



Cabinet

Tuesday, 11 January 2022

Hickling Parish Neighbourhood Plan

Report of the Director – Development and Economic Growth

Cabinet Portfolio Holder for Business and Growth, Councillor A Edyvean

1. Purpose of report

The Examiner's report for the Hickling Parish Neighbourhood Plan was considered by Cabinet in October 2021, and it was decided to accept all but two of his recommended modifications to the Plan. The decision not to accept two of the modifications has been subject to consultation, which finished on 9 December 2021. It now needs to be decided whether, taking into account the consultation responses received, the Plan is able to proceed to a referendum of eligible voters in the Parish of Hickling.

2. Recommendation

It is RECOMMENDED that Cabinet:

- a) confirms the decision not to accept the Examiner's recommended modifications 09 and 10 to the Hickling Parish Neighbourhood Plan;
- b) approves the Hickling Parish Neighbourhood Plan Revised Decision Statement and its publication;
- c) approves the holding of a referendum for the Hickling Parish Neighbourhood Plan, with the area for the referendum being the Parish of Hickling; and
- 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 Hickling Parish Neighbourhood Plan.

3. Reasons for Recommendation

- 3.1. The submitted Hickling Parish 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. The Cabinet in October 2021 considered each of the recommended modifications and decided to accept them all with the exception of modification 09, which relates to Policy H11 (The Wharf), and modification 10, which would be a consequential amendment to Policy 10 (Housing Provision).

- 3.2. In accordance with relevant statutory requirements, the Borough Council has consulted on the proposed decision not to accept these two modifications. In total, five representations have been received. It now has to be decided, taking into account the consultation responses received, whether the decision not to accept the two modifications should be confirmed and the Plan should be put to referendum in the Parish of Hickling to determine if local people support it.

4. Supporting Information

- 4.1. The Hickling Parish Neighbourhood Plan has been produced by Hickling Parish Council, in conjunction with the local community. It was submitted to the Borough Council on 11 February 2021 and contains a number of policies which would form part of the statutory Development Plan and be applied to the determination of planning applications. The Borough Council is required by the Localism Act to assess whether the Plan and its policies meet certain criteria (the 'Basic Conditions' and other 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 other legal requirements.
- 4.2. The submitted Plan was publicised and representations were invited from the public and other stakeholders, with the period for representations closing on 3 May 2021. The Plan has been assessed by an independent Examiner and his report was published on 10 July 2021. It was his conclusion that, subject to a number of recommended modifications, the Plan should proceed to referendum.
- 4.3. The Cabinet, in October 2021, considered each of the recommended modifications and decided to accept them all with the exception of modification 09, which relates to Policy H11 (The Wharf), and modification 10, which would be a consequential amendment to Policy 10 (Housing Provision). It was considered that these two modifications are not necessary to meet the Basic Conditions and would make both policies less clear than the versions included within the submission draft of the Plan. The Council's decision in respect of each of the Examiner's recommended modifications, including the proposal not to accept modifications 09 and 10, and the reason for each decision, was set out in the Hickling Parish Neighbourhood Plan Decision Statement dated 12 October 2021.
- 4.4. In accordance with relevant statutory requirements, the Borough Council was required to consult on the proposed decision not to accept modifications 09 and 10. The consultation was undertaken over a six-week period ending on 9 December 2021. In total, five representations have been received and these are summarised at Appendix 1. The three representations from Historic England, The Coal Authority and Natural England do not raise matters directly relevant to the two modifications. The two representations from local residents are supportive of the proposed decision not to accept the two modifications.
- 4.5. 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 09 and 10 are unnecessary to meet the Basic Conditions and would make the policies less clear. It is therefore considered that the final decision should be not to accept these two 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.

- 4.6. As agreed by Cabinet in October 2021, the referendum version of the Plan will include all the other modifications recommended by the Examiner. A draft revised Decision Statement, which reflects the decisions already taken at Cabinet in October 2021 and the latest recommendation not to accept modifications 09 and 10, is set out at Appendix 2.
- 4.7. 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 Hickling). 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 October 2021 that this recommendation is considered reasonable and should be accepted.
- 4.8. 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 Hickling) 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 Hickling to help it decide planning applications in the neighbourhood area?' Voters would be given the opportunity to vote 'yes' or 'no'.
- 4.9. 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.
- 4.10. 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 Hickling Parish Neighbourhood Plan, unless material considerations indicate otherwise.

5. Alternative options considered and reasons for rejection

It could be decided that, following the consultation, the Examiner's recommended modifications 09 and 10 should also be accepted and that 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 09 and 10

are unnecessary to meet the Basic Conditions and would make the policies less clear.

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 his 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.

8. Link to Corporate Priorities

Quality of Life	The Neighbourhood Plan's vision seeks to sustain Hickling'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 farming roots, with a strong focus on good design of new development.
The Environment	The Neighbourhood Plan's environmental objective supports and protects green and open spaces in Hickling, preserving wildlife and enhancing biodiversity and safeguarding the character and beauty of the countryside.

9. Recommendation

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- 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 Hickling Parish Neighbourhood Plan.

For more information contact:	Richard Mapletoft Planning Policy Manager 0115 914 8457 rmapletoft@rushcliffe.gov.uk
Background papers available for Inspection:	Hickling Parish Neighbourhood Plan Submission Draft 2011 – 2028 www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/hickling/1.%20Submission%20Plan.pdf Hickling Parish Neighbourhood Plan Decision Statement, 12 October 2021

	www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/hickling/Decision%20Statement%2012%20October2021.pdf
List of appendices:	<p>Appendix 1 Summary of representations on the proposed decision not to accept the Examiner's recommended modifications 09 and 10</p> <p>Appendix 2: Draft Hickling Parish Neighbourhood Plan – Revised Decision Statement, 11 January 2022</p>

Appendix 1: Summary of representations on the proposed decision not to accept the Examiner's recommended modifications 09 and 10

Summary of representations on proposed decision not to accept the Examiner's recommended modifications 09 and 10

Respondent	Summary of response
Historic England	<p>Historic England identifies that the area covered by the Neighbourhood Plan includes a number of important designated heritage assets. It advises that, in line with national planning policy, it will be important that the strategy for this area safeguards those elements which contribute to the significance of these assets so that they can be enjoyed by future generations of the area.</p> <p>Historic England advises where further advice can be obtained in this respect. It does not make any specific comments in respect of the proposal not to accept the Examiner's recommend modifications 09 and 10.</p>
The Coal Authority	<p>It has confirmed that it has no specific comments to make on the consultation.</p>
Natural England	<p>Natural England refers to its standard advice in respect of the production of neighbourhood plans. It does not make any specific comments in respect of the proposal not to accept the Examiner's recommend modifications 09 and 10.</p>
M and C Samworth	<p>The decision not to adopt modification 10 as part of the Hickling Neighbourhood Plan is strongly supported.</p> <p>They are of the view that to accept the modification would be to set Policy H11 (The Wharf) against other policies in the Plan, particularly H1 (Countryside), H2 (Important Local Views), H7 (Open Green Spaces) and H10 (Housing) which balance the desire for development with the protection of the village's heritage and social assets.</p> <p>It is also their view that extending the redevelopment footprint of the current Faulks site beyond the Limits to Development (Map 8) would harm the character of the Conservation Area and adversely affect the setting of important listed buildings and other heritage assets.</p> <p>They refer to the Local Planning Authority's Conservation Officer's response to 21/00047/OUT, an application to extend the site outside the Limits To Development. It is their view that the response made the above views quite clear, and community feedback has been consistently in step with this position through surveys and consultations around the Neighbourhood Plan and specific planning application consultations.</p>

Respondent	Summary of response
	<p>They also refer to the current replacement application (21/02922/OUT) for the site which is under consultation and delivers the same housing development without extending beyond the Limits To Development. It is their view that the Local Planning Authority is correct in rejecting modification 10 which, at its heart, allows a developer to argue that a development is not financially viable. They believe that 21/02922/OUT shows that development is viable on the site without extending into open countryside.</p> <p>Overall, they believe that the Examiner's proposed modification 10 disregards the harm that development beyond the Limits To Development at Faulks would do, and we support the LPA in not accepting it.</p>
P and A Playle	<p>They strongly support the decision not to adopt Modification 10 as part of the Hickling Neighbourhood Plan.</p> <p>They are of the view that to accept the modification would be to set Policy H11 (The Wharf) against other policies in the Plan, particularly H1 (Countryside), H2 (Important Local Views, H7 (Open Green Spaces) and H10 (Housing) which are designed to balance the desire for development with protection of the village's heritage and social assets.</p> <p>It is also their view that extending the redevelopment footprint of the current Faulks site beyond the Limits to Development (Map 8) would seriously jeopardise this aim and adversely affect the setting of important listed buildings and other heritage assets.</p> <p>They refer to the Local Planning Authority's Conservation Officer's response to 21/00047/OUT, an application to extend the site outside the Limits to Development, and make the point that it was in agreement with the above, and additionally community feedback, through surveys and responses to specific planning applications, has also supported this view.</p> <p>They make the point that it is significant that there is a current replacement application (21/02922/OUT) for the site which is under consultation, which aims to deliver the same housing development without extending beyond the Limits to Development. They believe this gives credence to the Local Planning Authority in rejecting</p>

Respondent	Summary of response
	modification 10, which essentially allows a developer to argue that a development is not financially viable. It is their view that clearly application 21/02922/OUT shows that the development is viable on the site without encroaching onto open countryside.