

## CABINET

16 JANUARY 2024

### PART 1 – PUBLIC DOCUMENT

#### TITLE OF REPORT: WALLINGTON NEIGHBOURHOOD PLAN – EXAMINERS REPORT

REPORT OF: SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: CLLR RUTH BROWN, EXECUTIVE MEMBER FOR PLANNING AND TRANSPORT

COUNCIL PRIORITY: PEOPLE FIRST / SUSTAINABILITY / A BRIGHTER FUTURE TOGETHER

#### 1. EXECUTIVE SUMMARY

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

#### 2. RECOMMENDATIONS

- 2.1. That the Examiner's report for the Wallington Neighbourhood Plan should be noted.
- 2.2. That following the inclusion of the Examiner's proposed modifications to the Wallington Neighbourhood Plan, as set out in Appendix A, the Wallington Neighbourhood Plan is approved and it is approved to proceed to a referendum.
- 2.3. That the Counting Officer be instructed to conduct a referendum on the Wallington Neighbourhood Plan.
- 2.4. That the decision to "make" the Wallington Neighbourhood Plan be delegated to the Service Director – Regulatory in consultation with the Executive Member for Planning and Transport, as previously agreed by [Cabinet in July 2018](#) (Minute 21).

#### 3. REASONS FOR RECOMMENDATIONS

- 3.1. To progress the Wallington Neighbourhood Plan, enable a referendum to take place and if more than 50% of those voting in favour of the Wallington Neighbourhood Plan to "make" the Wallington 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 Wallington 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. Consultation on the neighbourhood planning area was undertaken and the neighbourhood planning area designated at a Cabinet meeting on 22 April 2020.
- 7.2. Rushden and Wallington Parish Council submitted their neighbourhood plan to North Herts Council on 5 June 2023. Consultation on the Proposed Submission Neighbourhood Plan (Regulation 16) took place between 18 July and 30 August 2023.
- 7.3. A total of 35 representations were received, 7 objections, 5 supporting representations and 23 comments. The plan was then submitted for examination.
- 7.4. An independent examiner, Andrew Ashcroft, was appointed by the Council in consultation with Rushden and Wallington 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 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 November 2023 and was conducted by written representations, rather than a public hearing. During the examination, the examiner asked some clarification questions of the Parish Council. The response from the Parish Council is listed as one of the background papers to this report.
- 8.2. The examiner's report was issued on 18 December 2023, with the following recommendations: "Following the independent examination of the Plan, I have concluded that the Wallington Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications."
- 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. 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 had the opportunity to consider the proposed modifications and the schedule of modifications (Appendix B). The Parish Council have agreed and accepted the examiner's proposed modifications as set out in the schedule with no further comments. 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.
- 8.5. The examiner states, that subject to the proposed modifications being made to the neighbourhood plan, he recommends that the Wallington Neighbourhood Plan can go forward to a referendum, as described in the second recommendation in paragraph 7.6.
- 8.6. 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.
- 8.7. Once the decision has been made by the local planning authority to hold a referendum, the Neighbourhood Plan Referendum (NPR) must be held within 56 working days of the decision (or 65 days if the NPR is being combined with a scheduled election). The Referendum is the responsibility of the Counting Officer, who is the person designated as the Council's Returning Officer for local government elections in the area. If the local planning authority orders a Referendum this will be held on Thursday 14 March 2024.
- 8.8. For the Referendum to be successful, a majority of votes is needed, where more than 50% of those voting, vote in favour of the Neighbourhood Plan. The result is binding once declared and the local planning authority must "make" the Neighbourhood Plan 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 Wallington 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 Wallington 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 designated neighbourhood plan area of Wallington.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. The cost of the Wallington Neighbourhood Plan examination has been met from the existing Neighbourhood Plan earmarked reserve (balance of £100,700 at December 2023), 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 2023/24 financial year. 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 Wallington Neighbourhood Plan will be submitted in the next claims window in March 2024.

## **11. RISK IMPLICATIONS**

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2. National and regional planning issues and the Local Plan are both Corporate Risks.
- 11.3. There is the option to hold the NPR at the same time as the scheduled elections in May. However, the Parish Council is keen to hold the Referendum at the soonest convenience. In addition, given the uncertainty of when the UK Parliamentary General Election will be called, the additional burdens already being placed on the Elections Team due to the changes imposed via the Elections Act 2022 and the first whole council elections being held in May, it is preferred to hold the NPR before the scheduled elections in May.

## **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 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 March 2022 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 : Examiner’s report for the Wallington Neighbourhood Plan – December 2023
- 16.2 Appendix B : Schedule of the examiner’s proposed modifications and responses – December 2023

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## **18. BACKGROUND PAPERS**

- 18.1 Cabinet reports:  
[Wallington Neighbourhood Planning Area – March 2020](#)  
[Strategic Planning Matters – 31 January 2023](#)  
[Strategic Planning Matters – 14 November](#)
- 18.2 The following background papers are all available on the following webpage: [Wallington - Neighbourhood Planning Area | North Herts Council \(north-herts.gov.uk\)](#)  
Wallington Neighbourhood Plan and Appendices – Proposed Submission Version – May 2023  
Independent Examiner's Clarification Note – November 2023  
Parish Council response to the Examiner's Clarification Note – November 2023  
Independent Examiner's Report for the Wallington Neighbourhood Plan – December 2023