



**Council**

**Thursday, 19 September 2019**

**Gotham Neighbourhood Plan**

## **Report of the Executive Manager - Communities**

### **1. Purpose of report**

- 1.1. Council to agree, subject to a positive referendum result, the Gotham Neighbourhood Plan should form part of Council's the development plan.

### **2. Recommendation**

It is RECOMMENDED that:

- a) Council approves the Decision Statement on the Gotham Neighbourhood Plan for publication.
- b) Council approves the holding of a referendum for the Gotham Neighbourhood Plan, with the area of the referendum being the Parish of Gotham.
- c) Subject to a majority vote from the referendum, the Council 'makes' (adopts) the Neighbourhood Plan and authority be delegated to the Executive Manager – Communities 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 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 Gotham Neighbourhood Plan has been produced by Gotham Parish Council, in conjunction with the local community. The plan contains a number of policies to assist the Borough Council determine planning applications. The plan was submitted to the Borough Council on 29 June 2018. The Borough Council is required by the Localism Act to assess whether the plan meets certain criteria (the 'Basic Conditions' and legal requirements). In order to assist in this process, the Borough Council is required to invite representations on the plan and appoint an independent Examiner to review whether the plan meets the Basic Conditions and legal requirements.
- 3.3. The submitted Plan was publicised and representations were invited from the public and other stakeholders, with the period for representations closing on

the 4 January 2019. The Plan was assessed by an independent Examiner. On 31 July, the Examiner reported to the Council that, subject to the modifications proposed in his report, the plan should proceed to referendum (see Appendix 1).

- 3.4. The legislation sets out that the Borough Council must consider each of the recommendations made by the Examiner, including the reasons for them, and decide what action to take in response to each recommendation. Appendix 2 contains the Borough Council's Decision Statement in respect of each of the Examiner's recommendations. Appendix 3 contains the final version of the Gotham Neighbourhood Plan. The plan now has to be put to referendum in Gotham Parish to determine if local people support it.

#### **4. Supporting Information**

- 4.1. Gotham was designated as a Neighbourhood Area by the Borough Council on the 6 April 2017. The Neighbourhood Area designation has enabled Gotham Parish Council to produce a Neighbourhood Plan for the parish. The plan has been prepared with substantial input from the local community, as evidenced in the statement of consultation that was produced on behalf of the Parish and submitted with the plan for examination.
- 4.2. The final draft version of the Gotham Neighbourhood Plan was submitted to the Borough Council on 29 June 2018. Following legal compliance checks and amendments to the Strategic Environmental Assessment Screening Report, a seven week period of public consultation on the plan was held by the Borough Council between 16 November 2018 and 4 January 2019.
- 4.3. The Borough Council appointed Robert Yuille of Intelligent Plans to undertake an independent examination of the plan. All the representations received on the submission version of the plan were forwarded to him for consideration, together with the Statement of Consultation. The Statement of Consultation contained comments received during earlier rounds of consultation and responses by the Parish Council.
- 4.4. Based upon the comments received during consultation on the submitted plan the Examiner decided that a public hearing was required to examine further whether proposed local green spaces and the recommended allocations met the Basic Conditions. This hearing took place on the 13 June 2019 at the Gotham Memorial Hall.
- 4.5. It is the role of the Examiner to consider whether a neighbourhood plan meets the Basic Conditions. In order to do this 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 of the development plan for the area; and

- be compatible with European Union obligations and, not breach, nor be in anyway incompatible with the European Convention on Human rights.
- 4.6. The Examiner's report into the plan was received by the Borough Council on 31 July 2019. This report states that, subject to the modifications recommended, the plan should proceed to referendum. A copy of the Examiner's Report can be found in Appendix 1.
  - 4.7. The Borough Council is required to produce a Decision Statement in relation to whether it accepts the recommendations of the Examiner. This Decision Statement can be found in Appendix 2. Whilst this decision should ordinarily be made within 5 weeks of receipt of the Examiner's Report (4 September 2019), as approval to proceed to referendum and adoption must be agreed by the Council, Gotham Parish Council has agreed that the Decision Statement deadline can be extended to the date of this Council meeting.
  - 4.8. The Decision Statement accepts all of the Examiner's recommendations, and considers that, subject to making those recommended modifications, the plan should proceed to referendum.
  - 4.9. 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 Gotham). 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 which are significant enough to have an impact beyond the designated neighbourhood plan boundary.
  - 4.10. Under the Neighbourhood Planning Referendum Regulations, the date for holding the referendum has to be no later than 56 working days after the publication of the decision statement, unless otherwise agreed with the Parish Council. This would place a referendum date no later than Monday 9 December 2019.
  - 4.11. The referendum will follow a similar format to an election. All electors registered to vote and eligible to vote in local government elections within the Neighbourhood Area will be given the opportunity to vote in the referendum and will be sent polling cards, setting out their polling method. Electors will be issued with a ballot paper with the question *'Do you want Rushcliffe Borough Council to use the Neighbourhood Plan for Gotham to help it decide planning applications in the neighbourhood area?'* Residents will be given the opportunity to vote 'yes' or 'no'. If more than 50% of those voting in the referendum vote 'yes' then the Borough Council, as Local Planning Authority, is required to adopt the plan as 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.
  - 4.12. If the Neighbourhood Plan is made part of the development plan then planning applications within the parish would then have to be determined in accordance

with both the Rushcliffe Local Plan and the Gotham Neighbourhood Plan, unless material considerations indicate otherwise

## **5. Alternative options considered and reasons for rejection**

- 5.1. If the Borough Council disagrees with the Examiner's Report, it may decide that the neighbourhood plan should not go to referendum. The reasons for this decision should be set out in the Decision Statement and published. This would prompt a further 6 weeks of consultation and a re-examination. Any decision to diverge from the recommendations of the Examiner could, if requested by the Parish Council, also result in the Secretary of State intervening.
- 5.2. The Borough Council has been involved in the plan making process from an early stage. The Borough Council agreed a Statement of Common Ground and worked with the Parish Council to establish agreement on the proposed modifications during the examination process (the Examiner has accepted these as modifications in his report). Given these agreements, it is considered that the neighbourhood plan, as proposed to be amended, meets the Basic Conditions and must proceed with the referendum.

## **6. Risks and Uncertainties**

- 6.1. Not following 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.

## **7. Implications**

### **7.1. Financial Implications**

£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.

### **7.2. Legal Implications**

The Neighbourhood Plan, as proposed to be amended, is considered to meet the Basic Conditions which are set out in law following the Localism Act (see Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990). This has been confirmed in the Examiner's report. It is also considered that the Neighbourhood Plan meets all the relevant legal and procedural requirements.

### 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 community safety implications arising from matters covered in this report.

## 8. Link to Corporate Priorities

- 8.1. The adoption of the Gotham Neighbourhood Plan will help support the delivery economic growth to ensure a sustainable, prosperous and thriving local economy; and maintain and enhance our residents' quality of life through the delivery and management of sustainable development in the parish.

## 9. Recommendations

It is RECOMMENDED that:

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- c) Subject to a majority vote from the referendum, the Council 'makes' (adopts) the Neighbourhood Plan and authority be delegated to the Executive Manager – Communities to issue a statement setting out this decision as soon as possible following the referendum.

<b>For more information contact:</b>	Richard Mapletoft Planning Policy Manager Tel: 0115 9148457 <a href="mailto:rmapletoft@rushcliffe.gov.uk">rmapletoft@rushcliffe.gov.uk</a>
<b>Background papers available for inspection:</b>	Electronic copies of the documents relating to the submitted Gotham Neighbourhood Plan and its examination can be found at: <a href="http://www.rushcliffe.gov.uk/planningpolicy/neighbourhoodplanning/">http://www.rushcliffe.gov.uk/planningpolicy/neighbourhoodplanning/</a>
<b>List of appendices:</b>	Appendix 1: Examiner's 'Report of on Gotham Neighbourhood Plan 2017 – 2028'  Appendix 2: Rushcliffe Borough Council 'Decision Statement on the Gotham Neighbourhood Plan'

	Appendix 3: Illustration of Proposed Modifications to the Gotham Neighbourhood Plan 2017 – 2028
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