



# HAILSHAM TOWN COUNCIL

## NEIGHBOURHOOD PLANNING COMMITTEE AGENDA

### **Notice is hereby given**

Of a meeting of the **Neighbourhood Planning Committee**, to be held at the Fleur-de-Lys Council Chambers/Meeting Rooms, Market Street, Hailsham, on

**Thursday 7<sup>th</sup> June 2018 at 7.00 p.m.**

1. **Public Forum**

A period of not more than 15 minutes will be assigned for the purpose of permitting members of the public to address the committee, or ask questions on matters relevant to the responsibilities of this committee, at the discretion of the Chairman.

2. **Apologies for Absence**

To receive apologies for absence from council and lay members of the committee.

3. **Declarations of Interest**

To receive notice of declarations of personal and prejudicial interest in respect of items on this agenda

4. **Minutes of Previous Meeting**

To note & adopt or amend the minutes of the meeting of the Neighbourhood Planning Committee held on Thursday 3<sup>rd</sup> May 2018.

5. **Neighbourhood Plan Regulation 16 Consultation**

To receive an update on the Neighbourhood Plan regulation 16 Consultation,.

6. **Confidential Business**

**To resolve** that due to the special and confidential nature of the business about to be transacted, and possible disclosure of information not in the public interest at the present time, the following items of business be transacted following the temporary exclusion of members of the Public and Press, in accordance with the Council's Standing Orders No. 1E.

**7. Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA)**

Following agenda item 7 the meeting will no longer be under confidential business unless otherwise resolve.

**7. Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA)**

To consider the commissioning of the required assessments in order to progress to the Regulation 16 consultation phase of the Neighbourhood Plan.

**8. Financial Statement**

To note the financial statement of expenditure against budget for the project and discuss the budget if necessary

Dated 31<sup>st</sup> May 2018



JOHN HARRISON  
Town Clerk

**Committee Membership;  
Cllrs -**

Mary Laxton  
Barbara Holbrook  
Paul Holbrook  
Frank Berry  
Glenn Moore  
Nigel Coltman  
Nick Collinson  
Charlotte Collinson-O'Toole  
John Puttick

**Non-Council Members**

Mr K. Hinton

**Substitute Members; Cllrs -**

Graham Moore  
Gavin Blake-Coggins  
Alexa Clarke  
Alex Willis  
Richard Grocock

Grant De Jongh

**Report to:** Neighbourhood Planning Committee

**Date:** 7 June 2018

**By:** John Harrison, Town Clerk

**Title of Report:** Neighbourhood Plan Regulation 16 Consultation

**PURPOSE:**

To receive an update on the Neighbourhood Plan regulation 16 Consultation.

**BACKGROUND:**

**Update received from Wealden District Council on Tuesday 29<sup>th</sup> April 2018.**

On April 13th the Court of Justice of the European Union published its ruling in the Case C323/17 with regards to the Habitats Directive. The case was called; Judgement of the European Court of Justice ('CJEU') 12 April 2018 -People Over Wind v Teoranta (C-323/17) ('POW').

Up to the determination of this case, in the UK, it has been standard working practice for plans or projects that may affect European nature conservation sites such as the Ashdown Forest to include incorporated mitigation measures from the initial stages of the Habitat Regulations Assessment (HRA) process. In many cases this screening stage (or Likely Significant Effects) negates the need for a plan or project to proceed onto a full appropriate assessment. However, the case has ruled that mitigation cannot be taken into account when considering the screening test for Likely Significant Effects. Therefore, many Plans and development projects cannot now be screened out of requiring a full appropriate assessment. This applies to all plans that are currently in the production process and unfortunately this is relevant to the Hailsham Neighbourhood Plan.

Wealden District Council undertook a Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) screening on the Regulation 14 draft of the neighbourhood plan. In a letter dated 22<sup>nd</sup> February we confirmed that as a result of the screening exercise that an SEA and Appropriate Assessment was not required.

The screening exercise identified that a number of policies provided within the Hailsham NDP were identified to have potential to result in a likely significant effect on a European site or Ramsar site. To overcome this issue it was recommended to include an overarching policy to ensure that the Neighbourhood Development Plan could not result in a likely significant effect on a European site or Ramsar site. At this time this was the correct process and Policy HAIL HRA1 negates the need for an appropriate assessment.

The implications of the People Over Wind case on the neighbourhood plan means that we can no longer use mitigation or avoidance at the screening stage to conclude 'no likely significant effect'. Instead, in order to meet the Habitats legislation and taking into account the judgement ruling, an Appropriate Assessment must be undertaken where

screening identifies a 'likely significant effect'. The next stage is to undertake an appropriate assessment and it is within this stage where mitigation may be proposed. An appropriate assessment is generally more detailed and the assessment looks at whether a plan or project will affect the integrity of the site.

At the present time, it is not possible for an Appropriate Assessment to be undertaken on the Hailsham Neighbourhood Plan until the Wealden Local Plan Habitats Regulations Assessment is complete. We are currently finalising this work with a view to publishing the Wealden Local Plan HRA at the end of June 2018.

In addition to the appropriate assessment, because of the judgement and a requirement to undertake a full appropriate assessment, the Hailsham Neighbourhood Plan will need to be rescreened for Strategic Environmental Assessment (SEA). Ahead of this screening we can informally confirm that because the plan will require an appropriate assessment it will also require a full SEA.

The Neighbourhood Planning Regulations and Guidance set out that a Strategic Environmental Assessment (SEA) must be undertaken and must identify, describe and evaluate the likely significant effects on the environment of implementing the neighbourhood plan policies and of the reasonable alternatives taking into account the objectives and geographical scope of the neighbourhood plan.

The environmental report must clearly show how these requirements have been met. This assessment must be sent to three statutory consultees (Environment Agency, Natural England and Historic England) to provide comment within 5 weeks. Regulation 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 sets out that the SEA must be consulted on at the same time as the draft plan.

On Friday 25<sup>th</sup> May, the process that we are now legislatively required to follow was confirmed by Natural England who are statutory consultees and advisors in relation to Habitat Regulations matters and SEA matters. On this basis, we are now faced with two options:

1. Not to proceed with the Regulation 16 consultation at the present time. This will allow the Town Council to prepare an SEA and Appropriate Assessment. Please note that we will assist and support the Appropriate Assessment process. These documents will then be consulted on at the same time as the draft neighbourhood plan under Regulation 16.
2. Proceed with the Regulation 16 consultation starting on 6<sup>th</sup> June without an SEA or Appropriate Assessment. However, once an SEA and Appropriate Assessment is drafted these will need to be re-consulted at Regulation 16 stage. i.e. we will need to repeat the consultation.

It is our recommendation that we delay the consultation to complete the SEA and AA. This will allow the correct legislative process and procedure to be followed to align with the recent case law and the current statutory requirements for consultation on SEA/ HRA. We can discuss the timing of this.

The risk in not opting for option 1 is that we would be unable to proceed with the plan to the examination/ referendum stage in the knowledge that it does not comply with the basic conditions, specifically in relation to paragraph 8(2)f of Schedule 4B of the Town and Country Planning Act 1990 that the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.

I can completely understand any frustration, however, we must take on board the judgement and update the processes for HRA and SEA accordingly to meet legislative requirements.

We have considered all options and the two options presented are the only ones.

The issue is not necessarily about risk of starting the consultation. The issue is that Hailsham Town Council will need to undertake a full Strategic Environmental Assessment / SA. If this had been undertaken previously then we would be in a different position and we could have updated the HRA position at a later date and consulted the Statutory consultees on the HRA alone following the Regulation 16 consultation. However, for SEA, there is a requirement to consult both Statutory Consultees as well as the wider public as part of the Regulation 16 consultation for the SEA report. Therefore, should we progress with the consultation on Monday the Consultation will be required to be repeated at a later date once you re-submit the Neighbourhood Plan along with the SEA Report (and Appropriate Assessment).

The question is therefore, do you wish to undertake the same Regulation 16 consultation twice?

Should we go ahead with the consultation, we anticipate that Natural England and other statutory consultees will formally identify the requirement for an appropriate assessment and SEA.

**Further clarification sought after meeting with Wealden officers and HTC NPC Chair and Vice-Chair (plus Town Clerk) on Thursday 31<sup>st</sup> May 2018.**

**In the light of the ruling arising from the People Over Wind V Teoranta case, the decision to postpone the Regulation 16 consultation on Hailsham's Neighbourhood Plan has been made in order to prevent a further consultation being required once an SA/SEA is completed.**

An SEA and SA will now be required and it will be necessary for HTC to commission this.

This will need to refer to WDC's appropriate assessment, which will be publicly available as of 27<sup>th</sup> June

WDC are working on a template for appropriate assessments which it will be necessary to complete and submit to WDC. This will be ready by approximately mid-July.

WDC Timescales:

5 <sup>th</sup> – 6 <sup>th</sup> July	Committees to consider WDC's LP
18 <sup>th</sup> July	Full WDC council to consider LP
End of Aug -Sept – beginning of Oct	8 week consultation period for WDC (subject to full council approval)

HTC will need to let WDC know of its revised timescales for the NP once the SEA/SA is commissioned.

WDC will let the proposed examiner for HTC's Neighbourhood Plan of the changes in dates.

Some funding may be available from the government for the SA/SEA and HTC officers/Troy Planning will look into this.

(As at 31.3.18)

## Neighbourhood Plan Expenditure (balance sheet) 1st April 2017 to 31st March 2018

Budget Income for 2016/17

Budget Expenditure for 2017/18

0.00

Bal C/Fwd from 16/17

58194.00

Commuted Sums In

0.00

Total Available

58194.00

## Funds Allocated - Income

## Expenditure

Date	Details	Value	Date	Details	Paid to date
			: 06.04.17	Survey Monkey re Fees	21.67 DC
			: 09.05.17	Troy Navigus - Re Consultant	2337.52 22225
			: 12.05.17	Happy Jacks - Soft Play	250.00 22228
			: 06.05.17	Survey Monkey re fees	21.67 DC
			: 05.06.17	Troy Navigus - Re Consultant	6696.57 22269
			: 08.06.17	Survey Monkey re fees	21.67 DC
			: 10.07.17	Troy Navigus - Re Consultant	3563.42 22353
			: 31.07.17	Troy Navigus - Re Consultant	1236.05 22389
			: 08.07.17	Survey Monkey re fees	21.67 DC
			: 09.08.17	WDC - Room Hire	135.00 22404
			: 14.08.17	Rare Repro - Banners	216.00 22390
			: 07.08.17	Survey Monkey re fees	21.67 DC
			: 06.09.17	Troy Navigus - Re Consultant	2340.14 22444
			: 06.09.17	Survey Monkey re fees	21.67 DC
			: 06.10.17	Troy Hayes - Re consultant	1300.61 22501
			: 06.10.17	Vidahost - website	5.99 22502
			: 31.10.17	Rare Repro - Banners	216.00 22546
			: 31.10.17	WDC - Room Hire	120.00 22544
			: 31.10.17	Troy Hayes - Re consultant	1708.56 22552
			: 06.10.17	Survey Monkey - fees	21.67 DC
			: 07.11.17	Survey Monkey - fees	21.67 DC
			: 06.11.17	Vidahost - website	5.99 22557
			: 17.11.17	ESCC - Hall Hire	680.00 22588
			: 15.12.17	Troy Hayes - Re consultant	2140.24 22661
			: 07.12.17	Survey Monkey - fees	24.17 DC
			: 22.01.18	P Holbrook - Refreshments	11.85 22731
			: 5.1.18	Survey Monkey - fees	24.17 DC
			: 5.2.18	Troy Hayes - Re consultant	1294.21 22755
			: 6.2.18	Survey Monkey - fees	24.17 DC
			: 12.3.18	Troy Hayes - Re consultant	3380.01 22819
			: 29.3.18	Staff Overtime Hours	2314.95
			: 29.3.18	Troy Hayes - Re consultant	2746.85 22864
	total income	0.00	:	total expenditure	32945.83
<b>Remaining Budget</b>					<b>25248.17</b>
<b>Accounts sheet total (income)</b>		0.00	<b>Accounts Sheet total (expenditure)</b>		32945.83

