

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive Committee
<b>Date of Meeting:</b>	3 January 2018
<b>Subject:</b>	Twyning Neighbourhood Plan Referendum
<b>Report of:</b>	Paul Hardiman, Planning Policy Officer
<b>Corporate Lead:</b>	Annette Roberts, Head of Development Services
<b>Lead Member:</b>	Lead Member for Built Environment
<b>Number of Appendices:</b>	Four

## **Executive Summary:**

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

The Examiners' Report', attached at Appendix 1, on the Twyning Neighbourhood Plan was received on 16 November 2017.

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

The modifications proposed have been considered by Borough Council Officers and the consideration of the recommendations and resulting amendments have been shared with the Parish Council, attached at Appendix 2. The Parish Council has formally recommended that all of the modifications are accepted – see Appendix 3.

## **Recommendation:**

**That the Twyning Neighbourhood Development Plan, modified according to the Examiners recommended amendments, is formally approved to progress to Community Referendum, ascribed by Regulation 18 of the Neighbourhood Planning (General) Regulations 2012, as amended.**

## **Reasons for Recommendation:**

The Examiner has recommended that the Twyning Neighbourhood Plan, if modified as recommended, meets the 'Basic Conditions' required and should proceed to 'Referendum'.

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'.

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 currently available from the Department of Communities and Local Government to help the Council meet its obligations.

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 another 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 Town and Country Planning Act 1990 (as amended), the Localism Act 2011, the Neighbourhood Planning (General) Regulations 2012, as amended and the Neighbourhood Planning (Referendums) 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 Local Planning Authority. However, the consideration and recommendation of the Parish which has prepared the Plan, referred to in the legislation as the 'Qualifying Body', has been sought to reassure Members that the Plan, as modified according to the Examiner's recommendations, is still supported by those who have prepared it.

Providing all of the recommended modifications are accepted by the Qualifying Body and the Local Planning Authority, the Examiner concluded that this will satisfy the Basic Conditions and 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:**

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 expiry of the call-in period for this Executive Committee meeting.

#### **Environmental Implications:**

The implications for biodiversity, habitats, energy usage, waste and recycling or protected species have been considered by the Qualifying Body, with the assistance of the Borough Council, 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 including the Neighbourhood Planning (General) Regulations 2012, as amended.

**1.2** There are five key stages to neighbourhood planning:

Stage 1 – Defining the Neighbourhood Area and applying to the Borough Council to have it formally designated.

Stage 2 – Preparing the Plan includes a number of activities including public consultation undertaken by the Neighbourhood Planning Group, submission of a draft Plan, as a proposal to the Borough Council and then the Borough Council undertaking its own public consultation.

Stage 3 – With the agreement of the Qualifying Body (Parish Council), we are required to appoint an independent examiner to check that it meets the basic standards required. It is when the Examiner publishes their final report that the Borough Council must consider any recommendations of changes to be made so that the Plan meets the basic conditions and formally decide whether to send the Plan to referendum.

Stage 4 – The Borough Council is responsible for organising a referendum of those people in the Neighbourhood Area who are entitled to vote in local elections.

Stage 5 – If more than 50% of people voting in the referendum support the Plan then the Borough Council must bring it into legal force.

## **2.0 MOVING FORWARD TO REFERENDUM**

**2.1** On receiving the report of the Independent Examiner, the Borough Council must publish the report and its decision on the Plan proposal. As required this was done on the Council's website on 17 November 2017.

**2.2** If the decision of the Committee is to send the Plan to referendum, the Council is then required to publish a decision statement which will include:

“The decision and the reasons for it” which may be –

- The Council is not satisfied with, and has decided to refuse, the Plan proposal as it is not considered to meet the basic conditions and/or would not even with modification;
- The Council is satisfied that the Plan meets the basic conditions, or will with modification, and an explanation of the actions to be taken and modifications made in response to the Examiners report; and
- “whether to extend the area to which the referendum is (or referendums are) to take place”.

**2.3** The decision to refuse a Plan proposal can only be made on the following grounds:

- If the Council is not satisfied that the Plan proposal meets the basic conditions;
- If the Council does not believe that, with modification, the Plan proposal can meet the basic conditions;
- If the Council considers that the Plan proposal constitutes a repeat proposal; and
- If the Council does not believe that the Qualifying Body is authorised or that the proposal does not comply with that authorisation.

## **3.0 OTHER OPTIONS CONSIDERED**

**3.1** As this is a statutory function no other options have been considered.

## **4.0 CONSULTATION**

**4.1** 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 the Plan, the regulations require two statutory six week periods of consultation in the second stage of the process:

- Under Regulation 14 the Qualifying Body is required to consult; and
- Under Regulation 16 the Council is required to consult on the Plan submitted as a Plan proposal (under Regulation 15) and forward the responses to the Independent Examiner for consideration.

## **5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

**5.1** Tewkesbury Borough Council Plan 2016 – 2020.  
Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031.

## **6.0 RELEVANT GOVERNMENT POLICIES**

**6.1** The National Planning Policy Framework (2012).

## **7.0 RESOURCE IMPLICATIONS (Human/Property)**

**7.1** Additional financial contributions are currently available from the Department of Communities and Local Government to help the Council meet its obligations.

If the Plan is judged to meet the 'Basic Conditions' there will be human resource implications as the Council is required to arrange the referendum; and, subject to the results of the referendum, bring the Plan into force within another 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.

## **8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

**8.1** Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver, as part of the Local Plan for the area, the sustainable development they need.

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

**9.1** The neighbourhood planning process requires evidence of involvement by hard to reach groups. This is a matter that the Qualifying Body preparing the Plan has addressed and reported on to the Examiner in its Consultation Statement, which is a requirement for examination alongside a Basic Conditions Statement and the Plan as a proposal itself.

## **10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

- 10.1** Decision of Council to delegate to the Executive Committee the authorisation for Neighbourhood Plans to go to community referendum – 20 September 2016.

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<b>Background Papers:</b>	None.
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<b>Appendices:</b>	<ol style="list-style-type: none"><li>1. Examiners Report on the Twyning Neighbourhood Plan (November 2017).</li><li>2. Local Planning Authority Consideration of the Examiners recommended modifications.</li><li>3. Confirmation from the Qualifying Body (Twyning Parish Council) that they accept the proposed amendments.</li><li>4. Amended/Referendum Version of the Twyning Neighbourhood Plan.</li></ol>