

**CABINET
DECEMBER 21 2021**

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: ASHWELL NEIGHBOURHOOD PLAN – EXAMINERS REPORT

REPORT OF: SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: PLANNING

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES / RESPOND TO CHALLENGES TO THE ENVIRONMENT / SUPPORT THE DELIVERY OF GOOD QUALITY AND AFFORDABLE HOMES

1. EXECUTIVE SUMMARY

To consider the examiner's report and the proposed modifications to the Ashwell Parish Neighbourhood Plan and to agree that officers make arrangements to conduct a referendum within the Ashwell designated neighbourhood planning area.

2. RECOMMENDATIONS

- 2.1. That the Examiner's report for the Ashwell Neighbourhood Plan should be noted.
- 2.2. That following the inclusion of the Examiner's proposed modifications to the Ashwell 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 Ashwell Parish Neighbourhood Plan.
- 2.4. That the decision to "make" the Ashwell Neighbourhood Plan be delegated to the Service Director – Regulatory in consultation with the Executive Member for Planning, as previously agreed by Cabinet in July 2018 (Minute 21).

3. REASONS FOR RECOMMENDATIONS

- 3.1. To progress the Ashwell Neighbourhood Plan, enable a referendum to take place and, if more than 50% of those voting in favour of the Ashwell Neighbourhood Plan to "make" the Ashwell Neighbourhood Plan.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. To propose additional modifications to the neighbourhood plan: The independent examiner's report sets out a number of modifications to the neighbourhood plan but it is considered that no further modifications are necessary.

- 4.2. 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. Officers do not recommend this option given the recommendations of the examiner.
- 4.3. 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. However, the Parish Council has confirmed that it is content with the Examiners recommendations and wishes the neighbourhood plan to proceed to a referendum.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Ashwell 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 this neighbourhood plan through the Strategic Planning reports to Cabinet.

6. FORWARD PLAN

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

7. BACKGROUND

- 7.1. Ashwell Parish Council applied for the designation of the whole parish area as a neighbourhood planning area in December 2013. Consultation on the neighbourhood planning area was undertaken and the neighbourhood planning area designated at a Cabinet meeting on 25 March 2014.
- 7.2. In preparing the neighbourhood plan, Ashwell Parish Council has undertaken a significant amount of work and public consultation. Consultation on an early draft neighbourhood plan first took place in 2018 with a second consultation on a significantly amended plan in 2020. The neighbourhood plan was submitted to the District Council in April 2021 with consultation taking place between March and April. A total of 38 representations were received, 10 objections, 2 supporting representations and 26 comments. The plan was then submitted for examination.
- 7.3. An independent examiner, Andrew Ashcroft, was appointed by the Council in consultation with Ashwell 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 6 of the examiner's 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 examination of the neighbourhood plan took place during September and October 2021 and was conducted by written representations, rather than a public hearing. During the examination, the examiner asked some clarification questions, and a response was provided by both the Parish and the District Council.
- 8.2. The examiner's report was issued on 20 October 2021, with the following recommendations: "Subject to a series of recommended modifications set out in this report I have concluded that the Ashwell Neighbourhood Development Plan meets all the necessary legal requirements and should proceed to referendum".
- 8.3. The Ashwell Neighbourhood Plan does not allocate any sites for residential development but it does reflect the proposed village boundary within the emerging Local Plan. Policy ASH1 defines a new settlement boundary for Ashwell in advance of the emerging Local Plan. This settlement boundary will supercede Policy 7 in the saved Local Plan as the most up to date policy. The policies in the neighbourhood plan will ensure that any future development is sustainable and suitable for the parish.
- 8.4. The examiner has considered all of the policies and the supporting text in the neighbourhood plan. The examiner has set out a series of modifications which ensure that the neighbourhood plan meets the basic conditions and that it can be used in determining planning applications and will provide a practical framework for decision making.
- 8.5. 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 examiner's proposed modifications should be made to the neighbourhood plan.
- 8.6. In addition to the proposed modifications to the policies in the neighbourhood plan, the examiner has also recommended that the Parish Council should consider a review of the neighbourhood plan once the Local Plan has been adopted. Overall, officers consider that the examiner's modifications all help to make the neighbourhood plan clear and one which can be used in determining planning applications.
- 8.7. The examiner states, that subject to the proposed modifications being made to the neighbourhood plan, he recommends that the Ashwell Neighbourhood Plan can go forward to a referendum. 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. The Parish Council prepared the Ashwell Village Design Statement in 2000, it was then revised in 2018. It has been used by the Council as Supplementary Planning Guidance in conjunction with the Local Plan in determining planning applications. In a report to Cabinet in July 2017, the Design Statement was identified as one of the documents which should be revoked once a neighbourhood plan is made, providing that there is an equal statement in the neighbourhood plan. There are a number of policies in the

neighbourhood plan which refer to the Design Statement and it has been included as an appendix to the neighbourhood plan. If the neighbourhood plan receives a positive outcome at the referendum, the Design Statement will be revoked as supplementary planning guidance as it will form part of the statutory Development Plan.

- 8.9. 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 anticipated that the referendum will take place in March but an update will be provided at the meeting of Cabinet.
- 8.10. 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 Ashwell 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.
- 9.4. Regulations 2A and 18A of the Neighbourhood Planning (Referendums) Regulations 2012 prescribe the relevant time limits referred to in paragraphs 8.9 and 8.10 above respectively.
- 9.5. As a consequence of receiving the examiner's report for the Ashwell 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 parish of Ashwell.

10. FINANCIAL IMPLICATIONS

- 10.1. The cost of the Ashwell Neighbourhood Plan examination has been met from the existing Neighbourhood Plan earmarked reserve (balance of £86k at 31 October 2021), which came about from previous Ministry of Housing, Communities and Local Government (MHCLG) funding following the designation of neighbourhood planning areas and neighbourhood plan referenda. This reserve will also be used to fund the costs associated with the referendum, if the council is not successful in claiming the £20k grant, which is explained below.
- 10.2. 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. Subject to agreeing the recommendations in this report, a claim for the Ashwell Neighbourhood Plan will be submitted in the New Year.
- 10.3. The 2022/23 Budget is subject to a separate report to this meeting. This sets out the proposed approach to the funding of growth bids for the strategic planning service including the use of existing planning reserves.

11. RISK IMPLICATIONS

- 11.1. National and Regional Planning Issues and the Local Plan are both Corporate 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 Council, as “responsible authority”, determines if the neighbourhood plan is likely to have significant environmental effects. It was determined, in a Screening Determination, dated July 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 Ashwell Neighbourhood Plan – October 2021](#)
Appendix B : Schedule of the examiner's proposed modifications and responses

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18. BACKGROUND PAPERS

- 18.1 Cabinet reports:
[Ashwell Neighbourhood Planning Area – 25 March 2014](#)
[Review of Existing North Hertfordshire Planning Guidance – July 2017](#)
[Strategic Planning Matters – 31 July 2018](#)
[Strategic Planning Matters – 16 March 2021](#)
[Strategic Planning Matters – 29 June 2021](#)
- 18.2 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-ashwell>

Ashwell Neighbourhood Plan and Appendices – Proposed Submission Version – January 2021

Independent Examiner's Clarification Note – September 2021

Independent Examiner's Report for the Ashwell Neighbourhood Plan – October 2021