



**REPORT of
ASSISTANT DIRECTOR – PLANNING AND IMPLEMENTATION**

to
COUNCIL (EXTRAORDINARY)
17 JUNE 2025

MAYLAND NEIGHBOURHOOD PLAN – DECISION ON EXAMINER'S REPORT

1. PURPOSE OF THE REPORT

- 1.1 To inform Members of and seek their approval for the recommended modifications made in the Examiner's Report (at **APPENDIX 1**) for the Mayland Neighbourhood Plan and Design Guidance and Codes (herein referred to as the Plan); and to seek Members' approval for the Neighbourhood Plan to proceed to Referendum.

2. RECOMMENDATIONS

- (i) that the Examiner's modifications be agreed and that subject to these modifications the Mayland Neighbourhood Plan is determined to meet the Basic Conditions and other legislative requirements;
- (ii) that the draft Decision Statement attached at **APPENDIX 2** be approved to be published on the Council's website; and
- (iii) that the Mayland Neighbourhood Plan be agreed as modified (at **APPENDIX 3**) enabling it to proceed to a local Referendum based on the boundary of Mayland Neighbourhood Area as recommended by the Examiner.

3. NEIGHBOURHOOD PLANNING INTRODUCTION

- 3.1 Neighbourhood planning is part of the Government's initiative to empower local communities to take forward planning proposals at a local level¹. Neighbourhood Plans, once made, form part of the statutory Development Plan. Following an update to Neighbourhood Planning guidance² in 2020, a Neighbourhood Plan will now carry significant weight in decision making when a Local Planning Authority (LPA) has issued a Decision Statement detailing its intention to send the Plan to Referendum.
- 3.2 Neighbourhood planning is led by a town or parish council or neighbourhood forum. In this case, the preparation of the Neighbourhood Plan has been undertaken by Mayland Parish Council.
- 3.3 The production of a Neighbourhood Plan must follow a regulatory process, which is summarised below for Mayland with the time periods for each stage.

¹ Section 116 of the Localism Act 2011

² Planning Practice Guidance – Neighbourhood Planning (Paragraph: 107)

Key Stage	Action	Date
1. Neighbourhood Area Designation	Mayland Neighbourhood Plan Area designation requested by Mayland Parish Council (MPC) and approved by Maldon District Council (MDC). This sets the area the Neighbourhood Plan will apply to.	30 June 2014
2. Pre-submission consultation	Regulation 14 consultation ³ organised by the Parish Council (minimum six weeks). Following a period of community engagement and evidence base creation, the Neighbourhood Plan was drafted. MPC undertook a pre-submission consultation on the draft Plan for an eight-week period.	1 October 2023 - 1 December 2023
3. Submission	MPC submitted the Neighbourhood Plan to MDC.	15 February 2024
4. Publication	Regulation 16 consultation ⁴ organised by MDC (minimum six weeks). The Council publicised the draft Plan for a seven-week period and representations were invited to be made.	4 October 2024 - 22 November 2024
5. Examination	An Independent Examiner reviews the Plan against the statutory Basic Conditions ⁵ . The Examiner either recommends that a Neighbourhood Plan does not proceed to Referendum, or can proceed Referendum, with or without modifications, and recommends the extent of the area the Referendum applies to. This is explained further in Section 5 of this Report.	The Examination began on 3 March 2025, with the Examiner's final report received by the Parish Council on 11 April 2025.
6. Plan Proposal Decision	MDC considers the Examiner's report, including the recommended modifications, and if satisfied with the Plan proposal, agrees for it to proceed to Referendum.	17 June 2025
7. Referendum	This will be organised and funded by MDC. Where 50% or more of those voting are in favour of the Neighbourhood Plan, it comes into force, and must be 'made' by the Council and it forms part of the statutory Development Plan.	Date to be confirmed in 2025.

4. EXAMINATION

- 4.1 Following the Regulation 16 consultation, an Independent Examiner was appointed by Maldon District Council, with consent of the Parish Council, to carry out the examination of the Neighbourhood Plan. The Examiner, Christopher Lockhart-Mummery KC, examined the Plan by written representations, and undertook an unaccompanied site visit of the Neighbourhood Plan area.
- 4.2 The Examiner must consider whether the submitted Plan meets the Basic Conditions. The Examiner is not testing the soundness of a neighbourhood plan or examining other material considerations. To comply with the basic conditions, the Plan must:

³ Regulation 14 of The Neighbourhood Planning (General) Regulations 2012 (as amended).

⁴ Regulation 16 of The Neighbourhood Planning (General) Regulations 2012 (as amended).

⁵ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

- 4.3 Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- a) The making of the neighbourhood plan contributes to the achievement of sustainable development;
 - b) The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area;
 - c) The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union obligations and the European Convention on Human Rights (ECHR);
 - d) Consider the additional condition⁶: the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site either alone or in combination with other plans or projects.
- 4.4 The Examiner has now issued the final report and recommends a number of modifications which are necessary to ensure that the Mayland Neighbourhood Plan meets the basic conditions. A copy of the Examiner's report is attached at **APPENDIX 1**.
- 4.5 The Examiner's conclusion is that, subject to the modifications recommended in the report, the Mayland Neighbourhood Plan meets the basic conditions and other statutory requirements outlined in the report. The Examiner recommends that, subject to the modifications proposed in the report, the Mayland Neighbourhood Plan can proceed to Referendum.

5. THE LOCAL PLANNING AUTHORITY'S ROLE

- 5.1 Maldon District Council as the LPA is responsible for determining whether the Neighbourhood Plan meets the basic conditions, with or without modifications, and for whether the Neighbourhood Plan should proceed to Referendum. It must also decide on whether the Referendum area should be extended beyond the Neighbourhood Area.
- 5.2 Once the Council has received the Examiner's report it must decide what action to take. Regulation 18 of the Neighbourhood Plan (General) Regulations 2012 (as amended) states that the LPA must decide:
- a) to decline to consider a plan proposal;
 - b) to refuse a plan proposal;
 - c) what action to take in response to the recommendations of an Examiner made in a report;
 - d) what modifications, if any, they are to make to the draft plan;
 - e) whether to extend the area to which the Referendum (or Referendums are) to take place; or
 - f) that they are not satisfied with the plan proposal.
- 5.3 There are no grounds to decline to consider the Neighbourhood Plan under part (a) as this relates to repeat proposals; or to refuse to consider the Plan under part (b) as the legislative requirements have been met.

⁶ Regulation 32 of the Neighbourhood Planning (General) Regulations.

- 5.4 In relation to part (c), the Examiner has made a series of recommendations; the LPA needs to consider what action to take in relation to these. The Council proposes to accept the Examiner's recommendations. However, this is discussed further in Section 6 of this report. If the authority proposes to make a decision which differs from that recommended by the Examiner, then a six-week period must be given for people to make representations. If the LPA considers it appropriate, then the issue can be referred to further examination.
- 5.5 The LPA must also consider, under part (d) whether there are any other modifications which are required to ensure the basic conditions are met; to ensure the Neighbourhood Plan is compatible with the Convention rights, to ensure the requirements of legislation are met, and to correct errors. Minor modifications, for example to correct errors in the Plan's text are permissible, as they do not impact on the Plan itself. However, if the Council makes other modifications, for example by changing policy, those modifications will be subject to a six-week consultation period, and the Council's decision could be open to legal challenge. Officers are not recommending that further modifications are made to the Plan.
- 5.6 The LPA must consider whether to extend the area to which the Referendum is held under part (e). This is further discussed in Section 7 of this report. However, it is not considered necessary to extend the Referendum area.
- 5.7 If the LPA is not satisfied that the Plan meets the basic conditions, is not compatible with Convention rights or requirements of legislation are not met then they must refuse the Neighbourhood Plan under part (f). This is not the case with this Neighbourhood Plan.
- 5.8 The Neighbourhood Planning (General) Regulations 2012 state that an LPA must publish the actions which will be taken in response to the recommendations of the Examiner. This is known as a 'Decision Statement', attached in draft form at **APPENDIX 2**.

6. CONSIDERATION OF THE EXAMINER'S REPORT AND PROPOSED MODIFICATIONS

- 6.1 The Examiner has recommended modifications to ensure that the Plan meets the basic conditions, has the clarity required by national guidance and ensure that the policies do what they are intended to do. The Examiner's modifications and Officers' recommendations for each of these are set out Table 1 in the draft Decision Statement attached at **APPENDIX 2**.
- 6.2 Having considered each of the recommendations made in the Examiner's Report and the reasons for them, Officers agree that the Examiner has undertaken a fair examination of the submitted Neighbourhood Plan, properly considering all duly made representations. Officers recommend that the Council accept all the Examiner's modifications to the draft Plan.
- 6.3 Mayland Parish Council has agreed the Examiner's recommendations and updated the final Neighbourhood Plan and Design Guidance and Codes Report accordingly.
- 6.4 Officers have considered whether any other modifications are required to ensure that the Neighbourhood Plan meets the required conditions. It is not considered that any additional modifications are required.

- 6.5 Officers consider that, subject to the Examiner's modifications being made to the Plan, the Mayland Neighbourhood Plan meets the basic conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended), is compatible with the Convention Rights and meets the requirements of paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

7. REFERENDUM

- 7.1 It is recommended that Members agree that the Examiner's recommended modifications to the Plan are made and that the modified Neighbourhood Plan proceeds to Referendum. The Neighbourhood Plan incorporating the Examiner's modifications is attached at **APPENDIX 3**. The Neighbourhood Plan (**APPENDIX 3**) incorporates the Design Guidance and Codes Report.
- 7.2 It is recommended that Members agree the Decision Statement and that this is published as soon as possible and publicised in a manner to meet publicity requirements in the Regulations.
- 7.3 In relation to the Referendum area, the Examiner concluded that there is no reason to alter, or extend the Plan area, for the purpose of holding a Referendum. Officers agree with this recommendation and therefore recommend to the Council that the area for the Referendum should be the Mayland Neighbourhood Area as approved by MDC on 30 June 2014 (shown in **APPENDIX 1** and **APPENDIX 3**). The Neighbourhood Area covers the whole parish area.
- 7.4 Once the Council has published the Decision Statement detailing its intention to send a Neighbourhood Plan to Referendum, the Plan can be given significant weight in decision-making. Therefore, once the Decision Statement has been published, the Council's Development Management team will be able to use the Mayland Neighbourhood Plan, in determining planning applications within the Mayland Neighbourhood Area.
- 7.5 Subject to the decision of the Council, as recommended in this report, arrangements will be made for the Referendum to be held in Mayland Parish in Summer 2025.
- 7.6 Following the Referendum, if more than 50% of those voting, vote 'yes' then the Neighbourhood Plan comes into force and must be 'made' within eight weeks of the Referendum, through a formal decision of the Council.

8. CONCLUSION

- 8.1 The Mayland Neighbourhood Plan has been examined by an Independent Examiner. The Examiner has found that subject to modification, the plan meets the relevant legal, procedural and planning tests and can proceed to Referendum.
- 8.2 The Council has a statutory duty to decide whether to progress the Plan to Referendum, with or without modifications, or to refuse the Plan. The Council must publish a decision statement setting out the reasons for that decision as soon as possible after making it. The Council must consider each of the Examiner's recommendations, and the reasons for them, and decide what action to take in response.

- 8.3 It is recommended that the Examiner's modifications are implemented, and that the modified Plan proceeds to Referendum.
- 8.4 Once a Decision Statement is approved and published, a Neighbourhood Plan is given significant weight in decision-making, for determining planning applications within its Neighbourhood Area.
- 8.5 If the Council decides that the Neighbourhood Plan can proceed to Referendum, the Referendum will be arranged. A Neighbourhood Plan comes into force once it has been approved at Referendum. It has the same legal status as the Local Development Plan and will be used by Development Management to help determine applications for planning permission that are located within the parish boundary.

9. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2025 - 2028

9.1 Supporting our communities

- 9.1.1 The Neighbourhood Plan provides additional localised planning policies for future development in the parish of Mayland. It will help to protect the residential amenity of existing and future residents in Mayland.

9.2 Protecting our environment

- 9.2.1 The Neighbourhood Plan provides localised planning policies for future development in the parish of Mayland, specifically including policies that will protect and enhance the environment.

10. IMPLICATIONS

- (i) **Impact on Customers** – The Neighbourhood Plan provides additional localised planning policies for future development in the parish of Mayland. It will help to protect the residential amenity of existing and future residents in Mayland.
- (ii) **Impact on Equalities** – There are no negative impacts identified.
- (iii) **Impact on Risk (including Fraud implications)** – The decision on the Examiner's Report and whether or not the Plan proceeds to Referendum lowers risk by creating certainty over the status of the Neighbourhood Plan.
- (iv) **Impact on Resources (financial)** – The Council is required to pay for the Examination and the Referendum. Normally, a Council can apply for a Ministry of Housing, Communities and Local Government (MHCLG) grant once the Referendum date has been set, however there are presently no details of whether the MHCLG grant will be available in 2025 / 26. Once a Council has approved and published the Decision Statement detailing the intention to send the Plan to referendum, the Council can apply for the grant, at the next available application window.
- (v) **Impact on Resources (human)** – The Referendum is a statutory requirement that will be actioned by the Elections Team. Discussions have already taken place during the Neighbourhood Plan's production to ensure that the team are ready to meet the obligation.

- (vi) **Impact on Devolution / Local Government Reorganisation** – The Neighbourhood Plan will not impact on Devolution or Local Government Reorganisation.

Background Papers:

Information on the Mayland Neighbourhood Plan Area designation, Regulation 14 and 16 consultations and the Examination can be found on the MDC website at: [Mayland | Community Led Planning & Neighbourhood Plans | Maldon District Council](#)

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