

DELEGATED REPORT AND DECISION

Wards Affected: Haddenham

11 September 2015

HADDENHAM NEIGHBOURHOOD PLAN – COUNCIL REPORT FOR THE MAKING OF THE HADDENHAM NEIGHBOURHOOD PLAN

Decision taker: Andy Kirkham (Forward Plans Manager)

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Executive Summary:

Following the successful examination and referendum of the Haddenham Neighbourhood Plan, this delegated action report confirms the decision to 'make' the Haddenham Neighbourhood Plan pursuant to the provisions of section 38(A)(4) of the Planning and Compulsory Purchase Act 2004.

1. Recommendation(s)

- 1.1 That the Council 'makes' the Haddenham Neighbourhood Plan pursuant to the provisions of section 38(A)(4) of the Planning and Compulsory Purchase Act 2004.

2. Supporting information

- 2.1 The Haddenham Neighbourhood Plan was submitted to the Council for examination in January 2015 and was subsequently publicised for comments for 6 weeks until 17 March 2015. All comments received were then submitted to the Examiner on 20 March 2015. The Plan was examined by Nigel McGurk. Neighbourhood plans should be examined where possible by written representations only, the examiner decided for Haddenham a public hearing was not necessary.
- 2.2 The examiner's draft report was received on 4 May 2015 and a final version of the report was received by the Council and sent to Haddenham Parish Council on 7 May 2015. This concluded the plan meets the 'basic conditions' set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 and recommended that the Council should, subject to the modifications in the Examiner's report, proceed to referendum.
- 2.3 On 4 June 2015 the Forward Plans Manager made the delegated decision for the Council to accept and act upon the Examiner's report and that the Haddenham Neighbourhood Plan, as proposed to be modified by the Examiner's Report, should proceed to referendum for the area recommended by the examiner – the Haddenham Neighbourhood Area. A date of 16 July 2015 was set for the Referendum to take place.
- 2.4 The residents of Haddenham voted overwhelmingly in favour of the area's neighbourhood

plan. In total, 1712 people voted 'yes' and 273 voted 'no'. The turnout was 51.3%. Over 86% of those voting voted in favour of the plan.

- 2.5 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.
- 2.6 In the days leading up to the referendum concerns were raised by a resident of Haddenham and a developer interested in land in the parish about two errors in the site assessment process. One of these errors was raised in a representation at the publicity stage to the examiner. The other error was only brought up at this stage in the process. Since the referendum it has been suggested by one of the objectors to the plan that because of these errors AVDC should not proceed any further with the neighbourhood plan. It is clear from the examiners report that he considered the representations made to him and that he was happy with the site assessment work and that he thought the resultant policies met the basic conditions. Although the errors highlighted would change the order of site suitability, all the six sites allocated (including the reserve site) would remain within the top six most suitable sites once unavailable sites are discounted. In any case the decision to 'make' the neighbourhood plan has to be done in accordance with the legal framework which only allows a Local Planning Authority to not make the plan if it would breach, or otherwise be incompatible with any EU obligation or any of the Convention Rights (within the meaning of the Human Rights Act 1998).
- 2.7 As with any planning decision, there is a risk of legal challenge. However, the right to challenge does not affect the fact that, having passed the referendum stage, the Council is required by law to 'make' the plan as soon as reasonably practicable after the referendum has been held.
- 2.8 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.

3. Options considered

- 3.1 Once a Plan has been supported by a majority of those voting following a referendum, the Council has no other option than to 'make' the Plan under section 38A (A)(4) of the Planning and Compulsory Purchase Act 2004. The Council is not subject to this duty if (and only if) the making of the plan would breach, or otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). The neighbourhood plan, including in its preparation, does not breach and would not otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 3.2 There are therefore no options open to the Council other than to 'make' the plan so that it will form part of the Development Plan for the district of Aylesbury Vale.

4. Resource implications

- 4.1 The Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 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 or town council, neighbourhood forum or community organisation that is undertaking neighbourhood planning.

- 4.2 In recognition of the additional burdens that these new duties place on local planning authorities, 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.
- 4.3 The 'making of' the plan will not require any significant staffing implications in addition to those already employed by the Council. Officers in Development Management will be required to use the plan in decision making for planning proposals, but this will not add any significant resource pressures.

5. Decision

- 5.1 I agree the recommendations in paragraphs 1.1 of this report and have made the decision for the Council to Make the Haddenham Neighbourhood Plan pursuant to the provisions of section 38(A)(4) of the Planning and Compulsory Purchase Act 2004.



Andy Kirkham, Forward Plans Manager

Date: 11 September 2015

Background Papers:

- Haddenham Neighbourhood Plan 2015
- Haddenham Neighbourhood Plan Examiner's report, June 2015