

## **East Herts Council Non-Key Decision Report**

**Date:** 11 March 2021

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

**Report title:** Gilston Area Neighbourhood Plan 2020-  
2033 – Examiner’s Report and Referendum

**Ward(s) affected:** Hunsdon Ward

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### **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 Gilston Area Neighbourhood Plan, as detailed at Appendix A, be received and considered; and**
- B. The Gilston Area Neighbourhood Plan 2020-2033, 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 Hunsdon and Eastwick and Gilston Parish Councils applied for a joint designation as a Neighbourhood Area in August 2017; the Neighbourhood Area was then designated on the 28<sup>th</sup> November 2017.
- 2.3 The Neighbourhood Plan Group undertook a six week Pre-Submission Consultation between September and October 2019 under Regulation 14 of the 2012 Regulations. The Neighbourhood Plan was then submitted to East Herts Council in June 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 Hunsdon and Eastwick and Gilston Parish Councils appointed an Independent Examiner (IE) through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). A neighbourhood plan can be considered at a public hearing or usually through independent examination of written representations. In this case it was determined that a public hearing of the neighbourhood plan was also 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. Following the hearing session and a revised version of the Neighbourhood Plan, East Herts Council received the final report from the IE on 18<sup>th</sup> February 2021. The IE recommended that the plan proceed to Referendum subject to modifications to the plan and concluded that the Referendum area should also include the neighbouring Parish of Hunsdon.

### **3.0 Reason**

#### **Independent Examination:**

- 3.1 As noted above, following initial questions from the IE, it was determined that a virtual hearing was needed as part of the examination following the identification of a number of serious concerns. The hearing session took place on Thursday 19<sup>th</sup> November via the virtual meeting platform Zoom due to the Coronavirus pandemic.
- 3.2 At the hearing session it was agreed that the NP group would submit a revised NP, this was duly submitted by the NP group on 18<sup>th</sup> December 2020. A further consultation was carried out on the revised NP for 3-weeks between January 4<sup>th</sup> and 25<sup>th</sup> 2021. Following the consultation the IE was able to conclude the examination and publish the report.
- 3.3 The IE praised the extensive community engagement and well researched supporting evidence to provide an appropriate set of policies.
- 3.4 As noted in the summary section of the IE's report, it was necessary to make some modifications, these modifications are in relation to December's revised NP.
- 3.5 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.

- 3.6 The IE's report can be viewed at **Appendix A**. All recommended modifications have been made to the plan alongside a few minor consequential amendments resulting from the aforementioned modifications such as numbering, typographical amendments and updates to the supporting text to reflect the policy changes.
- 3.7 One small modification was not carried through in its entirety, this relates to the proposed modification on page 22 of the IE's report. The modification recommends the inclusion of reference to "(pg.8)" in the modified text. On review, the inclusion of reference to pg. 8 here is misleading and therefore has not been carried through. Its absence does not affect the Plan's ability to meet the basic conditions.
- 3.8 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:**

- 3.9 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 designated Neighbourhood Area.
- 3.10 On the 12<sup>th</sup> of October 2020, during the examination, the NP group requested that the referendum area be extended to include the entirety of the Parish of Hunsdon.
- 3.11 The IE concluded in paragraph 76 of his report that the referendum area could extend to include the whole Parish of Hunsdon.

## **Proceeding to Referendum:**

- 3.12 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.
- 3.13 It is recommended that the modifications proposed by the IE be accepted, and that the proposed Gilston Area Neighbourhood Plan 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 Gilston Area Neighbourhood Plan proceed to referendum.

## **5.0 Risks**

- 5.1 If the Gilston Area Neighbourhood 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 Gilston Area 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 are 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 Gilston Area Neighbourhood Plan to referendum in accordance with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

## **Specific Wards**

Hunsdon Ward

### **7.0 Background papers, appendices and other relevant material**

**Appendix A:** Examiner's Report

**Appendix B:** Gilston Area Neighbourhood Plan: 2020-2033

## **Contact Member**

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