

MID SUFFOLK DISTRICT COUNCIL

TO: Cabinet	REPORT NUMBER: MCa/20/33
FROM: Cllr David Burn - Cabinet Member for Planning	DATE OF MEETING: 8 February 2021
OFFICER: Robert Hobbs - Corporate Manager, Strategic Planning	KEY DECISION REF NO. CAB253

WILBY NEIGHBOURHOOD PLAN

1. PURPOSE OF REPORT

- 1.1 To present the findings of the Independent Examiner's Report on the Wilby Neighbourhood Plan Submission Draft document.
- 1.2 Subject to implementation of the detailed recommendations in the Examiner's Report, it is proposed that Cabinet agree that the Wilby Neighbourhood Plan proceed to a local referendum.

2. OPTIONS CONSIDERED

- 2.1 A Local Planning Authority may propose to make a decision on a recommendation that differs from that set out by the Examiner. If so, it must give its reason why and undertake further consultation before issuing a final decision. As appropriate, this may require the matter to be re-examined. For the reasons set out in section 4 below this option has been discarded.
- 2.2 The recommended option is that Mid Suffolk agree that, subject to modification, the Wilby Neighbourhood Plan proceed to a local referendum.

3. RECOMMENDATIONS

- 3.1 That Wilby Parish Council be requested to make the necessary modifications to their Neighbourhood Plan in accordance with the Examiner's recommendations.
- 3.2 That, subject to satisfactory completion of the above (to be agreed by the Corporate Manager for Strategic Planning), this Neighbourhood Plan be advanced to a local referendum covering the parish of Wilby.

REASON FOR DECISION

- 3.3 To enable the Council to meet its statutory obligations under Section 17A of the Neighbourhood Planning (General) Regulations 2012 (as amended) and to allow the Wilby Neighbourhood Plan to proceed to a local referendum

4. KEY INFORMATION

- 4.1 The Localism Act 2011 introduced the concept of neighbourhood plans. These are plans developed by local communities covering the area in which they live and work,

and provide them with an opportunity to prepare planning policies and allocate land to shape the future of their area. Consequently, each plan has its own character.

4.2 The Wilby Neighbourhood Plan has been prepared in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended). The key stages prior to examination are set out below:

- Area Designation: 18 December 2017
- Regulation 14 Pre-submission consultation: 22 January to 12 March 2020 (carried out by the Parish Council).
- Regulation 16 Submission Draft consultation: 12 August to 7 October 2020 (carried out by the District Council). During this period representations were received from six organisations / individuals.

A Consultation Statement submitted by the Parish Council sets out how they went about preparing the Plan. Officers at Mid Suffolk also responded to various enquiries during the preparation stages.

4.3 The Plan has been independently examined by Janet Cheesley BA (Hons) DipTP MRTPI, a suitably qualified and experienced person who was independent of the plan making process. The examination was conducted via the written representation and through matters for clarification to which both Parish and District Council responded. In the interests of openness and transparency, details relating to the examination were published on the District Council website.

4.4 On 16 November 2020, the Examiner issued her Final Report. It concludes that: *“subject to my recommendations, the Plan meets the Basic Conditions”* and, *“that the Plan will provide a strong practical framework against which decisions on development can be made.”* The modifications of note are summarised in paragraph 4.5 below. A link to the Full Report is provided at Appendix 1. The Examiner did not consider it necessary to extend the local referendum area.

4.5 The modifications made are there to improve the Plan policies and supporting text so that they provide clarity for decision makers. Of the ten Plan policies, two required no modification and the remainder only required limited change. The modifications of note:

- A text amendment to policy WIL1 (Landscape & Natural Features) relating to the test on development benefits clearly outweighing any impacts is applicable,
- In response to a recent Court of Appeal case with regard to the lawfulness of a Local Green Space policy in a neighbourhood plan, a modification to policy WIL3 (Local Green Spaces) that removes the final paragraph referring to development in these designated areas only being permitted in very special circumstances,
- A modification to policy WIL4 (Renewable Energy & Future Sustainability) and revised wording for the second part of policy WIL7 (Housing Mix) to remove references to additional local technical standards for residential development, *and*
- Minor modifications to the Policies Map to improve cross-referencing.

- 4.6 The District Council must now consider all of the Examiner's recommendations, the reasons for them, and then decide what action to take. It must also come to a formal view about whether the Plan meets the 'Basic Conditions'.
- 4.7 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act, 1990 (as amended). In order to satisfy them, 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 contained in the development plan for the area of the authority,
 - not breach, and is otherwise compatible with, European Union obligations, *and*
 - meet the prescribed conditions in relation to the neighbourhood plan and the prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 4.8 Officers have assessed the content of the Examiner's Report and each recommendation, and concur with its findings. It is therefore recommended that all the modifications proposed be made by Wilby Parish Council. If Cabinet agrees with this recommendation, the District Council will need to publicise its decision (a 'Regulation 18 Decision Statement') and move to a local referendum.
- 4.9 The Housing and Planning Act 2016 has made it clear that the only modifications that the District Council can make at this stage are those required to ensure that:
- the plan is compatible with EU obligations,
 - the plan does not breach Convention Rights, or
 - those required for the purpose of correcting minor errors.

The District Council is therefore only able to exercise limited discretion at this point.

- 4.10 As noted above, the task of modifying the Plan falls to the Parish Council, with assistance from the District Council as required. While there is no prescribed period for this process, the modified plan, along with other specified documents must be available before the date of the local referendum can be confirmed.
- 4.11 The referendum process is governed by the Neighbourhood Planning (Referendum) Regulations, 2012 (as amended). They set out that not less than 28 working days' notice must be provided of the date of the local referendum.

On the 7 April 2020, the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 came into force which provides that all neighbourhood planning referendums that are scheduled to take place between 16 March 2020 and 5 May 2021 are postponed until 6 May 2021. The Ministry for Housing, Communities & Local Government (MHCLG) have also provided guidance on procedures that can be undertaken which have a bearing on the weight to be attached to any Plan where the intention to hold a referendum is made clear. Officers will continue to monitor the situation, publish any relevant notices when required and work with colleagues in Electoral Services and the Parish Council to ensure that the local referendum can take place at the earliest opportunity.

- 4.12 The Parish Council will be expected to promote the referendum but it should be noted that there are restrictions on the publication of promotional material, advertisements, and expenses. The format of the Referendum question will be:

‘Do you want Mid Suffolk District Council to use the Neighbourhood Plan for Wilby to help it decide planning applications in the neighbourhood area?’

- 4.13 If more than 50% of those who vote in the referendum are in favour of the Neighbourhood Development Plan, then it must be brought into legal force and be ‘made’ (adopted) by the District Council. A paper would be presented to Full Council to ratify the eventual outcome.

5. LINKS TO CORPORATE PLAN

- 5.1 The successful making (adoption) of the neighbourhood plan will enable the District Council to fulfil its corporate priorities in terms of housing delivery, business growth and community capacity building.

6. FINANCIAL IMPLICATIONS

- 6.1 The District Council can claim £20,000 from MHCLG for each neighbourhood plan that has not previously been ‘made’ (adopted) for that area. Previously claimable only after a referendum date had been set, this sum can now be claimed once the local planning authority issues a decision statement detailing their intention to send the plan to referendum. The sum is paid to help meet the costs of delivering this Plan and will be sufficient in this case.

- 6.2 If the Wilby Neighbourhood Plan is successfully ‘made’ (adopted) the Parish Council will be eligible to receive 25% of any Community Infrastructure Levy (CIL) receipts from qualifying development in its area. However, the postponement of referendums until at least May 2021 means that some communities might miss out on qualifying payments. On 25 September 2020, Planning Practice Guidance was updated to encourage CIL charging authorities to work with the parish council or neighbourhood forum wherever possible, to consider whether an additional sum, equal to the shortfall in expected CIL receipts can be agreed. Initial discussions have already taken within the District Council as to what this might mean for Wilby.

7. LEGAL IMPLICATIONS

- 7.1 The Neighbourhood Plan has been prepared in accordance with the provisions of the Town & Country Planning Act, 1990, the Planning & Compulsory Purchase Act, 2004 and the Neighbourhood Planning (General) Regulations, 2012 (as amended). It has also had regard to the Environmental Assessment of Plans & Programmes Regulations, 2004 and the Conservation of Habitats & Species Regulations, 2017.
- 7.2 If ‘made’ (adopted), the Wilby Neighbourhood Plan will become part of the Development Plan and be used, where relevant, to determine planning applications

8. RISK MANAGEMENT

- 8.1 This report is most closely linked with Significant Business Risk No. 7 - We may not be able to help communities to become more sustainable. The key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
The Neighbourhood Plan fails to receive support at the referendum stage.	Unlikely - 2	Bad - 3	The Parish Council are responsible for promoting the referendum.
Legal challenge to the content of the Neighbourhood Plan and/or judicial review of the District Council's decisions.	Unlikely - 2	Bad - 3	Ensuring that the relevant Regulations are followed and that decision making processes are clear and transparent.

9. CONSULTATIONS

- 9.1 As noted in paragraph 4.2, the District Council consulted on the Submission draft Wilby Neighbourhood Plan between 12 August and 7 October. A link to the representations received at this stage is provided at Appendix 2.
- 9.2 Guidance issued in 2018 by the Independent Examiner Referral Service (NPIERS) affords the Parish Council / Neighbourhood Plan Working Group the opportunity to see and respond to the submitted representations before the examination commences. A link to the Parish Council response is provided at Appendix 3.

10. EQUALITY ANALYSIS

- 10.1 There are no equality or diversity implications arising directly from this report. An Equality Impact Assessment (EqIA) is not required.

11. ENVIRONMENTAL IMPLICATIONS

- 11.1 The consideration of environmental implications are an integral part of the Plan preparation process. The Wilby Neighbourhood Plan has been subject to the appropriate Strategic Environmental and Habitats Regulations screening assessments.

12. APPENDICES

Title	Location
(1) Examiners Final Report	https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Wilby-NP-Exam-Report.pdf
(2) Submission Draft Plan representations	https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Wilby-NP-R16-Reps.pdf
(3) Wilby Parish Council response	https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Wilby-NP-R16-Reps-Response.pdf

13. BACKGROUND DOCUMENTS

The submission draft version of the Wilby Neighbourhood Plan can be found at:
<https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Wilby-NP-Sub-Jul20.pdf>