

Otham Parish Neighbourhood Plan Regulation 16

Final Decision-Maker	Strategic Planning and Infrastructure Committee
Lead Head of Service	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Mark Egerton, Strategic Planning Manager, and Sue Whiteside, Principal Planning Officer
Classification	Public
Wards affected	Downswood & Otham, Shepway South, Shepway North, Bearsted, Leeds, Sutton Valence & Langley, and Park Wood

Executive Summary

The Otham Parish Neighbourhood Plan (Background Paper 1) has been submitted and published for a second round of public consultation, which runs from 16 October to 27 November 2020. It is the role of the Borough Council to ensure that certain conditions have been satisfied at this stage, and to facilitate the consultation. It is confirmed that the regulatory requirements under Regulations 14 and 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) have been met during the preparation of the plan.

The Borough Council is also a statutory consultee for the purpose of making representations on the Otham Parish Neighbourhood Plan. The Committee is requested to consider the Council's formal response to the consultation, attached as Appendix 1, in accordance with Regulation 16. Following the close of consultation, the submission documents and all representations received will be passed to the independent Examiner for examination into the plan.

Purpose of Report

Decision.

This report makes the following recommendations to this Committee:

1. That the Otham Parish Neighbourhood Plan be supported, subject to the resolution of matters raised in the Council's representation (Appendix 1).
2. That the Council's representation in response to Regulation 16 consultation on the Otham Parish Neighbourhood Plan, attached at Appendix 1, be approved.

Timetable

Meeting	Date
Strategic Planning and Infrastructure Committee	9 November 2020

Otham Parish Neighbourhood Plan Regulation 16

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, following a successful examination and referendum, the Otham Parish Neighbourhood Plan will form part of the Maidstone Development Plan, which will assist in the delivery of the Council's four strategic objectives.	Rob Jarman, Head of Planning and Development
Cross Cutting Objectives	The report recommendations support the achievement of the four cross-cutting objectives through the Otham Parish Neighbourhood Plan, which will eventually become part of the Maidstone Development Plan.	Rob Jarman, Head of Planning and Development
Risk Management	Risks are set out in Section 5 of the report. This consultation (Regulation 16) is being run to ensure that the plan meets the requirements of national legislation.	Rob Jarman, Head of Planning and Development
Financial	The proposals set out in the recommendations are within already approved budgetary headings and so need no new funding for implementation. The costs for consultation (Regulation 16), examination, referendum and adoption of the Otham Parish 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 & Finance Team
Staffing	The recommendations can be delivered within current staffing levels.	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, Mid Kent Legal Services (Planning)
Privacy and Data Protection	Facilitating the consultation will increase the volume of data held by the Council. The data will be held in line with the Council's data protection policies and the GDPR.	Policy and Information Team
Equalities	The Council has a responsibility to support communities in developing a Neighbourhood Plan. The Neighbourhood Planning process provides an opportunity for communities to	Equalities and Corporate Policy Officer

	shape a plan that meets the housing needs of its population.	
Public Health	It is recognised that the recommendations will have a positive impact on population health or that of individuals through the policies of the Otham Parish Neighbourhood Plan.	Senior 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 has been 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 Otham parish was designated a neighbourhood area on 1 August 2017. The parish council undertook a 6-week public consultation on the pre-submission version of the neighbourhood plan (Regulation 14) between 22 July and 6 September 2019. The Council submitted a representation on the plan under the delegated authority of the Head of Planning and Development. Following consultation, the parish council has amended the plan in response to relevant issues raised in representations.
- 2.2 When a parish council or designated neighbourhood forum submits a neighbourhood plan to the Borough Council, the Council has a responsibility to ensure that regulatory requirements have been met, i.e. that public consultation on the pre-submission draft plan was carried out by the parish council/neighbourhood forum in accordance with Regulation 14, and that the submission plan and supporting documentation meet Regulation 15 obligations. These requirements have been met.
- 2.3 The next stage is a second 6-week public consultation on the submission plan (Regulation 16), prior to the plan's submission for independent examination. The Borough Council is responsible for facilitating this consultation and has agreed the consultation dates with the parish council: 16 October to 27 November 2020. This consultation is being undertaken in accordance with neighbourhood planning regulations, the Council's Statement of Community Involvement 2020 (as amended), and the neighbourhood planning protocol.
- 2.4 The full set of submission documents for the Otham Parish Neighbourhood Plan, which are listed below, can be viewed on the neighbourhood planning webpage (Background Papers 1 and 2).
- Otham Parish Council's covering letter
 - Otham Parish Neighbourhood Plan 2020-2035
 - Consultation Statement
 - Basic Conditions Statement

- Environmental Statement, which concludes that neither a Strategic Environmental Assessment nor a Habitat Regulations Assessment is required.

2.5 The Borough Council is responsible for appointing an independent Examiner (in agreement with the parish council) and for arranging the examination following the close of consultation. The Otham Parish Neighbourhood Plan and accompanying submission documents must be forwarded to the Examiner, together with all representations received, for the Examiner's consideration. Mr Derek Stebbing (Intelligent Plans and Examinations) has been appointed to examine the plan. A neighbourhood plan examination is usually dealt with by written representations, although an Examiner can move to a hearing for more complex plans or issues.

2.6 The Examiner's role is limited to testing the submitted plan against the 'Basic Conditions' tests for neighbourhood plans set out in legislation, rather than considering its 'soundness' or examining other material considerations. It is the role of the local planning authority to be satisfied that a basic conditions statement has been submitted, but it is only after the independent examination has taken place and after the examiner's report has been received that the local planning authority comes to its formal view on whether the draft neighbourhood plan meets the basic conditions. The basic conditions are met if:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations¹
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan²
- The making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017³.

2.7 At this stage (Regulation 16) of the development of the Otham Parish Neighbourhood Plan, the Borough Council is also a statutory consultee and can submit comments on the plan during consultation for consideration by the Examiner.

¹ For example, the need for a Strategic Environmental Assessment and/or Habitats Regulation Assessment

² This applies to the need for an Environmental Impact Assessment for certain development proposals, and is not applicable to the Otham Parish Neighbourhood Plan

³ This Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

- 2.8 During the preparation of the plan, the Council has offered advice and support to the parish council on matters such as the neighbourhood planning process, the evidence base, the plan's regard to national policy, and general conformity with the strategic policies of the Maidstone Development Plan. The parish council has responded positively to the advice offered.
- 2.9 The neighbourhood plan contains a range of policies, including policies for:
- Heritage, conservation, and landscape protection
 - Enhancing green space and biodiversity value
 - Anti-coalescence
 - Promoting active and sustainable travel
 - Managing the built environment
 - Community and leisure.
- 2.10 The neighbourhood plan is clear and well written and, except for anti-coalescence policy AC1, the plan is considered to be in general conformity with the strategic policies of the adopted Maidstone Borough Local Plan 2017.
- 2.11 Neighbourhood plan policy AC1, criterion 1, states: "*Housing development will be supported if it does not result in the coalescence of the village of Otham with urban Maidstone or other villages.*" Whilst this is an unnecessary duplication of local plan policies SS1(9) and SP17(7), it is acknowledged that the prevention of the coalescence of Otham village with the urban area is a local issue of particular importance for the community. Consequently, the deletion of the criterion is not being proposed.
- 2.12 The second criterion of neighbourhood plan policy AC1 states: "*Within the parcels of land identified as having high or moderate anti-coalescence value (shown on map 6.1), any development which results in a significant adverse impact on maintaining its anti-coalescence function will not be supported.*" Map 6.1 identifies three areas of high anti-coalescence function (A/B/C) and six areas of moderate anti-coalescence function (D1/D2/E1/E2/F1/F2). The supporting text for the second criterion of policy AC1 states that parcel B on map 6.1 is "*afforded no protection*" (page 24 paragraph 2). Further, the anti-coalescence layers shown on map 6.1 of the neighbourhood plan overlap with the local plan housing site allocation at West of Church Road (policy H1(8)), part of the Len Valley Landscape of Local Importance (policy SP17(6)), and proposed Local Green Space designations within the neighbourhood plan itself.
- 2.13 The purpose of the local plan anti-coalescence policy is to prevent the merging of settlements and to protect their individual character, not to stop development. Policy AC1 criterion 2 seeks to introduce restrictions to development that go above and beyond what is required by strategic policies SS1(9) and SP17(7). Also, given the protection provided by policies SS1 and SP17 (and other local plan policies), it is incorrect to state that parcel B on map 6.1 is not afforded protection.
- 2.14 As detailed in the Council's representation attached at Appendix 1, neighbourhood plan policy AC1 criterion 2 is not considered to be NPPF

compliant and it does not support the delivery of the strategic policies of the adopted Maidstone Borough Local Plan 2017. Without modification, the Otham Parish Neighbourhood Plan is highly likely to be considered not to meet the basic conditions for neighbourhood plans (as required by Government) with regard to general conformity with the adopted local plan's strategic policies SS1(9), SP17, SP17(6) and H1(8). Consequently, the representation seeks a modification to the neighbourhood plan, to delete policy AC1 criterion 2, supporting text (page 24), and Map 6.1 (page 23).

2.15 Further minor modifications proposed in the representation are intended to correct errors in the neighbourhood plan and to achieve clarity.

2.16 The Committee is recommended to support the Otham Parish Neighbourhood Plan, subject to the resolution of matters raised in the representation, and to approve the Council's representation attached at Appendix 1.

3. AVAILABLE OPTIONS

3.1 Option A: To not make representation on the Otham Parish Neighbourhood Plan. The consultation is being run in accordance with the requirements of national legislation, but there is no requirement for the Council to submit a representation on the neighbourhood plan. However, to follow this option means that the Council's overall view as the local planning authority is not asserted. This approach would compromise the Council's opportunity to inform the Examiner of its position on the plan.

3.2 Option B: To approve the Borough Council's representation on the Otham Parish Neighbourhood Plan, attached at Appendix 1.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 Option B is recommended. Once a neighbourhood plan is the subject of a successful referendum, it becomes part of the Maidstone Development Plan and is used for development management decisions. This option affords an opportunity to inform the Examiner of the Council's position in respect of the Otham Parish Neighbourhood Plan.

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 sections 3 and 4.

5.2 The risks associated are within the Council's risk appetite and will be managed as per the Council's policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Otham Parish Neighbourhood Plan is subject to two rounds of public consultation. The first (Regulation 14) was undertaken by the parish council in 2019, and the Council's representation on the plan was submitted under delegated authority by the Head of Planning and Development. The comments received during consultation, together with the parish council's responses to the issues raised, are summarised in the Consultation Statement, and the plan has been amended as a result.
- 6.2 The current consultation (Regulation 16) is facilitated by the Borough Council, and all representations will be collated by the Borough Council and forwarded to the independent Examiner of the plan, together with the submission documents, for his consideration.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Examination of the Otham Parish Neighbourhood Plan will be dealt with by written representations and/or a hearing, and Maidstone Borough Council is required to pay for the costs of the examination. Following the examination, the Examiner will issue his report and recommendations⁴. A report will be presented to this Committee outlining the Examiner's recommendations and seeking a decision on whether to move the plan to referendum. If more than half of those voting in the referendum have voted in favour of the plan being used to inform planning applications in the area, the plan becomes part of the Maidstone Development Plan and will move forward to being made (adopted) by full Council.
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Response to the Otham Parish Neighbourhood Plan Regulation 16 Consultation
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9. BACKGROUND PAPERS

- Background Paper 1: Otham Parish Neighbourhood Plan <https://localplan.maidstone.gov.uk/home/documents/neighbourhood-plans/otham/r15-submission/Otham-Neighbourhood-Plan.pdf>
- Background Papers 2: Otham Parish Neighbourhood Plan Submission Documents <https://localplan.maidstone.gov.uk/home/neighbourhood-planning> ('Consultations' tab)

⁴ Following a successful examination, a neighbourhood plan becomes a significant material consideration in decisions on planning applications within the neighbourhood area (Neighbourhood Planning Protocol).