

DELEGATED REPORT AND DECISION

Wards Affected: BERNWOOD

20 May 2020

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

Decision taker: Charlotte Stevens (Planning Policy Manager)

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Executive Summary:

Following the examination of the Ickford 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 Ickford 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 possible after 6 May 2021.

2. Background and current position

- 2.1 The Ickford Neighbourhood Plan was submitted to the Council on 15 November 2019 and was subsequently publicised for comments for 6 weeks from 22 January 2020 until 4 March 2020. The Council then submitted the plan and representations for examination. Andrew S Freeman BSc (Hons) DipTP DipEM FRTPI of Intelligent Plans and Examinations (IPE) Ltd, was appointed by the Council, in consultation with the Ickford 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 they consider 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. Freeman decided a hearing was not necessary.

2.2 A 'fact-check' examiner's report was received by Buckinghamshire Council officers and Ickford Parish Council on 2 April 2020 and the examiner requested comments by 16 April 2020 which were made accordingly. A final version of the report (the formal receipt of the Examiner's Report as per The Neighbourhood Planning (General) Regulations 2012 (As Amended) section 17a) was received by the Council and Ickford Parish Council on 17 April 2020. The Council is now required to decide what action to take in response to each of the Examiner's recommendations. The 2012 Regulations section 17a specify the time limit for the Council making a decision on the examiner's report is 5 weeks from the day after receipt of the final examiner's report unless a different timescale is agreed with the parish council. This decision date is 23 May 2020. The 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 – this will be titled the 'Referendum version'.

3. Options

3.1 The Planning Policy 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 Steve Bambrick, Director of Services and with the Local Members for the Bernwood Ward (Cllr Harriss, Cllr Brandis, Cllr Foster, Cllr Lyons, Cllr Rand) and the Cabinet Member for Planning. Following the consultation, the Director, the five Local Members and the Cabinet Member were agreed that the delegated decision can be taken for the modified plan to proceed to the referendum stage.

3.2 The three options available under the relevant Acts and Regulations are as follows:-

a. 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.

b. 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 (for the Bernwood ward) and the Cabinet Member for Planning are in agreement with the Council's response on those modifications and, therefore **option b** is the

preferred option.

c. Make different Modifications to what the Examiner has recommended

The Council does not disagree with any of the suggested recommendations so this option is not considered necessary. To make different modifications, very clear reasons must be given from departing from the examiner's recommendations. There would also be a delay as the additional consultation would need to take place and the modifications would need to be discussed with the parish council who can withdraw the plan if they are not happy with them. The Secretary of State can also intervene if they are not happy with the council departing from the examiner's recommendations.

4. Implications

Policy

- 4.1 The National Planning Policy Framework (NPPF, 2019) 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 saved policies of the adopted Aylesbury Vale District Local Plan (AVDLP). The Vale of Aylesbury Local Plan (VALP) is the emerging local plan, at an advanced stage and is expected to be adopted in 2020.
- 4.2 When a neighbourhood plan is approved by the local planning authority as suitable for referendum it gains significant weight in planning decisions. Due to the delay in referendums enforced by the Government this increased status is particularly significant. Then, 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.

Finance

- 4.3 The Localism Act 2011 ("the Act") and the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations (as amended)") place duties on local planning authorities in relation to Neighbourhood Planning. These 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; and
 - providing advice or assistance to a parish council, neighbourhood forum or community organisation that is undertaking neighbourhood planning.
- 4.4 In recognition of the additional burdens that these new duties place on local planning authorities, the Ministry of Housing Communities and Local Government

(MHCLG) has made (by letter 28 June 2019 “Update on financial support for neighbourhood planning in 2019/20”) available grants to local planning authorities for the financial year 2019/20 for £20,000 following the referendum date being set. MHCLG have not made a statement yet on the grants available for the financial year 2020/21 which we are in.

- 4.5 As the Ickford Neighbourhood Plan has now also successfully passed examination the outstanding grant monies for this plan should be claimable in the next claims period.
- 4.6 The 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 Buckinghamshire Council Planning Policy team in Planning, Growth and Sustainability. There will, however, be additional costs to the Buckinghamshire Council Electoral Services team in the Directorate for Deputy Chief Executive in respect of carrying out the Referendum, although it is expected the MHCLG 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.
- 4.7 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 Planning Policy budget.

Legal issues

- 4.8 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 (as amended) confer specific functions on local planning authorities in relation to neighbourhood planning.
- 4.9 The Ickford Neighbourhood Plan has been consulted on in accordance with the 2012 Regulations (as amended) – firstly the Draft Plan was the subject of consultation by the Ickford Parish Council under Regulation 14 and, following the submission of the plan to the Council, the plan was publicised pursuant to Regulation 16.
- 4.10 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.

Other Implications

- 4.11 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.
- 4.12 The consultations on the draft plan have helped to raise awareness of the development of the plan.

5. Decision

- 5.1 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 Ickford Neighbourhood Plan, as proposed to be modified by the Examiner's Report, should proceed to referendum for the area recommended by the Examiner.

Charlotte Stevens , Planning Policy Manager



Date: 20 May 2020

Background Papers:

- *Ickford Neighbourhood Plan, Submission version, November 2019*
- *Ickford Neighbourhood Plan Examiner's report, April 2020*

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

Change	Page No.	Examiner's Report	Buckinghamshire Council Response
	In Examiner's Report	Modifications to policies and supporting text	
PM1	10	In Policy NE1, after the words "planting trees", insert "of suitable native species".	Agree, adds clarity and gives officers in making planning decisions some judgement to make on the type of tree that would be suitable.
PM2	10	In Policy NE1, replace "take into consideration the impact of development upon trees of high or moderate quality" with "safeguard trees of high or moderate quality from the unacceptable effects of development".	Agree with the proposed change. It provides more certainty than the wording of the submission draft.
PM3	10	In Policy NE1, replace the second sentence of the second paragraph with the following: "Key views are shown on the plan at Annex 3. In such views, there shall be no unacceptable loss of visual amenity."	Agree. The Examiner's wording focuses better than the submitted plan on the harm caused by development in a key view.
PM4	10	In Policy NE1, replace "Environmental Zone 2" with "Zone E2" and "Guidance Note 2011" with "Guidance Note 01/20".	Agree – these are more correction to the factual wording.
PM5	10	In Policy NE2, delete ", species richness and/or abundance".	Agree – the 10% minimum net gain in biodiversity is the standard to be met and shouldn't be confused with the added wording 'species richness and or abundance'.
PM6	10	In Policy NE2, delete "recognised". After "assessment", insert "prepared by a suitably qualified person".	Agree. The change appropriately puts the emphasis on the credentials of the person to carry out the assessment which should make for a more professional habitat assessment.

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PM7	10	In Policy NE3, replace "unless very special circumstances can be demonstrated" with "in accordance with Green Belt policy."	Agree. The NPPF para 101 requires policies for development in local green spaces to be managed consistent with green belt policy.
PM8	11	Replace the second sentence of Policy BEH1 with the following: "Both designated and non-designated heritage assets in Ickford will be safeguarded in line with Paragraph 195 of the National Planning Policy Framework." The text at Paragraph 7.8 of the Plan should also be amended to refer to Chapter 16 of the NPPF.	Agree. The text needs changing to bring the wording clearly to be consistent with that of the NPPF and not have any disparity.
PM9	11	In the first paragraph of Policy BEH2, replace the text after "aim" with "to preserve or enhance the character or appearance of the Ickford Conservation Area as detailed in the Ickford Built Heritage Assessment".	Agree. The wording needs changing to make it the same as the primary legislation in the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 69(1)(a).
PM10	11	At the end of Paragraph 7.9. add "The Assessment also details positive features of the area (views, trees, listed buildings and buildings of local note)." In the second paragraph of Policy BEH2, replace "sustain" with "preserve".	Agree. The change adds clarity needed as it now identifies what the positive features are.
PM11	11	In Policy BEH3, replace "protect or enhance the character and" with "preserve or enhance the character or".	Agree. The wording with regard to conservation areas needs to be consistent with that of the primary legislation (Section 69 of The 1990 Planning (Listed Buildings and Conservation Areas) Act).
PM12	11	The first paragraph of the policy should be corrected to refer to Local Note Buildings in Annex 4. Replace the second paragraph of Policy BEH4 with the following: "Proposals that result in material harm to non-designated heritage assets, including their setting, will be resisted. A balanced judgement will be required having regard to the degree of harm and the significance of the asset." In the third paragraph, insert "non-designated" after "affecting a".	Agree. The change is needed for add clarity on what 'scale of harm' would comprise and the changes proposed provide this clarity.

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		Delete the fourth paragraph of the policy.	
PM13	12	In Policy F1, replace "will be expected to" with "shall". In the first bullet point, add "from all sources" after "flood risk". Add a new paragraph of explanatory text (8.6): "Proposals will be required to comply with relevant guidance from the competent authorities including the Environment Agency and Thames Water. Policies in the Local Plan and the NPPF are also important, particularly with regard to the sequential test, climate change and conserving watercourses."	Agree, for the reasons given : <ul style="list-style-type: none"> • It adds clarity now that the proposals will apply to all relevant developments (not just an expectation); • It also adds clarity that the policy will apply to all sources of flood risk; and • It adds clarity to the reference to "established guidelines" and to refer to other relevant policy provisions.
PM14	12	In Policy ND1, add "and" at the end of the first bullet point.	Agree. The change adds clarity to confirm that all bullets in ND1 apply.
PM15	12	At the end of the second bullet point in Policy ND2, add "and".	Agree. The change adds clarity to confirm that all bullets in ND2 apply.
PM16	12	In Policy ND3, replace the section on "Form" with the following: "Form: The character and appearance of the area shall be respected in the form of new housing development." Add a new paragraph of explanatory text (9.11): "In terms of form, Ickford is typically characterised by the following features: limited span depth between front and rear walls; incorporation of gables; use of traditional roofs; ridges of a height less than 7 metres above ground level; building depths achieved through the use of subsidiary wings rather than deep floor plans; and building heights not exceeding two storeys (attic floors absent). In places, buildings are one-and-a-half storeys in height with low eaves and dormer windows."	Agree- the change brings the plan ND3 into line with NPPF para 126 and allow a suitable degree of variety rather than prescribe the exact form of development that must be achieved in every case.
PM17	13	In Policy ND3 (bullet point on Landscaping), replace the final sentence with the following: "To ensure long-term maintenance, a management plan will be required for landscaping schemes, secured with a planning condition or Section 106 planning obligation where appropriate." Delete the provision on street lighting.	Agree with the changes proposed. Landscaping maintenance plans: clarity is now provided over feasibility and

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		<p>Replace the bullet point on Sustainable Urban Drainage with the following: "Sustainable Urban Drainage (SUDs) features shall be natural-looking and wildlife-friendly."</p> <p>Delete, "Where possible car ports should be provided rather than garages."</p> <p>Replace the bullet point on affordable housing with the following: "Affordable housing shall be provided in line with the requirements of the Local Plan."</p> <p>In the final bullet point of Policy ND3, add "proportionally" after "contribute".</p>	<p>legality.</p> <p>There is a lack of evidence that car ports are a feature in Ickford or more likely to be developed than garages so the Council agrees with the change.</p> <p>The provision on street lighting is already dealt with in Policy NE1 so deleting avoids duplication.</p> <p>The provision regarding Sustainable Urban Drainage systems and flooding is lacking in clarity which is provided by the change.</p> <p>The Council agrees the requirements for affordable housing should 'accord with the provisions' of the Local Plan rather than 'at least the minimum'.</p> <p>Required improvements to recreational and community facilities would have to be justified and proportionate to be consistent with the tests in CIL Regulations.</p>
PM18	13	In Policy ND4, replace "should" with "shall".	Agree with the change = it makes the requirement clearer and stricter.
PM19	13	<p>In Policy TT1, change usages of "would" to "will"; also, "should" to "shall".</p> <p>For the second paragraph of the policy, substitute the following: "In any new development, consideration shall be given to traffic calming measures and to new footways linking with existing footways."</p>	<p>Agree with the changes proposed.</p> <p>Clarity should be added by substituting "will" for "would"</p>

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		<p>In the third paragraph of the policy, substitute “emerging Local Plan” for “emerging Plan and Design SPD”. After “small garages”, add “(below 6m x 3m external)”.</p>	<p>and “shall” for “should”. Regarding traffic calming infrastructure, the Council agrees with the examiner that this is normally the subject of the Traffic Regulation Order procedure and related consultation. As such, provision cannot be “required” through a planning proposal. The Council agrees that car parking standards will be defined in the emerging VALP (not in Supplementary Planning Guidance). The use of the term “small garages” needs clarification so the changes proposed achieve that.</p>
PM20	14	<p>Substitute the following for the second paragraph of Policy E1: “In support of homeworking and improved connections in the Parish, provisions that will facilitate the installation and upgrading of internet services including superfast broadband will be encouraged.”</p>	<p>Agree – the changes adds needed clarity to Policy E1.</p>
PM21	14	<p>After the words “valued community facility” in Policy CF1, add “, as listed below,”. Change “Facilities include” to “Facilities are”.</p>	<p>Agree with the changes proposed as it makes clear in the Policy the valued facilities are just the ones listed.</p>