

STROUD DISTRICT COUNCIL
ENVIRONMENT COMMITTEE

**AGENDA
ITEM NO**

29 JUNE 2017

12

Report Title	HARDWICKE NEIGHBOURHOOD DEVELOPMENT PLAN: PROGRESS TO REFERENDUM
Purpose of Report	To inform councillors of progress regarding the Hardwicke Neighbourhood Development Plan (HNDP)
Decision(s)	The Committee RESOLVES: <ol style="list-style-type: none"> 1. to accept all recommended modifications of the Examiner’s Report (Appendix A); 2. that the Hardwicke Neighbourhood Development Plan, as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP; 3. to take all appropriate actions to progress the Hardwicke Neighbourhood Development Plan to referendum on the 10th of August 2017.
Consultation and Feedback	The HNDP has been through two statutory consultations. Hardwicke Parish Council undertook a pre-submission consultation (Regulation 14) from 9 th September to 21 st October 2015 and the Council undertook a post-submission consultation (Regulation 16) from 1st March to 12 th April 2017. Both consultations lasted no less than the six weeks as required by the regulations. Hardwicke Parish Council considered the comments received during the Regulation 14 consultation and made changes to the plan. The comments received during the Council’s Regulation 16 consultation were provided to the examiner of the plan who considered them during the examination.
Financial Implications and Risk Assessment	The Government issued guidance in October 2014 indicating that funding of £12m was available to local planning authorities to help them meet the cost of their responsibilities around Neighbourhood Planning. A total of £20,000 can be claimed for each NP area. This single payment will be made once a date is set for a referendum, following a successful examination. If Committee resolves to accept the examiner’s

	<p>report and progress the plan to referendum, potential funding of £20,000 would be available. Any costs incurred in excess of this will have to be borne by the Council.</p> <p>David Stanley – Accountancy Manager Tel: 01453 754100 Email: david.stanley@stroud.gov.uk</p>
Legal Implications	<p>The report and recommendations outline the current legal position with regard to the next stage in the process. The Council's discretion with regard to proceeding to a referendum or otherwise is strictly limited by statute and in this case the requirements for proceeding to a referendum appear to have been met subject to the proposed modifications being included in the NDP.</p> <p>Alan Carr, Solicitor Tel: 01453754357 Email: alan.carr@stroud.gov.uk</p>
Report Author	<p>Simon Maher, Neighbourhood Planning Officer Tel: 01453 754339 Email: simon.maher@stroud.gov.uk</p>
Options	<p>Option 1 - Make modifications to the HNBP in accordance with the examiner's recommendations</p> <p>This is the option promoted by this report. It consists of accepting the recommendations made in the neighbourhood plan examination report, determining that the HNBP meets the basic conditions and all legal requirements and should therefore proceed to a referendum.</p> <p>This approach is considered to be the best option for progressing the plan prepared by the community without any unnecessary delay in the decision making process.</p> <p>Option 2 – Make a decision that differs from the examiner's recommendation</p> <p>If the Council were to propose a decision that differs from the examiner's recommendation, the Council is required to:</p> <ol style="list-style-type: none"> 1. notify all those identified on the consultation statement of the parish council and invite representations, during a period of six weeks, 2. refer the issue to a further independent examination if appropriate. <p>Option 3 - Refuse the Plan</p> <p>The Council can decide that it is not satisfied with</p>

	the plan proposal with respect to meeting basic conditions, compatibility with Convention rights, definition and provisions of the NDP even if modified. Without robust grounds, which are not considered to be present in this case, refusing to take the plan to a referendum could leave the Council vulnerable to a legal challenge.
Performance Management Follow Up	If a referendum is held and there is a vote in favour (50% plus 1) HNBP will be referred to Council to be “made” (i.e. brought into force). Once made, the HNBP will form part of the development plan for the District and will be used to determine planning applications within the Hardwicke Neighbourhood Area.
Background Papers/ Appendix	<p>Background Papers</p> <ul style="list-style-type: none"> • Hardwicke Neighbourhood Plan and submission documents • The basic conditions that neighbourhood Plans must meet and other basic conditions <p>Appendix A – Examiner’s Report</p>

BACKGROUND

1. Neighbourhood planning was introduced through the Localism Act 2011. New powers allowed qualifying bodies (parish or town councils) to produce NDPs. NDPs allow communities to set planning policies for their area.
2. Once adopted, NDPs join the adopted Local Plan in the Council’s Development Plan. They must be considered when planning decisions are made, along with the Local Plan and national planning policy.
3. Producing a NDP allows parish and town councils to increase the amount of Community Infrastructure Levy (CIL) funds they receive from developments within their area from 15% to 25%.
4. NDPs must be examined by a suitably qualified independent person, appointed by the Council and agreed by the qualifying body (Town/Parish Council). Neighbourhood plans must also pass a referendum of local voters by a simple majority. If a plan passes referendum, the Council must make (adopt) it, unless it breaches EU obligations or human rights legislation.

HARDWICKE NEIGHBOURHOOD DEVELOPMENT PLAN

5. The Hardwicke Neighbourhood Area was designated by resolution of the Council’s Environment Committee on 4th February 2014.
6. The HNBP was led by a steering group subordinate to Hardwicke Parish Council (‘the qualifying body’).

7. A submission version of the HNDP was accepted by the Council on 8th February 2017, 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.

EXAMINATION

8. The Council appointed Andrew Ashcroft MRTPI as independent examiner of the HNDP.
9. The examination concludes once the Examiner's Report is received by the Council. The Examiner's Report contains a recommendation of whether the HNDP, with or without modifications, should proceed to a referendum.
10. The examiner's findings, including recommendations and the reasons for them, are set out in the Examiner's Report (Appendix A). The examiner only makes recommendations necessary to make the Plan meet the basic conditions and other legal requirements.
11. Following a request from the examiner, Hardwicke Parish Council submitted an updated Consultation Statement in order to meet the basic conditions, and specifically to include reference to their Regulation 14 Pre-Submission Consultation process.
12. The Examiner made clear that he was satisfied that no person or organisation had been disadvantaged by the omission of the Regulation 14 process within the original Consultation Statement, however it was requested that relevant parties be given an opportunity to make comment in the interests of openness and transparency.
13. The updated document was made available on the Council website, with an invitation to make further comment from 9th June to 23rd June 2017. Those consultees who responded during the Regulation 14 pre consultation period were also alerted to this process.
14. Any additional comments received during this period (subsequent to the time of writing) will be reviewed by the examiner, and if necessary a revised Examiner's report issued.

15. A summary of the recommended modifications is set out below:

Policy/Section	Summary of recommendation and reasons
Policy Gen 1 and supporting text	Modify policy and supporting text to conform with national and local planning policy.
Policy Gen 2	Small modification to policy wording for clarity.
Policy Hou 2 and supporting text	Replace policy with new wording to address issues of vagueness, interpretation, and clarity. Add design guide reference to supporting text.
Policy Hou 3	Minor amendment for clarity.
Policy Hou 4 and supporting text	Modifications to provide clarity to the decision maker..
Policy ISF1	Include reference to 'Facilities and Services Assessment' and remove references to those outside the neighbourhood area.
Policy MTC 2 and supporting text	Removal of those Local Green Spaces (LGS) which do not meet NPPF criteria. Reword policy to focus purely on LGS
Policy MTC 3	Remove some of the identified open spaces from the plan which do not fulfil definition of 'open space' in the planning context. Modify policy, supporting text, and map to reflect changes and to provide clarity.
Policy ENV 1	Minor amendment for clarity
Policy ENV 2	Minor amendment for clarity
Policy ENV 3 and supporting text	Modify policy to meet basic conditions and move some policy wording into supporting text.
Policy CT1 and supporting text	Replace the policy for clarity. Modify supporting text to reflect policy change.
Policy EC1	Replace first sentence for clarity
Policy EC2	Minor amendments for clarity on what proposals will be supported

CONSIDERATION

16. Following the completion of the examination, the Council is required to consider each of the examiner's recommendations and the reasons for them and decide what action to take in response to each. Officers have reviewed the Examiner's Report and agree with all the recommendations and the reasons for them.
17. The Council is required to consider whether the draft HNDP meets the basic conditions, is compatible with the Convention rights and complies with the definition of an NDP and the provisions that can be made by a NDP or can do so as modified.
18. Officer's have carefully considered the HNDP and the Examiner's report and consider that:

- 1- The HNBP, as modified by the Examiner's recommendations, has had regard to national policies and advice contained in guidance issued by the Secretary of State. The HNBP has been assessed against the National Planning Policy Framework and national Planning Practice Guidance and modifications proposed to comply with national policy.
- 2- The HNBP, as modified by the Examiner's recommendations, contributes to the achievement of sustainable development. The HNBP has been subject to sustainability assessment that identifies the plan will have an overall positive effect.
- 3- The HNBP, as modified by the Examiner's recommendations, is in general conformity with the strategic policies contained in the development plan as a whole for the area. The HNBP has been assessed against the adopted Stroud District Local Plan and modifications proposed to ensure the HNBP does not become out-of-date in the context of a review of strategic policies in the Local Plan.
- 4- The HNBP, as modified by the Examiner's recommendations, would not breach, and be otherwise incompatible with EU obligations. The Examiner's assessment has involved considering the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). In addition, no issue arises in respect of equality under general principles of EU law or any EU equality directive. The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination in November 2015, which confirmed to Hardwicke Parish Council that a SEA and a full HRA were not required on the HNBP.
- 5- The HNBP, as modified by the Examiner's recommendations, would not give rise to significant environmental effects on European sites and European offshore marine sites. The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination in November 2015, which confirmed to Hardwicke Parish Council that a SEA and a full HRA were not required on the HNBP.
- 6- The HNBP, as modified by the Examiner's recommendations, is in all respects fully compatible with Convention rights contained in the Human Rights Act 1988. Section 5 of the Basic Conditions Statement submitted in support of the HNBP outlined the Qualifying Body's considerations as regards to the European Convention on Human Rights (ECHR), including the extensive consultation set out in the Consultation Statement to ensure representations from all groups. The Examiner considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. Nothing in his examination of the Draft NDP indicated any breach of a Convention right. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.

- 7- The HNBP, as modified by the Examiner's recommendations, complies with the definition of an NDP and the provisions that can be made by a NDP. The HNBP sets out policies in relation to the development and use of land in the whole of the neighbourhood area; it specifies the period for which it is to have effect; it does not include provision about development that is 'excluded development' and does not relate to more than one neighbourhood area or repeat an existing planning permission.
19. Subject to consideration at the meeting, members are asked to authorise officers to make the modifications specified in the Examiner's Report and progress the modified version of the plan to a referendum.
20. The neighbourhood area matches the civic boundary of Hardwicke Parish; officers recommend that the referendum area should remain that of the Hardwicke Neighbourhood Area, as designated by the Council on 4th February 2014. However, the Council cannot make a decision that differs from the examiners' recommendations about the referendum area.

NEXT STEPS

21. The Council must publish a statement setting out its decision and the reason for making it. Officers will need to modify the plan and produce a final version for the referendum.
22. The Council must hold a referendum within 56 working days from the date that the decision to take the plan forward to a referendum is published. In consultation with the Council's returning officer and elections department, 10th August 2017 has been identified as the suitable date for holding a referendum.
23. If the plan passes referendum, the Council is required to make (adopt) it unless it breaches EU or Human Rights legislation. The Council's scheme of delegation does not delegate this decision to officers or the Environment Committee, so the decision to make the plan will be made by full Council. This decision is expected to take place in October 2017. The plan cannot be modified at that stage.