

REPORT TO THE EXECUTIVE MEETING OF 13th November 2018

Meeting:	Executive
Date:	13th November 2018
Subject:	South Kilworth Neighbourhood Plan
Report of:	Matthew Bills Neighbourhood and Green Spaces Officer
Portfolio Holder:	Cllr King
Status:	For Decision
Relevant Ward(s):	Bosworth Ward – Cllr Bowles

1 Purpose of the Report

- 1.1 The purpose of this report is to enable the Executive to consider the recommendations of the Examiner into the South Kilworth Neighbourhood Plan and support the recommendation that the Plan proceed to public referendum.

2 Recommendations:

- 2.1 **That the Executive accepts the Independent Examiner’s recommended changes to the South Kilworth Neighbourhood Plan in full as set out in the schedule at Appendix A and notes the recommendation that the amended South Kilworth Neighbourhood Plan should proceed to a referendum of voters within the Parish of South Kilworth to establish whether the Plan should form part of the Development Plan for the Harborough District.**
- 2.2 **That the Executive approves the holding of a referendum relating to the South Kilworth Neighbourhood Plan on 10th January 2019 that will include all of the registered electors in South Kilworth Parish.**

3 Summary of Reasons for the Recommendations

- 3.1 The final Examiner’s report into the South Kilworth Neighbourhood Plan was received on 17th September 2018. 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.
- 3.2 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 (see Appendix A).

- 3.3 It is considered that the recommended modifications should be incorporated into the plan and noted by the Executive in order to ensure that the plan is robust, sound, meets the Basic Conditions and comprises a user-friendly and efficient document. Liaison with South Kilworth Parish Council confirms that they are happy to accept these recommendations. On this basis, the Plan should then proceed to a referendum in South Kilworth Parish (the South Kilworth Neighbourhood Area) to determine if local people support it.
- 3.4 The Neighbourhood Plan has been prepared by South Kilworth Neighbourhood Plan Advisory Committee and South Kilworth Parish Council as the Qualifying Body.
- 3.5 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.
- 3.6 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 South Kilworth.

4. Key Facts

- 4.1 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 as a way to deliver the priority: *'The People: A Healthy, Inclusive and Engaged Community'*.
- 4.2 Harborough District currently has 15 Neighbourhood Plans that are 'made'. Saddington and Burton Overy Neighbourhood Plans have been approved to proceed to referendum on 10th January 2019. The South Kilworth Neighbourhood Plan along with the Shearsby Neighbourhood Plan will bring the total to 19 'made' plans if approved to proceed to referendum and if they receive a 'yes' vote from the community.
- 4.3 The South Kilworth Neighbourhood Plan ('the Plan') has been produced by the South Kilworth Neighbourhood Plan Advisory Committee, led by the South Kilworth Parish Council, as the Qualifying Body, in conjunction with the local community. The examination version Plan does not seek to allocate sites for housing but has polices to allow development to come forward within the defined Limits to Development.
- 4.4 The Vision for South Kilworth in 2031 states:

*Our shared community vision for South Kilworth over the lifetime of this plan is that it retains and enhances its distinctive character and community spirit.
South Kilworth is not just buildings, but a vibrant community of people*

surrounded by beautiful countryside.

The Neighbourhood Plan should ensure that South Kilworth continues to be a tranquil and safe place to live and that it continues to thrive as a vibrant and distinct village with a balanced and diverse community, to evolve and expand whilst retaining its unique and distinctive character while supporting opportunities for residents to lead a healthy, creative, equitable and sustainable life.

South Kilworth will be known for its strong community, its thriving school, attractive streets and green spaces and high quality natural environment. It will be safe and enjoyable to move around on foot and bike, thus promoting a safe, invigorating environment for people of all ages.

- 4.5 The examination version of the South Kilworth Neighbourhood Plan was submitted to the Council on 7th May 2018. Following initial verification checks, a six week period of public consultation on the Plan was held running from 26th June 2018. A total of 5 responses were received, each making multiple representations on most aspects of the Plan.
- 4.6 The Council, with the agreement of South Kilworth Parish Council, appointed Mr Nigel McGurk as the Independent Examiner in April 2018. 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.
- 4.7 The Examiner was appointed on 16th July 2018 and the Examination took place from 24th August to 17th September 2018. The role of the Examiner is to consider whether a neighbourhood plan meets the Basic Conditions. In order to do this the Plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies of the development plan for the area; and
 - Be compatible with European Union obligations and, not breach, nor be in anyway incompatible with the European Convention on Human Rights.
- 4.8 The final Examiner's Report into the Plan was received by the Council on 17th September 2018 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.
- 4.9 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.

4.10 The Examiner recommended some policy amendments from the submission version Neighbourhood Plan. The Examiner states:

Subject to the modifications recommended within this Report, made in respect of enabling the Neighbourhood Plan to meet the basic conditions, I confirm that:

- 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 of the authority (or any part of that area);*
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and*
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.*

Taking the above into account, I find that the South Kilworth Neighbourhood Plan meets the basic conditions and I recommend to Harborough District Council that, subject to modifications, it should proceed to Referendum.

4.11 South Kilworth Parish Council have given the Examiner's Report due consideration and resolved via email that it is in agreement with the recommended modifications of the Examiner to the Neighbourhood Plan. Officers are also in agreement with the recommendations of the Examiner.

4.12 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 South Kilworth Neighbourhood Area is appropriate. Officers agree with this recommendation.

4.13 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 South Kilworth 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.

4.14 The date for the referendum is provisionally set for 10th January 2019. Therefore, the final version of the Plan and the Information Statement must be on Harborough District Council's website on 27th November 2018 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 30th November 2018 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](#).

- 4.15 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 South Kilworth to help it decide planning applications in the neighbourhood area?'

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 South Kilworth alongside the Core Strategy). 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. 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.

5. Legal Issues

- 5.1 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 [paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 \(as amended\)](#)) and this has been confirmed in the Examiner's Report. The Plan is also considered to meet all the relevant legal and procedural requirements.
- 5.2 Should the District Council decide to accept the recommendations of this report; a **Decision Statement** 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.

6. Resource Issues

- 6.1 The Local Planning Authority was able to claim £5,000.00 when the South Kilworth Neighbourhood Area was designated. The claim was made in Q4 2015/16. When the Referendum date is set Harborough District Council will be able to claim a further £20,000.00 in direct financial support from the Ministry of Housing, Communities and Local Government (MHCLG) in relation to supporting the costs of Examination and Referendum. This grant will be claimed in the next window for claiming Neighbourhood Planning Grants (December 2018).
- 6.2 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.

6.3 The cost of organising and running the referendum is funded through the grant described in paragraph 6.1 above.

7. Equality Implications

7.1 In preparing the Plan, the South Kilworth 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 variety of means. This is set out in the Consultation Statement accompanying the Plan, which is referred to in the Examiner's report.

7.2 Furthermore, in the 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 para 26 to 40 of the Examiner's report (see Appendix B).

8. Risk Management Implications

8.1 The following risks have been identified:

8.1.1 Not following the legislation and regulations correctly could leave the Council open to legal challenge. The circumstances where a legal challenge, through a claim for judicial review, can be raised are set out in the Town and Country Planning Act 1990, section 61N.

8.1.2 The preparation of the South Kilworth 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.

9. Consultation

9.1 In reaching this stage, the consultation requirements set out in the legislation and the regulations have been complied with as follows:

- Publicity of the Neighbourhood Plan Area 5/2/2016 to 18/3/2016;
- Pre-Submission Consultation (reg. 14) 17/1/2018 to 28/2/2018; and
- Submission Consultation (reg. 16) 20/6/2018 to 1/8/2018.

9.2 The Neighbourhood Planning (General) Regulations (2012) require the Council's '**Decision Statement**', in relation to the Examiner's recommendations, to be published on the Harborough District Council website along with the Examiner's report.

10. Options Considered

10.1 To reject some or all of the Examiner's recommendations. 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.

10.2 To decide not to proceed to referendum on the Neighbourhood Plan. 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.

11. Background Papers

[South Kilworth Neighbourhood Plan submission version](#)

Information Issued Under Sensitive Issue Procedure: N

Ward Members Notified: Y

Appendices:

Appendix A: Examiner's Recommendations

Appendix B: Examiner's Report