

East Herts Council Non-Key Decision Report

Date: 3 February 2021

Report by: Councillor Jan Goodeve – Executive Member for Planning and Growth

Report title: Bengoe Neighbourhood Area Plan 2019-2033– Examiner’s Report and Referendum

Ward(s) affected: Bengoe Ward

Summary:

- This report proposes 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:

- (a) the recommendations and modifications made by the Independent Examiner of the Bengoe Neighbourhood Area Plan, as detailed at Appendix A, be received and considered; and**
- (b) the Bengoe Neighbourhood Area Plan 2019-2033, as modified and detailed at Appendix B, should proceed to a referendum.**

1.0 Proposal(s)

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

2.0 Background

- 2.1 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.

- 2.2 Hertford Town Council applied for designation as a Neighbourhood Area in March 2017; the Neighbourhood Area was then designated on the 27th June 2017.
- 2.3 The Neighbourhood Plan Group undertook an eight week Pre-Submission Consultation between July and September 2019 under Regulation 14 of the 2012 Regulations. The Neighbourhood Plan was then submitted to East Herts Council in February 2020 and an eight-week consultation on the submission plan was undertaken from July to September 2020 under Regulation 16.
- 2.4 In order to comply with relevant regulations, a neighbourhood plan must be reviewed by an Independent Neighbourhood Planning Examiner. East Herts Council and Hertford Town Council 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.
- 2.5 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 11th December 2020. 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.

3.0 Reason

Independent Examination:

- 3.1 The IE praised the quality and quantity of the submission document and also how clear the document itself is to read and understand.
- 3.2 As noted in the overview section of the IE's report, it was necessary to make some modifications.
- 3.3 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 or simply repeat existing policy. 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.
- 3.4 The IE's report can be viewed at Appendix A. All recommended modifications have been made to the plan alongside a number of consequential amendments resulting from the aforementioned modifications such as numbering, typographical amendments and updates to the supporting text

to reflect the policy changes. This is in line with the approach the IE has recommended in paragraphs 56 and 57 of his report.

- 3.5 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:

- 3.6 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 Bengo Ward Neighbourhood Plan area.

- 3.7 The IE decided that it was not necessary to extend the area for the purposes of holding a referendum.

Proceeding to Referendum:

- 3.8 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.

- 3.9 It is recommended that the modifications proposed by the IE be accepted, and that the proposed Neighbourhood Plan for Bengo Ward should proceed to a referendum. An updated version of the Neighbourhood Plan which incorporates the IE modifications and necessary additional amendments can be viewed at Appendix B.

4.0 Options

- 4.1 The Council could choose not to recommend that the Bengo Neighbourhood Area Plan proceed to referendum.

5.0 Risks

5.1 If the Bengo Neighbourhood Area Plan does not proceed to referendum it could run the risk of a legal challenge.

6.0 Implications/Consultations

6.1 The Neighbourhood Plan has been subject to multiple rounds of public consultation.

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

The Bengo NP has been screened to determine whether a Strategic Environmental Assessment and/or a Habitats Regulations Assessment is required, the report concluded that the Plan is not likely to have any significant environmental effects and as such neither were required. The Plan also contains policies that aim to protect the environment.

Financial

It is the responsibility of the LPA to cover examination and referendum costs. Government grants available when a Plan has a formal referendum date.

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

The Council must make a decision on whether to send the Bengo Neighbourhood Area Plan to referendum in accordance with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended)

Specific Wards

Bengo Ward

7.0 Background papers, appendices and other relevant material

Appendix A: Examiner's Report

Appendix B: Bengo Neighbourhood Area Plan: 2019-2033

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