

CABINET

18 MARCH 2025

PART 1 – PUBLIC DOCUMENT

**TITLE OF REPORT: BARKWAY AND NUTHAMPSTEAD NEIGHBOURHOOD PLAN –
EXAMINERS REPORT**

REPORT OF: SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: CLLR DANIEL ALLEN, INTERMIN EXECUTIVE MEMBER FOR
PLANNING AND TRANSPORT

COUNCIL PRIORITY: THRIVING COMMUNITIES / RESPONSIBLE GROWTH /
SUSTAINABILITY

1. EXECUTIVE SUMMARY

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

2. RECOMMENDATIONS

- 2.1. That the Examiner's report for the Barkway and Nuthampstead Neighbourhood Plan should be noted.
- 2.2. That following the inclusion of the Examiner's proposed modifications to the Barkway and Nuthampstead Neighbourhood Plan, as set out in Appendix A, the Barkway and Nuthampstead 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 Barkway and Nuthampstead Neighbourhood Plan.
- 2.4. That subject to Recommendation 2.3 and the outcome of the referendum, the decision to "make" the Barkway and Nuthampstead 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 Barkway and Nuthampstead Neighbourhood Plan, enable a referendum to take place and if more than 50% of those voting in favour of the Barkway and Nuthampstead Neighbourhood Plan to "make" the Barkway and Nuthampstead Neighbourhood Plan.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1. There are a number of alternative options which have been considered:

- To propose additional modifications to the neighbourhood plan: The independent examiner's report sets out a number of modifications to the neighbourhood plan and it is considered that no further modifications, other than those, are necessary.
- 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.
- 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 Barkway and Nuthampstead Neighbourhood Plan has been subject to public consultation which is described in paragraph 7.3 below. Members have been kept informed of the progress of this neighbourhood plan through the Strategic Planning reports to Cabinet.

5.2. As this report is being considered as an urgent decision and therefore not subject to call-in, requires consultation with prescribed Members. The Chair of Council (and Vice Chair of Council) as well as the Chair of the Overview and Scrutiny Committee were notified that the matter was to be considered as urgent, for the reasons as detailed in paragraph 8.8. In addition a notice of reason for urgency was published on 14 February 2025.

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. Barkway Parish Council and Nuthampstead Parish Meeting applied for the designation of the combined parish area as one neighbourhood planning area in April 2014. Consultation on the neighbourhood planning area was undertaken and the neighbourhood planning area designated at a Cabinet meeting on 5 August 2014.

7.2. Barkway Parish Council submitted their neighbourhood plan to North Herts Council on 22 April 2024. Consultation on the Proposed Submission Neighbourhood Plan (Regulation 16) took place between 10 May and 25 June 2024.

7.3. A total of 55 representations were received, 4 objections, 8 supporting representations and 43 comments. The plan was then submitted for examination.

7.4. An independent examiner, Edward Cousins KC, was appointed by the Council in consultation with Barkway Parish Council and Nuthampstead Parish Meeting.

- 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 Part 2: The Statutory Framework 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 2024 and January 2025 and was conducted by written representations, rather than a public hearing. During the examination, the examiner asked a number of clarification questions of both the District and the Parish Council. The responses to those questions of clarification are listed as one of the background papers to this report.
- 8.2. The examiner's report was issued on 16 January 2025, with the following recommendation: "I therefore recommend to NHDC that the Neighbourhood Plan, subject to the incorporation of the recommended modifications as specified, 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. A schedule of the examiner's proposed modifications has been prepared which is attached as Appendix B. The Parish Council, as the Qualifying Body have confirmed that they are content to accept all of the Examiner's proposed modifications. There are a number of minor modifications proposed which the Examiner did not include in his proposed modifications, but these are limited to typographical and consequential numbering modifications and are noted in the schedule. The schedule of modifications has been prepared in consultation with the Parish Council. 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 Barkway and Nuthampstead Neighbourhood Plan can go forward to a referendum, as described in the second recommendation in paragraph 7.6 above.

- 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 1 May 2025.
- 8.8. For cost, efficiency, and resource reasons as well as for the ease of the residents, it is preferable to hold the Referendum on 1 May, alongside the scheduled Hertfordshire County Council elections. However, to do this the decision must be taken as an urgent decision and therefore not subject to call in. The reasons for this are due to the statutory deadlines for when the Information Sheet and the Notice of Referendum must be published (which if not considered urgent fall within the call in period and therefore not be able to be enacted. Meaning that the NPR will be held after 1 May).
- 8.9. 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 it is 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 Barkway and Nuthampstead neighbourhood planning area (see also Paragraph 9.5 below).

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 8.6 and 8.7 above respectively.

- 9.5. As a consequence of receiving the examiner's report for the Barkway and Nuthampstead 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 parishes of Barkway and Nuthampstead.
- 9.6. It has been agreed with the Chair of Council and the Chair of the Overview and Scrutiny Committee that the decision proposed is reasonable in all the circumstances and that it is being treated as a matter of urgency under the [Council's Constitution 6.3.11 \(b\)\(i\)](#).

10. FINANCIAL IMPLICATIONS

- 10.1. The cost of the Barkway and Nuthampstead Neighbourhood Plan examination has been met from the existing Neighbourhood Plan earmarked reserve (balance of £103,300 at February 2025), 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 Ministry of Housing, Communities and Local Government (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 funding has been confirmed for the 2024/25 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 Barkway and Nuthampstead Neighbourhood Plan will be submitted.

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. There are no pertinent risks associated with this report. The recommendations provide the opportunity to hold the required referendum on 1 May 2025, thereby achieving the benefits (cost and resource efficiencies) of doing so alongside the scheduled County Council elections.

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 April 2024 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 Barkway and Nuthampstead Neighbourhood Plan – January 2025
- 16.2 Appendix B : Schedule of the examiner’s proposed modifications and responses – March 2025

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18. BACKGROUND PAPERS

18.1 Cabinet reports:

[Barkway and Nuthampstead Joint Neighbourhood Planning Area – 5 August 2014 \(Minute 36\)](#)

18.2 The following background papers are all available on the following webpage: [Barkway and Nuthampstead Neighbourhood Plan | North Herts Council](#)

- Barkway and Nuthampstead Neighbourhood Plan and Appendices – Proposed Submission Version – April 2024
- Independent Examiner's Clarification Notes – October and November 2024
- District and Parish Council responses to the Examiner's Clarification Note – November 2024
- Independent Examiner's Report for the Barkway and Nuthampstead Neighbourhood Plan – January 2025

18.3 Notice of Reasons for Urgency - <https://www.north-herts.gov.uk/sites/default/files/2025-02/Urgency%20Notice%20-%20NPR%20-%20Barkway%20and%20Nuthampstead%20-%2018.03.25.pdf>