

Report Title:	Hurley and the Waltham's Neighbourhood Plan decision to proceed to referendum
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Councillor Bateson Principal Member for Neighbourhood Planning
Meeting and Date:	Cabinet - July 2017
Responsible Officer(s):	Russell O'Keefe, Executive Director Jenifer Jackson, Head of Planning
Ward affected:	Hurley and the Waltham's

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REPORT SUMMARY

- 1 This report seeks approval from Cabinet for the Hurley and the Waltham's Neighbourhood Plan to proceed to referendum at the earliest practicable opportunity.
- 2 The Neighbourhood Plan has been formally examined by an independent examiner, and a number of changes have been recommended by the examiner to ensure that the plan meets the basic conditions.
- 3 As there are several parishes in the plan area it will require more polling stations, the cost of the referendum can be claimed back from the government.

1 DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet:

- i) **Confirms that the plan meets the Basic Conditions tests and does not require a SA/SEA; and**
- ii) **Accepts the proposed changes to the Neighbourhood Plan set out in Appendix B, and**
 - a. **Gives delegated authority to the Head of Planning to issue a decision statement; and**
 - b. **agrees to put the modified Neighbourhood Plan to referendum. The date of the referendum to be set in accordance with the legal requirements; and**
- iii) **Delegates authority to the Executive Director, in consultation with the Principal Member for Neighbourhood Planning, to make minor, non material, amendments to the Neighbourhood Plan prior to the referendum being announced; and**
- iv) **Provides advance funding, if required, for the referendum which will then be claimed back from Government.**

2 REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 The National Planning Policy Framework (NPPF) and the Localism Act (2011) give local communities direct power to develop their shared vision for their neighbourhood and deliver the sustainable development they need. Neighbourhood planning provides a powerful set of tools for local people to get the right type of development for their

community. The referendum is the culmination of the neighbourhood plan production process.

- 2.2 The Royal Borough is encouraging neighbourhood planning across the Borough. There are currently 10 neighbourhood plan areas in the Borough at different stages of production. Hurley and the Walthams is the second Neighbourhood Plan to reach this stage in the process.
- 2.3 The group producing the plan has placed community consultation at the heart of their plan, undertaking a series of consultations and developing evidence to support their policies. This process has generated a lot of interest in the local community. The plan and the policies within it have been supported by the majority of respondents at the earlier stages.
- 2.4 Following publication, the neighbourhood plan was scrutinised by an independent examiner. The examiner was appointed by the Royal Borough, with the agreement of the Qualifying Body. This examination was carried out without a public examination, using the written representations process, and the examiner's report recommends that the plan proceeds to referendum, subject to modifications. This report can be found at Appendix A.
- 2.5 These modifications are considered necessary by the independent examiner, to ensure the neighbourhood plan meets the Basic Conditions, as required by the Localism Act. The Basic Conditions for Neighbourhood Plans are:
 - Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
 - The making of the neighbourhood plan contributes to the achievement of sustainable development.
 - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority
 - The making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations
 - Prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).
- 2.6 Officers have reviewed the plan in light of the proposed modifications and conclude that the plan will continue to meet the Basic Conditions when incorporating the Examiner's modifications. The assessment of the Examiner's modifications can be found at Appendix B. Since receiving the modifications, these have been discussed with representatives of the Qualifying Body who have agreed that these changes are acceptable and that they wish for it to proceed to referendum at the earliest practicable opportunity.
- 2.7 If approved, the referendum will be held at the earliest practicable opportunity, in accordance with legislation. The question to be used in the referendum is set by the 'Neighbourhood Planning (Referendums) Regulations 2012', and must be "Do you want the Royal Borough of Windsor and Maidenhead to use the neighbourhood plan for Hurley and the Walthams to help it decide planning applications in the neighbourhood area?"

- 2.8 If more than 50% of those voting in the referendum answer “yes”, the plan would then form part of the Development Plan for the Royal Borough and would then need to be formally ‘made’ (adopted) by the Royal Borough. This ‘making’ of the neighbourhood plan would be a decision made by full Council.

Table 1: Options

Option	Comments
<p>1. Accept the modifications of the Examiner, issue a decision statement to this effect and approve the Neighbourhood Plan to go forward to referendum. This is the recommended option.</p>	<p>This is the next step in the Borough adopting localism in planning, to enable our communities to shape their area. It enables the community as a whole to decide if the plan should be used by the Council for determining planning applications.</p>
<p>2. Reject some or all of the modifications of the examiner and delegate authority to the Executive Director Place to publish the decision. This option is not recommended.</p>	<p>Officers and the steering group producing the plan have agreed that the modifications are acceptable and that the plan is suitable to be the subject of a referendum.</p>
<p>3. Do not approve the neighbourhood plan to go forward to referendum This option is not recommended.</p>	<p>The plan has been recommended to proceed to referendum, subject to the modifications listed, by an independent examiner and it is supported by officers and the group producing the plan. This option would deny the local community the opportunity to express their formal support for the plan.</p>

3 KEY IMPLICATIONS

Table 2: Key implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
An adopted neighbourhood plan that delivers the wishes of the community.	From Referendum date to 2030	Neighbourhood Plan receives 50-65% of voters choosing “yes”.	Neighbourhood Plan receives 65-80% of voters choosing “yes”.	Neighbourhood Plan receives 80%+ of voters choosing “yes”.	Day of referendum
Development in accordance with policies of the neighbourhood plan.	Panel and appeal decisions do not comply with the plan policies.	Planning applications and appeals are determined in accordance with the neighbourhood plan.	Majority of applications submitted comply with the policies of the neighbourhood plan.	All applications submitted comply with the policies of the neighbourhood plan.	

4 FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 This is a large area with several parishes which will need more polling stations. The Council has received grant payments from the Department of Communities and Local Government in association with the progress of this particular plan (grants have also been received in association with the progress of other plans).
- 4.2 A further grant payment of £20,000 can be applied for once a date has been set for the referendum, this will fund the referendum. This will be the final grant that can be applied for in association with this plan, this grant is to cover the cost of the examination and referendum. Cabinet is asked to forward fund the cost of the referendum in the event that cost is incurred before the funding is received from Government.

Table 3: Financial impact of report's recommendations

REVENUE	2017/18	2018/19	2018/19
Addition	£20,000	£0	£0
Reduction	£20,000	£0	£0
Net impact	£0	£0	£0

CAPITAL			
Addition	£0	£0	£0
Reduction	£0	£0	£0
Net impact	£0	£0	£0

5 LEGAL IMPLICATIONS

- 5.1 The Localism Act (2011) and The Neighbourhood Planning (General) Regulations (2012) give power to Local Planning Authorities to approve a neighbourhood plan to proceed to referendum. Under the Neighbourhood Planning Act 2017 if the referendum results in a simple majority 'Yes' vote the Neighbourhood Development Plan will immediately form part of the Development Plan for the Royal Borough. Following this Act the Council should 'have regard to a post-examination neighbourhood development plan when dealing with an application for planning permission, so far as that plan is material to the planning application.

6 RISK MANAGEMENT

Table 4: Impact of risk and mitigation

Risks	Uncontrolled Risk	Controls	Controlled Risk
Community will not have an opportunity to guide development in their area.	Medium	Approve the neighbourhood plan to go to the public vote in a referendum.	Low
Risk of legal challenge if examiner's	Medium	Accept the examiner's recommendations.	Low

Risks	Uncontrolled Risk	Controls	Controlled Risk
recommendations not accepted.			
If not approved, planning applications and issues in the neighbourhood area will not be dealt with in a way the communities intended	Medium	Approve plan for referendum and if successful use in planning decisions.	Low
Development in neighbourhood area may continue to receive significant levels of objection from residents and not meet some local needs.	High	Approve plan for referendum and if successful use in planning decisions.	Medium

7 POTENTIAL IMPACTS

- 7.1 The examiner has confirmed that the neighbourhood plan meets the Basic Conditions. One of these conditions is that it must be compatible with human rights requirements. Officers agree that the plan, with modifications, meets the Basic Conditions.
- 7.2 There are not considered to be any equality impacts relating to the recommendations of this report.
- 7.3 Another of the Basic Conditions is to contribute to the achievement of sustainable development. The neighbourhood plan was supported by a Strategic Environmental Assessment screening that concluded that the plan would not trigger significant environmental effects. In addition to this, the Council has confirmed that it believes the plan meets the Basic Conditions, including in terms of sustainability.

8 CONSULTATION

- 8.1 During the production of the Neighbourhood Plan the Steering Group undertook several consultations and engagement events with Local Stakeholders in the Neighbourhood Plan Area. After the Draft Neighbourhood Plan was submitted to the Royal Borough a formal process of consultation was undertaken by planning officers and the results of this were forwarded to the independent examiner for their consideration during the examination process. The consultation process has met the legal requirements.

9 TIMETABLE FOR IMPLEMENTATION

Table 5: Implementation timetable

Date	Details
September 2017	Referendum
October 2017	Depending on the Outcome of the referendum formal Making of the Neighbourhood Plan

9.1 Implementation date if not called in: Immediately.

10 APPENDICES

All appendices are available electronically:

Appendix A – Examiner’s Report - The examiner’s report is appended for consideration and should be read in conjunction with the submission version of the neighbourhood plan which is available on the Council’s website at <http://www.rbwm.gov.uk/web/>

Appendix B – Officer assessment of the recommended changes to the neighbourhood plan

11 BACKGROUND DOCUMENTS

- National Planning Policy Framework (NPPF) - <https://www.gov.uk/government/publications/national-planning-policyframework--2>
- Localism Act (2011) <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- Neighbourhood Planning (General) Regulations (2012) <http://www.legislation.gov.uk/uksi/2012/637/schedule/1/made>
- Neighbourhood Planning (Referendum) Regulations (2012) <http://www.legislation.gov.uk/ukdsi/2012/9780111525050/contents>
- Neighbourhood Planning Act 2017 <http://www.legislation.gov.uk/ukpga/2017/20/contents/enacted>
- Cabinet Report – Neighbourhood Planning Designations (March 2013)

12 CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Councillor Bateson	Principal Member for Neighbourhood Planning	28/6/17	
Alison Alexander	Managing Director	28/6/17	
Russell O’Keefe	Executive Director	28/6/17	29/6/17
Andy Jeffs	Executive Director	28/6/17	
Rob Stubbs	Section 151 Officer	28/6/17	29/6/17
Terry Baldwin	Head of HR		
Mary Kilner	Head of Law and Governance	28/6/17	
Suzanne Martin	Electoral Services Manager	28/6/17	29/6/17

REPORT HISTORY

Decision type: Key decision: April 17	Urgency item? No
Report Author: Jenifer Jackson, Head of Planning, 01628 796042	