

Cabinet

27 August 2024

Hoo St Werburgh and Chattenden Neighbourhood Plan – request to send to Referendum

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

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Summary

This report considers the outcomes of the independent examination of the Hoo St Werburgh and Chattenden Neighbourhood Plan. It sets out the Examiner's assessment of the submitted plan, and his recommendations, which include a number of modifications to the plan to improve clarity and compliance with national planning policy.

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, as set out at Appendix 1, 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 subsequently incorporated into the National Planning Policy Framework in 2012. They aim to allow local communities to take responsibility for guiding development in their area. 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, particularly as Hoo St Werburgh and Chattenden is a large parish, with a population of over 13,000 people. If the external grant does not meet the costs of the examination and referendum, this work will place a budget pressure on the Council.
- 3.3. The Council must provide a decision in sending the plan to referendum within five weeks of receipt of the Examiner's report.

4. Background

- 4.1. The Hoo St Werburgh and Chattenden Neighbourhood Area was formally designated by the Council in December 2018, for the purposes of preparing a Neighbourhood Development Plan. The work has been led by the Neighbourhood Planning group set up by Hoo St Werburgh and Chattenden Parish Council. The group has sought to protect the rural character of the parish and support local services and businesses, within the national planning policy to promote sustainable development. The plan does not seek to identify sites for potential development allocations. Future growth allocations will be considered in the new Medway Local Plan.
- 4.2. Following iterative consultation, the Parish Council submitted its draft plan to Medway Council in October 2023. The Council published the draft plan for representations at Regulation 16 in January 2024. The plan was then submitted for examination in Spring 2024. Medway Council has provided comments at different stages of the plan's development, including through informal comments at early stages, and representations on the draft plan at Regulation 14, additional comments for the Examiner following publication of the plan at Regulation 16, and as part of the examination process. The Council raised concerns about some policies being overly restrictive in achieving sustainable development and noted that there was limited reference to the issues to be addressed in the emerging Medway Local Plan.
- 4.3. Andrew Matheson was appointed, in consultation with the Parish Council and Neighbourhood Planning Group, as the examiner. He confirmed that the Examination could be held through written representations. He held a virtual meeting in early May 2024, with the Council and the Parish Council's Neighbourhood Planning group, as qualifying body, to outline the process and indicative timetable for the Examination. The Examiner provided his initial queries on the Submission draft plan to the Neighbourhood Plan group and the Council as Local Planning Authority and invited their comments. Following

the submission of these responses, he carried out a site visit to the Neighbourhood Area and proceeded to prepare his report.

- 4.4. The Examiner issued a draft report in late July 2024 for fact checking by the Council and the Neighbourhood Forum. He issued his Examiner's report on 9 August 2024. The Examiner's report is set out at Appendix 1. For purposes of referencing, the submission draft of the Hoo St Werburgh and Chattenden Neighbourhood Plan is available to view at:

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=71564>

- 4.5. The independent Examiner's Report recommends a range of modifications to the Policies, as well as some of the supporting content, in the Plan. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met. Subject to the modifications recommended, the Examiner finds that the draft plan meets the legal requirements and recommends that it should proceed to referendum, with the incorporation of the proposed modifications. The modifications largely relate to the clarity of policy wording. 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 part of a policy.
- 4.6. The Council was generally supportive of the initial queries raised by the Examiner in seeking to clarify the wording of policies. The Council notes that some of the recommended modifications to the plan address matters raised by the Council. These include overly restrictive policy in relation to the best and most versatile agricultural land. The amended proposed policy now aligns with national planning policy. It is acknowledged that the strategic policies of the new Local Plan will provide an updated development context for the Neighbourhood Area. The Neighbourhood Plan provides for limited development opportunities outside of the strategic allocations to be provided in the new Local Plan. Currently the Neighbourhood Plan must be in conformity with the Medway Local Plan, 2003 and national planning policy. Once the new Medway Local Plan is produced, this more recent policy will have precedence.
- 4.7. 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, Hoo St Werburgh and Chattenden Parish Council, can request the Secretary of State to intervene.

4.8. 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 Parish Council and Neighbourhood Planning group 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, Hoo St Werburgh and Chattenden Parish Council.

4.9. 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 it 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. Hoo St Werburgh and Chattenden Parish Council 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. The plan's vision is to support sustainable growth and development to meet diverse local needs, addressing climate change, and preserving or enhancing the distinctive character and local facilities of the parish, the village of Hoo St Werburgh and hamlet of Chattenden and their rural landscape settings. Policies include provision for sustainable travel, accessible facilities and services and conservation of the natural environment.

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 swifty on receipt of Examiner's report. Proceed with decision making on Examiner's report and approve sending plan to referendum.	DIII
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

7.2. For risk rating, please refer to the following table:

Likelihood	Impact:
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	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 iterative consultation on the emerging and draft Neighbourhood Plan in recent years. The Neighbourhood Planning group carried out a range of consultation activities with local communities in the preparation of the plan. The group notified each household in the parish of its formal consultation on the draft plan, through the village newsletter. Details of the work carried out by the Neighbourhood Planning group and Parish Council have been provided in the Consultation Statement submitted with the plan to Medway Council, and reviewed by the Examiner. Comments received on Regulation 16 consultation earlier this year 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 vision, planning aims and in a number of policies, such as provision for sustainable travel, accessible facilities and services and conservation of the natural environment.

10. Financial implications

- 10.1. The costs of preparing the Neighbourhood Plan have largely been met by Hoo St Werburgh Parish Council and its Neighbourhood Plan group, including external grant aid. 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 Hoo St Werburgh and Chattenden Neighbourhood Area, work needed on the arrangements for a referendum, and the costs of earlier

Neighbourhood Plans, now adopted, 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.

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Appendices

Appendix 1: Hoo St Werburgh and Chattenden Neighbourhood Plan – Examiner’s Report.

Background papers

[Hoo St Werburgh and Chattenden Neighbourhood Plan – Submission version](#)