



Council

Thursday, 3 March 2022

Hickling Parish Neighbourhood Plan

Report of the Director – Development and Economic Growth

Portfolio Holder for Business and Growth, Councillor A Edyvean

1. Purpose of report

It was decided at Cabinet on 11 January 2022, that a referendum for the Hickling Parish Neighbourhood Plan should be held. The referendum will be held on Thursday, 3 March 2022. The decision which 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 in the referendum:

- a) the Council 'makes' (adopts) the Hickling Parish Neighbourhood Plan; and
- b) authority be delegated 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 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. It was decided at Cabinet on 11 January 2022, that, in accordance with relevant regulations, a referendum should be held for the Hickling Parish Neighbourhood Plan. The purpose of the referendum will be to ask voters whether the Neighbourhood Plan should be used to help decide planning applications in Hickling 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 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 by the Borough Council in determining 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).

- 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 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. The Examiner's report is available as a background document.
- 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 unnecessary to meet the Basic Conditions and would make both policies less clear than the versions included within the submission draft of the Plan. 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 two of the recommended modifications. The consultation was undertaken over a six-week period ending on 9 December 2021, and no issues were raised to 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.
- 4.5. It was subsequently agreed by Cabinet on 11 January 2022, that the Plan was in a position to proceed to referendum in order to determine whether residents of Hickling Parish support the Plan and it should become part of the statutory development plan. The Plan, incorporating those modifications recommended by the Examiner, which have been accepted by the Council, and a revised 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.
- 4.6. The referendum will be held on Thursday, 3 March 2022. 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 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 will be given the opportunity to vote 'yes' or 'no'.

- 4.7. 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.
- 4.8. 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 Hickling Parish Neighbourhood Plan unless material considerations indicate otherwise.

5. Alternative options considered and reasons for rejection

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 lead the Borough Council open to legal challenge.

6. Risks and Uncertainties

- 6.1. To not follow the legislation and regulations correctly could leave 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

The decision taken by Cabinet for a referendum to be held means that £20,000 can be claimed from the Department for Levelling Up, Housing and Communities. 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 will 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

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

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- b) authority be delegated 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:	<p>Electronic copies of the documents relating to the draft Hickling Parish Neighbourhood Plan and its examination can be found at: https://www.rushcliffe.gov.uk/planningpolicy/neighbourhoodplanning/#d.en.44486</p> <p>Examiner’s Report on Hickling Parish Neighbourhood Plan: https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/hickling/Hickling%20NP%20examiner's%20final%20report%20jul%2021.pdf</p> <p>Hickling Parish Neighbourhood Plan Revised Decision Statement, 11 January 2022 https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/hickling/Revised%20Decision%20Statement%2011%20Jan%202022.pdf</p> <p>Hickling Parish Neighbourhood Plan Referendum Draft 2022-2038, January 2022: https://www.rushcliffe.gov.uk/media/1rushcliffe/media/documents/pdf/planningandbuilding/neighbourhoodplans/hickling/Hickling%20Neighbourhood%20Plan%20-%20Referendum%20Plan%20draft.pdf</p>
List of appendices:	None.