

**CABINET
17 DECEMBER 2019**

PUBLIC DOCUMENT

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

REPORT OF THE SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: PLANNING AND TRANSPORT

COUNCIL PRIORITY: PROSPER AND PROTECT

1. EXECUTIVE SUMMARY

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

2. RECOMMENDATIONS

- 2.1. That the examiner’s report for the Preston Parish Neighbourhood Plan should be noted.
- 2.2. That following the inclusion of the Examiner’s proposed modifications and one minor modification set out in paragraph 4.2 to the Preston Parish 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 Preston Parish Neighbourhood Plan.
- 2.4. That the decision to “make” the Preston Parish Neighbourhood Plan be delegated to the Service Director – Regulatory in consultation with the Executive Member for Planning and Transport.

3. REASONS FOR RECOMMENDATIONS

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

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. To accept all of the independent examiner's recommendations and proceed to a referendum: this is not appropriate in this instance as the Parish Council has identified that there is a word missing from the examiner's recommendations for Policy HD8 in the neighbourhood plan.
- 4.2. To propose additional modifications to the neighbourhood plan: The independent examiner's report sets out a number of modifications to the neighbourhood plan, however, Officers consider that there is one further minor amendment which should be made to Policy HD8 before the neighbourhood plan is subject to a referendum. This further modification is set out in the schedule of proposed modifications in Appendix B.
- 4.3. 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 recommendation of the examiner.
- 4.4. 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.
- 4.5. A full copy of the examiner's report is attached as Appendix A.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Preston Parish 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 the 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. Preston Parish Council applied for the designation of the whole parish area as a neighbourhood planning area in March 2016. Consultation on the neighbourhood planning area was undertaken and the neighbourhood planning area designated at a Cabinet meeting on 14 June 2016.
- 7.2. In preparing the neighbourhood plan, Preston Parish Council has undertaken a significant amount of work and public consultation. Consultation on an early draft neighbourhood plan took place in January and February 2018. The neighbourhood plan was first submitted to the District Council in April 2018 with consultation taking place between May and July 2018. Following discussions between the Parish Council and officers, it was agreed that the neighbourhood plan would not be sent for examination until proposed Main Modifications for the Local Plan had been published.

A revised neighbourhood plan was submitted to the District Council in February 2019 with consultation taking place between March and April 2019. A total of 37 representations were received, 12 objections, 4 supporting representations and 21 comments. The plan was then submitted for examination.

- 7.3. An independent examiner, Andrew Ashcroft, was appointed by the Council in consultation with Preston 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 2019 and was conducted by written representations, rather than a public hearing. During the examination, the examiner asked for some additional information from both the Parish Council and the District Council.
- 8.2. The main issue raised by the examiner in his clarification note was whether the District Council was satisfied that the neighbourhood plan could meet the Basic Condition that it would be in general conformity with the strategic policies in the Local Plan, in particular whether the neighbourhood plan would be in conflict with Policy 2 – Green Belt and Policy 3 – Settlements within the Green Belt in the saved Local Plan. In its response, the District Council stated that these policies do not apply to the parish of Preston as it is not currently within the green belt, but in the area defined as being in the rural area beyond the green belt and that the inclusion of a village boundary for Preston would not undermine the strategic approach to rural areas in the adopted policies. The examiner's clarification note and the responses provided by the Parish Council and the District Council are available to view on the website: <https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/approved-neighbourhood-areas-preston>
- 8.3. The examiner has also recommended that the Parish Council undertake a review of the neighbourhood plan within twelve months of the adoption of the emerging Local Plan. This recommendation has been made because of the respective timings of the emerging Local Plan and the neighbourhood plan.

- 8.4. The examiner's report was issued on 5 November 2019, with the following recommendations: *"On the basis of the findings in this report I recommend to North Hertfordshire District Council that subject to the incorporation of the modifications set out in this report that the Preston Parish Neighbourhood Development Plan should proceed to referendum."*
- 8.5. The Preston Parish Neighbourhood Plan does not allocate any sites for residential development but does reflect the proposed village boundary within the emerging Local Plan and the proposed allocation of a site in Templars Lane. The policies in the neighbourhood plan will ensure that any future development is sustainable and suitable for the parish. The examiner has considered all of the policies and the supporting text which will ensure that the neighbourhood plan can be used in determining planning applications and will provide a practical framework for decision making.
- 8.6. 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, subject to one further modification to Policy HD8. 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 Preston Parish 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. It is anticipated that the referendum will take place in March but an update will be provided at the meeting of Cabinet.
- 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 Preston 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 and doesn't breach or is otherwise compatible with EU obligations.
- 9.4. Regulations 2A and 18A of the Neighbourhood Planning (Referendums) Regulations 2012 prescribe the relevant time limits referred to in paragraphs 8.10 and 8.11 above respectively.
- 9.5. As a consequence of receiving the examiner's report for the Preston Parish 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 Preston.

10. FINANCIAL IMPLICATIONS

- 10.1. The cost of the Preston Parish Neighbourhood Plan examination has been met from the existing Neighbourhood Plan earmarked reserve (balance of £41k at 31 March 2019), which came about from previous Ministry of Housing, Communities and Local Government (MHCLG) funding following designation of neighbourhood planning areas. This reserve will also be used to fund the costs associated with the referendum.
- 10.2. Until March 2020 the local planning authority can claim £20,000 from the MHCLG once a neighbourhood plan has gone through a successful examination process and a date has been set for a referendum. At the time of writing, it is not known whether this financial support will continue in future years.

11. RISK IMPLICATIONS

- 11.1. There are no direct risk implications from this report but Sustainable Development of the District and the Local Plan are both Cabinet top 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. HUMAN RESOURCE IMPLICATIONS

- 14.1. Holding a referendum for the neighbourhood plan will involve the Electoral Services team in additional work in setting up and running the referendum.

15. APPENDICES

- 15.1. Appendix A - Preston Parish Neighbourhood Plan – Independent Examiner’s Report
<https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/approved-neighbourhood-areas-preston>
- 15.2. Appendix B : Schedule of the examiner’s proposed modifications and responses

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1. Cabinet reports:

Knebworth and Preston Neighbourhood Planning Areas - 14 June 2016
Strategic Planning Matters – 27 March 2018
Strategic Planning Matters – 31 July 2018
Strategic Planning Matters – 26 March 2019
Strategic Planning Matters – 11 June 2019

17.2. 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-preston>

Preston Parish Neighbourhood Plan – Proposed Submission Version – April 2018
Delegated decision – Consultation on proposed submission version – 11 May 2018

Delegated decision – Consultation on second proposed submission version – 28 February 2019

Preston Parish Neighbourhood Plan – 2nd Proposed Submission Version – March 2019

Independent Examiner’s Clarification Note – August 2019

Independent Examiner’s Report for the Preston Parish Neighbourhood Plan – November 2019.