

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	24 January 2017
Subject:	Neighbourhood Plans - Winchcombe and Sudeley (Combined) and Highnam
Report of:	Paul Hardiman, Planning Policy Officer
Corporate Lead:	Julie Wood, Head of Development Services
Lead Member:	Councillor D M M Davies
Number of Appendices:	Four

Executive Summary:

Following the resolution of Council on 20 September 2016 referendums relating to the adoption of both the 'Winchcombe and Sudeley' and the 'Highnam' Neighbourhood Plans were held on Thursday 24 November 2016. The question which was asked in the Referendums 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 Winchcombe and Sudeley

Yes = 818 (87.02%)

No = 122 (12.98%)

Turnout = 22.49%

Neighbourhood Plan Referendum for Highnam

Yes = 631 (96.19%)

No = 25 (3.81%)

Turnout = 41.89%

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.

Recommendation:

- 1. That the Council resolves that the 'Winchcombe and Sudeley Combined Neighbourhood Plan' and the 'Highnam Neighbourhood Plan' are made part of the Development Plan for Tewkesbury Borough; and**
- 2. That authority be delegated to the Head of Development Services, in agreement with the relevant Qualifying Body, to correct 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. Both Neighbourhood Development Plans exceeded the required majority of 50% plus one vote cast in the referendums held on 24 November 2016.
2. Both Neighbourhood Development Plans are 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 two Neighbourhood Development Plans.
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 plans 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 two Neighbourhood Development Plans.

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).

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 it does 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 two plans to referendum on the 20 September 2016 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 plans within 8 weeks from the date of the referendum.

Risk Management Implications:

As a legal requirement to bring the 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 Neighbourhood Development Plans, 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 Areas. The implementation of the plans will be monitored by the Qualifying Bodies, in this case Winchcombe Town Council and Sudeley Parish Meeting and Highnam Parish Council. It is the intention that by monitoring the plans the Qualifying Bodies will be able to identify where changes may need to be made in future plans.

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 Winchcombe and Sudeley Combined Neighbourhood Area was formally designated in June 2013, whilst Highnam Neighbourhood Area was designated in January 2014.
- 1.2** A Submission Version of the Winchcombe and Sudeley Neighbourhood Development Plan was accepted by the Council on 5 November 2015, under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the regulations'). As prescribed by 'the regulations', the Council consulted on the plan for six weeks and arranged for the Plan to be examined.
- 1.3** A Submission Version of the Highnam Neighbourhood Development Plan was accepted by the Council on 11 November 2015 under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the regulations'). As prescribed by 'the regulations', the Council consulted on the plan for six weeks and arranged for the Plan to be examined.
- 1.4** The Council, with the agreement of the Qualifying Body, appointed Mr Nigel McGurk BSc(Hons), MCD, MBA, MRTPI as the Independent Examiner for both the 'Winchcombe and Sudeley' and 'Highnam' Neighbourhood Development Plans.
- 1.5** The Examination for Winchcombe and Sudeley concluded on 20 May 2016 with the receipt of the Examiners Report, which recommended that the Plan, once modified, met all of the basic conditions and should proceed to referendum.
- 1.6** The Examination for Highnam concluded on 3 June 2016 with the receipt of the Examiners Report, which recommended that the Plan, once modified, met all of the basic conditions and should proceed to referendum.
- 1.7** The Examiner also recommended that the area for the referendum for each of the Neighbourhood Development Plans should not extend beyond the designated Neighbourhood Area to which the Plan relates.
- 1.8** On 20 September 2016 the Council resolved 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 a community referendum.
- 1.9** Both Neighbourhood Development Plans exceeded the required majority of 50% plus one vote cast in the referendums held on 24 November 2016.

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 Neighbourhood Development Plans 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. Paragraph 198 of the National Planning Policy Framework (NPPF) 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 Plans 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 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 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.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 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.

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 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 Examiner in their 'Consultation Statement', which is a requirement for examination alongside a 'Basic Conditions Statement' and 'Plan Proposal'.

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 Plans to go to Community Referendum – 20 September 2016.

Background Papers: None.

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Appendices:

A. Winchcombe and Sudeley Neighbourhood Plan.

B. Winchcombe and Sudeley Neighbourhood Plan Referendum – Declaration of Result of Poll.

C. Highnam Neighbourhood Plan.

D. Highnam Neighbourhood Plan Referendum – Declaration of Result of Poll.