

CABINET
23 JANUARY 2018

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

11

TITLE OF REPORT: PIRTON NEIGHBOURHOOD PLAN – EXAMINER’S REPORT

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL
EXECUTIVE MEMBER: COUNCILLOR DAVID LEVETT
COUNCIL PRIORITY: PROSPER AND PROTECT

1. EXECUTIVE SUMMARY

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

2. RECOMMENDATIONS

- 2.1 That the Examiner’s report for the Pirton Neighbourhood Plan be noted.
- 2.2 That following the inclusion of the examiners proposed modifications to the Pirton 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 Pirton Neighbourhood Plan.
- 2.4 That the decision to “make” the Pirton Neighbourhood Plan be delegated to the Head of Planning and Building Control in consultation with the Executive Member.

3. REASONS FOR RECOMMENDATIONS

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

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 No alternative options are considered as the plan was subject to examination by an independent examiner. A full copy of the examiner’s report is attached at Appendix A.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 The Pirton Neighbourhood Plan has been subject to significant public consultation which is described in paragraphs 8.1 to 8.7 below. The Executive Member has received regular updates on the progress of the neighbourhood plan.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 8th December 2017.

7. BACKGROUND

- 7.1. Pirton Parish Council applied for the designation of a neighbourhood planning area in September 2013. Following public consultation, the neighbourhood planning area was designated on 28 January 2014.
- 7.2. In preparing the neighbourhood plan, Pirton Parish Council have undertaken a considerable amount of work and public consultation, the examiner in her report states that there has been *exemplary and constant engagement with the community*. Consultation on an early draft neighbourhood plan took place in April 2016 and the neighbourhood plan was submitted to the District Council in October 2016. The Council then undertook the Regulation 16 consultation on the plan between 9 February and 23 March 2017. A total of 205 representations were received, 24 objections, 63 comments and 118 in support of the neighbourhood plan. Following consideration of these representations by the Parish Council they then submitted their plan for examination.
- 7.3. An independent examiner, Ann Skippers, was appointed by the Council in consultation with Pirton 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 as 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 examination of the neighbourhood plan took place during November 2017 and was conducted by written representation, rather than a public hearing. During the examination, the examiner asked for some additional information which was provided by both the District and Parish Councils. The examiner's report was issued on 19 December 2017, with the following recommendation: *I am therefore pleased to recommend to North Hertfordshire District Council that, subject to the modifications*

proposed in this report, the Pirton Neighbourhood Development Plan can proceed to a referendum.

- 8.2 The Pirton Neighbourhood Plan does not allocate any sites for residential development but includes 13 criteria based policies which will ensure that any future development is sustainable and suitable for the Parish. The examiner has considered all of the policies and has recommended a series of modifications to the policies and the supporting text which will ensure that the Neighbourhood Plan is a more workable document which will provide a practical framework for decision making.
- 8.3 A schedule of the examiner's proposed modifications has been prepared which is attached as Appendix B. Officers have considered all of the proposed modifications and where appropriate have made comments and these are noted in the schedule. The Parish Council have also considered the proposed modifications and agree that the proposed modifications should be made to the neighbourhood plan. Overall, officers consider that the modifications all help to make the neighbourhood plan clear and one which can be used in determining planning applications in the Parish. (For reference a copy of the Pirton Neighbourhood Plan pre-examination version – Oct 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-pirton>)
- 8.4 The examiner states that subject to the proposed modifications being made to the neighbourhood plan, she recommends that the Pirton Neighbourhood development 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.
- 8.5 The examiner has noted in her report that the District Council will review the Strategic Environmental Assessment (SEA) Screening Determination once any modifications have been made to the plan post examination. It is proposed in this report that all of the examiner's proposed modifications are made to the neighbourhood plan. A review of the SEA Screening Determination is being undertaken by consultants on the proposed neighbourhood planning policies and an addendum to the SEA Screening Determination will be prepared. None of the modifications which are proposed in the examiner's report are considered to have a significant effect on the SEA screening determination.
- 8.6 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. It is proposed that the referendum will take place in March. The date will be clarified at the meeting of Cabinet.
- 8.7 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 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 Pirton 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 Strategic Director of Planning, Housing and Enterprise.
- 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. It is considered that the addendum to the SEA Screening Determination will ensure that the EU obligations in respect of SEA will have been satisfied.
- 9.4 As a consequence of receiving the examiner's report for the Pirton 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 Pirton parish.

10. FINANCIAL IMPLICATIONS

- 10.1 The cost of the Pirton 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 The DCLG has allocated funding until March 2018 to assist local planning authorities to meet the legislative duties in relation to neighbourhood plans. Currently, the local planning authority can claim £20,000 once a neighbourhood plan has gone through a successful examination process and a date has been set for a referendum. It is not known whether the DCLG intends to continue with any Neighbourhood Plan payments into 2018/19, previous payments upon area designation have been capped. As such it is proposed that any funding received from DCLG is placed in the Neighbourhood Plan Reserve to support officers in their work on other neighbourhood plans and preclude the need to draw down upon the Neighbourhood Plan financial risk.

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.
- 11.2 Should a referendum date not be set by the 31 March 2018 then there is a risk that the £20,000 DCLG funding may not be available in 2018/19.

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

Appendix A: Pirton Neighbourhood Development Plan 2011-2031 – Independent examiners report.

Appendix B: Schedule of proposed modifications and responses.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

Cabinet report – Neighbourhood Planning Area Designation – January 2014, Minute Ref: 102

Delegated decision – Proposed Submission Consultation – December 2016

Letter from DCLG to Chief Planning Officers – 22 February 2017: Update on financial support for neighbourhood planning in 2017/18

The Neighbourhood Planning (General) Regulations 2012 (as amended)

The Neighbourhood Planning (Referendums) Regulations 2012 (as amended)

The Neighbourhood Planning (Referendums) (Amendment) Regulations 2016