

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	28 May 2019
Subject:	To decide whether the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan should be made part of the Development Plan for Tewkesbury Borough following the positive outcome in the referendum held on Thursday 2 May 2019.
Report of:	Planning Policy Officer
Corporate Lead:	Head of Development Services
Number of Appendices:	Two

Executive Summary:

Following the resolution of Council on 16 January 2019, a referendum relating to the adoption of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan was held on Thursday 2 May 2019. The question which was asked in the Referendum was:

“Do you want Tewkesbury Borough Council to use the Neighbourhood Plan for Down Hatherley, Norton & Twigworth to help it decide planning applications in the neighbourhood area?”

The results were as follows:

Yes = 395 (90.6%)

No = 35 (8.03%)

Turnout = 39.93%

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 Down Hatherley, Norton and Twigworth Neighbourhood Development Plan is ‘Made’ and therefore forms part of the Statutory Development Plan for Tewkesbury Borough; and**
- 2. To delegate to the Head of Development Services, in agreement with the relevant 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 plan.**

Reasons for Recommendation:

1. The Down Hatherley, Norton and Twigworth Neighbourhood Development Plan exceeded the required majority of 50% plus one vote cast in the referendum held on 2 May 2019.
2. The Down Hatherley, Norton and Twigworth 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 Down Hatherley, Norton and Twigworth 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 making (adoption) of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan.

Legal Implications:

Whilst Neighbourhood Planning is not a legal requirement for towns, parishes and other communities, it is a right that 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 plan to referendum on the 2 May 2019 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. In this case by Thursday 27 June 2019.

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 Make (adopt) it would lead to costs associated with any legal challenge.

Performance Management Follow-up:

The Down Hatherley, Norton and Twigworth Neighbourhood Development Plan, once Made, will form part of the Statutory Development Plan for Tewkesbury and will be used when determining planning applications within the Down Hatherley, Norton and Twigworth Group Neighbourhood Area. The Qualifying Bodies, in this case Down Hatherley Parish, Norton Parish and Twigworth Parish Councils are encouraged to monitor the implementation of the Plan. 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 Qualifying Body as required by the Environmental Assessment of Plans and Programmes Regulations 2004 and the Conservation of Habitats and Species Regulations 2010 has considered the implications for biodiversity, protected species, habitats, energy usage, or waste and recycling. A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination dated 25 August 2017 confirmed that a full SEA and HRA were not required for the Plan.

1.0 INTRODUCTION/BACKGROUND

- 1.1** The Down Hatherley, Norton and Twigworth Group Neighbourhood Area was designated by resolution of the Council's Executive Committee on 4 September 2013.
- 1.2** A submission version of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan was accepted by the council on 2 February 2018, 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** In consultation with the Qualifying Body, Tewkesbury Borough Council appointed Mr Robert Bryan BA Hons, Dip TP, MRTPI as independent examiner.
- 1.4** The examination concluded in September 2018 with the submission of the Examiner's Report recommending that the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan, once modified, should proceed to a referendum.
- 1.5** The Examiner also recommended that the area for the referendum should not extend beyond the Neighbourhood Area to which the plan relates.
- 1.6** In January 2019 Tewkesbury Borough Council published a Decision Statement under Regulation 18(2) outlining all the Examiner's modifications and confirming the council's consideration and decision on them. The Decision Statement also outlined the council's decision that 'the plan', as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan and the provisions that can be made by a neighbourhood development plan; and should proceed to a referendum. The council confirmed that it did not consider it necessary to extend the referendum area.
- 1.7** On Thursday 2 May 2019, the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan successfully passed referendum with 90.6% voting in favour of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan being used to help to decide planning applications in the Down Hatherley, Norton and Twigworth Group Neighbourhood Area.

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 Down Hatherley, Norton and Twigworth Neighbourhood Development Plan will form part of the statutory Development Plan for Tewkesbury Borough and will be used to assist in determining planning applications within the Down Hatherley, Norton and Twigworth Group Neighbourhood Area.

- 2.3** As soon as possible after the council has resolved to make the plans the council must:
- publish the plan,
 - publish 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:

- Regulation 14 - the Qualifying Body is required to consult on the proposed Plan prior to submission to the LPA.
- Regulation 16 - the LPA is required to consult on Plan proposals submitted.

- 4.2** Down Hatherley, Norton and Twigworth Group Parishes consulted for a 6-week period on the Regulation 14 plan between 3 November 2017 and 15 December 2017. Tewkesbury Borough Council consulted on the Regulation 16 Submission Version of the Plan between 9 March 2018 and 23 April 2018.

- 4.3** The Examiners report stated at para 20 that “I am satisfied that the “*Consultation Statement*”, *demonstrates a good level of consultation, which has targeted all sections of the community and allowed technical consultees and developers to be effectively involved in the emerging Plan.*”

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

- 5.1** **Tewkesbury Borough Council Plan 2016-2020**, available at:

[https://www.tewkesbury.gov.uk/tewkesbury-borough-council-](https://www.tewkesbury.gov.uk/tewkesbury-borough-council-plan?rq=The%20council%20plan)

[plan?rq=The%20council%20plan](https://www.tewkesbury.gov.uk/tewkesbury-borough-council-plan?rq=The%20council%20plan). Sets a vision, values; priorities; objectives and actions. Most relevant for neighbourhood planning include:

Priority: Housing

Objective 1: Increase the supply of suitable housing across the borough to support growth and meet the needs of our communities.

Action c) Support Neighbourhood Development Plans across the borough where communities bring them forward.

5.2 Joint Core Strategy 2011 – 2031, Adopted 2017

In particular the:

Introduction.

Part 3 The JCS Spatial Strategy.

Policy SP1 - The need for new development.

Policy SP2 - Distribution of new development.

Part 4 Sustainable development policies.

Policy SD1 - Employment, except retail development.

Policy SD4 - Design requirements.

Policy SD10 - Residential development.

Part 6 Strategic allocations.

Policy SA1 - Strategic allocations policy (delivery).

Part 7 Delivery, monitoring and review.

5.3 Tewkesbury Borough Plan 2011, Saved Policies

A range of policies were saved under the 2011 adopted Tewkesbury Borough Plan, however the JCS superseded a number of these. Refer to pages 126 – 132 of the Joint Core Strategy for confirmation of those saved policies still of relevance.

5.4 Emerging Tewkesbury Borough Plan 2011 – 2031

Introduction.

Policy RES1 Housing site allocations.

Policy RES13 Housing mix.

Policy RES15 Accessible and adaptable homes.

Policy RES16 Self and custom build.

Policy LAN3 Strategic gaps.

Policy LAN5 Local green spaces.

Policy COMS4 Neighbourhood Development Plans.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 The revised National Planning Policy Framework (rNPPF) 2019 neighbourhood planning is referenced throughout and in particular at Paragraphs 2, 12 – 14, 18, 21, 29 – 30, 32, 37, 50, 65 – 66, 69, 99, 125, 136, 152, 214 and 216.183 – 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 the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area. (Para 29 rNPPF)

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 by the Executive Committee in January 2019 to delegate the designation of future Neighbourhood Areas to the Head of Planning Services.

10.2 Decision to delegate to the Executive Committee the authorisation for Neighbourhood Plans to go to Referendum, 20 September 2016.

Background Papers: None.

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Appendices: A. Down Hatherley, Norton and Twigworth Neighbourhood Development Plan.
B. Down Hatherley, Norton and Twigworth Neighbourhood Development Plan Referendum – Declaration of Result of Poll.