

**PAPER NO. 2**

**REPORT TO THE EXECUTIVE MEETING OF 6 NOVEMBER 2017**

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**Meeting:** Executive  
**Date:** 6<sup>th</sup> November 2017  
**Subject:** Kibworth Neighbourhood Plan  
**Report of:** Matthew Bills Neighbourhood and Green Spaces Officer  
**Portfolio Holder:** Cllr King  
**Status:** For Recommendation  
**Relevant Ward(s):** Kibworth Ward

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1 Purpose of the Report

- 1.1 The purpose of this report is to enable the Executive Committee to consider the recommendations of the Examiner into the Kibworth Neighbourhood Plan and support the recommendation that the Plan proceed to public referendum.
- 1.2 The report also seeks approval from the Executive Committee to amend the Kibworth Neighbourhood Plan in accordance with a request from a land owner in Kibworth.

2 Recommendations:

- 2.1 **That the Executive accepts the Independent Examiner's recommended changes to the Kibworth Neighbourhood Plan as set out in the schedule at Appendix A and notes the recommendation that the amended Kibworth Neighbourhood Plan should proceed to a referendum of voters within the Parish of Kibworth 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 Kibworth Neighbourhood Plan on 25<sup>th</sup> January 2018 that will include all of the registered electors in Kibworth Parish.**

3 Summary of Reasons for the Recommendations

- 3.1 The final Examiner's report into the Kibworth Neighbourhood Plan was received on 8<sup>th</sup> September 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).
- 3.4 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 Kibworth Parish Council confirms that they are happy to accept these recommendations. On this basis, the Plan should then proceed to a referendum in Kibworth Parish to determine if local people support it.
- 3.5 The Neighbourhood Plan has been prepared by Kibworth Neighbourhood Plan Group and Kibworth Parish Council.
- 3.6 The evidence provided to the Examiner within the Consultation Statement gave assurance to her that the consultation process was robust. The Examiner was therefore satisfied that the Plan met the Basic Conditions with regard to consultation.
- 3.7 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 Kibworth.

#### 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 2017/18 as a way to deliver the priority '*to develop places in which to live and be happy*'.
- 4.2 The Kibworth Neighbourhood Plan ('the Plan') has been produced by the Kibworth Neighbourhood Plan Group, led by the Parish Council, as the Qualifying Body, in conjunction with the local community. The Plan does not seek to allocate sites for housing, but relies on windfall housing to provide for Kibworth's future housing need.
- 4.3 The plan lacks a Vision statement and objectives, although some sections refer to objectives within the text.
- 4.4 The examination version of the Kibworth Neighbourhood Plan was submitted to the Council on 2<sup>nd</sup> March 2017. Following initial verification checks, a six week period of public consultation on the Plan was held running from 5<sup>th</sup> April 2017 to 17<sup>th</sup> May 2017. A total of 13 responses were received, each making multiple representations on most aspects of the Plan.
- 4.5 The Council, with the agreement of Kibworth Parish Council, appointed Ms Rosemary Kidd as the Independent Examiner in April 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.

4.6 The Examiner was appointed on 13<sup>th</sup> April and the Examination took place from 1<sup>st</sup> June until 8<sup>th</sup> September 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.

4.7 The final Examiner's Report into the Plan was received by the Council on 8<sup>th</sup> September 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.

4.8 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 and accuracy in the text of the Plan.

4.9 The Examiner recommended some policy deletions from the submission version Neighbourhood Plan however this is because the policies repeated or conflicted with National Policy, were not land based policies or were repetitious of other policies within the Plan.

4.10 The Examiner states in her report:

*I have also recommended the deletion of a number of policies where it is considered that they would create blanket restrictions that are not supported by robust evidence or policies that repeat national or local strategic policies without adding any locally specific requirements. Section 7 of the report sets out a schedule of the recommended modifications.*

*The main recommendations concern:*

- *The deletion of Policies SD1, SD2, H1, H3, H6, ENV2, ENV7, ENV8, ENV12 and E3.*
- *The deletion of six proposed areas of Local Green Space.*
- *Ensuring that relevant sites to which policies apply are explicit and are shown on the Proposals Map.*

4.11 Kibworth Parish Council and Neighbourhood Plan Group have been given the Report due consideration.

4.12 The Qualifying Body have 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

- 4.13 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 Kibworth 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 Kibworth 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 25<sup>th</sup> January 2018. Therefore, the final version of the Plan and the Information Statement must be on Harborough District Council's website on 13<sup>th</sup> December 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 18<sup>th</sup> December 2017 .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 the Kibworths' 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 the Kibworths' 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 The Local Planning Authority may make amendments to the Plan, with the agreement of the Qualifying Body, under section 61M of the Town and Country Planning Act 1990.
- 5.3 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 2015 when the Kibworth 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 November – December 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 Kibworth 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 Kibworth 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:

- Publicity of the Neighbourhood Plan Area 10/11/2014 to 22/12/2014;
- Pre-Submission Consultation (reg. 14) 2/9/2016 to 14/10/2016; and
- Submission Consultation (reg. 16) 22/3/2017 to 3/5/2017.

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 more 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

[Kibworth Neighbourhood Plan - submission version](#)

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**Information Issued Under Sensitive Issue Procedure: N**

**Ward Members Notified: Y**

**Appendices:**

**Appendix A: Examiners Recommendations**

**Appendix B: Examiners Report**