

## **Cabinet**

**19 December 2023**

### **Arches (Chatham) Neighbourhood Plan – Request to Send to Referendum**

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

Report from: Adam Bryan, Director of Place

Author: Dave Harris, Chief Planning Officer  
Catherine Smith, Head of Planning Policy  
Jane Ringham, Head of Member Services and Elections

#### **Summary**

This report considers the outcomes of the independent examination of the Arches (Chatham) Neighbourhood Plan. It sets out the Examiner's assessment of the submitted plan, and his recommendations, which include some modifications to the plan.

It is recommended that the Council accept the Examiner's recommendations and approve sending the plan to referendum.

#### **1. Recommendation**

1.1. It is recommended that Cabinet approves that the Neighbourhood Plan be modified in accordance with the Examiner's report and that the Neighbourhood Plan as modified should proceed to Referendum.

#### **2. Suggested reasons for decision**

2.1. To enable timely decision making in the Neighbourhood Plan process.

#### **3. Budget and policy framework**

3.1. Neighbourhood Plans were introduced through the Localism Act 2011 and are considered to be one means of encouraging wider participation of local communities in planning for the future of their local areas. Once adopted, or 'made', the Neighbourhood Plan, alongside the Medway Local Plan, forms part of the Development Plan for the local planning authority. The Development Plan forms part of the Council's policy framework.

3.2. The Council has the responsibility for the costs of the independent examination and arranging a referendum. The government provides a Neighbourhood Planning grant that can support the costs of examination and the referendum. Local planning authorities can claim a £20,000 grant from when they issue a decision statement detailing their intention to send the plan to referendum. The wider work of the local planning authority in relation to supporting neighbourhood planning is met within the Planning Service budget. It is not clear if the external government grant will meet the full costs of the examination and referendum, and if not, this work will place a budget pressure on the Council.

## 4. Background

4.1. The Arches Chatham Neighbourhood Area was formally designated by the Council in August 2019 for the purposes of preparing a Neighbourhood Development Plan. The work has been led by the Arches Chatham Neighbourhood Forum, which was set up to progress the plan. The Forum has been active in working with local communities and wider stakeholders in preparing a plan that promotes sustainable development that improves the quality of life for residents and enhances the local environment. Its work on community engagement has been exemplary, reaching out to a wide range of residents, to reflect their ambitions and needs in the draft plan. This has also been recognised by the Examiner, who stated in his report:

4.2. *'I find that pro-active community engagement and public consultation formed a major part of the plan-making process. There were plentiful opportunities for people to have a say, people were encouraged to engage and responses and matters raised were duly considered. The evidence before me demonstrates an exemplary approach to public consultation.'*

4.3. Following iterative consultation, the Forum submitted its draft plan to Medway Council in late 2022. The Council published the draft plan for representations at Regulation 16 in Spring 2023. The plan was then submitted for examination in Summer 2023.

4.4. Nigel McGurk was appointed, in consultation with the Neighbourhood Forum, as the examiner. He confirmed that the Examination could be held through written representations. He held a virtual meeting with the Council and the Neighbourhood Forum, as qualifying body, and then issued an Examiner's note seeking clarification on a number of matters. The Forum responded to the queries, and the Examiner issued a draft report in late November for fact checking by the Council and the Neighbourhood Forum. He issued his Examiner's report on 24 November 2023. The Examiner's report is set out at Appendix 1. For purposes of referencing, the submission draft of the [Arches Chatham Neighbourhood Plan is available to view](#).

4.5. The Examiner's report finds that the draft plan meets the legal requirements and recommends that it should proceed to referendum, subject to proposed modifications. The modifications largely relate to the clarity of policy wording and the evidence provided to support the policy. He has recommended amendments to the wording of policies and the supporting rationale text, so

that the policies are clear and unambiguous, and avoid duplication of other policy, or potential conflicts with national planning policy. There are a few cases where he has recommended the deletion of a policy, or parts of a policy.

- 4.6. The Neighbourhood Planning Cabinet report of 18 October 2022 outlined the key stages of preparation of a Neighbourhood Plan and the Council's responsibilities throughout the process. Following the receipt of the Examiner's report, the Council must decide within five weeks whether to accept the Examiner's recommendations and to send the plan to referendum. If the Council does not accept the full recommendations, then it must formally consult on its proposed decision, and the reason for it, for a period of six weeks. This may involve a further examination process following the representations. Where the Council has not followed all of the Examiner's recommendations, the qualifying body, Arches Chatham Neighbourhood Forum, can request the Secretary of State to intervene.
- 4.7. If the Council accepts the full recommendations of the Examiner, it must arrange the referendum following the process set out in legislation. The Council's Electoral Services team will liaise with the Neighbourhood Forum on the arrangements for the referendum. There is a prescribed time for holding the referendum following the Council's decision, but this can be extended if supported by the Qualifying Body, the Neighbourhood Forum. Both parties identify benefits of holding the referendum on the same date as an election, if appropriate opportunities exist. It is therefore proposed that the referendum be held on Thursday 2 May 2024, the same day as elections for the Police & Crime Commissioner for Kent.
- 4.8. If the majority of people who vote in a referendum are in favour of the draft Neighbourhood plan, it must then be 'made', or adopted by the Council, and forms part of the development plan. It is used in making decisions on planning applications.

## 5. Options

- 5.1. Two broad options have been considered:
- 5.2. Option 1 – accept the recommendations in the Examiner's report and approve sending the plan to referendum.
- 5.3. Option 2 – reject or modify the Examiner's recommendations and carry out further consultation on the proposed amendments.
- 5.4. The Planning Service has considered the recommendations in the Examiner's report and view that is appropriate to accept his proposed modifications, and to progress to the referendum on the plan. The Examiner's comments propose clarification on policy wording to ensure that policies are clearly based on evidence and provide a robust basis for decision making on planning applications. The Council has had the opportunity to comment on the emerging and draft Neighbourhood Plan, and these comments were considered by the Examiner. The Neighbourhood Forum has confirmed that it

accepts the Examiner's proposed modifications and wishes to progress the draft plan to referendum. The Planning Service does not consider it necessary or appropriate to make additional modifications to the plan, beyond the Examiner's recommendations.

## 6. Advice and analysis

- 6.1. The Examiner's report clearly sets out how the Plan meets the basic conditions for Neighbourhood Plans, which is the basis of the examination process. He proposes a number of modifications, which are set out in his report at Appendix 1. Planning Service officers have reviewed the recommendations and consider that these clarifications to the justification and wording of policies support a robust Neighbourhood Plan that can be used in determining planning applications.
- 6.2. The Arches Chatham Neighbourhood Forum has confirmed its support for the proposed modifications to the Plan. It is therefore proposed that the Council accepts the full recommendations of the Examiner, which will involve specific modifications to the Plan, and to approve that the Plan be sent to referendum.
- 6.3. The purpose of this report is to consider the Council's response to the examiner's recommendations, and to decide on whether to send the Neighbourhood Plan to referendum. A Diversity Impact Assessment is not appropriate to these procedural considerations.
- 6.4. The Neighbourhood Plan promotes sustainable development, and if 'made', or adopted will form part of the statutory development plan for Medway.

## 7. Risk management

- 7.1. This report concerns the consideration of the Examiner's report and the Council's response to his recommendations. There are limited risks associated with this matter. The options open to the Council and the respective processes are set out in legislation. The key risks relate to the Council not meeting the prescribed timings and being at risk of intervention by the Secretary of State, and potential budget pressures on the Council in carrying out the statutory requirements of the neighbourhood planning process.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Decision making is delayed and does not meet legal requirements.	A failure to meet legal timescales could result in reputational damage for the Council.	Cabinet report presented swiftly on receipt of Examiner's report. Proceed with decision making on Examiner's report and approve sending plan to referendum.	DIII

Risk	Description	Action to avoid or mitigate risk	Risk rating
Cost of preparation of Neighbourhood Plan creates budget pressure on Council.	Costs exceed agreed service budgets, placing pressure on Council resources.	Secure government funding through Neighbourhood Planning grant, and manage resources in Planning Service.	BIII

For risk rating, please refer to the following table (please **retain** table in final report):

Likelihood	Impact:
A Very likely B Likely C Unlikely D Rare	I Catastrophic II Major III Moderate IV Minor

## 8. Consultation

- 8.1. This is not a consultation stage. If the Council accepts the Examiner's recommendations, it must then send the plan to referendum. It is only where the Council does not follow all of the Examiner's recommendations, or proposes further modifications, that consultation would be required.
- 8.2. There has been substantial and iterative consultation on the emerging and draft Neighbourhood Plan in recent years. The Neighbourhood Forum has been exemplary in its commitment to community engagement and involvement in the preparation of the draft plan. Details of the work carried out by the Neighbourhood Forum have been provided in the Consultation Statement submitted with the plan to Medway Council. Comments received on Regulation 16 consultation in 2023 were provided to the Examiner as part of the examination documents and materials.

## 9. Climate change implications

- 9.1. This report considers the Council's response to the Examiner's report on the Neighbourhood Plan, not the plan's specific content. However, it is noted that the plan promotes sustainable development and policies. Climate change is recognised in the plan's objectives and in a number of policies, such as protecting biodiversity, urban greening and promoting walking and cycling.

## 10. Financial implications

- 10.1. The costs of preparing the Neighbourhood Plan have largely been met by the Arches Chatham Neighbourhood Forum. The Council has responsibility for the costs of the independent examination and referendum. The government provides a Neighbourhood Planning grant to support the costs of this work. Local planning authorities can claim a £20,000 grant from when they issue a

decision statement detailing their intention to send the plan to referendum. The wider work of the local planning authority in relation to supporting neighbourhood planning is met within the Planning Service budget.

- 10.2. Given the size of the Arches Neighbourhood Planning Area, and further work needed on the arrangements for a referendum, it is unclear if the external government grant will meet the full costs of the examination and referendum. If not, this will create a budget pressure on the Council.

## 11. Legal implications

- 11.1. The proposals in this report follow the requirements of the neighbourhood planning processes. The rules covering all aspects of organising and conducting the polls can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012.
- 11.2. The Neighbourhood Plan comes into force as part of the statutory development plan once it has been approved at referendum.

## Lead officer contacts

Dave Harris  
Chief Planning Officer  
Gun Wharf  
Telephone: 01634 331575  
Email: [dave.harris@medway.gov.uk](mailto:dave.harris@medway.gov.uk)

Jane Ringham  
Head of Member Services and Elections  
Gun Wharf  
Telephone: 01634 332864  
Email: [jane.ringham@medway.gov.uk](mailto:jane.ringham@medway.gov.uk)

Catherine Smith  
Head of Planning Policy  
Gun Wharf  
Telephone: 01634 331358  
Email: [catherine.smith@medway.gov.uk](mailto:catherine.smith@medway.gov.uk)

## Appendices

Appendix 1: Arches (Chatham) Neighbourhood Plan – Examiner's Report

## Background papers

[Arches \(Chatham\) Neighbourhood Plan – Submission version](#)