

The Town and Country Planning Act 1990 (as amended); Planning and Compulsory Purchase Act 2004; the Localism Act 2011; The Neighbourhood Planning (General) Regulations 2012 (as amended); The Housing and Planning Act 2016 and other relevant legislation

## Decision Statement

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### *Bringing the Gotherington Neighbourhood Development Plan into Legal Force*

#### 1. INTRODUCTION

- 1.1. This Decision Statement has been prepared to satisfy the requirements of Section 38A(9) of the Planning and Compulsory Purchase Act 2004 (as amended) and Regulation 19(a) of the Neighbourhood Planning (General) Regulations 2012 (as amended). The Decision Statement sets out Tewkesbury Borough Council's considerations and formal decision in bringing the Gotherington Neighbourhood Plan into legal force following the successful local referendum held on Thursday 20<sup>th</sup> July 2017.

#### 2. SUMMARY

- 2.1 Following an independent Examination and Referendum, Tewkesbury Borough Council resolved to bring the Gotherington Neighbourhood Plan into legal force under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended) at a meeting of Full Council on Tuesday 19<sup>th</sup> September 2017.
- 2.2 The Gotherington Neighbourhood Development Plan now forms part of the statutory Development Plan for Tewkesbury Borough Council.
- 2.3 In accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended), this Decision Statement can be viewed on the Council's website: <https://www.tewkesbury.gov.uk/neighbourhood-development-plans>
- 2.4 In accordance with Regulation 20 of the Neighbourhood Planning (General) Regulations 2012 (as amended), the Gotherington Neighbourhood Plan can be viewed on the Council's website: <https://www.tewkesbury.gov.uk/neighbourhood-development-plans>
- 2.5 Hard copies of this Decision Statement and the Gotherington Neighbourhood Plan can be inspected at:

Reception  
**Tewkesbury Borough Council**  
Public Service Centre  
Gloucester Road  
Tewkesbury  
GL20 5TT

Monday - Thursday: 8.30am - 5pm  
Friday: 8.30am - 4pm

3. BACKGROUND

- 3.1 The Gotherington Neighbourhood Area was designated by resolution of the Council's Executive Committee on 4<sup>th</sup> September 2014.
- 3.2 A submission version of the Gotherington Neighbourhood Development Plan (GNDP) was accepted by the Council on 27<sup>th</sup> July 2016, under regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 3.3 Following submission of the GNDP to the local authority, Tewkesbury Borough Council publicised the Plan and supporting documents and invited representations during the consultation period 12<sup>th</sup> September 2016 to 21<sup>st</sup> October 2016.
- 3.4 The Council, with the agreement of the Qualifying Body, appointed Ms Liz Beth BA (Hons) MA Dip Design in the Built Environment MRTPI as independent examiner of the Gotherington Neighbourhood Development Plan. The Examination concluded on the 6<sup>th</sup> April 2017 with the submission of the Examiner's Report recommending that the GNDP, once modified, should proceed to a referendum. The examiner also recommended that the area for the referendum should not extend beyond the Neighbourhood Area to which the plan relates.
- 3.5 On the 26<sup>th</sup> April 2017 the Council published a Decision Statement under Regulation 18(2) outlining all the Examiner's modifications and confirming the Council's consideration and decision on them. The Decision Statement also outlined the Council's decision that 'the plan', as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan and the provisions that can be made by a neighbourhood plan; and should proceed to a referendum. The Council confirmed that it did not consider it necessary to extend the referendum area.
- 3.6 On Thursday 20<sup>th</sup> July 2017, the Gotherington Neighbourhood Plan successfully passed referendum with 93.10% voting in favour of the Gotherington Neighbourhood Plan being used to help to decide planning applications in the Gotherington Parish Neighbourhood Area.
- 3.7 On 19<sup>th</sup> September 2017, Tewkesbury Borough Council resolved that the Gotherington Neighbourhood Plan (incorporating modifications set out in the Regulation 18(2) Decision Statement), be brought into legal force and become part of the statutory Development Plan for Tewkesbury Borough Council. It will sit alongside the other adopted Local Plans that together form the Development Plan.

4 DECISION AND REASONS

- 4.1 Section 38A(4)(a) of the 2004 Act requires the Council to 'make' the Neighbourhood Plan if more than half of those voting in the referendum have voted in favour of the plan being used to help decide planning applications in the Neighbourhood Area. The Gotherington Neighbourhood Plan was endorsed by more than the required threshold in the referendum on 20<sup>th</sup> July 2017 where 93.10% of those voting having voted in favour of the plan being used.
- 4.2 Section 38A (6) of the 2004 Act states that the Local Planning Authority is not subject to the duty if it considers that the making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights.
- 4.3 The Basic Conditions and Consultation Statement submitted in support of the Gotherington Neighbourhood Plan outlined the Qualifying Body's consideration of the European Convention on Human Rights (ECHR), in particular their regard to the fundamental rights and freedoms guaranteed under the ECHR and the Human Rights Act. The Examiner concluded that the Gotherington Neighbourhood Plan and its preparation had regard to the fundamental rights and freedoms guaranteed under the European ECHR and that it complies with the Human Rights Act. The Council agreed with the Examiner's conclusions that there had been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis it is considered that the Gotherington Neighbourhood Plan does not breach, nor is in any way incompatible with the ECHR.
- 4.4 The Qualifying Body issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination on 12<sup>th</sup> January 2016, which confirmed that a SEA and a full HRA were not required on the Gotherington Neighbourhood Plan. The Examiner concluded in her March 2017 report that the Gotherington Neighbourhood Plan is compatible with the Convention rights; does not breach, and is otherwise compatible with, EU obligations; and 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. The Council's Regulation 18(2) Decision Statement confirmed that the modifications accepted by the Council, both separately and combined, produce no likely significant environmental affects and are unlikely to have any significant effects on European Designated Sites. Therefore the Council does not consider that the Gotherington Neighbourhood Plan (incorporating modifications set out in the Regulation 18(2) Decision Statement) is in breach of the relevant legislation.
- 4.5 The Council considers that the Gotherington 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), its preparation process was compliant with legal and procedural requirements, it does not breach the legislation (set out in Section 38A(6) of the 2004 Act) and confirms that more than half of those who voted in the referendum on 20<sup>th</sup> July 2017, voted in favour of making the Plan.
- 4.6 As a result of Tewkesbury Borough Council's resolution of 19<sup>th</sup> September 2017, the Council has brought the Gotherington Neighbourhood Plan into legal force in accordance with Section 38A (4) of the 2004 Act. The Gotherington Neighbourhood Plan forms part of the statutory Development Plan for Tewkesbury Borough Council and can be used in decision making on planning applications in the Gotherington Parish Neighbourhood Area.

5 OTHER INFORMATION

5.1 In accordance with Regulation 19(b) and Regulation 30 of the Regulations, a copy of this Decision Statement has been sent to:

- The qualifying body, namely Gotherington Parish Council; and
- The persons who asked to be notified of the decision.

5.2 This Decision Statement and the Gotherington Neighbourhood Plan, modified in accordance with the accompanying Modification Document, can be viewed as set out in Section 2 of this Decision Statement.

5.3 Section 61N of Schedule 9 of the Town and Country Planning Act 1990 (as amended) states that any person who is aggrieved by the making of the Gotherington Neighbourhood Plan under Section 61E (4) or (8) may make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 (as amended) on the grounds that:

- the document is not within the appropriate power;
- a procedural requirement has not been complied with.

5.4 Any such application must be made promptly and in any event no later than 6 weeks after the date of this Decision Statement, i.e. no later than Tuesday 31<sup>st</sup> October 2017.