

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: KNEBWORTH 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 Knebworth Parish Neighbourhood Plan and to agree that officers make arrangements to conduct a referendum within the Knebworth designated neighbourhood planning area.

**2. RECOMMENDATIONS**

- 2.1. That the Examiner's report for the Knebworth Neighbourhood Plan should be noted.
- 2.2. That following the inclusion of the Examiner's proposed modifications to the Knebworth 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 Knebworth Parish Neighbourhood Plan.
- 2.4. That the decision to "make" the Knebworth 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 Knebworth Neighbourhood Plan, enable a referendum to take place and, if more than 50% of those voting in favour of the Knebworth Neighbourhood Plan to "make" the Knebworth 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 depart from 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 Knebworth 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. The Knebworth Neighbourhood Planning Area was designated by Cabinet on 14 June 2016. The Parish Council produced a Pre-Submission (Regulation 14) draft of the Knebworth Neighbourhood Plan, which was consulted upon from 14th March to 9th May 2020.

7.2. Knebworth Parish Council submitted their neighbourhood plan to North Hertfordshire District Council on 14 March 2021. Consultation on the Proposed Submission Neighbourhood Plan (Regulation 16) took place from 21 April to 9 June 2021.

7.3. A total of 15 representations were received, generating 123 comments on the plan. The plan was then submitted for examination.

7.4. An independent examiner, Nigel McGurk, was appointed by the Council in consultation with Knebworth Parish Council.

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 3 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 between October 2021 and February 2022 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 the Parish Council, along with responses to comments raised at Regulation 16 stage.
- 8.2. The examiner's report was issued on 2 February 2022, with the following recommendations: "I find that the Knebworth Neighbourhood Plan meets the basic conditions<sup>1</sup> and I recommend to North Hertfordshire District Council that, subject to modifications, it should proceed to Referendum."
- 8.3. 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.
- 8.4. The main issues arising from the modifications relate to policies not being supported by sufficient evidence or being deemed premature due to links to the emerging Local Plan policies. The key modifications to the Neighbourhood Plan policies put forward by the Examiner include:
  - The schools chapter (Policies KBS1, KBS2, KBS3) is proposed for deletion. This is due to issues relating to delivery, a lack of evidence base and the reliance on the emerging Local Plan which is yet to be adopted.
  - The transport policies KBT2 (traffic impact), KBT3 (on street parking), KBT4 (High Street Traffic Issues) and KBT5 (Bus Routes) are proposed for deletion. The basis for this centres on the lack of substantive evidence, impacts on deliverability, prematurity due to linkages to the emerging Local Plan and policies being deemed onerous.
  - Amendments to the Green Belt policy (KBDS1) to refer to village character rather than the separation between settlements. This is proposed due to both lack of evidence and the duplication of policy.
  - The Village Centre and existing building lines policy (KBLE3): the requirements for a set distance (proposed at 7m) in relation to building lines is proposed to be removed based on lack of evidence.
  - Sustainable buildings policy (KBBE2)/ Accessible and adaptable policy (KBBE3): these policies were deemed onerous and without sufficient evidence.
  - Policies KBBE6 (emerging Local Plan allocation KB1) and KBBE7 (emerging Local Plan allocation KB2): the modifications involve a general stripping back of these policies, in response to the need for masterplanning and further evidence required in relation to access and movement, green infrastructure and sports facilities.
  - Policy KBBE8 (emerging Local Plan allocation KB4): removal of the reference to 'site reserved for new secondary school' and 'new community centre and early

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Knebworth Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

years facilities' due to being premature to the detailed masterplanning process and the lack of evidence in respect of deliverability.

- 8.5. The extent of the proposed modifications is disappointing given the level of community input, especially in relation to the policies which have been directly impacted by the continued delays to Local Plan adoption. Nonetheless, we consider that the Neighbourhood Plan should proceed to referendum given the number of policies retained, clarified and enhanced through the Examination process, and to support the Parish Council in bringing forward a Neighbourhood Plan for Knebworth.
- 8.6. A schedule of all of the 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.
- 8.7. The examiner states, that subject to the proposed modifications being made to the neighbourhood plan, he recommends that the Knebworth 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. 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. Subject to Cabinet approval, the referendum will take place on 5 May 2022 alongside the scheduled local elections .
- 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 Knebworth 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. The decision to "make" the Knebworth Neighbourhood Plan is delegated to the Service Director-Regulatory in consultation with the Executive Member for Planning.
- 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 8.8 and 8.9 above respectively.
- 9.5. As a consequence of receiving the examiner's report for the Knebworth 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 Knebworth.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. The cost of the Knebworth Neighbourhood Plan examination has been met from the existing Neighbourhood Plan earmarked reserve (balance of £84k at February 2022), which came about from previous Government 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 Department for Housing, Levelling Up and Communities (DHLUC) 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 funding has been confirmed for the 2021/22 financial year. At the time of writing, it is not known whether this financial support for neighbourhood plans will continue in future years. However, subject to agreeing the recommendations in this report and issuing the decision statement within the current financial year, a claim for the Knebworth Neighbourhood Plan will be submitted in March 2022.
- 10.3. The 2022/23 Budget sets out the proposed approach to the funding of growth bids for the strategic planning service including use of the existing neighbourhood planning reserve to part-fund staff costs.

## **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 Knebworth Neighbourhood Plan – February 2022](#)  
Appendix B : Schedule of the examiner’s proposed modifications and responses

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## **18. BACKGROUND PAPERS**

### **18.1 Cabinet reports:**

[Strategic Planning Matters – 31 July 2018](#)

[Strategic Planning Matters – 29 June 2021](#)

[Strategic Planning Matters – 20 July 2021](#)

[Strategic Planning Matters – 21 September 2021](#)

### **18.2 The following background papers are all available on the following webpage:** <https://www.north-herts.gov.uk/approved-neighbourhood-areas-knebworth>

Knebworth Neighbourhood Plan and Appendices – Proposed Submission Version – March 2021

Independent Examiner's Clarification Note – November 2021

Independent Examiner's Report for the Knebworth Neighbourhood Plan – 2 February 2022