

Decision Statement Regarding Hammerwich Neighbourhood Plan Proceeding to Referendum and Neighbourhood Plan Process



Report of the Cabinet Member for Economic Development, Leisure and Local Plan
Councillor I. Eadie

Date:	5 October 2021
Agenda Item:	5
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Key Decision?	No
Local Ward Members	All Hammerwich ward councillors - Councillor Alastair Little, Councillor Janice Silvester-Hall

CABINET

1. Executive Summary

- 1.1 This report relates to the preparation of a Neighbourhood Plan covering Hammerwich which has recently been the subject of formal examination by an Independent examiner.
- 1.2 The examiner of the Hammerwich neighbourhood plan is recommending that subject to a number of modifications being made to the plan that it can proceed to referendum. The District Council now has to consider the examiner's report and recommendations and if it so wishes resolve to progress the Hammerwich Neighbourhood Plan to referendum by way of issuing a Decision Statement.
- 1.3 This report also details the specific legislative stages of the neighbourhood plan process where Lichfield District Council are required to make decisions, specifically to send a neighbourhood plan to referendum following successful examination and to adopt a neighbourhood plan following a successful referendum. The report proposes that these decisions be delegated to the Cabinet Member for Economic Development, Leisure and Local Plan in consultation with the Head of Economic Growth and Development.

2. Recommendations

- 2.1 That the Cabinet accepts and agrees to the making of modifications as set out in the 'Decision Statement regarding Hammerwich Neighbourhood Plan proceeding to referendum' hereby referred to as the Decision Statement (**Appendix A**). This will enable the Plan to be proceed to the referendum stage.
- 2.2 That the Cabinet approves the publication of the Decision Statement for the Hammerwich neighbourhood plan (**Appendix A**).
- 2.3 That the Cabinet agree that the publication of the decision statement to send a neighbourhood plan to referendum following a successful examination be delegated to the Cabinet Member for Economic Development, Leisure and Local Plan in consultation with the Head of Economic Growth and Development.
- 2.4 That the Cabinet agree that the decision to 'make' a neighbourhood plan following a majority 'yes' vote at a referendum be delegated to the Cabinet Member for Economic Development, Leisure and Local Plan in consultation with the Head of Economic Growth and Development.

3. Background

Hammerwich neighbourhood plan decision statement

- 3.1 Neighbourhood planning is one of the provisions of the 2011 Localism Act allowing local communities to bring forward detailed policies and plans which can form part of the statutory planning process for an area and its residents.
- 3.2 The Neighbourhood Planning (General) Regulations 2012 require that Neighbourhood Plans are subject to independent examination. The appointed independent examiner must consider whether a Neighbourhood Plan meets the 'Basic Conditions' as set out within the [Independent Examiner's Report](#). Following the completion of an examination, the examiner must produce a report which can make one of three recommendations; 1) That the neighbourhood plan can proceed to referendum; 2) That subject to identified modifications the neighbourhood plan can proceed to referendum; 3) That the neighbourhood plan should not proceed to referendum.
- 3.3 The Hammerwich Neighbourhood Plan has been independently examined and it is recommended in the [examiners final report](#) that subject to the modifications outlined within the report the neighbourhood plan meets the 'basic conditions' and as such should proceed to referendum.
- 3.4 The Regulations require that upon receipt of the final report from an independent examination of a Neighbourhood Plan, the Local Planning Authority (Lichfield District Council) is required to consider the recommendations set out in the examiner's report. In addition there is a requirement to publish on our website a 'decision statement' which considers the recommendations of the independent examination within 5 weeks of receiving the report, or in line with a timescale agreed between the qualifying body (Hammerwich Parish Council) and Lichfield District Council.
- 3.5 The examiner's report and its proposed modifications have been considered by officers. On the basis of the assessment of the report and the proposed changes it is recommended that the District Council accepts the recommendations of the examiner and agrees all the modifications to the Hammerwich neighbourhood plan.
- 3.6 In line with the conclusions and recommendations of the examiner a proposed Decision Statement in respect of Hammerwich Neighbourhood Plan is attached at **Appendix A**. The Decision Statement includes all modifications recommended by the examiner and a number of further modifications suggested by officers to ensure consistency throughout the plan with the examiner's modifications. A modified version of the Neighbourhood Plan has been provided to clearly illustrate the proposed modifications (**Appendix B**). Hammerwich Parish Council have confirmed they wish for the neighbourhood plan to proceed to referendum subject to the modifications set out within the decision statement.
- 3.7 The Cabinet is asked to note the examiner's report for the Hammerwich Neighbourhood Plan, including the specific recommendations, and agree the Decision Statement allowing for the plans referendum to follow.
- 3.8 Following a decision to allow a Neighbourhood Plan to proceed to referendum, the District Council will need to publish the Decision Statement online and provide the decision statement to the Qualifying Body and any other stakeholder who has requested to be notified of the decision. Following this the referendum will need to be organised.

Neighbourhood plan procedures

- 3.9 There are a number of statutory duties which the local authority is required to undertake with regards to the progression of neighbourhood plans. The regulations require the Local Planning Authority, upon receiving the report of an independent examiner following a Neighbourhood Plan examination, to consider the examiner's recommendations and publish a decision statement determining whether the plan should proceed to referendum within five weeks of receiving the examiner's report. The regulations also require a Neighbourhood Plan to be 'made' as part of the development plan for an

area within eight weeks of a successful referendum. These to statutory duties are procedural matters for the District Council to undertake as part of the statutory neighbourhood plan process.

- 3.10 In December 2016 Cabinet determined that delegated authority would be given to the Cabinet Member for Economic Development, Leisure and Local Plan in consultation with the Head of Economic Growth and Development to publish the decision statement both in respect of sending a neighbourhood plan to referendum and to 'make' the neighbourhood plan following a successful referendum where Cabinet timetable did not allow these decisions to be made in accordance with the timescales set out in legislation.
- 3.11 Following the progression of a number of neighbourhood plans within the District since that time it is proposed that all such decisions be delegated to the Cabinet Member for Economic Development, Leisure and Local Plan in consultation with the Head of Economic Growth in all instances. This will ensure that the District Council is able to publish the required decision statements and undertake its statutory duties in respect of the neighbourhood plan process and enable community's neighbourhood plans to proceed through the required process expediently. Additionally, by using such delegation this will in effect free-up time for Cabinet to focus on other matters which require more debate.

Alternative Options	<ol style="list-style-type: none"> 1. Lichfield District Council declines to send the Hammerwich Neighbourhood Plans to referendum. This would mean the Neighbourhood Plan would retreat to an earlier stage of development. 2. The Qualifying Body withdraws the Neighbourhood Plan prior to Lichfield District Council making a formal decision as outlined within the Decision Statement. Again this would mean the Neighbourhood Plan would retreat to an earlier stage of development.
Consultation	<ol style="list-style-type: none"> 1. In line with the Regulations the draft Hammerwich Neighbourhood Plans has been consulted upon for at least the minimum required 6 week period at both the pre-submission and local authority publicity stages prior to their submission for Independent Examination. Alongside the submission of the Plan the Qualifying Body (Hammerwich Parish Council) are required to submit a Consultation Statement detailing the consultation undertaken throughout the Neighbourhood Plan process. These statements have been considered by the respective Independent Examiner along with all representations made at the Local Authority publicity period.
Financial Implications	<ol style="list-style-type: none"> 1. The Government has made grant aid available to District Councils in recognition of the level of resourcing required in the administration of Neighbourhood Plans. Government guidance states that 'this money is to ensure LPAs receive sufficient funding to enable them to meet new legislative duties on neighbourhood planning. Specifically, it covers the neighbourhood planning duties in the Localism Act which are to provide advice and assistance; to hold an examination; and to make arrangements for a referendum'. However it should be noted that the level of grant aid has decreased over time. 2. Upon the setting of the date for the referendum the District Council becomes eligible and can apply for a grant of £20,000. 3. Communities with Neighbourhood Plans in place will also be entitled to 25% uncapped of the Community Infrastructure Levy (CIL) receipts generated by eligible development in their area. Communities with no Neighbourhood Plan will be entitled to 15% which is capped.
Approved by Section 151 Officer	No.

Legal Implications	<ol style="list-style-type: none"> 1. The examiner's report has been prepared in accordance with planning guidance and law and concluded that subject to modifications the Hammerwich Neighbourhood Plan can proceed to referendum. 2. Should the Hammerwich neighbourhood Plan be successful at referendum then the District Council will be required to formally adopt the plan as part of the development plan for the District. Upon adoption the Council will produce an adoption statement which details the opportunity for legal challenge of the adoption of the plan.
Approved by Monitoring Officer	No.
Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> 1. The Neighbourhood Plan demonstrates that it is in broad conformity with the Local Plan Strategy which conforms with the Strategic Plan.
Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> 1. The extensive consultation procedures provided for by the Planning and Compulsory Purchase Act 2004 ensure that consultation is undertaken with the wider community.
Crime & Safety Issues	<ol style="list-style-type: none"> 1. Crime and Community safety issues may be considered as part of an emerging Neighbourhood Plan.
Environmental Impact	<ol style="list-style-type: none"> 1. The Council is required to assess the environmental impacts of any plan which it produces. Accordingly, a Strategic Environmental Assessment and Habitat Regulations Assessment Scoping report was undertaken on the Hammerwich Neighbourhood Plan. 2. The independent examination of the Hammerwich Neighbourhood Plan considered evidence including the aforementioned scoping report and considered this compliant with European legislation.
GDPR / Privacy Impact Assessment	<ol style="list-style-type: none"> 1. A privacy impact assessment has not been undertaken. There is no personal data involved in the decision statement process. All representations received, including contact details, will be passed onto the inspector. In addition, all comments will be made public on our website including the names of those who submitted them. All other personal information will remain confidential. All personal data has been collected in accordance with the Council's privacy notice.

	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Plan received a 'no' vote in a referendum	Likelihood: Yellow Impact: Red Severity of Risk: Red	Have regular dialogue with the Parish Council to ensure consultation and engagement gains 'buy in' from the community at the earliest opportunity. However there are limited controls available because the purpose of the referendum is to enable residents to decide whether they want a plan.	Likelihood : Yellow Impact: Red Severity of Risk: Red
B	Parish decides to withdraw Neighbourhood Plan	Likelihood: Green Impact: Yellow	Have regular dialogue with the parish Council to ensure understanding of process moving forward and the implications of withdrawing the plan. Request confirmation from Parish as to views on	Likelihood : Green Impact: Green

		Severity of Risk: Green	whether to withdraw the plan. Hammerwich Parish Council have confirmed that they wish for the plan to proceed to referendum subject to the modifications set out within the decision statement.	Severity of Risk: Green
C	Introduction of revised planning system/policy at national level and/or adoption of new local plan	Likelihood: Red Impact: Yellow Severity of Risk: Yellow	Government have signalled their intent to introduce a new planning system through 'Planning for the Future' white paper in 2020 and planning bills. At present it is unknown what this new system will look like and when it will be implemented. Lichfield District Local Plan 2040 currently at an advanced stage. Continue dialogue with Parishes with neighbourhood plans to advice of changes in national and local planning policy and whether this will necessitate subsequent reviews of neighbourhood plans. Role of the council to provide advice and guidance to continue. However, limited controls available. Examiner report makes clear neighbourhood plan must be examined against current NPPF and adopted Local Plan.	Likelihood : Red Impact: Yellow Severity of Risk: Yellow
D	Council choose not to 'make' a neighbourhood plan following successful referendum	Likelihood: Green Impact: Red Severity of Risk: Green	The 'Neighbourhood Planning (General) and Development Management Procedures (Amendment) Regulations 2016 require the District Council to 'make' following a successful referendum. The Council does not have the ability under the legislation to not 'make' the plan at this stage.	Likelihood : Green Impact: Green Severity of Risk: Green

Background documents

[Hammerwich Neighbourhood Plan \(submission version\)](#)

[Hammerwich Neighbourhood Plan Independent Examination Final Report](#)

[Neighbourhood Planning \(General\) Regulations 2012](#) (including amendments)

[Neighbourhood Planning \(Referendum\) Regulations 2012](#) (including amendments)

[Neighbourhood Planning \(General\) and Development Management Procedures \(Amendment\) Regulations 2016](#)

Relevant web links

[Lichfield District adopted Local Plan](#)

[Lichfield District Neighbourhood Plans](#)

[Hammerwich Neighbourhood Plan](#)