

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	26 April 2017
Subject:	Gotherington Neighbourhood Plan Referendum
Report of:	Paul Hardiman, Planning Policy Officer
Corporate Lead:	Annette Roberts, Head of Development Services
Lead Member:	Councillor D M M Davies
Number of Appendices:	One

Executive Summary:

Local Planning Authorities 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 Local Planning Authority's responsibilities including deciding the actions to be taken on receipt of a report and recommendations from the Independent Examination of a Neighbourhood Plan.

The 'Examiners' Report' on the Gotherington Neighbourhood Plan was received on 6 April 2017.

The Examiner has recommended that "subject to the modifications recommended", the Neighbourhood Plan "should proceed to a Referendum".

The modifications proposed are now being considered by both Borough Council Officers and representatives of Gotherington Parish Council. This process will result in a formal recommendation from the Parish Council.

Whilst it is expected that the Parish Council will accept all of the Examiner's proposed modifications, at the time of preparing this report, there has not been time for the Parish Council to fully consider the recommendations and obtain a resolution to formally recommend accepting all modifications and proceeding to referendum.

However under the Neighbourhood Planning (General) and Development Management Procedure (amendment) Regulations 2016 Tewkesbury Borough Council has only five weeks from the receipt of the Examiner's report to decide on the actions to be taken on the Examiners recommendations.

As Executive Committee will not meet again until after this deadline expires approval is sought to delegate the authority to make this decision to the Head of Development Services, in consultation with the Lead and Ward Members.

Recommendation:

To delegate authority to the Head of Development Services, in consultation with the Lead and Ward Members, to approve modifications made to the Gotherington Neighbourhood Development plan and make the formal decision on progressing to Community Referendum, ascribed by Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Reasons for Recommendation:

1. The Examiner has recommended that the Gotherington Neighbourhood Plan, if modified as

recommended, meets the 'Basic Conditions' required and should proceed to 'Referendum';

2. Within five weeks of receiving the Examiner's report, the Borough Council must consider each of the Examiner's recommendations and publish a 'Decision Statement' on whether the amended plan meets the 'Basic Conditions' and if it should progress to a 'Referendum'; and
3. Within 56 days of the publication of the 'Decision Statement', the Borough Council must organise a referendum on any plan or order that it has determined meets the 'Basic Conditions'.

Resource Implications:

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

If the plan is judged to meet the 'Basic Conditions' there will be human resource implications as we are required to arrange the Referendum; and, subject to the results of the Referendum, bring the plan into force within 56 days of a successful Referendum.

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).

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 Parish which has prepared the Plan, referred to in the legislation as the 'Qualifying Body', is being sought to reassure Members that the plan, as modified by the Examiner, is still supported by those who have prepared it.

Providing all of the recommended modifications are accepted, by the Qualifying Body and Tewkesbury Borough Council as the Local Planning Authority, the Examiner concluded that this will then satisfy the basic conditions and Tewkesbury Borough Council have 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:

Since the 'Neighbourhood Planning (Referendums) (Amendment) Regulations 2016' came into force on 1 October 2016 the Referendum must be held within 56 days of the Decision Statement being published, following the delegated decision of the Head of Service.

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 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 'Relevant Bodies', allowed to apply to the LPA to designate a Neighbourhood Area for which the Neighbourhood Plan will be developed. Once a Neighbourhood Area has been designated the Town or Parish Council become the 'Qualifying Body' on whose behalf the Neighbourhood Plan is prepared.

- 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. Gothingington;
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.

Gotherington Neighbourhood Area was formally designated in September 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 10 of the 13 Neighbourhood Plans are currently at the preparatory stage:

1. Stoke Orchard and Tredington Combined;
2. The Leigh;
3. Tewkesbury Town;
4. Northway;
5. Forthampton;
6. Alderton;
7. Twyning;
8. Ashchurch Rural;
9. Down Hatherley, Norton and Twigworth Combined; and
10. 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 three plans including Gotherington Neighbourhood Plan, that is the subject of this report have been through Examination:

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

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 designated 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, who choose to exercise their right to prepare a Neighbourhood Plan 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 its 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 have decided to refuse, the plan proposal as they do not believe it meets the basic conditions and/or would not even with modification;
 - 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 GOTHERINGTON NEIGHBOURHOOD DEVELOPMENT PLAN PROPOSAL

3.1 The report of the Independent Examiner was received, shared with the qualifying body and published on 6 April 2017.

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 OTHER OPTIONS CONSIDERED

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

5.0 CONSULTATION

5.1 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.

Under Regulation 16 the LPA is required to consult on Plan Proposals submitted and forward the responses to the Independent Examiner for consideration.

6.0 RELEVANT COUNCIL POLICIES/STRATEGIES

6.1 *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.

7.0 RELEVANT GOVERNMENT POLICIES

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

8.0 RESOURCE IMPLICATIONS (Human/Property)

8.1 See above.

- 9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 9.1** 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.
- 10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 10.1** The neighbourhood planning process requires evidence of involvement by hard to reach groups. This is a matter that the relevant, 'Qualifying Body' preparing the plan have 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'.
- 11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 11.1** Decision to delegate to the Executive Committee the defining of a Neighbourhood Area – 29 January 2013.
- 11.2** Decision to delegate to the Executive Committee the authorisation for Neighbourhood Plans to go to Community Referendum – 20 September 2016.

Background Papers: None.

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Appendices: Final Report of the Independent Examiner on the Gotherington Neighbourhood Development Plan.