



**Epping Forest  
District Council**

## **Report to the Cabinet**

**Report reference: C-005-2022/23**

**Date of Meeting: 18 July 2022**

**Portfolio: Place – Cllr Bedford**

**Subject: Ongar Neighbourhood Plan**

**Responsible Officer: Loredana Ciavucco (01992 564493)**

**Democratic Services: Adrian Hendry (01992 564246)**

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### **Recommendations/Decisions Required:**

- (1) To consider the recommendations included in the Examiner's Report;**
- (2) To agree that the Ongar Neighbourhood Plan, with proposed amendments, meets the basic conditions and is compatible with European obligations; and**
- (3) To approve the Decision Statement (see Appendix A) to progress to referendum subject to Ongar agreeing to (the Examiner's) modifications to the Neighbourhood Plan.**

### **Executive Summary:**

The Examiner's Report for the draft Ongar Neighbourhood Plan was received by Epping Forest District Council on 13 May 2022. The Examiner's Report recommended that, with modifications, the Ongar Neighbourhood Plan meets the basic conditions and should proceed to a local referendum. The recommended referendum area is the Parish of Ongar.

This report sets out the background to the Ongar Neighbourhood Plan, the recommendations made by the Examiner, the Council's proposed action against each of the recommendations and potential timescale for a local referendum.

### **Reasons for Proposed Decision:**

To comply with the statutory requirements in relation to Neighbourhood Planning and to progress the Draft Ongar Neighbourhood Plan to referendum stage.

### **Other Options for Action:**

Not to make a decision on the draft Ongar Neighbourhood Plan and the recommendations in the Examiner's Report. This would mean that the Council is not meeting the legislative requirements and is not fulfilling its statutory duty in the production of neighbourhood plans.

## Background:

1. An application for a Neighbourhood Area designation covering the Parish of Ongar was received in May 2017 and approved in June 2017. A draft plan was produced and consulted upon in January 2021.
2. A revised plan was submitted to the Council which was published under Regulation 16 for 6 weeks between 11 November and 23 December 2022. Following this, an Independent Examiner was appointed by the Council with the agreement of the Town Council and Ongar Neighbourhood Plan Community Group (Ms Ann Skippers BSc (Hons) MRTPI) to examine the draft Plan against the basic conditions set out in the Localism Act 2011 (as amended). The examination took place by way of the written representation procedure. The Examiner's Report was received on 13 May 2022 and recommends that, subject to a number of modifications, the draft Ongar Neighbourhood Plan meets the basic conditions and should progress to referendum.
3. The next step is for the Council to consider the Examiner's recommendations, form a view on whether the draft Ongar Neighbourhood Plan meets the basic conditions, and if so organise a local referendum as soon as practicable.

## Examiner's recommendations:

4. Paragraph 12 of Schedule 4B of the Town and Country Planning Act (1990) requires local authorities to consider each of the Examiner's recommendations, the reasons for them and decide what action to take in response to each recommendation. It must also come to a formal view about whether the draft plan meets the basic conditions. If the authority is satisfied that the draft plan meets the basic conditions (requirements of para 8 schedule 4B to the 1990 Act) and is compatible with respective European obligations such as Human Right Convention and Habitats Directive, a referendum must be held.
5. The Local authority's decision on the examiner's recommendations is bound by section 14 of Schedule A2 of the Planning and Compulsory Purchase Act 2004. Following a referendum with a majority vote, local authorities must make the draft plan with the Examiner's recommended modifications except where the authority considers that the modifications are incompatible with any European obligations. It is possible to include minor modifications to the Plan for the purposes of correcting errors such as typos and grammatical mistakes. The following table outlines each of the Examiner's 48 recommendations and the Council's proposed actions against them.

### Examiner's recommendations and EFDC proposed actions

Ref.	Examiner's recommendations	Proposed action
1	Change paragraph 1.2 on page 7 of the Plan to read: "This Neighbourhood Plan covers the period from 2020 to the end of 2033. Full weight will be given to its policies once it has been made i.e. the date it has passed local referendum."	To accept the recommendation

2	Delete the last sentence of paragraph two in section 5.4 on page 15 of the Plan and replace with " <i>Hearings took place between February and June 2019. Advice from the inspector in August 2019 required Epping Forest District Council to undertake further work to support the Local Plan. Main modifications were consulted upon in Summer 2021. The Inspector's Report is anticipated shortly.</i> "	To accept the recommendation
3	Policy ONG-RR1 Add a third criterion that reads: " <i>Sites falling within the Green Belt are subject to Green Belt policy.</i> "	To accept the recommendation
4	Policy ONG-RR2 Delete criterion 2. of the policy	To accept the recommendation
5	Policy ONG-RR2 Reword criterion 4. of the policy to read: " <i>Redevelopment of surface car parks for uses that support the vitality of the High Street will be supported on suitable sites, providing satisfactory replacement parking is replaced on the same site or at another conveniently located site.</i> "	To accept the recommendation
6	Policy ONG-RR2 Delete the third sentence of the first paragraph of text on page 23 of the Plan	To accept the recommendation
7	Policy ONG-RR3 Delete criterion 3. of the policy	To accept the recommendation
8	Policy ONG-RR3 Change paragraph six on page 29 of the Plan to read: " <i>It is expected that new dwellings will comply with the nationally described space standards, but compliance with the DWELL standard is also encouraged.</i> "	To accept the recommendation
9	Policy ONG-RR3 Change the reference to paragraph 65 of the National Design Guide on page 27 of the Plan to "paragraph 66"	To accept the recommendation
10	Policy ONG-ED1 Add the words " <i>as outlined in the Design Guide</i> " after "...the immediate context..." in criterion 1. of the policy	To accept the recommendation
11	Policy ONG-ED1 Change criterion 1. c) of the policy to read: " <i>Retaining existing trees and hedges, wherever it is practicable to do so, as well as....</i> " [retain as existing to end]	To accept the recommendation
12	Policy ONG-ED1 Delete the words "1 metre or less" from criterion 1. d) of the policy and add the words " <i>wherever possible and appropriate in the context of the scheme's overall design</i> " at the end of this criterion	To accept the recommendation
13	Policy ONG-ED1 Change criterion 1. e) to read: " <i>Incorporating landscape buffers or landscaped edges or features to create a soft transition for development on the edge of rural areas to mitigate the impact on the surrounding countryside.</i> "	To accept the recommendation
14	Policy ONG-ED1 Add a new criterion to the policy that reads: " <i>include tree-lined streets unless in specific cases there are clear, justifiable and compelling reasons why this would be inappropriate and include trees elsewhere within developments where the opportunity arises.</i> "	To accept the recommendation

15	<p>Policy ONG-ED1</p> <p>Change criterion 2. of the policy to read: “Innovative and creative design solutions designed for the specific site and context will be welcomed. <i>This includes development that has a high standard of environmental performance.</i>”</p>	To accept the recommendation
16	<p>Policy ONG-ED1</p> <p>Change the references to paragraph 64, 65 and 66 of the National Design Guide on pages 33 and 34 of the Plan to paragraphs 65, 66 and 67</p>	To accept the recommendation
17	<p>Policy ONG-ED1</p> <p>Replace the paragraph that starts “Efficient use of land...” on page 34 of the Plan with: “<i>Chapter 11 of the NPPF 2021 makes it clear that policies and decisions should promote effective use of land for meeting the need for homes but also other uses while safeguarding and improving the environment and ensuring safe and healthy living conditions (Para 119). These other uses are explained more in Paragraph 120 which includes effective use of land as being mixed use schemes for example or developments that would enable new habitat creation or improve public access to the countryside (120 a); that some undeveloped land can function, amongst other uses, as flood risk mitigation (120 b). On achieving appropriate densities in Para 124, the NPPF supports efficient use of land taking account of various factors including the identified need for different types of housing (part a), local market conditions and viability (part b)), the availability and appropriateness of infrastructure (part c) and part d) “the desirability of maintaining an area’s prevailing character and setting”. Paragraph 120 part e) also indicates that policies and decisions should support upward extensions “where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene”. This implies that it is inappropriate unless those criteria are met. Additionally, the impact on any heritage assets would need to be carefully considered.</i>”</p>	To accept the recommendation
18	<p>ONG-ED2</p> <p>Change paragraph two on page 39 of the Plan to read:  “<i>There is strong support in Ongar, as confirmed in the Residents Survey 2018, for enhancement of the historic High Street, including with changes to shop windows and upper parts fenestration or other detail to revert to the character of the original building. Shop signage should also reflect the High Street being a Conservation Area with traditional fascias, signage and external lighting. Neon lighting and external metal roller shutters and grilles are out of character and will be <i>strongly resisted</i>. Shutters and grilles must be behind the shop window and integrated into the design. Furthermore solid shutters, grilles etc. have a deadening effect on the street scene, so will also be <i>strongly resisted</i>. Laminated glass and internal chain-link screens are likely to be more appropriate alternatives in most instances. The Ongar Design Guide 2019 (AECOM) should be used as well as relevant sections of the National Design Guide and National Model <i>Design Code 2021.</i>”</i></p>	To accept the recommendation
19	<p>ONG-ED3</p> <p>Delete criterion 3. of the policy</p>	To accept the recommendation

20	ONG-ED3 Change paragraph five on page 45 of the Plan to read: “Setting is <i>different</i> from the concepts of curtilage, character and context and frequently misunderstood. The NPPF makes it clear that the <i>setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent “is not fixed and may change as the asset and its surroundings evolve”</i> . In a townscape, ‘setting’ will include space in the vicinity of the heritage asset and its purpose. In the context of Chipping Ongar, careful consideration of ‘setting’ must be included in any proposal <i>including proposals</i> to change the space, such as developing within old coaching inns, stable yards or workshop areas. In the Great Stony Park Conservation Area, that includes extensions and conversions that destroy the symmetry.”	To accept the recommendation
21	ONG-ED4 Change the first sentence of criterion 1. to read: “ <i>All development must be well designed and sustainable. This includes...</i> ”	To accept the recommendation
22	ONG-ED4 Change criterion 2. by deleting the words “For development involving new layout (roads and footpaths), the following is also required:” and making existing criterion 2. a), b) and c) follow on from existing criterion 1. to become <i>g), h) and i)</i>	To accept the recommendation
23	ONG-ED4 Add the words “ <i>wherever possible</i> ” after “...permeable...” in criterion 1. d)	To accept the recommendation
24	ONG-ED4 Delete the last two sentences of the third paragraph on page 51 of the Plan which start “NPPF 2021, Chapter 12...” and “Usable green spaces...”	To accept the recommendation
25	ONG-ED5 Add the words “ <i>Part 2 Guidance Notes</i> ” after “The National Model Design Code 2021...” in the fifth paragraph on page 56 of the Plan	To accept the recommendation
26	ONG-ED5 Change footnote 104 on page 58 of the Plan to read: “ <i>Net gains for biodiversity is contained within the NPPF. A new set of standards has been developed by Building with Nature which will be useful in complying with the policy.</i> ”	To accept the recommendation
27	ONG-ED6 Delete criterion 2. of the policy	To accept the recommendation
28	ONG-ED6 Delete plan 7.7 on page 61 of the Plan	To accept the recommendation
29	ONG-ED6 Delete the third sentence of paragraph two on page 62 of the Plan	To accept the recommendation
30	ONG-CT1 Add the words “ <i>The location and extent of the four green spaces are shown on Maps LGS1, LGS2, LGS3 and LGS4 in the Plan.</i> ”	To accept the recommendation
31	ONG-CT1 Change the second paragraph of the policy to read: “ <i>Development in the Local Green Spaces will be consistent with national policy for Green Belts.</i> ”	To accept the recommendation
32	ONG-CT2 Delete the word “community” from paragraph 1. of the policy	To accept the recommendation
33	ONG-CT2	To accept the recommendation

	Add a new paragraph under the sub heading "Interpretation of ONG-CT2" that reads: " <i>This policy applies to all types of community, cultural, leisure and sports facilities.</i> "	
34	ONG-CT3 Change the first sentence of criterion 1. to read: " <i>All development must include a balanced range of transport options...</i> "	To accept the recommendation
35	ONG-CT3 Change criterion 2. by deleting the words "For residential developments involving the creation of new road layout, the following is also required:" and making existing criterion 2. a), b), c) and d) follow on from existing criterion 1. to become e), f), g) and h)	To accept the recommendation
36	ONG-CT3 Add the words " <i>or successor standards</i> " to the end of criterion 1. b) of the policy	To accept the recommendation
37	ONG-CT3 Add the words " <i>and direct access</i> " after "...convenient..." in [existing] criterion 2. d)	To accept the recommendation
38	ONG-CT3 Delete the words "of more than 10 car spaces" from criterion 4.	To accept the recommendation
39	ONG-CT4 Add the words " <i>The Town Council's priorities...</i> " at the start of the policy	To accept the recommendation
40	ONG-CT5 Change the first sentence of criterion 1. to read: " <i>New development should protect and wherever possible take every opportunity to enhance the accessibility, safety and amenity of existing footpaths and other public rights of way.</i> "	To accept the recommendation
41	ONG-CT5 Add the words " <i>wherever possible and where it would be safe to do so</i> " to criterion 1. c), d) and e)	To accept the recommendation
42	ONG-CT5 Insert a clear map of the proposed safeguarded cycleway and footpath route replacing the google map extract on page 81 of the Plan and map ONG-CT5 on page 82	To accept the recommendation
43	ONG-CT5 Change criterion 2. to read: " <i>Sufficient land in the area indicated on map x is safeguarded to allow the provision of a new cycleway and footpath.</i> "	To accept the recommendation
44	ONG-CT5 Change the second sentence of paragraph three on page 82 of the Plan to read: " <i>This includes Paragraph 85 of Section 6 and Paragraph 92 of Section 8 of the NPPF 2021 and EFDC Local Plan 2011 – 2033 Policy T1 Sustainable Transport Choices.</i> "	To accept the recommendation
45	Policy Map Include a higher definition Policy Map within the Plan to replace the one on page 84 which shows only the geographical locations pertaining to policies in this Plan i.e. remove the proposed site allocations and concept framework area	To accept the recommendation
46	Further Guidance Delete the "Further Guidance" section from the Plan	To accept the recommendation
47	Consequential amendments will be needed including to page 7 of the Plan	To accept the recommendation

48	I am therefore pleased to recommend to Epping Forest District Council that, subject to the modifications proposed in this report, the Ongar Neighbourhood Development Plan can proceed to a referendum.	To accept the recommendation
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6. Taking into account the recommendations in the Examiner's Report, it is considered that the draft Ongar Neighbourhood Plan meets the basic conditions and should proceed to a local referendum. Section 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires local authorities to produce a decision statement on the above matters within five weeks of the publication of the [Examiner's Report](#), or within a timescale agreed with the qualifying body (Ongar Parish Council). The draft decision statement is included in Appendix A of this report.

### **Local Referendum**

7. To meet the requirements of the Localism Act 2011 a referendum will need to be held in the area formally designated as the Ongar Neighbourhood Area. In this case the designated area is the same as the parish of Ongar. The proposed date for the referendum is 8 September 2022. In accordance with Schedule 1 of the Neighbourhood Planning (Referendums) Regulation 2012, the question to be used in the referendum will be:

“Do you want Epping Forest District Council to use the Ongar Neighbourhood Plan to help it decide planning applications in the Ongar Neighbourhood Area?”

8. If the majority of those who vote in a referendum are in favour of the draft neighbourhood plan, the Council will need to formally adopt the Neighbourhood Plan within 8 weeks of the referendum.

### **Resource Implications:**

The activities in relation to the publication of the decision statement and the cost for undertaking local referendum are all to be met within the 2022/23 budget. The Council can claim £20,000 grant once a date has been set for a referendum following a successful examination.

### **Legal and Governance Implications:**

It is the Council's statutory duty to make a decision on the draft Ongar Neighbourhood Plan and the recommendations in the Examiner's Report, as well as undertaking a local referendum on the draft Plan.

### **Safer, Cleaner, and Greener Implications:**

N/A

### **Consultation Undertaken:**

N/A.

### **Background Papers:**

Examiner's Report on the Draft Ongar Neighbourhood Plan (2022)

The Draft Ongar Neighbourhood Plan and associated documents

All documentation is available on the Council's website at:

<https://www.eppingforestdc.gov.uk/planning-and-building/planning-policy/neighbourhood-planning/moreton-bobbingworth-and-the-lavers-parish-council-neighbourhood-plan/ongar-town-council-neighbourhood-plan-examination/>

**Risk Management:**

To avoid being challenged on not meeting relevant legal requirements, the Council should make a decision on the Ongar Neighbourhood Plan and progress the Plan to the referendum stage in a timely manner in line with the timescale set out in the relevant legislations.



## **Appendix A**

### **The Neighbourhood Planning (General) Regulations 2012**

#### **Regulation 18 Decision Statement**

##### **Summary**

Ongar Neighbourhood Plan

Following an Independent Examination Epping Forest District Council confirms formal acceptance of the recommendations outlined in the Ongar Neighbourhood Plan Examination Report. The Examiner recommended that the Ongar Neighbourhood Plan (hereafter, the Plan) should proceed to referendum as, subject to recommendations made by the Examiner, the plan meets all of the basic conditions required of a Neighbourhood Plan. This matter was considered at the Epping Forest District Council Cabinet Meeting held on 18 July 2022 where the Cabinet agreed that, the plan proposal be accepted and should therefore proceed to referendum.

##### **Background**

Ongar Town Council, as the qualifying body successfully applied in 2017 for the whole Parish to be designated as a Neighbourhood Area, under the Neighbourhood Planning (General) Regulations (2012), which came into force on 6 April 2012.

A draft neighbourhood plan was produced and consulted upon in January 2021. The revised plan was submitted and publicised between 11 November 2021 and 23 December 2021. All representations were sent to the independent examiner appointed to examine the plan which was undertaken under the written representations procedure. The Examiner's Report was published on 13 May 2022.

##### **Recommendations, Decisions and Reasons**

The Neighbourhood Planning (General) Regulations 2012 (Regulation 18) require the local planning authority to outline what action is to be taken in response to the recommendations of an examiner under paragraph 10 of Schedule 4a to the Town and Country Planning Act 1990 (as applied by Section 38A of the Planning and Compulsory Purchase Act 2004).

Having considered the recommendations made in the Examiner's Report, and the reasons for them, Epping Forest District Council has agreed to accept the modifications made to the draft plan under paragraph 12(6) of Schedule 4B to the Town and Country Planning Act 1990 in response to the Examiner's recommendations. The Council also agreed that the plan proposal should proceed to referendum.

The report to Cabinet on 18 July 2022 can be viewed at

[\[link\]](#)

The Examiner's Report can be viewed at:

[https://www.eppingforestdc.gov.uk/wp-content/uploads/2022/06/Examiner\\_Report\\_Ongar\\_EFDC\\_Final.pdf](https://www.eppingforestdc.gov.uk/wp-content/uploads/2022/06/Examiner_Report_Ongar_EFDC_Final.pdf)

## **Local Referendum**

To meet the requirements of the Localism Act 2011 a referendum which poses the question,

‘Do you want Epping Forest District Council to use the Ongar Neighbourhood Plan to help it decide planning applications in the Ongar Neighbourhood Area?’

will be held in the area formally designated as the Ongar Neighbourhood Area.

The date on which the referendum will take place is 8 September 2022.