

Report to: Cabinet



Date of Meeting 9 June 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

The Otterton Neighbourhood Plan ('the Plan') to be formally 'made'

Report summary:

The Otterton Neighbourhood Plan has now successfully passed referendum and must be formally 'made' (adopted) by East Devon District Council in order to form part of the development plan.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

- (1.) That Cabinet make the Otterton Neighbourhood Plan.
- (2.) That Cabinet notes that once made the Plan will carry full weight in the planning decision making process as part of the statutory development plan for this Neighbourhood Plan Area (the parish of Otterton).
- (3.) That Cabinet congratulates the Neighbourhood Plan Steering Group and all involved in developing the Plan on all their hard work.

Reason for recommendation:

The Plan received a majority 'yes' vote in the neighbourhood area referendum, as required by the Regulations, and there is no substantive reason not to make the Plan. In addition, to recognise the significant work over a number of years by Otterton Parish Council and dedicated volunteers to prepare the Plan.

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Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Equalities impact Low Impact

Neighbourhood Planning is designed to be inclusive and extensive consultation is a fundamental requirement. The Otterton Neighbourhood Plan has been the subject of significant consultation and engagement with the community, set out in a detailed Consultation Statement. All persons living in the parish have had the opportunity to be engaged in the Plan's production and all persons registered to vote in the area could vote in the referendum.

Climate change Low Impact

Risk: Low Risk; The only reason for the Plan not to be made now is if the Council consider that to do so would be incompatible with any retained EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998. There is a risk that should we take that decision it will be subject to legal challenge and that the Parish Council will feel disenfranchised that their right to produce a Neighbourhood Plan under the Localism Act has been prevented.

Links to background information [The Localism Act](#); [Plain English Guide to the Localism Act](#); [National Planning Policy Framework \(2019\)](#); [Neighbourhood Planning Regulations](#); [Neighbourhood Planning Roadmap Guide](#); [East Devon Neighbourhood Planning webpages](#); [Otterton Neighbourhood Plan webpage](#); [Otterton Neighbourhood Plan Referendum Version](#)

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Report in full

1.0 Otterton Neighbourhood Plan Referendum

1.1 On 6 May 2021 a referendum was held on Otterton Neighbourhood Plan at Otterton Village Hall, Otterton, from 7am to 10pm.

1.2 Voters were asked the following question:

"Do you want East Devon District Council to use the Neighbourhood Plan for Otterton to help it decide planning applications in the neighbourhood area?"

1.3 The regulations advise that if more people vote 'yes' than 'no' in the referendum, East Devon District Council should use Otterton Neighbourhood Plan to help it decide planning applications in Otterton Parish. The Plan once made (adopted) will then become part of the statutory development plan for the area.

1.4 In East Devon the development plan currently consists of the East Devon Local Plan (2013-2031); the East Devon Villages Plan (adopted 2018); any made Neighbourhood Plan; the Devon Waste Plan (2011-2031); and the Devon Minerals Plan (2011-2033).

1.5 The final results of the Otterton Neighbourhood Plan referendum are shown below:

- o Yes: 249

- No: 21
- Voter turnout: 47.9%
- In favour: 91.9%

- 1.6 The results show a clear majority in favour. The Cabinet must now consider whether it would be appropriate to make the Plan.
- 1.7 Once the Plan is formally made it will carry full weight in the planning decision making process. As part of the development plan any planning applications in Otterton Parish will be judged against the Plan as well as policies of East Devon District Council and also the National Planning Policy Framework. Application of the policies of the Plan will ensure that the hard work that has gone into its production will result in effective application of local community expectations and aspirations in the decision making process.
- 1.8 The only reason for the Plan not to be made now is if Cabinet consider that to do so would be incompatible with any retained EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998. During the examination process the Examiner stated that they were satisfied that the Plan was compatible with these obligations.

2.0 Next Steps

- 2.1 Following the decision whether or not to make the Plan, we will produce a decision notice for the Plan. This will detail the decision and reasons for it and where it may be viewed.
- 2.2 The decision notice will be publicised by:-
- publishing it on the neighbourhood planning pages of our website
 - by sending a copy to the Plan producer and requesting that they notify those persons who live, work or carry on business in the neighbourhood area to which the Plan relates
 - by notifying the 'consultation bodies' referred to in the consultation statement
 - by advising:-
 - those adjoining authorities
 - anyone who asked to be notified of a copy of the decision
 - all those who made representations on the relevant plan
- 2.3 In conclusion, Members are now asked to formally approve 'making' the Plan in accordance with this report and its recommendation.

Financial implications:

Central Government funding is available for Neighbourhood plans. This income covers not only examination fees but also all other associated costs such as employment and all other supplies and services. Any residual funds are placed into an earmarked reserve and utilised to cover funding gaps in subsequent years.

Legal implications:

Following a majority vote in favour of the plan at referendum the Council must proceed to adopt (or 'make') the plan within 8 weeks of the referendum, unless in doing so it would be incompatible with any retained EU obligation or any of the Convention rights within the meaning of the Human

Rights Act 1998. The Council has adopted a Screening Opinion, accepted by relevant statutory consultees, which confirms that there is unlikely to be a significant effect on the environment. As such a Strategic Environment Assessment (SEA) was not required. A Habitats Regulations Assessment (HRA) was not required. The Independent Examiner accepted the outcome of the screening assessment. The legal position is that the Council must now 'make' the Neighbourhood Plan as modified. As noted, following being made, the Otterton Neighbourhood Plan will become part of the Development Plan for decision making on planning applications.