

TELFORD & WREKIN COUNCIL

CABINET - 16 OCTOBER 2014

MADELEY NEIGHBOURHOOD DEVELOPMENT PLAN: CONSIDERATION OF EXAMINER'S RECOMMENDATIONS AND PROPOSED MODIFICATIONS PRIOR TO REFERENDUM

REPORT OF ASSISTANT DIRECTOR: PLANNING SPECIALIST

LEAD CABINET MEMBER: COUNCILLOR CHARLES SMITH

PART A) – SUMMARY REPORT

1.0 SUMMARY OF MAIN PROPOSALS

- 1.1 Madeley Town Council submitted their Neighbourhood Development Plan (NDP) with supporting documents to the Council in February 2014. In response and in accordance with its statutory duties, the Authority undertook certain checks to ensure that all the procedural and other requirements had been met and completed a 6-week publicity period which allowed written representations to be made.
- 1.2 The Authority appointed Independent Examiner (the Examiner), John Parmiter, to conduct the Examination with a report being submitted back to the Council in June including a recommendation to proceed to Referendum, subject to a number of modifications. Those modifications have now been applied to the NDP, and the Referendum version available via www.telford.gov.uk/madeleyndp.
- 1.3 The purpose of this report is to seek Cabinet approval for the NDP, subject to the modifications, to proceed to formal Referendum. The modifications are considered in more detail in section 4 of this report. The full list of modifications proposed by the Examiner are set out in the Examiner's Report (page 24-30), Appendix 1 of this report.
- 1.4 Whilst the Examiner's proposed modifications are not binding, they are considered by Officers to be appropriate. No additional modifications are considered to be required prior to the Referendum stage.
- 1.5 Members need to be satisfied that the NDP meets certain "basic conditions" before it can proceed to a Referendum. As explained in this report, Officers and the Examiner are satisfied that these "basic conditions" have been met.

2.0 RECOMMENDATIONS

- 2.1 That Cabinet agree with the Independent Examiner that, subject to the modifications recommended by him being made, the Madeley Neighbourhood Development Plan meets the "basic conditions" and all other legal requirements as summarised in this report and the Independent Examiner's report, and**
- 2.2 That Cabinet agree that the required modifications should be made to the Madeley Neighbourhood Development Plan and that the Madeley Neighbourhood Development Plan - Referendum Version (August 2014) should proceed to Referendum, and**
- 2.3 That Cabinet agree that the Referendum Area should not be extended beyond the designated area to which the Madeley Neighbourhood Development Plan relates**

2.4 That the Managing Director (and any other officer authorised in writing by him) be authorised to exercise all the relevant powers and duties and undertake all necessary arrangements for the Madeley Neighbourhood Development Plan (Referendum Version) to now proceed to Referendum and for the Referendum to take place asking the question whether the voter wants Telford & Wrekin Council to use this neighbourhood plan for the Madeley Neighbourhood Development Plan area to help it decide planning applications in this neighbourhood area

3.0 SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	Co-operative Council: - Involving local people more in planning and running services - As a Council, supporting our community better and encouraging people to do more to help their own communities
	Will the proposals impact on specific groups of people?	
	Yes	Neighbourhood Plans establish a formal statutory planning framework for future development within a designated area. Production of the Madeley NDP has involved the whole of the Madeley Parish community through consultation where people have had the opportunity to provide formal comments on policies which will affect the future development of their area, including a 6-week formal publicising consultation period. The referendum stage provides an opportunity for the whole Madeley Parish to vote on the plan prior to formally making the Plan.
TARGET COMPLETION/ DELIVERY DATE	Subject to Cabinet approval, the Madeley NDP will proceed to referendum, the outcome of which will determine if the NDP can be made by the Authority. To achieve this, the referendum must result in more than half of those voting in favour of the NDP. It is anticipated that, after putting all necessary arrangements in place, the NDP will proceed to referendum in January 2015. Subject to a favourable outcome, the final version of NDP will come to Cabinet for approval in early 2015.	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	The costs associated with the introduction of Neighbourhood Plans, including the additional costs of designations, referendum and examinations have to be met by the Local Authority. The scheme has received Fronrunner and DCLG funding and there is sufficient funding available to meet the costs of the referendum which are estimated at £2 per elector (total £25,000). JAC 150814
LEGAL ISSUES	<p>The Localism Act 2011 provided a framework for a new statutory regime to establish Neighbourhood Planning. Subsequent legislation has added more detail to that framework. The Town Council has had to fulfil its publication and consultation obligations under this legislation and the Borough Council as local planning authority has now publicised the NDP and processed it through the Independent Examination stage. With the benefit of the Examiner's report the Borough Council as LPA ("the LPA") now has to properly consider a number of matters relating to the NDP before it can proceed to a referendum.</p> <p>The issues which the LPA now needs to consider and determine are set out in this report. If the LPA is satisfied that certain conditions have been met a referendum must be held. If the LPA is not so satisfied, the NDP must be refused.</p>	

		<p>If the referendum takes place and results in more than half of those voting (i.e. 50% + 1) voting in favour of the NDP, subject to certain exceptional circumstances, the LPA must make the NDP as soon as reasonably practical.</p> <p>Further legal points are raised later in this report</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES		<p>The main risk associated with the referendum stage is that the referendum itself does not deliver a majority vote in favour of the Plan. The result would be that the Authority would be unable to make the NDP a statutory plan to be applied to the determination of planning applications in the designated area. However, this is unlikely bearing in mind the level of engagement carried out by Madeley Town Council with the assistance of the Authority, which has sought to address the key issues identified through the consultation process.</p> <p>Opportunities associated with the NDP include a strengthening of local engagement in the planning process and in the development of the Shaping Places Local Plan, including acceptance of proposed development in the area. A successful NDP will raise the profile of the Council locally and nationally.</p>
IMPACT ON SPECIFIC WARDS		Cuckoo Oak Ward, Madeley Ward, Woodside Ward.

4.0 PART B) – ADDITIONAL INFORMATION

4.1 Background

4.1.2 In February 2011 Telford & Wrekin Council and Madeley Town Council successfully bid for Madeley to become one of the government's Frontrunners in neighbourhood planning. The Madeley Neighbourhood Plan Steering Group was subsequently formed and has led development of the Neighbourhood Development Plan (or NDP) through a number of key stages. Under the Town and Country Planning Act 1990 Telford & Wrekin Council as LPA has a statutory duty to assist communities in the preparation of the NDP through the various statutory stages in the process.

4.1.3 In accordance with the 1990 Act and the Neighbourhood Planning Regulations, Madeley Town Council submitted their NDP on 11th February 2014 for Telford & Wrekin Council to complete the necessary checks and proceed to the next stages of publication, examination and referendum. The NDP, along with supporting documents are available at www.telford.gov.uk/madeleyndp.

4.2 Examination of the Madeley Neighbourhood Development Plan

4.2.1 The independent examination included a public hearing held on 6th June 2014 at the Park Lane Centre, Woodside. The hearing was led by the Examiner and was attended by Madeley Town Council, Telford & Wrekin Council, and a resident of Madeley who had submitted objections during the publicising period. A number of local residents were also in attendance. The purpose of the hearing was to assist the Examiner in considering whether certain required procedural and other matters have been properly dealt with and also in

establishing whether or not the NDP meets the 'basic conditions'. The "basic conditions" include the following:

- Whether, having regard for national planning policy and guidance from the Secretary of State, it is appropriate that the NDP should be made
- Whether the NDP contributes to the achievement of sustainable development
- Whether the NDP is in general conformity with the strategic policies contained in the Development Plan for the area of the Authority
- Whether the NDP is in breach of and/or is otherwise compatible with EU obligations
- Whether the making of the NDP is likely to have a significant effect on any "European Sites" as defined in the Conservation Habitats and Species Regulations 2012

Further, the Examiner had to consider whether the area for any referendum should extend beyond the area to which the NDP relates.

4.2.2 The Examiner identified a number of key issues where he required clarification during the hearing. These related principally to the approach to affordable housing under Policy H1 of the NDP, and the approach to retail provision set out under Policy R1 of the NDP. These issues are summarised below.

4.2.3 Policy H1, as it was originally proposed, would establish a presumption in favour of off-site provision of affordable through payment of s106 contributions. The Examiner questioned whether this was in conformity with the NPPF and the policies of the Wrekin Local Plan and Core Strategy. In response, the LPA and Madeley Town Council submitted an agreed modification to Policy H1 to the Examiner for his consideration. The Examiner subsequently accepted these modifications, and the detailed wording for this can be found on page 25 of the Examiner's Report. The referendum version also sets out the modified policy wording, as agreed by all parties.

4.2.4 Policy R1, as it was originally proposed, defines a town centre boundary and controls the degree of change of ground floor uses by reference to frontages and by percentages (including a marketing test). Similar concerns to those relating to Policy H1 were raised by the Examiner here, in particular conformity to national and local policies. Again, the LPA and Madeley Town Council submitted an agreed modification to policy R1 for consideration by the Examiner. The Examiner subsequently accepted these modifications, and the detailed wording for this can be found on page 27-28 of the Examiner's Report. The referendum version also sets out the modified policy wording, as agreed by all parties.

4.2.5 Members' attention is drawn to these two policies in particular, as the Examiner is recommending (and officers agree) that they require the most significant modifications in order for them to meet the basic conditions tests. Modifications to other policies in the NDP proposed by the Examiner, whilst being necessary to ensure the policies are in general conformity with both national and local planning policy, are considered to be relatively minor in nature and are also considered to be appropriate. Members' attention is drawn to all the proposed modifications which are set out in the Examiner's report and shown on the Referendum Version of the NDP.

4.2.6 On all other aspects of the basic conditions tests, the Examiner concluded that, subject to his recommended modifications being made, the NDP met the tests. In addition, the Examiner also concluded that the NDP has been prepared in accordance with all other legal requirements, in particular those under paragraph 8(1) of schedule 4B of Town and Country Planning Act (TCPA), in that:

- the NDP had been prepared and submitted for examination by a qualifying body;
- the NDP had been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA);
- the NDP met the requirements of Section 38B of the PCPA (i.e. the Plan must specify the period to which it has effect (to 2031), must not include provisions about development that is excluded development, and must not relate to more than one Neighbourhood Area); and
- the policies relate to the development and use of land for a designated Neighbourhood Area, in line with the requirements of Section 38A of the PCPA.

4.2.7 Consequently, the Examiner recommended that the Plan, as modified in accordance with his report met all relevant legal requirements and could proceed to referendum. The Examiner also concluded that the boundary of the referendum (or 'referendum area') should be the same as the boundary of the NDP. An additional business referendum is not required.

4.3 Considerations for Cabinet

4.3.1 Cabinet must:

- a) consider each of the recommendations made by the Examiner and the reasons for them
- b) decide what action to take in respect of each recommendation
- c) be satisfied that the NDP meets the basic conditions (see para 4.2.1 above) and be satisfied that the NDP is compatible with EU Convention Rights and be satisfied that the NDP complies with the various requirements referred to at paragraph 4.2.6 above
OR
be satisfied that the NDP would meet those conditions, be compatible with those rights and comply with those requirements if modifications were made to the NDP as recommended by the Examiner.

In respect of a) and b), Members are recommended to accept each of the Examiner's recommendations and reasons and to agree that all of the Examiner's recommendations be incorporated into a new version of the NDP (the Madeley Neighbourhood Development Plan: Referendum Version (August 2014))

In respect of c) Members are recommended to accept the Examiner's recommendation that the NDP would meet these conditions, be compatible with these rights and comply with these requirements if his recommended modifications were made to the NDP and further that these modifications should be made.

In respect of the area in which the Referendum is to take place, Members are recommended to accept the Examiner's recommendation that the Referendum Area should not change and should be the same as the designated NDP area.

4.3.2 If Members accept the Examiner's and officers' recommendations, a Referendum must be held on the making of the NDP by the LPA

4.3.3 If Members are not satisfied in respect of c) above and do not accept the Examiner's recommendations, they must refuse to make the NDP.

4.3.4 in any event, Members' decisions and reasoning in these matters has to be published in a decision notice.

4.4 Preparing for Referendum

4.4.1 Subject to Cabinet approval, the NDP will proceed to the next stage; Referendum. The Referendum is organised and carried out by Telford & Wrekin Council. The Referendum will only be carried out in Madeley Parish as the Neighbourhood Plan area. In accordance with Regulation 4 of the Neighbourhood Planning (Referendum) Regulations 2012 the Council will publish an Information Statement declaring when a Referendum will be held and the questions to be asked no less than 28 working days beforehand. In accordance with Regulation 3, the Referendum will ask whether voters want the LPA to use the NDP to help decide planning applications in the Plan Area.

4.4.2 It is anticipated that the Referendum could be held in January 2015 following publication of this year's new Individual Electoral Registration revised register on 1st December 2014.

4.4.3 The key tasks involved in preparing for the Referendum include the preparation of documents and website information for inspection including 'information statement', printing of polling cards and organisation of polling stations similar to those used at local government elections. The organisation of the Referendum will be lead by TWC Electoral Services in liaison with the Environment & Planning Policy Team and Madeley Town Council.

4.4.4 If more than 50% of those voting vote in favour of the NDP, Telford & Wrekin Council must then 'make' the NDP. It will then be published on Telford & Wrekin Council's website and used in the determination of planning applications for the Neighbourhood Plan area i.e. the Parish of Madeley.

4.5 Conclusion

4.5.1 As a front-runner Madeley Town Council are the first in the Borough to progress to this stage, working closely with their community to produce a plan which reflects local views on future development in the Parish and policies which, subject to the being made, will be taken into consideration in the determination of planning applications in the plan area.

4.5.2 A further report will be brought for Cabinet consideration following the outcome of the Referendum.

5.0 IMPACT ASSESSMENT – ADDITIONAL INFORMATION

5.1 Once the Madeley NDP is made, it will become part of the statutory planning framework for the Borough. In accordance with the ethos of neighbourhood planning, the NDP is based on extensive community engagement and therefore a product of the community with policies reflecting their views. The policies, once modified, are considered to be in general conformity with the existing Core Strategy and saved policies from the Wrekin Local Plan

5.2 In accordance with legal requirements, planning applications should be determined in accordance with the provisions of relevant Development Plan's which, for the Madeley Parish, would include the NDP as well as the Core Strategy and saved policies from the Wrekin Local Plan. This is unless material considerations indicate otherwise, meaning the NDP policies must be balanced with other considerations as part of the decision making process undertaken by the LPA.

6.0 PREVIOUS MINUTES

6.1 Application for the Designation of a Neighbourhood Area – Madeley (Cabinet, 18th October 2012)

6.2 Submission of Madeley Neighbourhood Development Plan (Cabinet, March 27th 2014)

7.0 BACKGROUND PAPERS

Madeley Neighbourhood Development Plan: Referendum Version (August 2014)

Madeley Neighbourhood Development Plan: Independent Examiner's Report (June 2014), including the list of proposed modifications.

Madeley Neighbourhood Development Plan – Examination Version (February 2014)

Basic Conditions Statement (February 2014)

Consultation Statement (February 2014)

Regulation 14 Consultation (February 2014)

Historic Conservation Assessment (February 2014)

Evidence base Summary (February 2014)

The Environmental Assessment of Plans and Programmes Regulations 2004, Regulation 9 Screening Determination – Madeley Neighbourhood Plan

Available at www.telford.gov.uk/madeleyndp

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