

East Herts Council Report

Executive

Date of Meeting: 12 July 2022

Report by: Cllr Goodeve, Executive Member for Planning and Growth

Report title: Bishop's Stortford 1st Revision Neighbourhood Plans (2021- 2033) - Adoption

Ward(s) affected: Bishop's Stortford wards of Silverleys and Meads, All Saints, Central and South. Part of the Thorley Parish (area included in the District Plan allocation BISH5- Bishop's Stortford South)

Summary

- This report proposes to agree the recommendations as made by the independent examiner of the two Bishop's Stortford Neighbourhood Plan Reviews and to make the decision that both Plans are adopted, subject to a limited number of recommended modifications. These revisions will replace the existing 'made' plans. The examiner concluded that the revisions to both the previous 'made' plan for Silverleys and Meads ward and the previous 'made' plan for All Saints, Central, South and Parts of Thorley Parish did not change the nature of the plans, so referendums were not required.

RECOMMENDATIONS FOR Executive to recommend to Council:

- (a) The recommendations and modifications made by the Independent Examiner of the two Bishop's Stortford Neighbourhood Plan Revisions, as detailed in Appendix A to this report, be received and considered;**
- (b) The Bishop's Stortford Neighbourhood Plan for Silverleys and Meads wards (1st Revision) 2021- 2033, as detailed at Appendix B to this report, be formally 'made'; and**

- (c) The Bishop’s Stortford Neighbourhood Plan for All Saints, Central, South and Parts of Thorley (1st Revision) 2021-2033, as detailed at Appendix C to this report, be formally ‘made’.**

1.0 Proposal(s)

- 1.1 The Neighbourhood Planning Act 2017 (Schedule A2) identifies the process for reviewing ‘made’ neighbourhood plans. Bishop’s Stortford Town Council (the qualifying body) has undertaken a review of the two neighbourhood plans in the town: Silverleys and Meads Neighbourhood Plan 1st Revision and All Saints, Central, South and Parts of Thorley 1st Revision.
- 1.2 The two Neighbourhood Plans are closely integrated so have been examined together by one independent examiner between March and May 2022. Part 1 of each plan contains an introduction and site specific polices and part 2 is titled site independent policies and relates to the entire respective plan area. Part 2 of each Neighbourhood Plan is materially identical.
- 1.3 National Planning Guidance¹ explains that there are three types of modification which can be made to a neighbourhood plan:
- a. Minor modifications, which do not materially affect the policies in the plan;
 - b. Material modifications which do not change the nature of the plan or order would require examination but not a referendum;
 - c. Material modifications which do change the nature of the plan or order would require examination and a referendum. For example, significant new sites for development.
- 1.4 The decision whether the proposed modifications change the nature of the plan is made by the independent examiner. The examiner of the two Bishop’s Stortford Neighbourhood Plans decided both plans followed the modification route b) so a

¹ NPPG Neighbourhood Planning Paragraph 106 (Reference ID: 41-106-20190509)

referendum would not be necessary for either plan. He recommends that the Council 'Make' the plans, subject to limited modifications, to ensure compliance with the Basic Conditions.

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. The Neighbourhood Planning Act 2017 (Schedule A2) identifies the circumstances that can arise as qualifying bodies seek to review made neighbourhood plans. This new Schedule to the Planning and Compulsory Purchase Act 2004 Section 38A (11A) introduces a process for the modification of neighbourhood plans.
- 2.2 Bishop's Stortford Town Council submitted a request for the Neighbourhood Area Designation of Silverleys and Meads wards in July 2012 which was agreed on December 4th 2012. The original Neighbourhood Plan for Silverleys and Meads wards was subsequently 'made' in July 2015. The Town Council submitted a request for the Neighbourhood Area Designation of All Saints, Central and South wards and the part of Thorley parish included in the District Plan site allocation at Bishop's Stortford South, in March 2014. This was agreed on 5th July 2014 and the plan was subsequently 'made' in October 2017.
- 2.3 Bishop's Stortford Town Council decided to undertake a limited review of both plans in 2020, to bring them up to date in light of the adoption of the District Plan and changes to national and local policy. The modifications to the plans include new sections on climate change and the town centre; revisions to the green infrastructure and transport sections; updates to the site-specific

policies and other minor policy changes to ensure that policies (except site-specific policies) are the same for the whole town.

- 2.4 The Town Council undertook pre-submission consultation between February and March 2021 and submitted both revisions to the town's Neighbourhood Plans in November 2021. Following this, an eight week consultation took place between 29th November and 24th January 2022.
- 2.5 East Herts Council and Bishop's Stortford Town Council appointed an Independent Examiner (IE), Christopher Lockhart-Mummery, 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 plans was not necessary. Given the inter-related nature of the Neighbourhood Plans they were both examined by the same independent examiner.
- 2.6 The IE assessed the plan against a set of criteria (further details below) and considered the nature of the proposed modifications to the previously 'made' plans. The Council received the final reports from the IE on 16th May 2022. To avoid substantial duplication the examiner combined the reports for each Neighbourhood Plan into one consolidated document. The IE concludes that the nature of the revisions for each plan do not require referendums and subject to a limited number of recommended modifications each Neighbourhood Plan complies with the Basic Conditions and other statutory requirements. He recommends that the Council 'make both Neighbourhood Plans subject to the modifications specified in the report.

3.0 Reasons

Independent Examination:

- 3.1 The IE commends the Plans for being clear, well presented and with very few exceptions, well-evidenced.

- 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 plans meet the basic conditions. A neighbourhood 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 development plan;
 - The making of the plan does not breach, and is otherwise compatible with, European Union obligations;
 - Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.
- 3.3 The IE has recommended a number of modifications to correct errors and to ensure the plans meet these basic conditions. Modifications update the plan to reflect changes to national policy; update the site-specific policies to reflect the granting of planning permission; reword policy and supporting text to ensure consistency with District Plan policies and to ensure they have adequate regard to national policy and the interests of sustainable development. The IE concludes in paragraph 85 of the report, that the plans are of very high standard and with the modifications the draft Neighbourhood Plans will both meet all the basic conditions and human rights obligations. He recommends that subject to those modifications, East Herts Council 'makes' the two plans and has also reached the decision that the review of the plans do not require referendums.
- 3.4 The IE's report can be viewed at Appendix A. All recommended modifications have been made to the plan alongside a small number of consequential amendments resulting from the aforementioned modifications such as numbering and

typographical corrections. This is in line with the approach the IE has recommended in paragraph 86 of his report.

Adoption

- 3.5 Officers- in discussion with the Town Council- have reviewed the recommendations within the Independent Examiner's Report and the reasons for them, and are happy that the recommendations set out will ensure that the two 1st revision neighbourhood plans meets the basic conditions. In accordance with the 2004 Act Schedule paragraph 14, it is recommended that the decision is taken to 'make' both neighbourhood plans, subject to the modifications proposed by the IE.
- 3.6 There are narrow circumstances where the local planning authority is not required to make the neighbourhood plan or Order. These are where it considers that the making of the neighbourhood plan would breach, or otherwise be incompatible with, any EU or human rights obligations (see paragraph 14 (4) of Schedule A2).
- 3.5 The two Neighbourhood Plans do not breach the aforementioned obligations.
- 3.6 Once they are made the Bishop's Stortford Neighbourhood Plan for Silverleys and Meads and the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and Parts of Thorley will replace the previous made neighbourhood plans for the town and form part of the development plan for East Herts. As such any planning applications within the two Neighbourhood Areas will be assessed by the relevant neighbourhood plan alongside the current East Herts District Plan 2018 policies, the National Planning Policy Framework (NPPF) and all other material planning considerations.
- 3.7 It is considered that both the Bishop's Stortford Neighbourhood Plans positively contribute to the East Herts Development

Management process providing a strong community vision that seeks to contribute to sustainable development and as such the Neighbourhood Plans can proceed to be formally 'made'.

- 3.8 The final version of the Bishop's Stortford Neighbourhood Plan for Silverleys and Meads wards can be found in Appendix B. The final version of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and Parts of Thorley can be found in Appendix C.

4.0 Options

- 4.1 The Council is permitted, in narrow circumstances only to not make a modification neighbourhood plan. this is when it is in breach or incompatible with any EU or human rights obligations (see Schedule A2 14 (4) of the Planning and Compulsory Purchase Act 2004).

5.0 Risks

- 5.1 If the Neighbourhood Plan does not proceed to be formally 'made' then the Council wouldn't be fulfilling its duties as Local Planning Authority and there is the risk of legal challenge.

6.0 Implications/Consultations

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

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

The two Bishop's Stortford Neighbourhood Plans have been screened to determine whether a Strategic Environmental Assessment and/or a Habitats Regulations Assessment are 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 costs.

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

The Council must make a decision under section Schedule A2 of the 2004 Act.

Specific Wards

Bishop's Stortford wards of Silverleys and Meads, All Saints, Central and South. Part of the Thorley Parish (area included in the District Plan allocation BISH5- Bishop's Stortford South). The Local Government Boundary Commission for England is currently undertaking an electoral review of the District. This will result in the boundaries of most wards changing. The Neighbourhood Plan Area Designations will however remain in place until such time that a further review or update of the Neighbourhood Plan/s is undertaken.

7.0 Background papers, appendices and other relevant material

7.1 Appendix A: Examiner's Report May 2022

7.2 Appendix B: Bishop's Stortford Town Council's Neighbourhood Plan for Silverleys and Meads wards.

7.3 Appendix C: Bishop's Stortford Town Council's Neighbourhood Plan for All Saints, Central, South and Parts of Thorley.

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