



Notice of a public meeting of

Local Plan Working Group

- To:** Councillors Ayre (Chair), K Taylor (Vice-Chair), Cuthbertson, D'Agorne, Fisher, Doughty, Hollyer, Orrell, Pearson, Perrett, Warters, Widdowson, Lomas, Smalley, S Barnes, Pavlovic and Galvin
- Date:** Wednesday, 15 June 2022
- Time:** 5.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare any disclosable pecuniary interests or other registerable interests they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests

2. **Minutes** (Pages 1 - 6)

To approve and sign the minutes of the meeting of the Local Plan Working Group held on 7 March 2022.

3. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines have changed to 2 working days before the meeting. The deadline for registering at this meeting is at **5.00pm on Monday 13 June 2022**.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this public meeting will be webcast including any registered public speakers who have given their permission. The public meeting can be viewed on demand at www.york.gov.uk/webcasts.

During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

4. Minster Precinct Neighbourhood Plan (Pages 7 - 22)

The purpose of the report is to consider the results of the Minster Precinct Neighbourhood Plan referendum.

5. Introduction of Community Infrastructure Levy (Pages 23 - 32)

This report seeks agreement to introduce a Community Infrastructure Levy (CIL) in York to support the implementation of the Local Plan (“the Plan”).

6. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Louise Cook

Contact Details:

- Telephone – (01904) 551031
- E-mail – louise.cook@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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City Of York Council

Committee Minutes

Meeting	Local Plan Working Group
Date	7 March 2022
Present	Councillors Ayre (Chair), K Taylor (Vice-Chair), Carr, Cuthbertson, D'Agorne, Fisher, Hollyer, Orrell, Pearson, Perrett, Widdowson, Lomas, Smalley, Looker (substitute for Cllr Myers) and Rowley (substitute for Cllr Doughty)
Apologies	Councillors Barnes, Doughty, Myers and Warters

5. **Declarations of Interest**

Members were invited to declare, at this point in the meeting, any personal interests not included on the Register of Interests or any prejudicial or discloseable pecuniary interests which they might have in respect of the business on the agenda.

Cllr Looker declared a personal non-prejudicial interest in Agenda Item 4, York Minster Precinct Neighbourhood Plan. As a Guildhall Ward Councillor she had taken part in discussions regarding the York Minster Precinct Neighbourhood Plan. She also noted that she did not reside within the relevant neighbourhood.

Cllr Cuthbertson declared a personal non-prejudicial interest in Agenda Item 4, York Minster Precinct Neighbourhood Plan in that he and his wife were members of the Minster community.

Cllr D'Agorne declared a personal non-prejudicial interest in Agenda Item 5, Adoption of Minerals and Waste Joint Plan, in that he took part in a number of protests against fracking in Kirby Misperton in 2017/18. He also noted that this operation had now ceased.

Cllr Fisher declared a personal non-prejudicial interest in Agenda Item 5, Adoption of Minerals and Waste Joint Plan, in that that he was the Chairman of Frack Free York and Villages and he also took part in the protests at Kirby Misperton against

fracking. He also noted that this operation was defunct and Frack Free York and Villages had gone into hibernation.

6. Minutes

Resolved: That the minutes of the meeting held on 13 July 2021 be approved and signed as a correct record by the Chair.

7. Public Participation

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Mr Beacon spoke on matters within the remit of the committee, particularly the Local Plan, the housing delivery plan and the National Planning Policy Framework (NPPF). He made reference to the expanding housing rents in York and felt that the council had a duty to identify which developers owned land within York to enable better negotiations. He addressed the climate emergency and noted that the carbon footprint of residents of Strensall was five times the average footprint of city centre residents.

The Chair thanked Mr Beacon for his comments and noted that information on landowners was publicly available.

8. York Minster Precinct Neighbourhood Plan – Examiner's Report and Decision Statement

Members considered a report that presented the Examiner's recommended modifications to the York Minster Precinct Neighbourhood Plan. The Examiner's report was attached at Annex A of the report, and the Decision Statement, which included the council's proposed response to the Examiner's recommended modifications was attached at Annex B of the report.

During discussion of the item, the Corporate Director of Place and the Development Officer informed Members that:

- The Examiner agreed that the Neighbourhood Plan provided a clear, concise and strategic vision for one of York's cultural assets.

- The Neighbourhood Plan was based on extensive public consultation and the vision and objectives enhanced York Minster's status as a heritage and cultural asset.
- The referendum area recommended by the Inspector was moderately larger than the area of the neighbourhood area itself. This was a reflection of the consultation area and the impact the proposal would have on neighbouring residents.
- Due to an anomaly, a block of flats in one of the postcodes due to be included in the referendum area had been removed from the referendum area as it was located in Layerthorpe and not in close proximity to the neighbourhood area.
- Officers agreed with the proposed modifications and referendum area put forward by the Independent Examiner.

The Committee thanked officers for their work and a Neighbourhood Plan for the city centre was welcomed. It was noted that York Minster offered apprenticeship schemes in stonemasonry, which was to be commended.

All those that had been involved in developing the Neighbourhood Plan were thanked and it was acknowledged that some communities, particularly those that did not have the infrastructure or resources to develop a Neighbourhood Plan, might require additional support.

Resolved:

- (i) That the report be recommend to Executive

Reason: In order that Executive can consider the observations and recommendations of the LPWG in their decision making.

- (ii) That Executive be recommended to:

- Agree the Examiner's modifications set out at Annex B of the report (Decision Statement) to the York Minster Precinct Neighbourhood Plan and that subject to those modifications the Neighbourhood Plan meets the Basic Conditions and other legislative requirements.

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

- Agree that the York Minster Precinct Neighbourhood Plan as amended proceeds to a local referendum based on the neighbourhood area and residential properties within the immediate vicinity of the neighbourhood area, to include the postcodes outlined in Appendix A of the Examiners Report (in Annex A of the report).

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

- Approve the Decision Statement attached at Annex B of the report to be published on the City of York Council's website.

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

9. Adoption of Minerals and Waste Joint Plan

Members considered a report that highlighted the outcome of the Examination in Public by the Government's Appointed Inspector into the Minerals & Waste Joint Plan (2015-2030) and accompanying Policies Map; and provided a recommendation that the Authority makes the necessary procedural arrangements to complete the adoption process.

The Corporate Director of Place noted the fracking limitations within the Joint Plan and he also stated that the government's moratorium continued. It was confirmed, by the Strategic Planning Policy Officer, that:

- The Joint Plan was produced by the City of York Council, North Yorkshire County Council and the North York Moors National Park Authority. It had been adopted by North Yorkshire County Council on 16 February 2022 and would be reported to members of the North York Moors National Park Authority in March 2022.
- The Inspector examined the submitted Plan in relation to the tests of 'soundness', as set out in the National Planning Policy Framework (NPPF). The Inspector's Report noted that the Joint Plan satisfied all requirements and was considered 'sound', subject to the Main Modifications recommended by her.

- Following the adoption of the Joint Plan, there would be a six week period for a High Court challenge which would be on the grounds that the document was not within the appropriate power of the local planning authority and/or a procedural requirement had not been complied with.

During discussion of the item, it was noted that the fracking limitations referred to in the Joint Plan were welcomed and should the government lift the moratorium, the policy would still present stronger challenge and safeguards than the national policy in the NPPF.

Members thanked officers for the report and for the work required to develop the Joint Plan.

Resolved:

- (i) That the report be recommended to Executive.

Reason: In order that Executive can consider the observations and recommendations of the LPWG in their decision making.

- (ii) That Executive be recommended to:

- Note the Inspectors Report and recommended changes and accept the Main Modifications.

Reason: To allow the Plan to progress to adoption.

- Recommend to Full Council to adopt the Minerals & Waste Joint Plan incorporating the Inspectors Modifications, circulated with the report.

Reason: To allow the Plan to progress to adoption.

- Recommend to Full Council to adopt the accompanying Policies Map.

Reason: To allow the Plan to progress to adoption.

- Authorise the Corporate Director of Place to make any further minor typographical or presentational amendments or updates before final publication of any documents referred to in this item, and to take any necessary steps to conclude the adoption process.

Reason: To allow the Plan to progress to adoption.

- Authorise the publication of an Adoption Statement and Sustainability Appraisal in accordance with Regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

Reason: To ensure the adoption of the Plan is in accordance with the required legislation.

Cllr N Ayre, Chair

[The meeting started at 5.30pm and finished at 5.55pm].



Local Plan Working Group**15 June 2022**

Report of the Corporate Director of Place

Minster Precinct Neighbourhood Plan**Summary**

1. The purpose of the report is to consider the results of the Minster Precinct Neighbourhood Plan referendum. It asks Members to recommend to Executive to formally 'make' the Neighbourhood Plan and bring it into full legal force as part of the Development Plan for York. This will allow the Neighbourhood Plan to progress in line with the relevant Neighbourhood Planning legislation and Regulations. This paper will be considered by Members of Executive on 16 June 2022.

Recommendations

2. Members are asked to recommend that Executive:
 - i) Consider the results of the referendum and formally 'make' the Minster Precinct Neighbourhood Plan.

Reason: To allow the Neighbourhood Plan to progress in line with the Neighbourhood Planning Regulations.
 - ii) To approve the Decision Statement attached at Annex B to be published in accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

Background

3. The Localism Act 2011 introduced new powers for community groups to prepare neighbourhood plans for their local areas. The Council has a statutory duty to assist communities in the preparation of Neighbourhood

Plans and to take plans through a process of Examination and Referendum. The local authority is required to take decisions at key stages in the process within time limits that apply, as set out in the Neighbourhood Planning (General) Regulations 2012 as amended in 2015 and 2016 (“the Regulations”) and within new government guidance in relation to the Covid-19 pandemic.

4. The Minster Precinct Neighbourhood Plan has been prepared by York Minster Precinct Neighbourhood Forum with on-going engagement with the local community and City of York Council. The Plan has been through the following stages of preparation:
 - Designation as a Neighbourhood Area (14 March 2019)
 - Consultation on Pre-Submission Version (10 January to 23 February 2020)
 - Submission to City of York Council (26 April 2021)
 - Submission Consultation (14 July to 8 September 2021)
 - Examiner Report considered at LPWG and Executive (7 March and 17 March 2022 respectively)
 - Referendum (10 May 2022)
5. The Examiner’s Report concluded that subject to a series of recommended modifications, the Minster Precinct Neighbourhood Plan met the necessary basic conditions (as set out in Schedule 4b (8) of the Town and Country Planning Act 1990, as amended by the Localism Act 2011) and subject to these modifications being made it should proceed to referendum.
6. At Local Plan Working Group on 7 March 2022 and Executive on 17 March 2022, Members accepted the Examiner’s recommendations and agreed that the Minster Precinct Neighbourhood Plan as so modified should proceed to referendum.
7. A referendum was held on Tuesday 10 May 2022.

Referendum

8. A referendum on the York Minster Precinct Neighbourhood Plan was held on Tuesday 10 May 2022 and was organised by the City of York Council. As per the Examiner’s recommendations, the referendum area is the neighbourhood area and residential properties within the immediate vicinity of the neighbourhood area. An appendix included

within the Examiner's Report lists the postcodes which were included in the referendum area.

9. A polling station was open from 7am until 10pm on Tuesday 10 May 2022 at Bedern Hall, Bartle Garth on St. Andrewgate.
10. The Declaration of Results of Poll contained at Annex A to this report confirms that 166 residents casted a valid vote in the referendum, out of a potential 773 on the electoral roll (21.47% turnout). The results on whether to accept the Minster Precinct Neighbourhood Plan were:
 - YES = 137 (83%)
 - NO = 28 (17%)
11. The Neighbourhood Planning Regulations (2012 as amended) requires that where over 50% of those voting in the Neighbourhood Plan referendum, vote in favour of the Neighbourhood Plan, then the Council is legally obliged to 'make' the plan (i.e. bring it into force as part of the Development Plan). The Council is not subject to this legal requirement if the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998) or there are unresolved legal challenges.
12. The Planning and Compulsory Purchase Act 2004 also provides that a Neighbourhood Plan for an area becomes part of the development plan for that area after it is approved by an applicable referendum, prior to the plan being 'made' by the Council. In the very limited circumstances where the local planning authority might decide not to 'make' the neighbourhood plan, it will cease to be part of the development plan for the area. Given that the referendum result was 83% in favour of the Neighbourhood Plan; the Minster Precinct Neighbourhood Plan and the policies within it are now part of the statutory development plan for City of York.
13. The Neighbourhood Plan must be made by the Council within 8 weeks beginning with the day immediately following that on which the referendum is held (unless the Plan is incompatible with EU/HR legislation or there is an unresolved legal challenge). This date is 5 July 2022.

Consultation

14. As mentioned earlier in the report, the Minster Precinct Neighbourhood Plan has been through several stages of consultation. These are: consultation on designation as a Neighbourhood Area (14 March 2019), consultation on Pre-Submission version) 10 January to 23 February 2020), consultation on a Submission version (14 July to 8 September 2021), and the Referendum (10 May 2022).
15. A Consultation Statement accompanied the submission version of the Neighbourhood Plan and sets out the consultation undertaken. All the consultation undertaken by City of York Council has been carried out in accordance with the Council's Statement of Community Involvement.

Options

16. Members are asked to advise Executive to formally 'make' the Minster Precinct Neighbourhood Plan and bring it into full legal force as part of the Development Plan for York. The Council is legally obliged to make the plan because it meets the legal requirements for making a plan.

Analysis

17. This report presents to Members the outcome of the Minster Precinct Neighbourhood Plan referendum. At 83% in favour of using the Neighbourhood Plan to help determine planning applications in the defined neighbourhood area, this endorsement is demonstrably higher than the required threshold of more than half of those voting. A positive majority at the referendum means that the Council is now obliged to "make" the plan and bring it into full legal force as part of the Development Plan for York.
18. The Neighbourhood Plan is considered to meet the basic conditions and all relevant legal and procedural requirements and this is supported in the Examiner's Report. It is advised that the plan be made by the Council given the positive vote in support of the neighbourhood plan and nothing has changed since the earlier consideration of the Examiner's report and modifications which would suggest that the Plan would breach, or be incompatible with any EU obligation or any of the Convention of Rights. Nor is there any unresolved legal challenge in respect of the Plan. There are no reasons why the Council should not proceed to 'make' the Neighbourhood Plan in accordance with the outcome of the referendum.

Next Steps

19. Once the plan is 'made', it will achieve its full legal status. It forms part of the statutory development plan for the area and will sit alongside the Local Plan (once adopted). The Neighbourhood Plan contains a series of policies that will be used when determining planning applications that are located within the defined Neighbourhood Area. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Council Plan

20. The Council Plan for 2019-2023 identifies eight priorities, seven of which are relevant to this work and include:
 - good health and wellbeing;
 - a well-paid and an inclusive economy;
 - getting around sustainably;
 - a greener and cleaner city;
 - creating homes and world-class infrastructure;
 - safe communities and culture for all; and
 - an open and effective council.

Implications

21. The following implications have been assessed:
 - **Financial** – The examination and referendum costs (anticipated to be c £20.3k) have been funded by City of York Council. However, the Council has applied for and received a government grant of £20k towards these costs.
 - **Human Resources (HR)** – There are no HR implications
 - **One Planet Council / Equalities** – There are no equality implications
 - **Legal** - Following a positive result at a referendum, a neighbourhood plan has the same legal status as a Local Plan. At this point it comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004).

The Local Planning Authority is required by the Localism Act 2011 and provisions of the Neighbourhood Planning (General) Regulations 2012 (as amended) to 'make' (adopt) a neighbourhood plan within 8 weeks of the day following a positive referendum result. There are only narrow circumstances where the Local Planning Authority is not required to 'make' the Plan. These are where it considers that the making of the Plan would breach, or otherwise be incompatible with, any EU or human rights obligations (see section 61E(8) of the Town and Country Planning Act 1990 Act as amended). No such conflict has been identified by the Plan examiner or by Officers of the Council. In addition the Habitat Regulation Assessment and Strategic Environmental Assessment Screening report did not identify any likely significant effects on the Environment. As such no conflict or breach with the above has been identified.

- **Crime and Disorder**– There are no crime and disorder implications
- **Information Technology (IT)** – There are no financial implications
- **Property** – There are no property implications
- **Other** – None

Risk Management

22. In compliance with the Council's risk management strategy, the main risks associated with the Minster Precinct Neighbourhood Plan are as follows:

- The decision whether or not to 'make' the Neighbourhood Plan is, like all decisions of a public authority, open to challenge by judicial review. The risk of any such legal challenge being successful has been minimised by the thorough and robust way in which it has been prepared and tested.
- Risks arising from failure to comply with the laws and regulations relating to Planning and the SA and Strategic Environmental Assessment processes and not exercising local control of developments.

Contact Details

Author:

John Roberts
Strategic Planning Policy
Officer

john.roberts@york.gov.uk

Chief Officer Responsible for the report:

Neil Ferris
Corporate Director of Place

Report Approved **Date:** 31 May 2022

Kirstin Clow

Interim Head of Strategic
Planning Policy

kirstin.clow@york.gov.uk

Specialist Implications Officer(s):

Patrick Looker, Finance Manager
Heidi Lehane, Senior Solicitor, Planning

Wards Affected: Guildhall

For further information please contact the author of the report

Background Papers: None

Annexes:

Annex A: Declaration of Result of Poll
Annex B: Regulation 19 Decision Statement

Abbreviations:

EU	European Union
HR	Human Rights
SEA	Strategic Environmental Assessment
HRA	Habitat Regulation Assessment
NP	Neighbourhood Plan

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DECLARATION OF RESULT OF POLL

City of York Council

Referendum on the Minster Precinct Neighbourhood Plan Area

I, Janie Berry, being the Deputy Counting Officer at the Minster Precinct Neighbourhood Plan Area referendum held on Tuesday 10 May 2022, do hereby give notice that the results of the votes cast is as follows:

Question:		
Do you want the City of York Council to use the Neighbourhood Plan for Minster Precinct to help it decide planning applications in the neighbourhood area?		
	Votes Recorded	Percentage
Number cast in favour of a YES	137	83%
Number cast in favour of a NO	28	17%

The number of ballot papers rejected as follows:	Number of ballot papers
A Want of an Official Mark	0
B Voting for more answers than required	0
C Writing or mark by which voter could be identified	0
D Being unmarked or wholly void for uncertainty	1
TOTAL	1

Electorate: 773

Ballot Papers Counted: 166

Turnout : 21.47%

And I do hereby declare that more than half of those voting **HAVE** voted in favour of the Neighbourhood Plan.

Dated: 10 May 2022

Janie Berry, Deputy Counting Officer

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York Minster Precinct Neighbourhood Plan

Final Decision Statement published pursuant to Section 38A (9) and (10) Planning and Compulsory Purchase Act 2004 (as amended) and Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012 (as amended)

1. Summary

Following a positive referendum result on the 10 May 2022, City of York Council is publicising its decision of 16 June 2022 by the Executive to 'make' the York Minster Precinct Neighbourhood Plan ("Neighbourhood Plan") part of the City of York Development Plan with immediate effect, in accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

2. Background

York Minster Precinct Neighbourhood Plan Forum (YMNPF), as the qualifying body, successfully applied for the Minster Precinct Neighbourhood Plan to be designated as the Minster Precinct Neighbourhood Area under the Neighbourhood Planning (General) Regulations (2012) on 14 March 2019. The Neighbourhood Plan describes the focus of the neighbourhood area as the Cathedral and Metropolitan Church of St Peter, in York, better known as York Minster. The Neighbourhood Plan does not follow any particular parish or ward boundaries, but lies within an area of approximately 6 hectares, bounded by the historic city walls to the north and west and by city streets to the south and east.

YMNPF undertook pre-submission consultations on the draft Neighbourhood Plan in accordance with Regulation 14. Consultation on the Pre-Submission Version took place between 11 January and 23 February 2019. A second Pre-Submission consultation took place between 16 December 2020 and 14 February 2021.

Following the submission of the Neighbourhood Plan to the Council on 26 April 2021, the Council publicised the draft Neighbourhood Plan for a six-week period and representations were invited in accordance with Regulation 16. The 'Submission' consultation took place between 14 July and 8 September 2021. All duly made representations were forwarded to an independent Examiner, Mr Andrew Ashcroft BA (Hons) MA, DMS, MRTPI, who was appointed by the Council to review whether the Plan met the basic conditions required by legislation and whether the Plan should proceed to referendum.

3. Decision and Reasoning

The Examiner's Report concluded that subject to a series of recommended modifications, the Neighbourhood Plan met the necessary basic conditions (as set out in Schedule 4b (8) of the Town and Country Planning Act 1990 (as amended) and subject to these modifications being made it could proceed to a local referendum.

At Local Plan Working Group on 7 March 2022 and Executive on 17 March 2022, Members accepted the Examiner's recommendations (in line with the Neighbourhood Plan Regulation 17A (2) Consultation) and agreed that the Neighbourhood Plan as so modified should proceed to referendum.

A referendum on the modified Neighbourhood Plan which incorporated the Examiner's modifications was held on Tuesday 10 May 2022 and 83% of those who voted were in favour of the Neighbourhood Plan. Paragraph 38A (4) (a) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that the Council must 'make' the Neighbourhood Plan if more than half of those voting have voted in favour of the Plan, unless (under Para 38A(6)) this would breach, or would otherwise be incompatible with an EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

The referendum held on 10 May 2022 met the requirements of the Localism Act 2011; it was held in the York Minster Precinct Neighbourhood Area and posed the question:

Do you want City of York Council to use the Neighbourhood Plan for Minster Precinct to help it decide planning applications in the neighbourhood area?

The count took place on the 10 May 2022 and greater than 50% of those who voted were in favour of the Plan being used to help decide planning applications in the plan area.

The results of the referendum were:

Response	Votes recorded (percentage)
Yes	83%
No	17%
Turnout	21.47%

The Council considers that the York Minster Precinct Neighbourhood Plan meets the basic conditions (set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 as amended), its promotion process was compliant with legal and procedural requirements and it does not breach the legislation (set out in Section 38A(6) of the Planning and Compulsory Purchase Act 2004 (as amended)).

4. Inspection of Decision Statement and made Neighbourhood Plan

This decision statement, declaration of referendum results and related documents can be viewed on the City of York Council website:

<https://www.york.gov.uk/MinsterPlan>

The decision statement can also be viewed on the York Minster Precinct Neighbourhood Plan website:

[York Minster Neighbourhood Plan | York Minster](#)

In accordance with Regulation 20 of the Regulations, the 'made' York Minster Precinct Neighbourhood Plan can be viewed on the Council's website:

<https://www.york.gov.uk/MinsterPlan>

The Neighbourhood Plan can also be viewed on the York Minster Precinct Neighbourhood Plan website:

[York Minster Neighbourhood Plan | York Minster](#)

A copy of this decision statement is being sent to:-

- The qualifying body, namely York Minster Precinct Neighbourhood Plan Forum; and
- To any person who asked to be notified of the decision.

Paper copies of this statement and the made Neighbourhood Plan can also be viewed at the following locations:

York Explore Library, Library Square, York, YO1 7DS

(Monday 9am-8pm, Tuesday 9am-8pm, Wednesday 9am-8pm, Thursday 9am-8pm, Friday 10am-6pm, Saturday 9am-5pm, Sunday 11am-4pm)

If open at the time of the Neighbourhood Plan Adoption (post 16 June 2022) five hard copies are available in York Explore Library.

The Neighbourhood Plan Adopted Version and this Decision Statement will also be available to view online via computer access at Explore Libraries, if open at Adoption (post 16 June 2022). Computer access will be in line with the library opening hours and the protocols in place for Covid 19, such as booking computer access by appointment only. For further information on computer access, please see:

<https://www.exploreyork.org.uk/libraries/>

York Minster Stoneyard, The Works Department, 4 Deangate, York, YO1 7JA.

Viewing at the York Minster Stoneyard is via prior arrangement only - please contact Sally-Ann Long (sally-annl@yorkminster.org) to arrange to view the documents.

City of York Council Offices, West Office's Station Rise, York, YO1 6GA

Hard copies of the Neighbourhood Plan Adopted Version and this Decision Statement will be made available, after adoption (post 16 June 2022), at West Offices, if open and will be available to view by appointment only. Should you wish to arrange an appointment, you should contact the Forward Planning team directly on (01904 552255).

Access to the documents will be in line the protocols in place for Covid 19, such as quarantine of documents after use.

If you do not have internet access, you should telephone 01904 552255 to discuss and/or arrange a viewing, including where appropriate access to hard copies subject to prevailing Covid 19 measures and public health advice. Officers will only seek to provide hard copies on request for those who have no other means of access.

For further information please contact the Neighbourhood Planning team on neighbourhoodplanning@york.gov.uk or 01904 552255.

Neil Ferris
Corporate Director Place

16 June 2022

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Local Plan Working Group**15 June 2022**

Report of Corporate Director of Place

Portfolio of the Executive Member for Finance and Major Projects

Introduction of Community Infrastructure Levy**Summary**

1. Since 2010, authorities in England and Wales have also been empowered to establish a Community Infrastructure Levy (CIL) to help pay for infrastructure to support development such as schools, green infrastructure and sustainable transport. This report seeks agreement to introduce a CIL in York to support the implementation of the Local Plan (“the Plan”). It will help ensure infrastructure to support development envisaged is delivered in the right time and in the right place. Subject to views of Executive, a CIL Draft Charging Schedule setting out the proposed charges for consultation can be prepared for approval and then formal consultation in Autumn 2022.

Recommendations

2. Members are asked to recommend that Executive:

- (i) Agree to move forward with the preparation of a Community Infrastructure Levy (CIL) for York.

Reason: To enable collection of funding from landowners/developers to help support delivery and mitigate infrastructure impacts of the development envisaged in the emerging Local Plan.

- (ii) To note that a Draft CIL Charging Schedule setting out proposed rates will be presented to Executive for agreement prior to formal consultation later in 2022.

Reason: Before CIL can be published and charged, a Draft Charging Schedule must be formally consulted on in line with the CIL Regulations 2010 (as amended 2019).

Background

3. As York moves a step closer to its first adopted Plan, there is an opportunity to consider how the Council can use other planning tools and processes to support its implementation, from Supplementary Planning Documents to support policy implementation to *targeted* and evidence led use of Article 4 Directions to ensure Plan delivery. The Council's approach to securing developer contributions presents a particular opportunity to enable delivery of Plan policies.
4. Planning obligations (frequently referred to as 'Section 106 agreements' or S106) are negotiated between the Council and landowners/developers to mitigate the impact of a development or to secure certain requirements/obligations as part of a development. They are currently the only mechanism used in York to secure landowner/developer financial contributions. They can include:
 - Requirements for parts of a development to be used in certain ways, for example, for a percentage of home to be affordable housing;
 - Requirements for certain works to be undertaken or for other requirements and/or restrictions on the form of the development, for example requiring certain works to the highway;
 - Financial contributions to address the impacts of development – usually limited to those cases where it is not feasible to meet policy requirements on site and/or to mitigate specific development impacts, such as the provision of open space.
5. S106 can only be used where the legal tests set out in the CIL Regulations 2010 (as amended) are met. That is S106 must be:
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
6. Since 2010, authorities in England and Wales have been empowered to establish a Community Infrastructure Levy (CIL) to help pay for

infrastructure to support development. This charge on the development can operate alongside S106, which can continue to be used for affordable housing and other on-site infrastructure.

7. CIL is a fixed, non-negotiable, charge per square metres on most development of 100 square metres or more, or a new dwelling of any size. It is calculated using standard formulae set out in the CIL Regulations. There are exceptions and reliefs from payment of CIL provided for in the Regulations, and available by application; this applies to affordable housing, most charitable developments, self-build homes and residential annexes.
8. CIL rates must be set out in a CIL Charging Schedule by the charging authority – that is the Council. The level at which CIL rates are set must strike an appropriate balance between collecting money to fund the infrastructure needed to support development *and* the ability of developments in its areas to afford the charge – that is the viability of development. Accordingly, CIL Draft Charging Schedules are supported by evidence of infrastructure needs and costs and viability impacts – with the latter having a central role in defining the CIL charge. These are all then subject to public consultation before going forward to an examination in public by an ‘Independent Person’, such as an Inspector from the Planning Inspectorate.
9. Once the CIL Charging Schedule takes effect, payment of CIL becomes due from commencement of the development – this is either 60 days as specified in regulations or as defined in an Instalment Policy published by the Council. The CIL monies collected can then be applied to fund a wide range of infrastructure subject to the limits defined in section 216(2) of the Planning Act 2008, and regulation 59, as amended by the 2012 and 2013 Regulations). This can include transport infrastructure, flood defences, schools, hospitals, and other health and social care facilities, open spaces, cultural and sports facilities, district heating schemes and other community safety facilities.
10. A portion of CIL must be allocated to neighbourhoods. Where there is a Neighbourhood Plan in place 25% of CIL is applied to neighbourhood priorities, and is passed to the relevant Parish Council. Where there is no Neighbourhood Plan made and adopted, this is reduced to 15% of receipts up to certain cap defined in the CIL Regulations 2010 (as amended). This neighbourhood element can be spent more widely than on infrastructure – but must be used to address the demands that development places on the area.

11. Communities without a parish or town council still benefit from the neighbourhood portion. The Council will engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding, including priorities set out formally in neighbourhood plans. The approach to engagement and decision making for the neighbourhood portion of CIL will be published once CIL is operational. Further information on the policy approach to this will be outlined alongside the Draft Charging Schedule report. The final policy will be subject of decision by Executive, who will review this from time to time.
12. The Regulations allow for up to 5% of CIL receipts to be used to recover the costs of administering the levy.
13. It is worth noting that combined authorities with planning powers can charge a strategic infrastructure tariff in addition to a local CIL. The Mayor of London can also charge a CIL for strategic transport projects. A CIL for York and North Yorkshire has not been part of discussions to date.
14. The Government has signalled its intention to reform both CIL and S106. The most detailed statement published at the time of writing, was as set out in the Planning for the Future White Paper, August 2020. This set out proposals to replace Section 106 and CIL with a new 'National Infrastructure Levy'. It identifies that this would be "a nationally-set value based flat rate charge", with either single or varied rate could be set by central Government. It also suggests that it would be charged on the final value of a development and at the point of occupation. There would be a minimum threshold below which it would not be charged. It was proposed this National Infrastructure Levy could be spent with the same or even greater flexibilities than CIL with the neighbourhood element retained.

Consultation

15. The work programme attached to the Economy and Place Policy and Scrutiny Committee, March 2019 identifies CIL as a future area of policy development. However, to date limited consultation has taken place other than that associated with the Local Plan and the production of a viability assessment which included some engagement with developers on the assumptions used.

16. The CIL Regulations 2010 (as amended) set out a clear requirement for consultation on the Draft CIL Charging Schedule in addition to a public independent examination of the proposed charges. This Draft Charging Schedule, setting out proposed rates, would be subject to approval by Executive and consultation with the Local Plan working group ahead of formal consultation.

Options

17. The Council can maintain the status quo and continue with planning obligations approach, but introduction of CIL allows greater flexibility than S106 for the Council to choose the infrastructure that is to be funded to deliver the Local Plan – whether through mitigating or unlocking development. It also provides for a ‘neighbourhood pot’ for communities most directly impacted by development. Should progress on the emerging Local Plan stall, this remains the default position, until such time as the proposed Government replacement mechanism comes into effect.
18. The Council could wait for the introduction of CIL’s replacement mechanism, the ‘Infrastructure Levy’ proposed by Government. However, the timescale for introduction is unclear, the legislation will take several months or even years to enact legislation and the Government has described the introduction of this new levy as a ‘test and learn’ approach suggesting a staggered rather than immediate roll out. Furthermore, the Government’s statements on the proposed CIL, consistently indicate a levy type approach (an evolution of CIL rather than a fundamental change of direction). In this context, moving forward with CIL may enable an easier transition to the proposed ‘Infrastructure Levy’ intended to replace CIL and S106.

Analysis

19. Viability studies associated with the development of the Local Plan include a 2018 study and updated sensitivity testing in 2022 (see ‘Background papers’). CIL rates can also be varied by the use and scale of development as well as by area – but the variations must be based on viability. These initial viability studies indicate that a CIL could be charge for residential development and potentially certain other categories of development. The 2018 assessment suggested charges from zero to £150 per square metre depending on use, with £130 per square metres for most residential uses (schemes of less than 10 units outside the city centre where viability may be more challenging). However, further

analysis and consultation with developers is needed to determine the appropriate level of charge in York. If the decision to move forward with CIL is taken, this work will be undertaken in over the summer.

20. CIL and Section 106 can be used alongside each other where the legal requirements set out in the Regulations are met. In very broad terms, CIL has a particular role in meeting the cumulative demand arising from development overall, including smaller scale development, but there will still be a role for Section 106 in the context. The initial results of these viability studies suggest that where there are very significant section 106 costs associated with on-site infrastructure requirements (typically associated with the largest strategic sites - over 1,000 homes), a lower or even zero CIL *may* be appropriate. It is not uncommon for this to be the case with many CIL Charging Schedules across England adopting lower/zero rates very large-scale development/ new settlements in light of the significantly higher on-site Section 106 requirements. This does not mean that the developments of a larger scale are paying less – it means that of the total developer contributions sought the larger proportion comes from S106 rather than CIL. Again, this will need to be assessed as part of further viability work associated with the introduction of a CIL. As outlined above, the introduction of CIL will have the advantage of providing a new funding stream that can be strategically applied to projects to enable delivery of the Council's first Local Plan. It has a number of advantages compared to continuing with Section 106 alone. These include:

- Reducing time taken in negotiation Section 106 agreements as the non- site-specific infrastructure costs will be set out up front in a Charging Schedule, providing certainty for developers and infrastructure providers (and CIL is non-negotiable).
- Capturing financial contributions from smaller developments from one or more units which cumulatively can give rise to infrastructure; infrastructure impacts of this size category of development are not effectively mitigated as S106 is typically limited to major developments. Development of less than 10 units has comprised a fifth of developments in York over the last 10 years.
- Allowing more flexible allocation of spend than the narrowly ringfenced contributions secured through Section 106 agreements, enabling more effective response to changes in capacity in infrastructure across the City, such as in response to deficits or surpluses in education or primary health care infrastructure.

- Providing a funding stream to support neighbourhood priorities – which is particularly valuable given the high take up of neighbourhood planning in York.
- Laying the foundation for a transition to a levy approach in readiness for the Infrastructure Levy as proposed by central Government.

21. Further analysis on CIL impacts and implications will be set out in a future report to Executive in Autumn 2022 alongside proposed rates. This analysis will extend to estimates of likely receipts any implications of the limitations on borrowing against CIL and will form part of any report to executive on the proposed draft Charging Schedule ahead of formal consultation. This analysis will be supplemented advice on when Section 106 clarifying how used in tandem with the Community Infrastructure Levy and ensuring that this meets the ‘tests’ for the use of Section 106 identified in paragraph 5 above.
22. CIL **must** be spent on infrastructure to support development within the area. Accordingly, a CIL spend strategy taking into account development impacts, will be used to guide any future spend in York after a period of accrual of CIL funding. This strategy will need to be evidence-led and will be critical to ensure that the right range of infrastructure is delivered in the right place and at the right time – including for education uses where there are particular challenges in projecting demand in the medium to longer term.
23. The CIL spend strategy along with data on the actual spend of CIL receipts will be reported the Council’s Infrastructure Funding Statement, annual publication, which is requirement of the CIL Regulations 2010 (as amended). The Council already publishes a report in connection with Section 106 receipts and expenditure as required by these regulations.

Council Plan

24. As well as supporting delivery of the emerging Local Plan, introduction of a CIL for York will contribute to the attainment of ‘Creating homes and world-class infrastructure’ outcome, as set out in the Council Plan 2019-2023 (Making History, Building Communities) and indirectly support other objectives.

Implications

Financial

25. The Community Infrastructure Levy will allow the council to raise significant sums towards the costs of major infrastructure that will be required to deal with the impact of new developments. The levy provides greater certainty to the values that can be raised to fund key infrastructure projects to support the growing city. The Regulations allow the authority to charge a fee to cover administrative expenses of both setting up and operating the CIL. This fee covers actual expenses but cannot exceed 5% of the value of the CIL collected in any one financial year.
26. This report asks members to recommend to the Executive the development of the strategy and that further details over the scale of the infrastructure needs and level of fees will be brought back to Executive in the Autumn. This development work can be contained within existing budgets.

Legal

27. The power to charge by way of the Community Infrastructure Levy was introduced by Part 11 (Sections 205-225) of the Planning Act 2008. The Community Infrastructure Levy Regulations 2010 (as amended) deal with the detailed implementation of CIL and cover matters such as the procedure for setting CIL, the charging and collecting of the levy and liability for payment. A charging authority cannot adopt CIL unless it has first produced a charging schedule based on appropriate available evidence, which has informed the preparation of the charging schedule.
28. Setting and reviewing the Community Infrastructure Levy must follow a statutory process, as defined in the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended). In addition, there is considerable Government Planning Policy Guidance dealing with the approach to be adopted in setting and reviewing rates within the Charging Schedule.
29. The statutory process requires demonstrable evidence of how the Council has derived the Charging Schedule and liable development, and consultation of that evidence. There is also a requirement to consider the outcome of that consultation prior to setting or reviewing a rate, which includes external validation by an independent examiner with the

Charging Schedule being subject to any modifications recommended by the examiner.

30. A charging authority can think strategically in their use of CIL to ensure that key infrastructure priorities in their Local Plan are delivered to facilitate growth and the economic benefits of their area. Subject to meeting the 3 tests set out in CIL regulation 122 (as set out in para 5 above), charging authorities can use funds from both CIL and section 106 planning obligations to pay for the same piece of infrastructure regardless of how many planning obligations have already contributed towards an item of infrastructure.

Crime and Disorder– There are no crime and disorder implications.

Information Technology (IT) – There are no implications.

Property – There are no property implications.

Other – None

Risk Management

31. There are no known risks associated with the introduction of CIL noting the mitigating factors presented in connection under 'Options' above. However, a more complete analysis will be presented in connection with a report later this year in connection with proposed charges.

Contact Details

Author:

Sara Dilmamode/ Kirstin Clow

Local Plan Project Officer/
Head of Strategic Planning
(Interim)

Email:

sara.dilmamode@york.gov.uk

kirstin.Clow@york.gov.uk

Chief Officer Responsible for the report:

Neil Ferris
Corporate Director of Place

Report
Approved



Date 1 June 2022

Specialist Implications Officer(s)

Legal:-

Name: Heidi Lehane

Title: Senior Solicitor

Tel No. 01904 555859

Wards Affected:

All



For further information please contact the author of the report

Background Papers:

[City of York Local Plan Viability Update Addendum, March 2022 \(updated May 2022\)](#)

[Porter Planning Economics Viability Assessment Update Study, April 2018](#)

The Community Infrastructure Levy Regulations 2010

<http://www.legislation.gov.uk/uksi/2010/948/contents/made>

The Community Infrastructure levy (Amendment) Regulations 2011

<http://www.legislation.gov.uk/uksi/2011/987/made>

Annexes – None

Abbreviations - CIL – Community Infrastructure Levy