

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	30 June 2020
Subject:	To decide whether the 'Churchdown and Innsworth Neighbourhood Development Plan' should be made part of the Development Plan for Tewkesbury Borough following the positive outcome in the referendum held on Thursday 12 March 2020.
Report of:	Planning Policy Manager
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Built Environment
Number of Appendices:	Two

Executive Summary:

Following the resolution of Executive Committee on 8 January 2020 a referendum relating to the adoption of the 'Churchdown and Innsworth Neighbourhood Development Plan' was held on Thursday 12 March 2020. The question, as required by Regulation 3 of the Neighbourhood Planning (Referendums) Regulations 2012 (as amended), asked in the Referendum was:

"Do you want Tewkesbury Borough Council to use the neighbourhood plan for the Churchdown and Innsworth Neighbourhood Planning Area to help it decide planning applications in the neighbourhood area?"

The results were as follows:

Yes = 1,680 (91.20%)

No = 155 (8.41%)

Turnout = 17.49%

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 it into force unless they/we believe it would breach, or be otherwise incompatible with, EU or human rights obligations.

Recommendation:

- 1. That the 'Churchdown and Innsworth Neighbourhood Development Plan' is made part of the Development Plan for Tewkesbury Borough.**
- 2. That authority be delegated to the Head of Development Services, in agreement with the Parish Council acting as the Qualifying Body, to correct 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 Churchdown and Innsworth Neighbourhood Development Plan exceeded the required majority of 50% plus one vote cast in the referendum held on 12 March 2020.
2. The Churchdown and Innsworth 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 Churchdown and Innsworth 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 Churchdown and Innsworth 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 Churchdown and Innsworth Neighbourhood Development Plan to referendum 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 eight weeks from the date of the referendum.

Risk Management Implications:

As there is a legal requirement to bring the Churchdown and Innsworth Neighbourhood Development Plan into force within the eight week timescale required by The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 failure to adopt it could lead to costs associated with any legal challenge.

Performance Management Follow-up:

The Churchdown and Innsworth 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 Churchdown and Innsworth Parishes.

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 Churchdown and Innsworth Neighbourhood Area was designated by resolution of the Council's Executive Committee on 3 July 2013.
- 1.2 A submission version of the Churchdown and Innsworth Neighbourhood Development Plan (C&INPD) was accepted by the Council in April 2019, under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 1.3 Following submission of the Neighbourhood Development Plan to the local authority, Tewkesbury Borough Council publicised the plan and supporting documents and invited representations during the consultation period from Monday 24 June to Tuesday 27 August 2019.
- 1.4 The Council, with the agreement of the Qualifying Body, appointed an appropriately qualified person as independent examiner.
- 1.5 The Examination concluded in November 2019 with the submission of the Examiner's Report recommending that the Churchdown and Innsworth Neighbourhood Plan, 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.
- 1.7 Having considered the examiner's recommendations and reasons for them, Tewkesbury Borough Council, in consultation with the Qualifying Body, decided at Executive Committee on 8 January 2020:
That the Churchdown and Innsworth Neighbourhood Development Plan, modified according to the Examiner's recommended amendments, is formally approved to progress to Community Referendum, ascribed by Regulation 18 of the Neighbourhood Planning (General) Regulations 2012, as amended.
- 1.8 On 12 March 2020, the Churchdown and Innsworth Neighbourhood Development Plan 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 plan 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 12, states that: "Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."

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 Local Planning Authority.

Under Regulation 16 the Local Planning Authority is required to consult on plan proposals submitted prior to Independent Examination.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Tewkesbury Borough Council Plan 2020-2024.
Gloucester, Cheltenham & Tewkesbury Joint Core Strategy 2011-2031.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 The National Planning Policy Framework (2019).

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 Local Planning Authority, 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.

Background Papers: None.

Contact Officer: Planning Policy Manager Tel: 01684 272089

Email: matthew.barker@tewkesbury.gov.uk

Appendices: A. Churchdown and Innsworth Neighbourhood Development Plan.
B. Churchdown and Innsworth Neighbourhood Development Plan Referendum – Declaration of Result of Poll.