



Council

Thursday, 5 December 2024

Tollerton Neighbourhood Plan

Report of the Director – Development and Economic Growth

Cabinet Portfolio Holder for Planning and Housing – Councillor R Upton

1. Purpose of report

The Examiner's report for the Tollerton Neighbourhood Plan was considered by Cabinet in September 2024, when it was decided to accept all but three of the recommended modifications to the Plan. The decision not to accept three of the modifications has been subject to consultation, which finished on 27 October 2024. Council now needs to decide, taking into account the consultation responses received, whether to approve the holding of a referendum and to agree that, subject to a majority referendum result, the Borough Council should 'make' (adopt) the Neighbourhood Plan.

2. Recommendation

It is RECOMMENDED that Council:

- a) confirms the decision not to accept the Examiner's recommended modifications 5, 6 and 20 to the Tollerton Neighbourhood Plan;
- b) approves the Tollerton Neighbourhood Plan Revised Decision Statement and its publication;
- c) approves the holding of a referendum for the Tollerton Neighbourhood Plan, with the area for the referendum being the Parish of Tollerton;
- d) delegates authority to the Director – Development and Economic Growth to make any necessary final minor textual, graphical and presentational changes required to the referendum version of the Tollerton Parish Neighbourhood Plan;
- e) subject to a majority vote from the referendum, the Council 'makes' (adopts) the Tollerton Neighbourhood Plan; and
- f) delegates authority to the Director – Development and Economic Growth to issue a statement setting out this decision as soon as possible following the referendum.

3. Reasons for Recommendation

- 3.1. The Borough Council, as the Local Planning Authority, has a statutory duty to assist in the production of Neighbourhood Plans where communities wish to produce them under the Localism Act 2011.
- 3.2. The submitted Tollerton Neighbourhood Plan has been assessed by an Independent Examiner who concluded that, subject to a number of recommended modifications, the Plan should proceed to referendum.
- 3.3. The Cabinet in September 2024 considered each of the recommended modifications and decided to accept them all with the exception of modification 5, modification 6 and modification 20. These recommended modifications were the inclusion of a new policy explaining the relationship between the Tollerton Neighbourhood Plan and the references to the Strategic Allocation East of Gamston/North of Tollerton in the Local Plan Part 1, the inclusion of a new policy to explain the continued relevance of the Green Belt policies and the merging of Policy 8: Local Character, Policy 9: Heritage Assets and Policy 10: Landscape Character into one new policy.
- 3.4. In accordance with relevant statutory requirements, the Borough Council has consulted on the proposed decision not to accept these three modifications. In total, five representations have been received, and these are summarised at Appendix 1. The four representations from Historic England, National Highways, the Environment Agency and the Coal Authority make no further comments on the Tollerton Neighbourhood Plan. The representation from Vistry Group supports the modified iteration of the Tollerton Neighbourhood Plan.
- 3.5. The Council must now decide, taking into account the consultation responses received, whether the decision not to accept the three modifications should be confirmed and the Plan should be put to referendum in the Parish of Tollerton to determine if local people support it.
- 3.6. The purpose of the referendum will be to ask voters whether the Neighbourhood Plan should be used to help decide planning applications in Tollerton Parish. If there is a majority vote in favour of this proposal then the Borough Council would be required, subject to certain prescribed criteria, to make the Neighbourhood Plan part of the statutory Development Plan.

4. Supporting Information

- 4.1. The Tollerton Neighbourhood Plan has been produced by Tollerton Parish Council, in conjunction with the local community. It was submitted to Rushcliffe Borough Council on the 14 June 2023 and contains a number of policies, which would form part of the statutory Development Plan and be applied by the Borough Council in determining planning applications. The Borough Council is required by the Localism Act 2011 to assess whether the Plan and its policies meet certain criteria (the 'Basic Conditions' and other legal requirements).

- 4.2. In order to assist in this process, the Borough Council was required to invite representations on the Plan and appoint an Independent Examiner to review whether the Plan meets the Basic Conditions and other legal requirements. The submitted Plan was publicised and representations were invited from the public and other stakeholders, with the six-week period for representations closing on 9 October 2023. The Plan has been assessed by an Independent Examiner and his report was published on 17 January 2024. He concluded that, subject to the implementation of the modifications set out in his report, the Plan meets the prescribed Basic Conditions and other statutory requirements and that the Plan should proceed to referendum. The Examiner's report is available at Appendix 2.
- 4.3. The Cabinet, on 10 September 2024, considered each of the recommended modifications and decided to accept them all with the exception of modification 5, modification 6 and modification 20. It was considered that these three modifications are unnecessary to meet the Basic Conditions. It was decided that all other recommended modifications meet the Basic Conditions and other regulatory requirements.
- 4.4. In accordance with relevant statutory requirements, the Borough Council was required to consult on the proposed decision not to accept three of the recommended modifications. In total, five representations have been received, and these are summarised at Appendix 1. No issues were raised to alter the Borough Council's position that the Examiner's recommended modifications 5, 6 and 20 are unnecessary to meet the Basic Conditions. It is therefore considered that the final decision should be not to accept these three modifications. This would mean that the Plan is now in a position to proceed to referendum to determine whether local people support the Plan and whether it should become part of the statutory Development Plan.
- 4.5. As agreed by Cabinet in September 2024, it is proposed that the referendum version of the Plan will include all the other modifications recommended by the Examiner. A revised Decision Statement, which reflects the decisions already taken at Cabinet in September 2024 and the recommendation not to accept modification 5, 6 and 20, is set out at Appendix 3. The proposed referendum version of the Tollerton Neighbourhood Plan, which includes the accepted modifications, is at Appendix 4.
- 4.6. The Borough Council is also required to consider whether the area for the referendum should be extended beyond the designated neighbourhood area (the Parish of Tollerton). It is the Examiner's recommendation that the referendum area should not be extended, based on the conclusion that the Plan, incorporating the recommended modifications, would contain no policies or proposals that are significant enough to have an impact beyond the designated Neighbourhood Plan boundary. It was previously reported to Cabinet in September 2024 that this recommendation is considered reasonable and should be accepted.
- 4.7. The referendum would follow a similar format to an election. All electors registered to vote and eligible to vote in Local Government elections within the

neighbourhood area (the Parish of Tollerton) would be given the opportunity to vote in the referendum. In accordance with regulatory requirements, the ballot paper would have the following question: 'Do you want Rushcliffe Borough Council to use the Neighbourhood Plan for Tollerton to help it decide planning applications in the neighbourhood area?' Voters would be given the opportunity to vote 'yes' or 'no'.

- 4.8. If more than 50% of those voting in the referendum vote 'yes', then the Borough Council is required to 'make' (adopt) the Neighbourhood Plan part of the Development Plan for Rushcliffe. If the result of the Referendum is 'no', then nothing further happens. The Parish Council would then have to decide what it wishes to do.
- 4.9. If the Neighbourhood Plan is made part of the Development Plan, then planning applications within the parish would have to be determined in accordance with both the Rushcliffe Local Plan and the Tollerton Neighbourhood Plan, unless material considerations indicate otherwise.

5. Alternative options considered and reasons for rejection

- 5.1. It could be decided that, following the consultation, the Examiner's recommended modifications 5, 6 and 20 should also be accepted and that the Plan should proceed to referendum on this basis. However, the outcome of the consultation is that no issues have been raised that might alter the Borough Council's position that the Examiner's recommended modifications 5, 6 and 20 are unnecessary to meet the Basic Conditions.
- 5.2. It is a legal requirement under section 61E(4)(b) of the Town and Country Planning Act 1990 (as amended) that if more than half of those voting in the referendum vote in favour of the Neighbourhood Plan then the Borough Council must make it part of the statutory Development Plan for Rushcliffe. To not follow these legislative requirements could leave the Borough Council open to legal challenge.

6. Risks and Uncertainties

- 6.1. To not follow the legislation and regulations correctly could lead the Borough Council open to legal challenge. The circumstances whereby a legal challenge, through a claim for judicial review, can be raised are set out in the Town and Country Planning Act 1990, section 61N.
- 6.2. There is a risk of legal challenge to the Council's decision and this would be at a cost not budgeted for.

7. Implications

7.1. Financial Implications

Once it has been decided a referendum can be held, then £20,000 can be claimed from the Ministry of Housing, Communities, and Local Government

once the date for referendum has been set. This financial support ensures that local planning authorities receive sufficient funding to enable them to meet their legislative duties in respect of neighbourhood planning. These duties include provision of advice and assistance, holding the examination and making arrangements for the referendum. Costs incurred to date on examiner fees (approximately £4,000) will be covered by the £20,000 payment as would the costs associated with the referendum.

7.2. Legal Implications

The Neighbourhood Plan, as proposed to be amended, is considered to meet the Basic Conditions which are set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). This is the view taken by the Examiner, as set out in their report. It is also considered that the Neighbourhood Plan meets all the relevant legal and procedural requirements. To not comply with the legislation and regulations correctly would expose the Borough Council to legal challenge. The circumstances whereby a legal challenge, through a claim for judicial review, can be raised are set out in the Town and Country Planning Act 1990, section 61N.

7.3. Equalities Implications

There are considered to be no particular equality implications that need addressing from matters arising from this report.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no direct crime and disorder implications arising from matters covered in this report.

7.5 Biodiversity Net Gain Implications

There are no direct biodiversity implications arising from matters covered in this report.

8. Link to Corporate Priorities

The Environment	The Neighbourhood Plan's environmental objective supports and protects green and open spaces in Tollerton, preserving wildlife and enhancing biodiversity and safeguarding the character and beauty of the countryside.
Quality of Life	The Neighbourhood Plan's vision seeks to sustain Tollerton's rural character and improve the quality of the environment for residents and ensures new development respects the heritage of the village.
Efficient Services	The Neighbourhood Plan seeks to retain local services and facilities and protect valued community assets.

Sustainable Growth	The Neighbourhood Plan seeks to ensure housing development reflects local needs and acknowledges the village as a working community, with a strong focus on good design of new development.
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9. Recommendation

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- f) delegates authority to the Director – Development and Economic Growth to issue a statement setting out this decision as soon as possible following the referendum.

For more information contact:	Richard Mapletoft Planning Policy Manager Tel: 0115 9148457 rmapletoft@rushcliffe.gov.uk
Background papers available for Inspection:	Electronic copies of the documents relating to the draft Tollerton Parish Neighbourhood Plan and its examination can be found at: https://www.rushcliffe.gov.uk/planning-growth/planning-policy/neighbourhood-planning/#Tollerton
List of appendices:	Appendix 1: Summary of representations on the proposed decision not to accept the Examiner's recommended modifications 5, 6 and 20 Appendix 2: Examiner's Report on Tollerton Neighbourhood Plan 2016-2030 Appendix 3: Tollerton Neighbourhood Plan Revised Decision Statement Appendix 4: Tollerton Neighbourhood Plan Referendum Version

Appendix 1: Summary of representations on the proposed decision not to accept the Examiner's recommended modifications 5, 6 and 20

Summary of representations on the proposed decision not to accept the Examiner's recommended modifications 5, 6 and 20

Respondent	Summary of Response
Historic England	Historic England did not wish to make any comments.
National Highways	National Highways stated that none of the modifications, including 5, 6 and 20, adversely impacted the safe operation of the Strategic Road Network. Therefore, National Highways had no further comments to make.
Environment Agency	The Environment Agency confirmed it had no formal comments to make on the decision to not accept modifications 5, 6 and 20. As the modifications did not fall within the direct remit of the Environment Agency, it confirmed that it had no further comments to make.
Coal Authority	The Coal Authority stated that the Tollerton Neighbourhood Plan Area does not contain any recorded coal mining features. Therefore, the Coal Authority had no specific comments to make on the decision statement.
Vistry Group	<p>Vistry Group welcomed the modification to refer to the strategic allocation in the Tollerton Neighbourhood Plan as 'East of Gamston/North of Tollerton'. It acknowledged the requirement to maintain a green buffer between Tollerton and the strategic allocation 'East of Gamston/North of Tollerton'.</p> <p>Overall, Vistry Group supported the modified iteration of the Tollerton Neighbourhood Plan and stated that it considers the Neighbourhood Plan to comply with the basic conditions.</p> <p>Vistry Group stated that it supports the intention of the Parish to proceed to a referendum to determine whether the Neighbourhood Plan should be adopted.</p>