

Cherwell District Council

Urgent Officer Decision – Corporate Director - Environment & Place

11 May 2021

‘Making’ (Adoption) of the Weston-on-the-Green Neighbourhood Plan

Report of Assistant Director – Planning & Development

This report is public

Purpose of report

The purpose of this report is to seek the urgent decision of the Corporate Director – Environment & Place to recommend to Council that it ‘makes’ the Weston-on-the-Green Neighbourhood Plan following the successful referendum on 6 May 2021.

1.0 Recommendations

- 1.1 That the Corporate Director - Environment and Place notes the referendum result of 6 May 2021 where 91.7% of those who voted were in favour of the Weston-on-the-Green Neighbourhood Plan, which is above the required 50%.
- 1.2 That the Corporate Director - Environment and Place recommends to Council:
 - a) that it formally ‘makes’ the Weston-on-the-Green Neighbourhood Plan as presented at Appendix 1 to this report so that it continues to have effect as part of the statutory Development Plan for the District; and
 - b) that the Assistant Director – Planning and Development, in consultation with the Lead Member, be authorised to issue and publicise a Decision Statement following the Council’s confirmation.

2.0 Introduction

- 2.1 The Council’s Executive resolved at a meeting on 2 November 2015 to designate Weston-on-the-Green Parish as a Neighbourhood Area.
- 2.2 The Weston-on-the-Green draft Submission Neighbourhood Plan was submitted by Weston-on-the-Green Parish Council to this Council on 11 October 2018. The Neighbourhood Plan and supporting documents were publicised as required and public consultation took place between 19 November 2018 and 11 January 2019.

- 2.3 Following the consultation, the Council, in agreement with the Parish Council, appointed an Independent Examiner to undertake the independent examination. The Examiner's report is dated 11 September 2019.
- 2.4 Having considered the Examiner's report, officers were of the view that all of his recommendations should be accepted bar those related to two key modifications (15 & 21).
- 2.5 A report was presented to the Executive on 4 November 2019. Officers expressed significant concerns that those modifications would 1) result in a lack of clarity which would create uncertainty about the land release required at Weston-on-the-Green with consequential harm, and 2) introduce a sequential test for development that would conflict with local plan policy. Officers proposed revised wording. Members agreed and decided that the Plan should not proceed to referendum. Nevertheless, the Neighbourhood Plan area was approved as the area for a future referendum.
- 2.6 A decision statement was published on 14 November 2019 inviting representations on the proposed changes recommended by officers up until 10 January 2020.
- 2.7 Having considered the representations received, a new Independent Examiner was appointed to undertake a further, partial, examination.
- 2.8 The role of the Examiner was to determine whether the Council's proposed changes to the original Examiner's recommendations as set out in the decision statement met the prescribed 'basic conditions' and legal requirements for Neighbourhood Plans, and to recommend whether or not the Plan should proceed to referendum.
- 2.9 The Examiner provided his report on 8 June 2020.
- 2.10 The Executive considered the Examiner's report on 6 July 2020 and resolved that the Plan should proceed to referendum. The decision statement detailing the Council's intention to send the neighbourhood plan to referendum was published on 18 July 2020.
- 2.11 Following a delay due to the Covid-19 pandemic the referendum took place on 6 May 2021 in accordance with the Neighbourhood Planning Referendum Regulations. More than 50% of those who voted were in favour of the Plan.
- 2.12 The Weston-on-the-Green Neighbourhood Plan now operates as part of the statutory Development Plan for Cherwell District and the Council is required to formally 'make' the Plan so that it continues to operate as part of the Development Plan. The Plan proposed to be made is found at Appendix 1 to this report.

3.0 Report Details

Referendum

- 3.1. The Neighbourhood Plan and other required information was made available for public viewing on the Council's website, at a location in the Parish (St Mary's

Church) and at the Council's offices at Bodicote House before and during the referendum. The documents available were:

- A Notice of Referendum;
- An Information Statement which provides general information about neighbourhood planning, the referendum and a map of the referendum area;
- The draft Weston-on-the-Green Neighbourhood Plan (Referendum Version);
- Both reports of the independent examiners into the Neighbourhood Plan;
- Summaries of the written representations submitted to the independent examiners;
- A Referendum General Statement;
- A Decision Statement confirming the Executive's determination that the Plan should proceed to referendum.

3.2. Those eligible to vote were sent the requisite information to enable participation in the referendum.

3.3. The question posed for the referendum (as specified by the regulations) was:

'Do you want Cherwell District Council to use the Neighbourhood Plan for Weston-on-the-Green to help it decide planning applications in the neighbourhood area?'

3.4. More than 50% of those who voted, voted 'Yes' in response to this question. The declaration of poll results is attached at Appendix 2 to this report. 199 people voted in favour of the Neighbourhood Plan with 18 against, providing a majority vote of 91.7%. The result of the referendum has been publicised on the Council's website.

'Making' the Neighbourhood Plan

3.5. As a result of legislative changes made in 2017, a neighbourhood plan comes into force as part of the statutory Development Plan once it has received majority support at a referendum. The Weston-on-the-Green Neighbourhood Plan now has this status.

3.6. However, the Council is still required to formally 'make' the Neighbourhood Plan for it to continue to have effect and must do so within a prescribed eight-week period from the day after the referendum, which is by 1 July 2021. As the next full Council meeting is scheduled for 19 July the Council would be in breach of duty if it waited until then to report this to Council for decision. Therefore, the only lawful options are to put this in front of the meeting on 19 May or call a special Council meeting before 1 July. The balance of advantage is clearly in favour of an urgent report to the 19 May meeting.

3.7. Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended) requires the Council to 'make' the Neighbourhood Plan if more than half of those voting in the applicable referendum have voted in favour of the Plan.

3.8. The Council is not subject to this duty if the making of the plan would breach, or would otherwise be incompatible with, any EU or human rights obligations (*NB. this remains a requirement post-Brexit*). There is no known breach or incompatibility. Officers consider that the Weston-on-the-Green Neighbourhood Plan can be

formally 'made'. If the Council decided not to formally 'make' the Plan, it would cease to have effect as part of the Development Plan.

- 3.9. As soon as possible following the decision to make a Neighbourhood Plan, the Council must publish a decision statement stating that the Plan has been made and the reasons. A copy of the decision statement must be sent to the qualifying body (Weston-on-the-Green Parish Council) and anyone who asked to be notified of the decision. The District Council must publish where and when the decision statement can be inspected.
- 3.10. The Council is also required to publish the Weston-on-the-Green Neighbourhood Plan on its website and notify any person who has asked to be notified of the making of the Plan that it has been made and where and when it may be inspected.

4.0 Conclusion and Reasons for Recommendations

- 4.1 A referendum was held on the Weston-on-the-Green Neighbourhood Plan on 6 May 2021. Of those eligible to vote, 199 voted in favour of the Plan with 18 against. The vote of 91.7% in favour meets the requisite majority and the Plan is now part of the statutory Development Plan. The Council is still required to formally 'make' the Plan and there is no known breach or incompatibility with EU or human rights obligations which prevents this. The Corporate Director is therefore requested to recommend to Council that the Plan be made within the prescribed eight-week period.

5.0 Consultation

Cllr Colin Clarke – Lead Member for Planning

6.0 Alternative Options and Reasons for Rejection

- 6.1 There is no known breach or incompatibility with, any EU or human rights obligations. The Council has no options or alternatives to making the Plan.

7.0 Implications

Financial and Resource Implications

- 7.1 The cost of 'making' the Neighbourhood Plan is being met from within existing budgets. A Government grant of £20,000 has also been received following the decision of the Executive to proceed to referendum in July 2020.

Comments checked by:

Karen Dickson, Strategic Finance Business Partner, 01295 221900

Karen.Dickson@Cherwell-DC.gov.uk

Legal Implications

- 7.2 The Weston-on-the-Green Neighbourhood Plan has been prepared in accordance with the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 (as amended) and the Neighbourhood Planning (General) Regulations 2012 (as amended). The referendum on the Plan garnered more than 50% of the vote. The Council is now under a duty to make the Plan within the above-mentioned timeframe and would be in breach if it failed or delayed in doing so.

Comments checked by:

Matthew Barrett, Planning Solicitor, 01295 753798

matthew.barrett@Cherwell-DC.gov.uk

Risk Implications

- 7.3 There is no risk to the Council beyond the legal risk identified.

Comments checked by:

Louise Tustian, Head of Insight and Corporate Programmes, 01295 221786

louise.tustian@cherwell-dc.gov.uk

Equality & Diversity Implications

- 7.4 The preparation of the Neighbourhood Plan has been led by the local community and has been subject to extensive collaboration and consultation, culminating in the local referendum. All sections of the community, including all socio-economic and minority groups have therefore had the opportunity to influence the 'making' of the neighbourhood plan.

Comments checked by:

Emily Schofield, Acting Head of Strategy, 07881 311707

Emily.schofield@oxfordshire.gov.uk

8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

Launton and Otmoor

Links to Corporate Plan and Policy Framework

Business Plan Priorities 2021-2022:

- Housing that meets your needs

- Leading on environmental sustainability
- An enterprising economy with strong and vibrant local centres
- Healthy, resilient and engaged communities

Lead Councillor

Councillor Colin Clarke - Lead Member for Planning

Document Information

Appendix Number and title

Appendix 1 – Weston-on-the-Green Neighbourhood Plan for ‘making’

Appendix 2 – Record of results of poll

Background papers

None

Reference papers

Weston-on-the-Green Neighbourhood Plan -

<https://www.cherwell.gov.uk/info/221/neighbourhood-plans/402/weston-on-the-green-neighbourhood-plan>

Report Author and contact details

Christina Cherry, Senior Planning Policy Officer, christina.cherry@cherwell-dc.gov.uk 01295 221851