

Report for: Cabinet - 11th April 2017

Title: Highgate Neighbourhood Plan Decision statement

Report Authorised by: Lyn Garner – Director of Planning, Regeneration and Development

Lead Officer: Matthew Paterson, Head of Strategic Planning, Transport and Infrastructure

Ward(s) affected: Highgate, Crouch End, Fortis Green and Muswell Hill

Report for Key/ Non Key Decision: Key

1 Describe the issue under consideration

- 1.1 The Localism Act 2011 introduced new powers for community groups to prepare neighbourhood plans for their local areas. The Highgate Neighbourhood Forum ('the Forum') was designated by the Council in 2012 and it has since been preparing a plan for the Highgate Neighbourhood Area ('the neighbourhood area'), which includes parts of Haringey and Camden boroughs. A draft neighbourhood plan and supporting documents were recently subject to independent examination.
- 1.2 The Council received the independent Examiner's Report on the Highgate Neighbourhood Plan ('the Plan') in February 2017. It must now consider the recommendations made by the Examiner and decide how to proceed.
- 1.3 The Council is required to publish a decision statement which sets out the Examiner's recommendations on the Plan and the Council's response to these.
- 1.4 This report highlights the neighbourhood planning process to-date; summarises findings of the Examiner's Report; and sets out the next steps of the plan process.

2 Cabinet member introduction

- 2.1 Neighbourhood planning enables communities to play an important role in shaping the areas in which they live. Specifically, through the preparation of neighbourhood plans communities are able to set out a shared vision and planning policies for their local area. These plans support the Council's Local Plan in providing a framework for managing development and growth, such as for new housing and jobs, as well as focussing priorities for investment in community infrastructure.
- 2.2 The Forum is the first community group in Haringey to engage in the neighbourhood planning process. The Forum has consulted extensively with the residents, businesses and community organisations of Highgate to ensure the plan both reflects their aspirations and addresses the needs of the community.

- 2.3 After several years of preparation the Plan has reached a key stage in the plan process. An independent examination of the Plan was recently undertaken. The Examiner's Report has been issued and the Council is now required to take a decision on the recommendations set out by the Examiner.
- 2.4 This report introduces the Council's 'Decision statement' on the Examiner's Report of the Plan, which effectively sets the basis for proceeding with the next stages of the plan process.

3 Recommendations

- 3.1 It is recommended that Cabinet agrees:
- i. The Examiner's recommendations to make modifications to the Plan as set out in the Examiner's Report (Appendix A);
 - ii. The recommendations in the Council's decision statement (Appendix B);
 - iii. That the Plan, as modified in the 'Referendum version' of the Highgate Neighbourhood Plan (Appendix C), proceeds to referendum;
 - iv. That the Director of Regeneration, Planning and Development/Assistant Director of Planning, in consultation as appropriate with Cabinet Member for Housing, Regeneration and Planning, be authorised to make appropriate changes to the 'Referendum version' of the Neighbourhood Plan (including the neighbourhood area map at Appendix E) prior to the notification of the Referendum (to undertake factual updates as required or amend annotation and referencing in the Plan and minor changes to the neighbourhood area map).
 - v. That the Interim Chief Executive be appointed to the post of Chief Counting Officer, pursuant to Regulation 10 of the Neighbourhood Planning (Referendums) Regulations 2012.
 - vi. That in the event that the Plan passes the referendum (i.e. more than 50% of votes cast support the Plan), delegated authority be given to Cabinet Member for Housing, Regeneration and Planning to 'make' the Plan (i.e. adopt).

4 Reasons for decision

- 4.1 The Council has a duty to support and facilitate the neighbourhood planning process in Haringey as required by the Town and Country Planning Act 1990 (as amended) ('the Act'). The local authority is required to take decisions at key stages in the process within time limits that apply, as set out in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the Regulations').
- 4.2 Officers are satisfied that the Plan, as modified in light of the Examiner's recommendations, meets the basic conditions (see paragraph 6.7) and that all other statutory requirements have been met.

5 Alternative options considered

- 5.1 As set out above the Council is required to support the neighbourhood planning process and make certain decisions within prescribed time periods, including the decision on whether to put a neighbourhood plan to referendum following receipt of the Examiner's Report.
- 5.2 Officers are satisfied with the recommendations put forward in the Examiner's Report and have no justified reason to disagree. As such, no alternative options have been considered.

6 Background information

- 6.1 Neighbourhood Plans are statutory planning documents which can establish general planning policies for the development and use of land in a neighbourhood. Neighbourhood plans must be prepared by the community in the form of designated neighbourhood forums, and once prepared, are subject to public consultation, independent examination and a referendum.
- 6.2 The Plan is a cross borough plan incorporating parts of Camden and Haringey (in Haringey this includes parts of Highgate and Crouch End wards, as well as some open space in Muswell Hill ward). The first stage of the process was the designation of the Highgate Neighbourhood Area and Forum in December 2012. Since then there have been a number of public consultations as part of the preparation of the Plan.
- 6.3 The Forum submitted its draft Plan to the London Boroughs of Camden and Haringey on 1st September 2016. This was consulted on for six weeks from 23rd September to 4th November 2016.
- 6.4 Camden and Haringey Councils, with support from the Forum, appointed Jill Kingaby BSc MRTPI, to carry out an independent examination of the Plan. The submission documents and representations received to the consultation were submitted to the Examiner in November 2016.
- 6.5 The Council's planning officers, along with Camden colleagues, have worked closely with the Forum throughout the preparation of the Plan. This has been a complex process by virtue of it being a cross borough neighbourhood plan, and the various stages of the development of the Councils' emerging Local Plan documents. The Council's close working relationship with Camden Council and the Forum ensured that any issues or problems were identified and appropriate action taken.
- 6.6 Haringey and Camden Councils both submitted representations to the submission consultation in 2016, which raised some issues in relation to conformity with the Councils' Local Plans. In response to this the Examiner requested a Statement of Common Ground to be prepared between the Councils and the Forum. This was a positive and constructive process which allowed many issues to be resolved. The remaining issues on which consensus between the Councils and Forum was not found were addressed by the Examiner in her Report. These issues are summarised in paragraph 6.12 below

and the Examiner's suggested modifications in response is detailed in the decision statement in Appendix B.

The Examination

- 6.7 The Examiner's role is to assess whether the Plan meets various legal requirements and 'basic conditions'. The basic conditions means that a neighbourhood 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
 - Not breach and must be otherwise compatible with, European Union (EU) and European convention on Human Rights (ECHR) obligations.
- 6.8 The Examiner can make one of three overall recommendations on the Plan: that it can proceed to referendum (i) with modifications; (ii) without modification; or (iii) that the Plan cannot be modified in a way that allows it to meet the basic conditions or legal requirements and should not proceed to referendum.
- 6.9 The Examiner issued her report to Camden and Haringey Councils on 28th February 2017. This was subsequently published on the Council's website – it is attached as Appendix A to this report. The Examiner recommends that the Plan proceed to referendum subject to a number of modifications. The Plan is the first neighbourhood plan in Haringey to have successfully passed the examination stage.
- 6.10 The regulations require the Council to set out the actions it proposes to take in response to the Examiner's recommendations. Officers have considered all of the recommendations and the Examiner's reasons for them and have set out the Council's response as part of the decision statement in Appendix B.
- 6.11 Subject to the Cabinet's agreement of the Decision statement the Neighbourhood Plan will be amended accordingly and the Plan will proceed to local referendum.

Summary of the Examiner's Report

- 6.12 Following assessment of the Plan, the consultation responses, other submitted evidence and a site visit, the Examiner considered that there were four main issues relating to the basic conditions for the examination, as follows:
- Whether the core objectives and policies for social and community needs and economic activity in the Plan contribute to the achievement of sustainable development having regard for national policy and guidance and are in general conformity with strategic policies in the London Plan and Local Plans for Camden and Haringey Borough Councils;

- Whether the Plan promotes sustainable transport policies and responds to the challenges of high traffic levels including air pollution, managing heavy goods vehicle movements and high demand for car parking effectively and is in general conformity with the strategic policies of the London Boroughs of Haringey and Camden as well as the London Plan;
 - Whether the Plan will protect and conserve the open spaces, public realm and historic environment of Highgate appropriately in line with national policy and in general conformity with the strategic policies of the Local Plans, bearing in mind Highgate's topography, landscape character and significant number of heritage assets; and
 - Whether the key sites identified in the Plan are the most suitable, whether the amount and type of development proposed at each one is consistent with sustainable development having regard for national policy and is in general conformity with the strategic policies for Camden and Haringey.
- 6.13 The Examiner has put forward recommended policy modifications to address these specific issues to ensure that the Plan meets the basic conditions. These are set out in the Examiner's report in Appendix A, and can also be read alongside the Council's response to these recommendations in the decision statement (Appendix B).
- 6.14 The Examiner's recommendations on the Plan are not binding on the Council, who may choose to make a decision which differs from the Examiner. However, any significant changes from the Examiner's recommendations would require a further period of public consultation, along with a statement from the Council setting out why it has taken this decision.

Summary of Examiner's recommendations

- 6.15 The Neighbourhood Plan includes two types of policies – development management and key site policies. The Plan's development management policies are criteria based policies covering a range of policy topic areas (including social and community needs, economic activity, traffic and transport, open space, and development and heritage). The Plan also has 5 'key site' policies which allocate strategic sites for specific land-uses and include development guidelines to support delivery of the spatial strategy.
- 6.16 The Examiner proposed modifications 29 modifications in total in order to ensure the Plan meets the basic conditions.
- 6.17 Proposed modifications to the development management policies were broadly required to ensure the plan was in conformity with higher level policies, including Haringey's adopted and emerging Local Plan, the Mayor's London Plan and national policy. This was particularly to ensure a less prescriptive policy framework with sufficient flexibility to support sustainable development. Key modifications to these policies include:

- Additional text to reinforce that the Plan will facilitate delivery of the strategic housing requirement, consistent with Haringey's Local Plan;
- A new policy on 'community facilities' in order to entrench the Forum's recommended priorities for Community Infrastructure Levy (CIL) funding within the Plan;
- For traffic and transport management policies, withdrawal of proposals to set a different threshold for 'major' development than that which is set out in legislation;
- Removal of proposals to designate as Local Green Space (effectively giving the same policy protection of Green Belt) the Open Land at Hillcrest Housing Estate and Aylmer Road Open Space;
- Withdrawal of proposals for 'Enhanced Basement Impact Assessments', to ensure requirements appropriately align with those for such assessments set in the Local Plan; and
- Withdrawal of proposals to extend the Council's current designated Archaeological Priority Areas, to maintain consistency with the approach recommended by Historic England.

6.18 Key proposed modifications to the key site policies include:

- Additional text in Key Site 1 (460-470 Archway Road) to ensure that development does not adversely impact on Transport for London operational land; and
- Changes to Key Site 3 (Highgate Bowl) to bring the policy in line with the Haringey's corresponding Local Plan policy (SA42), reflecting that the Bowl is previously developed land where there is an opportunity to secure an area of open space in the future.

6.19 A 'Referendum version' of the Plan incorporating the modifications has been prepared (Appendix C). It is recommended that this amended Plan is taken forward by the Council to referendum. One of the recommendations of this report allows for the Director Regeneration, Planning and Development to make further minor changes to this 'Referendum version' of the Plan if necessary, in consultation with the Cabinet Member for Housing, Regeneration and Planning as appropriate, prior to the formal notification of the referendum. This provides a mechanism to make additional non-material changes (i.e. to correct factual errors or amendments or annotations and referencing used in the Plan).

6.20 A Strategic Environmental Assessment (SEA) was carried out as part of the preparation of the Neighbourhood Plan. An SEA Report was published alongside the submission version of the Plan. An addendum to the SEA Report has been carried out to ensure appropriate consideration of the Examiner's modifications (Appendix D). The Council is satisfied that the Plan, as amended, is compatible with EU obligations, including under the Strategic Environmental Assessment Directive and set this out in the decision statement.

6.21 In addition, an Equality Impact Assessment (EqIA) has been undertaken on the Neighbourhood Plan as modified and this is included as Appendix F. The EqIA

demonstrates that the Plan will have a positive or neutral impact on protected characteristics.

- 6.22 The Examiner's Report confirms that the referendum area should be the same as the neighbourhood area designated by the Councils. Accordingly, the report recommends that the neighbourhood area be that which is set out in Figure 1 of the Plan. Following the examination, the Figure 1 map has been amended to ensure accurate alignment with the designated neighbourhood area boundary (Appendix E). The Councils and Forum have agreed that this map will be included as Figure 1 in the Plan and used for the referendum.

Next Steps

- 6.23 The Regulations require the Council to publish the decision statement, once approved, and to bring it to the attention of people who live, work or carry out business in the neighbourhood area. To this end the decision statement will be published on the Council's website; made available for inspection in Wood Green Library and Highgate Library, the Civic Centre, and the Planning Office at River Park House; and notification will be sent to those on the Planning Policy consultation database and to those who responded to the previous round of consultation ie the publication consultation.
- 6.24 The Councils (Haringey Council and Camden Council) are responsible for organising the referendum on the Plan. Haringey has the greater portion of the referendum area and so is required to appoint a Chief Counting Officer in relation to the referendum. Following a decision on the Examiner's report the Council is required to hold a referendum within 84 days commencing from the day immediately following the day the decision is published. A provisional referendum date of 29th June 2017 has been agreed with the Council's Electoral Services Manager.
- 6.25 An 'information statement' about the referendum will be published to signal the start of the referendum process alongside the 'Referendum version' of the Neighbourhood Plan. This will be published at least 28 days before the referendum date.
- 6.26 In order for the Plan to pass the referendum more than 50% of the votes cast must support the Neighbourhood Plan. If the Plan passes the referendum, the Council must 'make' (i.e. adopt) the Plan and bring it into force, unless as noted in the legal section it would breach EU or human rights obligations. As set out in recommendation 6 (paragraph 3.1) above the making of the Plan is an executive decision, which if agreed, will be delegated to Cabinet Member.
- 6.27 Once the Plan is made it will be a statutory planning policy document and the Council will apply its policies where relevant in determining planning applications in the neighbourhood area, alongside other planning policies.

7 Contribution to strategic outcomes

- 7.1 The Plan aligns with our Corporate Plan vision and objectives to actively manage and drive growth and development across the borough, specifically:
- **Priority 3 (Clean and Safe Environment)** by ensuring protection of Highgate natural environment and, where possible, increase and enhance provision, public access and use, where appropriate.
 - **Priority 4 (Growth)** by maximising opportunities for residential and commercial growth and development targeted at areas that can accommodate change and have the capacity to do so.
 - **Priority 5 (Housing)** by enabling the delivery of new homes and ensuring such growth and development results in a high quality and attractive residential amenity

8 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

- 8.1 Following receipt of the independent Examiner's assessment, this report recommends that the Highgate Neighbourhood Plan is progressed to the referendum stage of the plan process.
- 8.2 The Council receives grant funding from DCLG for neighbourhood planning, with funding up to £20,000 made available per plan once a referendum date has been confirmed. Given the cross-borough nature of the plan, this funding will need to be split between Camden and Haringey Boroughs, although specific arrangements in this respect will be made following the outcome of the Cabinet decision on this Report. Haringey is the lead authority for the referendum and it is expected that funding allocations should reflect this situation.
- 8.3 Prior experience of Ward by-elections suggests that cost of the referendum would be approximately £25,000. Where expenditures are not fully covered through DCLG funding, this will be met through existing Planning Service budgets.

Legal

- 8.4 As noted above, the legislative provisions relating to neighbourhood development plans are contained within the Act, the Regulations and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended). Under the Act the local planning authority must also have regard to the Government's Planning Practice Guidance in relation to neighbourhood development plans.
- 8.5 Under the Regulations as soon as possible after making a decision in response to the examiner's recommendations etc, the local planning authority must

publish the decision statement (the decision and their reasons for it), details of where and when the decision statement may be inspected, and the examiner's report on their website and in any other manner that is likely to bring the decision statement and report to the attention of people who live, work or carry on business in the neighbourhood area.

- 8.6 The 84 day period to hold the referendum starts the day after the above has been published.
- 8.7 Following the referendum in the event of a “yes” vote the Plan must be made (subject to legal challenge) within 8 weeks starting from the day immediately following the last referendum date, unless the local planning authority consider that the making of the Plan would breach or be incompatible with any EU obligation or human rights.
- 8.8 In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and government guidance (which the Council must have regard to on account of section 61O of the Act) all decisions regarding neighbourhood plans are the responsibility of the Council's executive.

Equality

- 8.9 The Council has a public sector equality duty under the Equality Act 2010 to have due regard to the need to:
- Tackle discrimination and victimisation of persons that share the characteristics protected under section 4 of the Equality Act 2010. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
 - Advance equality of opportunity between people who share those protected characteristics and people who do not;
 - Foster good relations between people who share those characteristics and people who do not.
- 8.10 A full Equality Impact Assessment (see appendix F) has been undertaken which has demonstrated that this decision will have a positive or neutral impact on protected characteristics.
- 8.11 In addition to this, the Examiner's role is to assess whether the plan meets various legal requirements, including not breaching and must be otherwise compatible with, EU and European convention on Human Rights obligations.

9 Use of Appendices

- Appendix A - Examiner's Report February 2017
- Appendix B – Highgate Neighbourhood Plan Decision Statement (Sets out the Council's proposed modifications to the Plan and its reasons for the

changes. The Statement also includes a schedule of non-material amendments made to the Plan which are a consequence of the Examiner's proposed modifications).

- Appendix C - Referendum version of the Highgate Neighbourhood Plan
- Appendix D - Addendum to Strategic Environmental Assessment / Sustainability Appraisal (Update to the submission version of the assessment taking account of the proposed Plan modifications).
- Appendix E – Plan of neighbourhood area for referendum
- Appendix F - Equality Impact Assessment

10 Local Government (Access to Information) Act 1985

10.1 National Planning Policy Framework

10.2 National Planning Policy Guidance

10.3 Town and Country Planning Act 1990 (as amended)

10.4 Neighbourhood Planning (General) Regulations 2012 (as amended)

10.5 Neighbourhood Planning (Referendums) Regulations 2012 (as amended)