

CABINET
26 JANUARY 2021

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: BALDOCK, BYGRAVE AND CLOTHALL NEIGHBOURHOOD PLAN

REPORT OF THE SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: PLANNING AND TRANSPORT

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES

1. EXECUTIVE SUMMARY

- 1.1. The report sets out the steps that have been taken since receipt of the examiners report into the Baldock, Bygrave and Clothall Neighbourhood Plan, including consideration of the responses received in respect of the public consultation on proposed additional modifications and the way forward for the neighbourhood plan.

2. RECOMMENDATIONS

- 2.1. That the responses received to the Council's proposed modifications to the Examiner's recommendations on the Baldock, Bygrave and Clothall Neighbourhood Plan are noted.
- 2.2. That following the inclusion of the proposed modifications to the Baldock, Bygrave and Clothall Neighbourhood Plan as set out in Appendix A and subject to the Council's additional modifications in Appendix B, it is approved to proceed to a referendum.
- 2.3. That the Counting Officer be instructed to make arrangements and conduct a referendum on the Baldock, Bygrave and Clothall Neighbourhood Plan.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To progress the Baldock, Bygrave and Clothall Neighbourhood Plan, enable a referendum to take place and, if more than 50% of those voting in favour of the Baldock, Bygrave and Clothall Neighbourhood Plan take steps towards "making" the neighbourhood plan.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. To accept all of the independent examiners recommendations and proceed to a referendum: in this instance, this was not considered to be the appropriate course of action as set out in the report to Cabinet in September 2020 (Minute 46).

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Baldock, Bygrave and Clothall Neighbourhood Plan has been subject to several rounds of public consultation during its preparation. 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 contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on the 7 December 2020.

7. BACKGROUND

- 7.1. Bygrave Parish Council submitted an application to designate the parishes of Bygrave and Clothall and the unparished area of Baldock as a single neighbourhood planning area in February 2017. Following public consultation, the Baldock, Bygrave and Clothall neighbourhood planning area was designated by Cabinet on 25 July 2017 (Minute 23). In that report it was recognised that Bygrave Parish Council would act as the Qualifying Body for the neighbourhood plan and that the Baldock, Bygrave and Clothall Planning Group would ensure that there was representative governance in place for the preparation of the neighbourhood plan.
- 7.2. In July 2018, Cabinet granted delegated powers to approve public consultation on neighbourhood plans. This recognised the benefit of making timely decisions where there are no alternative options. However, Neighbourhood Plans covering more than one electoral ward must still be referred to Cabinet as a Key Decision. This is the case with Baldock, Bygrave and Clothall.
- 7.3. In preparing the neighbourhood plan, a significant amount of work and public consultation has been undertaken. Consultation on an early draft neighbourhood plan took place between May and September 2019. The neighbourhood plan was submitted to the District Council in December 2019 with consultation taking place between February and March 2020. A total of 56 representations were received, 14 objections, 32 supporting representations and 10 comments. The plan was then submitted for examination.
- 7.4. An independent examiner, John Parmiter was appointed by the Council in consultation with Bygrave Parish Council and the Baldock, Bygrave and Clothall Neighbourhood Planning Group.
- 7.5. 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 6 of the examiner's report, as attached at Appendix A.

- 7.6. 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 examination of the neighbourhood plan took place during July and August 2020 and was conducted by written representations, rather than a public hearing. During the examination, the examiner asked for some additional information from both the Baldock, Bygrave and Clothall Neighbourhood Planning Group and the District Council.
- 8.2. The main issues raised by the examiner centred on the green belt boundary around Baldock and an up to date position for progress on the Local Plan. The examiner's clarification note and the responses provided by the Parish Council and the District Council are available to view on the website: <https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/baldock-bygrave-and-clothall-neighbourhood-plan>
- 8.3. The examiner's report (Appendix A) was issued on 21 August 2020 and recommended that subject to the recommended modifications that the neighbourhood plan should proceed to referendum (paras. 10.1 – 10.2).
- 8.4. However, as reported to Cabinet in September 2020 (Minute 46), it was considered that there were reasonable grounds to depart from the examiner's recommended modifications following consideration of a number of specific issues raised by the Baldock, Bygrave and Clothall Neighbourhood Plan Steering Group. It was agreed that further public consultation should be undertaken for the additional modifications. A schedule of the proposed additional modifications is attached as Appendix B. This public consultation took place between 6 November and 18 December 2020.
- 8.5. A total of 9 representations were received in response to the consultation on the additional proposed modifications. Of these representations, only two responses, from Hertfordshire County Council Environment and Hertfordshire County Council Property Services made any comments on the proposed additional modifications. A schedule of all representations is attached as Appendix C.
- 8.6. The responses have been made in respect of Policies G3: Creating well designed places; G6: Local heritage assets; E2: Green infrastructure and outdoor recreation and E5: Development north of the railway. It is considered that the representations do not raise any significant issues and that no further modifications should be made to the policies and that the additional modifications consulted on should be made to the neighbourhood plan which will be subject to a referendum.
- 8.7. As part of the examination process, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood planning 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.

- 8.8. Normally, 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 statement 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. All neighbourhood plan referenda have been suspended due to the pandemic and cannot take place until May 2021 at the earliest. Further updates will be provided at a future meeting of Cabinet.
- 8.9. If there is a favourable response to the referendum, where more than 50% of those voting vote 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. Once the neighbourhood plan is “made”, it will form part of the statutory development plan. Policies in the neighbourhood plan will be used in determining planning applications within the designated neighbourhood planning area for Baldock, Bygrave and Clothall.

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. This includes powers for the Council to consider the report of a Neighbourhood Plan examiner and determine the most appropriate course of action.
- 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. Officers agree with the examiner’s conclusions that the neighbourhood plan does have regard to national policy, contributes to sustainable development, is in general conformity with the strategic policies for the neighbourhood planning area and that there is no breach and it is compatible with EU obligations as incorporated into UK law.
- 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 Baldock, Bygrave and Clothall Neighbourhood Plan, Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that the local planning authority must have regard to a post examination draft neighbourhood plan, as a material consideration in the determination of planning applications within the Baldock, Bygrave and Clothall designated neighbourhood planning area.

10. FINANCIAL IMPLICATIONS

- 10.1. The cost of the Baldock, Bygrave and Clothall Neighbourhood Plan examination has been met from the existing Neighbourhood Plan consultants budget. Costs associated with the referendum will be funded from the Neighbourhood plan earmarked reserve. The balance of the reserve is £78k, this balance has come from previous Ministry of Housing, Communities and Local Government (MHCLG) funding following designation of neighbourhood planning areas and neighbourhood plan referenda.
- 10.2. Until March 2021 the local planning authority can claim £20,000 from the MHCLG once a neighbourhood plan has gone through a successful examination process and a decision statement has been published detailing the intention to hold a referendum. This is a change to previous neighbourhood plans when a date for the referendum had to be set and has been made in response to the COVID-19 pandemic. At the time of writing, it is not known whether this financial support for neighbourhood plans will continue in future years.

11. RISK IMPLICATIONS

- 11.1. There are 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” requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to this report.
- 14.2. The District Council, as “responsible authority”, determines if the plan is likely to have significant environmental effects. It was determined, in a Screening Determination of April 2019, that the neighbourhood plan would not require a Strategic Environmental Assessment.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1. Holding a referendum for the neighbourhood plan will involve the Electoral Services team in additional work in setting up and running the referendum.

16. APPENDICES

- 16.1. Appendix A: Examiners report for the Baldock, Bygrave and Clothall Neighbourhood Plan August 2020
- 16.2. Appendix B: Schedule of proposed additional modifications for consultation – November 2020
- 16.3. Appendix C: Schedule of representations received – January 2021

17. CONTACT OFFICERS

- 17.1. Ian Fullstone, Service Director – Regulatory
01462 – 474480 ian.fullstone@north-herts.gov.uk
- 17.2. Clare Skeels, Senior Planning Officer
01462 – 474424 clare.skeels@north-herts.gov.uk
- 17.3. Nigel Smith, Strategic Planning Manager
01462 – 474847 nigel.smith@north-herts.gov.uk
- 17.4. Nurainatta Katevu, Legal Regulatory Team Manager
01462 – 474364 nurainatta.katevu@north-herts.gov.uk
- 17.5. Melanie Stimpson, Democratic Services Manager
01462 – 474208 melanie.stimpson@north-herts.gov.uk
- 17.6. Reuben Ayavoo, Policy and Community Engagement Manager
01462 – 474212 reuben.ayavoo@north-herts.gov.uk
- 17.7. Jodie Penfold, Group Accountant
01462 – 474332 jodie.penfold@north-herts.gov.uk

18. BACKGROUND PAPERS

- 18.1. Cabinet reports:

[Baldock, Bygrave and Clothall Neighbourhood Plan – Proposed Modifications Consultation – September 2020](#)

[Baldock, Bygrave and Clothall Neighbourhood Plan – Proposed Submission Version \(Regulation 16\) Consultation – January 2020](#)

[Designation of a Neighbourhood Planning Area for Baldock, Bygrave and Clothall – July 2017](#)

- 18.2. Other information:

[MHCLG letter to Chief Planning Officers – 22 June 2020](#)

18.3. The following background papers are all available on the following webpage:
<https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/baldock-bygrave-and-clothall-neighbourhood-plan>

Baldock, Bygrave and Clothall Neighbourhood Plan – Proposed Submission Version – December 2019

Baldock, Bygrave and Clothall Neighbourhood Plan – Examiners Questions – July 2020

Baldock, Bygrave and Clothall Neighbourhood Plan – Examiners Report – August 2020

Schedule of proposed additional modifications – November 2020