

HARBOROUGH DISTRICT COUNCIL

REPORT TO THE CABINET MEETING OF 4<sup>th</sup> November 2019

PUBLIC REPORT: Y / ~~N~~

EXEMPT REPORT: ~~Y~~ / N

<b>Report Title</b>	<b>Great Glen Neighbourhood Plan Review</b>
<b>KEY DECISION</b>	<b>N</b>
<b>Report Author</b>	<b>Matthew Bills, Neighbourhood and Green Spaces Officer</b>
<b>Purpose of Report</b>	The purpose of this report is to enable the Cabinet to consider the recommendations of the Examiner into the Great Glen Neighbourhood Plan review and support the recommendation that the Plan proceed to public referendum.
<b>Reason for Decision</b>	<p>The final Examiner's report into the Great Glen Neighbourhood Plan review was received on 16<sup>th</sup> September 2019. The Examiner considered the changes made by the Qualifying Body to the adopted Plan along with the representations received when the Plan was published by the Council and the statements made by both the Qualifying Body and the Council concerning the scale of changes to the 'made' plan. The report recommends to the Council that, subject to the modifications proposed (see <b>Appendix A</b>), the Plan should proceed to a referendum.</p> <p>The Neighbourhood Planning Act 2017 identified the circumstances that might arise as qualifying bodies seek to review made neighbourhood plans. It introduces a proportionate process for the modification of neighbourhood areas where a neighbourhood development order or plan has already been made in relation to that area.</p> <p>There are three types of modification which can be made to a neighbourhood plan or order. The process depends on the degree of change which the modification involves and as follows:</p> <ul style="list-style-type: none"> <li>• minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or</li> </ul>

- material modifications which do not change the nature of the plan or order and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

The Parish Council considered this issue in a statement (**Appendix C**) submitted to the Council and took the view that the changes were material, not requiring a referendum. It commented that the made Plan does direct growth in the Plan area. In addition, it has policies on design, windfall development, affordable housing and housing mix.

HDC also considered the issue in a statement (**Appendix D**) submitted to the Examiner and took the view that the Plan required both examination and referendum. HDC took this view because the revised Neighbourhood Plan seeks to allocate a housing site for 10 dwellings (Policy GG1). The Council considered that a site of 10 dwellings is significant, given that it falls within the NPPF's definition of major development and that the 'made' Plan does not allocate sites for housing.

The summary of changes to the 'made' Plan by the Qualifying Body can be found at Appendix E.

The Examiner concluded that the changes to the Plan were material modification that do change the nature of the Plan and require examination and referendum.

The Examiner reached this decision for the following reasons:

- the submitted Plan includes several policies which are material modifications to the neighbourhood plan;

- in particular the submitted review of the Plan includes a proposed housing allocation (Policy GG1); and
- a housing allocation is not included in the 'made' neighbourhood plan.

The Parish Council were informed of this decision by the Examiner on 16 August 2019. The Parish Council then advised that it wished to proceed with the examination of the proposed modifications to the made neighbourhood plan.

The Neighbourhood Planning (General) Regulations 2012, (Regulation 18) sets out the matters that the District Council should consider at this stage in the Neighbourhood Plan making process. The District Council must consider each of the recommendations made by the Examiner in their report, including the reasons for them, and decide what action to take in response to each recommendation (see **Appendix A**).

It is considered that the recommended modifications should be incorporated into the plan and noted by the Cabinet in order to ensure that the plan is robust, sound, meets the Basic Conditions and comprises a user-friendly and efficient document. Great Glen Parish Council has confirmed that they are happy to accept these recommendations. On this basis, the Plan should then proceed to a referendum in Great Glen Parish (the Great Glen Neighbourhood Area) to determine if local people support it.

The Neighbourhood Plan has been reviewed by Great Glen Parish Council as the Qualifying Body.

The evidence provided to the Examiner within the Consultation Statement gave assurance to him that the consultation *'has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation.* The Examiner was therefore satisfied that the Plan met the Basic Conditions with regard to consultation.

In proceeding to a referendum with a plan that meets the prescribed Basic Conditions, the whole community will be afforded the opportunity to vote on the future

	development of the village and wider parish of Great Glen.
<b>Portfolio (holder)</b>	Cllr Bateman
<b>Corporate Priorities</b>	The Council is committed to supporting the neighbourhood planning process across the Harborough District. Helping communities wishing to carry out neighbourhood plans is identified in the Corporate Plan 2018/19 as a way to deliver the priority: <i>'The People: A Healthy, Inclusive and Engaged Community'</i> .
<b>Financial Implications</b>	<p>The Local Planning Authority has already claimed £5000.00 on designation of the Neighbourhood Area and £20,000.00 when the first referendum date was set by the Authority, in direct financial support from the Ministry of Housing, Communities and Local Government (MHCLG).</p> <p>A further £20,000.00 can be claimed when the second referendum date is set by the Council. This grant will be claimed in the next available window for claiming Neighbourhood Planning Grants.</p> <p>This direct financial support is to ensure that local planning authorities receive sufficient funding to enable them to meet their legislative duties in respect of neighbourhood planning. These duties include provision of advice and assistance; holding the examination; and making arrangements for the referendum.</p> <p>The cost of organising and running the referendum is funded through the neighbourhood planning grant</p>
<b>Risk Management Implications</b>	<p>The following risks have been identified:</p> <p>Not following the legislation and regulations correctly could leave the Council open to legal challenge. The circumstances where a legal challenge, through a claim for judicial review, can be raised are set out in the Town and Country Planning Act 1990, section 61N.</p> <p>The preparation of the Great Glen Neighbourhood Plan review has, to date, been supported by the Strategic Planning Team in terms of providing advice, assistance given to the Qualifying Body, attendance at meetings of the Qualifying Body and ensuring the correct procedural steps are followed. The Elections Team will now be involved in ensuring a Referendum is held as soon as possible and as set out in the Regulations.</p>

<b>Environmental Implications</b>	None associated with this report. The Great Glen Neighbourhood Plan contains policies relating to the environment and has been subject to a Strategic Environmental Assessment by the Council which has concluded there are no significant detrimental effects on the natural and historic environment, Natura 2000 sites, or Ramsar sites.
<b>Legal Implications</b>	<p>The Neighbourhood Plan, as proposed to be amended, is considered to meet the Basic Conditions which were set out in law following the Localism Act (see <a href="#">paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended)</a>) and this has been confirmed in the Examiner's Report. The Plan is also considered to meet all the relevant legal and procedural requirements.</p> <p>Both the Qualifying Body and the Council are obliged to provide a statement concerning their opinion of the nature of the changes made to the Plan as set out above. The Examiner has considered these statements.</p> <p>Once the Examiner has made his decision on the nature of the changes to the Plan, the Qualifying Body must decide whether to continue with the Examination. The Qualifying Body confirmed they wished to continue</p> <p>Should the District Council decide to accept the recommendations of this report; a <b>Decision Statement</b> will be prepared and published on the Harborough District Council website in accordance with the regulations. Necessary preparations for a referendum in accordance with the referendum regulations will then proceed.</p>
<b>Equality Implications</b>	<p>In preparing the Plan, the Great Glen Neighbourhood Plan Advisory Committee has taken time to involve and inform as wide a range of individuals, households, businesses and interest/community groups as possible through a variety of means. This is set out in the Consultation Statement accompanying the Plan, which is referred to in the Examiner's report.</p> <p>The Examiner states in his report:  <i>'It is clear that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation.'</i></p> <p>Furthermore, in his report the Examiner concludes that the Plan is compatible with EU obligations and does not</p>

	breach the European Convention on Human Rights obligations as set out in section 6.10 of the Examiner's report (see <b>Appendix B</b> ).
<b>Data Protection Implications</b>	<p>The Council collects information from communities in order to assist the delivery and provision of Neighbourhood Planning.</p> <p>The information supplied by communities and stakeholders is used for Neighbourhood Planning only.</p> <p>Respondents to the Regulation 16 consultation are informed that the information may be shared with other Council departments or partners such as Neighbourhood Plan Examiners.</p> <p>The information is held in accordance with the Council's Document Retention and Disposal Policy and HDC only ask for as much information as is required to respond to enquiries or service need.</p> <p>The Council is obliged to collect this information under The Neighbourhood Planning (General) Regulations 2012, The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 and The Neighbourhood Planning (referendums) Regulations 2012.</p> <p>Stakeholders and communities are informed how information collected is used, how HDC maintain the security of the information, and of the respondents rights to access information HDC hold.</p>
<b>Consultation</b>	<p>In reaching this stage, the consultation requirements set out in the legislation and the regulations have been complied with as follows:</p> <ul style="list-style-type: none"> <li>• Publicity of the Neighbourhood Plan Area 28/4/2015 to 1/5/2015;</li> <li>• Pre-Submission Consultation for review plan (reg. 14) 3/12/2018 to 21/01/2019; and</li> <li>• Submission Consultation for review plan (reg. 16) 29/5/2019 to 10/7/2019.</li> </ul> <p>The Neighbourhood Planning (General) Regulations (2012) require the Council's '<b>Decision Statement</b>', in relation to the Examiner's recommendations, to be published on the Harborough District Council website along with the Examiner's report.</p> <p>Other specified documents and correspondence with the</p>

	Examiner have been published on the Council website as required.
<b>Options</b>	<p><u>To reject some or all of the Examiner's recommendations.</u> This option is not considered appropriate as the proposed modifications will make the Plan more robust and enable it to meet the prescribed Basic Conditions.</p> <p><u>To decide not to proceed to referendum on the Neighbourhood Plan.</u> Given that the Plan has successfully passed through the examination process, there is no reason why the Plan, including modifications, should not proceed to Referendum. In the light of this, this option is not considered appropriate.</p>
<b>Background Papers</b>	<a href="#"><u>Great Glen Neighbourhood Plan submission version.</u></a>
<b>Recommendation</b>	<ol style="list-style-type: none"> <li>1. That the Cabinet accepts the Independent Examiner's recommended changes to the Great Glen Neighbourhood Plan in full as set out in the schedule at Appendix A and notes the recommendation that the amended Great Glen Neighbourhood Plan should proceed to a referendum of voters within the Parish of Great Glen to establish whether the Plan should form part of the Development Plan for the Harborough District.</li> <li>2. That the Cabinet approves the holding of a referendum relating to the Great Glen Neighbourhood Plan on 23 January 2020 that will include all of the registered electors in Great Glen Parish.</li> </ol>

## 1 Introduction

- 1.1 The final Examiner's report into the Great Glen Neighbourhood Plan was received on 16<sup>th</sup> September 2019. The Examiner considered the Plan along with the representations received and the statements by the Qualifying Body and District Council when the Plan was published by the Council. The report recommends to the Council that, subject to the modifications proposed (see **Appendix A**), the Plan should proceed to a referendum.
- 1.2 The Council is committed to supporting the neighbourhood planning process across the Harborough District. Helping communities wishing to carry out neighbourhood plans is identified in the Corporate Plan 2019/20 as a way to deliver the priority: *'The People: A Healthy, Inclusive and Engaged Community'*.
- 1.3 Harborough District currently has 21 Neighbourhood Plans that are 'made'.

The Great Glen Neighbourhood Plan review will supersede the 'made' Great Glen Neighbourhood Plan if approved to proceed to referendum and receives a 'yes' vote from the community.

## **2 Key Facts**

2.1 The review of Great Glen Neighbourhood Plan has been led by the Great Glen Parish Council, as the Qualifying Body, in conjunction with the local community. The Great Glen Neighbourhood Plan seeks to allocate a site for housing of 10 dwellings and has policies to allow development to come forward within the defined Limits to Development subject to certain criteria.

2.2 The Plan for Great Glen seeks to achieve the following:

- A simple and clear aim for the Plan based on local consultation. This is “to set out policies for the years up to 2031 that will ensure that our area develops and grows in a way that is sustainable economically, socially and environmentally, and which enhances and improves the community in which we live”;
- Designation of Local Green Spaces, which identify and protect these special and locally important areas from development;
- A small number of Great Glen specific planning policies grouped around the key policy issues identified by the community as being of special importance to them. These include:
  - Policies in relation to housing provision and need, including an allocation of residential development;
  - Policies to address car parking issues within the Village;
  - The protection of important community assets;
  - The incorporation of the design aspects of the Village Design Statement into the Neighbourhood Plan;
  - The encouragement of 'green' and environmentally sensitive building development with preservation of natural features such as hedges and trees
  - Protection of important buildings and structures and open spaces of local importance; and
  - Protecting businesses and supporting business expansion in appropriate locations.

2.3 The examination version of the Great Glen Neighbourhood Plan review was submitted to the Council on 11th April 2019. Following initial verification checks, a six week period of public consultation on the Plan was held running from 29th May 2019. A total of 9 responses were received and a further 2 responses were duly made and forwarded to the Examiner. Each respondent made multiple representations on most aspects of the Plan.

2.4 The Council, with the agreement of Great Glen Parish Council, appointed Mr Andrew Ashcroft as the Independent Examiner in July 2019. All the representations received on the Examination Version of the Plan the

statements from the Qualifying Body and the Council concerning the nature of the modifications to the Plan were forwarded to the Examiner for consideration. The Examiner was satisfied that all the responses could be assessed without the need for a public hearing.

2.5 The Examiner was appointed in September 2018 and the Examination took place from 10th July 2019 to 16th September 2019. The role of the Examiner during a review is to take a view on the nature of the examination process in general, and whether or not a referendum is required.

2.6 Mr Ashcroft concluded that the Plan needs both examination and referendum for the following reasons:

- the submitted Plan includes several policies which are material modifications to the neighbourhood plan;
- in particular the submitted review of the Plan includes a proposed housing allocation (Policy GG1); and
- a housing allocation is not included in the 'made' neighbourhood plan.

2.7 He advised the Parish Council of this decision on 16 August 2019. The Parish Council then advised that it wished to proceed with the examination of the proposed modifications to the made neighbourhood plan.

2.8 In addition the Examiner is required to consider whether a neighbourhood plan meets the Basic Conditions. In order to do this 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 for the area; and
- Be compatible with European Union obligations and, not breach, nor be in anyway incompatible with the European Convention on Human Rights.

2.9 In examining the Plan the Examiner is also required to check whether:

- the policies relate to the development and use of land for a designated neighbourhood plan area; and
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is

excluded development, and must not relate to more than one neighbourhood area); and

- the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

2.10 The final Examiner's Report into the Plan was received by the Council on 16th September 2019 and was made available to the public on the Council's website shortly after. A full copy is included in **Appendix B** of this report. The report recommends to the Council that, subject to the modifications proposed the Plan should proceed to a Referendum.

2.11 A schedule of the Examiner's recommendations is set out at **Appendix A**. The main changes recommended by the Examiner (in order to meet the 'Basic Conditions') are to make the Plan appropriate for use in determining planning applications and to ensure clarity in the policies and the maps included in the text.

2.12 The Examiner makes the following comments with regard to the Plan in the Summary of his report:

*The Plan includes a range of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. There is a very clear focus on safeguarding local character and providing a context within which new dwellings can be accommodated within a proposed settlement boundary. The Plan has successfully identified a range of issues where it can add value to the strategic context already provided by the adopted Local Plan. It has a particular focus on maintaining the rural identity of the neighbourhood area and its heritage.*

*The Plan has been underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.*

2.13 The Examiner recommended some policy amendments from the submission version Neighbourhood Plan. The Examiner states in Section 8 of the report:

*On the basis of the findings in this report I recommend to Harborough District Council that subject to the incorporation of the modifications set out in this report that the Great Glen Neighbourhood Development Plan meets the basic conditions.*

*Following my assessment of the scale and nature of the submitted review I also recommend that the Plan should proceed to referendum.*

2.14 Great Glen Parish Council have given the Examiner's Report due consideration and resolved that it is in agreement with the recommended modifications of the Examiner to the Neighbourhood Plan. Officers are also in

agreement with the recommendations of the Examiner.

- 2.15 The Examiner is also tasked with considering whether the Referendum Area should be extended beyond the designated Neighbourhood Area. The Examiner concludes that a Referendum based on the Great Glen Neighbourhood Area as confirmed on 1<sup>st</sup> May 2015 is appropriate. Officers agree with this recommendation.
- 2.16 The Neighbourhood Planning (General) Regulations 2012 set out that if the Council agrees to the recommendations of this report, it must publish a 'Decision Statement' on the Plan. This must set out the District Council's decision on the Great Glen Neighbourhood Plan and the reasons for making that decision. It is normal practice for the date of the Referendum to also be specified. The suggested changes will then be made to the Plan by the Qualifying Body ready for publication as one of the specified documents that must be in place in order to allow the Referendum to proceed.
- 2.17 The date for the referendum is provisionally set for **23 January 2020**. Therefore, the final version of the Plan and the Information Statement must be on Harborough District Council's website on **10 December 2019** at the latest, i.e. at least **28 working days** before the provisional date set for the Referendum. The Council will also need to ensure that the publication of 'notice of referendum' takes place on **13 December 2019** i.e. at least **25 working days** before the provisional date set for the referendum. The detailed requirements in respect of the Referendum process are set out in the [Neighbourhood Planning \(Referendums\) Regulations 2012](#).
- 2.18 The referendum will follow a similar format to an election. All those registered to vote within the Neighbourhood Area will be given the opportunity to be involved in the Referendum. Local residents will receive a ballot paper with the question;
- 'Do you want Harborough District Council to use the Neighbourhood Plan for Great Glen to help it decide planning applications in the neighbourhood area?'**
- 2.19 Residents will be given the opportunity to vote 'yes' or 'no'. If more than 50% of those voting in the referendum vote 'yes' then the Local Planning Authority is required to 'make' the plan (adopt the Plan, with the Plan becoming the Development Plan for Great Glen alongside the Local Plan). Under the approved Neighbourhood Planning Scheme of Delegation 'making' the Plan will be done by officers of the Harborough District Council as soon as possible after a favourable Referendum result. If the result of the Referendum is "no", then nothing further happens. The Parish Council will then have to decide how it wishes to proceed but the 'made' Great Glen Neighbourhood Plan will still be relevant.