

DELEGATED REPORT AND DECISION

Wards Affected: Aston Clinton

22 December 2015

BUCKLAND NEIGHBOURHOOD PLAN - MODIFICATIONS ARISING FROM THE EXAMINER'S REPORT

Decision taker: Andy Kirkham (Forward Plans Manager)

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Executive Summary:

Following the examination of the Buckland Neighbourhood Plan, this delegated action report considers and makes decisions on the modifications to the Plan which have been proposed by the Examiner in the Examiner's report, including the area for the referendum.

1. Recommendation(s)

- 1.1 That the Council's response to the modifications set out in the Examiner's report which are detailed in the Annex to this report, be agreed and that the Buckland Neighbourhood Plan as so modified proceed to referendum.
- 1.2 That the area for the referendum, as recommended by the Examiner to be the same as the neighbourhood area, be agreed and that the referendum take place as soon as it can be arranged.

2. Background and current position

- 2.1 The Buckland Neighbourhood Plan was submitted to the Council on 14 September 2015 and was subsequently publicised for comments for 6 weeks until 26 October 2015. The Council then submitted the plan and representations for examination. Mr Christopher Collison was appointed by the Council, in consultation with the Buckland Parish Council to examine the plan. The general rule pursuant to paragraph 9 of Schedule 4B of the Town and Country Planning Act 1990 (as inserted by Schedule 10 of the Localism Act 2011) is that the examination takes the form of the consideration of written issues, but the examiner can hold a hearing where he considers that the consideration of oral representations is necessary to ensure adequate examination of the issue or to enable a person to put forward a fair case. In this case, Mr Collison decided a hearing was not necessary.

- 2.2 The draft examiner's report was received on 9 November 2015 and a final version of the report was received by the Council and sent to Buckland Parish Council on 16 November 2015. The Council is now required to decide what action to take in response to each of the Examiner's recommendations. His recommendations address:
- (a) modifications to the plan and its content in order to ensure that it complies with the basic conditions that all neighbourhood plans must meet; and
 - (b) the area over which the referendum will take place.
- 2.3 Subject to the Examiner's modifications and the Council's response (as set out in the Annex to this report), the Neighbourhood Plan as so modified can proceed to the Referendum stage. The revision of the Plan to take into account the Examiner's modifications and other minor updating and typographical corrections will be published 28 days before the Referendum as required in Regulations.

3. Options

- 3.1 The Forward Plans Manager has delegated authority to make decisions on an Examiner's report that recommend no or only minor changes to a Neighbourhood plan after consultation with the Local Members and the Cabinet Member for Growth Strategy.
- 3.2 The various options are as follows:-

1. Decide not to progress the Plan in light of the Examiner's report

This option would only be necessary if the Examiner recommends that the Plan should not proceed to referendum or if the Council consider the modifications are not in accordance with the legal requirements. As the Examiner recommends the Plan as modified should proceed to Referendum and the modifications meet the legal requirements, this option cannot be justified.

2. Act upon the Examiner's report and progress the plan to referendum

In this case, the Examiner's modifications are minor and the Local Members and the Cabinet Member for Growth Strategy are in agreement with the Council's response on those modifications and, therefore option 2 is the preferred option.

4. Implications

4.1 Policy

- 4.2 The National Planning Policy Framework (NPPF) sets out that Neighbourhood Plans must be in general conformity with the strategic policies of the Development Plan. Neighbourhood Plans should reflect these policies, and neighbourhoods should plan positively to support them. Neighbourhood Plans and Neighbourhood Development Orders

should not promote less development than is set out in the Local Plan, or undermine its strategic policies. In our district, the strategic policies are set out in the adopted Aylesbury Vale District Local Plan (AVDLP).

4.3 Once a Neighbourhood Plan has successfully passed all of the stages of preparation, including an Examination and Referendum, it is 'made' by the local planning authority and forms part of the authority's Development Plan, meaning it will be a material consideration when considering development proposals.

5.0 Resources

5.1 Finance: The Localism Act 2011 ("the Act") and the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations") place new duties on local planning authorities in relation to Neighbourhood Planning. These new duties have considerable implications for staff resources and include taking decisions at key stages in the process; being proactive in providing advice to communities about neighbourhood planning; providing advice or assistance to a parish council, neighbourhood forum or community organisation that is undertaking neighbourhood planning.

5.2 In recognition of the additional burdens that these new duties place on local planning authorities, the Department for Communities and Local Government (DCLG) has made available grants to local planning authorities up to £30,000 for each neighbourhood plan. The payment of the Extra Burdens Grant is phased so that £5,000 is available when the neighbourhood area is designated; a further £5,000 when the plan is submitted and publicised; and the final £20,000 following successful examination.

5.3 As the Buckland Neighbourhood Plan has now also successfully passed examination the outstanding grant monies for this plan should be claimable in the next claims period.

5.4 The Extra Burdens Grant of £30,000 is expected, by Government, to cover the costs of the examination and the referendum. The extra burdens funding for this particular plan is also likely to cover the majority of staff costs. Staff resources to support Neighbourhood Planning will come from the existing staff within the Forward Plans team. There will, however, be additional costs to Democratic Services team in respect of carrying out the Referendum, although it is expected the Extra Burdens Grant will cover the Referendum costs. If there is a legal challenge on a decision regarding the neighbourhood plan this will potentially have a significant impact on expected costs and will have to be managed as the situation arises. Decisions on any significant unexpected resource issues for the Council, as a result of officer involvement in Neighbourhood Planning, will be taken separately, as necessary.

5.5 The impact of the delegated decision on revenue costs or income is set out above and, in addition, the costs associated with the publicity of the plan; the independent examination and the holding of any future referendum will be met from the Forward Plans budget.

6.0 Legal issues

- (a) Neighbourhood planning is part of the Government's initiative to empower local communities to take forward planning proposals at a local level. The Act and the subsequent 2012 Regulations confer specific functions on local planning authorities in relation to neighbourhood planning.
- (b) The Buckland Neighbourhood Plan has been consulted on in accordance with the 2012 Regulations – firstly the Draft Plan was the subject of consultation by the Buckland Parish Council under Regulation 14 and, following the submission of the plan to the Council, the plan was publicised pursuant to Regulation 16.
- (c) As with any planning decision, there is a risk of legal challenge to the plan and/or judicial review of the council's decision to proceed with the referendum. The risk of challenge is being managed by ensuring that the regulations are followed and that the Council's decision making process is clear and transparent.

7.0 Other Implications

- 7.1 A Neighbourhood Plan must meet the basic conditions set out in paragraph 8 (2) of Schedule 4B to the Town and Country Planning Act 1990. The Examiner's report has confirmed that the Plan, as modified, meets all the basic conditions and officers are satisfied that there are no conflicts with these aspects. The Examiner also considered the area for the referendum and recommended that it should not extend beyond the neighbourhood area to which the plan relates. Officers are satisfied with his recommendation in this respect.
- 7.2 The consultations on the draft plan have helped to raise awareness of the development of the plan.

8.0 **Decision**

- 8.1 I agree the recommendations in paragraphs 1.1 and 1.2 of this report and have made the decision for the Council to receive and act upon the Examiner's report and that the Buckland Neighbourhood Plan, as proposed to be modified by the Examiner's Report, should proceed to referendum for the area recommended by the Examiner.



Andy Kirkham, Forward Plans Manager

Date: 22 December 2015

Background Papers:

- Buckland Neighbourhood Plan, submission version, September 2015
- Buckland Neighbourhood Plan Examiner's report, November 2015

Modifications recommended by the Examiner and the Council's response

	Examiner's Report	Aylesbury Vale District Council Response
	Modifications to policies and supporting text	
1	The projects listed on page 10 of the submission plan should be transferred to a non-statutory annex to the Neighbourhood Plan	Agreed. This aligns the plan to the guidance and makes it clear that these projects are not part of the Neighbourhood Development Plan although keeps them in the document for future use.
2	Policies should use the term <i>'be supported'</i> or <i>'not be supported'</i> instead of <i>'be permitted'</i> or <i>'not be permitted'</i>	Agreed. This recognises the role of a neighbourhood plan in decision making.
3	In Policy BP2: Delete <i>'Any incursion into'</i> and insert <i>'Any significant development in'</i> After <i>'resisted'</i> insert <i>'except in very exceptional circumstances'</i> After <i>'Hills'</i> continue <i>'where great weight will be attached to conserving landscape and scenic beauty'</i>	Agreed. This gives greater clarity and makes the plan have regard to national policies.
4	In Policy BP4: After <i>'lead to'</i> insert <i>'further'</i> Delete <i>'neighbouring settlements, particularly'</i> Amend the policy title to <i>'No Further Coalescence'</i>	Agreed. This gives greater clarity.
5	Delete Policy BP5	Agreed. This makes the plan have regard to national policies.
6	In Policy BP6 delete the final sentence	Agreed. This gives greater clarity and makes the plan more user friendly.
7	In Policy BP7 delete <i>'for those on low incomes and should also include for alterations and/or extensions'</i>	Agreed. This gives greater clarity.
8	In Policy BP9 delete <i>'employing'</i> and insert <i>'offering employment opportunities available to'</i>	Agreed. This gives greater clarity.
9	In Policy BP10: Delete <i>'does'</i> and insert <i>'do'</i> Delete the final sentence and insert <i>'Proposals to redevelop a business site that will significantly reduce harm to residential or visual amenity will be supported'</i>	Agreed. This gives greater clarity and makes the plan more user friendly.
10	In Policy BP11: Continue <i>'and lead to an enhancement to the immediate setting'</i> Delete <i>'and relocation'</i> from the policy title	Agreed. This gives greater clarity.
11	In Policy BP12: On both occasions delete <i>'will require'</i> and insert <i>'must provide'</i> Delete <i>'provisions'</i> and insert <i>'provision calculation'</i>	Agreed. This gives greater clarity.
12	In Policy BP14 delete the first sentence and insert <i>'Development proposals that would result in the loss of existing community facilities will only be supported if accompanied by clear evidence the facilities are no longer viable or the proposals would result in improved provision within the Parish'</i>	Agreed. This makes the plan have regard to national policies and more user friendly and more concise.
13	In Policy BP15 replace the wording with <i>'With diverse heritage assets throughout the whole parish, development proposals will be required to demonstrate that the impact of proposals on heritage assets has been carefully considered and that negative impacts to their significance, including impacts to their settings, have been either avoided or minimised. Where the harm of any residual</i>	Agreed. This makes the plan more robust and have regard to national policies.

	<i>impacts of a proposed scheme are not justified by the public benefits that would be provided, they will not be permitted.'</i>	
14	<p>Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies.</p> <p>Page 3 6th paragraph – AVDC confirm 30 January 2014</p> <p>Page 5 1st paragraph – delete 'enhance' and insert 'enhancement of'</p> <p>Page 9 3rd paragraph – insert 'a' before 'scheduled'</p> <p>Page 9 3rd paragraph – inconsistent upper case use in 'scheduled ancient monuments'</p> <p>Page 10 1st paragraph – delete '2' insert 'C'</p> <p>The purpose of Appendices F and H is unclear as they are not referred to in text</p> <p>A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.</p>	Agreed.