

**DELEGATED REPORT AND DECISION**

**Wards Affected:** Edlesborough  
**21 August 2017**

**EDLESBOROUGH 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 Edlesborough 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 Edlesborough 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 on 8 October 2017.

**2. Background and current position**

- 2.1 The Edlesborough Neighbourhood Plan was submitted to the Council on 6 April 2017 and was subsequently publicised for comments for 6 weeks until 18 May 2017. The Council then submitted the plan and representations for examination to Mr. Patrick T Whitehead DipTP(Nott), MRTPI of Intelligent Plans and Examinations (IPE) Ltd, who was appointed by the Council, in consultation with the Edlesborough 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. Whitehead decided a hearing was not necessary.

The draft examiner's report was received on 12 July 2017 and a final version of the report was received by the Council and sent to Edlesborough Parish Council on 28 July 2017. 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 before the Referendum.

### 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 Member 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 Member 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 for the financial year 2017/18 for £20,000 following the referendum date being set.

5.3 As the Edlesborough 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 £20,000 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 Edlesborough Neighbourhood Plan has been consulted on in accordance with the 2012 Regulations – firstly the Draft Plan was the subject of consultation by the Edlesborough 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 Edlesborough 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: 21 August 2017

Background Papers:

- Edlesborough Neighbourhood Plan, submission version, April 2017
- Edlesborough Neighbourhood Plan Examiner's report, July 2017

## ANNEX Modifications recommended by the Examiner and the Council's response

	Page no./ other reference	Examiner's Report	Aylesbury Vale District Council Response
		Modifications to policies and supporting text	
1	Pages 31 & 35	<p>Policies EP1 and EP8 (for both policies)</p> <p>Amend the second sentence by deleting the word "infill" as follows:</p> <p><b><i>"Proposals for <del>infill</del> development within the Settlement Boundary will be supported, provided:"</i></b></p> <p>Amend the first criterion as follows:</p> <p><b><i>"i. They comprise <u>generally up to 5 houses on a site not exceeding 0.20 hectares, unless evidence can be provided to support a larger scheme;</u>"</i></b></p> <p>Amend the final paragraph to read as follows:</p> <p><b><i>"Development proposals on land outside the defined Settlement Boundary will not be supported other than for rural housing exception schemes, <del>barn conversions</del>, uses that are suited to a countryside location <u>such as appropriate leisure and recreational uses, or community right to build schemes, unless it. Well designed proposals for employment, necessary for the purposes of agriculture or forestry and tourism that may help the rural economy will be supported. New isolated homes in the countryside will not be supported, but the creation of new homes through the conversion of barns may be acceptable in principle."</u></i></b></p> <p>The final sentence in paragraph 6.8 of the supporting text will require amendment to delete the word "infill".</p>	<p>Agreed. This makes the plan have regard to national policies and more user friendly. This also improves the flexibility of the plan if further growth is identified as being required as part of the local plan process.</p>
2	Page 32	<p>Policy EP2</p> <p>Amend criterion (ii) as follows:</p> <p><b><i>"...making provision for homes in line with Policy EP143;"</i></b></p>	<p>Agreed, amending an error from the plan being previously redrafted. Sympathetic towards local heritage.</p>

		and amend criterion (iii) as follows:  <b><i>"The design of the scheme has regard to <del>sustaining the character of the setting to the Bramley Cottage listed building...</del>"</i></b>	
3	Page 32	Policy EP3  Amend criterion (ii) as follows:  <b><i>"...making provision for homes in line with Policy EP143;"</i></b>	Agreed. amending an error from the plan being previously redrafted
4	Page 33	Policy EP4  Replace criterion (ii) and criterion (vii) relating to the reserve land with the following:  <b><i>"In order to harmonize with existing nearby development, a proportion of the dwellings should be 1 and 1½ storey with a mix of 2 to 5 bedroom types, making provision for homes in line with Policy EP13;"</i></b>  Amend criterion (iv) as follows:  <b><i>"The design of the scheme has regard to <del>sustaining the character of the setting to The Grove listed building...</del>"</i></b>  Renumber the four criteria related to the release of the reserve land as follows:  <b><i>"vi., vii., viii. and ix." replaced with "viii., ix., x. and xi."</i></b>	Agreed. This will help when implementing the policy and more user friendly and is sympathetic towards local heritage.
5	Pages 29, 31 and 36	Delete Policy EP9 together with the supporting text at paragraphs 6.24 – 6.27, and the depiction of the site on Inset A.  Delete the final two sentences of paragraph 5.33.  Delete the final bullet point of the objectives for Northall in paragraph 6.2.  Additional amendments as a consequence of the deletion of Policy EP9 should be made as follows:  Page 3 - Modify Table 3 to reflect the deletion of EP9.	Agreed. This makes the plan have regard to national policies and more user friendly.

		<p>Page 4 - Modify the list of Land Use Policies to reflect the deletion of EP9.</p> <p>Page 34 Criterion ix, Policy EP4 - Line 3, retains the reference to Policy EP13 which should be amended to read "Policy EP12".</p> <p>Page 35 Policy EP8 – Delete <del>With the exception of the scheme provided for in Policy EP9 of the Neighbourhood Plan</del> to reflect the deletion of EP9.</p> <p>Page 36 paragraph 6.23 – Delete <del>in favour of proposals promoted in Policy EP9 at Deans Farm</del> to reflect the deletion of EP9.</p> <p>Pages 32–38 - As a consequence of the deletion of EP9 all subsequent polices should be renumbered.</p> <p>Pages 37-39 – To reflect the deletion of paragraphs 6.24 – 6.27 subsequent paragraphs should be renumbered.</p>	
6	Pages 38 & 39	<p>Policy EP13</p> <p>Amend criteria ii – iv as follows:</p> <p><b><i>"ii. Access roads serving new developments <del>must be at least</del> <u>should preferably be 5.5m wide unless circumstances suggest otherwise, with a footpath that is a minimum of 2m wide;</u>"</i></b></p> <p><b><i>"iii. Access from main thoroughfares of the village to new developments of more than 3 houses <del>must</del> <u>should not seek to utilise existing service roads that are less than 5.5m in width;</u>"</i></b></p> <p><b><i>"iv. New homes <del>with more than 1,2 or 3 bedrooms</del> <u>must be provided with at least two off-street parking spaces, those with 4 or more bedrooms must have at least 3 off-street parking spaces in accordance with the Local Planning Authority's operative guidelines, unless there is evidence of specific local circumstances justifying a more generous provision, for example a requirement for parallel off-street spaces for highway safety reasons</u>".</i></b></p> <p>Criterion (v) should be deleted, and criterion (vi) amended as follows:</p>	<p>Agreed. This makes the plan have regard to national policies including the requirement for policies in the plan to be sufficiently evidenced. The plan has regard to local policy standards for development. Supports the enhancement and conservation of heritage assets.</p>

		<p><b><i>"New development must seek to <del>preserve</del> minimise the impact of proposals on sites of historic or archaeological interest and the use of natural features including green infrastructure assets should be maximised, and if possible, endeavour to make them more visible and accessible to the public".</i></b></p>	
7	Page 34	<p>Policy EP5</p> <p>Amend the final part of the first paragraph as follows:</p> <p><b><i>"...unless it can be demonstrated with viability evidence that their location and premises are no longer viable and that the premises have been suitably marketed at <del>a reasonable price</del> an appropriate valuation and in a manner agreed with the Local Planning Authority for at least 18 months for that and any other suitable commercial use."</i></b></p> <p>Amend the final sentence of the Policy as follows:</p> <p><b><i>"Outside the Edlesborough Village Centre, proposals for a change of use <del>of</del> resulting in the loss of a farm shop or public house will be resisted..."</i></b></p>	<p>Agreed. This will help when implementing the policy and makes the plan have regard to national policies. Supports the retention of local assets.</p>
8	Page 37	<p>Policy EP10</p> <p>Amend the final sentence of the Policy as follows:</p> <p><b><i>"Proposals for development on <del>the</del> land designated as a Local Green Space will not be supported unless it can be demonstrated that it will <del>must</del> demonstrate that there are very special circumstances supporting the development, for example through benefit <del>its</del> to the existing use by the Community and <del>that</del> by retention of the open character of the land is preserved."</i></b></p>	<p>Agreed. This makes the plan have regard to national policies and more user friendly. Contributes towards sustainable development.</p>
9	Page 37	<p>Policy EP11</p> <p>Amend the second sentence of the Policy as follows:</p> <p><b><i>"Proposals involving the loss of facilities will not be permitted unless it can be demonstrated through a viability assessment that they are no longer viable and that they have been subjected to an 18 month marketing period <u>at an</u></i></b></p>	<p>Agreed. This makes the plan have regard to national policies and will help in implementing the policy.</p>



		<p><b><i>appropriate valuation and in a manner agreed with the Local Planning Authority.</i></b></p> <p>And by deletion of the final sentence commencing <b>“Any development which...”</b></p>	
10	Page 38	<p>Policy EP12</p> <p>Delete item (vi):</p> <p><b><i>“vi. <del>St Mary’s Church, Edlesborough</del>”</i></b></p> <p>Amend the first part of the final sentence to the Policy as follows:</p> <p><b><i>“Proposals that will result in <del>a scale of</del> significant harm to, or unnecessary loss of, a Building of Local Interest, will be resisted, unless...”</i></b></p> <p>Page 38 Policy EP12 – As a result of the removal of St. Mary’s Church from the Buildings of Local Interest list subsequent items in the list should be renumbered.</p>	<p>Agreed. This makes the plan have regard to national policies. Supports the enhancement and conservation of heritage assets.</p>