

## BABERGH DISTRICT COUNCIL

<b>COMMITTEE:</b> Cabinet	<b>REPORT NUMBER:</b> <b>BCa/21/11</b>
<b>FROM:</b> Cllr Clive Arthey (Cabinet Member for Planning)	<b>DATE OF MEETING:</b> 5 July 2021
<b>OFFICER:</b> Robert Hobbs (Corporate Manager - Strategic Planning)	<b>KEY DECISION REF NO.</b> N/A

### UPDATE ON FIVE NEIGHBOURHOOD PLANS IN BABERGH

#### 1. PURPOSE OF REPORT

- 1.1 To update Members on the progress of the Assington, Chelmondiston, Little Waldingfield, Newton and Whatfield Neighbourhood Plans, all of which have recently undergone independent examination.
- 1.2 Subject to implementation of the detailed recommendations set out in the relevant Examination Reports, it is proposed that Cabinet agree that all five Neighbourhood Plans 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 discounted in all five cases.
- 2.2 The recommended option is that the District Council agree that, subject to modification, the Assington, Chelmondiston, Little Waldingfield, Newton and Whatfield Neighbourhood Plans all proceed to a local referendum.

#### 3. RECOMMENDATIONS

- 3.1 That Assington Parish Council make the necessary modifications to their Neighbourhood Plan in accordance with the Examiner's recommendations and, subject to satisfactory completion of that task (to be agreed by the Corporate Manager for Strategic Planning), the Neighbourhood Plan be advanced to a local referendum covering the parish of Assington.
- 3.2 That Chelmondiston Parish Council make the necessary modifications to their Neighbourhood Plan in accordance with the Examiner's recommendations and, subject to satisfactory completion of that task (to be agreed by the Corporate Manager for Strategic Planning), the Neighbourhood Plan be advanced to a local referendum covering the parish of Chelmondiston.
- 3.3 That Little Waldingfield Parish Council make the necessary modifications to their Neighbourhood Plan in accordance with the Examiner's recommendations and, subject to satisfactory completion of that task (to be agreed by the Corporate

	<p>Manager for Strategic Planning), the Neighbourhood Plan be advanced to a local referendum covering the parish of Little Waldingfield.</p> <p>3.4 That Newton Parish Council make the necessary modifications to their Neighbourhood Plan in accordance with the Examiner's recommendations and, subject to satisfactory completion of that task (to be agreed by the Corporate Manager for Strategic Planning), the Neighbourhood Plan be advanced to a local referendum covering the parish of Newton.</p> <p>3.5 That Whatfield Parish Council make the necessary modifications to their Neighbourhood Plan in accordance with the Examiner's recommendations and, subject to satisfactory completion of that task (to be agreed by the Corporate Manager for Strategic Planning), the Neighbourhood Plan be advanced to a local referendum covering the parish of Whatfield.</p>
<p><b>REASON FOR DECISION</b></p> <p>3.3 To enable the Council to meet its statutory obligations under Section 17A of the Neighbourhood Planning (General) Regulations 2012 (as amended).</p>	

#### 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 All five Neighbourhood Plans have been prepared in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended). They have also been independently examined by a suitably qualified and experienced person who was independent of the individual plan making processes. The examinations were conducted via 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 each examination are published on the Councils website.

**Appendix 1** covers the **Assington Neighbourhood Plan**. It includes information on the key stage dates and a summary of the modifications to be made. Links are also provided to the relevant reports etc.

**Appendix 2** covers the **Chelmondiston Neighbourhood Plan**. It includes information on the key stage dates and a summary of the modifications to be made. Links are also provided to the relevant reports etc.

**Appendix 3** covers the **Little Waldingfield Neighbourhood Plan**. It includes information on the key stage dates and a summary of the modifications to be made. Links are also provided to the relevant reports etc.

**Appendix 4** covers the **Newton Neighbourhood Plan**. It includes information on the key stage dates and a summary of the modifications to be made. Links are also provided to the relevant reports etc.

**Appendix 5** covers the **Whatfield Neighbourhood Plan**. It includes information on the key stage dates and a summary of the modifications to be made. Links are also provided to the relevant reports etc.

- 4.3 In each case, the District Council must consider all of the Examiner's recommendations, and the reasons for them, before deciding what action to take. It must also come to a formal view on whether the Plan meets the 'Basic Conditions'
- 4.4 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.
- 4.5 Having assessed each Examination Report and the recommendations therein, Council Officers concur with their findings. It is therefore recommended that all five neighbourhood plans be modified by their respective parish councils. If Cabinet agrees with this, the District Council will need to publicise its decision (a 'Regulation 18 Decision Statement') and move each plan to a local referendum.
- 4.6 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.

- 4.7 As noted above, the task of modifying each Plan falls to the individual parish councils, with assistance provided as required. While there is no prescribed period for this the modified plan, along with other specified documents, must be available before the date of the local referendum can be confirmed.
- 4.8 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. The recent easing of restrictions linked to the coronavirus pandemic now means that there should be no reason why a referendum cannot take place at the earliest available opportunity. The Council should therefore proceed on that basis, while continuing to monitor the situation and taking appropriate action should new restrictions come back into force.
- 4.9 Each parish council will be expected to promote their 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 Babergh District Council to use the Neighbourhood Plan for [insert name of parish] to help it decide planning applications in the neighbourhood area?'*

- 4.10 If more than 50% of those who vote in a 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. The regulations also set out the time period by which that must be done. The decision to ratify the eventual outcome will either be made by way of a report to Full Council or through an 'Action Out-of-Meeting' request, depending on which is most appropriate.

## **5. LINKS TO CORPORATE PLAN**

- 5.1 The successful making (adoption) of these neighbourhood plans 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 the Ministry of Housing, Communities & Local Government for each neighbourhood plan that has not previously been 'made' (adopted) for that area. This sum can only be claimed once it has issued a decision statement detailing its intention to send the plan to referendum. The sum is paid to help meet the costs of delivering the Plan and will be sufficient in each case.
- 6.2 For each Neighbourhood Plan that 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.

## **7. LEGAL IMPLICATIONS**

- 7.1 Each 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). They have 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), each 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. 9 - We may not be able to help communities to become more sustainable. The key risks are set out below:

<b>Risk Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigation Measures</b>
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 each submitted Neighbourhood Plan. A link to the representations received at that stage is provided in the appropriate appendix.
- 9.2 Guidance issued in 2018 by the Independent Examiner Referral Service (NPIERS) affords Parish Councils / Neighbourhood Plan Working Groups the opportunity to respond to the representations before the examination commences. Where the Parish Council has responded, a link is provided in the appropriate appendix.

## 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

The consideration of environmental implications are an integral part of the Plan preparation process. All five Neighbourhood Plans have been subject to the appropriate Strategic Environmental and Habitats Regulations screening assessments.

## Assington Neighbourhood Plan

### Key stages and dates:

- Area Designation: 29 June 2018
- Regulation 14 Pre-submission consultation: 15 February to 30 March 2020 (carried out by the Parish Council).
- Regulation 16 Submission Draft consultation: 24 August to 16 October 2020 (carried out by the District Council). Representations were received from eight organisations / individuals.

Title	Location
Submission draft Plan	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-Sub-Draft-Jul20.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-Sub-Draft-Jul20.pdf</a>
Written Representations	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-R16-Reps.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-R16-Reps.pdf</a>
Parish Council Response	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-R16-Reps-Response.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-R16-Reps-Response.pdf</a>

- Publication of Independent Examiners Report prepared by Ann Skippers BSc (Hons) MRTPI FHEA FRSA AoU: 19 March 2021

Title	Location
Examiners Final Report	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-Exam-Report.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-Exam-Report.pdf</a>

### Summary of main modifications to the Assington Neighbourhood Plan:

- The Examiner notes that this is a well-presented Plan, with a clear vision and objectives. It takes an ambitious approach with 24 policies covering a variety of issues including the allocation of sites, the identification of a number of Local Green Spaces, heritage and businesses.
- Of the 24 Plan policies, 8 were found to have met the basic conditions and required no modification and 9 other policies only required limited modification to improve clarity etc.
- Four housing allocations (ASSN3, ASSN4, ASSN5 and ASSN7) have been deleted, the Examiner noting that each site is now under construction. Consequential amendments to other policies etc. will be required.
- Policy ASSN11 (Measures for New Housing Development) is also deleted, the Examiner advising that neighbourhood plans cannot be used to set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This modification was anticipated.
- A modification to policy ASSN15 (Local Green Space) a modification is made to remove the paragraph that relates to development on these local green spaces only being permitted in special circumstances.

## Chelmondiston Neighbourhood Plan

### Key stages and dates:

- Area Designation: 23 March 2018
- Regulation 14 Pre-submission consultation: 18 July to 1 September 2020 (carried out by the Parish Council).
- Regulation 16 Submission Draft consultation: 15 February to 9 April 2021 (carried out by the District Council). Representations were received from twelve organisations / individuals. This includes a late representation from the local Parochial Church Council which was accepted by the district council.

Title	Location
Submission draft Plan	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Chelmondiston-NP-Sub-Draft-Jan21.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Chelmondiston-NP-Sub-Draft-Jan21.pdf</a>
Written Representations	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Chelmondiston-NP-R16-Reps.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Chelmondiston-NP-R16-Reps.pdf</a>
Parish Council Response	<i>Nb: The Parish Council confirmed that they wished to make no further comments at this stage.</i>

- Publication of Independent Examiners Report prepared by Janet Cheesley BA (Hons) DipTP MRTPI: 19 May 2021

Title	Location
Examiners Final Report	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Chelmondiston-NP-Exam-Report.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Chelmondiston-NP-Exam-Report.pdf</a>

### Summary of main modifications to the Chelmondiston Neighbourhood Plan:

- The Examiner notes that the Plan does not allocate specific sites within the Parish for new housing development, nor seek to accommodate a specific number of dwellings but, that it supports development within settlement boundaries, subject to other policies
- Of the 10 Plan policies, 5 were found to have met the basic conditions and require no modification.
- Modifications are made to policy CP2 (Design Principles) to both improve precision for decision makers and to remove references to additional local technical standards applying to residential development.
- In policy CP5 (Local Green Spaces), the removal of Cliff Plantation from the list of allocated sites because, while noted as being local in character, it is also an extensive tract of land so does not meet all the criteria set out in paragraph 100 of the National Planning Policy Framework (2019).
- In policy CP10 (Local Business and Shops), a modification to include the wording '*where planning permission is required*' given recent changes to the Use Class order system.

## Little Waldingfield Neighbourhood Plan

### Key stages and dates:

- Area Designation: 13 March 2017
- Regulation 14 Pre-submission consultation: 5 June to 24 July 2020 (carried out by the Parish Council).
- Regulation 16 Submission Draft consultation: 14 October to 27 November 2020 (carried out by the District Council). Representations were received from ten organisations / individuals. This includes a late representation from Historic England which was accepted by the district council.

Title	Location
Submission draft Plan	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-Sub-Draft-Sept20.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-Sub-Draft-Sept20.pdf</a>
Written Representations	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-R16-Reps.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-R16-Reps.pdf</a>
Parish Council Response	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-R16-Reps-Response.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-R16-Reps-Response.pdf</a>

- Publication of Independent Examiners Report prepared by Ann Skippers BSc (Hons) MRTPI FHEA FRSA AoU: 22 March 2021

Title	Location
Examiners Final Report	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-Exam-Report.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-Exam-Report.pdf</a>

### Summary of main modifications to the Little Waldingfield Neighbourhood Plan:

- The Examiner notes that this well-presented Plan contains 19 policies covering a range of topics including two site allocations, Local Green Spaces and facilities and services. There is an extensive evidence base accompanying the Plan including a Design Guide and a Village Character Assessment. The policies do not repeat District level policy but seek to add local detail or address matters of importance to the local community.
- Of the 19 Plan policies, 8 were found to have met the basic conditions and required no modification and 9 other policies only required limited modification to improve clarity etc.
- Policy LWD 5 (Measures for New Housing Development) is deleted and policy LWD 9 (Local Green Space) is modified to provide clarity around development on local green spaces.
- Modifications to policy LWD 11 (Biodiversity) which remove specific references to 'exceptional circumstances' but which retain the need for development proposals to have suitable regard to mitigation measures etc.
- A modification to policy LWD 14 (Holbrook Park Special Character Area) to amend the otherwise high bar set on any future development proposals within the designated area.

## Newton Neighbourhood Plan

### Key stages and dates:

- Area Designation: 23 March 2018
- Regulation 14 Pre-submission consultation: 17 August to 12 October 2020 (carried out by the Parish Council).
- Regulation 16 Submission Draft consultation: 1 March to 23 April 2021 (carried out by the District Council). Representations were received from ten organisations / individuals.

Title	Location
Submission draft Plan	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-Sub-Draft-Dec20.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-Sub-Draft-Dec20.pdf</a>
Written Representations	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-R16-Reps.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-R16-Reps.pdf</a>
Parish Council Response	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-R16-Reps-Response.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-R16-Reps-Response.pdf</a>

- Publication of Independent Examiners Report prepared by Ann Skippers BSc (Hons) MRTPI FHEA FRSA AoU: 24 June 2021

Title	Location
Examiners Final Report	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-Exam-Report.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Newton-NP-Exam-Report.pdf</a>

### Summary of main modifications to the Whatfield Neighbourhood Plan:

- The Examiner notes that the Plan and supporting documents are presented well, that it cover a range of topics and that it seeks to add a level of local detail or address matters of importance to the community. Of the 9 Plan policies, 4 met the basic conditions and required no modification. The 5 other policies only required limited modification.
- A modification to the settlement boundary is recommended to ensure that it includes extant planning permissions. The parish and district council will work together on this.
- A modification is made to Policy NEWT 1 (Development Strategy) relating to development proposals outside the settlement boundary, i.e., these will only be permitted where they are in accordance with national, District or neighbourhood level policies.
- Policy NEWT 3 (Character & Design of Development) resisted the loss of garden space. A modification is made to provide flexibility and ensure it takes account of the NPPF.
- A modifications is made to policy NEWT 5 (Protection of Local Landscape and Views) to make it more flexible while not detracting from its overall aim which is to ensure that new development gives due regard to its location and setting.
- A modification is made to policy NEWT 7 (Maximising Wildlife & Biodiversity) to remove duplication and to include additional wording suggested by Suffolk Wildlife Trust to reflect the NPPF's stance on enhance the natural and local environment.

## Whatfield Neighbourhood Plan

### Key stages and dates:

- Area Designation: 18 July 2018
- Regulation 14 Pre-submission consultation: 5 August to 7 October 2020 (carried out by the Parish Council).
- Regulation 16 Submission Draft consultation: 18 January to 5 March 2021 (carried out by the District Council). Representations were received from seventeen organisations / individuals.

Title	Location
Submission draft Plan	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-Sub-Draft-Dec20.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-Sub-Draft-Dec20.pdf</a>
Written Rep's (Nb: Large file)	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-R16-Reps.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-R16-Reps.pdf</a>
Parish Council Response	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-R16-Reps-Response.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-R16-Reps-Response.pdf</a>

- Publication of Independent Examiners Report prepared by Janet Cheesley BA (Hons) DipTP MRTPI: 27 April 2021

Title	Location
Examiners Final Report	<a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-Examiner-Report.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Whatfield-NP-Examiner-Report.pdf</a>

### Summary of main modifications to the Whatfield Neighbourhood Plan:

- The Examiner notes that the Plan does not allocate specific sites for new development, but that it seeks to define environmental and physical criteria against which applications for new housing development of single dwellings or groups up to five dwellings will be judged.
- Of the six Plan policies, one requires no modification (WHAT2), and three others (WHAT4, WHAT5 and WHAT6) only required limited modifications to improve clarity.
- In policy WHAT1 (Landscape Setting and Natural Features) modifications are made to remove the repetition of landscape policy wording and to remove the condition that where loss or damage to natural features is unavoidable, the benefits of the development proposal must be demonstrated clearly to outweigh any impacts – the Examiner explaining this test is only relevant for development on land within or outside a Site of Special Scientific Interest.
- In policy WHAT3 (Local Green Spaces) a modification is made to remove the paragraph that relates to development on these local green spaces only being permitted in special circumstances. The approach taken is consistent with how this Examiner is treating local green spaces policies in other neighbourhood plans.