

East Herts Council Non-Key Decision Report

Date: 27/07/2023

Report by: Vicky Glover-Ward – Executive Member for Planning and Growth

Report title: Ware Neighbourhood Plan 2021-2033 – Examiner’s Report and Referendum Decision

Ward(s) affected: Ware St Mary’s, Ware Priory and part of Ware Trinity ward

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 Ware Neighbourhood Plan, as detailed at Appendix A, be received and considered; and**
- (b) the Ware Neighbourhood Plan 2021-2033, 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 Ware Town Council applied for designation as a Neighbourhood Area in May 2018; the Neighbourhood Area was then designated on the 11th September 2018. The designated area excludes the land included in the District Plan North and East Ware Site Allocation (Policy WARE2) because this is the focus of a separate masterplan.
- 2.3 The Neighbourhood Plan Group carried out early community engagement in 2019 and 2020 and then undertook a Pre-Submission Consultation between the 19th April and the 24th June 2022 under Regulation 14 of the 2012 Regulations. The Neighbourhood Plan was then submitted to East Herts Council on the 31st October 2022 and a six-week consultation on the submission plan was undertaken from the 1st December 2022 to the 26th January 2023 under Regulation 16.
- 2.4 A neighbourhood plan can be narrow or broad in scope and can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The Ware Neighbourhood is complementary to the existing development plan and addresses a range of topics. It seeks to provide opportunities for new development within a context in which the neighbourhood area can maintain its historic character and appearance. The Plan's vision has been translated into a set of objectives and policies, with particular focus on the following areas:

- Promotion of high quality design and protection of heritage assets and local character;
- Enhancing green and blue infrastructure and the natural environment, including the designation of new local green spaces;
- Supporting a vibrant economy;
- Retaining and enhancing the vitality of the town centre;
- Improving access to services and facilities;
- Ensuring connectivity through improvements to sustainable transport.

2.5 The Neighbourhood Plan does not allocate any sites for development. Whilst the District Plan allocation WARE2 is referenced in the supporting text, given its implications and significance for the town, it is not specifically addressed by this Neighbourhood Plan because it is located outside the neighbourhood area.

Independent Examination

2.6 In order to comply with relevant regulations, a neighbourhood plan must be reviewed by an Independent Neighbourhood Planning Examiner. East Herts Council and Ware 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.

2.7 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 13th July 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

3.1 The Independent Examiner (IE) assesses the Neighbourhood Plan against the basic conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan in the area;
- be compatible with European Union (EU) obligations and European Convention on Human Rights (ECHR); and
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

Independent Examiner's Report

3.2 The IE commends the Neighbourhood Plan for being informative and well-presented. He states that if the neighbourhood plan is 'made' it will bring forward positive and sustainable development in the neighbourhood area.

3.3 In the summary section of his report, the Examiner states: *'the Neighbourhood Plan is distinctive in addressing a specific set of issues that have been identified and refined by the wider community. It has a clear focus on consolidating the role and the attractiveness of the town centre and designating a package of local green spaces. It is an excellent neighbourhood plan for the town and addresses an important set of issues.'*

3.4 He then concludes that the Ware Neighbourhood Development

Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications. The proposed modifications primarily relate to ensuring the clarity and precision for decision-makers required by the National Planning Policy Framework (NPPF). This includes repositioning parts of policy to the supporting text to avoid repetition of national and local policies; changes to policy wording to ensure clarity and allow consistent application by EHDC through the development management process and updates to reflect changes to national policy.

- 3.5 The IE concludes in paragraph 8.3 of the report, that with the modifications, the draft Neighbourhood Plan will meet all the basic conditions and should proceed to referendum.
- 3.6 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. Some minor typographical errors and updates to the local context have also been made. This is in line with the approach the IE has recommended in paragraph 7.73 of his report. There are also minor formatting changes to ensure the document meets the Government's accessibility guidelines.¹ For example, most of the information in the footnotes has now been incorporated into the text.
- 3.7 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:

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

- 3.8 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 Ware Neighbourhood Plan area.
- 3.9 The IE stated the neighbourhood area is appropriate for the referendum area, and that there is no evidence to suggest otherwise. The referendum area should therefore be based on the neighbourhood area approved as of 11th September 2018.

Proceeding to Referendum:

- 3.10 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.
- 3.11 It is recommended that the modifications proposed by the IE be accepted, and that the proposed Neighbourhood Plan for Ware should proceed to a referendum. An updated version of the Neighbourhood Plan which incorporates the IE modifications can be viewed at **Appendix B**.

4.0 Options

- 4.1 The Council could choose not to recommend that the Ware Neighbourhood Area Plan proceed to referendum.

5.0 Risks

- 5.1 If the Ware 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 Ware NP has been screened to determine whether a Strategic Environmental Assessment (SEA) and/or a Habitats Regulations Assessment (HRA) is required. The screening concluded that the plan is not likely to have any significant environmental effects and as such neither an SEA or Appropriate Assessment is 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 formal decision has been made to proceed to referendum.

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

The Council must make a decision on whether to send the Ware Neighbourhood Area Plan to referendum in accordance with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Specific Wards

Ware St Marys, Ware Priory part of Ware Trinity

7.0 Background papers, appendices and other relevant material

Appendix A: Examiner's Report

Appendix B: Ware Neighbourhood Plan: 2021-2033

Contact Member

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