

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Council
<b>Date of Meeting:</b>	18 April 2018
<b>Subject:</b>	To decide whether the 'Twyning Neighbourhood Development Plan' should be made part of the Development Plan for Tewkesbury Borough following the positive outcome in the referendum held on Thursday 1 March 2018.
<b>Report of:</b>	Matt Barker, Planning Policy Manager
<b>Corporate Lead:</b>	Annette Roberts, Head of Development Services
<b>Lead Member:</b>	Lead Member for Built Environment
<b>Number of Appendices:</b>	Two

## Executive Summary:

Following the resolution of Executive Committee on 3 January 2018 a referendum relating to the adoption of the 'Twyning Neighbourhood Development Plan' was held on Thursday 1 March 2018. The question, as required by Regulation 3 of the Neighbourhood Planning (Referendums) Regulations 2012 (as amended) which was asked in the Referendum was:

"Do you want Tewkesbury Borough Council to use the neighbourhood plan for [Name of Town or Parish Neighbourhood Planning Area] to help it decide planning applications in the neighbourhood area?"

The results were as follows:

Neighbourhood Plan Referendum for Twyning

Yes = 514 (95.9%)

No = 22 (4.1%)

Turnout = 48.06%

All Neighbourhood Development Plans are required to gain a simple majority of those voting in favour at referendum in order to be 'made' (adopted) by the Local Planning Authority. If the plan receives a positive result then the Local Planning Authority has a legal duty to bring the plan into force unless they/we believe it would breach, or be otherwise incompatible with, EU or human rights obligations.

## Recommendation:

1. That the Council **RESOLVES** that the 'Twyning Neighbourhood Development Plan' is made part of the Development Plan for Tewkesbury Borough; and
2. To delegate to the Head of Development Services, in agreement with the Parish Council acting as the Qualifying Body, the correction of any minor errors such as spelling, grammar, typographical or formatting errors that do not affect the substantive content of the plans.

**Reasons for Recommendation:**

1. The Twyning Neighbourhood Development Plan exceeded the required majority of 50% plus one vote cast in the referendum held on 1 March 2018.
2. The Twyning Neighbourhood Development Plan is considered compatible with European Union obligations and Human Rights conventions as required by section 38A (6) of the Planning and Compulsory Purchase Act 2004 (as amended).
3. Under section 38A (4) of the Planning and Compulsory Purchase Act 2004 (as amended) we therefore have a legal duty to 'make' the Twyning Neighbourhood Development Plan.
4. The proposed delegation to the Head of Development Services, in agreement with the Qualifying Body, to undertake the correction of minor errors that do not affect the substantive content of the plan will allow any final corrections in production to be made to the policy document.

**Resource Implications:**

There are no additional resource implications arising from the adoption of the Twyning Neighbourhood Development Plan.

**Legal Implications:**

Whilst Neighbourhood Planning is not a legal requirement for Towns, Parishes and other communities, it is a right which they can choose to exercise. Once exercised Local Planning Authorities have a duty to support them and undertake elements of the work under the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 as amended (2015) and associated legislation.

In this case, following a positive referendum result there is a legal duty, under section 38A (4) of the Planning and Compulsory Purchase Act 2004 (as amended), to 'make' a Neighbourhood Development Plan, providing we do not consider it incompatible with any European Union obligations or Human Rights conventions (within the meaning of the Human Rights Act 1998). In this regard the resolution to send the Twyning Neighbourhood Development Plan to referendum on 1 March 2018 determined that this was not the case and therefore there is a duty, under The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, to 'make the plan within 8 weeks from the date of the referendum.

**Risk Management Implications:**

As a legal requirement to bring the Twyning Neighbourhood Development Plan into force, within the 8 week timescale required by The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, failure to adopt it would lead to costs associated with any legal challenge.

**Performance Management Follow-up:**

The Twyning Neighbourhood Development Plan, once adopted, will form part of the Development Plan for the Borough and will be used when determining planning applications within the respective designated Neighbourhood Planning Area of Twyning parish. The implementation of the plan will be monitored by the Parish Council in its role of Qualifying Body, in this case Twyning Parish Council. It is the intention that by monitoring the plan the Qualifying Body will be able to identify where changes may need to be made in a future plan.

### **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 Twyning Neighbourhood Area was designated by resolution of the Council's Executive Committee on 8 January 2014.
- 1.2 A submission version of the Twyning Neighbourhood Development Plan (TNDP) was accepted by the Council on 21 June 2017, under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 1.3 Following submission of the TNDP to the local authority, Tewkesbury Borough Council publicised the Plan and supporting documents and invited representations during the consultation period 26 June 2017 to 4 August 2017.
- 1.4 The Council, with the agreement of the Qualifying Body, appointed Ms Liz Beth BA (Hons) MA Dip Design in the Built Environment MRTPI as independent examiner of the TNDP.
- 1.5 The Examination concluded on 16 November 2017 with the submission of the Examiner's Report recommending that the TNDP, once modified, should proceed to a referendum.
- 1.6 The examiner also recommended that the area for the referendum should not extend beyond the Neighbourhood Area to which the plan relates.
- 1.8 Having considered the examiner's recommendations and reasons for them, Tewkesbury Borough Council, in consultation with the Qualifying Body, decided on 3 January 2018, at Executive Committee:

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.
- 1.9 On 1 March 2018 the TNDP exceeded the required majority of 50% plus one vote cast in the referendum.

## **2.0 NEXT STEPS**

- 2.1 The Council is required to publish a statement setting out its decision and the reason for making it.
- 2.2 Once 'made' the TNDP will form part of the statutory Development Plan for the Borough and will be used to assist in determining planning applications within the relevant designated Neighbourhood Area. The National Planning Policy Framework (NPPF), in Paragraph 198, states that: "Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted."

**2.3** As soon as possible after the Council has resolved to make the plan the Council must publish the plan, details of when and where it can be inspected and notify any person who has asked to be notified that it has been 'made' and where and when it can be inspected.

### **3.0 OTHER OPTIONS CONSIDERED**

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

### **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 a Neighbourhood Development 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 prior to Independent Examination.

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

#### **5.1 Tewkesbury Borough Council Plan 2016 – 2020**

Priority: Housing.

Objective – Increase the supply of housing across the borough to support growth and meet the needs of our communities.

Priority: Economic development.

Objective – Identify and deliver employment land within the borough.

### **6.0 RELEVANT GOVERNMENT POLICIES**

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

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

**7.1** See above.

### **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 the sustainable development they need. Parishes and, in non-parished authority areas, 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.

**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 relevant, qualifying body preparing the Plan has addressed and reported on to the Independent Examiner in their 'Consultation Statement', which is a requirement for examination alongside a 'Basic Conditions Statement' and 'Plan Proposal' which is submitted to us, as LPA, according to Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, as amended.

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

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

**10.2** Decision to delegate to the Executive Committee the authorisation for Neighbourhood Development Plans to go to Community Referendum – 20 September 2016.

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**Background Papers:** None.

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**Appendices:** A. Twyning Neighbourhood Development Plan.

B. Twyning Neighbourhood Development Plan Referendum – Declaration of Result of Poll.