

Elmstead Neighbourhood Development Plan

Regulation 19 Decision Statement

Statement published 10 November 2024, pursuant to Section 38A(9) of the Planning and Compulsory Purchase Act 2004 and Regulation 19 of the Neighbourhood Planning (General) Regulations 2010.

Tendring District Council decided by resolution at Cabinet on 21 October 2024 to make the Elmstead Neighbourhood Development Plan under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended). The Elmstead Neighbourhood Development Plan forms part of the Development Plan for Tendring.

Summary

This document is the Decision Statement required under Section 38A(9) of the Planning and Compulsory Purchase Act 2004 and Regulation 19 of the Neighbourhood Planning (General) Regulations 2010. It sets out the decision to make the Elmstead Neighbourhood Development Plan under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and the reasons for making that decision.

Background

The Elmstead Neighbourhood Plan covers the area designated by Tendring District Council as the Neighbourhood Plan Area in November 2020.

Following the submission of the Elmstead Neighbourhood Plan to the Council, the Plan was published for 6 weeks between the 18th September and 30th October 2023 inviting representations, in accordance with The Neighbourhood Planning (General) Regulation 2012 - Regulation 16.

John Slater BA(hons) DMS MRTPI FRGS was appointed by Tendring District Council with the consent of Elmstead Parish Council, to independently examine the Neighbourhood Plan and to prepare a report of the examination.

The Examiner required a public hearing in February 2024. The Public Hearing considered a number of specific issues for the Neighbourhood Plan which needed further consideration in a public setting.

After the close of the hearing the Council held a focused consultation on these matters and responses were forwarded to the Examiner,

Following the additional consultation, the Examiner concluded the examination of the Plan. The Examiner's report concludes that subject to making the minor modifications recommended by the Examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.

Decision and Reasons

With the Examiner's modifications, the Elmstead Neighbourhood Development Plan meets the basic conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, is compatible with EU obligations, the Convention rights and complies with relevant provision made by Section 38A and B of the Planning and Compulsory Purchase Act 2004 (as amended).

The local referendum was held on Thursday 12th September 2024. In the referendum, which was administered by Tendring District Council, residents of the Parish of Elmstead were asked “Do you want Tendring District Council to use the Neighbourhood Plan for the Parish of Elmstead to help it decide planning applications in the neighbourhood area?” With an overall turnout of 21.4%, 389 residents voted ‘YES’ and 31 residents voted ‘NO’ – a vote of 92.6% in favour of the plan.

Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that the Local Planning Authority must make a Neighbourhood Development Plan if in the referendum more than half of those voting, voted in favour of the plan.

Tendring District Council has assessed that the plan, including its preparation, does not breach or would not otherwise be incompatible with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

In accordance with the Neighbourhood Planning (General) Regulations 2012, Elmstead Neighbourhood Plan is made and planning applications within Elmstead Neighbourhood Plan area must be determined in accordance with the Elmstead Neighbourhood Plan, as well as the existing development plan for Tendring, unless material considerations indicate otherwise.

Other Information

The Elmstead Neighbourhood Plan and relevant accompanying documents can be viewed on the Tendring District Council website: <https://www.tendringdc.gov.uk>

This Decision Statement is being sent to the qualifying body and the persons who asked to be notified of the decision. It is also available to view on the Tendring District Council website.

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 Plan under section 61E (4) or (8) may make an application to the High Court under Section 113 of the Planning & 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.

Such an application must be made within six weeks of the date of the decision to make the Plan.



Gary Guiver
Director of Planning and Community
Dated: 14/11/2024