

REPORT TO THE EXECUTIVE MEETING OF 12th June 2017

Meeting:	Executive
Date:	12th June 2017
Subject:	North Kilworth Neighbourhood Plan
Report of:	Matthew Bills Neighbourhood and Green Spaces Officer
Portfolio Holder:	Cllr Brodrick
Status:	
Relevant Ward(s):	Bosworth Ward

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 North 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 North Kilworth Neighbourhood Plan in full as set out in the schedule at Appendix A and notes the recommendation that the amended North Kilworth Neighbourhood Plan should proceed to a referendum of voters within the Parish of North 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 North Kilworth Neighbourhood Plan on 20th July 2017 that will include all of the registered electors in North Kilworth Parish.**

3 Summary of Reasons for the Recommendations

- 3.1 The Examiner's report into the North Kilworth Neighbourhood Plan was received on 24th April 2017. 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 North Kilworth Parish Council confirms that they are happy to accept these recommendations (email of 15/5/2017). On this basis, the Plan should then proceed to a referendum in North Kilworth Parish to determine if local people support it.
- 3.4 The Neighbourhood Plan has been prepared by North Kilworth Neighbourhood Plan Group and North Kilworth Parish Council.
- 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 North 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 2017 as a way to deliver the priority 'to develop places in which to live and be happy'.
- 4.2 The North Kilworth Neighbourhood Plan ('the Plan') has been produced by the North Kilworth Neighbourhood Plan Group, led by the Parish Council as the Qualifying Body, in conjunction with the local community. The Plan allocates sufficient housing to meet the requirements of the Core Strategy 2011. The Plan also sought to:
- Designate Local Green Spaces, which identify and protect these special and locally important areas from development.
 - Provide a small number planning policies specific to North Kilworth, grouped around the key policy issues identified by the community as being of special importance to them. These include:
 - Policies in relation to housing provision and need;
 - Protecting important views;
 - Safeguarding the aquifer and introducing policies relating to biodiversity;
 - Tackling signage issues within the village;

- Policies to address car parking issues within the village;
 - The protection of important community assets;
 - The incorporation of the Village Design Statement into the Neighbourhood Plan;
 - Protection of important local buildings and structures and open spaces of local importance; and
 - Protecting businesses and supporting business expansion in appropriate locations.
- 4.3 The Examination Version of the North Kilworth Neighbourhood Plan was submitted to the Council on 24th April 2016. Following initial verification checks, a six week period of public consultation on the Plan was held running from 10th November 2016 to 22nd December 2016. A total of 27 responses were received, each making multiple representations on most aspects of the Plan.
- 4.4 The Council, with the agreement of North Kilworth Parish Council, appointed Nigel McGurk as the Independent Examiner in January 2017. 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.
- 4.5 The examination took place between 30th January and 24th April 2017. 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.
- 4.6 The Examiner's Report into the Plan was received by the Council on 24th April 2017 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.
- 4.7 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 text of the Plan.
- 4.8 The Examiner has recommended a number of **policy deletions** from the Plan. This will be disappointing to the Steering Group and Parish Council, but the Examiner has given a full explanation for the deletions within his report at Appendix B. These being:

Policy NK1: General Policy Principal

Policy NK5: Housing and other development outside the village of North Kilworth

Policy NK7: Affordable Housing

Policy NK8: Affordable Housing and Local People

Policy NK11: Design Quality (retention of the non policy text)

Policy NK12: Signage

Policy NK23: Archaeology and Geology (supporting text retained)

Policy NK27: Sustainable Drainage Systems

Policy NK28: Sustainable Drainage Systems

Policy NK29: Aquifer

Policy NK30: Developer Contributions (replace with community action)

4.9 The essence of what the remaining policies are trying to achieve has been retained. The main changes are for the following reasons:

- *clarity*
- *to meet the basic conditions*

4.10 The Examiner's report acknowledges the amount of work that has gone into preparing the Plan. He acknowledges the consultation that was undertaken with the community through questionnaires and targeted consultation with schoolchildren. In addition the Examiner acknowledges the 'walkabout' of North Kilworth with the community to establish priority areas for the Neighbourhood Plan.

4.11 The Examiner also makes reference to the positive support received from Harborough District Council during plan production, a factor that has regard to national guidance, which calls for constructive engagement with the local planning authority.

4.12 North Kilworth Parish Council and Neighbourhood Plan Group have given the Report due consideration and confirmed that they are in agreement with the recommended modifications of the Examiner to the Neighbourhood Plan (email 15/5/2017). Officers are also in agreement with the recommendations of the Examiner.

4.13 The Examiner is also tasked with considering whether the Referendum Area should be extended beyond the designated Neighbourhood Area (the Parish boundary). The Examiner concludes that a Referendum based on the North Kilworth Neighbourhood Area is appropriate. Officers agree with this recommendation.

- 4.14 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 North 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 ready for publication as one of the specified documents that must be in place in order to allow the Referendum to proceed.
- 4.15 The date for the referendum is provisionally set for 20th July 2017. Therefore, the final version of the Plan and the Information Statement must be on Harborough District Council's website on 12th June 2017 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 15th June 2017 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](#).
- 4.16 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 North 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 North 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(2) of Schedule 4B of the Town and Country Planning Act 1990) 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 in 2014 when the North Kilworth Neighbourhood Area was designated. 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 Department of Communities and Local Government (DCLG) in relation to supporting the costs of Examination and Referendum. This grant will be claimed in the next window for claiming Neighbourhood Planning Grants (currently June 2017).
- 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 North Kilworth Neighbourhood Plan Group 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 Examiners report.
- 7.2 Furthermore, in the report of 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 on pages 9 to 11 of the Examiners 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 North Kilworth Neighbourhood Plan has, to date, been supported by the Strategic Planning team in terms of providing advice, assistance given to the Steering Group, attendance at meetings of the Steering Group and Parish Council 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:

- Consultation on the Neighbourhood Plan Area 11/12/2013 to 17/1/2014;
- Pre-Submission Consultation (reg. 14) 22/1/2016 to 4/3/2016; and
- Submission Consultation (reg. 16) 10/11/2016 to 22/12/2016.

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

[North Kilworth submission version Neighbourhood Plan](#)

Information Issued Under Sensitive Issue Procedure: N

Ward Members Notified: Y

Appendices:

Appendix A: Examiners Recommendations

Appendix B: Examiners Report