

Committee: Council **Date:** Tuesday,
6 December 2022

Title: Ashdon Neighbourhood Plan – Decision to Make Plan

Portfolio Holder: Councillor John Evans,
Portfolio Holder for Planning, Stansted Airport, Infrastructure Strategy and the Local Plan

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Summary

1. The Localism Act 2011 introduced a right for communities to draw up neighbourhood plans. Ashdon Parish Council, with support and advice from the District Council, has produced a neighbourhood which has subsequently undergone a successful independent examination and Referendum. This report considers whether the Ashdon Neighbourhood Plan should be **made** (the Neighbourhood Plan legislation's term for adopted) by Uttlesford District Council as part of the statutory Development Plan.
2. A neighbourhood plan once "made," forms part of the statutory development Plan and sits alongside the Uttlesford Local Plan Adopted 2005. Should planning permission be sought in areas covered by the adopted Ashdon Neighbourhood Plan, the application must be determined in accordance with both the neighbourhood plan and Local Plan unless material considerations indicate otherwise.

Recommendations

3. To recommend to Council that the Ashdon Neighbourhood Plan (**Appendix 1**) be formally **made** as part of the statutory development plan for the District.

Financial Implications

4. The examination cost £5,060.16 and the Referendum cost £5,009.72 which will both be initially funded by Uttlesford District Council. The Council will be able to claim up to £20,000 from the Department for Levelling Up, Housing and Communities (DLUHC) which will cover some of the cost of the examination and 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.

None.

Impact

- 6.

Communication/Consultation	The plan has undergone significant community involvement in its preparation.
Community Safety	The plan deals with community safety and will have a generally positive effect on residents' health and wellbeing through its objectives and policies.
Equalities	The Plan aims to meet the needs of all residents in the Parish. The Examiner considered this Basic Condition and concluded that the Plan does not breach and is otherwise compatible with EU (European Union) obligations and human rights requirements.
Health and Safety	The Plan and policies promote the health and well-being of the residents.
Human Rights/Legal Implications	This matter has been considered by the Examiner under Basic Conditions and concluded that the NDP (Neighbourhood Development Plan) does not breach and is otherwise compatible with EU obligations and human rights requirements.
Sustainability	The plan deals with sustainability of the parish and the Examiner confirmed the sustainability of this Plan.
Ward-specific impacts	Ashdon
Workforce/Workplace	None

Situation

7. The parish of Ashdon was designated as a neighbourhood plan area on 01 May 2019. The Neighbourhood Plan Group gathered evidence and undertook significant consultation. Pre-Submission consultation under Regulation 14 was undertaken from 17 September 2021 – 31 October 2021. The Public Consultation (Regulation 16) was undertaken by the Council from 14 April 2022 to 30 May 2022.
8. The Ashdon Neighbourhood Plan was submitted for Examination on 01 June 2022. The examination was conducted via written representations as the Examiner decided that a public hearing would not be required.
9. The Examiner's Report, detailing recommendations was received on 13 July 2022.
10. On 01 September 2022 Cabinet having considered each of the recommendations made by the Examiner resolved that the Ashdon Neighbourhood Plan be modified as set out in the Examiner's Report and progress to Referendum.
11. A referendum was held in Ashdon Parish on Thursday 20 October 2022 posing the following question to eligible voters:
 - *“Do you want Uttlesford District Council to use the neighbourhood plan for Ashdon to help it decide planning applications in the neighbourhood area?”*
12. 29.6% of registered electors recorded votes, 209 votes were cast of which 184 or **88.0%** were in favour of 'Yes' and 25 or 11.9% votes in favour of 'No.' It was therefore declared that more than half of those voting had voted in favour of the Ashdon Neighbourhood Plan.
13. In accordance with the Neighbourhood Planning Regulations, following the outcome of the referendum it is now for the District Council to '**make**' the neighbourhood plan so that it formally becomes part of the development plan for Uttlesford District Council.
14. Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended) sets out the requirement for a local planning authority when it comes to making a neighbourhood plan. It states that:

“(4) A local planning authority to whom a proposal for the making of a neighbourhood development plan has been made –

(a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan, and

(b) if paragraph (a) applies, must make the plan as soon as reasonably practicable after the referendum is held.

- *(6) The authority are not to be subject to the duty under subsection (4) (a) if they consider that the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention of the rights (within the meaning of the Human Rights Act 1998)."*

15. As a result of the outcome from the referendum and in accordance with the legislation the Council is legally required to bring the plan into force following the successful referendum. It is recommended that the plan is formally made by the Council to become part of the development plan for the district and to help determine applications in the parish.

Risk Analysis

16.

Risk	Likelihood	Impact	Mitigating actions
That the Neighbourhood Plan is not made within 8 weeks of holding a successful Referendum.	<ul style="list-style-type: none"> ▪ Little – The Ashdon Neighbourhood Plan is being considered for adoption within 8 weeks of the Referendum held on 20 October 2022. 	The Council will be in breach of its statutory duty under the Town and Country Planning Act 1990 and be open to a Judicial Review.	<ul style="list-style-type: none"> ▪ The Council must adopt the Ashdon Neighbourhood Plan within the statutory 8-week period since there are no legal challenges.

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.