

Report Title:	Windsor Neighbourhood Plan Adoption – Formal Making of the Plan
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Coppinger, Cabinet Member for Planning, Environmental Services and Maidenhead
Meeting and Date:	Extraordinary Full Council – 29 <sup>th</sup> June 2021
Responsible Officer(s):	Andrew Durrant, Executive Director of Place Services Adrien Waite, Head of Planning
Wards affected:	Old Windsor; Clewer and Dedworth East; Clewer and Dedworth West; Clewer East; Eton and Castle

## REPORT SUMMARY

This report recommends the Council to ‘Make’ the Windsor Neighbourhood Plan as part of the Development Plan for the Royal Borough of Windsor and Maidenhead, and for it to be used in decision making for relevant planning applications in the neighbourhood planning area.

This follows the successful referendum on 6<sup>h</sup> May 2021 where a significant majority of votes were cast in favour (details of which can be found in Appendix B of this report).

### 1. DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That Council notes the report and:

- i) In accepting the result of the referendum, agrees to formally ‘make’ the Windsor Neighbourhood Plan part of the Development Plan for the Royal Borough of Windsor and Maidenhead and,
- ii) Delegates authority to the Executive Director of Place and Head of Planning in consultation with the Cabinet Member for Planning, Environmental Services and Maidenhead to make minor non-material amendments to the Neighbourhood Plan as necessary prior to its publication.

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

#### Options

**Table 1: Options arising from this report**

Option	Comments
Accept the result of the referendum and formally ‘make’ the Windsor Neighbourhood Plan part of the	This is the next step in the neighbourhood planning process set out in the Localism Act 2011

Option	Comments
<p>Development Plan for the Royal Borough of Windsor and Maidenhead</p> <p><b>This is the recommended option</b></p>	<p>where by local communities are given the direct power to develop their shared vision for their neighbourhood. If 'Made', The Neighbourhood Plan will be used by the Council for determining planning applications in the Windsor Area.</p>
<p>Do not accept the result of the referendum and do not make the plan part of the Development Plan.</p> <p>This is not the recommended Option</p>	<p>This option would deny the local community the opportunity to ensure that their neighbourhood plan can be used in determining planning applications in the Windsor area. There would be serious legal risks to this decision, the ramifications of which are not clear as there is no case law in this area.</p>

- 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. The formal 'making of the plan' is the final stage in the Neighbourhood Plan production process.
- 2.2 The Royal Borough encourages neighbourhood planning. There are currently five Neighbourhood Plans which have been formally made and form part of the Development Plan. These are Ascot, Sunninghill and Sunningdale (2014), Hurley and the Walthams (2017), Eton and Eton Wick (2018), Old Windsor (2019) and Horton and Wraysbury (2020).
- 2.3 The Windsor Neighbourhood Plan Forum who produced the Neighbourhood Plan on behalf of the designated area has placed high value on community engagement as part of the Neighbourhood Plan process. Consultations have been undertaken between 2012 – 2019, and evidence to support the policies has been developed. This process has generated a lot of interest in the local community. Many households attended the several consultation events. The WNP [Consultation Statement](#) sets out the full list of consultation events which took place (see table 2 on page 11 of the Consultation Statement). These included launch events, vision events, surveys, presentations and meetings. Two formal regulation 14 consultations were undertaken as part of the development of this Neighbourhood Plan. The Neighbourhood Plan Forum has expressed gratitude for the interests of all sections of their communities including local organisations, RBWM officers and Elected Members, whom expressed views that have helped to shape the plan.
- 2.4 Following publication of the draft plan, the Neighbourhood Plan was scrutinised by an independent examiner. The examiner was appointed by the Royal Borough, in consultation with the Neighbourhood Plan Forum. The

[examiner's report](#) recommended that the plan should proceed to referendum, subject to modifications. These modifications mainly consisted of changes to the policy wording to ensure that the policies were robust and sound and to ensure that the Neighbourhood Plan meets the Basic Conditions, as required by the Localism Act.

- 2.5 On 17<sup>th</sup> December 2020 Cabinet approved the Neighbourhood Plan going to referendum with a single question (as set by the 'Neighbourhood Planning (Referendums) Regulations 2012') which asked: *“Do you want the Royal Borough of Windsor and Maidenhead to use the Neighbourhood Plan for Windsor to help it decide planning applications in the neighbourhood area?”*
- 2.6 The referendum took place on the 6<sup>th</sup> May, 2021 in the areas covered by the Neighbourhood Plan area. The Returning Officer reports that 5,643 ballot papers were issued: a turnout of 26.7%. 4984 votes were cast in support of the plan and 617 voted no to the question. As a majority of those voting in the referendum answered “yes”, under the terms of the legislation, the plan is now a material consideration in decisions on planning applications, but it also needs to be formally ‘made’ part of the Development Plan for the Royal Borough. This ‘making’ of the Neighbourhood Plan is the reason for this report to the Council.
- 2.7 Shortly before the scheduled referendum, the Neighbourhood Forum was informed of an error in the title of one of the Local Green Space designations; LGS21, then named ‘Convent public park’. The Planning Forum was informed (by the landowner) that this land was privately owned and maintained, rather than owned and maintained by the Royal Borough. Whilst the owner does not challenge the designation within the Neighbourhood Plan, the owner has requested a change to the name of the designation to clarify that the land is not publicly owned and maintained.
- 2.8 The referendum proceeded as scheduled, whilst the Neighbourhood Plan Forum liaised with RBWM officers to determine if the change was considered to be a material amendment, or a minor amendment. Officers obtained legal advice and this confirmed that the change to the name of a designation could be considered to be a minor, non material amendment and can be altered within the Neighbourhood Plan accordingly, without further consultation.
- 2.9 As such, there is an amendment to the ‘Forward’ on page 2 of the Final Neighbourhood Plan (dated June 2021), and the change of name features on pages 26, 33, and 79 of the Final Neighbourhood Plan, and also Appendix 1 pages 5, 48 and 49 where the ownership and maintenance is changed from “RBWM” to “privately owned” and “maintenance is the responsibility of the owner”.

### 3. KEY IMPLICATIONS

**Table 2: Key Implications**

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
A made	The	Neighbourhood	Neighbourhood	Neighbourhood	29 June

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
neighbourhood plan that delivers the wishes of the community.	Neighbourhood Plan is not seen by the community to be influencing development decisions.	Plan used in determining planning applications.	Plan is used and is successfully defended at appeal.	Plan used in determining planning applications and development is in accordance with the plan as the community expected.	2021
Developments are shaped 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.	Ongoing

#### **4. FINANCIAL DETAILS / VALUE FOR MONEY**

- 4.1 Although the Government's support for neighbourhood planning groups has now changed to being channelled through the 'Locality' organisation; who are able to give direct assistance to groups, the Council has received grant payments from the Ministry of Housing, Communities and Local Government (MHCLG) in regard to this and other current plans in preparation.
- 4.2 The cost of undertaking the plan examination has, as required, been paid for by the Council. In agreeing to proceed to referendum with this plan, Cabinet also agreed in December 2020 to fund the cost of the referendum. Now that the plan has successfully passed referendum, the Council is able to apply for a grant of £20,000 to cover the majority of the cost of both the examination and the referendum. That grant application was made by officers in March this year. It will be the final tranche of grant funding in relation to this plan.
- 4.3 There are no additional costs expected to accrue in relation to having made the Neighbourhood Plan as recommended.

#### **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 have significant weight in decision making on planning applications. 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.

- 5.2 This report seeks formal confirmation from the Council that the Windsor Neighbourhood Plan forms part of the Development Plan for the Royal Borough. The Council has authority to take that decision.

## 6. RISK MANAGEMENT

**Table 4: Impact of risk and mitigation**

<b>Risk</b>	<b>Level of uncontrolled risk</b>	<b>Controls</b>	<b>Level of controlled risk</b>
Community will not have an opportunity to guide development in their area.	Medium	Approve the Neighbourhood Plan to be made part of the Development Plan for the Royal Borough of Windsor and Maidenhead.	Low
Risk of legal challenge If in denial of the result of the referendum, the Council decide not to formally make the neighbourhood plan part of the development plan for the Royal Borough.	High	Approve the Neighbourhood Plan to be made part of the Development Plan for the Royal Borough of Windsor and Maidenhead.	Low
If not made, planning applications will not be dealt with in a way the communities intended	Medium	Approve the Neighbourhood Plan to be made part of the Development Plan for the Royal Borough of Windsor and Maidenhead.	Low
Development in the neighbourhood area may continue to receive significant levels of objection from residents and not meet some local needs.	High	Approve the Neighbourhood Plan to be made part of the Development Plan for the Royal Borough of Windsor and Maidenhead.	Medium

## 7. POTENTIAL IMPACTS

- 7.1 Equalities. The examiner has confirmed that the Neighbourhood Plan (with modifications) 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 Equalities. Equality Impact Assessments are published on the [council's website](#). The Equality Act 2010 places a statutory duty on the council to ensure that when considering any new or reviewed strategy, policy, plan, project, service or procedure the impacts on particular groups, including those within the workforce and customer/public groups, have been considered.
- 7.3 An [EQIA screening form](#) has been completed and signed by the relevant Head of Service. The recommendations in this report have no identified equality impacts.
- 7.4 Climate change/sustainability. 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 assessment and report, 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, in terms of sustainability.
- 7.5 Strategic Environmental Assessment (SEA) seeks to ensure that environmental considerations are part of the process of preparing certain plans and programmes. The objective of the SEA Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with the Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.
- 7.6 Data Protection / GDPR. The way the planning policy team in the planning department handles personal data was made clear to those who provided representations during the formal consultation period (undertaken by Council). Personal details were processed in accordance with the principles of the Data Protection Act 2018 and the General Data Protection Regulations.

## **8. CONSULTATION**

- 8.1 During the preparation of the Neighbourhood Plan the Neighbourhood Plan Forum 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 the Council and the responses to this were forwarded to the independent examiner for consideration during the examination process. The Examiner was satisfied that an appropriate level of community engagement had taken place. The referendum is the final form of local consultation and the result was a clear vote to implement the Neighbourhood Plan.
- 8.2 The Council has been updated of progress of this Neighbourhood Plan on several occasions including, most recently, in agreeing to proceed with the referendum on the basis of the decision statement published in February 2021.

## 9. TIMETABLE FOR IMPLEMENTATION

**Table 5: Implementation timetable**

<b>Date</b>	<b>Details</b>
6 <sup>th</sup> May 2021	Successful Referendum vote in favour of the Neighbourhood Plan
29 <sup>th</sup> June 2021	The Windsor Neighbourhood Plan will become one of the suite of Development Plan Documents (DPDs) comprising the Development Plan for the Royal Borough of Windsor and Maidenhead.

## 10. APPENDICES

10.1 This report is supported by 2 appendices:

- Appendix A – Windsor Neighbourhood Plan - which can be viewed here: [www.windsorplan.org.uk](http://www.windsorplan.org.uk)
- Appendix B – DECLARATION OF RESULT OF POLL: Windsor – which can be viewed here: <https://www.rbwm.gov.uk/home/council-and-democracy/elections-and-voting/elections-and-referendums-2021>

## 11. BACKGROUND DOCUMENTS

11.1 This report is supported by 5 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>
- Equalities Impact Assessment – Screening Form - <https://www.rbwm.gov.uk/sites/default/files/2021-06/2021-eqia-report-to-full-council-to-adopt-the-windsor-neighbourhood-plan-published-17-june-2021.pdf>

## 12. CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Date returned</b>
Cllr Coppinger	Cabinet Member for Planning,	15.06.21	<b>15.06.21</b>

	Environmental Services and Maidenhead		
Duncan Sharkey	Chief Executive	15.06.21	<b>16.06.21</b>
Adele Taylor	Executive Director of Resources/S151 Officer	15.06.21	<b>18.06.21</b>
Andrew Durrant	Executive Director of Place	15.06.21	<b>17.06.21</b>
Kevin McDaniel	Executive Director of Children's Services	15.06.21	<b>18.06.21</b>
Hilary Hall	Executive Director of Adults, Health and Housing	15.06.21	<b>15.06.21</b>
Andrew Vallance	Head of Finance	15.06.21	
Elaine Browne	Head of Law	15.06.21	<b>21.06.21</b>
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	15.06.21	<b>21.06.21</b>
Nikki Craig	Head of HR, Corporate Projects and IT	15.06.21	<b>15.06.21</b>
Louisa Dean	Communications and Marketing Manager	15.06.21	<b>18.06.21</b>
Karen Shepherd	Head of Governance	15.06.21	<b>15.06.21</b>

## REPORT HISTORY

<b>Decision type:</b>	<b>Urgency item?</b>	<b>To follow item?</b>
Council decision	No	No

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