

## RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

### **PART 1 – PUBLIC DOCUMENT**

#### **SERVICE DIRECTORATE: Regulatory Services**

##### **1. DECISION TAKEN**

To publish the proposed submission version of the Ashwell Neighbourhood Plan 2021 – 2031 and supporting documentation for public consultation.

##### **2. DECISION TAKER**

Ian Fullstone, Director of Regulatory Services

##### **3. DATE DECISION TAKEN:**

18 February 2021

##### **4. REASON FOR DECISION**

- 4.1 To enable public consultation on the proposed submission Ashwell Neighbourhood Plan 2021 – 2031 before the neighbourhood plan is submitted for examination by an independent examiner.

##### **5. ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 No alternative options are considered applicable as the documentation submitted by Ashwell Parish Council fulfils the requirements of the Neighbourhood Planning (General) Regulations 2012 as amended and therefore there is no reason not to continue to public consultation.

##### **6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)**

- 6.1. The Ashwell neighbourhood planning area was designated by Cabinet on 25 March 2014. The Parish Council has previously published two draft neighbourhood plan documents for consultation. The first version in 2018 included policies to allocate land for limited development. The Parish Council decided not to pursue these allocations through a neighbourhood plan and published a revised draft neighbourhood plan for public consultation in July and August 2020.
- 6.2. Following these consultations, the Parish Council has prepared the submission version of their neighbourhood plan which they are requesting be published for public consultation. This will include all statutory consultees, councillors, adjoining Parish Councils, local community organisations, known landowners and developers and local residents. Consultation will start in the week ending 5 March 2021 for a period of six weeks.
- 6.3. The neighbourhood plan will be available to view on the Council's website and the Council will work with Ashwell Parish Council to publicise the consultation period through the use of social media in the Parish. Representations in respect of the neighbourhood plan will be invited through the website, email or by post.

## **7. FORWARD PLAN**

- 7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. The Neighbourhood Planning (General) Regulations 2012 as amended set out the documentation which must accompany a proposed plan. This includes:
- A map or statement identifying the area to which the neighbourhood plan relates;
  - A consultation statement;
  - The proposed neighbourhood plan;
  - A “basic conditions” statement; and
  - Either a screening opinion confirming that the plan proposal is unlikely to have significant environmental effects; or an environmental report in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004.
- 8.2. The Neighbourhood Planning (General) Regulations 2012 state that as soon as possible after receiving a plan proposal which includes each of those documents, the local planning authority must undertake a consultation on that plan.
- 8.3. The documentation submitted by Ashwell Parish Council fulfils the requirements of the Neighbourhood Planning (General) Regulations 2012 as amended and therefore there is no reason for the Council as Local Planning Authority not to continue to public consultation.
- 8.4. This decision does not preclude the Council from making representations on the Ashwell Neighbourhood Plan during the consultation period.

## **9. LEGAL IMPLICATIONS**

- 9.1. Under the Terms of Reference for Cabinet paragraph 5.6.18 of the Constitution states that the Cabinet may exercise the Authority’s functions as Local Planning Authority (LPA) and to receive reports on: strategic planning matters, applications for, approval/designation, consultation/referendums revocations (or recommend revocation of) neighbourhood plans Article 4 Directions and orders, (except to the extent that those functions are by law the responsibility of the Council or delegated to the Service Director: Regulatory).
- 9.2. Authority for the Director of Regulatory Services to approve for consultation a proposed submission neighbourhood plan where all necessary documentation has been received was resolved by Cabinet on 31 July 2018.
- 9.3. Paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 provides that when assessing the neighbourhood plan the LPA must consider whether the Parish Council or neighbourhood forum is authorised to act.
- 9.4. Sections 38 A and B of the Planning and Compulsory Purchase Act 2004 further provides that when assessing the neighbourhood plan the LPA must consider whether the proposal and accompanying documents:
- comply with the rules for submission to the LPA;
  - meet the definition of NDP;
  - meet the scope of NDP provisions; and
  - whether the parish council or neighbourhood forum has undertaken the correct procedures in relation to consultation and publicity.
- 9.5. Regulation 16 of The Neighbourhood Planning (General) Regulations 2012 provides the LPA must publicise the plan proposal on its website and include:

- the details of the Plan;
  - where and when it can be inspected;
  - how to make representations on the plan proposals;
  - that a representation can include a request to be notified of the LPA decision on the plan proposal, and
  - the deadline for receipt of the proposals (this must be not less than 6 weeks from the first day the proposed plan is publicised).
- 9.6. During the period between the date on which the Notice of Election is published 29 March and polling day there are restrictions that apply to the way in which the Council operates, including use of Council resources and to the publicity which it can issue, and taking 'sensitive'/ controversial decisions. PERP is sometimes also referred to under the old terminology of purdah, but the two terms have the same meaning. PERP runs from **29 March** until **6 May 2021** (polling day) inclusive of both dates.
- 9.7. The main statutory provision is Section 2 of the Local Government Act 1986 which prohibits the Council from issuing any material which wholly or in part appears to support a political party. The guiding principle is whether a proposed course of action may cause the Council to be perceived as favouring a particular political party or candidate in the elections
- 9.8. The Council's business should continue as normal during PERP subject to the guiding principle and a number of restrictions for example the Council should not commence any consultations during PERP unless they are unavoidable or required by law, in which case they should be presented neutrally and not associated with any political party or candidate. Although the consultation will commence before the PERP it will end during PERP. As stated in paragraph 8.2 above the local planning authority must undertake a consultation on a neighbourhood plan as soon as possible after receiving a plan proposal that meets the requirements of the 2012 Regulations.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 There is £4,800 in the Neighbourhood plan consultants budget in 2020/21 to fund the consultation. If the costs of consultation is more than £4,800, then the additional cost will come from the Neighbourhood Planning reserve. The balance of the reserve is £78k, this balance has come from previous Ministry of Housing, Communities and Local Government (MHCLG) funding following designation of neighbourhood planning areas and neighbourhood plan referenda.

## **11. RISK IMPLICATIONS**

- 11.1. Public consultation of the Ashwell Neighbourhood Plan and any subsequent examination of the neighbourhood plan must be undertaken in accordance with the Localism Act, 2011 and the Neighbourhood Planning (General) Regulations 2012 (as amended). Failure to undertake such a consultation without a legal basis could expose the Council to possible claims and MHCLG intervention.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. The proposed consultation will allow for increased public participation regarding the neighbourhood plan from the community which may include those with a protected characteristic.

**13. SOCIAL VALUE IMPLICATIONS**

13.1 The Social Value Act and “go local” policy do not apply to this decision.

**14. ENVIRONMENTAL IMPLICATIONS**

14.1. There are no known environmental impacts or requirements that apply to this report.

14.2. The District Council, as the “responsible authority”, determines if the neighbourhood plan is likely to have significant environmental effects. A Screening Determination was prepared in 2019 and revised following significant revisions to the draft neighbourhood plan and further consultation with the three statutory agencies in June 2020. It was determined that the neighbourhood plan would not require a Strategic Environmental Assessment.

**15. HUMAN RESOURCE IMPLICATIONS**

15.1. Consultation for the submission draft of the Ashwell Neighbourhood Plan will be undertaken by existing staff resources.

**16. BACKGROUND PAPERS**

[Designation of the Ashwell neighbourhood planning area: Cabinet 25 March 2014 – Minute 127](#)

The following documents are all available on the website: <https://www.north-herts.gov.uk/home/planning/planning-policy/neighbourhood-planning/approved-neighbourhood-areas-ashwell>

Ashwell Neighbourhood Plan – 1<sup>st</sup> Pre-submission consultation draft – September 2018

Ashwell Neighbourhood Plan – 2<sup>nd</sup> Pre-submission consultation draft – July 2020

Ashwell Neighbourhood Plan – Proposed Submission Draft 2021

Ashwell Neighbourhood Plan – Basic Conditions Statement 2021


Ashwell Neighbourhood Plan – Consultation Statement 2021

**17. NOTIFICATION DATE**

**XX** February 2021

Signature of Executive Member Consulted .....  .....

Date ...18 February 2021.....

Signature of Decision Taker  
.....  .....

**Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.**

**Call-in does not apply to NON-EXECUTIVE DECISIONS**