

Otham Neighbourhood Plan (Regulation 19)

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

Executive Summary

On 13 April 2021, this Committee resolved that the Otham Neighbourhood Plan, once modified, should proceed to referendum. The Otham Neighbourhood Plan, with modifications incorporated, can be found at background document 1. A referendum was carried on 8 July 2021.

The referendum was successful, with 98.8% voting in favour of the neighbourhood plan. The referendum results can be found at background document 2. As a result, the Otham Neighbourhood Plan becomes part of the Development Plan for Maidstone (Section 38 (3A) of the Planning and Compulsory Purchase Act 2004).

Under Section 38A (4) of the Planning and Compulsory Purchase Act 2004, where more than half of those who voted, vote in favour of a Neighbourhood Plan, the plan must be made (adopted) by the Council within 8 weeks. The timetable for referendum, and committee consideration, including consideration by Full Council is carefully planned to ensure the statutory timetables are met. However, on this occasion, the statutory duty will not be met owing to committee cycles and the fact that this is the first opportunity for this report to be considered by this Committee. Agreement to postpone the decision was gained from Otham Parish Council.

This Committee is asked to consider the result of the referendum, and in accordance with the agreed Neighbourhood Planning Protocol, make a recommendation to Full Council that Otham Neighbourhood Plan is made (adopted).

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. The result of the referendum held on 8 July 2021 on the Otham Neighbourhood Plan be noted.
2. Council be recommended to make the Otham Neighbourhood Plan.

Timetable	
<i>Meeting</i>	<i>Date</i>
Strategic Planning and Infrastructure Committee	21 September 2021
Council	29 September 2021

Otham Neighbourhood Plan (Regulation 19)

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. Section 38(3A) of the Planning and Compulsory Purchase Act 2004 outlines that once a neighbourhood plan is approved at referendum it comes into force as part of the statutory development plan. This means it will assist in the delivery of the Council's four strategic objectives (see section 3).</p> <p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place 	Rob Jarman, Head of Service or Manager
Cross Cutting Objectives	<p>The report recommendations support the achievement of all four cross cutting objectives. Following a successful referendum result, a neighbourhood plan forms part of the development plan.</p> <p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved <p>Biodiversity and Environmental Sustainability is respected.</p>	Rob Jarman, Head of Service or Manager
Risk Management	Already covered in the risk section	Rob Jarman, Head of Service or Manager
Financial	The costs for referendum and adoption of neighbourhood plans are borne by the	Section 151 Officer &

	Borough Council. There is a dedicated budget for this purpose, funded by MHCLG neighbourhood planning grants. The Council has applied for £20,000 from MHCLG due to costs incurred.	Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Rob Jarman, Head of Service or Manager
Legal	<p>Accepting the recommendations will fulfil the Council's duties under the Town and Country Planning Act 1990 (as amended), and the Neighbourhood Planning (General) Regulations 2012 (as amended).</p> <p>The statutory duty under the Planning and Compulsory Purchase Act 2004 to make the plan within 8 weeks of a successful referendum will not be met owing to committee cycles.</p> <p>It does, however, already form part of the development plan for the borough and it is not anticipated that anyone will be unduly affected by the delay in making this decision. Agreement to the delay has been sought from and given by the Qualifying Body, Otham Parish Council.</p>	Cheryl Parks Mid Kent Legal Services (Planning)
Privacy and Data Protection	The recommendations will not have any implications for the volume of data held by the Council.	Equalities and Communities Officer
Equalities	The Council has a responsibility to support in developing a Neighbourhood Plan. The Neighbourhood Plan process provides an opportunity for communities to develop an inclusive plan that meets the needs of its population.	Equalities and Communities Officer
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	There are no implications for crime and disorder.	Rob Jarman, Head of Service or Manager

Procurement	There are no implications for procurement.	Rob Jarman, Head of Service or Manager & Section 151 Officer
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and there are no direct implications.	Biodiversity and Climate Change Manager

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 is subject two rounds of mandatory public consultation before an independent examination takes place. Following this the plan is subject to local referendum and if successful can be formally 'made' 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). The Otham Neighbourhood Plan has reached the final stage of the Neighbourhood Planning process and this report seeks agreement to make the plan.

Otham Neighbourhood Plan: progress

2.2 The Otham Neighbourhood Planning Area comprises the whole of Otham Parish and was designated on 1 August 2017.

2.3 The Neighbourhood Plan was subject two rounds of mandatory consultation. The Parish Council undertook a formal 6-week public consultation on the pre-submission draft of the Otham Neighbourhood Plan (Regulation 14) between 22 July 2019 and 6 September 2019. Following this, Otham Parish Council submitted the Regulation 15 Submission Plan and supporting documents to the Borough Council on 8 September 2020. Maidstone Borough Council facilitated a further 6-week public consultation (Regulation 16) between 16 October and 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 The appointment of an independent examiner was agreed with Otham Parish Council, and Derek Stebbing (of Intelligent Plans and Examinations) 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 all representations received,

were forwarded to the examiner who dealt with the examination through written representations, concluding that a public hearing was not necessary.

- 2.6 The Council received the examiner's report on 4 March 2021 and the report recommended that the Otham Neighbourhood Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.
- 2.7 In line with the Neighbourhood Planning (General) Regulations 2012 and the locally adopted Neighbourhood Planning Protocol, this Committee made a decision on 13 April 2021 that the Otham Neighbourhood Plan, once modified, should proceed to referendum (background document 1).

Otham Neighbourhood Plan: referendum

- 2.8 The referendum took place on 8 July 2021. Voters were asked "Do you want Maidstone Borough Council to use the Neighbourhood Plan for Otham to help it decide planning applications in the neighbourhood area?".
- 2.9 The referendum was successful, with 98.8% voting in favour of the neighbourhood plan (background document 2). Following a successful referendum, a neighbourhood plan becomes part of the development plan for the borough (Section 38 (3A) of the Planning and Compulsory Purchase Act 2004).

Otham Neighbourhood Plan: recommendation

- 2.10 Under Section 38A (4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A), where a referendum is successful and more than half of those who voted, vote in favour of a Neighbourhood Plan, the plan must be made (adopted) by the Council within 8 weeks. As such, this Committee is asked to consider the result of the referendum, and in accordance with the agreed Neighbourhood Planning Protocol, make a recommendation to Full Council that the Neighbourhood Plan is made (adopted).
- 2.11 This Committee can decide not to recommend that Full Council make the Otham Neighbourhood Plan, if to do so, would breach or otherwise be incompatible with any EU obligation or any of the convention rights. The compatibility of the Otham Neighbourhood Plan with EU obligations and directives was tested during the examination process and could not proceed to referendum otherwise. Unless there are any new matters in relation to this point which the Committee considers were not raised by the Examiner then the Council is under a statutory duty to make the plan following the "Yes" result. It is the view of officers that there no such matters arising.
- 2.12 As mentioned in paragraph 2.10 above there is a statutory duty to make the Otham Neighbourhood Plan within 8 weeks of the successful referendum. On this occasion the statutory duty will not be met owing to committee cycles and the fact that this is the first opportunity for this report to be considered by this Committee. Agreement to postpone the decision was gained from the Parish Council. Paragraph 2.9 outlines that following a successful referendum, the Otham Neighbourhood Plan has already become

part of the development plan for Maidstone and must be used in the consideration of planning applications in Otham.

- 2.13 To summarise, this Committee are asked to consider the result of the referendum and make a recommendation to Full Council that the Otham Neighbourhood Plan is made.
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3. AVAILABLE OPTIONS

- 3.1 Option 1: The Strategic Planning and Infrastructure Committee recommends to Full Council on 29 September 2021 that the Otham Neighbourhood Plan is made. Once a neighbourhood plan passes referendum it comes into force as part of the statutory development plan. Under Section 38A (4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A), following successful referendum, the Council must make the Neighbourhood Plan within 8 weeks of the referendum date. It is accepted that this statutory duty cannot be met. The delays are owing to committee cycles and are considered to be acceptable. By taking the decision to a later meeting of Full Council and further delaying the formal adoption of the Otham Neighbourhood Plan would mean that the Council would be in breach of its requirement under the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012.
- 3.2 Option 2: The Committee does not recommend to Full Council on 29 September 2021 that the Otham, Neighbourhood Plan is made. This would be in breach of Section 38A (4) of the Planning and Compulsory Purchase Act 2004 and Neighbourhood Planning (General) Regulations 2012 (Regulation 18A) which requires a neighbourhood plan to be made within 8 weeks of a successful referendum. The reasons for the decision of making the Otham Neighbourhood Plan going beyond the 8-week period have been discussed elsewhere in this report and are considered to be acceptable. The only justification for this Committee not recommending that Full Council make the Otham Neighbourhood Plan is if the Committee considers that there are new matters that would mean that to make the plan would breach or otherwise be incompatible with any EU obligation or any of the convention rights (discussed at paragraph 2.11). It is the view of officers that there are no new matters arising that would prevent Full Council making the plan.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is Option 1. The referendum result shows strong support for the Otham Neighbourhood Plan (98.8%). The Committee can decide not to recommend that Full Council make the Otham Neighbourhood Plan if members considers that there are new matters that would mean that to make the plan would breach or otherwise be incompatible with any EU obligation or any of the convention rights. It is the view of officers that there are no such matters and statute is clear as to the requirement to make the plan in such circumstances.

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. Consideration is shown in this report at paragraphs 2.10, 2.11, 2.12 3.1, 3.2 and 4.1 . 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 has been through two rounds of public consultation known as Regulation 14 (pre-submission consultation) and Regulation 16 (submission consultation). The Borough Council's Regulation 14 response was submitted under the delegated authority of the Head of Planning and Development. The Borough Council's Regulation 16 response was submitted following the agreement of this Committee at its meeting of 9 November 2020.

6.2 This Committee agreed at its meeting on 13 April 2021 that the neighbourhood plan, subject to modification, should move to referendum.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 A recommendation will be taken to Full Council on 29 September 2021. Following a decision from Full Council to make the Otham Neighbourhood Plan, the decision and the Plan will be published on the website and the relevant bodies will be notified.

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

Background document 1 – Otham Neighbourhood Plan
[Appendix 1 Otham Neighbourhood Plan 2020 – 2035.pdf - Google Drive](#)

Background document 2 – Referendum result
<https://localplan.maidstone.gov.uk/home/neighbourhood-planning>