

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: WYMONDLEY NEIGHBOURHOOD PLAN – EXAMINER’S REPORT**

REPORT OF THE SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER : PLANNING & TRANSPORT

COUNCIL PRIORITY : PROSPER AND PROTECT

**1. EXECUTIVE SUMMARY**

- 1.1 To consider the examiners report and the proposed modifications to the Wymondley Neighbourhood Plan and to agree that officers make arrangements to conduct a referendum within the Wymondley designated neighbourhood planning area.

**2. RECOMMENDATIONS**

- 2.1. That the Examiner’s report for the Wymondley Neighbourhood Plan should be noted.
- 2.2. That following the inclusion of the Examiner’s proposed modifications to the Wymondley Neighbourhood Plan, as set out in Appendix B, it is approved to proceed to a referendum.
- 2.3. That the Counting Officer be instructed to conduct a referendum on the Wymondley Neighbourhood Plan.
- 2.4. That the decision to “make” the Wymondley Neighbourhood Plan be delegated to the Service Director – Regulatory in consultation with the Executive Member for Planning and Transport.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To progress the Wymondley Neighbourhood Plan, enable a referendum to take place and following a vote of more than 50% in favour of the Wymondley Neighbourhood Plan to “make” the Wymondley Neighbourhood Plan.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 To accept all of the independent examiners recommendations and proceed to a referendum: This approach is not recommended as there are policies in the neighbourhood plan which could be combined to make the neighbourhood plan easier to use.

- 4.2 To propose additional modifications to the neighbourhood plan : The independent examiner's report sets out a number of modifications to the neighbourhood plan, however, Officers consider that there are further minor amendments which should be made to the policies before the neighbourhood plan is subject to a referendum. These further modifications are set out in paragraph 8.7.
- 4.3 To reject the examiner's proposed modifications : If the examiner's recommendations are not followed, the Parish Council as the qualifying body could request that the Secretary of State intervenes.
- 4.4 The Parish Council, as the Qualifying Body has a right to withdraw the neighbourhood plan at any time before the local planning authority decides on the examination report.
- 4.5 A full copy of the examiner's report is attached as Appendix A.

## **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1 The Wymondley Neighbourhood Plan has been subject to public consultation which is described in paragraph 7.2 below. Members have been kept informed of the progress of the neighbourhood plan through the Strategic Planning reports to Cabinet.

## **6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

## **7. BACKGROUND**

- 7.1. Wymondley Parish Council applied for the designation of the whole parish area as a neighbourhood planning area in June 2015. At that time, officers considered that the area of the parish which fell within the proposed safeguarded land for development to the west of Stevenage should be excluded from the neighbourhood planning area. This was considered by Cabinet at a meeting on 28 July 2015 and a delegated decision was made on 26 August 2015 to designate part of Wymondley parish as the neighbourhood planning area.
- 7.2. In preparing the neighbourhood plan, Wymondley Parish Council and the Wymondley Neighbourhood Plan Committee has undertaken a significant amount of work and public consultation. Consultation on an early draft neighbourhood plan took place in April and May 2016. The neighbourhood plan was submitted to the District Council and consultation took place from 23 June to 4 August 2017. A total of 175 representations were received, 38 objections, 40 supporting representations and 97 comments. The plan was then submitted for examination.
- 7.3. An independent examiner, Deborah McCann, was appointed by the Council in consultation with Wymondley Parish Council.
- 7.4. The role of the examiner is to assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended). Details about the basic conditions are set out in Section 5 of the examiners report, as attached at Appendix A.

- 7.5. Following the examination, the examiner must make one of the following recommendations:
- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements;
  - The neighbourhood plan can proceed to a referendum subject to modifications; or
  - The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. The examiner for the Wymondley Neighbourhood Plan was appointed in September 2018 and started the examination shortly afterwards. In most cases, a neighbourhood plan examination is conducted by way of written representations. However, in this case, the examiner decided to hold an exploratory meeting to help in assessing whether the neighbourhood plan met the Basic Conditions and whether it is in general conformity with the Development Plan and the National Planning Policy Framework.
- 8.2. The exploratory meeting was held on 30 January 2019 with representatives from the District Council, Wymondley Parish Council and the Neighbourhood Plan Steering Group present. The main issues on the agenda for the exploratory meeting were:
- How the housing need of the area would be met across the plan period;
  - Whether the neighbourhood plan is in general conformity with the Development Plan and therefore would meet the Basic Conditions;
  - The designation of Local Green Spaces in the neighbourhood plan; and
  - The clarification of the Habitats Regulation Assessment and the Strategic Environmental Appraisal.
- 8.3. The discussion at the exploratory meeting was led by the examiner with contributions from the District Council, the Parish Council and the Neighbourhood Plan Steering Group. The following issues were clarified:
- That the Steering Group agreed that the policy seeking to restrict development sites to 50 or fewer dwellings was intended to apply to the area of the parish currently excluded from the green belt under the policies of the District Plan 2<sup>nd</sup> Review with Alterations;
  - That the Steering Group would undertake further work to ensure that consultation had been undertaken with the landowners in respect of those spaces which they sought to designate as Local Green Spaces;
  - That the examiner would consider which policies should be moved into a section within the neighbourhood plan which reflected community aspirations rather being policies which could be used in determining planning applications;
  - That the District Council undertake further work on the Habitats Regulation Assessment and the Strategic Environmental Assessment to allow the basic conditions to be met.
- 8.4. Following the exploratory meeting, the examiner suspended the examination to enable both the District and the Parish Council to complete the additional work that had been requested. All the additional work requested was completed by 1 March 2019 and sent to the examiner to allow her to complete the examination. The examiner's report was issued on 20 March 2019 with the following recommendation: *"I therefore conclude that the Wymondley Neighbourhood Plan subject to the recommended modifications can proceed to Referendum."* The Examiner's report is attached at Appendix A.

- 8.5. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 introduced a timeframe within which the local planning authority had to decide what action to take in response to the examiners recommendations. The independent examiner's report was not received in time for both the local planning authority and the Parish Council to consider the recommendations and conduct a referendum before the local election period. An extension to the timeframe was therefore agreed between the District and the Parish Council.
- 8.6. The Wymondley Neighbourhood Plan does not allocate any sites for residential development but following the examiners modifications will include 20 policies which will be used in determining planning applications in the neighbourhood planning area.
- 8.7. A schedule of the examiner's proposed modifications to the neighbourhood plan has been prepared and is attached as Appendix B. The examiner's modifications to the neighbourhood plan ensure that the neighbourhood plan can meet the Basic Conditions, but at this stage the local planning authority can also make further modifications. If any of the modifications proposed by the local planning authority depart from the examiner's recommendations, clear reasons must be given for those departures. The attached schedule sets out the examiners recommendations and sets out a response from Officers. The examiner has proposed modifications which amend the wording of some policies. Officers consider that the proposed modifications to the majority of the policies will ensure that the policies will meet the Basic Conditions. There are however, three policies where it is suggested that additional modifications are made:
- combine policies NHE8 and FR4 to create one policy for Flood Risk;
  - delete a duplication in the text of policy NHE11; and
  - delete a duplicate sentence in policy GIS2.
- It is considered that these modifications are in accordance with the examiner's report and would not necessitate any additional consultation as the aims of the policies are unaffected.
- 8.8. In addition to the proposed modifications to the policies, the examiner has requested that a number of the policies which were included in the submission version of the neighbourhood plan are moved to a new section of the neighbourhood plan as she considered that they are community aspirations rather than planning policies and cannot be used in the determination of planning applications. Officers welcome these proposed modifications to the neighbourhood plan.
- 8.9. The Parish Council have also considered the examiners report and have accepted the examiners proposed modifications and recommendations.
- 8.10. Overall, officers consider that the modifications will help to make the neighbourhood plan clear and one which can be used in determining planning applications in the neighbourhood planning area. (For reference a copy of the Wymondley Neighbourhood Plan pre-examination version, June 2016 as submitted for examination can be viewed on the Council's website at: <https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/approved-neighbourhood-areas-wymondley>)

- 8.11. The examiner states that subject to the proposed modifications being made to the neighbourhood plan, she recommends that the Wymondley Neighbourhood Plan can go forward to a referendum. As part of the examination process, the examiner must consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates. In this case, the examiner considers that there is no reason to alter or extend the area for the referendum.
- 8.12. Once the local planning authority decides that a referendum should be held, this must take place within 56 working days from the publication of its decision notice to take the plan forward. The duties of the Counting Officer are to be exercised by the appointed Returning Officer for local government elections in the area. It is proposed that the referendum will take place in August 2019. The date will be clarified at the meeting of Cabinet.
- 8.13. If there is a favourable response to the referendum, where more than 50% of those voting are in favour of the plan, then the Local Planning Authority will “make” the neighbourhood plan. The plan will need to be made within 8 weeks of the referendum. The Service Director – Regulatory in consultation with the Executive Member for Planning, Enterprise and Transport have delegated authority to “make” the neighbourhood plan following a successful referendum. Once the plan is made, it will then form part of the statutory development plan. Policies in the neighbourhood plan will be used in determining planning applications within the Wymondley neighbourhood planning area.

## **9. LEGAL IMPLICATIONS**

- 9.1 Under the Terms of Reference for Cabinet Paragraph 5.6.18 of the Constitution states that the Cabinet should exercise the Council’s functions as Local Planning Authority except where functions are reserved by law to the responsibility of the Council or delegated to the Service Director : Regulatory.
- 9.2 The Localism Act 2011 provided a new statutory regime for neighbourhood planning. The Neighbourhood Planning (General) Regulations 2012 (as amended) make provisions in relation to that new regime. It does amongst other things set out the Council’s responsibility (as the Local Planning Authority) in assisting communities in the preparation of neighbourhood development areas, plans and order and to take plans through a process of examination and referendum.
- 9.3 At the point where the local planning authority makes the decision on whether the neighbourhood plan should proceed to referendum, it needs to be satisfied that the neighbourhood plan proposal has regard to national policy and guidance, contributes to sustainable development, is in general conformity with the strategic policy of the development plan for the area and doesn’t breach or is otherwise compatible with EU obligations.
- 9.4 Regulations 2A and 18A of the Neighbourhood Planning (Referendums) Regulations 2012 prescribe the relevant time limits referred to in paragraphs 8.10 and 8.11 above respectively.
- 9.5 As a consequence of receiving the examiner’s report for the Wymondley Neighbourhood Plan, the local planning authority must now have regard to the provisions of the neighbourhood plan as a material consideration in the determination of planning applications within the Wymondley neighbourhood planning area.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 The cost of the Wymondley Neighbourhood Plan examination has been met out of the existing Neighbourhood Plan Reserve (£21,000), which came about from previous Department of Communities and Local Government (DCLG) funding following designation of neighbourhood plan areas. This reserve will also be used to fund this referendum.
- 10.2 Until March 2019, the local planning authority could claim £20,000 from the MHCLG once a neighbourhood plan had gone through a successful examination process and a date has been set for a referendum. At the time of writing, it is not known whether the MHCLG intends to continue with any Neighbourhood Plan payments into 2019/20, any further update will be given at the meeting.

## **11. RISK IMPLICATIONS**

- 11.1. No direct risk implications from this report but Sustainable Development of the District and the Local Plan are both Cabinet Top Risks.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 There are not considered to be any direct equality issues arising from this report. Future individual schemes or considerations may well be subject to appropriate review to ensure they comply with latest equality legislative need. Any risks and opportunities identified will also be subject to assessment for impact on those that share a protected characteristic.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 The Social Value Act and “go local” policy do not apply to this report.

## **14. HUMAN RESOURCE IMPLICATIONS**

- 14.1. There are no new human resource implications arising from the contents of this report.

## **15. APPENDICES**

- 15.1 Appendix A : Wymondley Neighbourhood Plan – Independent Examiners Report, <https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/approved-neighbourhood-areas-wymondley>
- 15.2 Appendix B : Schedule of examiners proposed modifications and responses

## **16. CONTACT OFFICERS**

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## **17. BACKGROUND PAPERS**

17.1 Cabinet reports:

- St Paul's Walden and Wymondley Neighbourhood Planning Areas – 28 July 2015
- Strategic Planning Matters – 13 June 2017
- Strategic Planning Matters – 21 November 2017
- Strategic Planning Matters – 31 July 2018
- Strategic Planning Matters – 25 September 2018
- Strategic Planning Matters – 18 December 2018

The following background papers are all available on the following webpage:  
<https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/approved-neighbourhood-areas-wymondley>

Delegated decision – Wymondley Neighbourhood Planning Area – 26 August 2015

Wymondley Neighbourhood Plan – Submission Version – June 2016

Wymondley Neighbourhood Plan – schedule of representations to Regulation 16 consultation – August 2017

Exploratory meeting – Examiner's agenda – January 2019

Letter from the examiner suspending the examination – 1 February 2019

Independent Examiner's Report of the Wymondley Neighbourhood Plan – March 2019

Wymondley Neighbourhood Plan – as amended – May 2019