


LONDON BOROUGH OF WALTHAM FOREST

Meeting / Date	Cabinet 10 October 2019	
Report Title	Highams Park Neighbourhood Plan: Approval of Referendum Plan	
Cabinet Portfolio	Councillor Simon Miller, Portfolio Lead Member for Economic Growth and Housing Development	
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Wards affected	Hatch Lane, Hale End & Highams Park, Chapel End and Larkswood	
Public Access	Open	
Appendices	Appendix A – Highams Park Neighbourhood Plan modified in accordance with Inspector's recommendations (the referendum version) Appendix B – Inspector's Report dated 7 th June 2019 Appendix C – Officers Analysis Appendix D - Equality Analysis	

1. SUMMARY

- 1.1 This report considers the recommendations resulting from the Independent Examination of the Highams Park Neighbourhood Plan (HPNP) and seeks to endorse the modifications recommended by the Inspector and agree that the plan proceeds to the local referendum stage.

2. RECOMMENDATIONS

- 2.1 Cabinet is recommended to:
- 2.1.1 accept the conclusions contained in the report of the Independent Examiner of 7th June 2019 and the recommended modifications contained therein (Appendix B);
- 2.1.2 agree that the referendum version of the Highams Park Neighbourhood Plan (as modified following Independent Examination) (Appendix A) meets the basic conditions and complies with the provisions of Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 and Schedule 4B to the Town and Country Planning Act 1990;

- 2.1.3 delegate authority to the Director of Planning in consultation with the Portfolio Lead Member for Economic Growth and Housing Delivery to issue a statement as soon as possible following the date of this meeting, pursuant to Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 ('the 2012 Regulations'), setting out the decision made by Cabinet and the reasons for it
- 2.1.4 Delegate authority to Director of Planning in consultation with the Portfolio Lead Member for Economic Growth and Housing Delivery to agree any changes to the referendum version ahead of the referendum
- 2.1.5 Agree that a local referendum be arranged in the Highams Park Neighbourhood Area on the referendum version as soon as reasonably practicable.

3. PROPOSALS

- 3.1 The National Planning Policy Framework (NPPF) and the Localism Act (2011) give local communities powers to develop their shared vision for their neighbourhood to 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 area.
- 3.2 The Highams Park Planning Group (HPPG) is the formally constituted and recognised neighbourhood planning body for the Highams Park Neighbourhood Area, both initially designated in 2014 and recently redesignated by the Council in June 2019.
- 3.3 The HPPG have prepared a draft neighbourhood plan for the area which has now been formally examined by an independent examiner (whose report is attached at Appendix B). The independent examiner recommends a number of changes to ensure that the plan meets the basic conditions as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 and section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
 - (a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
 - (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the neighbourhood plan,
 - (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the neighbourhood plan,
 - (d) the making of the neighbourhood plan contributes to the achievement of sustainable development.
 - (e) 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 (or any part of that area).

- (f) the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
 - (g) that prescribed conditions are met in relation to the neighbourhood plan (Schedule 2 of the 2012 Regulations prescribes the following condition for the purpose of this paragraph (g): that the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017)
- 3.4 The Independent Examiner concluded that the making of the plan will meet the basic conditions and the legal requirements and that the plan should proceed to referendum. The Examiner also made various recommendations to modify the plan (See Appendix C for an Officers analysis). The HPPG agree with the recommendations and have modified the plan accordingly.
- 3.5 Officers agree with the conclusions and recommendations of the Examiner and are satisfied that the modified plan encompasses the Examiner's recommendations. Officers also agree with the Examiner's conclusion that the basic conditions have been met, for the reasons set out in the Examiner's report and in the Officers' Analysis.(Appendix C)
- 3.6 The next step is for the Council to formally consider (at this Cabinet meeting): (i) whether the basic conditions have been met, (ii) the recommendations of the Examiner's Report (and the reasons for them) and (iii) decide what action to take in response to each recommendation. This has to be done within 5 weeks from the day following the day that the report is received unless an alternative date is agreed with the HPPG. To take account of the Cabinet timetable, officers have sought and obtained the agreement of the HPPG to extend this time to the date of this Cabinet.
- 3.7 Following the making of this decision by Cabinet, the Council must publish a 'decision statement' setting out the decision made by Cabinet and the reasons for it.
- 3.8 In the event that Cabinet agrees with the conclusions of the Independent Examiner and concludes that the plan should proceed to referendum, the referendum will have to be held at the earliest practicable opportunity. Advice from Democratic Services suggests that this would need to be after the annual canvass of electors to rebuild the register has taken place at the end of this year. This is the period when the register has the most variation in accuracy whilst thousands of amendments are made. Any referendum would need to take place no later than 8 weeks before a full council meeting. Currently it is expected that the poll would take place on the 5th March 2020.
- 3.9 The Neighbourhood Planning (Referendums) Regulations 2012 provides that the following question must be used in the referendum:
 - (h) "Do you want the London Borough of Waltham Forest to use the neighbourhood plan for Highams Park to help it decide planning applications in the neighbourhood area?"

- 3.10 If more than 50% of the poll is a 'yes' vote, the plan would then be adopted (via a decision of Full Council) whereupon it would form part of the Council's statutory development plan and will be used in the determination of planning applications.

4. OPTIONS & ALTERNATIVES CONSIDERED

- 4.1 The Council could reject some or all of the Examiner's recommendations and not take the plan to referendum. However, good justifiable reasons for this would be required otherwise the Council will be open to challenge. Officers have worked extensively over a number of years with the neighbourhood forum in relation to this plan and consider that it meets all of the legal tests and that the Examiner's conclusions and modifications are acceptable. Accordingly this option is not recommended.
- 4.2 The 'do nothing' approach is not an option. The Neighbourhood Planning process is a statutory one which the Council must comply with. This option is therefore not recommended.

5. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)

- 5.1 Accepting the Examiner's modifications and proceeding to referendum is expected to have a key role in implementing the spatial aspects of the Sustainable Community Strategy as reflected in the Council's Core Strategy and the supporting Development Management Policies documents and is consistent with the aims of the emerging Local Plan. One of the priority areas where regeneration efforts are to be focused is the borough's town centres which includes Highams Park District Centre as recognised in the Draft Plan.

6. CONSULTATION

- 6.1 The production of the neighbourhood plan has featured consultation and engagement events undertaken by the neighbourhood planning forum and consultations hosted by the Council. After the draft plan was submitted to officers ahead of the independent examination a statutory consultation was undertaken and the results of this were made available to the Independent Examiner for their consideration during the examination process.
- 6.2 This current decision does not require any public consultation.

7. IMPLICATIONS

7.1 Finance, Value for Money and Risk

- 7.1.1 Local Planning Authorities (LPAs) can claim £20,000 from the Ministry of Housing, Communities and Local Government once a date for a referendum has been set following a successful examination where a neighbourhood plan has not previously been made for that area. Officers

will monitor expenditure to ensure that the project is delivered within the available funding. The approximate costs relating to printing, publication and running a referendum in Higham's Park are expected to be around £20,000 which will be funded from the grant. Any additional costs arising from the process and exceeding the grant allocation will be funded from reserves set aside under the Neighbourhood Front Runner Fund.

7.2 Legal

- 7.2.1 Part 6 and Schedule 9 of the Localism Act 2011 inserted new sections into the Town and Country Planning Act 1990 ("the 1990 Act") to introduce the concept of neighbourhood planning. Neighbourhood planning empowers designated neighbourhood forums to set planning policy in designated neighbourhood areas.
- 7.2.2 Part 5 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ("the Regulations") sets out the procedure for producing and making neighbourhood development plans.
- 7.2.3 Under paragraph 12 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) the Council must, following receipt of an Independent Examiner's report:
- (a) consider each of the recommendations made by the report (and the reasons for them), and
 - (b) decide what action to take in response to each recommendation
- 7.2.4 The Council must also consider whether the 'basic conditions' (as set out in paragraph 3.3 of this report) have been met.
- 7.2.5 Regulation 17A(4) of the Regulations provides that the Council must make this decision within 5 weeks beginning with the day immediately following that on which they receive the Examiner's report or by an alternative date agreed with the Neighbourhood Forum. In this case, an alternative date has been agreed with HPPG.
- 7.2.6 As soon as possible after this decision has been made, Regulation 18 requires the Council to publish the decision and their reasons for it ("the decision statement") together with details of where and when the decision statement and a copy of the Examination Report may be inspected. The decision statement must be published on the Council's website and in such other manner as the Council considers is likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area.
- 7.2.7 The next step in this statutory process is for a referendum to be held in the neighbourhood area in question. If more than 50% of the referendum is in favour of the plan it will become part of the Council's statutory development plan (following a Full Council resolution confirming such) and it will be used to determine planning applications in that neighbourhood area.

7.3 Equalities and Diversity

7.3.1 An initial screening exercise of the equality impact of this decision has been undertaken. It is considered that there is no impact on the Council's equality duty (Appendix F). The acceptance of the independent examiners' modifications and the referendum provides beneficial mechanisms to promote equality and engagement in planning.

7.4 Sustainability (including climate change, health, crime and disorder)

7.4.1 This decision to accept the independent examiners modifications and proceed to referendum has no direct sustainability impacts. As a mandatory requirement, the neighbourhood plan is supported and informed with evidence of the sustainability appraisal undertaken. This incorporates climate change, health, and crime and disorder objectives considered during the neighbourhood plan preparation stage.

7.5 Council Infrastructure

7.6 The proposal will be undertaken within existing resources.

7.7 Brexit

7.7.1 There are no Brexit implications arising.

BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)

None.