

Report to Council

26 April 2017

By the Cabinet Member for Planning and Development

KEY DECISION



**Horsham
District
Council**

Not Exempt

Thakeham Neighbourhood Plan

Executive Summary

Following extensive preparations and Examination the Thakeham Neighbourhood Plan was subject to a Referendum on 22 March 2017, where the majority (93%) of those who voted were in favour of the plan. The purpose of this report is to seek the Council's formal approval to "make" Thakeham Neighbourhood Plan part of the statutory Development Plan as required by the Town and Country Planning Act 1990 and the Localism Act 2011. This will mean that this plan will be used to determine planning applications in Thakeham Parish in addition to the Horsham District Planning Framework.

Recommendation

Cabinet is recommended to:

- i) Formally "make" the Thakeham Neighbourhood Plan as part of the statutory Development Plan, following the Referendum held on 22 March 2017.

Reasons for Recommendation

- i) The preparation of the Thakeham Neighbourhood Plan to 2031 has followed the statutory procedures set out in The Neighbourhood Planning (General) Regulations 2012 (as amended). The plan has successfully undergone examination and has satisfied the basic conditions and the plan is in conformity with the Horsham District Planning Framework (HDPF).
- ii) Where a Referendum results in a majority 'yes' vote, the Local Planning Authority is required to "make" the Neighbourhood Plan within 8 weeks of the referendum decision in accordance with Regulations. This will enable the Council to use the Thakeham Neighbourhood Plan to determine planning applications in Thakeham Parish.

Background Papers

- i) The Localism Act 2011
- ii) The Neighbourhood Planning (General) Regulations 2012 (as amended)
- iii) Thakeham Neighbourhood Plan

Wards affected: Thakeham

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Background Information

1 Introduction and Background

- 1.1 The Localism Act, which received Royal Assent on 15 November 2011, introduced new rights and powers to allow local communities to shape development in their areas by coming together to prepare neighbourhood plans. The Act allows Parish/Town Councils and other forums to prepare a Neighbourhood Plan for their designated area.
- 1.2 Preparation of a Neighbourhood Plan is subject to several key stages set out in The Neighbourhood Planning (General) Regulations 2012 (as amended) which include:
1. Designation of the neighbourhood plan area;
 2. Pre-submission publicity and consultation;
 3. Submission of the plan to the Local Planning Authority;
 4. Independent Examination;
 5. Referendum; and
 6. Making the Neighbourhood Plan (i.e. bringing it into force).
- 1.3 Thakeham Neighbourhood Plan has undertaken the preparation of a Neighbourhood Plan for the Parish, and a referendum was held on 22 March 2017 to seek the support of the community for the plan. The result of the referendum was a majority 'yes' vote in favour of the plan with 92.6% of the turnout voting in favour of the plan.

2 Relevant Council policy

- 2.1 The Local Plan for Horsham District, (the Horsham District Planning Framework or HDPF), sets out the key planning policies against which development in the District is considered. It is a requirement that Neighbourhood Plans contain policies which are broadly in accordance with the Local Plan. This includes a requirement that Neighbourhood Plans allocate a proportion of the 1,500 homes that the Local Plan identifies to be delivered through neighbourhood planning.

3 Preparation of the Thakeham Neighbourhood Plan

- 3.1 Thakeham Parish Council as the qualifying body successfully applied to the Council to be designated as a Neighbourhood Area under Regulation 5 of The Neighbourhood Planning (General) Regulations 2012. The Neighbourhood Plan

Area for Thakeham covers the whole of the Parish of Thakeham and was designated as a Neighbourhood Plan Area on the 19 December 2013.

- 3.2 Thakeham Parish Council completed a number of tasks that are required to prepare a Neighbourhood Plan. These included the preparation and gathering of evidence and undertaking various consultation exercises before drawing up a draft of the plan (known as the Pre-submission Plan). The Pre-Submission Plan then underwent consultation under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012, from 9 January 2015 to 6 March 2015.
- 3.3 The Pre-Submission Plan was subsequently amended in response to the comments made during the consultation and the “Submission Plan” was then formally submitted to the Council. The Council, in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, undertook a further consultation of the Submission Plan. The Submission Plan was publicised between 30 October 2015 and 11 December 2015 and during this period representations could be made on the Plan by a range of stakeholders as well as local residents.
- 3.4 In agreement with Thakeham Parish Council, the Council appointed Mr John Mattocks on to carry out an independent examination of the Neighbourhood Plan. The purpose of the Examination was to determine whether the Plan met the ‘Basic Conditions’ together with other legislative requirements and therefore whether the Plan should proceed to referendum. The Examiner’s Report was formally completed and sent to the Council on the 23 November 2016. The Examiner concluded that with a number of modifications the Submission Thakeham Neighbourhood Plan would meet the basic conditions and could proceed to referendum on that basis.
- 3.5 Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 requires the Council as local planning authority to outline what action to take in response to the recommendations of the Examiner made his report under paragraph 10 of Schedule 4A to the 1990 Act (as applied by Section 38A of the 2004 Act). The Council has given further consideration to the commentary made by the Examiner, including having regard to the adequacy of the plan in meeting EU legislation.
- 3.6 Taking into account the National Planning Policy Guidance (‘the NPPG’) Paragraph 30 PPG 11 which states:
 - *“The strategic environmental assessment should only focus on what is needed to assess the likely significant effects of the [neighbourhood plan](#) proposal. It should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan.”*

- *Paragraph 31 states “It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a [neighbourhood plan](#) proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the neighbourhood plan proposal is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive): when it takes the decision on whether the neighbourhood plan should proceed to referendum; and when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).*
- *Paragraph 43 states: The independent examiner of a [neighbourhood plan](#) is testing whether the plan meets (or can be modified to meet) the basic conditions and will make recommendations to the local planning authority. The local planning authority will then reach its own view, informed by the examiner’s report.*
- *If the local planning authority assesses that the proposed changes are likely to have significant environmental effects which were not previously assessed then the strategic environmental assessment should be continued and the environment report amended accordingly in consultation with the qualifying body*

the Council is in agreement with the Examiner that the SEA has considered an appropriate range of alternatives, and in addition makes reference to cumulative impacts of the plan. On this basis the Council agrees with the Examiner’s view that the SEA meets the regulatory requirements.

- 3.7 An additional outcome from the Examiner’s report was the recommendation to extend the referendum beyond the Parish boundary and include the ‘joint consultation area’ covering adjoining parts of the adjoining parishes, which were close to / adjoining the development site allocated in the Thakeham Neighbourhood plan. The Council also agreed with this recommendation and the referendum area was duly extended.
- 3.8 On 7 February 2017, the Council resolved that the Thakeham Submission Plan (incorporating the Examiner’s modifications and recommendations as set out in the Horsham District Council ‘Decision Statement’) should proceed to Referendum.
- 3.9 On 22 March 2017, the Thakeham Neighbourhood Development Plan to 2031 successfully passed referendum with 92.6% of the votes cast agreeing that the Thakeham Neighbourhood Development Plan be used by Horsham District Council to help in the determination of planning applications in the Parish of Thakeham.

4 Next Steps

- 4.1 As a result of the Referendum, the Council is required, in accordance with legislation to formally 'make' the Thakeham Neighbourhood Plan as over 50% of those who voted were in favour of the Plan. This will allow the Plan to be given full weight to determining planning applications within the parish of Thakeham. The Council is required to 'make' the plan within 8 weeks of the Referendum in accordance with the Regulation 18A of the Neighbourhood Planning (General) Regulations 2012 (as amended).

5 Outcome of Consultations

- 5.1 The preparation of the Thakeham neighbourhood plan has been undertaken in consultation with stakeholders and the community. These consultations have been carried out by both the Parish and District Council in accordance with The Neighbourhood Planning (General) Regulations 2012 (as amended).

6 Other Courses of Action Considered but Rejected

- 6.1 The Council could reject the Thakeham Neighbourhood Plan should it be considered that it the Plan be in breach of any EU or other legal obligations, convention or rights. Taking into account the views of the Examiner, as set out in section three of this report, it is not considered that this is the case. The Council is therefore required to make the plan in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended).

7 Resource Consequences

- 7.1 Failure to adopt the Thakeham Neighbourhood Plan could result in the Council being open to High Court challenge on the ground that it has acted in breach of the Town and Country Planning Act 1990 as amended by the Localism Act 2011. This would incur significant costs in terms of Officer's time and costs associated with legal challenges and appeals.
- 7.2 There are no other staffing or financial consequences resulting from this decision.

8 Legal Consequences

- 8.1 Section 38A (3) the Act/regulations apply to neighbourhood plans and orders Section 38A (4) (b)) states that: LPA must make the plan as soon as reasonably practicable after the referendum is held.
- 8.2 Furthermore, the Neighbourhood Planning (General) Regulations 2012 (as amended) stipulate under Regulation 18a the following: “Prescribed date for making a neighbourhood development plan 18A.—(1) The date prescribed for the purposes of section 38A(4)(b) of the 2004 Act is the date which is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held. It follows if the plan is not made within the 8 weeks, it will not be in accordance with the regulations.
- 8.3 Under Section 113 of the Planning and Compulsory Purchase Act 2004 (as amended) a person aggrieved may make an application to the high court on the ground that a procedural requirement has not been complied with. The application must be made within 6 weeks. A procedural requirement is a requirement made in regulations or an order which relates to the adoption publication or approval of a plan/document. Therefore if the Thakeham Neighbourhood Plan is not adopted by the Council within the 8 weeks, it could be challenged by way of a Judicial Review.

9 Risk Assessment

- 9.1 Following the adoption of Thakeham Neighbourhood Plan there is a six week period when the decision to adopt it can be judicially reviewed. The Council has sought to minimise the likelihood of a successful challenge.

10 Other Considerations

- 10.1 There are no Crime & Disorder; Human Rights; Equality & Diversity or Sustainability consequences resulting from this decision.