

DELEGATED REPORT AND DECISION

Wards Affected: Worminghall
04/05/2018

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

Decision taker: Peter Williams (Planning Policy Specialist)
Author: Stephanie Buller (Neighbourhood Planning Officer) Tel: (01296) 585461

Executive Summary:

Following the examination of the Worminghall 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 Worminghall 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 **5 July**.

2. Background and current position

- 2.1 The Worminghall Neighbourhood Plan was submitted to the Council on 16 January 2018 and was subsequently publicised for comments for 6 weeks until 28 February 2018. The Council then submitted the plan and representations for examination. Jill Kingaby BSc(Econ) MSc MRTPI of Intelligent Plans and Examinations (IPE) Ltd, was appointed by the Council, in consultation with the Worminghall 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, Ms. Kingaby decided a hearing was not necessary.

The draft examiner's report was received on 5 April 2018 and a final version of the report was received by the Council and sent to Worminghall Parish Council on 18 April 2018. The Council is now required to decide what action to take in response to each of the Examiner's recommendations. 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.

3. **Options**

3.1 The Planning Policy Specialist 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 Worminghall 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 Planning Policy 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 Worminghall Neighbourhood Plan has been consulted on in accordance with the 2012 Regulations – firstly the Draft Plan was the subject of consultation by the Worminghall 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 Worminghall Neighbourhood Plan, as proposed to be modified by the Examiner's Report, should proceed to referendum for the area recommended by the Examiner.



Peter Williams, Planning Policy Specialist

Date: 04/05/18

Background Papers:

- Worminghall Neighbourhood Plan, submission version, January 2018
- Worminghall Neighbourhood Plan Examiner's report, April 2018

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

	Page No.	Examiner's Report	Aylesbury Vale District Council Response
		Modifications to policies and supporting text	
PM1	Page 4	<p>1.1 In 2011, the Localism Actneighbourhood plans must meet the following basic conditions;</p> <ul style="list-style-type: none"> • Consistency with national planning policy • ...European environmental standards. • regard to national policy; • general conformity with strategic local policy; • contributing to the achievement of sustainable development; • compatibility with EU obligations; and • meet prescribed conditions and comply with prescribed matters. <p>1.2</p>	Agreed. This makes the plan more compliant with policy.
PM2	Pages 11 & 12	<p>Policy SB1 and SB2 should be combined, and located after paragraph 7.2, as</p> <p>Policy SB1: Settlement Boundary</p> <p>Within the Settlement Boundary, defined on the Policies Map, proposals for new buildings will be supported where they respect ...adjacent dwellings. which are appropriate in scale, design and character to the village of Worminghall; contribute to its local distinctiveness; and are not harmful to the amenity or living conditions of neighbouring occupiers.</p> <p>Proposals for development outside the Settlement Boundary in the open countryside will not be supported unless they are appropriate forms of development within rural areas.</p> <p>Policy SB2: Open Countryside</p> <p>Development proposals-where they</p> <ul style="list-style-type: none"> • are appropriate forms of development in rural areas meet the criteria for rural exception sites or special circumstances for new isolated homes in the countryside, set out in national planning policy; • respect the character of the countryside and are appropriate in terms of do not generate levels and types of traffic which would be harmful to highway capacity and/or safety; 	Agreed. This will help when implementing the policy and more user friendly. This makes the plan more compliant with National planning policy.

		<ul style="list-style-type: none"> • assist the sustainable growth • conserve and enhance for the Parish. <p>7.2 Add a second sentence as follows: <i>The National Planning Policy Framework provides guidance as to what housing development is suitable in a countryside location, notably in paragraphs 54 and 55.</i></p>	
PM3	Page 13	<p>Paragraph 8.5 Modify the last sentence to read</p> <p>It is important that such new dwellings do not have a significantly <i>harmful</i> impact on adjacent properties and <i>the living conditions of neighbouring</i> residents and are modest in scale compared to the adjacent properties.</p> <p><i>complimentary in terms of scale, design and character</i> to the adjacent properties.</p> <p>Policy NH1: New Houses</p> <p>New houses rural character of the village, <i>ensuring that</i> Any development shoulda safe access.</p> <ul style="list-style-type: none"> • <i>Development does not result in the loss of amenity to existing residents, including loss of privacy, loss of daylight, or visual intrusion by a building structure;</i> • <i>A landscape and visual impact assessment is provided with the application for development;</i> • <i>The proposal seeks to conserve and enhance mature vegetation, with new planting to screen the site and/or maintain the rural character of the locality; and</i> • <i>The proposal conserves existing public rights of way.</i> 	Agreed. This will help when implementing the policy.
PM4	Page 13	<p>Housing Mix</p> <p>8.7 There has (ever since)young families with children. <i>Affordable housing can be provided in three different forms to eligible households, having regard for local incomes and house prices, whose needs are not met by the market (see the Glossary in the NPPF). Policy H1 of the emerging Vale of Aylesbury Local Plan sets requirements for the provision of some affordable housing when new residential development takes place. The policy refers to the Affordable Housing Supplementary Planning Document which will provide further detail for developers. Low cost market housing is not included in the definition for affordable housing in national planning policy, but it represents another mechanism for providing less expensive new homes. This could</i>The need</p>	Agreed. This makes the plan more compliant more user friendly and reduces any potential room for interpretation errors in relation to affordable housing

		<p><i>for less expensive homes also</i> points in favour of ... There remains<i>is existing</i> affordable housing</p> <p>Policy NH2: Housing Mix</p> <p>New development shall comprise a mix of housing, including properties affordable... <i>will include affordable housing in line with the District Council's policies and/or</i> low-cost market housing, where feasible and viable. Support will be given to housing schemes which include two/three bed terraced or semi-detached accommodation.</p>	
PM5	Pages 14 & 16	<p>Policy NH3: Coldstream Farm/Rear of the Clifden Arms</p> <p>The site is allocated forlarger (family) and more affordable houses<i>smaller</i> 2 and 3 bedroom homes. At least 9 of the dwellings should be affordable or low cost market housing, unless it can be demonstrated that this would not be practicable or viable. The development must allow amenities of nearby properties<i>occupiers</i>. New development should use Sustainable Drainage Systems (SUDS) to reduce the risk of flooding. The site will alsoClifden Road.</p> <p>10 10.5 Move forward so that it follows paragraph 8.11 and reads:</p> <p>On One of the overriding concernsto the village. TheOne of the main purposes for allocating</p>	Agreed. This improves the clarity of the policy and encourages the used of SUDS for flood risk mitigation.
PM6	Page	<p>9.3 The village has 'Green Infrastructure' in the vicinity. Bernwood Forest includes Shabbington Woods Complex which is a Site of Special Scientific Interest (SSSI), protected for its nature</p>	Agreed. This will help when give adequate regard to the SSSI and supports infrastructure.

	15	<p>conservation value. Green infrastructure is a network sustainable communities. Green infrastructure strategies are needed to maintain green corridors and extend or enhance them where possible. Where new development takes place, the layout and form of new buildings should have regard for the rural setting of the village, with its existing green spaces and corridors. Development should enhance green spaces or features and the connections between them where practicable. Of particular</p> <p>Policy RC1: Rural Character</p> <p>The rural character of the village</p> <ul style="list-style-type: none"> • New buildings • The resulting pattern form and layout of development • Development proposals must provide appropriate green infrastructure and/or abundance and provides or enhances connectivity between green spaces. 	
PM7	Page 16	<p>10.5 This should replace the existing paragraph, which is to be modified and moved to section 8:</p> <p><i>Because of local concern that there are no formal recreational facilities or children’s play facilities in the village, it is critical that any new housing development contributes as much as is possible and viable to their provision. Policy NH3 seeks provision of a play area and accessible green site on this site. In the unlikely event that this site does not come forward as anticipated, section 106 obligations can be sought from developers to fund recreational facilities, as long as they are necessary to make a development acceptable, are directly related to the development and are fairly and reasonably related in scale and kind. The Community Infrastructure Levy (CIL) system also provides a means of funding community projects such as recreational facilities. Aylesbury Vale District Council expects to adopt a CIL Schedule in 2018, and it is anticipated by the Parish Council that some funding for recreational facilities in Worminghall will be available from this source in due course. Further information about s106 obligations and CIL is available in the Infrastructure Delivery Plan September 2017, which accompanies the emerging Local Plan.</i></p> <p>Policy CFR2: Recreation</p> <p>All new housing development must should make.... recreational space. Developer contributions will be sought in line with s106 planning obligations requirements or CIL Regulations.</p>	Agreed. This will help when implementing the policy.

PM8	Pages 17 and 18	<p>11 11.1 There are 12 listed buildings in the Parish (source: historicengland.org.uk British Listed Buildings) (source National Heritage List for England (NHLE)). Some of last two of which are Grade 2-starred II*.</p> <p>Policy CH1: Heritage</p> <p>All new development should preserve and, where possible, enhance the historic character and appearance of the area Worminghall's listed buildings and their settings. and Applications will explain how the design of proposals might affect the historic character and appearance of the area, including any features of archaeological importance or undesignated heritage assets, and how proposals have sought to retain or enhance positive features of the area.</p> <p>Views of particular defined on the Policies map ...</p> <p>Co Construction materialsimmediate environment. Where approved, in Modern replacement</p>	Agreed. This will help when implementing the policy and makes the plan have regard to national policy and heritage guidance.
PM9	Page 19	<p>Policy TT1: Parking and Traffic</p> <p>Delete and replace it with:</p> <p>All development should provide adequate off-street car parking to meet the standards set out in the adopted Local Plan and any subsequent updates. Until the emerging Plan is adopted, there should be 1 parking space within the plot for 1 bedroom homes, at least 2 spaces for 2 or 3 bedroom homes, and at least 3 spaces for 4 bedroom homes.</p> <p>Where a clear case can be demonstrated that off street car parking provision cannot be made, reasonable alternatives such as garages and shared parking arrangements should be developed;</p> <p>Any car parking spaces, where required, should use permeable surfaces to allow for rainwater absorption and to maintain a rural character to the streetscene;</p> <p>New development in the village will only be supported where it can be demonstrated that any severe adverse impacts on the road network would be mitigated and pedestrian safety would not be compromised.</p>	Agreed. The examiner has set out the justification for the standard and the modification ensures that this will be superseded by new local plan policy when adopted.