

Cabinet report



10 March 2020

Making The Lavendon Neighbourhood Plan

Name of Cabinet Member **Councillor Martin Gowans**
Cabinet member for Planning and Transport

Report sponsor **Tracy Darke**
Director (Growth, Economy & Culture)

Report author **David Blandamer**
Senior Urban Designer
david.blandamer@milton-keynes.gov.uk
01908 254836

Exempt / confidential / not for publication	No
Council Plan reference	Not in Council Plan
Wards affected	Olney Ward

Executive summary

The report seeks Cabinet's agreement to recommend to Council that it makes (brings into legal force) the Lavendon Neighbourhood Plan, following the successful referendum held on 23 January, 2020.

1. Decision/s to be made

- 1.1 That Council be recommended to make the Lavendon Neighbourhood Plan pursuant to the provisions of Section 38(A)(4) of the Planning and Compulsory Purchase Act 2004.
- 1.2 A decision document setting out the results of the referendum and the Council's decision to make the Lavendon Neighbourhood Plan, and the Lavendon Neighbourhood Plan be published on the Council's website and by other means, to bring them to the attention of people who live, work or carry out business in the neighbourhood area.

- 1.3 The decision document and details on how to view the plan be sent to the qualifying body (Lavendon Parish Council) and any person who asked to be notified of the decision.
- 1.4 That Lavendon Parish Council be congratulated on the successful outcome of the referendum.

2. Why is the decision needed?

- 2.1 The Lavendon Neighbourhood Plan was submitted to the Council for examination and was subsequently publicised for a six-week period, ending on 5 August 2019. All comments received were then passed to the Examiner, Rosemary Kidd, who submitted her report on the Plan in October 2019, stating that the plan met the relevant basic conditions and requirements, subject to modifications, and should proceed to referendum.
- 2.2 Following the examination, Milton Keynes Council, in consultation with Lavendon Parish Council accepted the examiner's recommendations and proceeded to make arrangements for a referendum to be held on 23 January 2020.
- 2.3 The Lavendon Neighbourhood Plan was successful at the referendum. In total, 440 people voted 'Yes' and 31 'No'; turnout was 44.8%. Under the changes to Section 38 of the Planning and Compulsory Purchase Act 2004, introduced by the Neighbourhood Planning Act, 2017¹, following a successful referendum, a neighbourhood plan comes into force as part of the statutory development plan. The plan must still be made by the local planning authority within 8 weeks of the referendum.
- 2.4 As with any planning decision there is a risk of legal challenge, but that risk has and is being managed by ensuring that the regulations are followed and that the Council's decision making process is clear and transparent.

3. Implications of the decision

- 3.1 National Planning Policy Framework (NPPF) states that neighbourhood plans must be in general conformity with the strategic policies of the development plan. Neighbourhood Plans should reflect these policies, and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than is set out in the Local Plan, or undermine its strategic policies.
The Lavendon Neighbourhood Plan was examined against the strategic policies set out in Plan:MK, adopted in March 2019.

¹ The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 and section 38(A)(4) of the Planning and Compulsory Purchase Act 2004 <http://www.legislation.gov.uk/ukpga/2017/20/section/3/enacted>

3.2 Once a neighbourhood plan has successfully passed the referendum stage, it comes into force as part of the statutory development plan, meaning it will be a material consideration when considering development proposals in the neighbourhood plan area.

Financial	N	Human rights, equalities, diversity	Y
Legal	Y	Policies or Council Plan	Y
Communication	N	Procurement	N
Energy Efficiency	N	Workforce	N

a) Financial implications

The Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 (“the 2012 Regulations”) placed new duties on local planning authorities in relation to neighbourhood planning. These new duties have considerable implications for Council resources. In recognition of the additional burdens that these new duties place on local planning authorities, Ministry of Housing, Communities and Local Government (MHCLG) now makes extra burden funding of £20,000 available to local authorities, which can be claimed once a date for a referendum has been set following a successful examination. This is a reduction of £10,000 per plan from that which has been available in previous years. Further duties and deadlines for decisions have been imposed through the Neighbourhood Planning (General) Regulations 2012 and Development Management Procedure (Amendment) Regulations 2016, as a result of the Housing and Planning Act 2016.

Publicity and officer support costs associated with making neighbourhood plans is met within the Urban Design and Landscape Architecture (UDLA) budget and staff resources to implement the plan come from the existing staff within the Development Plans and Development Management teams.

b) Legal implications

Neighbourhood planning is part of the Government’s initiative to empower local communities to take forward planning proposals at a local level, as outlined in Section 116 of the Localism Act 2011. The Localism Act 2011 and the subsequent regulations confer specific functions on local planning authorities in relation to neighbourhood planning and lay down the steps that must be followed in relation to Neighbourhood Planning.

Lavendon Neighbourhood Plan has been consulted on in accordance with the 2012 Regulations and subjected to a referendum in accordance with the Neighbourhood Planning (Referendums) Regulations 2012 (as amended).

As with any planning decision, there is a risk of legal challenge to the plan and/or judicial review of the Council’s decision to proceed with the referendum and the making of the neighbourhood plan.

Risk has been managed by ensuring that the relevant regulations are followed and that the Council's decision making process is clear and transparent. Once a neighbourhood plan has successfully passed referendum, it comes into force as part of the statutory development plan and the local planning authority is obliged to consider proposals for development against the policies in the Plan. The local planning authority must make the neighbourhood plan within 8 weeks of the successful referendum.

In accordance with Regulation 19 of the 2012 Regulations, the Council must, as soon as possible after deciding to make a neighbourhood development plan:

- a) publish on the website and in such other manner as is likely to bring the Plan to the attention of people who live, work or carry on business in the neighbourhood area:
 - i) the decision document,
 - ii) details of where and when the decision document may be inspected;
- b) send a copy of the decision document to:
 - i) the qualifying body; and
 - ii) any person who asked to be notified of the decision.

In accordance with Regulation 20 of the 2012 Regulations, the Council must, as soon as possible after making a neighbourhood development plan:

- a) publish on the website and in such other manner as is likely to bring the decision to the attention of people who live, work or carry on business in the neighbourhood area:
 - i) the neighbourhood development plan; and
 - ii) details of where and when the neighbourhood development plan may be inspected; and
- b) notify any person who asked to be notified of the making of the neighbourhood development plan that it has been made and where and when it may be inspected.

c) Other implications

The Lavendon Neighbourhood Plan has been tested against and found to meet the basic conditions required for neighbourhood plans. Two of the basic conditions are the requirements for the plans to:

- Contribute to the achievement of sustainable development
- Not breach and otherwise be incompatible with EU obligations (including the Strategic Environmental Assessment Directive, Environmental Impact Assessment Directive and the Habitats and Wild

Birds Directives), or any of the Convention rights (within the meaning of the Human Rights Act 1998).

The Examiner's report has confirmed that the Lavendon Neighbourhood Plan meets those basic conditions and officers are satisfied that there are no conflicts with these aspects.

The consultations on the draft plan carried out by Lavendon Parish Council and then the publicity on the submitted plan carried out by Milton Keynes Council have helped to raise awareness of its preparation and have allowed community engagement and participation in the process.

4. Alternatives

- 4.1 In the event of a 'Yes' vote in the referendum, the Council is obliged to proceed to make the Plan as outlined above. Therefore, there are no options available other than for Cabinet to recommend to the Council to make the Lavendon Neighbourhood Plan, and for Council to implement that recommendation, so that the Lavendon Neighbourhood Plan becomes part of the Milton Keynes Development Plan. The only exception to this is where the Council considers the plan would breach, or otherwise be incompatible with, any EU obligation or any of the convention Rights. That is not the case here.

List of annexes

Annex A – Decision document for making the Lavendon Neighbourhood Plan

Annex B – Lavendon Neighbourhood Plan <https://www.milton-keynes.gov.uk/planning-and-building/Lavendon-parish-council-neighbourhood-plan>

List of background papers

The Localism Act, 2011

The Neighbourhood Planning (General) Regulations 2012

The Housing and Planning Act, 2016

The Development Management Procedure (Amendment) Regulations 2016

The Neighbourhood Planning Act 2017

National Planning Policy Framework

National Planning Practice Guidance
