the development of the emerging neighbourhood area should have regard.

Gladman wish to participate in the neighbourhood plan's preparation and to be notified of further developments and consultations in this regard. We would also like to offer our assistance in the preparation of the neighbourhood plan and invite the Parish Council to get in touch regarding this.

Before a Neighbourhood Plan can proceed to referendum it must be tested against a set of Neighbourhood Plan Basic Conditions, set out in §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 compliancy 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 special 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
- f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations

If the Neighbourhood Plan is not developed in accordance with all of the Neighbourhood Plan Basic Conditions as set out above then there is a real risk that it will fail when it reaches Independent Examination.

High Court Judgments

Woodcock Judgement

The Woodcock High Court judgment demonstrates the implications for progressing a neighbourhood plan where there is no local plan in place nor a five-year housing land supply. In summary, this High Court judgment demonstrates the following key points:

- That §14 and §49 of the Framework in regard to five-year housing land supply and the weight to be given to extant housing land supply policies applies equally to both emerging and 'made' neighbourhood plans as well as other development plan documents otherwise adopted and/or emerging by the local planning authority.
- There is nothing in policy or statute that elevates neighbourhood planning to a level above the wider development plan that enables special consideration.
- Neighbourhood Plans must respect national planning policy and the core planning principles outlined within the Framework.
- Prematurity must be assessed against the whole of the requirements of the PPG. In neighbourhood planning, there is no requirement for qualifying bodies to produce an objective assessment of housing needs.

Crownhall Judgment

On 21st January 2016, Holgate J handed down judgment in R(Crownhall Estates Ltd) v Chichester District Council [2016] EWHC 73 (Admin). This judgment summarises the respective legislation at §12-§28 (further detailed below), and the relevant principles at §29.

This judgment does not however mark the end of policy development, on 11th February 2016, the Secretary of State published a series of updates to the Neighbourhood Planning chapter of the Planning Practice Guidance (PPG). In particular, the PPG now stresses the importance of housing reserve sites and providing indicative delivery timetables to ensure that emerging evidence of housing needs is addressed to help minimise any potential conflicts that can arise to ensure that a neighbourhood plan is not ultimately overridden by the contents of an emerging Local Plan.

It is important to note that the updates to the PPG were drafted following the Crownhall judgment and it is essential that the steering group consider all of the advice and guidance contained in the PPG.

National Planning Policy Framework

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 for the preparation of Neighbourhood Plans and the role they must play in meeting the development needs of the local area in which they control.

Paragraph 16 of the Framework sets out the positive role that Neighbourhood Plans should play in meeting the development needs of the local area. It states that: "The application of the Presumption (In Favour of Sustainable Development, set out in paragraph 14 of Framework) will have implications for how communities engage in neighbourhood planning. Critically it will mean that neighbourhoods should:

- Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;
- Plan positively to support local development, shaping and directing development in their area that is outside of the strategic elements of the Local Plan"

Further guidance on the relationship between Neighbourhood Plans and strategic policies for the wider area set out in a Council's Local Plan is included in paragraph 184 of the Framework:

“The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date plan is in place as quickly as possible. Neighbourhood Plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood Plans...should not promote less development than set out in the Local Plan or undermine its strategic policies”.

It is 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. As highlighted above, on 11th February 2016, the Secretary of State published a series of updates to the PPG for the preparation of neighbourhood plans. This update makes clear that neighbourhood plans should take account of the latest and up-to-date evidence of housing needs. In particular, where a qualifying body is attempting to identify and meet housing needs, a local planning authority should share relevant evidence on housing need gathered to support its own plan making.

Neighbourhood Plans should also provide indicative delivery timetables and consider the allocation of reserve sites to ensure that emerging evidence of housing need is addressed in order to help minimise any potential conflicts where a post Framework Local Plan is yet to be adopted.

A further update to the PPG was published on 19th May 2016. Paragraph 50 of the PPG1 makes clear that all settlements have a role to play in delivering sustainable development and should avoid blanket policies restricting housing development. 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.

1 PPG Reference ID 50-001-20160519

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 up-to-date strategic policy requirements set out in Local Plans. 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 lack of certainty over what scale of development a community must accommodate or the direction the policies in the Neighbourhood Plan should take.

Adopted Local Plan

The adopted Development Plan relevant to the preparation of the Egerton Neighbourhood Plan consists of the adopted Ashford Core Strategy, that sets out the overall vision and objectives for the authority between 2006 and 2021. This plan was adopted in July 2008 and therefore is out of date against the requirements of the Framework which requires local planning authorities to identify and meet full Objectively Assessed Needs (OAN) for housing. Whilst this is the Development Plan

that the Egerton Neighbourhood Plan will be tested against it is important that sufficient flexibility is included within the Plan so that its contents are not superseded by the provisions of s38(5) of the Planning and Compulsory Purchase Act 2004.

Emerging Local Plan

To meet the requirements of the Framework, the Council has commenced work on a new Local Plan. Public Consultation on the Regulation 19 draft version of the Local Plan took place from June 2016 to August 2016. Following the above consultation, Ashford Borough Council is anticipating that a final draft of the Local Plan will be submitted to the Secretary of State and the Planning Inspectorate for examination in late 2017. As such, given that the Plan is still subject to formal examination, there remains considerable uncertainty over what level of development that Egerton may need to accommodate to assist the Council in meeting its OAN for housing. Accordingly, the Plan will need to ensure that it allows for sufficient flexibility to ensure that it is able to react to changes that may arise through the emerging Local Plan Examination.

Neighbourhood Plan Policies and Proposals

In accordance with the Neighbourhood Plan Basic Conditions, Neighbourhood Plan policies should align with the requirements of the Framework 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 these higher-order 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 and proposals that would prevent development from going ahead. They are required to plan positively for new development, enabling sufficient growth to take place to meet the strategic development needs for the area. Policies that are clearly worded or intended to place an unjustified constraint on further sustainable development taking place would not be consistent with the requirements of the Framework or meet the Neighbourhood Plan Basic Conditions.

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 appropriately justified, by the findings of a supporting evidence base and must be sufficiently clear to be capable of being interpreted by applicants 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.

The community should liaise with the Council's planning team to seek advice on the appropriateness of the Neighbourhood Plan's proposals.

Sustainability Appraisal/Strategic Environmental Assessment

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 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.

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 be commenced 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.

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.

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.

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.