

Harborough District Council

Report to the Cabinet Meeting of 12 September 2022



Report Number:	7
Title:	East Langton Review Neighbourhood Plan
Status:	Public
Key Decision:	No
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 East Langton Review Neighbourhood Plan Appendix B – Examiners Report – East Langton NP Final 29 June 2022

Executive Summary

The purpose of this report is to enable the Cabinet to consider the recommendations of the Examiner into the East Langton Review Neighbourhood Plan and support the recommendation that the Plan proceeds to referendum on 27 October 2022 with the Examiners recommended modifications.

Recommendations

1. That the Cabinet accepts the Independent Examiner’s recommended changes to the East Langton Review Neighbourhood Plan in full as set out in the schedule at Appendix A and notes the recommendation that the amended East Langton Review Neighbourhood Plan should proceed to a referendum of voters within the Parish of East Langton, as designated by the Council in October 2013, 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 East Langton Review Neighbourhood Plan on 27 October 2022 that will include all of the registered electors in the Parish of East Langton

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 East Langton Review 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 East Langton Review Neighbourhood Plan was received on 14 May 2022. The report states that the changes to the East Langton Review Plan are sufficiently significant to require Examination and Referendum. The report recommends subject to the modifications proposed (see **Appendix A**), the Plan should proceed to Referendum.
- 1.2. The Examiner considered that the East Langton Review Plan required Examination and a Referendum, stating that the changes to the Plan were significant enough to change the nature of the Plan. (**para. 16 of Appendix B**). Both the Qualifying Body and the District Council agree with this as set out in their statements at regulation 16.
- 1.3. The Neighbourhood Plan has been prepared by East Langton Neighbourhood Plan Review Advisory Committee and East Langton Parish Council as the Qualifying Body.
- 1.4. 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.
- 1.5. Where the local planning authority issues a decision statement (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 as amended) detailing its intention for a review neighbourhood plan to proceed to Referendum, that plan can be given significant weight in decision-making, so far as the plan is material to the application.

2. Background

- 2.1. The final Examiner's report into the East Langton Review 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. The report recommends to the Council that, subject to the modifications proposed (see **Appendix A**), the Plan should proceed to Referendum.
- 2.2. Harborough District currently has 27 Neighbourhood Plans that are 'made' and five Plans that have been successfully reviewed. The East Langton Review Neighbourhood Plan will supersede the adopted East Langton Neighbourhood Plan and become part of the Development Plan for the District if it successfully passes Referendum.

3. Details

- 3.1. The East Langton Review Neighbourhood Plan has been led by the East Langton Parish Council, as the Qualifying Body, in conjunction with the local community. The East Langton Review Neighbourhood Plan seeks to bring policies up to date with local changes of circumstance, and to take account of changes to the Local Plan and National Planning Policy. Further it seeks to allocate two sites for housing (Policy H1) and has policies to allow development to come forward within the Settlement Boundary (Policy H2) subject to certain criteria.
- 3.2. The East Langton Review Neighbourhood Plan seeks to achieve the following:
- Policy S1 - The policy on a 'Presumption in favour of sustainable development' has been deleted
 - New Policy H1 - Site allocations have been made in the Neighbourhood Plan Review to achieve the minimum housing requirement as set out in the Local Plan
 - New Policy H2 - Settlement Boundaries have been introduced for both villages
 - Policy H3 - Windfall sites (previously H2) – changed to make reference to settlement boundaries
 - Policy H4 - Housing mix (previously H3) – changed to make reference to settlement boundaries with additional text to refer to the size of dwellings
 - Policy E4 - Broadband Infrastructure – minor text changes
 - Policy CS1 - Protecting Key Community Services – addition of explanatory text
 - Policy DBE2 - Local Heritage Assets of Historical and Architectural Interest – additional structure added to the list
 - Policy ENV 1 - Protection of Local Green Space – an additional site has been added to the list
 - Policy Env 2 - Other Environmentally Significant Sites – minor changes to remove a site no longer considered to be environmentally significant
 - Policy Env 4 - Trees – minor text changes
 - New Policy Env 7 - Protection of Important Views – new policy to allow for account to be taken of important views in planning decisions
- 3.3. The examination version of the East Langton Review Neighbourhood Plan was submitted to the Council on 29 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 51 responses were received with each respondent made multiple representations on most aspects of the Plan.
- 3.4. The Council, with the agreement of East Langton Parish Council, appointed Barbara Maksymiw as the Independent Examiner in March 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 1 April 2022 to 14 May 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. As the East Langton Plan is a review Plan the Examiner must also decide on the nature of the modifications and whether the Plan requires just examination or examination and referendum.

3.8. There are three types of modification which can be made to a neighbourhood plan or order. The pathway of a Neighbourhood Plan review will depend on the degree of change which the modification involves and are as follows:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or
- material modifications which do not change the nature of the plan or order, and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

3.9. Both the Qualifying Body and Harborough District Council officers took the view that the changes were material modifications that changed the nature of the Plan and therefore requires Examination and Referendum. The Examiner agreed with this view as set out in paragraph 16 of her report.

3.10 The independent examiner, is required to make one of the three following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum

3.11 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.
- 3.12 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 Referendum.
- 3.13 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') relate mainly to issues of clarity and precision and are designed to ensure that the plan fully accords with national and strategic policies.
- 3.14 East Langton Parish Council have given the Examiner's Report due consideration and are in agreement with the recommended modifications of the Examiner to the Neighbourhood Plan. Officers are also in agreement with the recommendations of the Examiner.
- 3.15 The Examiner states in paragraph 90 of the report:
- I am therefore pleased to recommend to Harborough District Council that, subject to the modifications set out in my report, the East Langton Parish Neighbourhood Plan Review should proceed to referendum.*
- 3.16 The Examiner considered whether the referendum area should be extended and concludes at para 91;
- I am also required to consider whether the referendum area should be extended beyond the East Langton parish council area. I see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved by Harborough District Council in October 2013.*
- 3.17 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 East Langton Review Neighbourhood Plan and the reasons for making that decision. 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.

- 3.18 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](#).
- 3.19 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 East Langton to help it decide planning applications in the neighbourhood area?'*
- 3.20 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 East Langton 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.
- 3.21 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; that plan can then be given significant weight in decision-making, so far as the plan is material to the application.
- 3.22 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 (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.

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' (adopt) the Plan after a successful vote at referendum (Localism Act Schedule 9 part 2 Neighbourhood Development Plans – Planning and Compulsory Purchase Act 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.*) The Plan must be made within 8 weeks of the referendum date.

4.4.2 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 East Langton Review 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. This conclusion was supported by Natural England, Historic England and The Environment Agency. The Examiner is satisfied that the Plan meets all the legislative requirements with regard to the environment. Paras 42 to 44 of the Examiners report concludes that the Plan meets the requirements of legislation relating 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, through a claim for judicial review, can be raised are set out in the [Town and Country Planning Act 1990, section 61N](#).
- The preparation of the East Langton Review 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.

4.6.2 The Elections Team are responsible for ensuring the Referendum is managed correctly.

4.7 Equalities Impact

4.7.1 In preparing the Plan, the East Langton Neighbourhood Plan Review 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 her 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 45 and 46 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 consultation between 22/9/2014 and 4/10/2014;
- Pre-Submission Consultation for review plan (reg. 14) from 28/7/2021 to 14/9/2021; 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

[East Langton Review Neighbourhood Plan submission version.](#)

[East Langton Review Neighbourhood Plan Consultation Statement.](#)

[East Langton Review Neighbourhood Plan Regulation 14 Consultation Responses.](#)

[East Langton Review Neighbourhood Plan Basic Conditions Statement](#)

[East Langton Review Neighbourhood Plan Regulation 16 Consultation Responses.](#)