

To: The Executive Director of Place

18th January 2022

Application for the Designation of Malden Rushett as a Neighbourhood Area

Report by the Strategic Planning Team

Purpose

To note the representations made in the recent consultation and formally designate Malden Rushett as neighbourhood area.

Recommendation of the Head of Planning and Regeneration

To -

1. Designate the area outlined in red in Annex 1 as the Malden Rushett Neighbourhood Area under delegated powers.

Key Points

- A. This report sets out the consultation process undertaken for the application to have Malden Rushett designated as a Neighbourhood Area. This is the second such application of its type in the borough.
- B. The application was submitted by a local community group called Malden Rushett Community. The group is also seeking to be designated as a Neighbourhood Forum.
- C. The consultation period ran for a period of six weeks from 11th November 2021 to 23rd December 2021 and was publicised: on the council's website; through site notices in Malden Rushett; through mail to every address within the proposed neighbourhood area; and through email to contacts on the Strategic Planning consultation database.
- D. There were 109 representations made during the consultation period.
- E. While there is significant local opposition to designating Malden Rushett as a neighbourhood area, the neighbourhood area application is considered to conform with all relevant regulatory requirements.
- F. Under powers delegated by the Growth Committee on 23rd November 2016, it is recommended that the Director of Place designates the area outlined in Annex 1 as the Malden Rushett Neighbourhood Area,
- G. The next steps to be taken involve publicising the decision to designate the neighbourhood area and publicising any future neighbourhood forum application for the neighbourhood area.

Context

1. The Localism Act 2011 introduced three 'neighbourhood level' planning powers, which came into force in April 2012. These are:
 - Neighbourhood Development Plans (commonly known as Neighbourhood Plans);

- Neighbourhood Development Orders; and
 - Community Right to Build Orders.
2. The Neighbourhood Planning Regulations 2012 (as amended) set out the requirements in relation to designating a Neighbourhood Area.
 3. The Growth Committee delegated powers to designate Neighbourhood Areas and Neighbourhood Forums to the Director of Place in November 2016.

Neighbourhood Area Application

4. The first step required to secure neighbourhood planning powers is for the local planning authority to designate a Neighbourhood Area.
5. Neighbourhood planning regulations require that only a group that can demonstrate that it is capable of becoming a Neighbourhood Forum can submit an application.
6. On 19th August 2016, a local community group called Malden Rushett Community submitted an application to have Malden Rushett designated as a Neighbourhood Area (see Annex 1).

Consultation

7. The application was published for consultation from 11th November 2021 to 23rd December 2021 for a period of six weeks.
8. Regulations require that when a valid Neighbourhood Area application is submitted, the local planning authority must publicise the following on their website and in such other manner as they consider is likely to bring the area application to the attention of people who live, work or carry on business in the area to which the area application relates:
 - a copy of the area application;
 - details of how to make representations; and
 - the date by which those representations must be received, being not less than six weeks from the date on which the area application is first publicised.
9. The Council publicised the above information on the neighbourhood planning in Malden Rushett webpage of the website and online survey portal.
10. All addresses within the proposed neighbourhood area were informed of the application and consultation by letter. In addition, emails were sent to Statutory Consultees and contacts on the strategic planning database informing them about the consultation and how to respond. 7 site notices were posted at key locations throughout the proposed Neighbourhood Area including the community notice board.

11. A total of 109 responses were received. 1 response supported the designation of Malden Rushett as a neighbourhood area. 101 responses did not support the designation of Malden Rushett as a neighbourhood area. 7 responses were neutral.
12. A Consultation Statement has been produced which sets out in detail who was consulted, when and where during the public consultation (Annex 2). The Statement also sets out a summary of the responses received.

Consideration of the Neighbourhood Area Application

13. The Neighbourhood Planning Regulations 2012 (as amended) set out the requirements in relation to designating a neighbourhood area. The two main points of consideration when determining a neighbourhood area application are:
 - Whether the area is appropriate to be designated a neighbourhood area.
 - Whether the application has been made by a group (relevant body) which has demonstrated it is capable of becoming a neighbourhood forum.
14. National planning practice guidance states that local authorities should avoid prejudging what a qualifying body may subsequently decide to put in its draft neighbourhood plan or order when designating a neighbourhood area.
15. National planning practice guidance states and that the following could be considerations when deciding the boundaries of a neighbourhood area:
 - village or settlement boundaries, which could reflect areas of planned expansion;
 - the catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities;
 - the area where formal or informal networks of community based groups operate;
 - the physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style;
 - whether the area forms all or part of a coherent estate either for businesses or residents;
 - whether the area is wholly or predominantly a business area;
 - whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway;
 - the natural setting or features in an area;
 - size of the population (living and working) in the area.
16. The proposed neighbourhood area comprises Malden Rushett and surrounding agricultural land. The neighbourhood area lies at the south of the Chessington South ward. The neighbourhood area covers approximately 160 households.
17. The proposed area boundary follows:
 - The west, south and east border of the proposed neighbourhood area follows the Borough administrative boundary with Surrey County Council.

- The north-western border is the boundary between Chessington World of Adventures South Car Park and Jubilee Wood, Chessington Garden Centre and the Leatherhead Road.
 - The north-eastern border is the footpath through Chessington Wood to, and including, Rushett Lane.
18. Section 2b of the Neighbourhood Area Application states the boundary for Malden Rushett defined in the Borough Character Study was used as a starting point for the neighbourhood area boundary.
 19. The boundary defined in the Borough Character Study runs through Chessington World of Adventures, thus containing Chessington WOA's south car park. It is stated that after consultation with Merlin Entertainments it was agreed to exclude the south car park from the proposed neighbourhood area. Instead the Chessington WOA boundary was used as the neighbourhood area boundary.
 20. 2 consultation responses queried the proposed neighbourhood area. One queried the exclusion of Chessington WOA when it contributes to the area. The other response argued that a clear statement explaining why the neighbourhood area was appropriate had not been provided.
 21. The Council considers that the proposed neighbourhood area reflects the village of Malden Rushett and its natural setting and is appropriately sized. It is also considered that Section 2b of the Neighbourhood Area Application adequately justifies why the neighborhood area boundary is appropriate.
 22. A group seeking to become a neighbourhood forum needs to meet the requirements set out in section 61f of Town and Country Planning Act 1990. At the area application stage, the organisation making the application is only required to demonstrate that it is capable of meeting these requirements. The organisation is not required to fully meet the requirements of Section 61f at this stage.
 23. Section 4 of the Neighbourhood Area Application demonstrates how Malden Rushett Community is capable of becoming a Neighbourhood Forum and the steps the group is taking to fully meet the requirements before applying to be designated as the neighborhood forum.
 24. There were a large number of consultation responses that questioned whether Malden Rushett Community was suitable and/or capable of becoming a neighbourhood forum. The main concern was that Malden Rushett Community has small membership and/or is not representative of the local community.
 25. The Council considers that Malden Rushett Community is capable of being designated a neighbourhood forum. The Council has not yet determined whether Malden Rushett Community currently meets the relevant requirements to be designated a neighbourhood forum. Should Malden Rushett Community apply to be

designated as the neighbourhood forum for Malden Rushett, the Council will fully scrutinise whether the group meets the relevant requirements when determining the application.

26. In summary, the neighbourhood area application is considered to have met all relevant regulatory requirements. The application has been submitted by a relevant body and the proposed area covers an appropriately sized geographic area with clearly defined boundaries that complies with national planning practice guidance and is considered acceptable for the purposes of planning at the neighbourhood level.
27. Responses to the consultation were considered by the Council when determining the Neighbourhood Area application. Whilst it is acknowledged that almost every response did not support the designation of Malden Rushett as a neighbourhood area, it should be noted that there are specific criteria that should be followed when determining an application. Officers are satisfied that the relevant criteria have been met for this application. The supporting Consultation Statement sets out responses to the issues raised in the responses received.

Next Steps

28. Regulations require that, as soon as possible after designating a Neighbourhood Area, a local planning authority publicise the following on their website and in such other manner as they consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area:
 - the name of the neighbourhood area;
 - a map which identifies the area; and
 - the name of the relevant body who applied for the designation.

Resource Implications

29. The application to approve the Malden Rushett Neighbourhood Area does not raise any financial or resource implications for the Council at this stage. However, the Council has a duty to support and advise Neighbourhood Planning Bodies if they decide to prepare neighbourhood plans, including paying for the independent examination and the referendum.
30. The Council can claim £20,000 from the Government once they have set a date for a referendum following a successful examination. In addition to this, the Council can claim £5,000 for the first five neighbourhood areas designated. At present, North Kingston is the only designated neighbourhood area in the Borough.

Legal Implications

31. An adopted Neighbourhood Plan would affect how the Council determines planning applications and how it carries out other planning functions, including sending consultations to the Neighbourhood Forum. There will also be implications on how Community Infrastructure Levy for development in the Neighbourhood Area is spent.

Risk Assessment

32. No specific risks have been identified.

Equalities Impact Assessment

33. This has been covered by the Neighbourhood Planning Regulations.

Road Network Implications

34. No specific road network implications have been identified.

Environmental Implications

35. No specific environmental implications have been identified.

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List of reports and supporting information

- Annex 1 - Map showing the proposed Malden Rushett Neighbourhood Area
- Annex 2 - Consultation Statement on the Malden Rushett Neighbourhood Area Application

List of Background reports/document

- Amended Neighbourhood Planning Protocol (adopted November 2016)
- Application for designation of the Malden Rushett Neighbourhood Area