

HARBOROUGH DISTRICT COUNCIL

REPORT TO THE CABINET MEETING OF 7 MARCH 2022

PUBLIC REPORT: Y

EXEMPT REPORT: N

<b>Report Title</b>	<b>Leire Neighbourhood Plan</b>
<b>KEY DECISION</b>	<b>N</b>
<b>Report Author</b>	<b>Matthew Bills, Neighbourhood and Green Spaces Officer</b>
<b>Purpose of Report</b>	The purpose of this report is to enable the Cabinet to consider the recommendations of the Examiner into the Leire Neighbourhood Plan; support the recommendation that the Plan proceed to public referendum and set the date of the referendum as 12 May 2022.
<b>Reason for Decision</b>	<p>The final Examiner's report into the Leire Neighbourhood Plan was received on 26 January 2022. The Examiner considered the Plan along with the representations received when the Plan was published by the Council. The report recommends to the Council that, subject to the modifications proposed (<b>see Appendix A</b>), the Plan should proceed to a referendum.</p> <p>The Neighbourhood Planning (General) Regulations 2012, (Regulation 18) sets out the matters that the District Council should consider at this stage in the Neighbourhood Plan making process. The District Council must consider each of the recommendations made by the Examiner in their report, including the reasons for them, and decide what action to take in response to each recommendation (<b>see Appendix A</b>).</p> <p>It is considered that the recommended modifications should be incorporated into the plan and noted by Cabinet in order to ensure that the plan is robust, sound, meets the Basic Conditions and comprises a user-friendly and efficient document. Liaison with Leire Parish Council confirms that they are happy to accept these recommendations. On this basis, the Plan should then proceed to a referendum in Leire Parish (the Leire Neighbourhood Area) to determine if local people support it.</p> <p>The Neighbourhood Plan has been prepared by Leire Neighbourhood Plan Advisory Committee and Leire Parish Council as the Qualifying Body.</p>

	<p>The evidence provided to the Examiner within the Consultation Statement gave assurance to him that the consultation process was robust. The Examiner was therefore satisfied that the Plan met the Basic Conditions with regard to consultation.</p> <p>Where the local planning authority issues a decision statement (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012) detailing its intention to send a neighbourhood plan to referendum, that plan can be given significant weight in decision-making, so far as the plan is material to the application.</p> <p>In proceeding to a referendum with a plan that meets the prescribed Basic Conditions, the whole community will be afforded the opportunity to vote on the future development of the village and wider parish of Leire.</p>
<b>Portfolio (holder)</b>	Cllr Jonathan Bateman
<b>Corporate Priorities</b>	<p>The Council is committed to supporting the neighbourhood planning process across the Harborough District. Helping communities wishing to carry out neighbourhood plans is identified in the Corporate Plan 2018/19 to 2020/21 as a way to deliver the priority: <i>'The People: A Healthy, Inclusive and Engaged Community'</i>.</p>
<b>Financial Implications</b>	<p>The Local Planning Authority will be able to claim £20,000.00 in direct financial support from the Department of Levelling Up Housing and Communities (DLUHC) in relation to supporting the costs of Examination and Referendum once the referendum date is set. This grant will be claimed in the next window for claiming Neighbourhood Planning Grants.</p> <p>This direct financial support is to ensure that local planning authorities receive sufficient funding to enable them to meet their legislative duties in respect of neighbourhood planning. These duties include provision of advice and assistance; holding the examination; and making arrangements for the referendum.</p> <p>The cost of organising and running the referendum is funded through the neighbourhood planning grant.</p>

<p><b>Risk Management Implications</b></p>	<p>The following risks have been identified:</p> <p>Not following the legislation and regulations correctly could leave the Council open to legal challenge. The circumstances where a legal challenge can be raised, through a claim for judicial review, are set out in the Town and Country Planning Act 1990, section 61N.</p> <p>The preparation of the Leire Neighbourhood Plan has, to date, been supported by the Strategic Planning Team in terms of providing advice, assistance given to the Qualifying Body, attendance at meetings of the Qualifying Body and ensuring the correct procedural steps are followed. The Elections Team will now be involved in ensuring a Referendum is held as soon as possible and as set out in the Regulations.</p>
<p><b>Environmental Implications</b></p>	<p>None associated with this report. The Leire Neighbourhood Plan contains policies relating to the environment and has been subject to a Strategic Environmental Assessment by the Council which has concluded there are no significant detrimental effects on the natural and historic environment, Natura 2000 sites, or Ramsar sites. Natural England, Historic England and The Environment Agency were asked to comment on his conclusion and Natural England and the Environment Agency responded and confirmed their support. The Examiner is satisfied that the Plan meets all the legislative requirements with regard to the environment.</p>
<p><b>Legal Implications</b></p>	<p>The Neighbourhood Plan, as proposed to be amended, is considered to meet the Basic Conditions which were set out in law following the Localism Act (see <a href="#">paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended)</a>) and this has been confirmed in the Examiner's Report. The Plan is also considered to meet all the relevant legal and procedural requirements.</p> <p>Should the District Council decide to accept the recommendations of this report; a <b>Decision Statement</b> will be prepared and published on the Harborough District Council website in accordance with the regulations. Necessary preparations for a referendum in accordance with the referendum regulations will then proceed.</p>
<p><b>Equality Implications</b></p>	<p>In preparing the Plan, the Leire Neighbourhood Plan Advisory Committee has taken time to involve and inform as wide a range of individuals, households, businesses and interest/community groups as possible through a</p>

	<p>variety of means. This is set out in the Consultation Statement accompanying the Plan, which is referred to in the Examiner’s report.</p> <p>Furthermore, in his report the Examiner concludes that the Plan is compatible with EU obligations and does not breach the European Convention on Human Rights obligations as set out in paras 29 to 32 of the Examiner’s report (see <b>Appendix B</b>).</p>
<p><b>Data Protection Implications</b></p>	<p>The Council collects information from communities in order to assist the delivery and provision of Neighbourhood Planning.</p> <p>The information supplied by communities and stakeholders is used for Neighbourhood Planning only.</p> <p>Respondents to the Regulation 16 consultation are informed that the information may be shared with other Council departments or partners such as Neighbourhood Plan Examiner.</p> <p>The information is held in accordance with the Council’s Document Retention and Disposal Policy and HDC only asks for as much information as is required to respond to enquiries or service need.</p> <p>The Council is obliged to collect this information under The Neighbourhood Planning (General) Regulations 2012, The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 and The Neighbourhood Planning (referendums) Regulations 2012.</p> <p>Stakeholders and communities are informed how information collected is used, how HDC maintain the security of the information, and of the respondent’s rights to access information HDC hold.</p>
<p><b>Consultation</b></p>	<p>In reaching this stage, the consultation requirements set out in the legislation and the regulations have been complied with as follows:</p> <ul style="list-style-type: none"> <li>• Designation of the Neighbourhood Plan Area under Regulation 5A on 4 December 2017;</li> <li>• Pre-Submission Consultation for plan (reg. 14) from 13/7/2020 to 24/8/2020; and</li> <li>• Submission Consultation (reg. 16) from 7/4/2021 to 19/5/2021.</li> </ul>

	<p>The Neighbourhood Planning (General) Regulations (2012) require the Council's '<b>Decision Statement</b>', in relation to the Examiner's recommendations, to be published on the Harborough District Council website along with the Examiner's report.</p> <p>Other specified documents and correspondence with the Examiner have been published on the Council website as required.</p>
<b>Options</b>	<p><u>1.To reject some or all of the Examiner's recommendations.</u> This option is not considered appropriate as the proposed modifications will make the Plan more robust and enable it to meet the prescribed Basic Conditions.</p> <p><u>2.To decide not to proceed to referendum on the Neighbourhood Plan.</u> Given that the Plan has successfully passed through the examination process, there is no reason why the Plan, including modifications, should not proceed to Referendum. In the light of this, this option is not considered appropriate.</p>
<b>Background Papers</b>	<p><a href="#"><u>Leire Neighbourhood Plan submission version.</u></a></p>
<b>Recommendation</b>	<ol style="list-style-type: none"> <li>1. That the Cabinet accepts the Independent Examiner's recommended changes to the Leire Neighbourhood Plan in full as set out in the schedule at Appendix A and notes the recommendation that the amended Leire Neighbourhood Plan should proceed to a referendum of voters within the Parish of Leire to establish whether the Plan should form part of the Development Plan for the Harborough District.</li> <li>2. That the Cabinet approves the holding of a referendum relating to the Leire Neighbourhood Plan on 12 May 2022 that will include all of the registered electors in Leire Parish.</li> </ol>

## 1 Introduction

- 1.1 The final Examiner's report into the Leire Neighbourhood Plan was received on 26 January 2022. The Examiner considered the Plan along with the representations received when the Plan was published by the Council. The

report recommends to the Council that, subject to the modifications proposed (see **Appendix A**), the Plan should proceed to a referendum.

- 1.2 The Council is committed to supporting the neighbourhood planning process across the Harborough District. Helping communities wishing to carry out neighbourhood plans is identified in the Corporate Plan 2019/20 to 2020/21 as a way to deliver the priority: *'The People: A Healthy, Inclusive and Engaged Community'*.
- 1.3 Harborough District currently has 26 Neighbourhood Plans that are 'made' and five Plans that have been successfully reviewed. The Leire Neighbourhood Plan will become part of the Development Plan for the District if approved to proceed to referendum and receives a 'yes' vote from the community.

## **2 Key Facts**

- 2.1 The Leire Neighbourhood Plan has been led by the Leire Parish Council, as the Qualifying Body, in conjunction with the local community. The Leire Neighbourhood Plan seeks to allocate one site for housing (5 units with a minimum of 2 affordable units) and has policies to allow development to come forward within the defined Limits to Development subject to certain criteria.
- 2.2 The Plan for Leire seeks to achieve the following:
  - Ensure that development takes place in the most sustainable locations;
  - Encourage the right types of development that meet local needs;
  - Protect important buildings and structures of historic and architectural interest;
  - Protect important community facilities;
  - Promote high quality design in new development;
  - Protect the countryside and special landscape;
  - Protect open spaces that are important to the community and/or wildlife; and
  - Seek ways of addressing the problems of traffic congestion.
- 2.3 The examination version of the Leire Neighbourhood Plan was submitted to the Council on 6 January 2021. Following initial verification checks, a six-week period of public consultation on the Plan was held running from 7 April 2021. A total of 19 responses were received with each respondent made multiple representations on most aspects of the Plan.
- 2.4 A number of respondents made complaints that the consultation of the Qualifying Body was insufficient, and their decision making was not transparent. All the allegations made were forwarded to the Examiner who asked for clarification from the Qualifying Body, District Council and asked the respondents for further information as part of an additional consultation. The Examiner considered all the evidence as part of his examination and concluded that the consultation was sufficient, and the Plan met the Basic Conditions.

2.5 The Council, with the agreement of Leire Parish Council, appointed Timothy Jones (Barrister, No5 Chambers) as the Independent Examiner in July 2021. All the representations received on the Examination Version of the Plan were forwarded to the Examiner for consideration. The Examiner was satisfied that all the responses could be assessed without the need for a public hearing.

2.6 The Examination took place from 28 July 2021 to 26 January 2022. The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan,
- The making of the neighbourhood plan contributes to the achievement of sustainable development,
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area,
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations,
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

2.7 In examining the Plan, the Examiner is also required to check whether:

- the policies relate to the development and use of land for a designated neighbourhood plan area; and
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
- the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

2.8 Mr Jones has concluded that the Plan meets the Basic Conditions and other legal requirements and should proceed to referendum subject to recommended modifications.

2.9 The final Examiner's Report into the Plan was received by the Council on 26 January 2022 and was made available to the public on the Council's website shortly after. A full copy is included in **Appendix B** of this report. The report recommends to the Council that, subject to the modifications proposed the Plan should proceed to a Referendum.

- 2.10 A schedule of the Examiner's recommendations is set out at **Appendix A**. The main changes recommended by the Examiner (in order to meet the 'Basic Conditions') are to make the Plan appropriate for use in determining planning applications and to ensure clarity in the policies and the maps included in the text.
- 2.11 Leire Parish Council have given the Examiner's Report due consideration and resolved that it is in agreement with the recommended modifications of the Examiner to the Neighbourhood Plan and have confirmed this in writing to the Council on 14 February 2022. Officers are also in agreement with the recommendations of the Examiner.
- 2.12 The Examiner is also tasked with considering whether the Referendum Area should be extended beyond the designated Neighbourhood Area. The Examiner concludes that a Referendum based on the Leire Neighbourhood Area as confirmed on 4 December 2017 is appropriate. Officers agree with this recommendation.
- 2.13 The Examiner states in paragraph 63 of the report:  
*I recommend that the modified NDP proceed to a referendum, the referendum area being the area of the Draft NDP, namely the parish of Leire.*
- 2.14 The Neighbourhood Planning (General) Regulations 2012 set out that if the Council agrees to the recommendations of this report, it must publish a '**Decision Statement**' on the Plan. This must set out the District Council's decision on the Leire Neighbourhood Plan and the reasons for making that decision. It is normal practice for the date of the Referendum to also be specified. The suggested changes will then be made to the Plan by the Qualifying Body ready for publication as one of the specified documents that must be in place in order to allow the Referendum to proceed.
- 2.15 The date for the referendum is provisionally set for **12 May 2022**. Therefore, the final version of the Plan and the Information Statement must be on Harborough District Council's website on **30 March 2022** at the latest, i.e., at least **28 working days** before the provisional date set for the Referendum. The Council will also need to ensure that the publication of 'notice of referendum' takes place on **4 April 2022** i.e., at least **25 working days** before the provisional date set for the referendum. The detailed requirements in respect of the Referendum process are set out in the [Neighbourhood Planning \(Referendums\) Regulations 2012](#).
- 2.16 The referendum will follow a similar format to an election. All those registered to vote within the Neighbourhood Area will be given the opportunity to be involved in the Referendum. Local residents will receive a ballot paper with the question:  
**'Do you want Harborough District Council to use the Neighbourhood Plan for Leire to help it decide planning applications in the neighbourhood area?'**



- 2.17 Residents will be given the opportunity to vote 'yes' or 'no'. If more than 50% of those voting in the referendum vote 'yes' then the Local Planning Authority is required to 'make' the plan (adopt the Plan, with the Plan becoming the Development Plan for Leire alongside the Local Plan). Under the approved Neighbourhood Planning Scheme of Delegation 'making' the Plan will be done by officers of the Harborough District Council as soon as possible after a favourable referendum result.
- 2.18 The Council will issue a decision statement (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012) detailing its intention to send a neighbourhood plan to referendum; the plan can then be given significant weight in decision-making, so far as the plan is material to the application. The Plan gains full weight after a successful referendum.
- 2.19 If the result of the Referendum is "no", then nothing further happens. The Parish Council will then have to decide how it wishes to proceed.