

Otham Neighbourhood Plan (Regulation 17A)

Final Decision-Maker	Strategic Planning and Infrastructure
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Anna Ironmonger, Strategic Planning, Planning Officer
Classification	Public
Wards affected	Downswood & Otham, Shepway South, Shepway North, Bearsted, Leeds, Sutton Valence & Langley, and Park Wood.

Executive Summary

The Otham Neighbourhood Development Plan was examined by an independent examiner, who recommended that the Plan (once modified) move to local referendum (Background Document 1). Under the Neighbourhood Planning (General) Regulations 2012 (as amended), the planning authority is required to make a decision on what action to take in response to the examiner's recommendation. This report seeks approval to move the Otham Neighbourhood Plan, as modified, to local referendum (Appendix 1). Following a successful referendum, the neighbourhood plan forms part of the Maidstone Development Plan and must be made (adopted) by Council.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. The modifications to the Otham Neighbourhood Development Plan as set out in the examiner's report be agreed.
2. The Otham Neighbourhood Plan proceeds to local referendum

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	13 th April 2021

Otham Neighbourhood Plan (Regulation 17A)

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	It is not expected that the recommendations will by themselves materially affect achievement of corporate priorities, but the plan will form part of the Maidstone Development Plan following a successful referendum, and will assist in the delivery of the Council's four strategic priorities	Rob Jarman, Head of Planning and Development
Cross Cutting Objectives	Following a successful referendum, the Otham Neighbourhood Plan will form part of the Maidstone Development Plan, and will assist in the delivery of the Council's four strategic objectives.	Rob Jarman, Head of Planning and Development
Risk Management	See section 5	Rob Jarman, Head of Planning and Development
Financial	The proposals set out in the recommendations are all within already approved budgetary headings and so need no new funding for implementation is needed. The costs for the referendum and adoption of the Otham Neighbourhood Plan are borne by the Borough Council. There is a dedicated budget for this purpose, funded by MHCLG neighbourhood planning grants.	Section 151 Officer & Paul Holland (Finance Team)
Staffing	We will deliver the recommendations with our current staffing.	Rob Jarman, Head of Planning and Development
Legal	Accepting the recommendations will fulfil the Council's duties under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, the Housing and Planning Act 2016, and the Neighbourhood Planning Act 2017. The recommendations also comply with the Neighbourhood Planning (General) Regulations 2012 (as amended).	Cheryl Parks (Legal Team)
Privacy and Data Protection	Accepting the recommendations will increase the volume of data held by the Council. The data will be held in line with the Council's, records retention policy, data protection policies and the GDPR.	Orla Sweeney (Policy and Information Team)

Equalities	The Council has a responsibility to support communities in developing a Neighbourhood Plan. This responsibility is set out in the Maidstone Statement of Community Involvement. The neighbourhood planning process provides an opportunity for communities to develop a plan that meets the needs of its population.	Orla Sweeney Senior Policy and Engagement Officer
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Paul Clarke, Public Health Officer
Crime and Disorder	There are no implications for crime and disorder.	Rob Jarman, Head of Planning and Development
Procurement	The appointment of an independent examiner from IPE was made under the procurement waiver signed by the Director of Finance and Business Improvement.	Rob Jarman, Head of Planning and Development & Section 151 Officer

2. INTRODUCTION AND BACKGROUND

2.1 Neighbourhood Plans can be prepared by parish councils and designated neighbourhood forums for their neighbourhood area. A neighbourhood plan will go through two rounds of mandatory public consultation before independent examination, local referendum and being 'made' (adopted) by Maidstone Borough Council. The procedures for designating a neighbourhood area and the preparation of a neighbourhood plan are set out in the Neighbourhood Planning (General) Regulations 2012 (as amended).

Progress of the Otham Neighbourhood Plan

2.2 The Neighbourhood Planning Area, which comprises the whole of Otham parish, was designated on 1 August 2017. A formal six-week consultation on the pre-submission draft Otham Neighbourhood Plan and supporting documents (Regulation 14) took place between 22 July 2019 and 6 September 2019.

2.3 The Regulation 15 Submission Plan and supporting documents were submitted to the Borough Council on 8 September 2020. The Plan was subject to a further six week consultation, known as the Regulation 16 consultation, from 16 October 2020 to 27 November 2020.

- 2.4 In accordance with the agreed neighbourhood planning protocol, the Borough Council submitted representations to both consultations. The Regulation 14 response was submitted under the delegated authority of the Head of Planning and Development. The Regulation 16 response was submitted following the agreement of this committee at its meeting of 9 November 2020.
- 2.5 Throughout the preparation of the Otham Neighbourhood Plan, communication with the parish council has been maintained. Officers have offered advice and support to the parish council on a range of issues, including draft iterations of the plan. The Otham Neighbourhood Plan includes policies on:
- Heritage, conservation and landscape protection
 - Enhancing green space and biodiversity value
 - Protecting the Countryside
 - Promoting active and sustainable travel
 - Managing the built environment
 - Community and leisure

Examination of the Otham Neighbourhood Plan

- 2.6 The appointment of Derek Stebbing (from Intelligent Plans and Examinations) as an independent examiner was agreed with Otham Parish Council. The independent examiner was appointed through the Council's procurement waiver signed by the Director of Finance and Business Improvement. The Otham Neighbourhood Plan and supporting documents, together with the representations received during Regulation 16 consultation, were forwarded to the examiner who dealt with the examination through written representations, concluding that a public hearing was not necessary. The examiner's report was received on 4 March 2021 and has been published on the Borough and Parish Councils' website (see background document 1).
- 2.7 The examiner concluded that subject to modifications the Plan meets the Basic Conditions. The modifications are set out in Appendix to the Examiner's report (background document 1) and have been summarised at paragraph 2.10 below.
- 2.8 The examiner also concluded that the plan has been prepared and submitted for examination by a qualifying body – the Otham Parish Council (the Parish Council); the plan has been prepared for an area properly designated – the Otham Neighbourhood Plan Area, as identified on the Map at page 3 of the plan; the plan specifies the period to which it is to take effect – from 2020 to 2035; and the policies relate to the development and use of land for a designated neighbourhood plan area.
- 2.9 The examiner recommended that the Otham Neighbourhood Plan, once modified, proceeds to referendum on the basis that it has

met all the relevant legal requirements.

2.10 The modifications have been summarised below.

Proposed Modification Number	Modification
PM1	Policy HC1 requires an amendment to include a reference to Appendix 3 which describes the designated Otham Heritage Trails (originally drafted as Heritage Walks).
PM2	Policy HC2 is to be amended to make reference to accompanying maps and Appendix 3 to improve the clarity and understanding of the policy.
PM3	Policy GS2 should provide inset maps of each Local Green Space to enable users to identify the boundaries of each site.
PM4	Policy GS4 seeks to resist the erection of any physical boundary between 2 fields. It is proposed to delete this policy as it is not considered that a departure from national policy and guidance has been significantly justified. Therefore, the basic conditions have not been met.
PM5	Policy GS6 requires a minor amendment to recognise that the planning of new woodland will assist in carbon reduction, instead of generating carbon revenue.
PM6	<p>Policy AC1 (as originally drafted) sought to ensure that further developments within the plan area, that are not already identified within the adopted Maidstone Borough Local Plan, do not result in the coalescence of the village of Otham with urban parts of Maidstone. The policy identified areas of land with high or moderate anti-coalescence.</p> <p>The Examiner, in his preliminary questions, asked for further information on evidence sources that led to the categorisation of the identified land with high or moderate anti-coalescence. This is echoed representations made during the Regulation 14 consultation.</p> <p>The Parish Council outlined that a desk-based assessment of underdeveloped parcels of land was carried out. The assessment was based on criteria that any single parcel of land separating a residential part of Otham village from urban Maidstone or another village made it of high anti-</p>

	<p>coalescence value. Where two adjacent parcels of land existed to separate the settlements the land was of moderate anti-coalescence value.</p> <p>The assessment increased the number of parcels of land covered by the policy between the Regulation 14 iteration and Regulation 15 iteration of the plan.</p> <p>The Borough Council raised concerns that the policy was originally drafted was not in general conformity with strategic policies in the adopted Maidstone Borough Local Plan and certain parcels of land overlap with other policy designations¹.</p> <p>The Examiner, recognised the potential risk from developments on the extent of countryside around the village and the possible impacts upon the character of the village.</p> <p>PM6 proposes to revise the policy, including renaming to 'Protecting the Countryside' to address the protection of the countryside around Otham in more generic terms.</p>
PM7	<p>Overlap between policies ST1, ST2 and ST3 has been identified. The three policies should be consolidated into two.</p> <p>Policy ST4 as drafted does not constitute a land use policy and is deletion is proposed.</p>
PM8	<p>Policy BE1 is to be amended to fully reflect national policy and advice from the Environment Agency.</p>
PM9	<p>Policy PE4 minor amendment for accuracy (remove permitted and replace with supported).</p>
PM10	<p>Policy CL1 as drafted considers the need for a new, larger, multi-use village hall to cater for a wider range of social and leisure activities. The policy does not constitute a land use policy in that is contingent upon the results of a community need survey. The results of the survey are unknown.</p> <p>The issue was raised by the examiner in his preliminary questions and the Parish Council confirmed that the survey had not yet been</p>

¹ A housing site allocation at West of Church Road, Otham (Map 6.1 Area D1), contrary to local plan strategic policy H1(8); part of the designated Len Valley Landscape of Local Value (Map 6.1 Area A), contrary to local plan strategic policy SP17(6); Map 6.1 is not clear on the extent of the anti-coalescence policy northwards for Area A; and Designations of Local Green Space areas proposed in the neighbourhood plan, which will have protection equivalent to national Green Belt policy (Map 6.1 Areas part D2, part C and F2).

	<p>commissioned. A financial contribution towards the survey has been made to the Borough Council by the developer of H1(7).</p> <p>The examiner concluded that if Policy CL1 is to be justified, it cannot be contingent upon a survey that has not taken place. In order to determine the support for a new village hall, consideration has been given to the public consultation and engagement work.</p> <p>The Policy is to be amended to include development management criteria to ensure a new village hall can be developed, should a site be identified.</p>
PM11	Include reference within the Plan to a potential future review of the Plan to take account of the Local Plan Review.

Referendum of the Otham Neighbourhood Plan

- 2.11 In accordance with the neighbourhood planning regulations (Regulation 17A), the local planning authority is required to make a decision on what action to take in response to the examiner's recommendations. The committee can either:
- Accept the examiner's report (with or without modifications).
 - Decline to accept the report.
 - Accept the report (with or without modifications) together with further modifications the Council deems necessary.
- 2.12 If the Committee is satisfied that the Otham Neighbourhood Plan meets the basic conditions; is compatible with the European Convention on Human Rights; and complies with the statutory requirements set out in the Town and Country Planning Act 1990 (as amended), or would do so with modifications then it must decide to move the neighbourhood plan to local referendum.
- 2.13 The basic conditions are outlined in paragraph 8(2) of the Schedule 4B to the Town and Country Planning Act 1990 (as amended) and the neighbourhood plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State.
 - Contribute to the achievement of sustainable development.
 - Be in general conformity with the strategic policies contained in the development plan for the area of the authority.
 - Be compatible with and not breach EU obligations.
 - Meet prescribed conditions in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plans.

- 2.14 Regulation 32 of the 2012 Regulations prescribes a further basic condition for a neighbourhood plan, which requires that the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulation 2017.
- 2.15 It is considered by officers that the Otham Neighbourhood Plan (as modified) has met the statutory requirements, including its policies being in general conformity with the strategic policies of the Maidstone Borough Local Plan 2017. It is recommended by officers that the Committee approves the examiner's modifications set out in his report and makes a decision to move the Otham Neighbourhood Plan to local referendum.
- 2.16 Following a successful referendum a neighbourhood plan becomes part of the development plan. The decision of this Committee will be published on the Maidstone Borough Council's website. Where a decision statement detailing an intention to send a neighbourhood plan to referendum has been issued, that plan can be given significant weight in decision-making, so far as the plan is material to the application (PPG change in response to the coronavirus pandemic).
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3. AVAILABLE OPTIONS

- 3.1 Option A: The Committee agrees to accept the recommended modifications outlined in the examiner's report and moves the Otham Neighbourhood Plan to local referendum
- 3.2 Option B: The Committee agrees to decline the Examiner's report recommendations, and moves the Otham Neighbourhood Plan to local referendum without any modifications being made
- 3.3 Option C: The Committee does not agree to move the Otham Neighbourhood Plan to local referendum.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option A and the Committee agree to move the Otham Neighbourhood Plan, as modified, to local referendum. If the local authority is satisfied that the statutory requirements have been met, then it is required to move the neighbourhood plan to referendum.
- 4.2 It is the view of officers that the Otham Neighbourhood Plan has met the prescribed legislative requirements and there are no reasons to reject the examiner's proposed modifications. The modifications ensure that the plan policies are compliant with national policy. To not move the plan to local referendum would prevent any further progress and could compromise the good working relationship that officers have with Otham

5. RISK

5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at paragraphs 4.1 and 4.2. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The Otham Neighbourhood Plan has been subject to two rounds of formal public consultation, and the representations have been submitted to an independent examiner for consideration. The representations, including those submitted by the Borough Council, have helped to shape the neighbourhood plan.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 The decision of this Committee will be published on the Maidstone Borough Council's website. Officers will work with Electoral Services to arrange a local referendum, in accordance with the Neighbourhood Planning (Referendums) Regulations 2012. Subject to the outcome of the referendum, a report on the results will be brought back to this Committee and, if successful, a recommendation to Council to make the neighbourhood plan will be sought.

8. REPORT APPENDICES

Appendix 1: Otham Neighbourhood Plan 2020 – 2035

9. BACKGROUND PAPERS

Background Document 1: Examiner's report on the Otham Neighbourhood Plan

<https://localplan.maidstone.gov.uk/home/documents/neighbourhood-plans/otham/r17-examination/Otham-Parish-Neighbourhood-Plan->

[Examiner-Report-040321.pdf](#)