

DELEGATED REPORT AND DECISION

Wards Affected: Marsh Gibbon

3 November 2014

MARSH GIBBON 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 Marsh Gibbon 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 Marsh Gibbon 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 11 December 2014.

2. Background and current position

- 2.1 The Marsh Gibbon Neighbourhood Plan was submitted to the Council for examination in June 2014 and was subsequently publicised for comments for eight weeks until 26 August 2014. Mr Christopher Collinson was appointed by the Council, in consultation with the Marsh Gibbon 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 Collinson decided a hearing was not necessary.

- 2.2 The draft examiner's report was received on 20 September 2014

and a final version of the report was received by the Council and sent to Marsh Gibbon Parish Council on 26 September 2014. The Council is now required to decide what action to take in response to each of the Examiner's recommendations. His recommendations address:

- (a) minor 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.

2.7 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 relevant local Members and the Cabinet member for Strategic Development.

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.

It should be noted that there have been a number of objections raised with the examiner, including a petition with 171 signatures, mostly relating to the Local Green Space designation boundaries. This increases the risk that the plan could fail the referendum, however on Friday 24 October 2014 a village meeting was held to discuss the Plan and help to reduce the possibility of the Plan failing the referendum. Legally if the Council are satisfied that the Plan as modified meets the basic conditions and is compatible with the Convention rights then a referendum must be held.

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

3.4 In this case, the Examiner's modifications are minor and the local members and the Cabinet member for Strategic Development 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 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 Marsh Gibbon 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. Decisions on any significant 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 Marsh Gibbon Neighbourhood Plan has been consulted on in accordance with the 2012 Regulations – firstly the Draft Plan was the subject of consultation by the Marsh Gibbon Parish Council under Regulation 21 and, following the submission of the plan to the Council, the plan was publicised pursuant to Regulation 23.
- (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 not extend beyond the neighbourhood area to which the plan relates and 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 Marsh Gibbon 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:..... *A. Kirkham*

Date: *03 November 2014*

Modifications recommended by the Examiner and the Council's response

	Examiner's Report	Aylesbury Vale District Council Response
	Modifications	
1	In Policy MG7 define 'lower end'	Agreed. This gives greater clarity when implementing the policy.
2	Delete policy MG10	Agreed. The Examiner has set out reasons why this could restrict development which is not in general conformity with the NPPF.
3	In policy MG11 delete "provided they are small in scale", and insert "opportunities" after employment.	Agreed. The change means the policy is in general conformity with the NPPF.
4	Policy MG13 and associated text should be deleted and transferred to a non-statutory appendix to the Neighbourhood Plan	Agreed. This policy isn't strictly land use related.
5	The Traffic and Transport section should be transferred to a non-statutory appendix to the Neighbourhood Plan	Agreed. This policy isn't strictly land use related.
6	In policy MG19 delete "these existing facilities", and insert, "school, shop, public house, village hall, and church, community facilities"	Agreed. This gives greater clarity when implementing the policy.
7	Policy MG20 should be re-titled Enhancing, Protecting and Provision of new Recreation Facilities; and insert "green infrastructure as part of public" after new; and insert "with" after open space	Agreed. This change gives greater clarity and is better aligned to the wording used in the NPPF.
8	Policy MG21 should be re-titled Enhancing, Protecting and Provision of new Natural Environment Habitats, Trees and Hedgerows; and insert "in accordance with current BS5837 national best practice" after quality; and insert "Proposals will be supported that can demonstrate net gain in biodiversity in accordance with the Defra Biodiversity Impact Calculator" as a final sentence.	Agreed. This change gives greater clarity and is better aligned to the wording used in the NPPF.
	Formatting Corrections	
9	The contents page should correspond with headings in the document	Agreed. Formatting issue.
10	Paragraph 7 on page 4 should refer to 'be in general conformity' rather than 'conform'	Agreed. This is then consistent with the wording of the basic conditions.
11	Adjustments should be made to the local green spaces text on page 8 as identified in this report including reference to Local Green Space rather than open space, and two lanes rather than three adjoining the designated area of Moat Close.	Agreed. Provides clarity.
12	Above policy MG20 (erroneously referred to as MG MG 20) it is stated that the community recreation areas are identified on the Neighbourhood area map. These areas are not specifically identified.	Agreed. Formatting issue and also provides clarity to demonstrate these areas on a map.
13	The list of proposals at page 19 should be headed list of policies	Agreed. Formatting issue.
14	Additionally some of the recommended modifications in this report will necessitate consequential related minor adjustments to the Neighbourhood Plan document.	Agreed. Formatting issue.

Background Papers:

- Marsh Gibbon Neighbourhood Plan, submission version, October 2014
- Examiner's report September 2014