



Council

Thursday, 5 December 2019

Upper Broughton Neighbourhood Plan

Report of the Executive Manager – Communities

Portfolio Holder for Housing Councillor Roger Upton

1. Purpose of report

- 1.1. It was decided at Cabinet on 12 November 2019 that a referendum for the Upper Broughton Neighbourhood Plan should be held. The referendum will be held early next year on a date to be determined. The decision that has to be made is whether, subject to the result of the referendum in favour of using the Neighbourhood Plan, the Borough Council should 'make' (adopt) the Neighbourhood Plan.

2. Recommendation

It is RECOMMENDED that, subject to a majority vote on the referendum:

- a) the Council 'makes' (adopts) the Neighbourhood Plan; and
- b) 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.
- 3.1. It was decided at Cabinet on 12 November 2019 that, in accordance with relevant regulations, a referendum should be held for the Upper Broughton Neighbourhood Plan. Cabinet was the decision taker in this instance because the decision as to whether or not the Plan should proceed to referendum had, in accordance with regulatory requirements, to be taken within five weeks of receiving the report of the Neighbourhood Plan Examiner on 14 October 2019.
- 3.2. The purpose of the referendum will be to ask voters whether the Neighbourhood Plan should be used to help decide planning applications in Upper Broughton 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 Upper Broughton Neighbourhood Plan has been produced by Upper Broughton Parish Council, in conjunction with the local community. It was submitted to the Borough Council in March 2019 and contains a number of policies which would form part of the statutory development plan and be applied in the determination of planning applications. The Borough Council was required by legislation to assess whether the Plan and its policies met 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 period for representations closing on 7 June 2019. The Plan has been assessed by an independent Examiner and, on 14 October 2019, he published his report which concluded that, subject to the modifications proposed in his report, the Plan should proceed to referendum. The Examiner's report is available as a background document.
- 4.3. The Examiner's report was considered by Cabinet on 12 November 2019. Cabinet decided that the Plan, incorporating the Examiner's recommended modifications, meets the 'Basic Conditions' and other regulatory requirements and therefore that a referendum should be held to determine whether residents of Upper Broughton parish support the Plan and whether it should become part of the statutory development plan. The Plan, incorporating the Examiner's recommended modifications, and a decision statement, which was published by the Borough Council following Cabinet's decision for a referendum to take place, are both available as background documents.
- 4.4. The referendum will be held early next year on a date to be determined. It 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 (the parish of Upper Broughton) will 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 Upper Broughton to help it decide planning applications in the neighbourhood area?'* Voters would be given the opportunity to vote 'yes' or 'no'.
- 4.5. If more than 50% of those voting in the referendum vote 'yes', then the Borough Council is required to make the Neighbourhood Plan part of the statutory development plan for Rushcliffe, subject to certain prescribed criteria. A statement setting out this decision would need to be published by the Council following the referendum. 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.

- 4.6. If the Neighbourhood Plan is made part of the development plan then planning applications would then have to be determined in accordance with both the Rushcliffe Local Plan and the Upper Broughton Neighbourhood Plan, unless material considerations indicate otherwise.

5. Alternative options considered and reasons for rejection

- 5.1. 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 would lead the Borough Council open to legal challenge.

6. Risks and Uncertainties

- 6.1. To not follow 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. Implications

7.1. Financial Implications

- 7.1.1 Once the date for the referendum is set, £20,000 can be claimed from the Ministry of Housing, Communities, and Local Government. 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

- 7.2.1 The Neighbourhood Plan, as proposed, is considered to meet the Basic Conditions which are set out in law at Schedule 4B of the Town and Country Planning Act 1990 (as amended). This is the view taken by the Examiner, as confirmed in his report. It is also considered that the Neighbourhood Plan meets all of 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

7.3.1 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

7.4.1 There are no direct community safety implications arising from matters covered in this report.

8. Link to Corporate Priorities

Quality of Life	The Neighbourhood Plan's vision seeks ensure that future development makes the parish a stronger more vibrant community with enhanced environmental impact and better provision of economic, whilst maintaining the 'special feel' of a characterful, small semi-rural village.
Efficient Services	A key part of the Neighbourhood Plan's vision is the retention of local services and facilities.
Sustainable Growth	The adoption of the Neighbourhood Plan will help support the Borough Council's corporate priority for sustainable growth, including supporting others to deliver what our community needs to grow in a sustainable way.
The Environment	The Neighbourhood Plan includes a number of policies aimed at protecting the environment from inappropriate development.

9. Recommendations

It is RECOMMENDED that, subject to a majority vote on the referendum:

- a) the Council 'makes' (adopts) the Neighbourhood Plan; and
- b) authority be delegated to the Executive Manager – Communities 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:	<p>Electronic copies of the documents relating to the draft Upper Broughton Neighbourhood Plan and its examination can be found at: https://www.rushcliffe.gov.uk/planningpolicy/neighbourhoodplanning/#d.en.42681</p> <p>Examiner's Report for the Upper Broughton Neighbourhood Development Plan https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/upperbroughton/Upper%20Broughton%20NP%20Report%20Final%20141019.pdf</p> <p>Upper Broughton Neighbourhood Plan Decision Statement, 13 November 2019 https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/upperbroughton/Decision%20Statement.pdf</p> <p>Appendix 3 (Illustration of Proposed Modifications to the Upper Broughton Neighbourhood Plan 2011 – 2028) to the Upper Broughton Neighbourhood Plan Cabinet Report, 12 November 2019: https://democracy.rushcliffe.gov.uk/documents/s5894/Enc.%203%20for%20Upper%20Broughton.pdf</p>
List of appendices:	None.