

EAST HERTS COUNCIL

EXECUTIVE – 24 APRIL 2018

REPORT BY LEADER OF THE COUNCIL

WALKERN NEIGHBOURHOOD PLAN – EXAMINER’S REPORT AND  
REFERENDUM

WARD(S) AFFECTED: Walkern

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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.

**RECOMMENDATION(S) FOR EXECUTIVE: That:**

<b>(A)</b>	<b>the recommendations and modifications made by the Independent Examiner of the Walkern Neighbourhood Plan, as detailed at Essential Reference Paper ‘B’ to this report, be received and considered;</b>
<b>(B)</b>	<b>the Walkern Neighbourhood Plan, as modified and detailed in Essential Reference Paper ‘C’, should proceed to a referendum; and</b>
<b>(C)</b>	<b>all future decisions on examiner’s recommendations be made via the non-key decision route to ensure compliance with the timeline set out in The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.</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 Walkern Parish Council, on behalf of the Walkern Neighbourhood Plan Group applied for a designation as a Neighbourhood Area in October 2014, the Neighbourhood Area was then designated in January 2015.
- 1.3 The Neighbourhood Plan Group undertook a six week Pre-Submission Consultation between January and February 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 Walkern 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 23<sup>rd</sup> February 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 clear and 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 alongside one consequential change on paragraph 5.33

- 2.4 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**

- 2.5 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 Walkern Neighbourhood Plan area.
- 2.6 The IE decided that it was not necessary to extend the area for the purposes of holding a referendum.
- 2.7 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**

- 2.8 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.
- 2.9 It is recommended that the modifications proposed by the IE be accepted, and that the proposed Neighbourhood Plan for Walkern 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

- 2.10 In order for the Neighbourhood Plan to be 'made' (i.e. adopted) and used as a material consideration when assessing planning applications, residents within the Walkern Neighbourhood Plan area must vote on the following question:

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

- 2.11 This question is set out at paragraph 1 of Schedule 1 within the Neighbourhood Planning (Referendum) Regulations 2012.
- 2.12 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.
- 2.13 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.

2.14 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, Walkern Parish Council and other interested stakeholders (including local Members) will be advised.

### **Future Decision Making on Examiner's Recommendations**

2.15 The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 require that a decision on the examiner's recommendations is made within 5 weeks of the local planning authority receiving the Examiner's Report. Given that this is a very challenging timeframe and one that does not always easily fit into the committee cycle process, it is recommended that all future decisions on examiner's recommendations should be made via the non-key decision route, to ensure compliance with the timeline set out in the regulations.

### 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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