

East Herts Council Non-Key Decision Report

Date: 4 April 2022

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

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

Ward(s) affected: Much Hadham

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 Much Hadham Neighbourhood Area Plan, as detailed at Appendix A, be received and considered; and**
- (B) The Much Hadham 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 Much Hadham Parish Council applied for designation as a Neighbourhood Area in June 2015; the Neighbourhood Area was then designated on the 1st September 2015.
- 2.3 The Neighbourhood Plan Group undertook a Pre-Submission Consultation between 12th August and 30th September 2019 under Regulation 14 of the 2012 Regulations. The Neighbourhood Plan was then submitted to East Herts Council in February 2021 and an eight-week consultation on the submission plan was undertaken from March to May 2021 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 Much Hadham 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 16th March 2022. 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 commends the document for being clear, intelligible and well written.
- 3.2 As noted in the summary section of the IE's report, it was necessary to make some modifications in order to ensure the plan meets the basic conditions. 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.
- 3.3 The IE has recommended a number of modifications to correct errors and to ensure the plan meets these basic conditions. Modifications update the plan to reflect changes to national policy; reword policy and supporting text to ensure consistency with District Plan policies and propose the removal of housing allocation MH H7 (South Plot Culver), as development has now commenced on site. The three

dwelling under construction on the previously allocated site MH H7 have been included in the Plan's housing supply total (increasing the planning permission total from 4 to 7 dwellings). The IE concludes in paragraph 79 of the report, that with the modifications, the draft Neighbourhood Plan will meet all the basic conditions and human rights 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 paragraph 75 of his report. There are also minor formatting changes to ensure the document meets the Government's accessibility guidelines.¹
- 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 Much Hadham 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

¹ <https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps>

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 Much Hadham Parish 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 Much Hadham Neighbourhood Area Plan proceed to referendum.

5.0 Risks

- 5.1 If the Much Hadham 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 Much Hadham NP has been screened to determine whether a Strategic Environmental Assessment (SEA) and/or a Habitats Regulations Assessment (HRA) is required. The screening concludes that the plan would likely have 'significant environment effects' so requires a SEA. However, as the Plan was not assessed to have a significant effect on European sites, it does not require an HRA. An SEA report was produced and as such environmental sustainability was considered during the neighbourhood plan process. 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 Much Hadham Neighbourhood Area Plan to referendum in accordance with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Specific Wards

Much Hadham Parish

7.0 Background papers, appendices and other relevant material

Appendix A: Examiner's Report

Appendix B: Much Hadham Neighbourhood Area Plan: 2019-2033

Contact Member

Councillor Jan Goodeve – Executive Member for Planning and Growth
jan.goodeve@eastherts.gov.uk

Contact Officer

Sara Saunders – Head of Planning and Building Control, Tel: 01992 531656. sara.saunders@eastherts.gov.uk

Report Author

Laura Guy – Principal Planning Officer, Tel: 01992 531553.
laura.guy@eastherts.gov.uk