**Memorandum of Understanding between Babergh District Council and**

**Little Waldingfield Parish Council for the purpose of producing a Neighbourhood Plan**

**The Memorandum of Understanding (MoU)**

This MoU is between:

Babergh District Council (the ‘Council’) and Little Waldingfield Parish Council (the ‘Parish Council’).

**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 for:

1. Fulfilling certain statutory requirements, and
2. The provision of advice and assistance to Parish Councils.

**Purpose**

The purpose of this MoU is to establish the working relationship between the Parish Council and the Council, in relation to the preparation of the Little Waldingfield Neighbourhood Plan (the ‘Neighbourhood Plan’).

This MoU confirms:

1. How the Council will undertake its statutory duties;
2. The level and extent of the technical advice and assistance that the Council will provide to the Parish Council;
3. How the Parish Council will aim to progress the Neighbourhood Plan;
4. How the Parish Council and the Council will engage with each other.

**Date and duration of the MoU**

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

It is expected that this MoU will continue until the Neighbourhood Plan is either made, or until it is abandoned. A review shall take place after 12 months with respect to the continuation of the MoU. Both parties must agree to its abandonment. Both parties must agree to any amendment to the terms of the MoU.

**Working Relationships**

The parties to this MoU seek:

1. An open and constructive working relationship;
2. To respect each other’s views and, where different, to ensure a reasonable understanding of the reasons for any such differences;
3. To have a ‘no surprises’ policy, based on notifying each other well in advance of significant announcements and developments in planning policy;
4. To minimise duplication of activity wherever possible;
5. 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, including the Neighbourhood Planning (General) Regulations 2012 and the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, require the Council to undertake certain procedures. In addition, the Council is required to provide technical advice and support to the Parish Council.

The Schedule, at Appendix 1 to this MoU, sets out how the Council will meet its statutory obligations and the level of assistance it will provide to the Parish Council. It also sets out the roles and responsibilities of the Parish Council as part of the preparation of the Neighbourhood Plan.

**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:

* Clare Dawson, for advice on planning policy and general matters;
* Paul Bryant, for advice on procedures and administrative matters.

**Progress and Review Process**

The progress of the Neighbourhood Plan will be reviewed every 6 months at a meeting between the Council and the Parish Council

**Dispute Settlement**

In the event of a dispute between the parties, which cannot be resolved at the working level, the signatories to this MoU will discuss the matter and decide on the action necessary to move matters forward, assisted as appropriate by those involved in the dispute in question.

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| Signed on behalf of Babergh District Council | Signed on behalf of Little WaldingfieldParish Council |
| Signature of Assistant Director: | Signature of the 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), the Neighbourhood Planning (General) and Development Management (Amendment) Regulations 2016 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 and shows which tasks are the responsibility of Babergh District Council (the ‘Council’) and which are the responsibility of the Little Waldingfield Parish Council (the ‘Parish Council’).

The chart shows what support will be offered by the Council 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 the Council to fulfil its obligations.

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| **Stages** | **By the Council** | **By the Parish Council** |
| **Preparing the Neighbourhood Plan** | The Council has a duty to provide advice and assistance to the Parish Council in the preparation of the Little Waldingfield Neighbourhood Plan (the ‘Neighbourhood Plan’).  The Council will provide the following :   * Assistance with methods of community engagement and consultation. Contacts for statutory undertakers or other key consultees; * Conformity advice and up to date information on the Babergh Local Plan /new Joint Local Plan; * 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; * Comments on emerging drafts of the Neighbourhood Plan; * Assistance in digitising the final proposals and/or policies/policy maps; * Advice in getting the best from any paid support from contracted consultants.   The Council will not:   * 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 any necessary Sustainability Appraisal, or Environmental Assessment; * Attend every meeting of the Parish Council and/or its Steering Committee in relation to the preparation of the Neighbourhood Plan; * Attend every consultation event in respect of the Neighbourhood Plan; * Provide direct financial support. | Tasks that the Parish Council needs to do to prepare the Neighbourhood Plan:   * Build an evidence base; * Community engagement; * Decide on vision and objectives; * Write the plan; * Scope the need for an Environmental Assessment; * Carry out a Sustainability Appraisal, if appropriate.   Parish Council commitment:  Prepare a Project Planfor the preparation of the Neighbourhood Plan. This should include:   * A indicative timetable for completion of the Neighbourhood Plan; * The provision of regular updates on progress by the Parish Council to the Council; * Budget planning.   Neighbourhood Plan Project Planner link:  <http://mycommunity.org.uk/resources/neighbourhood-plan-project-planner/> |
| **Prior to Starting Pre-Submission Consultation** | Before the Parish Council starts its pre-submission consultation, the Council will provide advice and support in relation to:   * The conformity of the Neighbourhood Plan and whether in the Council’s view it meets the ‘basic conditions’; * The suitability of the Consultation Statement; * The suitability of any Environmental Assessment; Sustainability Appraisal or Habitats Regulations Assessment undertaken; * Conformity with other legislative requirements e.g. Equality Assessments; * Conformity with the OS mapping requirements (including copyright issues). | Parish Council commitment:  The Parish Council will seek the views of the Council on the documents that the Parish Council intend to use for the pre-submission consultation. As far as possible, this will done in a timely manner so as to avoid unnecessary delay to the pre-submission consultation. |
| **Pre- Submission Stage** |  | **Consultation by the Parish Council**  The Parish Council is responsible for carrying out the Pre-Submission Consultation.  Before submitting the Plan to the Council there must be a minimum six-week period of consultation.  *Regulation 14*  Parish Council commitment:  The Parish Council will provide the Council with the following:   * The Pre- Submission Plan in an electronic format; * Copies of any Environmental Assessment / Sustainability Appraisal undertaken; * A Consultation Statement highlighting the list of statutory bodies consulted. |
| **Submission Stage** |  | |  | | --- | | **Submission of Plan to the Council**  When the Parish Council submits its Neighbourhood Plan proposal to the Council, it must include:   * A map or statement identifying the Neighbourhood Area; * An electronic version of the Submission draft of the Neighbourhood Plan * A Consultation Statement setting out who was consulted; how they consulted; the main issues which arose and how these were addressed; * A list of consultees consulted during pre-submission stage, with contact details; * Final copies of any Environmental Statement, or Sustainability Appraisal undertaken, or Habitats Regulations Assessment undertaken; * Evidence documents used to inform the Submission draft of the Neighbourhood Plan; * A Statement explaining how the Neighbourhood Plan meets the ‘basic conditions’.   *Regulation 15*  *The Conservation of Habitats and Species Regulations 2010 as amended by Schedule 2 of the Neighbourhood*  *Planning (General Regulations) 2012. i.e. Regulations 102 and 102A*  Revision to Regulation 15 made in February 2015-An additional document must be included by the Parish Council when submitting a plan proposal to the Council:   * Either an Environmental Report prepared in accordance with the Environmental Assessment of Planning Regulations 2004, or a statement of reasons why an Environmental Assessment is not required | |
|  | **Receipt and Assessment of Submission Plan by the Council – Decision Statement 1**  The Council will assess the Neighbourhood Plan proposal to consider -   1. Whether the Parish Council is authorised to act; 2. Whether the proposal and accompanying documents   a. Comply with the rules for submission to the Council (Regulation 15’), and  b. Meet the ‘definition of an NP’, namely:  “*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”*  and  c. Meet the ‘scope of NP provisions’ which are:  *1. The NP must specify the period for which it is to have effect;*  *2. It cannot include provision about development that is ‘excluded development’;*  *3. It cannot relate to more than one neighbourhood area or repeat an existing planning permission.*  and   1. Whether the parish council has undertaken the correct procedures in relation to consultation and publicity.   The Council can refuse to take forward a plan if it does not meet all the requirements.  *TCPA 1990 Act Schedule 4B para 6 38 A and B;*  *Definition of NP - 2004 P & CP Act as amended by*  *Localism Act Section 38 A (2); Scope of NP provisions 2004 Act s 38B (1 & 2) (4)*  The Council will notify the Parish Council of its decision and will issue a decision statement.  *TCPA 1990 Act Schedule 4B para 6 (4).*  *Regulation 19.* |  |
|  | **Publicising and Consultation on the Plan**  If the Council accepts the Neighbourhood Plan it will publicise the submitted Neighbourhood Plan and notify the bodies referred to in the submitted Consultation Statement of the six-week period during which formal representations can be made.  *Regulation 16*  The Council’s commitment:  The Council will start the consultation within four weeks of the Assistant Director confirming the submission documents meet the requirements. |  |
| **Examination** | **Arrangements for Examination:**  The Council is responsible for making arrangements for the examination. Once satisfied with the Neighbourhood Plan, the Council will appoint an Examiner with the consent of the Parish Council.  *TCPA 1990 Act Schedule 4B para 6*  The Council will submit the Neighbourhood Plan and all supporting documents to the Examiner including representations from the consultation.  *Regulation 17*  *Regulation102A Conservation of Habitats and Species Regulations 2010.*  The Council’s commitment:  The Council will appoint an Examiner within four weeks of the end of the consultation period. Once the Examiner has appointed, the representations will be sent to the Examiner | The Parish Council will work with the Council in order to agree the appointment of an Examiner.  The Parish Council will keep the local community up to date with the progress of the Neighbourhood Plan through the Examination process. |
| **Considering the Examiner’s Report** | **Examiner’s Draft Report for Fact Checking**  The Council will forward a copy of the Draft Examiner’s Report for fact checking to the Parish Council. The Council will respond to the Examiner on behalf of the Council and the Parish Council within 7 working days of receipt  **Examiner’s Report**  The Examiner must make a report with recommendations, the reasons for them and a summary of his/her findings. The Examiner’s Report can recommend that either:   * The Draft NP is submitted for referendum, or * The Modifications specified in the Examiner’s Report are made and the Revised Draft Neighbourhood Plan is submitted for referendum.   When the Council has received the Examiner’s Report it will arrange for its publication within one week of receipt.  The Council will consider each recommendation and decide what action to take in response.  The Council’s commitment:  Within 1 week of receiving the Examiner’s Report, the Council will publish the Examiner’s Report on its website.  The Council will consult with the Parish Council in relation to its views on the Examiner’s recommendations before a decision is made by the Council’s Cabinet. | The Parish Council to respond to the District Council within 7 working days of receiving the Draft Examiner’s Report for fact checking  The Parish Council will provide the Council with its views on the Examiner’s recommendations. |
|  | If the Council proposes to make a decision that differs from the Examiner’s recommendation(s) 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 the Council as to a particular fact:   1. The Council will notify all those identified in the Parish Council’s consultation statement, as well as the Parish Council itself and will invite representations; and/or 2. The Council may refer the issue for an Independent Examination, for determination within a reasonable time-frame, if the Council considers it appropriate   The Council cannot make a decision that differs from the Examiner’s recommendations about the referendum area (TCPA 1990 Act Schedule 4B para. 13)  BDC Commitment:  If the Council decides to make changes to the Neighbourhood Plan that are different to the Examiner’s recommendations, the Council will consult with the Parish Council before the Cabinet formally makes a decision. | The Parish Council will provide the Council with its representations |
| **Decision to take Plan forward to referendum** | **Decision Statement 2**  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.  BDC decides whether the Plan is ready for referendum of 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.  BDC to send a copy of the decision statement to the Parish Council.  *TCPA 1990 Act Schedule 4B para. 12 (11 and12) Regulations 18 and 19*  BDC Commitment  Within 5 weeks of receipt of the Examiner’s Report the Council will decide whether the Plan is ready for referendum or if modifications are needed.  Decision Statement 2 will be sent to the Parish Council within two weeks of the Council decision. | Parish Council to supply the BDC 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 |
| **Referendum** | **Arrangements for and Publicity for Referendum**  BDC is responsible for making the arrangements for the referendum  Regulation 17.4 of the Neighbourhood Planning (Referendums) Regulations 2012 and as amended by the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013  BDC Commitment  The referendum to take place within 56 days of publication of the Decision Statement 2 on the Examiner’s Report.  BDC will publish detailed information about the referendum on its website 28 days before the referendum is to take place |  |
| **Making of Plan** | **Results of Referendum – Decision Statement 3**  If a Referendum results in more than half of those voting in favour of the proposal (i.e. 50% plus 1), the Council must ‘make’ i.e. formally adopt the Neighbourhood Plan within 8 weeks of the result of the referendum unless there are unresolved legal challenges  *2004 Act s38A (4) (6)*  The Council must publish a decision statement about the referendum.  *2004 Act s38A (9) (10) Regulation 19*  BDC Commitment:  As this is a Key Decision there will need to be at least a 28-day period before the Neighbourhood Plan can be considered. The Full Council will ‘make’ the Neighbourhood Plan at the first available meeting of Full Council, following a positive Referendum vote. | If the Referendum results in a “no” vote for the Neighbourhood Plan, the Parish Council will need to decide whether to repeat the Neighbourhood Plan making process.  The same Neighbourhood Plan cannot be resubmitted for Examination.  Parish Council Commitment  Following a successful Examination, the Parish Council will provide the Council with any primary source data that would be helpful to the Council’s Planning Policy Team |
|  | **Publicising the Neighbourhood Plan**  Within two weeks of the Council’s decision to make the Neighbourhood Plan, the Council will be publish the Plan and notify the public that it has been made.  Any environmental statements will also be published and consultation bodies notified of relevant matters.  Monitoring results should be published in the Council’s Annual Monitoring Report.  *Regulation 20, Regulation 16 and 17 of Environmental Assessment of Plans and Programmes Regulations 2004*  BDC Commitment  Within two weeks of the Full Council meeting, the Council will publicise the Neighbourhood Plan on its website |  |