

TELFORD & WREKIN COUNCIL

CABINET - 26 FEBRUARY 2015

SUBMISSION OF WATERS UPTON NEIGHBOURHOOD DEVELOPMENT PLAN

REPORT OF THE ASSISTANT DIRECTOR: PLANNING SPECIALIST

LEAD CABINET MEMBER: COUNCILLOR CHARLES SMITH

PART A) – SUMMARY REPORT

1.0 SUMMARY OF MAIN PROPOSALS

- 1.1 Waters Upton Parish Council submitted their neighbourhood development plan (NDP) titled the Waters Upton Neighbourhood Plan (WUNP) to the Council in December 2014. In accordance with its statutory duties, the Authority as local planning authority (LPA) has completed checks to ensure that all the legal requirements have been met and commenced the 6-week publicity period which allows written representations to be made.
- 1.2 Subject to Cabinet approval and, in liaison with Waters Upton Parish Council, the Council as LPA will proceed with the appointment of an Independent Examiner.
- 1.3 To authorise the Assistant Director: Planning Specialist to exercise all the Council's powers regarding the neighbourhood planning process for future NDPs up to the point where the Council needs to consider the recommendations of the Independent Examiner and decide whether the Neighbourhood Development Plan can proceed to referendum

2.0 RECOMMENDATIONS

- a. To authorise the Assistant Director : Planning Specialist to exercise the Council's relevant powers under the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, the Neighbourhood Planning (General) Regulations 2012 and all other enabling legislation to take all necessary actions for the Waters Upton Neighbourhood Plan to be processed in accordance with the relevant legislation to and through the Independent Examination stage**
- b. To authorise the Assistant Director: Planning Specialist to exercise all the Council's powers under the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, the Neighbourhood Planning (General) Regulations 2012 and all other enabling legislation regarding the neighbourhood planning process for future NDPs in the Borough up to but not including the stage where the Council needs to consider the recommendations of the Independent Examiner and decide whether the Neighbourhood Development Plan can proceed to referendum**

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?
	<p>Yes</p> <p>NDP's contribute to the local planning framework for future development within a designated area. Production of the WUNP has involved the whole of the Waters Upton Parish community where people have had the opportunity to provide formal comments on policies which will affect the future development of their area. The 6-week publicising period will allow for representations to be made to the examiner and the referendum an opportunity for the whole Waters Upton Parish to vote on the plan prior to it being made.</p>
TARGET COMPLETION/ DELIVERY DATE	Subject to Cabinet approval, the WUNP will proceed to examination, the findings of which will be reported to Cabinet for a decision to be made as to whether it can proceed to referendum, the specific timescale of which will depend on the outcome of the examination and Cabinet's further considerations.
FINANCIAL/VALUE FOR MONEY IMPACT	<p>Yes</p> <p>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. Waters Upton PC received funding as a Frontrunner for neighbourhood planning and the balance of this funding is available to offset the costs incurred. In addition funding, up to a maximum of £30,000 is available from the DCLG if required to meet the costs incurred by the Local Authority.</p> <p>The appointment of the Independent Examiner by the Local Authority will comply with procurement requirements and will be funded from the available DCLG grant.</p>
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. Waters Upton Parish 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 WUNP. The Borough Council as Local Planning Authority ("the LPA") now has to consider a number of matters relating to the WUNP to ensure compliance.</p> <p>The issues which the LPA now needs to consider and determine are set out in this report</p> <p>If the LPA finds that there has not been compliance, it must reject the WUNP. If the LPA finds that there has been compliance, the WUNP will be referred to an Independent Examiner for examination.</p> <p>After the Independent Examiner's report/recommendations have been completed, they will be presented to the LPA for consideration. This will be the subject of a further report to Cabinet where it will be decided whether, in the light of the Independent Examiner's report, the LPA is going to proceed to a referendum in respect of the NDP.</p> <p>Further legal points are raised later in this report</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES	<p>Officers have completed the required checks to ensure the WUNP meets the necessary requirements for this stage of the process. However, subject to Cabinet approving the recommendation in this report, there will be an independent examination of the WUNP and there is a risk that the Independent Examiner will recommend that the WUNP should be modified or rejected. The recommendations of the Independent Examiner will be considered at a further meeting of Cabinet in due course.</p> <p>There is some potential risk associated with consistency of WUNP policies with those contained in existing Core Strategy, saved policies of the Wrekin Local Plan and in the emerging Shaping Places Local Plan. Continuing officer engagement with the Parish Council will seek to mitigate this. As part of their Conformity Statement, the Parish Council has provided supporting</p>

	<p>information to demonstrate consistency of the WUNP with the existing Development Plan for the Borough. The WUNP cannot succeed through the neighbourhood plan process unless it is in general conformity with the strategic policies of the Development Plan for the Borough. At present, there are a number of important differences of opinion between the Parish Council and LPA officers regarding general conformity with the Development Plan. These differences will continue to be discussed between the LPA and the Parish Council and will be raised at the Independent Examination.</p> <p>Opportunities associated with the WUNP 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 WUNP will raise the profile of the Council locally and nationally</p>
IMPACT ON SPECIFIC WARDS	Ercall Magna Ward: Councillor Stephen Bentley

PART B) – ADDITIONAL INFORMATION

4 Background

- 4.1 Neighbourhood planning was introduced by the Localism Act 2011. It provides the opportunity for a Parish/Town Council or local forum to produce a neighbourhood development plan with the involvement of local people, helping to inform future planning decisions in their area.
- 4.2 Telford & Wrekin Council and Waters Upton Parish Council successfully bid for them to become one of the government's Frontrunners in neighbourhood planning. The Waters Upton Neighbourhood Plan Steering Group was subsequently formed and has led development of the WUNP through a number of key stages. Madeley, Ercall Magna and Newport Town & Parish Councils are also Frontrunners in the process of developing their plans.
- 4.3 Under the Town and Country Planning Act 1990, Telford & Wrekin Council as LPA has a statutory duty to assist communities in the preparation of neighbourhood development plans (NDP's). Cabinet approved of the designation of the neighbourhood plan area for Waters Upton on 14 November 2013. Subsequently, the Parish Council has worked with its community to produce the WUNP which has been subject to the required period of consultation by the Parish Council.
- 4.4 Following this consultation, Waters Upton Parish Council submitted the WUNP, together with other required information, on 15th December 2014 for Telford & Wrekin Council as LPA to complete the necessary checks and proceed to the next stages of publication, examination and referendum. The WUNP, along with supporting documents, are available at www.telford.gov.uk/neighbourhoodplanning

5 Compliance checking

- 5.1 Telford & Wrekin Council is required to consider a number of matters set out in the legislation and, if they are satisfied that the matters have been met or complied with, the WUNP must be submitted for independent examination. The matters for consideration are as follows:
- Whether the WUNP proposal is a repeat proposal – there are a number of provisions relating to this consideration. However, this is not a repeat proposal so these provisions are satisfied
 - Whether Waters Upton Parish Council is authorised to act – Waters Upton Parish Council is a Parish Council and is proposing a NDP in respect of a Plan Area which consists of the whole of its administrative area and it is considered that it is authorised as required
 - Whether there is another NDP proposal relating to the area – there is not, so this provision is satisfied
 - Whether the NDP proposal and the documents and information accompanying it comply with the rules for submission to Telford & Wrekin Council as the Local Planning Authority (LPA) – The NDP proposal can properly be described as a neighbourhood development plan. It has been submitted to the LPA in the prescribed form and is accompanied by other documents and information as prescribed. The proposal documents identify the area to which the NDP relates, include a compliant

Consultation Statement and include a statement explaining how the proposed NDP meets the “basic conditions” as required by the legislation (see below). It is considered that the Parish Council have complied with the requirements in these respects in that all these documents have been provided.

5.2 The Independent Examiner will be considering the following:

- Whether, having regard for national planning policy and guidance from the Secretary of State, it is appropriate that the WUNP should be made
- Whether the WUNP contributes to the achievement of sustainable development
- Whether the WUNP is in general conformity with the strategic policies contained in the Development Plan for the area of the Authority
- Whether the WUNP is in breach and/or is otherwise compatible with EU obligations

When the WUNP next comes before Cabinet, with the benefit of the Independent Examiner’s report/recommendations, these further matters will be considered in detail.

5.3. Bearing in mind these tests, officers are satisfied that all the required documentation can now be submitted for the Independent Examination

5.4 With regard to EU obligations, a Screening Determination on the Environmental Assessment of Plans and Programmes Regulations 2004 has been submitted which concludes that an environmental assessment of the NDP is not required as it is unlikely to have significant environmental effects. This determination was agreed by the relevant bodies including Natural England, The Environment Agency and English Heritage. Further, it is not considered that the NDP provisions are likely to have a significant effect on a European site, as defined in the Conservation of Habitats and Species regulations 2010(d) either alone or in combination with other plans or projects.

5.5 Full details of how Waters Upton Parish Council consider that they comply with these requirements are set out in their Basic Conditions Statement.

5.6 Other procedural requirements which have been met include the provision of a map identifying the Plan Area, a Consultation Statement and the actual WUNP document.

5.7 With regards to general conformity with the strategic policies for the Borough, this is covered in more detail in the following section

6 General Conformity with Strategic Policies of Development Plan

6.1 In order to successfully progress through the Independent Examination, it will need to be demonstrated that the WUNP is in ‘general conformity’ with the strategic policies of the development plan for the Borough. The Basic Conditions Statement (BCS) submitted by Waters Upton Parish Council forms the basis of this determination. As mentioned above, at present, there are a number of important differences of opinion between the Parish Council and LPA officers regarding general conformity with the Development Plan. These differences will continue to be discussed between the LPA and the Parish Council and will be raised at the Independent Examination.

7 Publication

7.1 The WUNP is being publicised for a 6 week period between 19th January and 27th February 2015 in accordance with Regulations “in a manner that is likely to bring it to the attention of the local community”. The WUNP is available via the LPA’s website www.telford.gov.uk/neighbourhoodplanning and for viewing in the following places; Waters Upton Village shop, Business & Planning First Point Wellington, First Point Telford. A notice was placed. All bodies referred to in Consultation Statement have been notified of the publication period.

7.2 Any representations submitted to Telford & Wrekin Council during this publicity period will be forwarded to the Independent Examiner to supplement the WUNP which will be submitted in its current form and the other submitted documents/information.

8 Examination & Referendum

- 8.1 Subject to Cabinet approval, the WUNP will proceed to the next stage; examination. During the publication period an Independent Examiner will be appointed by Telford & Wrekin Council in agreement with Waters Upton Parish Council. The Independent Examiner will consider the contents of the plan, supporting documents and any written representations.
- 8.2 The outcome of the Examination will be a report from the Independent Examiner with recommendations to Telford & Wrekin Council for its consideration. The Independent Examiner's report will recommend that either the WUNP should be submitted to a referendum, modified and then submitted to a referendum or that the WUNP should be rejected. The report will be presented to Cabinet along with any recommendations.
- 8.3 If the WUNP successfully progresses through Independent Examination and consideration by Cabinet, in accordance with Regulation 4 of the Neighbourhood Planning (Referendum) Regulations 2012, not fewer than 28 days (excluding weekends and bank holidays) before the date of the referendum, the Council must publish an Information Statement declaring when a referendum will be held and related details such as the question that will be asked. In accordance with Regulation 3, this will be related to whether voters agree to the use of the WUNP to help decide planning applications in the Plan Area. If all proceeds smoothly, it is anticipated that the referendum will be held in September - October 2015 although this can only be confirmed after the Independent Examiner's report is presented to Cabinet.
- 8.4 If a majority of those voting (over 50%) are in favour, this would be sufficient for the WUNP to succeed to require the Council as LPA to make the WUNP after which it will be published on Telford & Wrekin Councils website.

9 Conclusion

- 9.1 As a frontrunner Waters Upton Parish Council is the second 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, if the WUNP is made, will be taken into consideration in the decision making process.
- 9.2 Following submission of the NDP it is recommended that Cabinet confirm that they are satisfied that the legal requirements have been met and arrangements can be put in place to proceed to subsequent stages of the process. A further report will be brought for Cabinet consideration following receipt of the Examiners report and prior to proceeding to the referendum

10 IMPACT ASSESSMENT – ADDITIONAL INFORMATION

- 10.1 Once adopted, the WUNP will become part of the statutory planning framework for the Borough. In accordance with the ethos of neighbourhood planning, the WUNP is based on extensive community engagement and therefore a product of the community with policies reflecting their views.
- 10.2 In accordance with legal requirements, planning applications should be determined in accordance with the provisions of relevant Development Plans which, for the Waters Upton Parish, would include the (WUNP if it is made) as well as the Core Strategy and saved policies from the Wrekin Local Plan. This is unless material considerations indicate otherwise, meaning the weight given to the WUNP must be balanced with other considerations as part of the decision making process undertaken by Development Management.

11. General Delegation

- 11.1 The stages leading up to the consideration of the Independent Examiner's report/recommendations by Cabinet are essentially procedural. Therefore, it is being recommended that all stages up to this consideration by Cabinet would be appropriately dealt with by officers under delegated powers. It is recommended that the Assistant Director: Planning Specialist (or an officer authorised by that postholder) be authorised to undertake all of the required steps to process a Neighbourhood Development Plan besides making that important decision, after the Examination, as to whether the

Plan can proceed to referendum. This should speed up the process and save much officer and member time as more neighbourhood development plans come forward. However, it would reserve the most important decisions for Cabinet to determine.

12. PREVIOUS MINUTES

12.1 Application for the Designation of a Neighbourhood Area – Waters Upton (Cabinet 14th November 2013)

13. BACKGROUND PAPERS

Waters Upton Neighbourhood Development Plan – Examination version (December 2014)

Basic Conditions Statement (December 2014)

Consultation Statement (December 2014)

Regulation 14 Consultation ()

SEA Screening determination

Available at www.telford.gov.uk/neighbourhoodplanning

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