

Record of Decision taken by Executive Councillor

Decision title: The West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan (The Plan), as amended, meets the Basic Conditions, is compatible with European obligations and will progression to referendum.

Executive Councillor making the decision: Councillor Mike Rigby

Author Contact Details: Ann Rhodes

Date of Decision: 24 August 2022

Details of decision:

In accordance with Regulation 18 of The Neighbourhood Planning (General) Regulations 2012 Somerset West and Taunton Council (SWT), as the Local Planning Authority (LPA), is required to consider the examiners recommendations, and outline what action is to be taken in response under paragraph 10 of Schedule 4a to the Town and Country Planning Act 1990 (as applied by Section 38A of the Planning and Compulsory Purchase Act 2004). SWT is required to set out if the Plan meets the basic conditions and is compatible with European obligations and to progress to referendum.

The Neighbourhood Area of West Monkton and Cheddon Fitzpaine has a Made Neighbourhood Development Plan. The Parish Councils of West Monkton and Cheddon Fitzpaine reviewed that document and submitted a revised Plan to SWT in October 2021. It was subject to consultation under Regulation 16 of The Neighbourhood Planning (General) Regulations 2012. An Independent Examiner was appointed to review The Plan under Regulation 17.

The Plan included modifications that were deemed to be significant or substantial that they change the nature of the original neighbourhood development plan. This required Examination and Referendum.

Having considered the recommendations made in the [Examiner's Report](#), and the reasons for them, SWT accepts those modifications made to the draft West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan (the Plan) make it legally compliant. The Plan, as amended, meets the Basic Conditions and is compatible with European obligations. The Council has also agreed that the modified Plan should proceed to referendum. See [General Information with regard to TCPA and Referendum](#) (appended to this decision).

The West Monkton and Cheddon Fitzpaine Parish Councils are qualifying bodies.

That the modified Plan, as published for the referendum:

The Plan complies with the provision concerning neighbourhood development plans made by or under Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011):

relates to the development and use of land;

date for the period for which it is to have effect it is clearly indicated;

does not include excluded development;

relates to the designated Neighbourhood Plan Area.

The Plan meets all the Basic Conditions (as set out in Schedule 4B to the Town & Country planning Act 1990):

has regard to national policies and advice contained in guidance issued by the Secretary of State;

contributes to achieving sustainable development;

is in general conformity with strategic policies in the TDBC development plan;

is compatible with EU Obligations and does not breach European Convention Rights;

prescribed conditions are met, and prescribed matters have been complied with;

making of the Plan does not breach Conservation and Habitat Regulations.

On this basis the Plan can progress to referendum and the referendum area should not extend beyond the Neighbourhood Plan Area to which the Plan relates [the Parishes of West Monkton & Cheddon Fitzpaine minus the Staplegrove urban extension].

The question to be asked in the referendum is “Do you want Somerset West and Taunton Council to use the Neighbourhood Plan for West Monkton & Cheddon Fitzpaine to help it decide planning applications in the neighbourhood area?”

Details regarding the compliance of the document are set out in the [Compliance with the Basic Conditions](#) and [General Information with regard to TCPA and Referendum](#) (appended to this decision)

Reasons for proposed decision:

To comply with the statutory requirements in relation to Neighbourhood Planning.

Having considered the matters raised through the submission consultation, and the Independent Examiners report, the modified Plan is compliant with the legislation and therefore can progress to referendum.

Reasons are set out in the [Compliance with the Basic Conditions](#) and [General Information with regard to TCPA and Referendum](#)

Alternative options considered and rejected:

Not accepting the Independent Examiners report and publishing reasons and seeking further Independent Examination.

The below has been completed:	Name(s)	Date
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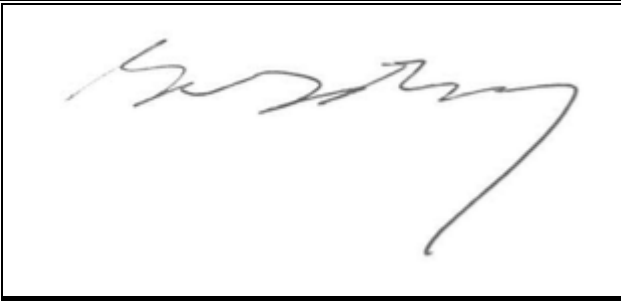
Relevant ward councillor(s) consulted	Cllr Norman Cavill	21 July 2022
West Monkton & Cheddon Fitzpaine Ward	Cllr Andy Pritchard	21 July 2022
	Cllr Ray Tully	21 July 2022
The following are if appropriate / applicable: Yes/No. If yes the implications should be attached to this decision notice.		
Finance implications	Yes – see attached	
Unitary Council and S24 Direction Implications (Contracts and Land Disposals)	N/A	
Legal implications	Yes – see attached	
Links to corporate aims	Yes – see attached	
Climate and Sustainability implications	Yes – see attached	
Community Safety implications	N/A	
Equalities Impact	N/A	
Safeguarding Implications	N/A	
Risk management	Yes – see attached	
Partnership implications	N/A	

Any conflicts of interest declared by Leader or Executive Members consulted on the proposed decision. If Yes provide confirmation from Chief Executive to grant dispensation for the Leader's / Executive Member's views to be considered.

Decision Maker

I am aware of the details of this decision(s), considered the reasons, options, representations and consultation responses and give my approval / agreement to its implementation.

Signed:

A handwritten signature in black ink, appearing to read 'Mike Rigby', is contained within a rectangular box.

Name: Cllr Mike Rigby
Date: 24 August 2022

Note – This decision record is for decisions taken by Executive Councillors. The decision(s) can be implemented following publication and the period for any call-in has expired.

Note: *A copy should also be sent to the Governance Team:*

Notes accompanying the Record of Decision taken by Executive Councillor regarding the West Monkton & Cheddon Fitzpaine Neighbourhood Development Plan (The Plan).

The Town and Country Planning Act 1990; The Planning and Compulsory Purchase Act 2004; The Neighbourhood Planning Act 2017; The Neighbourhood Planning (General) Regulations 2012 and Amendments of 2015; The Neighbourhood Planning (Referendum) Regulations 2012 and Amendments of 2013 and 2016; The Neighbourhood Planning (Prescribed Dates) Regulations 2012; The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 are applicable to the Local Planning Authorities (LPA's) decision with regard to Neighbourhood Development Plans.

The Local Planning Authority (LPA) is required to publish the Independent Examiners (IE's) Report, within a reasonable timeframe of receiving it.

The LPA must consider the IE's report and decide whether, with modifications, The Plan meets the Basic Conditions, is compatible with European Obligations and whether a referendum should be held within five weeks of the date SWT receives the report. If the decision differs from that recommended by the IE, representations should be sought during a six week consultation period and then subsequent decision published within five weeks.

Having considered the IE's report SWT states that:

A modified Plan complies with the provision concerning neighbourhood development plans made by or under Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011):

- relates to the development and use of land;
- date for the period for which it is to have effect it is clearly indicated;
- does not include excluded development;
- relates to the designated Neighbourhood Plan Area.

A modified Plan meets all the Basic Conditions (as set out in Schedule 4B to the Town & Country planning Act 1990):

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to achieving sustainable development;

- is in general conformity with strategic policies in the TDBC development plan;
- is compatible with EU Obligations and does not breach European Convention Rights;
- prescribed conditions are met, and prescribed matters have been complied with;
- making of the Plan does not breach Conservation and Habitat Regulations.

Further details are set out in the [Compliance with the Basic Conditions](#) and [General Information with regard to TCPA and Referendum](#) (attached)

Policies in the Plan are so significant or substantial as to change the nature of the neighbourhood development plan. It should therefore be subject to referendum. There is no requirement to extend the referendum area beyond the designated neighbourhood area for the purpose of holding the referendum.

In parished areas the Local Authority must hold a referendum within 56 working days of the decision on The Plan.

The modified Neighbourhood Development Plan, associated documentation, details of the referendum and where these items can be inspected must be published 28 working days before the referendum, and person(s) notified.

If the majority of those who vote in the referendum are in favour of the NDP then it must be made by the LPA within 8 weeks.

Financial Implications

The referendum for the WM&CF NDPR will be organised by Somerset West and Taunton Council (SWT) Electoral Services.

SWT is currently in receipt of Neighbourhood Planning Grant from Government which it is expected will cover the expenditure associated with Independent Examination, publication of the Independent Examiners Report, the LPA's decision on it, the Referendum and associated documents. The grant for a Plan referendum is £20,000.

A Parish with an adopted Neighbourhood Development Plan receives 25% of CIL receipts.

Legal Implications

SWT is required to progress the Plan to referendum if it considers that as amended it meets the legal criteria. To not do so risks the intervention of the Secretary of State and any costs incurred by the Department for Levelling Up, Housing and Communities for that intervention are required to be met by SWT.

SWT has concluded that the WM&CF NDPR, subject to recommendations, meets the legal tests and should be subject to referendum.

Links to corporate aims

The WM&CF NDPR meets the following Corporate Strategy 2020-2024 Objectives:

Out Environment and Economy Objectives

1. Work towards making our District carbon neutral by 2030...

2. Shape and protect our built and natural environment...
3. Encourage wealth creation and economic growth throughout the District...
4. Improve recycling rates and reduce the amount of waste material that is not recycled...
5. Provide and maintain green open spaces and parks, enhanced public spaces, as well as additional opportunities to safely walk or cycle in order to encourage active and healthy lifestyles

Homes and Communities Objectives

1. Increase the number of affordable and social homes...
6. Support the delivery of strong sustainable transport infrastructure links...

Climate and Sustainability implications:

The WM&CF NDP was subject of a Strategic Environmental Assessment (SEA) Screening, Scoping and Environmental Report which included consultation with the Statutory Consultees (Environment Agency, Natural England and Historic England) and the general public. The Report concluded negligible and positive residual impacts on the SEA Objective and that it is unlikely that the Plan will lead to any environmental effects.

Habitat Regulations Assessment Screening and Appropriate Assessment which included consultation with the Statutory Consultees and general public. The AA concluded that the Review Plan would have no adverse impact on the integrity of any European site, either alone or in combination, the agreement of the statutory consultees and taking into account the nature and characteristics of the European sites and the nature and contents of this Review Plan.

The WM&CF NDP has policies supporting and promoting: efficiency and climate resilience; recycling; sustainable transport, including walking and cycling; strategic flood works; effective water management and sustainable urban drainage; recreation and community facilities; Local Green Spaces; biodiversity; trees and hedgerows.

Risk management

Description	Likelihood	Impact	Overall
<p>Risk: If SWT does not agree with an IE's recommendation(s) it must set out its reasons and consult on those, seek further Independent Examination. The Secretary of State may intervene on behalf of the Qualifying Body in this instance and make a ruling on the NDP's progression to referendum, with any associated costs paid by SWT. However, the IE report is legally compliant, Officers recommend accepting the IE's recommendations which make the NDP compliant with statute, and the QB accept the IE's recommendations.</p>	Unlikely (2)	Minor (2)	Low (4)

Ann Rhodes
Senior Planning Policy Officer
24 August 2022

Appendix - General Information with regard to TCPA and Referendum