

Harborough District Council

Report to the Cabinet Meeting of 12 September 2022



Report Number:	8
Title:	Tugby and Keythorpe Neighbourhood Plan
Status:	Public
Key Decision:	N
Report Author:	Matthew Bills, Neighbourhood and Green Spaces Officer m.bills@harborough.gov.uk 07703211863
Portfolio Holder:	Cllr Jonathan Bateman Portfolio: Planning, Environment & Waste
Appendices:	Appendix A – Examiner’s recommendations Tugby and Keythorpe Neighbourhood Plan Appendix B – Examiners Report Tugby and Keythorpe NP Final June 2022 Appendix to the Plan - Appendix - F - tugby-keythorpe-design-guide-feb-2021 Appendix to the Plan - Appendix-H-environmental-inventory

Executive Summary

The purpose of this report is to enable the Cabinet to consider the recommendations of the Examiner into the Tugby and Keythorpe Neighbourhood Plan; support the recommendation that the Plan proceed to public referendum and set the date of the referendum as 27 October 2022.

Recommendations

1. That the Cabinet accepts the Independent Examiner’s recommended changes to the Tugby and Keythorpe Neighbourhood Plan, in full, as set out in the schedule at Appendix A and notes the recommendation that the amended Tugby and Keythorpe Neighbourhood Plan should proceed to a referendum of voters within the Parish of Tugby and Keythorpe to establish whether the Plan should form part of the Development Plan for the Harborough District.
2. That the Cabinet approves the holding of a referendum relating to the Tugby and Keythorpe Neighbourhood Plan on 27 October 2022 that will include all of the registered electors in Tugby and Keythorpe Parish.

Reasons for Recommendations

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).

It is considered that the recommended modifications should be incorporated into the review plan in order to ensure that the plan is robust, sound, meets the Basic Conditions and comprises a user-friendly and efficient document.

Liaison with Tugby and Keythorpe Parish Council confirms that they are happy to accept these recommendations. On this basis, the Plan should proceed to Referendum on 27 October 2022.

1. Purpose of Report

- 1.1. The final Examiner's report into the Tugby and Keythorpe Neighbourhood Plan was received on 29 June 2022. 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 Neighbourhood Plan has been prepared by Tugby and Keythorpe Neighbourhood Plan Advisory Committee and Tugby and Keythorpe Parish Council as the Qualifying Body.
- 1.3. 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. The Examiner sought additional information for clarification and the correspondence between the Qualifying Body, Council and Examiner appears on the District Council website for transparency.
- 1.4. 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.
- 1.5. 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 Tugby and Keythorpe.

2. Background

- 2.1. The final Examiner's report into the Tugby and Keythorpe Neighbourhood Plan was received on 29 June 2022. The Examiner considered the Plan along with the representations received when the Plan was published by the Council.
- 2.2. Harborough District currently has 27 Neighbourhood Plans that are 'made' and five Plans that have been successfully reviewed. The Tugby and Keythorpe 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.

3. Details

- 3.1. The Tugby and Keythorpe Neighbourhood Plan has been led by the Tugby and Keythorpe Parish Council, as the Qualifying Body, in conjunction with the local community. The Tugby and Keythorpe Neighbourhood Plan seeks to allocate one site for housing (approx. 11 dwellings with a minimum of 40% affordable units) and has policies to allow development to come forward within the defined Limits to Development subject to certain criteria.
- 3.2. The Plan for Tugby and Keythorpe seeks to achieve the following:
 - a) Confirming the Limits to Development for the village of Tugby, within which limited, proportionate, timely and sustainable residential development will be supported;
 - b) Identifying appropriate sites for residential development that meet a local need, endorsing developments in environmentally acceptable locations that have a positive effect on the sustainability and environment of the parish, including those that mitigate climate change and reduce the village carbon footprint;
 - c) Promoting good design;
 - d) Maintaining and enhancing where possible the high-quality natural environment with protected wildlife interests;
 - e) Protecting open spaces that are important to the community and/or wildlife;
 - f) Safeguarding important community facilities;
 - g) Enhancing and supporting the rural economy through providing an environment for local businesses and home working to flourish in a modern digital age and supporting rural businesses appropriate to the Neighbourhood Area.
- 3.3. The examination version of the Tugby and Keythorpe Neighbourhood Plan was submitted to the Council on 19 November 2021. Following initial verification checks, a six-week period of public consultation on the Plan was held running from 19 January 2022. A total of 4 responses were received however each respondent made multiple representations on the Plan.
- 3.4. The Council, with the agreement of Tugby and Keythorpe Parish Council, appointed Mr Andrew Matheson as the Independent Examiner in May 2022. 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.
- 3.5. The Examination took place from 3 May 2022 to 29 June 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).
- 3.6. 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.

3.7. 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.

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

3.9. The final Examiner's Report into the Plan was received by the Council on 29 June 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.

3.10. 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.

3.11. Tugby and Keythorpe 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 to the Council. Officers are also in agreement with the recommendations of the Examiner.

3.12. 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 Tugby and Keythorpe Neighbourhood Area as confirmed on 8 November 2017 is appropriate. Officers agree with this recommendation.

3.13. The Examiner states on page 24 of the report:

I recommend to Harborough District Council that, subject to the incorporation of modifications set out as recommendations in this report, it is appropriate for the Tugby and Keythorpe Neighbourhood Plan to proceed to referendum.

- 3.14. 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 Tugby and Keythorpe 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.
- 3.15. The date for the referendum is provisionally set for 27 October 2022. Therefore, the final version of the Plan and the **Information Statement** must be on Harborough District Council's website on **19 September 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 **22 September 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](#).
- 3.16. 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:
- 3.17. *'Do you want Harborough District Council to use the Neighbourhood Plan for Tugby and Keythorpe to help it decide planning applications in the neighbourhood area?'*
- 3.18. 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 Tugby and Keythorpe 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.
- 3.19. 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.
- 3.20. 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.

4. Implications of Decisions

4.1. Corporate Priorities

- 4.1.1. 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 2022 to 2031 as a way to deliver the priority: 'Community leadership to create a sense of pride in our place'

4.1.2. Neighbourhood Planning also supports the Corporate Priorities 'Creating a sustainable environment to protect future generations' and 'Supporting businesses and residents to deliver a prosperous local economy'.

4.2. Financial

4.2.1. The Local Planning Authority will be able to claim £20,000.00 in direct financial support from the Department for Levelling Up Housing and Communities (DLUHC) in relation to supporting the costs of Examination once the date of the Referendum is set. This grant will be claimed in the next window for claiming Neighbourhood Planning Grants and is part of the support for 'reviewed' plans.

4.2.2. 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 and in this case holding the Examination and Referendum.

4.3. Legal

4.3.1. 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 ([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.

4.3.2. Should the District Council decide to accept the recommendations of this report; a Decision Statement, Basic Conditions Statement, Town and Country Background Information Statement and Neighbourhood Plan Information Statement as required by legislation will be prepared and published on the Harborough District Council website in accordance with the regulations.

4.4. Policy

4.4.1. The Council must make the Plan after a successful vote at referendum (Localism Act Schedule 9 part 2 Neighbourhood Development Plans – PCPA section 38A (4) – A Local Planning Authority to whom a proposal for the making of a neighbourhood development plan has been made (a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule more than half of those voting have voted in favour of the Plan.

4.4.2. The Plan must be made within 8 weeks of the referendum date by issuing a final decision statement. Officers will do this under the Scheme of Delegation adopted by Cabinet in 2019.

4.4.3. The Neighbourhood Plan becomes part of the Development Plan for the District and must be used by the Local Planning Authority when determining planning applications where the policies are relevant.

4.5. Environmental Implications including contributions to achieving a net zero carbon Council by 2030

4.5.1. None associated with this report. The Tugby and Keythorpe Neighbourhood Plan contains policies relating to the environment and has been subject to a Strategic Environmental Assessment Screening 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 this conclusion. All the Agencies responded and confirmed their support. The Examiner is satisfied that the Plan meets all the legislative requirements with regard to the environment.

4.6. Risk Management

4.6.1. The following risks have been identified:

- 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](#).
- The preparation of the Tugby and Keythorpe 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.

4.7. Equalities Impact

4.7.1. In preparing the Plan, the Tugby and Keythorpe 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.

4.7.2. 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 on page 23 of the Examiner's report (see Appendix B).

4.8. Data Protection

4.8.1. The Council collects information from communities in order to assist the delivery and provision of Neighbourhood Planning.

4.8.2. The information supplied by communities and stakeholders is used for Neighbourhood Planning only.

4.8.3. 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.

4.8.4. The information is held in accordance with the Council's Document Retention and Disposal Policy and HDC only ask for as much information as is required to respond to enquiries or service need.

4.8.5. 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.

4.8.6. 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.

5. Summary of Consultation and Outcome

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

- Designation of the Neighbourhood Plan Area under Regulation 5A on 8 November 2017;
- Pre-Submission Consultation for plan (reg. 14) from 22/2/2021 to 11/4/2021; and
- Submission Consultation (reg. 16) from 19/1/2022 to 2/3/2022.

5.2. The Qualifying Body provided a Consultation Statement as required by the regulations and the Examiner considered that the requirements for consultation in preparation of the Plan have been complied with.

5.3. 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.

5.4. Other specified documents and correspondence with the Examiner have been published on the Council website as required.

6. Alternative Options Considered

6.1. 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.

6.2. 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.

7. Background papers

[Tugby and Keythorpe NDP Submission version](#)

[Tugby and Keythorpe NDP Consultation Statement](#)

[Tugby and Keythorpe NDP Basic Conditions Statement](#)

[Tugby and Keythorpe NDP Regulation 14 consultation responses](#)

[Tugby and Keythorpe NDP Regulation 16 consultation responses](#)

