

Cabinet Report

Report of Head of Planning

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To: CABINET

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Making the Wootton and St Helen Without Neighbourhood Development Plan

That Cabinet recommends to Council:

1. To make the Wootton and St Helen Without Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To delegate to the Head of Planning, in consultation with the Leader of the Council and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

Purpose of Report

1. To provide an update to the Cabinet on the progress of the Wootton and St Helen Without Neighbourhood Development Plan and to present the relevant considerations in relation to whether this plan should be made (formally adopted).

Corporate Objectives

2. Strongly supporting the development of neighbourhood plans for our towns and villages.

Background

3. Wootton Parish Council successfully applied for the parishes of Wootton and St Helen Without to be designated as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations (2012).
4. The preparation of the Wootton and St Helen Without Neighbourhood Development Plan (the Plan was led by the parish council ('the qualifying body') and a group of volunteers from the local community.
5. Following the formal submission of the Plan to the council, the council as required by the regulations publicised the Plan and invited comments from the public and stakeholders.
6. The council appointed Mr Andrew Ashcroft to independently examine the Plan. Examiners are tasked with reviewing whether a neighbourhood plan meets the basic conditions required by legislation and whether it should proceed to referendum. The examiner's report concluded that the Plan meets the basic conditions, and that subject to the modifications proposed in his report, the Plan should proceed to referendum.
7. The modifications proposed by the Examiner are largely minor in nature; re-wording and restructuring for clarity and to ensure the basic conditions are met. A full copy of the proposed modifications to the Plan are set out in the Examiner's Final Report¹. A few significant modifications were recommended by the examiner including:
 - (a) Deletion of Local Green Spaces C (Hawthorn Avenue), D (Sycamore Close and Faringdon Road) and H (Rookery Close) on the basis that they would be inconsistent with LPP2. Deletion of Local Green Spaces I (West of Starveall Farmhouse) and L (Officers Mess) as it could not be concluded that they would endure beyond the plan period.
 - (b) Removal of map showing the 'Separation of Settlements' and amendments to the policy as it was considered the submitted policy was more restrictive than national Green Belt policy and was not in conformity with LPP1. Furthermore the maps showed areas of a strategic scale. The policy was amended to retain the intention but not specifically define the Green Gaps.
 - (c) Amendments were made to the policy on Dalton Barracks to bring it in line with the policy within LPP2, whilst retaining a green buffer between the allocation and Shippon.
8. Having considered the examiner's recommendations and reasons for them, Vale of White Horse District Council's Leader of the Council decided on 5 September 2019:
 - 1) to accept all modifications recommended by the Examiner;
 - 2) to determine that the Wootton and St Helen Without Neighbourhood Development Plan, as modified, meets the basic conditions, is compatible with

¹ Independent Examiner's Report to Vale of White Horse District Council on the Wootton and St Helen Without Neighbourhood Development Plan (2019), available at: <http://www.whitehorsedc.gov.uk/sites/default/files/Wootton%20and%20St%20Helen%20Without%20Neighbourhood%20Development%20Plan%20-%20Examiner's%20Final%20Report.pdf>

the Convention rights², complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP; and

3) to take all appropriate actions to progress the Wootton and St Helen Without Neighbourhood Development Plan to referendum.

9. The modifications to the Plan were made and the referendum version of the Plan was published on 12 September 2019 alongside the decision statements required under Regulation 18(2)(a) of the Regulations (2012).

Options

10. The council's options are limited by statute. Paragraph 38A (4)(a) of the Planning and Compulsory Purchase Act 2004 sets out that the council must make a neighbourhood plan if more than half of those voting at the referendum have voted in favour of the plan being used to help decide planning applications in the plan area.

11. The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

12. Section 3 of the Neighbourhood Planning Act 2017, which came into force on 19 July 2017, amends section 38 of the Planning and Compulsory Purchase Act 2004 to ensure that neighbourhood plans have full legal effect once they have passed their local referenda. In the very limited circumstances that the council might decide not to make the neighbourhood development plan, it will cease to be part of the development plan for the area.

13. The Basic Conditions statement (specifically section 6) submitted alongside the Wootton and St Helen Without Neighbourhood Plan explores the Plan's compatibility with EU obligations and legislation and concludes that the Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act, 1998. The council's decision on 5 September 2019 (referred to in paragraph 8), published in the decision statement issued 12 September 2019 (referred to in paragraph 9), confirmed that the Wootton and St Helen Without Neighbourhood Development Plan, as modified by the Examiner's recommendations, would not breach, nor otherwise be incompatible with EU obligations or human rights legislation.

14. Therefore, if the majority of those voting have voted in favour of the Wootton and St Helen Without Neighbourhood Plan being used to help decide planning applications in the plan area, to not make the plan would be in breach of these statutory provisions.

² *Convention rights* are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights ("the Convention"), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention's Article 6(1), 8 and 14 and under its First Protocol Article 1.

Referendum

15. A referendum relating to the adoption of the Wootton and St Helen Without Neighbourhood Development Plan was held on Thursday 24 October 2019.
16. The question which was asked in the Referendum was: *“Do you want Vale of White Horse District Council to use the Neighbourhood Plan for Wootton and St Helen Without to help it decide planning applications in the neighbourhood area?”*
17. The result was as follows:
 - a) Yes = 544 votes (89.3%)
 - b) No = 64 votes (10.5%)
 - c) Turnout = 17.1%
18. The majority of local electors who voted, voted in favour of the Plan; therefore, the Wootton and St Helen Without Neighbourhood Plan has become part of the council's development plan.
19. As the plan was approved at the local referendum and the council is satisfied it would not breach and be otherwise incompatible with EU obligations or human rights legislation, the council is required to make the Wootton and St Helen Without Neighbourhood Development Plan so that it continues to be part of the council's development plan.

Financial Implications

20. The Government makes funding available to local authorities to help them meet the cost of their responsibilities around neighbourhood planning. A total of £20,000 can be claimed for each neighbourhood planning area. The council becomes eligible to apply to receive this single payment once a date is set for the referendum, after a successful examination. The Government grant funds the process of progressing neighbourhood plans through the formal stages, including the referendum. Any cost incurred in the formal stages in excess of £20,000 is borne by the council. Staffing costs associated with supporting community groups and progressing neighbourhood plans through the formal stages are funded by the council.

Legal Implications

21. The decision to make the Wootton and St Helen Without Neighbourhood Plan is a legal requirement in the Planning and Compulsory Purchase Act 2004. The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). There is a requirement that the district council will publish a formal decision statement as required under the Neighbourhood Planning (General) Regulations 2012.
22. It is not considered that the Wootton and St Helen Without Neighbourhood Development Plan would breach, or would otherwise be incompatible with, any such obligation or rights. Therefore, the council should now proceed to make the plan.

Risks

23. The council is required to comply with the statutory requirements (to consider whether the Wootton and St Helen Without Neighbourhood Development Plan should be made following successful local referendum), which this recommendation seeks to achieve. In view of the considerations referred to elsewhere in this report, as the majority of those voting have voted in favour of the plan at its local referendum, a decision not to make the plan would place the council at risk of a legal challenge.

Conclusion

24. On the 5 September 2019, the council decided:

- 1) to accept all modifications recommended by the Examiner;
- 2) to determine that the Wootton and St Helen Without 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; and
- 3) to take all appropriate actions to progress the Wootton and St Helen Without Neighbourhood Development Plan to referendum.

25. The local referendum was held on 24 October 2019 to meet the requirements of The Localism Act 2011 and The Neighbourhood Planning (Referendums) Regulations 2012.

26. As the majority of those voting have voted in favour of the Plan being used to help decide planning applications in the plan area, it is recommended that the Wootton and St Helen Without Neighbourhood Development Plan is made.