

Cherwell District Council

Council

19 October 2015

<p>Adoption ('Making') Of Hook Norton Neighbourhood Plan</p>

Report of Head of Strategic Planning and the Economy

This report is public

Purpose of report

To ask Council to formally 'make', i.e. to adopt, the Hook Norton Neighbourhood Plan (HNNP) following a successful referendum in Hook Norton Parish held on 3 September 2015. There was a majority vote in favour of adopting the neighbourhood plan so that it becomes part of the statutory development plan for Cherwell District Council under the provisions of Section 38A (4) and (6) the Town and Country Planning Act 2004 as amended by the Localism Act 2011. On 5 October 2015, the Executive resolved to recommend to Full Council that the Plan be 'made'.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the referendum result of the 3 September 2015 where 97% of those who voted were in favour of the Plan which is above the required 50%.
- 1.2 To resolve that Cherwell District Council as local planning authority 'make' the Hook Norton Neighbourhood Plan (appendix 3 to this report) part of the statutory development plan for the District.
- 1.3 To approve the issuing and publication of a decision statement, under regulation 19 of the Neighbourhood Planning (General) Regulations 2012, that Cherwell District Council has resolved to make the Hook Norton Neighbourhood Plan (appendix 4 to this report).
- 1.4 To delegate to the Head of Strategic Planning and the Economy the correction of any spelling, grammatical or typographical errors, and the undertaking of any minor presentational improvements, if required prior to the Plan being published by Council.

2.0 Introduction

2.1 At the 7 April 2015 meeting of the Executive, following the Hook Norton Neighbourhood Plan Examination, the Executive resolved that:

- 1) That the modifications to the Hook Norton Neighbourhood Plan in accordance with the Examiner's recommendations be approved, and the issue of a decision statement to that effect be authorised.
- 2) That all of the Examiner's recommendations and modifications to enable the Plan to proceed to a referendum be approved.
- 3) That the area for the referendum as recommended by the examiner to be the Hook Norton parish council area (which is the approved designated neighbourhood area) and that there will be no extension to the area be approved.

2.2 The Plan had passed an independent examination in March 2015 and in liaison with Hook Norton Parish Council a referendum was held on 3 September 2015. There was a majority vote in favour of adopting the Plan.

2.3 The Hook Norton Neighbourhood Plan is the first in Cherwell District to reach and pass the referendum stage.

2.4 At a meeting on 5 October 2015, the Executive resolved to recommend to Council that the Plan be 'made'.

3.0 Report Details

Preparation of the Plan

3.1 The production of the plan has involved extensive community consultation and engagement in accordance with procedures set out in the Neighbourhood Planning Regulations 2012. Advice was provided by officers from the Planning Policy and Democratic Services teams on plan preparation and on the conduct of the referendum.

3.2 Pre-submission consultation on a draft Plan took place for six weeks from 18 November 2013 until 6 January 2014. Following consideration of the representations received, the Plan and Sustainability Appraisal report were revised and submitted to this Council on 14 July 2014 along with the supporting documents: the Consultation Statement, and the Basic Conditions Statement. The Plan was publicized for comments for six weeks from 11 September 2014 until 23 October 2014 in accordance with the regulations.

3.3 Following that consultation, the plan and all supporting information and documents, including copies of representations, were sent to the independent Examiner appointed by this Council with the consent of Hook Norton Parish Council. The examination was conducted by written representations during February/March 2015. The Examiner's report was issued in March 2015 and the Examiner recommended that subject to modifications the plan proceed to referendum. The

modifications were approved by the Executive on 7 April 2015 and the Plan proceeded to referendum.

The Referendum

- 3.4 In liaison with the Planning Policy team and in consultation with Hook Norton Parish Council, the Council's Democratic Elections team organized a referendum to be held in accordance with the Town and Country Planning, England (Referendums) Regulations 2012 (as amended).
- 3.5 A timetable was drawn up for the referendum and an information statement was published giving 28 days' notice. The information statement, notice of referendum and notice of poll were placed on the Council's website and displayed in Hook Norton Library.
- 3.6 The referendum regulations required that the information statement set out where the documents specified below could be inspected:
- the draft Hook Norton Neighbourhood Plan;
 - the report of the independent examiner into the Neighbourhood Plan;
 - copies of the written representation submitted to the independent examiner;
 - a Decision Statement of the Local Planning Authority's satisfaction that the draft Neighbourhood Plan meets the basic conditions specified by statute and complies with the provision made by or under Section 38A and 38B of the Planning and Compulsory Purchase Act 2004; (appendix 1)
 - a statement that sets out general information as to town and country planning including neighbourhood planning and the referendum;
 - a map of the Hook Norton Neighbourhood Plan area.
- 3.7 Copies of the specified documents were published on the Council's website and placed for inspection at:
- Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA between 9:00am and 5:00pm.
 - Hook Norton Library, High Street, Hook Norton, OX15 5NH, during published opening hours.
- 3.8 A referendum version document of the Plan incorporating the Examiner's recommended modifications was also produced and placed on the Council's website to aid voters. The information statement and specified documents were available throughout the period of the referendum.
- 3.9 The question asked at the referendum was: 'Do you want Cherwell District Council to use the Neighborhood Plan for Hook Norton to help it decide planning applications in the neighborhood area?' The referendum was held on the 3rd September 2015. Of those eligible to vote, 568 voted in favour of the Plan with 16 against. This represents a turnout of 34.8% of those eligible to vote in the Parish and gives a majority vote of 97.2%. The declaration of poll results is attached as appendix 2. The result of the referendum has been publicized on the Council's website.

Consideration by the Executive

- 3.10 The referendum version of the Plan was presented to the Executive on 5 October 2015 together with a 'Basic Conditions Decision Statement' approving modifications recommended by the Examiner (now presented as appendix 1 to this report), the declaration of the results of the poll (appendix 2) and a draft Decision Statement for the 'making' of the Plan (appendix 4).
- 3.11 The Executive resolved:
1. To note the referendum result of the 3 September 2015 where 97% of those who voted were in favour of the Plan which is above the required 50%.
 2. To recommend to Full Council to resolve that Cherwell District Council as local planning authority 'make' the Hook Norton Neighbourhood Plan (appendix 3 to the report to Executive) part of the statutory development plan for the District.
 3. To recommend to Full Council to resolve to approve the issuing and publication of a decision statement, under regulation 19 of the Neighbourhood Planning (General) Regulations 2012, that Cherwell District Council has resolved to make the Hook Norton Neighbourhood Plan.
 4. To recommend to Full Council to resolve to delegate to the Head of Strategic Planning and the Economy the correction of any spelling, grammatical or typographical errors, and the undertaking of any minor presentational improvements, prior to the Plan being adopted and published by Council.
- 3.12 A number of minor errors have since been corrected and the final 'Plan for Making' is attached to this report as appendix 3.

Adoption Process

- 3.13 Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) requires a local planning authority to which a proposal for the making of a neighbourhood development plan has been made to 'make' the neighbourhood development plan if more than half of those voting in the applicable referendum have voted in favour of the plan. A local planning authority must also 'make' the plan as soon as reasonably practicable after the referendum is held.
- 3.14 The Council is not subject to this duty if the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). There is no known breach or incompatibility.
- 3.15 In accordance with the Regulations (reg. 19) as soon as possible following the decision to make the neighbourhood plan the Council must:
- publish a decision statement that the plan has been made and the reasons. This must be published on the Council's website and in such other manner likely to bring it to the attention of people who live or carry on business in the Hook Norton Parish Council area;

- send to the qualifying body i.e. Hook Norton Parish Council, and anyone who asked to be notified of the decision, a copy of the decision statement. The District Council must also publish where and when the Decision Statement can be inspected. A copy of the draft Decision Statement is attached at Appendix 4.

3.16 Regulation 20 requires that the local planning authority also publish the neighbourhood development plan on the Council's website and detail in the decision statement where and when the neighbourhood plan can be inspected. Copies of the decision statement and the final version of the Plan will also be displayed in Hook Norton library.

Plan Status

3.17 Under section 38(6) of the Planning and Compulsory Purchase Act a neighbourhood plan attains the same legal status as the adopted Local Plan once it has been agreed at a referendum and is made (brought into legal force) by the local planning authority. At this point it becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

3.18 Where there is conflict between adopted parts of the development plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan.

4. Conclusion and Reasons for Recommendations

4.1 This the first neighbourhood plan in Cherwell District to reach the referendum stage and the making of the plan is the final formal stage of the process of becoming part of the statutory development plan. The preparation of the HNNP has provided a better understanding and knowledge of the process which will help in progressing future neighbourhood plans in the District. The efforts and success of Hook Norton Parish Council and the local community in progressing the Plan is acknowledged by officers.

4.2 Local planning authorities are required by statute to 'make' any neighbourhood plan if more than half of those voting in the referendum vote in favour of the plan. Of those eligible to vote, 568 voted in favour of the Plan with 16 against. This represents a turnout of 34.8% of those eligible to vote in the Parish and gives a majority vote of 97.2%.

4.3 Council is therefore invited to endorse the recommendations of the Executive to make the Hook Norton Neighbourhood Plan part of the statutory Development Plan and to enable the associated statutory and administrative steps to be undertaken.

5.0 Consultation

5.1 Cllr Michael Gibbard – Leader Member for Planning

6.0 Alternative Options and Reasons for Rejection

- 6.1 Where a referendum poll results in more than half of those eligible to vote voting in favour of the Neighbourhood Plan, the local planning authority must 'make' the Plan as part of the statutory development plan. There are no alternative options available unless the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). There is no known breach or incompatibility.
- 6.2 A legal challenge can be made if a local planning authority declines to make a neighbourhood plan following a successful referendum.

7.0 Implications

Financial and Resource Implications

- 7.1 The costs of holding the referendum fell on this Council. Otherwise there are no other financial implications associated with the decision to make the plan.

Comments checked by:

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Legal Implications

- 7.2 The Hook Norton Neighbourhood Plan will become part of the statutory development plan for Cherwell District and becomes a material consideration in the determination of relevant applications for planning permission affecting Hook Norton Parish.

Comments checked by:

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Risk Management

- 7.3 Under Sections 38C (2) (4) of the Planning and Compulsory Purchase Act (as amended) anything relating to the referendum and the Council's decision to make the Plan may be legally challenged by a claim for judicial review which must be filed within 6 weeks beginning the day on which the results are published.

Comments checked by:

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8.0 Decision Information

Wards Affected

Hook Norton

Links to Corporate Plan and Policy Framework

- Accessible, Value for Money Council
- District of Opportunity
- Safe and Healthy
- Cleaner Greener

Lead Councillor

Councillor Michael Gibbard - Lead Member for Planning

Document Information

Appendix No	Title
Appendix 1	Basic Conditions Decision Statement approving modifications recommended by the Examiner
Appendix 2	Declaration of results of poll
Appendix 3	Version of Hook Norton Neighbourhood Plan for 'making'
Appendix 4	Draft Decision Statement for 'making' of Plan
Background Papers	
None	
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