

<b>Committee:</b>	Cabinet	<b>Date:</b>
<b>Title:</b>	Newport Quendon & Rickling NP - Decision Statement	Tuesday, 24 November 2020
<b>Portfolio Holder:</b>	Cllr John Evans, Portfolio Holder for Planning and the Local Plan	
<b>Report Author:</b>	Demetria Macdonald <a href="mailto:dmacdonald@uttlesford.gov.uk">dmacdonald@uttlesford.gov.uk</a>	<b>Key decision:</b> Yes

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## Summary

1. The Newport Quendon & Rickling Neighbourhood Plan (NQRNP) has been successful at examination, with the Examiner Report (see [Appendix 1](#)) recommending that the Plan should proceed to Referendum, subject to a number of recommended modifications.
2. It is proposed to modify the NQRNP (see [Appendix 2](#)), in part to accord with the Examiner's recommendations but also to incorporate alternative and additional modifications in agreement with the Qualifying Body (Newport and Quendon & Rickling Parish Councils). If it is published, subject to a seven - week consultation period in line with Regulation 17A of the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulation 2016, and no substantive objections are lodged to the modifications proposed, it can then proceed to referendum.

## Recommendations

3. That Cabinet approves the changes proposed in [Appendix 3](#) of this report, and that the submitted Newport Quendon & Rickling Neighbourhood Plan:
  - a) be modified as set out in Appendix 3, subject to a seven-week consultation period in line with Regulation 17A of the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016;
  - b) that the Plan is progressed to Referendum covering the area of Newport, Quendon and Rickling Parishes subject to no substantive objections being lodged to the modifications proposed; and
  - c) That authority to be delegated to Director of Public Services, in consultation with the Planning Portfolio Holder, to consider responses to consultation on the proposed decision relating to the departures from the Examiner's recommendations, and to determine the final changes to be made to the neighbourhood plan before it proceeds to the referendum.

## Financial Implications

4. The final cost for the Newport Quendon & Rickling Parish NDP Examination is **£13,961.82**. The cost of officer time supporting the Neighbourhood Plan comes from existing budgets. The referendum will initially be funded by Uttlesford District Council. After the referendum UDC will be able to claim **£20,000** funding from MHCLG which will cover the cost of the examination and the referendum.

## Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

6. None

## Impact

- 7.

Communication/Consultation	The plan has undergone significant community involvement in its preparation. The recommendation involves a further round of consultation before the modified plan is put to referendum.
Community Safety	The Plan should have a generally positive effect on health, safety and wellbeing through its objectives and policies.
Equalities	The Plan covers the Newport and Quendon & Rickling Parish areas and its aim is to meet the needs of all the community. This matter has been considered by the Examiner and he has considered this Basic Condition and concludes that the NDP does not breach and is otherwise compatible with EU obligations and human rights requirements.
Health and Safety	The Plan requires that new developments are safe in terms of location, access and supervision.
Human Rights/Legal Implications	This matter has been considered by the Examiner and he has considered this Basic Condition and concludes that the NDP does not breach and is otherwise compatible with EU obligations and human rights requirements.

Sustainability	The Plan has to contribute to sustainable development through its objectives and policies.
Ward-specific impacts	Newport Quendon & Rickling
Workforce/Workplace	None

## Situation

8. Uttlesford District Council has a duty to support communities who are preparing neighbourhood plans. The 2012 Regulations detail the Council's responsibilities. The Neighbourhood Development Plan (NDP) has been independently examined and found to meet the Basic Conditions subject to the recommended modifications. The Examiner has recommended that the NDP should proceed to Referendum covering the Newport and Quendon & Rickling Parish areas.

The proposed modifications to the Plan have addressed issues raised by the Examiner relating to meeting the Basic Conditions. They also address representations considered by the Examiner. Minor Additional modifications and one alternative modification to those recommended by the Examiner are proposed.

9. The additional modifications relate to text that needs changing to be consistent with the modifications made by the Examiner or as a consequence of the withdrawn Local Plan which was emerging at the time of the NDP preparation and Examination. Other minor additional modifications have been proposed by the Neighbourhood Steering Group and Officers to pick up additional changes necessitated by the Examiner's modifications and to reflect changes since the examination. These are shown in Appendix 3 and reasons provided for those modifications alongside them.
10. Modifications to a plan that do not accord with recommendations of an Examiner are rare and not a decision to be taken lightly, however it is considered that the modifications proposed by the Examiner in relation to Policy NQRHA1 Coherence of Villages criterion (5) small scale infill would create confusion for applicants and would result in a policy that is not clear and introduces a level of ambiguity, this is would not meet the basic conditions and would be contrary to paragraph 41-041-20140306 of the PPG. This criterion as modified by the examiner would read "Small scale infill development within or immediately adjoining significant existing clusters of development;". The lack of clarity and ambiguity does not relate to the examiner's modification but to the fact that infill development is described as 'within or immediately adjoining existing clusters of development'. 'Infill' in the Adopted Local Plan paragraph 6.13 states that "Infilling with new houses will be permitted **within** settlements subject to safeguards." By also referencing 'adjoining land' the draft policy as worded would not be in accord with the Local Plan paragraph 6.14 which states that "However, if there are opportunities for sensitive **infilling of small gaps in small groups of houses outside development limits.**" By also referencing 'adjoining

land' the draft policy as worded is not clear and is ambiguous. This lack of clarity would mean that the policy would not be capable of being applied consistently and clearly when determining planning applications. The alternative modifications proposed in [Appendix 4](#) have been prepared consultation with the NDP Steering Group. It is considered that the amendments proposed would still enable the NDP to meet the Basic Conditions under which it was examined.

11. Having considered each of the recommendations made in the Examiner's report and the reasons for them, the Council, with the support of the Qualifying Body (Newport Parish Council and Quendon & Rickling Parish Council), has decided to accept the majority of modifications to the draft Plan. However, there is fundamental disagreement with modifications relating to Policy NQRHA1 Coherence of Villages criterion (b) in the Examiner's recommendations. For this reason, headings of proposed alternative and additional modifications are shown headings in bold print. The Table in Appendix 3 and Appendix 4 outlines the alterations made to the draft Plan under paragraph 12(6) of Schedule 4B to the 1990 Act (as applied by Section 38A of 2004 Act) in response to each of the Examiner's recommendations and the justification for this. Both appendices also include some further modifications agreed by the Council with the consent of the Qualifying Body (Newport and Quendon & Rickling Parish Councils).
12. The Neighbourhood Planning (General) Regulations 2012 (as amended) requires the local planning authority to outline what action to take in response to the recommendations of an Examiner made in a report under paragraph 10 of Schedule 4A to the 1990 Act (as applied by Section 38A of the 2004 Act) in relation to a Neighbourhood Plan. The Regulations require that where the Council disagrees with the Examiner's report it shall re-consult, and this provision is engaged in this instance.
13. Alternative modifications may be made where necessary and they must be subject to six weeks' consultation before a decision can be made to subject the Plan to referendum. This will allow the matters subject to alternative modification to be tested and any concerns about the modification to be expressed before a decision is taken.
14. The Neighbourhood Planning (General) Regulations 2012 (as amended) requires in Regulation 18 for the local planning authority to outline what action to take in response to the recommendations of an Examiner made in a report under paragraph 10 of Schedule 4A to the 1990 Act (as applied by Section 38A of the 2004 Act) in relation to a Neighbourhood Plan. The Regulations provide that where the Council disagrees with the Examiner's report to re-consult and this provision is engaged in this instance.

A decision on the recommendations in this report will be the Council's decision on how to incorporate the Examiner's recommendations. The power to decide whether the Examiner's amendments are incorporated or not, lies with the Local Planning Authority. However, the Examiner's report has been discussed in detail with the NDP Steering Group and the proposed amendments to the plan in response to the Examiner's report have been developed with the Group's involvement.

## Risk Analysis

17.

Risk	Likelihood	Impact	Mitigating actions
3 – The Council does not follow the regulations set out in Neighbourhood Plan legislation and opens itself to legal challenge.	2 - Officers are satisfied that the plan as modified meets the Basic Conditions.	4- Neighbourhood Plan will not be made or can be quashed on a successful legal challenge.	1- Publication of all modifications and consultation on whether the Neighbourhood Plan Regulations have been followed.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.