

East Herts Council Non-Key Decision Report

Date: 6 March 2023

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

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

Ward(s) affected: Kingsmead Ward, Hertford

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 Kingsmead Neighbourhood Area Plan, as detailed at Appendix A, be received and considered; and**
- (B) The Kingsmead 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 October 2019; the Neighbourhood Area was then designated on the 11th February 2020.
- 2.3 The Neighbourhood Plan Group undertook a Pre-Submission Consultation between 7th November and 20th December 2021 under Regulation 14 of the 2012 Regulations. The Neighbourhood Plan was then submitted to East Herts Council in July 2022 and a six-week consultation on the submission plan was undertaken from September to November 2022 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 3rd March 2023. 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 well-researched, well-evidenced and clearly laid out and well written.
- 3.2 As noted in the summary section of the IE's report, it was necessary to make limited 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 Modifications update the plan to reflect national policy and ensure policies relate to the use of land and to new development. One of the major matters of local concern was parking, traffic congestion and road safety. This led to a number of proposed policies under the heading of Sustainable

Travel. The IE found that elements of this section (and policies) were not land use policies but would be better expressed as requested Actions.

- 3.4 The IE also removed four of the designated local green spaces (LGS) as he considered that they were 'extensive tracks of land', so did not comply with National Planning Policy Framework. However he recognised that the community would not wish to lose, entirely from the NP, the research and descriptions attaching to the four deleted LGSs. Therefore this text remains in the neighbourhood plan, but makes it clear they are valued green spaces, not designated local green space.
- 3.5 The IE concludes in paragraph 53 of the report, that with the modifications, the draft Neighbourhood Plan will meet all the basic conditions and human rights obligations. The IE's report can be viewed at **Appendix A**. All recommended modifications have been made to the plan.
- 3.6 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 referendum.

Referendum Area:

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

Proceeding to Referendum:

- 3.9 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.
- 3.10 It is recommended that the modifications proposed by the IE be accepted, and that the proposed Neighbourhood Plan for Kingsmead 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 Kingsmead Neighbourhood Area Plan proceed to referendum.

5.0 Risks

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

Specific Wards

Kingsmead ward. On the recommendation of the Local Government Boundary Commission for England, Parliament have approved changes to the futural electoral arrangements in East Herts. Therefore the boundaries of Kingsmead ward will change on 4 May 2023. The Neighbourhood Plan Area Designation will however remain in place until such time that a further review or update of the Neighbourhood Plan is undertaken.

7.0 Background papers, appendices and other relevant material

Appendix A: Examiner's Report

Appendix B: Kingsmead 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