

REPORT TO CABINET

Open/Exempt		Would any decisions proposed :		
Any especially affected Wards: Walpole and West Winch	Mandatory/	Be entirely within Cabinet's powers to decide		YES/NO
	Discretionary/	Need to be recommendations to Council		YES/NO
	Operational	Is it a Key Decision		YES/NO
Lead Member: Cllr Richard Blunt E-mail: cllr.Richard.Blunt@West-Norfolk.gov.uk		Other Cabinet Members consulted: All		
		Other Members consulted: Local Plan Task Group		
Lead Officer: Allan Gomm E-mail: alan.gomm@west-norfolk.gov.uk Direct Dial: 6237		Other Officers consulted: Management Team		
Financial Implications YES/NO	Policy/Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO

Date of meeting: 01 August 2017

WALPOLE CROSS KEYS NEIGHBOURHOOD PLAN AND NORTH RUNCTON & WEST WINCH (JOINT) NEIGHBOURHOOD PLAN DECISIONS WHETHER TO PROCEED TO REFERENDUMS.

Summary

The Borough Council must consider the independent Examiner's recommendations, and decide for itself whether the proposed neighbourhood plans for Walpole Cross Keys and North Runcton & West Winch (Joint) meet the statutory tests, and hence whether they should proceed to a local referendum. The referendum result would dictate if the neighbourhood plans would be brought into force (adopted) and become part of the Development Plan.

Recent changes to Neighbourhood Planning regulations have introduced timescales for which decisions must be made by Local Planning Authorities. The means that 'delegated authority for decisions on neighbourhood planning' needs amending accordingly.

Recommendation

- 1) That the submitted Walpole Cross Keys Neighbourhood Plan:
 - a. be amended in accordance with the recommendations of the independent Examiner; and
 - b. so modified, should proceed to a local referendum covering the area of Walpole Cross Keys Parish.
- 2) That the submitted North Runcton & West Winch (Joint) Neighbourhood Plan:

- a. be amended in accordance with the recommendations of the independent Examiner; and
 - b. so modified, should proceed to a local referendum covering the area of North Runcton and West Winch Parishes.
- 3) That delegated authority be given be given to the Executive Director for Environment and Planning, in consultation with the Portfolio Holder for Development, to make decisions on:
- a. As to whether a neighbourhood plan should proceed to a referendum, and if so whether the plan must first be amended to meet the relevant statutory requirements/

Reason for Decision

In line with the Borough Council's obligations under the Localism Act, and in particular to achieve compliance of these neighbourhood plans with the 'Basic Conditions'. To comply with recent changes to the neighbourhood planning regulations.

1. Background

- 1.1 The Council is required to facilitate the production and adoption of neighbourhood plans under the Localism Act 2011. This involves a series of actions and decisions at various stages. The Cabinet agreed a series of delegated powers to facilitate this process at its meeting of 3 March 2015. However, it reserved to itself decisions as to whether a neighbourhood plan should proceed to a referendum, and if so whether the plan must first be amended to meet the relevant statutory requirements. Two neighbourhood plans have now reached the stage where such decisions must be made.
- 1.2 Walpole Cross Keys Parish Council's Draft Neighbourhood Plan is the third neighbourhood plan to be formally submitted to the Borough Council, and North Runcton & West Winch Parish Councils' s followed closely behind with its Draft Neighbourhood Plan submission as the fourth. For both Plans the plan areas are the whole of the relevant Parishes.
- 1.3 In both cases the Borough Council, through the Planning Policy Team, has provided advice and assistance to the parish councils throughout the preparation of their plans.
- 1.4 These two draft neighbourhood plans have been published by the Borough Council, and comments from the public invited. Both Plans have been formally examined by an independent Examiner (a suitably experienced and qualified person), taking into account the comments received (including these from the Borough Council). Please note that

all the relevant documentation is published on the Borough Council's website.

- 1.5 An Examiner produces a report of the examination, providing recommendations to the Borough Council as to whether the neighbourhood plan meets the statutory requirements. An Examiner may recommend that:
 - the plan does not meet the requirements and should not proceed to a referendum, or
 - the plan does meet the requirements and should proceed to a referendum, or
 - the plan does not meet the requirements, but should be modified to do so, and then can proceed to a referendum.
- 1.6 In practice, the latter is the most likely recommendation, and the Examiner's recommendation in both of their reports on these two neighbourhood plans. Legally it is the responsibility of the Borough Council to make any required modifications, though in practice there is likely to be liaison with the Parish Councils to achieve this.
- 1.7 An Examiner is also required to recommend whether any local referendum (of registered voters) on a Neighbourhood Plan should be extended beyond the plan area. This may be the case if, for instance, the provisions of the plan have serious implications beyond the plan area. Neither Examiner here recommends that the referendum area is extended beyond the Plan area.
- 1.8 If a neighbourhood plan proceeds to a referendum and is supported by a majority of those voting, the Borough Council must 'make' (i.e. adopt) the Plan, and it becomes part of the development plan for the area (the starting point for decisions on planning applications, etc.) alongside the Borough Council's adopted Local Plan (Core Strategy 2011 and Site Allocations and Development Management Policies Plan 2016). In the event of any contradiction between an adopted neighbourhood plan and the adopted Borough Council Local Plan the most recent prevails. If the neighbourhood plan is not supported by a majority of votes in a referendum, it fails and does not come into force.
- 1.9 The Borough Council must now consider the Examiners' Recommendations and decide for itself whether the statutory tests have been met, or the plan can be modified to meet those tests. If the Borough Council is minded to make a decision different to the Examiner's Recommendations, it must first consult on this before coming to its final decision. This is not required if the decision accords with the Examiner's Recommendations.
- 1.10 The statutory tests a neighbourhood plan must meet are called the 'Basic Conditions'. These are *[wording simplified]*:
 - a) the Plan contributes to the achievement of sustainable development,

- b) the Plan is in general conformity with the strategic policies in the local planning authority's development plans;
- c) having regard to national policies and guidance, it is appropriate to bring the Plan into force;
- d) the Plan is compatible with EU obligations;
- e) the Plan is not likely to have a significant effect on a European (habitats) site or offshore marine site;
- f) prescribed procedural, etc. requirements are met.

1.11 Note that the matters to be taken into account are quite limited. A local planning authority cannot, for example, decide the plan's contents or its progress simply on the basis it agrees or disagrees with it, nor because it considers something different would be preferable or more successful. On the other hand, assessing a plan against criteria a) through to c), in particular, does involve significant elements of judgement, and therefore a local planning authority might reasonably come to a different conclusion to that of the Examiner.

1.12 Since the last time that Cabinet agreed a neighbourhood plan should proceed to referendum there have been a number of amendments to the neighbourhood planning regulations. Broadly these relate to the timescales in which decisions made by the Borough Council must be reached. Non-compliance could result in intervention by the Secretary of State.

2. Walpole Cross Keys Neighbourhood Plan

2.1 The Walpole Cross Keys Draft Neighbourhood Plan was examined by Ann Skippers BSc (Hons) MRTPI FHEA FRSA in May / June 2017.

2.2 A copy of the submitted Draft Neighbourhood Plan can viewed via the following link:

http://consult.west-norfolk.gov.uk/portal/neighbourhood_plan/neighbourhood_plan_consultations/walpole_cross_keys_np/walpole_cross_keys_np_consultation_2016?tab=files

2.3 The Examiner's Report and an amended version of the plan which incorporates the Examiner's recommendations (the version of the plan that is proposed to proceed to referendum) are appended to this Report as Appendices 1 & 2.

2.4 Ms. Skippers' Report concludes:

- 'I am satisfied that the Walpole Cross Keys Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.
- I am therefore pleased to recommend to the Borough Council of King's Lynn & West Norfolk that, subject to the modifications proposed in this report, the Walpole Cross Keys Neighbourhood Development Plan can proceed to a referendum.
- Following on from that, I am required to consider whether the referendum area should be extended beyond the Walpole Cross Keys Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.
- I therefore consider that the Plan should proceed to a referendum based on the Walpole Cross Keys Neighbourhood Plan area as approved by the Borough Council on 12 November 2013.'

2.5 Ms. Skippers' Report appears to be professional, thorough, thoughtful, clear and concise. She has obviously taken the time and care to understand the locality, the Parish Council's perspective and aspirations, and also the strategic context of the Borough Council's Local Plan.

2.6 There are relatively few changes recommended, those that are generally relate to:

- redrafting some policies with greater clarity so that a decision maker can apply them with confidence and consistency when determining a planning application, whilst still retaining the intended ethos of the policy
- general tidying of the plan so it refers to the Borough Council's Site Allocations and Development Management Policies Plan as adopted
- providing consistency to any reference to the Map and clarity of what the map illustrates
- that the time period which the plan covers is clearly indicated

2.7 It is considered that the Examiner's recommendations are sound, and there is no clear reason for the Borough Council to depart from them. Hence it is recommended that the Plan is modified as recommended by the Examiner and that a referendum on the amended neighbourhood plan is held.

3. North Runcton & West Winch (Joint) Neighbourhood Plan

3.1 The North Runcton & West Winch (Joint) Draft Neighbourhood Plan was examined by Deborah McCann BSc Dip Arch Con MRICS MRTPI in May / June 2017.

3.2 A copy of the submitted Draft Neighbourhood Plan can be viewed via the link below:

http://west-norfolk.objective.co.uk/portal/neighbourhood_plan/neighbourhood_plan_consultations/ww_nr_np/west_winch_and_north_runcton_np_consultation_2016?tab=files

3.3 The Examiner's Report an amended version of the plan which incorporates the Examiner's recommendations (the version of the plan that is proposed to proceed to referendum) are appended to this report as Appendices 3 & 4.

3.4 Mrs. McCann's Report concludes:

- 'I find that the North Runcton and West Winch Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.
- The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.
- The North Runcton and West Winch Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area.
- A screening for the requirement of a Strategic Environmental Assessment and amended Habitats Regulations Assessment was conducted satisfactorily and meets the EU Obligation.
- The policies and plans in the North Runcton and West Winch Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the King's Lynn and West Norfolk Core Strategy 2011 and the King's Lynn and West Norfolk Site Allocations and Development Management Policies (SADMP) adopted 29th September 2016.
- I therefore consider that the North Runcton and West Winch Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.'

3.5 Mrs. McCann's Report appears thorough, detailed and clear. She has obviously taken great care to understand the locality, the Parish Councils' perspectives and aspirations, the strategic context of the Local Plan's identification of the area as one for significant growth, and the complexity of matters which encompass an area identified for such significant growth.

3.6 In general her report strikes a balance between ensuring that local community aspirations are met whilst not inhibiting the Growth Area from being realised. This was a particular point raised by the Borough Council at Examination. A brief overview of her recommendations:

- rewording policies with greater clarity so that a decision maker can apply them with confidence and consistency when determining a planning application. For example 'Policy WA02' which relates to non-designated heritage assets and should be referred to as such
- redrafting policies which appear to be overly restrictive, costly and difficult to implement and monitor. Such as 'Policy WA03' relating to landscape character and its protection
- alterations of policies which require higher standards of those set within the Local Plan or national policy to state that such developments do not have to conform to higher standards, but these will be encouraged. Examples of this include parking standards, the provision for bicycle storage, the provision of green infrastructure, and adequate outdoor space. These recommendations are made to ensure that the policies are not detrimental to new development within the Growth Area impacting negatively upon the viability and therefore achievability of the Growth Area as a whole
- redrafting of policies which appear to conflict with Local Plan and in particular Policy E2.1 the West Winch Growth Area. An example of this is 'Policy GA01 creating neighbourhoods' which attempts to stipulate which parts of the Growth Area will come forward first. The recommended modification keeps the thrust of the policy whilst adding the word 'encourage'
- modifications to policies to reference the Infrastructure Delivery Plan (IDP) which is being prepared by the Borough Council. In particular references to trigger points and the delivery of the relief road. (see 'GA04 ensuring transport infrastructure')
- The removal of policies which are not concerning land use issues to an annex for community aspirations. An example of this is the removal of 'Policy GA02' which is concerned with infrastructure delivery.

3.7 It is considered that the Examiner's recommendations are sound, and there is no clear reason for the Borough Council to depart from them.

Hence it is recommended that the Plan is modified as recommended and that a referendum on the amended neighbourhood plan is held.

4. Amendment to the delegated authority for decisions on neighbourhood planning

4.1 The Cabinet at the 3 March 2015 meeting resolved to reserve itself decisions relating to neighbourhood plans moving forward to referendum. Since this time there have been a number of amendments to the neighbourhood planning regulations. These introduce statutory timescales in which local planning authorities must reach decisions by; this includes reaching a decision on the holding of a referendum and the actual timescale in which the referendum must be held¹. Non-compliance could result in intervention by the Secretary of State.

4.2 Elements of the recently amended regulations which are relevant to this report:

a) Consideration of the recommendations made by an independent examiner

The Local Planning Authority must decide whether a referendum should be held within five weeks of the date it receives an examiner's report following examination of a draft plan, unless it proposes to make a decision which differs from the examiners recommendations; or the Local Planning Authority and the neighbourhood planning body agree that more time is required.

b) Setting the referendum date

Further to point a) above, the Local Planning Authority must hold a referendum within 56 working days of the decision that a referendum should be held; or 84 working days where there is also a business referendum or, where the area falls within more than one Local Planning Authority. If there is opportunity to combine the referendum with another poll that is due to be held within three months of the end of the 56 or 84 working day period this period can be extended accordingly. These time limits will not apply where there are unresolved legal challenges on the decision to hold a referendum or the Local Planning Authority and the Neighbourhood Planning body agree an alternative time frame.

c) Requests for the Secretary of State to intervene

The Housing and Planning Act 2016 enables the Secretary of State to intervene at the request of a neighbourhood planning body when: (i) the Local Planning Authority has failed to take a decision on whether to proceed to referendum within the specified timeframes; or (ii) does not accept the examiner's recommendations or proposes to modify the plan in a way the examiner didn't recommend. The Neighbourhood Plan body must make their request for intervention in writing, and will have 6 weeks

¹ The Neighbourhood Planning (Referendums) (Amendment) Regulations 2016

from the date the Local Planning Authority publish their decision, to submit their request.

- 4.3 In responding to the changes in the regulatory framework for Neighbourhood Planning, which reduces the time allowed to determine most decisions relating to Neighbourhood Planning, including the referendum of the plan, and in the interests of timely and efficient decision making, it is requested that decisions on neighbourhood plans moving forward to referendum are made by the Executive Director for Environment and Planning in consultation with the Portfolio Holder for Development.

5. Options Considered

- 5.1 Whether or not the Borough Council agrees with the Examiner's recommendations that these plans should be modified to ensure they meet the Basic Conditions, and then proceed to referendums.

6. Policy Implications

- 6.1 In the event that either neighbourhood plan is successful at the referendum stage they will become part of the development plan. While such plans' policies will not be those of the Borough Council, the Borough Council will be obliged to apply these policies (alongside those of the Local Plan and national policies) in determining planning applications.
- 6.2 The Neighbourhood Planning Act (2017) introduces a duty upon decision makers (in relation to planning applications for example) to have regard to a draft neighbourhood plan that has been through the examination phase.

7. Financial Implications

- 7.1 The costs of handling neighbourhood plans is offset to some extent by a grant currently received from Government at certain stages of each neighbourhood plan's preparation. The expectation is that the Borough Council meets the reasonable expenses of the Examination; the Referendum and advice elements along the way.

8. Personnel Implications

- 8.1 The handling of neighbourhood plan process is carried out within the existing Planning Policy Team staffing.

9. Statutory Considerations

- 9.1 The processing of neighbourhood plans is an obligation placed on local planning authorities by the Localism Act 2011 (which also modifies various planning acts to provide the basis for neighbourhood plans and

their preparation). The Neighbourhood Planning (General) Regulations 2012, 2015 and 2016 add detailed requirements and procedures. The Housing and Planning Act 2016, The Neighbourhood Planning (Referendums) (Amendment) Regulations 2016, and The Neighbourhood Planning Act 2017 provide further and amended obligations.

10. Equality Impact Assessment (EIA)

10.1 Please see pre-screening assessment report below.

11. Risk Management Implications

11.1 None Identified.

12. Declarations of Interest / Dispensations Granted

12.1 None Identified.

13. Background Papers

13.1 None.

Pre-Screening Equality Impact Assessment

Borough Council of
**King's Lynn &
West Norfolk**



Name of policy/service/function	Walpole Cross Keys Neighbourhood Development Plan North Runcton & West Winch Neighbourhood Development Plan				
Is this a new or existing policy/ service/function?	New				
Brief summary/description of the main aims of the policy/service/function being screened. Please state if this policy/service rigidly constrained by statutory obligations	Whether the Walpole Cross Keys and North Runcton & West Winch Neighbourhood Plans should proceed to referendum. Following a successful referendum result the Plans will be 'made' and will form part of the development plan for the area. Delegated authority for decisions on neighbourhood plans moving forward to the referendum stage.				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			x	
	Disability			x	
	Gender			x	
	Gender Re-assignment			x	
	Marriage/civil partnership			x	
	Pregnancy & maternity			x	
	Race			x	
	Religion or belief			x	
	Sexual orientation			x	
Other (eg low income)			x		
Question	Answer	Comments			
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	No				
3. Could this policy/service be perceived as impacting on communities differently?	No				
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	No				
<p>5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions? If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section</p>	No	Actions:			
		Actions agreed by EWG member: Claire Dorgan, Principal Planner			
Assessment completed by: Peter Jermany					
Job title: Principal Planner (Policy)	Date: 04/07/2017				

Appendix 1. Examiner's Report on the Walpole Cross Keys Neighbourhood Plan

Appendix 2. Walpole Cross Keys Draft Neighbourhood Plan incorporating the Examiner's recommendations (proposed for referendum)

Appendix 3. Examiner's Report on the North Runcton & West Winch (Joint)
Draft Neighbourhood Plan

Appendix 4. North Runcton & West Winch (Joint) Draft Neighbourhood Plan,
incorporating the Examiner's recommendations (proposed for referendum)