

Wards Affected:

Olney

ITEM 6

CABINET

11 JULY 2017

MAKING THE OLNEY NEIGHBOURHOOD PLAN

Responsible Cabinet Member: Councillor Gifford, Cabinet Member for Place

Report Sponsor: Anna Rose, Service Director: Growth, Economy and Culture, 01908 252492

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Executive Summary:

In the event of a 'Yes' vote in the Olney Neighbourhood Plan Referendum on 6 July, the report seeks Cabinet's agreement to recommend to Council that it makes (brings into legal force) the Olney Neighbourhood Plan. The referendum will ask those voting whether they want Milton Keynes Council to use the Olney Neighbourhood Plan when deciding planning applications in the neighbourhood area. If the vote is 'Yes', the Council would be obliged to make the Plan.

1. Recommendation(s)

1.1 Either:

Recommendation A. In the event of a 'Yes' vote in the Olney Neighbourhood Plan Referendum, the Cabinet recommends to Council that it makes the Olney Neighbourhood Plan pursuant to the provisions of Section 38(A)(4) of the Planning and Compulsory Purchase Act 2004, and that:

- i. A decision document (Annex A) setting out the results of the referendum and the Council's decision to make the plan, and the Olney Neighbourhood Plan (at Annex B) be published on the Council's website and in other means, to bring them to the attention of people who live, work or carry out business in the neighbourhood area; and
- ii. the decision document and details on how to view the plan be sent to the qualifying body (Olney Town Council) and any person who asked to be notified of the decision.

OR

Recommendation B. In the event of a 'No' vote in the Olney Neighbourhood Plan Referendum, that:

- i. A decision document (Annex A) setting out the results of the referendum and the Olney Neighbourhood Plan (at Annex B) be published on the Council's website and in other means, to bring them to the attention of people who live, work or carry out business in the neighbourhood area; and

- ii. the decision document and details on how to view the plan be sent to the qualifying body (Olney Town Council) and any person who asked to be notified of the decision.

2. **Issues**

- 2.1 The Olney Neighbourhood Plan was submitted to the Council for examination and was subsequently publicised for a six-week period, ending on 8 March 2017. All comments received were then passed to the Examiner, Mr John Slater, who submitted his report on the Plan in April 2017 which stated that the plan met relevant basic conditions and requirements, subject to modifications, and should proceed to referendum.
- 2.2 On 11 May 2017, the Service Director for Growth, Economy and Culture made the decision to accept the Examiner's report and the modifications that the examiner had recommended be made to the Neighbourhood Plan in order to ensure its compliance with the basic conditions. It was also agreed that the Plan, as modified, should proceed to a referendum of those residents eligible to vote within the neighbourhood plan area (being the Town Council area) of Olney.
- 2.3 Under the requirements of the Neighbourhood Planning (Referendums) Regulations 2012 (as amended), the Council is obliged to hold a referendum on a neighbourhood plan within 56 days of issuing its decision on the Examiner's report and modifications. The referendum on the Olney Neighbourhood Plan was therefore scheduled for 6 July 2017 to keep within the 56-day time limit whilst allowing sufficient time after the General Election for satisfactory arrangements to be made.
- 2.4 In the event of a 'Yes' vote, the Council would be obliged under national legislation¹ to pass a resolution within eight weeks of the day after the referendum to 'make' the neighbourhood plan (i.e. by 1 September). Considering this, and the scheduling of Cabinet and Council meetings over the summer, it was therefore necessary to issue this report for the 11 July meeting Cabinet ahead of knowing the result of the referendum in order to take any necessary recommendation to the Council meeting scheduled for 19 July 2017.
- 2.5 Once a neighbourhood plan has successfully passed all the stages of preparation, including an Examination and Referendum, it is made by the local planning authority and forms part of that authority's Development Plan, meaning that it will be a material consideration when deciding development proposals within the area covered by the Plan.
- 2.6 As with any planning decision there is a risk of legal challenge, but that risk has and is being managed by ensuring that the regulations are followed and that the Council's decision making process is clear and transparent.

¹ The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 and section 38(A)(4) of the Planning and Compulsory Purchase Act 2004

3. **Options**

- 3.1 In the event of a 'Yes' vote in the referendum, the Council is obliged to proceed to make the Plan as outlined above. Therefore, there are no options available other than for Cabinet to recommend to the Council to make the Olney Neighbourhood Plan, and for Council to implement that recommendation, so that the Olney Neighbourhood Plan becomes part of the Milton Keynes Development Plan. The only exception to this is where the Council considers the plan would breach, or otherwise be incompatible with, any EU obligation or any of the convention Rights. That is not the case here.
- 3.2 In the event of a 'No' vote in the referendum, then no further action is required of the Council in regards to the Neighbourhood Plan other than to publicise the result. Olney Town Council, as the qualifying body responsible for the preparing the plan, would then need to consider its next steps.

4. **Implications**

4.1 Policy

- 4.2 The National Planning Policy Framework sets out that Neighbourhood Plans must be in general conformity with the strategic policies of the development plan. Neighbourhood Plans should reflect these policies, and neighbourhoods should plan positively to support them. Neighbourhood Plans and Development Orders should not promote less development than is set out in the Local Plan, or undermine its strategic policies. In Milton Keynes, the strategic policies are set out in the adopted Milton Keynes Local Plan and Core Strategy.

Once a Neighbourhood Plan has successfully passed all of the stages of preparation, including an examination and referendum, it is made by the local planning authority and forms part of the authority's Development Plan, meaning it will be a material consideration when considering development proposals in the Neighbourhood Plan area. In terms of the planning policy hierarchy, a Neighbourhood Plan, once adopted, carries more weight than a Supplementary Planning Document.

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 which came into force on 1 October 2016 require local planning authorities to make a plan that has been supported at referendum within eight weeks of the day after the referendum. Should there be a 'Yes' vote in the Plan referendum, a decision to make the Plan by Council on 19 July 2017 would will meet that timescale.

4.3 Resources and Risk

- 4.4 The Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations") placed new duties on local planning authorities in relation to Neighbourhood Planning. These new duties have considerable implications for Council resources. In recognition of the additional burdens that these new duties place on local planning authorities, DCLG now makes extra burden funding of £20,000 available to local

authorities, which can be claimed once a date for a referendum has been set following a successful examination. This is a reduction of £10,000 per plan from that which has been available in previous years. Further duties and deadlines for decisions have been imposed through the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, as a result of the 2016 Housing and Planning Act.

- 4.5 Publicity and officer support costs associated with making Neighbourhood Plans is met within the Development Plans budget and staff resources to implement the Plan come from the existing staff within the Development Plans and Development Management teams.
- 4.6 An internal audit of the Neighbourhood Plans service carried out in 2015 has shown that that the additional costs incurred delivering the service were only just covered by the extra burdens funding.

N	Capital	Y	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

4.7 Carbon and Energy Management

4.8 The proposal does not impact on carbon and energy management.

4.9 Legal

4.10 Neighbourhood planning is part of the Government’s initiative to empower local communities to take forward planning proposals at a local level, as outlined in Section 116 of the Localism Act, 2011. The Act and the subsequent regulations confer specific functions on local planning authorities in relation to neighbourhood planning and lay down the steps that must be followed in relation to Neighbourhood Planning.

4.11 The Olney Neighbourhood Plan has been consulted on and subjected to a referendum in accordance with the 2012 Regulations (as amended).

4.12 As with any planning decision, there is a risk of legal challenge to the plan and/or judicial review of the Council’s decision to proceed with the referendum and the making of the Plan, if there is a ‘Yes’ vote in the referendum.

4.13 Risk has been managed by ensuring that the relevant regulations are followed and that the Council’s decision making process is clear and transparent. Once a Neighbourhood Plan is made it becomes part of the Statutory Development Plan the Local Planning Authority is obliged to consider proposals for development against the policies in the Plan.

4.14 In accordance with Section 61E(4) of the Town and Country Planning Act, as modified by the Localism Act 2011, the Council must, as soon as possible after deciding to make a neighbourhood development plan:

- a. publish on the website and in such other manner as is likely to bring the Plan to the attention of people who live, work or carry on business in the neighbourhood area:

- i. the decision document,
 - ii. details of where and when the decision document may be inspected;
- b. send a copy of the decision document to:
- i. the qualifying body and
 - ii. any person who asked to be notified of the decision.

4.15 Other Implications

4.16 The Olney Neighbourhood Plan has been tested against and found to meet a number of basic conditions. Two of the basic conditions are the requirements for the plans to:

- Contribute to the achievement of sustainable development
- Not breach and otherwise be compatible with EU obligations (including Human Rights, the Strategic Environmental Assessment Directive and the Habitats Directive)

4.17 The Examiner’s report has confirmed that the Plan meets those Basic Conditions and officers are satisfied that there are no conflicts with these aspects.

4.18 The consultations on the draft plan carried out by the Town Council and then the publicity on the submitted plan carried out by Milton Keynes Council have helped to raise awareness of its preparation and have allowed community engagement and participation in the process. .

N	Equalities/Diversity	Y	Sustainability	Y	Human Rights
N	E-Government	n	Stakeholders	N	Crime and Disorder

Annex A Decision document for making the Olney Neighbourhood Plan

Annex B Olney Neighbourhood Plan (<https://www.milton-keynes.gov.uk/planning-and-building/planning-policy/olney-neighbourhood-plan>)

Background Papers:

The Localism Act, 2011

The Neighbourhood Planning (General) Regulations 2012

The Housing and Planning Act, 2016

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016