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| Committee: | Cabinet | Date: | |
| Title: | Thaxted Neighbourhood Plan | Date: | Thursday, 29 November 2018 |
| Portfolio Holder: | Councillor Susan Barker, Portfolio Holder for Environmental Services | | |
| Report Author: | Demetria Macdonald, Planning Policy Officer dmacdonald@uttlesford.gov.uk | Key decision: | Yes |

Summary

1. The examiner's report into the examination of the Thaxted Neighbourhood Plan has been received (Enc 1). The Examiner recommends proceeding to referendum if recommended modifications are made to the Plan. The changes are summarised in the Schedule of the Examiner's Recommendations Enc 2.
2. The purpose of this report is to enable Cabinet to consider the recommendations of the Examiner into the Thaxted Neighbourhood Plan (Enc 3) and support the recommendation that the Plan proceed to public referendum.

Recommendations

3. That Cabinet accepts the Independent Examiner's recommended changes to the Thaxted Neighbourhood Plan in full as set out in the Schedule at Enc 2 and notes the recommendation that the amended Thaxted Neighbourhood Plan should proceed to a Referendum of voters within the Parish of Thaxted to establish whether the plan should form part of the Development Plan for Uttlesford District Council.
4. That the Cabinet approves the holding of a referendum relating to the Thaxted Neighbourhood Plan on 24 January 2019 that will include all the registered electors in Thaxted Parish.

Financial Implications

5. The Local Planning Authority was able to claim £5,000.00 in 2015/16 when the Thaxted Neighbourhood Area was designated. The referendum will initially be funded by Uttlesford District Council at a cost of approximately £5,000. After the referendum Uttlesford District Council will be able to claim £20,000 funding from MHCLG which will cover the cost of the examination and the referendum.
6. This direct financial support is to ensure 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.

7. The cost of organising and running the referendum is funded through the grant described in paragraph 5 above.

Background Papers

8. 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

9.

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| Communication/Consultation | The plan has undergone significant community involvement in its preparation as set out in the Consultation Statement |
| Community Safety | The plan deals with community safety |
| Equalities | The plan consulted widely with residents, households, individual interest groups, businesses and landowners. The Examiner confirms that the Consultation Statement provides a comprehensive assessment of the extensive consultation process undertaken in preparing the plan. |
| Health and Safety | None |
| Human Rights/Legal Implications | None as the Examiner notes that he is satisfied that the plan has appropriate regard to the rights and freedoms guaranteed under the European Union (EU) and European Convention on Human Rights (ECHR) obligations. |
| Sustainability | The plan takes a positive approach to meeting social and economic development as well as respecting the natural and historic environment of the Neighbourhood Area. |
| Ward-specific impacts | Thaxted |
| Workforce/Workplace | None |

Situation

10. The Council is committed to supporting the neighbourhood planning process across Uttlesford District.
11. The Thaxted Neighbourhood Plan ('the Plan') has been produced by the Thaxted Neighbourhood Steering Group, led by the Parish Council, as the Qualifying Body, in conjunction with the local community. The examination version Plan sought to allocate approximately 22 dwellings over 3 sites and that is considered by the community to be proportionate to the scale and character of Thaxted. However, the Examiner's modifications include deletion of one site as it is currently being developed and also removes dwelling numbers for the remaining two sites as capacity will be determined by design and landscaping.
12. The examination version of the Thaxted Neighbourhood Plan (See Enc 3) was submitted to the Council on 24 April 2018. Following initial verification checks, a six week period of public consultation on the Plan was held running from 4 May 2018 to 19 June 2018. A total of 24 responses were received, each making multiple representations on most aspects of the Plan.
13. The Council, with the agreement of Thaxted Parish Council, appointed Mr Tony Burton as the Independent Examiner in July 2018. All the representations received on the Examination Version of the Plan were forwarded to the Examiner for consideration. The Examiner was satisfied that all the responses could be assessed without the need for a public hearing.
14. The Examiner was appointed on 3 July 2018 and the Examination took place from 13 August 2018 to 28 September 2018. The role of the Examiner is to consider whether a neighbourhood plan meets the Basic Conditions. In order to do this the Plan must:
 - have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies of the development plan in the area; and
 - be compatible with European Union (EU) and European Convention on Human Rights (EHCR) obligations.
15. The final Examiner's Report into the Plan was received by the Council on 28 September 2018 and was made available to the public on the Council's website shortly after. A full copy is included in Enc 1 of this report. The report recommends to the Council that, subject to the modifications proposed the Plan should proceed to a Referendum.
16. The Neighbourhood Planning (General) Regulations 2012, (Regulation 18) (as amended) sets out the matters that the District Council should consider at this stage in the Neighbourhood Plan making process. The District Council must consider each of the recommendations made by the Examiner in their report,

including the reasons for them, and decide what action to take in response to each recommendation (see Enc 1).

17. A schedule of the Examiner's recommendations is set out at Enc 2. The main changes recommended by the Examiner (in order to meet the 'Basic Conditions') are to make the Plan appropriate for use in determining planning applications and to ensure clarity, accuracy in the text of the Plan and that policies are concise, precise and supported by appropriate evidence.
18. It is considered that the recommended modifications should be incorporated into the plan and noted by Cabinet in order to ensure that the plan is robust, sound, meets the Basic Conditions and comprises a user-friendly and efficient document. Liaison with Thaxted Parish Council (through the Thaxted Neighbourhood Steering Group) confirms that they are happy to accept these recommendations. On this basis, the Plan should then proceed to a referendum in Thaxted Parish (the Thaxted Neighbourhood Area) to determine if local people support it.
19. The evidence provided to the Examiner within the Consultation Statement gave assurance to him that the consultation process was robust. The Examiner was therefore satisfied that the Plan met the Basic Conditions with regard to consultation.
20. The Examiner makes the following comments with regard to the Plan:
"Producing the Thaxted Neighbourhood Plan has clearly involved significant effort by a wide range of people and organisations, led by the volunteer Steering Group established by Thaxted Parish Council. There is evidence of collaboration with Uttlesford District Council and this will continue to be important in ensuring delivery of the Plan. I should like to congratulate all those who have worked so hard over a long period of time to prepare the Plan and to thank the officers at Uttlesford District Council and Thaxted Parish Council who have supported this examination process."
21. The Examiner in his Executive Summary comments that:
"Subject to the recommended modifications set out in this report I conclude that the Thaxted Neighbourhood Plan meets all the necessary legal requirements, including satisfying the Basic Conditions. I make a small number of additional recommendations."
22. Thaxted Parish Council and the Thaxted Neighbourhood Plan Steering Group have given the Examiners Report due consideration and resolved via a meeting with the Council Officers that they are in agreement with the recommended modifications of the Examiner to the Neighbourhood Plan. Officers are also in agreement with the recommendations of the Examiner.
23. This report recommends that Cabinet accepts the Independent Examiner's recommended changes to the Thaxted Neighbourhood Plan in full as set out in the Schedule at Enc 2 and notes the recommendation that the amended Thaxted Neighbourhood Plan should proceed to a Referendum of voters within

the Parish of Thaxted to establish whether the plan should form part of the Development Plan for Uttlesford District Council. The alternative courses of action are:

(a) To reject some or all of the Examiner's recommendations. This option is not considered appropriate as the proposed modifications will make the Plan more robust and enable it to meet the prescribed Basic Conditions.

(b) To decide not to proceed to referendum on the Neighbourhood Plan. Given that the Plan has successfully passed through the examination process, there is no reason why the Plan, including modifications, should not proceed to Referendum. In the light of this, this option is not considered appropriate.

24. The Neighbourhood Planning (General) Regulations 2012 set out that if the Council agrees to the recommendations of this report, it must publish a '**Decision Statement**' on the Plan. This must set out the District Council's decision on the Thaxted Neighbourhood Plan and the reasons for making that decision. It is normal practice for the date of the Referendum to also be specified. The suggested changes will then be made to the Plan by the Qualifying Body ready for publication as one of the specified documents that must be in place in order to allow the Referendum to proceed.
25. The date for the referendum is provisionally set for 24 January 2019. Therefore, the final version of the Plan and the Information Statement must be on Uttlesford District Council's website on 12 December 2018 at the latest, i.e. at least **28 working days** before the provisional date set for the Referendum. The Council will also need to ensure that the publication of 'Notice of Referendum' takes place on 17 December 2018 i.e. at least **25 working days** before the provisional date set for the referendum. The detailed requirements in respect of the Referendum process are set out in the Neighbourhood Planning (Referendums) Regulations 2012 as amended (2016).
26. The referendum will follow a similar format to an election. All those registered to vote within the Neighbourhood Area will be given the opportunity to be involved in the Referendum. Local residents will receive a ballot paper with the question;
"Do you want Uttlesford District Council to use the neighbourhood plan for Thaxted to help it decide planning applications in the neighbourhood area?"
Residents will be given the opportunity to vote 'yes' or 'no'. If more than 50% of those voting in the referendum vote 'yes' then the Local Planning Authority is required to 'make' the plan (adopt the Plan, with the Plan becoming part of the Development Plan for Thaxted alongside the Local Plan). As soon as possible after a favourable Referendum result the Plan will be made. If the result of the Referendum is "no", then nothing further happens. The Parish Council will then have to decide how it wishes to proceed.
27. In proceeding to a referendum with a plan that meets the prescribed Basic

Conditions, the whole community will be afforded the opportunity to vote on the future development of the village and wider parish of Thaxted.

Risk Analysis

28.

| Risk | Likelihood | Impact | Mitigating actions |
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| <p>The Cabinet does not approve examiner's modifications and plan does not proceed to referendum despite meeting Basic Conditions. The modifications should only be disregarded if the Plan does not meet the Basic Conditions. If the Council does not support the Plan to referendum then the Council must have sound reasons for doing so.</p> | <p>1. Officers are satisfied that the Examiner's recommendations are reasonable and are needed to ensure the Plan meets the Basic Conditions.</p> | <p>2. The Council does not follow the regulations set out in Neighbourhood Plan legislation.</p> | <p>The Neighbourhood Plan regulations have been followed and Officers are in agreement with the Examiner's recommendations</p> |
| <p>Not following legislation correctly could leave council open to legal challenge. The circumstances where 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.</p> | <p>1. The preparation of the Thaxted Neighbourhood Plan has, to date, been supported by the Planning Policy Officers and Neighbourhood Planning Consultant in terms of providing advice, assistance given to the Thaxted Neighbourhood Steering Group, attendance at</p> | <p>4. The Council does not follow the regulations set out in Neighbourhood Plan legislation.</p> | <p>The Neighbourhood Plan regulations have been followed and Officers are in agreement with the Examiner's recommendations</p> |

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| | meetings and ensuring the correct procedural steps are followed. The Elections Team will now be involved in ensuring a Referendum is held as soon as possible and as set out in the Regulations. | | |
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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.