

East Herts Council Report

Executive

Date of meeting: Tuesday 4 June 2024

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

Report title: Walkern Neighbourhood Plan First Revision - Adoption

Ward(s) affected: Aston, Datchworth and Walkern;

Summary – The Independent Examiner of the Walkern First Revision Neighbourhood Plan recommended that with limited modifications, the Neighbourhood Plan should be made (adopted) and replace the current Walkern Neighbourhood Plan. The Examiner concluded that a referendum is not required because the revision does not change the nature of the existing neighbourhood plan. Therefore, the Council now has the opportunity to formally make (adopt) the Walkern First Revision Neighbourhood Plan in accordance with the Planning and Compulsory Purchase Act 2004.

RECOMMENDATIONS FOR Executive:

- a)** The recommendations and modifications made by the Independent Examiner of the Walkern Neighbourhood Plan First Revision, as detailed in Appendix A to this report, be received and considered;
- b)** The Walkern Neighbourhood Plan First Revision 2021- 2033, as detailed in Appendix B to this report, be formally made.

1.0 Proposal(s)

- 1.1 Section 38A (11A) of the Planning and Compulsory Purchase Act 2004 (as amended) provides that Schedule A2 applies to provisions for the modification of a neighbourhood development plan. In accordance with this legislation, Walkern Parish Council has undertaken a review of the existing Walkern Neighbourhood Plan, which was adopted in 2018.
- 1.2 The decision about whether the modification of the neighbourhood plan is subject to a referendum is determined by an independent examiner. Following an Independent Examination of the Walkern Neighbourhood Plan First Revision, the Examiner concluded a referendum is not required and subject to the acceptance of the various recommended modifications, the Council is now able to make (adopt) the Walkern Neighbourhood Plan First Revision.
- 1.3 Once made Walkern Neighbourhood Plan First Revision will become part of the statutory development plan for the neighbourhood area and will be used by development management in the determination of planning applications submitted in the neighbourhood area. Unless a neighbourhood plan breaches human rights or EU obligations, the local planning authority is required to formally make the neighbourhood plan.

2.0 Background

- 2.1 Neighbourhood Planning was introduced by the Government under the Localism Act in 2011. Neighbourhood planning provides an opportunity for local communities to produce a planning document that shapes and influences future development within their local area.
- 2.2 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.

- 2.3 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.
- 2.4 There is no legislative requirement to review neighbourhood plans but qualifying bodies can choose to do so. National Planning Guidance¹ explains that there are three types of modification which can be made to a neighbourhood plan:
- Minor modifications, which do not materially affect the policies in the plan;
 - Material modifications which do not change the nature of the plan or order would require examination but not a referendum;
 - 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.
- 2.5 East Herts Council received an application from Walkern Parish Council for the designation of a Neighbourhood Area for the parish in July 2014. The Walkern Neighbourhood Area, which is contiguous with the parish boundaries, was subsequently designated on the 6th January 2015. The existing Walkern Neighbourhood Plan was subsequently made in July 2018.
- 2.6 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 existing Walkern Neighbourhood Plan addresses a range of topics. Policies promote high quality design to preserve village character, protect open space and the environment and support local community facilities.

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

The Neighbourhood Plan does not allocate any sites for development. Development of the site at Froghall Lane for up to 85 dwellings (granted at appeal) has fulfilled the village housing requirement as set out in District Plan Policies DPS3 and VILL1.

2.7 In 2020 Walkern Parish Council decided to undertake a review of the Neighbourhood Plan following the adoption of the District Plan (2018) and the impact of growth to the east of Stevenage. There are no sites allocated for development, the main modifications to the Neighbourhood Plan are set out below:

- Identification of a new 'countryside gap' to the west of the village to help avoid physical or visual coalescence of Stevenage and Walkern or a negative impact on the separate identify of Walkern;
- Inclusion of non-designated heritage assets and new local green space;
- Additional protection of the natural environment, including identification of a tree charter;
- Updates to design, housing and community policies in light of new policy/guidance and changes to the local context.

2.8 Walkern Parish Council undertook pre-submission consultation between January and March 2023 and submitted the Neighbourhood Plan First Revision to the Council on 12 May 2023. Following this, a six week consultation took place between 12 June and 24 July 2023.

2.9 The Neighbourhood Plan was assessed by an Independent Examiner between November 2023 and March 2024. To comply with relevant regulations, a neighbourhood plan must be reviewed by an Independent Neighbourhood Planning Examiner. East Herts Council and Walkern Parish 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.

2.10 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' plan. The Council received the report from the IE on 17th March 2023, but the Examiner revised this on 29th April, to correct a factual error: an incorrect reference to a local green space.

3.0 Reason(s)

Independent Examination

3.1 As noted in the summary section of the IE's report, it was necessary to make some modifications 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.

3.2 The IE has recommended several modifications to correct errors and to ensure the plans meet these basic conditions. These modifications propose updates to reword policy and supporting text, to ensure consistency with District Plan policies and current national policy, and to provide more clarity for decision-makers. This includes removal of Box Wood as a local green space because it does not meet the criteria for designation set out in national policy and deletion of two protected recreational open spaces that are already designated as local green spaces.

3.3 The IE concludes in part 4 of the report that the policies set out in the draft Neighbourhood Plan are justified by legitimate aims to protect the environment; improve amenity of local people; support the local economy; conservation of landscape and local heritage. The Plan conforms with the existing development plan and supports sustainable development. In paragraph 2 of the report the IE concludes that subject to the limited number of recommended modifications, the draft Neighbourhood Plan will be compliant with the basic conditions and other statutory requirements and the nature of the revisions does not require a referendum. He recommends that, subject to the recommended modifications specified in this report, East Herts Council make the plan.

3.4 The IE's report can be viewed at Appendix A.

Adoption

3.5 Officers have reviewed the recommendations within the IE's Report and the reasons for them, and are happy that the recommendations set out will ensure that the Walkern Neighbourhood Plan First Revision meets the basic conditions. In accordance with the 2004 Act, it is recommended that the decision is taken to make the neighbourhood plan, 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). The Neighbourhood Plan does not breach the aforementioned obligations.

3.7 Once made the Walkern First Revision Neighbourhood Plan will replace the existing Walkern Neighbourhood Plan and form part of the development plan. It is considered that the Walkern Neighbourhood Plan First Revision positively contributes to the

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

- 3.8 The final version of the Walkern Neighbourhood Plan First Revision can be found at Appendix B.

4.0 Options

- 4.1 The Council is permitted, in narrow circumstances only, to not make a modification neighbourhood plan, 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). However, the Walkern Neighbourhood Plan First Revision does not breach these obligations.

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 Neighbourhood Plan has 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

Aston, Datchworth and Walkern;

7.0 Background papers, appendices and other relevant material

7.1 Appendix A: Examiner's Report 2024

7.2 Appendix B: Walkern Neighbourhood Plan First Revision 2021-2033

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