

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	20 September 2016
Subject:	Authorisation to send two Neighbourhood Plans, that have successfully completed Independent Examination, to Community Referendum: <ul style="list-style-type: none">• The Winchcombe and Sudeley Neighbourhood Plan; and• The Highnam Neighbourhood Plan.
Report of:	Paul Hardiman, Planning Policy Officer
Corporate Lead:	Julie Wood, Development Services Group Manager
Lead Member:	Councillor D M M Davies
Number of Appendices:	Eight

Executive Summary:

Local Planning Authorities (LPAs) have a statutory duty to advise or assist communities in the preparation of Neighbourhood Development Plans, often referred to as 'Neighbourhood Plans'. The Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 (as amended) set out the LPA's responsibilities including deciding the actions to be taken on receipt of a report and recommendations from the Independent Examination of a Neighbourhood Plan.

Examiners' Reports have now been received on two Neighbourhood Plans prepared by the following Parishes:

- Highnam; and
- Winchcombe and Sudeley combined.

In both cases the Examiner recommended that "subject to the modifications proposed", the Neighbourhood Plans "should proceed to a Referendum".

The modifications proposed have been considered by both Officers, on behalf of the LPA, and the respective Qualifying Bodies. As a result recommendations have been received from both 'Winchcombe and Sudeley' and 'Highnam' to accept all of the Examiner's proposed modifications and proceed to referendum.

It is also suggested that in future the decision to submit a Neighbourhood Plan to Referendum be delegated to the Executive Committee with the final decision to adopt or make a Neighbourhood Development Plan following a successful Referendum remaining with the Council.

Recommendation:

1. To **APPROVE** the submission of the 'Winchcombe and Sudeley Combined Neighbourhood Plan' and the 'Highnam Neighbourhood Plan', both incorporating modifications proposed through independent examination, to community referendum.
2. To delegate authority to the Executive Committee to approve the submission of Neighbourhood Plans to community referendum with the Council retaining the final decision to adopt or make a Neighbourhood Development Plan following a successful Referendum.

Reasons for Recommendation:

1. The Examiner has recommended that both Neighbourhood Plans, if modified as recommended, meet the basic standards required and should proceed to referendum.
2. The Borough Council must organise a referendum on any plan or order that meets the basic standards.
3. The Officer recommendation to Members is that the modifications made by the Examiner are comprehensive and well justified and the conclusion that, with these modifications, the plan proposals will meet the basic conditions is accepted.
4. The Qualifying Bodies have confirmed their recommendations to Tewkesbury Borough Council to:
 - a. "modify the Winchcombe and Sudeley Neighbourhood Plan by incorporating the recommendations of the Examiner and putting the Plan to referendum of the relevant electorate as soon as possible" (Appendix D. Winchcombe and Sudeley Recommendation. Town Council Meeting, Wednesday 6 July 2016); and
 - b. "At last week's meeting of the Parish Council it was resolved that the Plan, incorporating the Examiner's comments, should be submitted to TBC with a recommendation that it be put to local referendum" (Appendix H. Highnam Recommendation. Parish Council Meeting, Tuesday 12 July 2016).
5. The proposed delegation to the Executive Committee will allow the timetable for the holding of a Referendum to be put in place in an expedient manner.

Resource Implications:

Additional financial contributions are available from the Department of Communities and Local Government to help support Neighbourhood Planning.

There will be human resource implications due to requirement to arrange the referendums and, subject to the results of the referendums, bring the plans into force.

The resource implications are corporate including Development Services, Community Development, Financial Services and One Legal. However at the referendum stage the greatest demand will be on Democratic Services.

Legal Implications:

We have a duty to undertake this work under the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 as amended (2015).

Risk Management Implications:

The decision on progressing a Neighbourhood Plan, that has successfully passed Independent

Examination is the statutory duty of Tewkesbury Borough Council as the LPA. However the consideration and recommendation of the Parishes preparing the Plans, referred to in the legislation as the 'Qualifying Bodies', has been sought to reassure Members that the plans, as modified by the Examiners, are still supported by those who have prepared them. As both Qualifying Bodies are recommending accepting all of the recommended modifications of the Examiner, and the Examiner has concluded that this will then satisfy the basic conditions, Tewkesbury Borough Council has an obligation, under Schedule 4B of the 1990 Town and Country Planning Act, to arrange a referendum, unless the Examiner's recommended modifications and/or conclusions are to be challenged.

Performance Management Follow-up:

There is currently no statutory timescale for holding a referendum once the LPA has made its decision. However, the new 'Neighbourhood Planning (Referendums) (Amendment) Regulations 2016' come into force on 1 October 2016 and require the referendum date to be within 56 days of the Decision Statement being published and this applies to referendums already set when the Regulations come into force.

Environmental Implications:

The implications for biodiversity, habitats, energy usage, waste and recycling or protected species have been considered by the Qualifying Body as required by the Environmental Assessment of Plans and Programmes Regulations 2004 and the Conservation of Habitats and Species Regulations 2010.

1.0 INTRODUCTION/BACKGROUND

- 1.1** The planning system helps decide what gets built, where and when. It is essential for supporting economic growth, improving people's quality of life, and protecting the natural environment. The government's intention is to give local communities a greater say in planning decisions that affect them by providing the opportunity to prepare a Neighbourhood Plan if they wish. Neighbourhood planning was introduced in the Localism Act 2011 with specific legislation (the Neighbourhood Planning (General) Regulations 2012) coming into effect in April 2012.
- 1.2** A Neighbourhood Plan is a statutory community-led framework for guiding the future development and growth in an area. Neighbourhood Plans relate to the use and development of land and associated social, economic and environmental issues. A Neighbourhood Plan can establish general planning policies for the development and use of land in a designated "Neighbourhood Area", for example where new homes and offices should be built and what they should look like. The Plan can be detailed or general, depending on what local people want. However, Neighbourhood Plans still need to meet the needs of the wider area, which for Tewkesbury Borough will, in future, be set out in the Joint Core Strategy and Tewkesbury Borough Plan, once adopted.
- 1.3** Neighbourhood Plans must be subject to full public engagement, examination and a public referendum. Once adopted, a Neighbourhood Plan will form part of the statutory development plan for the designated neighbourhood area (eventually along with the Joint Core Strategy and Tewkesbury Borough Plan), which will be used for guiding decisions on planning applications. In Tewkesbury Borough it is the Town or Parish Councils that are the 'Qualifying Bodies' for leading the preparation of a Neighbourhood Plan.

1.4 There are 5 key stages to neighbourhood planning:

Stage 1: Defining the Neighbourhood Area.

The first formal stage in the Neighbourhood Plan preparation process is for local people to decide how they want to work together and then for the body that wishes to prepare the Plan to apply to Tewkesbury Borough Council, as LPA, for their area to be designated. The LPA then checks that the suggested boundaries for different Neighbourhood Areas make sense and fit together. The LPA could say no if, for example, two proposed Neighbourhood Areas overlap. Tewkesbury Borough now has 13 Neighbourhood Areas covering 18 Parishes designated:

1. Stoke Orchard and Tredington Combined;
2. The Leigh;
3. Gotherington;
4. Tewkesbury Town;
5. Northway;
6. Forthampton;
7. Highnam;
8. Alderton;
9. Twyning;
10. Ashchurch Rural;
11. Down Hatherley, Norton and Twigworth Combined;
12. Winchcombe and Sudeley Combined; and
13. Churchdown and Innsworth Combined.

Winchcombe and Sudeley Combined Neighbourhood Area was formally designated in June 2013, whilst Highnam Neighbourhood Area was designated in January 2014.

Stage 2: Preparing the Plan.

Local people will need to prioritise their early ideas, and draw up their plans following some ground rules:

- they must generally be in line with local and national planning policies;
- they must be in line with other laws;
- if the LPA says that an area needs to grow, then communities cannot use neighbourhood planning to block the building of new homes and businesses; they can, however, use neighbourhood planning to influence the type, design, location and mix of new development;
- Neighbourhood Plans must contribute to achieving sustainable development; and
- The Neighbourhood Plan must be subject to public consultation.

In Tewkesbury Borough 11 of the 13 Neighbourhood Plans are currently at the preparatory stage:

1. Stoke Orchard and Tredington Combined;
2. The Leigh;
3. Gotherington;
4. Tewkesbury Town;
5. Northway;
6. Forthampton;
7. Alderton;
8. Twyning;
9. Ashchurch Rural;
10. Down Hatherley, Norton and Twigworth Combined;
11. Churchdown and Innsworth Combined.

Stage 3: Independent Examination.

Once a Neighbourhood Plan has been prepared, an independent examiner will check that it meets the required basic standards. If the Plan does not meet these standards the examiner will recommend changes. The LPA will then need to consider the examiner's views and decide whether to make those changes. If the examiner recommends significant changes, then the Parish, Town Council or Neighbourhood Forum may decide to withdraw the proposed Plan and work on developing a new Plan in consultation with the local community again before proceeding.

In Tewkesbury Borough the two Plans that are the subject of this report and recommended to go forward to referendum have been through Examination:

1. Highnam; and
2. Winchcombe and Sudeley Combined.

Stage 4: Community Referendum.

The Borough Council must organise a referendum on any Plan or Order that meets the basic standards. This ensures that the community has the final say on whether a Neighbourhood Plan or Order comes into force. People living in the Neighbourhood Area who are registered to vote in local elections will be entitled to vote in the referendum. If more than 50% of people voting in the referendum support the Plan or Order, then the LPA must bring it into force.

Stage 5: Legal Force.

Once a Neighbourhood Plan is in force, following a successful referendum, it carries real legal weight. Decision makers are obliged to consider proposals for development in the Neighbourhood Area against the Neighbourhood Plan, which becomes part of the Statutory Development Plan for that area.

1.5 LPAs have a statutory duty to advise or assist communities in the preparation of Neighbourhood Plans and to take Plans through a process of independent examination. The Localism Act 2011 sets out the LPA's responsibilities:

- designating the area of the Neighbourhood Plan;
- advising or assisting communities in the preparation of a Neighbourhood Plan;
- checking a submitted Plan meets the legal requirements;
- arranging for the independent examination of the Plan;
- determining whether the Neighbourhood Plan meets the basic conditions and other legal requirements;
- arranging a referendum to ensure that the local community has the final say on whether a Neighbourhood Plan comes into force in their area; and
- subject to the results of the referendum, bringing the Plan into force.

2.0 MOVING FORWARD TO REFERENDUM

2.1 On receiving the report of the Independent Examiner, the LPA must:

Publish the report and their decision on the Plan proposal "on their website and in such other manner as they consider is likely to bring the decision statement and, as the case may be, the report to the attention of people who live, work or carry on business in the neighbourhood area."

2.2 The LPA's decision statement will include:

- "The decision and the reasons for it" which may be:
 - the LPA is not satisfied with, and has decided to refuse, the Plan proposal as it does not believe it meets the basic conditions and/or would not even with modification; or
 - the LPA is satisfied that the Plan proposal meets the basic conditions or will with modification and an explanation of the actions to be taken and modifications made in response to recommendations made in the Examiners report will be included.
- "whether to extend the area to which the referendum is (or referendums are) to take place."

2.3 The decision to refuse the plan proposal would only be made on the following grounds:

- the LPA is not satisfied that the Plan proposal meets the basic conditions;
- the LPA does not believe with modification the Plan proposal can meet the basic conditions;
- the LPA considers that the Plan proposal constitutes a repeat proposal; and
- the LPA does not believe the qualifying body is authorised or that the proposal does not comply with that authorisation.

3.0 WINCHCOMBE AND SUDELEY NEIGHBOURHOOD DEVELOPMENT PLAN PROPOSAL

- 3.1** The report of the Independent Examiner was received, shared with the qualifying body and published on 20 May 2016.
- 3.2** The Examiner makes a number of recommendations to delete and amend sections of the Plan proposal and concludes that, subject to the recommended modifications being made, the Plan meets the basic conditions required and therefore should proceed to referendum.

4.0 HIGHNAM NEIGHBOURHOOD DEVELOPMENT PLAN PROPOSAL

- 4.1** The report of the Independent Examiner was received, shared with the qualifying body and published on 3 June 2016.
- 4.2** The Examiner makes a number of recommendations to delete and amend sections of the Plan proposal and concludes that, subject to the recommended modifications being made, the Plan meets the basic conditions required and therefore should proceed to referendum.

5.0 DELEGATED AUTHORITY TO APPROVE NEIGHBOURHOOD PLANS TO BE SUBMITTED FOR REFERENDUM

- 5.1** The Council's Constitution currently requires that plans and strategies which comprise the Local Development Framework be dealt with by Council as part of the Policy Framework. Previously the Council delegated authority to the Executive Committee to define a Neighbourhood Area and it is now suggested, for the purposes of expediency, that the approval of a Plan for submission to a Referendum also be delegated to the Executive Committee in future. Such a delegation would ensure that the next stage in the process, in terms of holding a Referendum following an independent examination, be undertaken as soon as is practicable rather than having to wait until the next Council meeting before the Referendum timetable can commence. The final decision to adopt or make a Neighbourhood Development Plan following a successful Referendum would still rest with the Council.

6.0 OTHER OPTIONS CONSIDERED

- 6.1** No other options have been considered as the development of Neighbourhood Plans is a statutory process.

7.0 CONSULTATION

7.1 Consultation has been undertaken in order to legally comply with the requirements of the Neighbourhood Planning (General) Regulations 2012 (as amended). In addition to public engagement throughout the process of preparing a Neighbourhood Plan the Regulations require two statutory six week periods of consultation:

Under Regulation 14 the Qualifying Body is required to consult on the proposed Plan prior to submission to the LPA. In Tewkesbury Borough, in addition to the 'Highnam' and 'Winchcombe and Sudeley' Plan proposals 3 of the 11 remaining Plans have completed this stage of consultation:

1. Gotherington;
2. Alderton; and
3. Ashchurch Rural.

Under Regulation 16 the LPA is required to consult on Plan proposals submitted. In Tewkesbury Borough, in addition to the 'Highnam' and 'Winchcombe and Sudeley' Plan proposals 1 of the 11 remaining plans is now subject to this stage of consultation:

1. Gotherington.

8.0 RELEVANT COUNCIL POLICIES/STRATEGIES

8.1 Tewkesbury Borough Council Plan 2012 – 16

Priority: Provide customer focused community support.

Objective 3 – Work with Town and Parish Councils to deliver the localism agenda.

Action b) Provide appropriate support for Neighbourhood Planning.

9.0 RELEVANT GOVERNMENT POLICIES

9.1 The National Planning Policy Framework (2012) Paragraphs 183 – 185.

10.0 RESOURCE IMPLICATIONS (Human/Property)

10.1 See above.

11.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

11.1 Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to set planning policies to ensure that communities get the right types of development for their area within the overarching framework set by the local plan.

12.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

12.1 Neighbourhood Plan process requires evidence of involvement by hard to reach groups. This is a matter that the relevant, qualifying body preparing the Plan has addressed and reported on to the Examiner in their 'Consultation Statement', which is a requirement for examination alongside a 'Basic Conditions Statement' and 'Plan Proposal'.

13.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

- 13.1** Decision to delegate to the Executive Committee the defining of a Neighbourhood Area – 29 January 2013.

Background Papers: None.

Contact Officer: Paul Hardiman, Planning Policy Officer. Tel: 01684 272261

Email: paul.hardiman@tewkesbury.gov.uk

Appendices: A. Winchcombe and Sudeley Plan Proposal with Modifications in Track Changes.

B. Winchcombe and Sudeley Plan Proposal Clean Version.

C. Winchcombe and Sudeley Examiners Report.

D. Winchcombe and Sudeley Recommendation.

E. Highnam Plan Proposal with Modifications in Track Changes.

F. Highnam Plan Proposal Clean Version.

G. Highnam Examiners Report.

H. Highnam Recommendation.