

Memorandum of Understanding between Babergh District Council and Little Waldingfield Parish Council for the purpose of producing a Neighbourhood Plan

The Agreement

This Agreement is between:

- a) Babergh District Council (the Council) and
- b) Little Waldingfield Parish Council

Introduction and Purpose

Introduction

The Localism Act 2011 introduced the following provisions into the planning process:

- Neighbourhood Development Plans (NDPs)
- Neighbourhood Development Orders (NDOs)
- Community Right to Build Orders

In Babergh, Neighbourhood Plans and Neighbourhood Development Orders can only be undertaken by a Parish Council.

Under the provisions of the Localism Act 2011 Babergh District Council is responsible

- a. fulfilling certain statutory requirements and
- b. the provision of advice and assistance to Parish Councils

Purpose

The purpose of this agreement is to establish the working relationship between the Parish Council and Babergh District Council.

This agreement confirms:

- a. How Babergh District Council will undertake its statutory duties
- b. The level and extent of the technical advice and assistance that Babergh District Council will provide
- c. How the Parish Council will aim to progress the Neighbourhood Plan
- d. How the Parish Council will engage with Babergh District Council.

The Memorandum of Agreement

This Agreement is between Babergh District Council and Little Waldingfield Parish Council.

Date and duration of Agreement

This Agreement will commence once the document has been signed and dated by the selected representatives of both parties.

It is expected that this Agreement will run until the neighbourhood plan is either made or abandoned with a review after 12 months by both parties with respect to its continuation or both parties agree to its abandonment.

Working Relationships

The parties to this agreement seek:

- a. An open and constructive working relationship
- b. To respect each other's views and, where different, after discussion, to ensure proper understanding of the reasons for such differences
- c. To have a 'no surprises' policy, based on notifying each other well in advance, where possible, of significant announcements and developments in policy
- d. To minimise duplication of activity wherever possible
- e. To inform other stakeholders about the relationship so as to reduce uncertainty

Roles and Responsibilities

Neighbourhood Planning was introduced by the Localism Act 2011. The associated Regulations – The Neighbourhood Planning (General) Regulations 2012 – require Babergh District Council to undertake certain procedures. In addition the Council is required to provide technical advice and support.

The Schedule at Appendix 1 to this agreement sets out how the Council will meet its statutory obligations and the level of assistance it will offer to the Parish Council. It also sets out the roles and responsibilities of the Parish Council.

Professional Advice

The Council will provide named officers as first point of contact for advice and technical support. In this case the named officers are:

- [Insert Officers name] for advice on planning policy and general matters.
- Paul Bryant for advice on procedures and administrative matters.

Progress and Review Process

The progress on the Neighbourhood Plan will be reviewed every 6 months in a meeting between the District Council and the Parish Council

Dispute Settlement

In the event of a dispute that cannot be resolved at the working level at which it arises the relevant signatories to this agreement will discuss the matter and decide on the action to take.

Signed obo Babergh District Council	Signed obo Little Waldingfield Parish Council
Signature of Director:	Signature of Chairman of Parish Council
Date	Date

Appendix 1

The Neighbourhood Plan Flowchart

The statutory obligations for a local planning authority and for a Parish Council preparing a Neighbourhood Plan are set out in the Neighbourhood Planning (General) Regulations 2012 (as amended) and in the Town and Country Planning Act 1990 as amended by the Localism Act 2011.

The following chart sets out the different stages in the preparation of a Neighbourhood Plan (NP) and shows which tasks are the responsibility of Babergh District Council (BDC) and which are the responsibility of the Parish Council (PC).

The chart shows what support will be offered by BDC to the Parish Council and how the Council will meet its statutory obligations. It also indicates what will be expected from the Parish Council to enable BDC to fulfil its obligations.

Stages	By Babergh District Council	By Little Waldingfield Parish Council
Preparing the Neighbourhood Plan	<p>BDC has a duty to provide advice and assistance to a Parish Council preparing a neighbourhood plan.</p> <p>BDC will advise on the following :</p> <ul style="list-style-type: none"> • Assist with methods of community engagement and consultation. Contacts for statutory undertakers or other key consultees. • Provide conformity advice and up to date information on the Babergh Local Plan / new Joint Local Plan • Provide advice on potential delivery issues • Up to date information on any grant funding available • Advice on any requirement for Environmental Assessment; Sustainability Appraisals and Habitats Regulation Assessment • Provide comments on emerging drafts of the plan • Assist in digitising the final proposals/policy maps • Provide advice in getting the best from any paid support 	<p>Tasks that a Parish Council needs to do to prepare a neighbourhood plan</p> <ul style="list-style-type: none"> • Build an evidence base. • Community engagement • Decide on vision and objectives • Write the plan • Scope for need for environmental assessment • Carry out sustainability appraisal if appropriate. <p>Parish Council commitment</p> <p>Prepare a Project Plan for the preparation of the Neighbourhood Plan. This should include:</p> <ul style="list-style-type: none"> • A indicative timetable for completion of the Neighbourhood Plan • The provision of regular updates on progress to the Council with BDC

Stages	By Babergh District Council	By Little Waldingfield Parish Council
	<p>from contracted consultants</p> <p>BDC will not:</p> <ul style="list-style-type: none"> • Write documents • Draft Policies • Design and print documents, graphics etc. • Undertake and pay for community survey work • Carry out and pay for statutory and non-statutory assessments • Carry out sustainability appraisals or environmental assessments • Attend every meeting • Attend every consultation event • Provide direct financial support 	<ul style="list-style-type: none"> • Budget planning <p>Neighbourhood Plan Project Planner link:</p> <p>http://mycommunity.org.uk/resources/neighbourhood-plan-project-planner/</p>
<p>Prior to Starting Pre-Submission Consultation</p>	<p>Before the Parish Council starts its pre-submission consultation BDC will provide advice and support about:</p> <ul style="list-style-type: none"> • Conformity of the plan and whether in their view it meets the basic conditions • Suitability of the Consultation Statement • Suitability of any Environmental Assessment; Sustainability Appraisal or Habitats Regulations Assessments undertaken • Conformity with other legislative requirements e.g. Equality Assessments • Conformity with the OS mapping requirements (including copyright issues) 	<p>Parish Council commitment:</p> <p>The Parish Council will seek the views of BDC on the documents that the Parish Council intend to use for the pre-submission consultation. This should be done in a timely manner so there are no surprises to delay the pre-submission consultation</p>

Stages	By Babergh District Council	By Little Waldingfield Parish Council
<p>Pre- Submission Stage</p>		<p>Consultation by the Parish Council</p> <p>The Parish Council is responsible for carrying out the Pre-Submission Consultation.</p> <p>Before submitting the Plan to BDC there must be a six week period of consultation</p> <p><i>Regulation 14</i></p> <p>Parish Council commitment</p> <p>The Parish Council will provide BDC with the following:</p> <ul style="list-style-type: none"> • The Pre- Submission Plan in electronic format. • Copies of any Environmental Assessment / Sustainability Appraisals undertaken to date • Consultation Statement highlighting list of statutory bodies consulted
<p>Submission Stage</p>		

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Stages	By Babergh District Council	By Little Waldingfield Parish Council
		<p>Submission of Plan to BDC</p> <p>A Parish Council submits a plan proposal to BDC. It must include:</p> <ul style="list-style-type: none"> • Map or statement identifying the neighbourhood area • Consultation Statement stating who was consulted; how consulted; main issues and how these were addressed • Proposed Neighbourhood Plan • Statement explaining how the NP meets the basic conditions • Where appropriate – information to enable appropriate environmental assessment if required e.g. Habitat Reg or Environmental Assessment <p><i>Regulation 15</i></p> <p><i>The Conservation of Habitats and Species Regulations 2010 as amended by Schedule 2 of the Neighbourhood</i></p> <p><i>Planning (General Regulations) 2012. i.e Regs 102 and 102A</i></p> <p>Revision to Regulation 15 made in February 2015.</p> <p>An additional document must be included by the Parish Council when submitting a plan proposal to BDC –</p> <ul style="list-style-type: none"> • Either an environmental report prepared in accordance with the Environmental Assessment of Planning and Regulations 2004 or a statement of reasons why an environmental assessment is not required <p>Parish Council Commitment</p>

Stages	By Babergh District Council	By Little Waldingfield Parish Council
		<p>The Parish Council will provide BDC with the following:</p> <ul style="list-style-type: none"> • An electronic version of the Submission Plan • A consultation statement • List of consultees used during pre-submission with contact details • Final copies of any Environmental Statements or Assessments and any Sustainability Appraisals undertaken • Copy of 'Basic Condition' statement • Evidence documents used to inform the Submission Plan
	<p>Receipt and Assessment of Submission Plan by BDC – Decision Statement 1</p> <p>BDC will assess the neighbourhood plan to consider -</p> <ol style="list-style-type: none"> 1. Whether the parish council is authorised to act 2. Whether the proposal and accompanying documents <ol style="list-style-type: none"> a. Comply with the rules for submission to the Council (Regulation 15'), and b. Meet the 'definition of an NP' <p><i>“A plan which sets out policies (however expressed) in relation to the development use and of land in the whole or any part of a particular neighbourhood area specified in the plan”</i></p>	

Stages	By Babergh District Council	By Little Waldingfield Parish Council
	<p>and</p> <p>c. Meet the ‘scope of NP provisions’ which are -</p> <ol style="list-style-type: none"> 1. <i>The NP must specify the period for which it is to have effect</i> 2. <i>It cannot include provision about development that is ‘excluded development’</i> 3. <i>It cannot relate to more than one neighbourhood area or repeat an existing planning permission</i> <p>and</p> <p>3. Whether the parish council has undertaken the correct procedures in relation to consultation and publicity.</p> <p>BDC can refuse to take forward a plan if it does not meet all the requirements.</p> <p><i>TCPA 1990 Act Schedule 4B para 6 38 A and B;</i> <i>Definition of NP - 2004 P & CP Act as amended by</i> <i>Localism Act Section 38 A (2); Scope of NP provisions 2004 Act s 38B</i> <i>(1 & 2) (4)</i></p> <p>BDC will notify Parish Council of decision and will issue a decision statement. <i>TCPA 1990 Act Schedule 4B para 6 (4)</i></p> <p><i>Regulation 19.</i> BDC’s commitment</p>	

Stages	By Babergh District Council	By Little Waldingfield Parish Council
	<p>Publicising/ Consultation of the Plan</p> <p>If BDC accepts the Plan it will publicise the submitted Plan and notify bodies referred to in the submitted consultation document for six week period during which formal representations can be made</p> <p>Regulation 16</p> <p>BDC commitment</p> <p>The Council will start the consultation within four weeks of the Assistant Director confirming the submission documents meet the requirements</p>	
Examination	<p>Arrangements for examination:</p> <p>BDC is responsible for making arrangements for the examination. Once satisfied with Plan BDC will appoint examiner with consent of parish council.</p> <p><i>TCPA 1990 Act Schedule 4B para 6</i></p> <p>BDC will submit the Plan and all supporting documents to the examiner including representations from the consultation.</p> <p><i>Regulation 17</i></p> <p><i>Regulation 102A Conservation of Habitats and Species Regulations 2010.</i></p>	<p>Parish Council to work with BDC to agree the appointment of an examiner.</p> <p>Parish Council should keep their local community up to date with the progress of the Plan through the examination process</p>

Stages	By Babergh District Council	By Little Waldingfield Parish Council
	<p>BDC commitment</p> <p>BDC will appoint an examiner within four weeks of the end of the consultation. Once the examiner is appointed the representations will be sent to the independent examiner</p>	
<p>Considering the Examiner's Report</p>	<p>Examiner's Report</p> <p>The Examiner must make a report with recommendations, the reasons for them and a summary of findings. The Examiner's Report can recommend that either:</p> <ul style="list-style-type: none"> • The Draft NP is submitted for referendum or • Modifications specified in the Examiner's Report are made and the Revised Draft Plan is submitted for referendum <p>When BDC has received the Examiner's Report it will arrange for publication as soon as possible</p> <p>BDC will consider each recommendation and decide what action to take to respond</p> <p>BDC commitment</p> <p>Within 1 week of receiving the Examiner's Report the Council will publish the report on its website.</p> <p>The Council will consult with the Parish Council for its views on the Examiner's recommendations before a decision is made by its Cabinet</p>	

Stages	By Babergh District Council	By Little Waldingfield Parish Council
	<p>When BDC proposes to make a decision that differs from the Examiner’s recommendation</p> <p>...and the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by BDC as to a particular fact:</p> <ol style="list-style-type: none"> 1. BDC will notify all those identified on the consultation statement of the Parish Council and invite representations 2. May refer the issue to an independent examination if BDC considers it appropriate <p>BDC cannot make a decision that differs from the Examiner’s recommendations about the referendum area (TCPA 1990 Act Schedule 4B para. 13)</p> <p>BDC Commitment:</p> <p>If BDC decides to make changes to the NP that are different from the Examiner the Council will consult with the Parish Council before the Cabinet formally makes a decision.</p>	
<p>Decision to take Plan forward to referendum</p>	<p>Decision Statement 2</p> <p>BDC must make a formal decision about whether the Plan meets the basic conditions, is compatible with the Convention of Rights and meets legal and procedural requirements.</p> <p>BDC decides whether the Plan is ready for referendum of</p>	

Stages	By Babergh District Council	By Little Waldingfield Parish Council
	<p>requires modification. It will publish its decision and reasons in a decision statement. If modifications are different from those recommended by the Examiner further consultation is required before a referendum can take place.</p> <p>BDC to send a copy of the decision statement to the Parish Council.</p> <p>TCPA 1990 Act Schedule 4B para. 12 (11 and 12) Regulations 18 and 19</p> <p>BDC Commitment</p> <p>Within 8 weeks of receipt of the Examiner's Report the Cabinet will decide whether the Plan is ready for referendum or if modifications are needed. This is a Key Decision.</p> <p>The Decision Statement will be sent to the Parish Council within two weeks of the Cabinet decision.</p>	<p>Parish Council to supply the District Council with a tracked-changes version of the Plan to show how the Examiner's recommendations are being implemented and a final 'clean' version of the Plan i.e. the version of the Plan that will be the subject of the referendum</p>
Referendum	<p>Arrangements for and Publicity for Referendum</p> <p>BDC is responsible for making the arrangements for the referendum</p> <p>Regulation 17.4 of the Neighbourhood Planning (Referendums) Regulations 2012 and as amended by the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013</p>	

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	<p>BDC Commitment</p> <p>The referendum to take place within 60 days of publication of the Decision Statement 2 on the Examiner’s Report.</p> <p>BDC will publish detailed information about the referendum on its website 28 days before the referendum is to take place</p>	
	<p>Results of Referendum – Decision Statement 3</p> <p>If a referendum results in more than half of those (i.e. 50% plus 1), voting in favour of the proposal BDC must “make” i.e. formally adopt the Plan as soon as reasonably practical</p> <p>2004 Act s38A (4) (6)</p> <p>BDC must publish a decision statement about the referendum</p> <p>2004 Act s38A (9) (10) Regulation 19</p> <p>BDC Commitment</p> <p>As this is a Key Decision there will need to be at least a 28 day period before the Plan can be considered and then it will be at the first available meeting of Full Council following a positive referendum vote when BDC will “make” the Plan.</p>	<p>If the referendum results in a “no” vote for the Neighbourhood Plan the Parish Council will need to decide whether to repeat the Plan making process.</p> <p>It cannot resubmit the same NP for examination.</p>
Making of Plan	Publicising the Plan	Parish Council Commitment

Stages	By Babergh District Council	By Little Waldingfield Parish Council
	<p>As soon as possible after BDC has decided to make the Plan it will be published and people will be notified that it has been made.</p> <p>Any environmental statements will also be published and consultation bodies notified of relevant matters incl.</p> <p>Monitoring results should be published in the Council's Annual Monitoring Report</p> <p>Regulation 20, Regulation 16 and 17 of Environmental Assessment of Plans and Programmes Regulations 2004</p> <p>BDC Commitment</p> <p>Within two weeks of the Council meeting the Council will publicise the Neighbourhood Plan on its website</p>	<p>Following a successful examination the Parish Council will provide BDC with any primary source data that would be helpful to the Planning Policy Team</p>

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