

EAST HERTS COUNCIL

NON-KEY DECISION – 18/12

REPORT BY THE LEADER OF THE COUNCIL

BRAUGHING PARISH NEIGHBOURHOOD PLAN – EXAMINER’S REPORT  
AND REFERENDUM

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WARD(S) AFFECTED: Braughing

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**Purpose/Summary of Report**

- To agree the recommendations as made by the independent examiner of the Neighbourhood Plan and to agree to proceed to Referendum.

**RECOMMENDATIONS FOR DECISION: That:**

<b>(A)</b>	<b>the recommendations and modifications made by the Independent Examiner of the Braughing Parish Neighbourhood Plan, as detailed at Essential Reference Paper ‘B’ to this report, be received and considered; and</b>
<b>(B)</b>	<b>the Braughing Parish Neighbourhood Plan, as modified and detailed in Essential Reference Paper ‘C’, should proceed to a referendum.</b>

1.0 Background

1.1 Neighbourhood Planning was introduced by the Government under the Localism Act in 2011. The Town and Country Planning England Neighbourhood Planning (General) Regulations 2012 (as amended) came into force on the 6 April 2012 and prescribe both the process, and role of the local

planning authority in supporting neighbourhood planning. In East Herts, Parish or Town Councils are qualifying bodies able to produce a Neighbourhood Plan.

- 1.2 Braughing Parish Council applied for designation as a Neighbourhood Area in February 2015; the Neighbourhood Area was then designated on the 8<sup>th</sup> June 2015.
- 1.3 The Neighbourhood Plan Group undertook a six week Pre-Submission Consultation between January and March 2017 under Regulation 14 of the 2012 Regulations. The Neighbourhood Plan was submitted to East Herts Council in September 2017 and consultation on the proposed submission plan was undertaken from October to November 2017 under Regulation 16.
- 1.4 In order to comply with relevant regulations, a neighbourhood plan must be reviewed by an Independent Neighbourhood Planning Examiner. East Herts Council and Braughing Neighbourhood Plan Group appointed an Independent Examiner (IE) through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). A neighbourhood plan can either be considered at a public hearing or through independent examination of written representations. In this case it was determined that a public hearing of the neighbourhood plan was not necessary.
- 1.5 The IE assessed the plan against a set of criteria (further details below) and considered whether or not to recommend that it proceed to Referendum, and whether the Referendum area should go beyond the neighbourhood area. East Herts Council received the final report from the IE on 27<sup>th</sup> April 2018. The IE recommended that the plan proceed to Referendum subject to modifications to the plan and concluded that the Referendum area should not go beyond the neighbourhood area.

## 2.0 Report

### **Independent Examination**

- 2.1 The IE praised the well-presented document alongside the clearly defined planning policies and helpful supporting text.
- 2.2 The IE has recommended a number of modifications in order to ensure the plan meets the basic conditions (detailed below), to provide clear wording to enable a consistent application of policies, and to ensure that policies do not seek a greater degree of control than is available through the planning system. The plan meets the basic conditions if:
- The plan has regard to national planning policies and advice contained in guidance issued by the Secretary of State;
  - The making of the plan contributes to the achievement of sustainable development;
  - The making of the plan is in general conformity with the strategic policies of the local plan;
  - Is compatible with adjoining Neighbourhood Plans; and
  - The making of the plan does not breach, and is otherwise compatible with, European Union obligations.
- 2.3 The IE's report can be viewed at **Essential Reference Paper 'B'**. All recommended modifications have been made to the plan.
- 2.4 One modification has not been carried forward as written within the IE's report. This is due to the modification not reflecting the supporting text above it, the basic conditions are not affected by this but it simply amends a typographical error. The modification referred to is the second bullet point on page 31 of the IE's Report where it is recommended that a cross reference to Appendix *D* is added to Chapter 7. This reference should in fact refer to Appendix *E* as noted in the supporting text on page 30 of the IE's Report.

- 2.5 Officers have reviewed the Independent Examiner's Report and are happy that the recommendations set out will ensure that the neighbourhood plan meets the basic conditions and should proceed to the referendum.

### **Referendum Area**

- 2.6 As part of the examination of the Neighbourhood Plan, the IE must also make recommendations on whether the referendum area should be extended outside of the Braughing Neighbourhood Plan area.
- 2.7 The IE decided that it was not necessary to extend the area for the purposes of holding a referendum.
- 2.8 Furthermore, the IE took into account the representations in regard to this matter. There were no comments that suggested the referendum area should be extended. For these reasons, the IE has recommended the referendum area does not require extending.

### **Proceeding to Referendum**

- 2.9 East Herts Council is under a duty to hold a referendum if it is satisfied that it meets the basic conditions prescribed by legislation. Failure to undertake a referendum could result in a judicial review of the Authority's decision.
- 2.10 It is recommended that the modifications proposed by the IE be accepted, and that the proposed Neighbourhood Plan for Braughing Parish should proceed to a referendum. An updated version of the Neighbourhood Plan which incorporates the IE and Officer modifications can be viewed at **Essential Reference Paper 'C'**.

## The Referendum

- 2.11 In order for the Neighbourhood Plan to be 'made' (i.e. adopted) residents within the Braughing Neighbourhood Plan area must vote on the following question:

*"Do you want East Hertfordshire District Council to use the Neighbourhood Plan for the Braughing Parish to help it decide planning applications in the neighbourhood area?"*

- 2.12 This question is set out at paragraph 1 of Schedule 1 within the Neighbourhood Planning (Referendum) Regulations 2012.

- 2.13 All those on the electoral register (at the date of the vote) within the referendum area are entitled to vote. In order for the plan to become part of the statutory development plan for the area, there must be a 'Yes' majority (over 50 per cent who vote). There is no minimum turnout for the referendum. If there is a majority "No" vote or a "tied" vote then the Neighbourhood Plan will not come into force.

- 2.14 Notice in the prescribed manner must be given 28 days before the date on which the referendum will be held. The following information and documents will be made available:

- An information statement containing information on the referendum;
- Specified documents including the draft neighbourhood development plan;
- The Independent Examiner's report;
- A summary of the representations submitted to the independent examiner;
- A statement setting out that the LPA is satisfied the development plan meets the basic conditions;
- A statement that sets out general information as to town and country planning (including neighbourhood planning) and the referendum.

2.15 A date for the referendum poll has not yet been set; Officers are currently working on this. As soon as a date has been agreed, Braughing Parish Council and other interested stakeholders (including local Members) will be advised.

### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

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

[The Neighbourhood Planning \(General\) \(Amendment\) Regulations 2015](#)

[The Neighbourhood Planning \(General\) Regulations 2012](#)

[The Neighbourhood Planning \(Referendum\) Regulations 2012](#)

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