

<b>Meeting:</b>	Executive
<b>Meeting date:</b>	22/04/2025
<b>Report of:</b>	Garry Taylor, Director of City Development
<b>Portfolio of:</b>	Cllr M Pavlovic, Executive Member for Housing, Planning and Safer Neighbourhoods

## **Decision Report: Murton Neighbourhood Plan – Examiner’s Report & Decision Statement**

### **Subject of Report**

1. The Parish Council of Murton have produced a Neighbourhood Plan for their area. This plan sets out their planning policies and has been subject to an independent Examination.
2. This report presents the conclusions of the Examination in the Inspector’s Report (Annex B) and recommends Executive to endorse the Examiner’s recommendations to enable the Neighbourhood Plan to proceed to Referendum, as set out in the Decision Statement (Annex C).

### **Benefits and Challenges**

3. The Murton Neighbourhood Plan has been prepared by the Parish Council of Murton and includes locally specific planning policies on issues important to the Parish. The Parish Council have worked collaboratively with the Council during the preparation to ensure it has been prepared in conformity with the Development Plan for the authority. This plan was prepared in advance of adoption of York’s Local Plan. However, all advice to the Parish Council has been based on the emerging Local Plan, including proposed modifications and the Examiner has taken this into account in their conclusions.

4. Subject to Members' decision to proceed, the plan will proceed to a Referendum within the Parish to decide whether or not to adopt the plan for the Parish. If more than 50% of the vote is in favour, this plan will form part of the development plan for the authority's area, together with the adopted Local Plan<sup>1</sup>, other made neighbourhood plans, and the Joint Minerals and Waste Plan (2022<sup>2</sup>).

## **Policy Basis for Decision**

5. The Localism Act 2011 introduced new powers for community groups to prepare neighbourhood plans for their local areas. The Neighbourhood Planning (General) Regulations 2012 (as amended) ("the Regulations") sets out the specific requirements for preparing the Neighbourhood Plan and bringing this into force as part of a development plan for the authority.
6. The Regulations place a statutory duty on planning authorities to assist communities in the preparation of Neighbourhood Plans and to take plans through a process of Examination and Referendum. They also require decisions at key stages in the process within set time limits.
7. Following receipt of the Inspector's report, the legislation requires the Council to:
  - Consider each of the recommendations made by the Examiner's Report (and the reasons for them), and
  - Decide what action to take in response to each recommendation.
8. If the LPA is satisfied that the Neighbourhood Plan meets the Basic Conditions, is compatible with the Convention rights, and complies with the definition of an NP and the provisions that can be made by a NP or can do so if modified (whether or not recommended by the Examiner), then a referendum must be held.
9. The Council is required to publish its decision and its reasons for it in a 'Decision Statement'. The Decision Statement must be published within 5 weeks beginning with the day following receipt of the Examiner's Report unless an alternative timescale is agreed

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<sup>1</sup> Adopted on 27 February 2025

<sup>2</sup> Jointly prepared with North Yorkshire and North York Moors and adopted on

with the relevant Parish Council and / or its agents. Annex C presents the proposed Decision Statement required by Regulation 25 of the Neighbourhood Planning (General) Regulations (2012, as amended).

10. The Examiner's recommendations on the Neighbourhood Plan are not binding on the Council, who may choose to make a decision which differs from the Examiner's. However, any significant changes from the Examiner's recommendations would require a further period of public consultation, along with a statement from the Council setting out why it has taken this decision.
11. As the Neighbourhood Plan is now at an advanced stage, its policies have legal weight in decision making with regard to any planning applications to be determined within the Murton Neighbourhood Plan area. This is reflected in The Neighbourhood Planning Act 2017 which recognises that, when determining an application, a LPA must have regard to "*a post examination draft neighbourhood development plan as far as material to the application*". If a LPA makes a decision to allow a draft neighbourhood plan with modifications to proceed to referendum, then the modifications recommended must also be taken into account.
12. The government have published guidance on the weight of the Neighbourhood Plan policies. The guidance states that '*where the local planning authority has issued a decision statement (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012) detailing its intention to send a neighbourhood plan to referendum, that plan can be given 'significant weight' in decision-making, so far as the plan is material to the application*'.
13. The Neighbourhood Plan supports the achievement of the core principles set out in the Council Plan. In particular, policies in the plan seek to support well designed development, as well as supporting green infrastructure with positive implications for health and well-being and climate change objectives.

## **Financial Strategy Implications**

14. The responsibility, and therefore the costs, of the Examination and Referendum stages of the Neighbourhood Plan production lie with the City of York Council. Table 1 below sets out a breakdown of the non-staffing costs of producing the Murton Neighbourhood

Plan to date and also sets out the estimated costs associated with the Examination and Referendum.

*Table 1*

<b>Stage</b>	<b>Cost</b>
Designation consultation	£500 (estimate)
Submission consultation	£500 (estimate)
NP grant to Parish Council	£3,000
Examination	Approx £3,000 exc VAT (final amount TBC on completion of Examination)
Referendum	Circa £6,000 (tbc)
<b>Total</b>	<b>£13,000 (estimate)</b>

15. A significant level of officer resources is required throughout the process to provide support to each of the Neighbourhood Planning Bodies during the preparation of the plan. This officer input seeks to ensure legal conformity, appropriate plan content, technical advice, including provision of mapping and assistance with Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA).
16. Financial support from Central Government is available for Local Planning Authorities (LPAs) involved with Neighbourhood Plans. £5,000 is available for the designation of five neighbourhood areas; York can no longer claim this as we have more than 5 designated neighbourhood areas. Local Planning Authorities can also claim £20,000 following a decision to proceed and setting a date for to referendum. A claim will be able to be made at the point when the local planning authority issues a Decision Statement detailing its intention to send the plan to referendum (rather than when a referendum date has been set) (Annex C).
17. Murton Parish Council was provided with a £3k grant from the Council to support the development of the neighbourhood plan to Submission.
18. Communities with Neighbourhood Plans in place can also benefit financially should York adopt a Community Infrastructure Levy (CIL). They can benefit from 25% of the revenues from the CIL arising from the development that takes place in their area. At the Council's Executive meeting on 26<sup>th</sup> January 2023, the Council made the decision to formally consult on the draft CIL Charging

Schedule and associated Instalment Plan, prior to CIL being published and charged, in line with the CIL Regulations 2010 (as amended 2019). It is anticipated that the CIL Charging Schedule will be submitted for examination in Spring 2025 and, subject to a successful examination, will be adopted by the end of the year.

## **Recommendation and Reasons**

19. It is recommended that Executive:

- i) Agrees the Examiner's modifications set out at Annex C (Decision Statement) to the Submission Draft Murton Neighbourhood Plan (Annex A) and that subject to those modifications the Neighbourhood Plan meets the Basic Conditions and other legislative requirements.
- ii) Agrees that the Submission Draft Murton Neighbourhood Plan as amended proceeds to a local referendum based on the neighbourhood area as noted in the Examiner's Report (Annex B).
- (iii) Approves the Decision Statement attached at Annex C 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.

## **Background**

20. The Murton Neighbourhood Plan has been prepared by Murton Parish Council, with engagement with the local community and City of York Council. Prior to Examination it has been through the following stages of preparation:

- Area to be covered by Neighbourhood Plan submitted to City of York Council (14 February 2014);
- Consultation on Neighbourhood Plan area (17 March – 28 April 2014);
- Designation as a Neighbourhood Area (23 July 2015);
- First Pre-Submission consultation Regulation 14 (6 April 2021 to 18 May 2021);
- Submission of Neighbourhood Plan to City of York Council (16 October 2024);

- Submission Consultation – Regulation 16 (6 November 2024 – 10 January 2025).
21. Following the close of submission consultation and with the consent of Murton Parish Council, Andrew Ashcroft (BA(Hons), MA, DMS, MRTPI) was appointed to undertake an Independent Examination of the Neighbourhood Plan. The purpose of the Examination is to consider whether the Plan complies with various legislative requirements and meets a set of “Basic Conditions” set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The Basic Conditions are:
    - i. To have regard to national policies and advice contained in guidance issued by the Secretary of State;
    - ii. To contribute to the achievement of sustainable development;
    - iii. To be in general conformity with the strategic policies contained in the development plan for the area;
    - iv. To not breach, and be otherwise compatible with, EU and European convention on Human Rights obligations; and
    - v. To be in conformity with the Conservation of Habitats and Species Regulations 2017(3).
  22. The Examiner can make one of three overall recommendations on the Neighbourhood Plan namely that it can proceed to referendum (i) with modifications; (ii) without modification; or (iii) that the Neighbourhood Plan cannot be modified in a way that allows it to meet the Basic Conditions or legal requirements and should not proceed to referendum.
  23. Modifications can only be those that the Examiner considers are needed to:
    - a. make the plan conform to the Basic Conditions
    - b. make the plan compatible with the Convention rights
    - c. make the plan comply with definition of a neighbourhood plan and the provisions that can be made by a neighbourhood plan or
    - d. to correct errors.
  24. If a recommendation to go to a referendum is made, the Examiner must also recommend whether the area for the referendum should

go beyond the Neighbourhood Area, and if so what the extended area should be.

25. The Regulations presume that Neighbourhood Plans will be examined by way of written evidence only, with a requirement for a hearing only in cases where the Examiner feels the only way to properly assess a particular issue is via a discussion with all parties. The Examiner decided that examination by written representations was appropriate in this case and provided his final report on 1st April 2025.

#### The Examiner's Recommendations

26. Annex B to this Committee report sets out the Examiner's Report, including modifications.
27. The Examiner's Report concludes that, subject to the modifications proposed in his report, the Neighbourhood Plan meets the Basic Conditions required by legislation and that the Neighbourhood Plan should proceed to a referendum to be held within the Neighbourhood Area.
28. Officers have considered all the recommendations and the Examiner's reasons for them and have set out the Council's response as part of the Decision Statement in Annex C.
29. Positively the Examiner summarises that *"The Plan is a good example of a neighbourhood plan. It includes a variety of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. It recognises its sensitive location in the Green Belt and proposes the designation of a package of Local Green Spaces. The Plan has been underpinned by community support and engagement. All sections of the community have been engaged in its preparation."*
30. On the matter of the Referendum, the Examiner recommended that it should proceed to Referendum, and that the Referendum area should coincide with the neighbourhood area.
31. The Examiners Report (Annex B) assesses the policies in the Neighbourhood Plan and makes a series of recommended modifications where necessary, to ensure that the policies have the necessary precision to meet the Basic Conditions. The Modifications proposed by the Inspector are outlined in the Decision Statement (Annex C), together with the Council's Consideration / Justification.

32. In summary, the Examiner has proposed modifications to the following policies:
- ENV2 – Green Infrastructure;
  - ENV3 – Historic Environment;
  - ENV4 – Design;
  - ENV5 – Alterations and Extensions;
  - ENV6 – Flood Risk Management;
  - ENV7 - Murton Park;
  - EMP1 – Employment;
  - HAC1 – Housing Development;
  - HAC2 – Houses in Multiple Occupation;
  - HAC3 – Community Facilities;
  - TRA1 – Traffic and Movement;
  - DC1 – Developer Contributions;
33. The Examiner also recommended adding text to the Community Action section to clarify that they are not land use planning policies and do not form part of the development plan and should be shown in a different colour from the policies. He recommended modification of general text in the Plan, where required, to achieve consistency with the modified policies to accommodate any administrative and technical changes to ensure that the Plan is up to date. He also recommended that all references to the emerging Local Plan are updated to refer to the adopted Local Plan.

#### Next Steps - Referendum

34. Subject to a decision to endorse the conclusions of the Inspector's report, the Council must organise a referendum on the Neighbourhood Plan. This ensures that the community has the final say on whether a Neighbourhood Plan comes into force.
35. The Regulations require the Local Planning Authority to hold a referendum within 56 days of the date that a decision to hold one has been made (excluding weekends and Bank Holidays). Subject to Executive endorsing the recommendations in this report on 22<sup>nd</sup>



April 2025, the referendum must be held by 14<sup>th</sup> July 2025. The date for the referendum and further details will be publicised following Executive's decision.

36. If over 50% of those voting in the referendum vote 'yes' in favour of the Neighbourhood Plan, then under the legislation the Council must bring it into force within 8 weeks of the result of referendum (unless there are unresolved legal challenges). If the referendum results in a "yes" vote a further report will be brought to Executive with regard to the formal adoption of the Neighbourhood Plan as part of the statutory Development Plan.

## **Consultation Analysis**

37. The overall process for creating a Neighbourhood Plan is collaborative between the qualifying body, in this case Murton Parish Council and the Council.
38. Preparation of the plan is undertaken by the qualifying body and is then submitted to the Council. After Submission of the plan, the Council leads on its independent Examination and subject to this being successful, the Referendum process.
39. Paragraph 20 of this report sets out all of the stages of consultation that the Murton Neighbourhood Plan has been through. A Consultation Statement prepared by the Parish Council accompanied the submission version of the Neighbourhood Plan and sets out when and how consultation was undertaken in preparation of the plan's submission to the Council.
40. In accordance with Regulation 16, City of York Council carried out consultation on the Submitted version of Murton Neighbourhood Plan between 6 November 2024 and 10 January 2025. This was longer than required to correct a formatting issue with the document only apparent once consultation had commenced and allowing for Christmas holidays. This consultation was in accordance with the Council's Statement of Community Involvement.

## **Options Analysis and Evidential Basis**

41. Options for Executive to consider are:

- i. Endorse the Examiner's Recommendations, including the proposed modifications (Annex B) and approve the Decision Statement (Annex C).
  - ii. Executive provide modified recommendations to those made by the Examiner and, if considered to be significant, agree that these will be subject to further consultation along with a statement explain why the decision differs from the Examiner's
  - iii. Executive reject the Examiner's recommendations and refuse the Neighbourhood Plan proposal.
42. Officers consider that Executive should proceed with Option (i) to enable the Murton Neighbourhood Plan to proceed to Referendum. It is considered that, subject to the modifications proposed, the Neighbourhood Plan meets the Basic Conditions, is compatible with the Convention Rights and complies with the provisions that can be made by a neighbourhood plan.
43. Given that it is considered that the proposed modifications make the Neighbourhood Plan robust and enable it to meet the Basic Conditions, Option (ii) is not considered to be justified and is therefore not recommended.
44. Option (iii) can only be justified if the Examiner recommends that the Plan should not proceed to a referendum, or the Council is not satisfied that the plan has met the procedural and legal requirements. A decision to refuse the Neighbourhood Plan proposal could only be made on the following grounds:
  - the LPA is not satisfied that the Neighbourhood Plan meets the Basic Conditions;
  - the LPA does not believe that with modification Neighbourhood Plan can meet the Basic Conditions;
  - the LPA considers that the Neighbourhood Plan constitutes a repeat proposal; or
  - the LPA does not believe the qualifying body is authorised or that the proposal does not comply with that authorisation.

This option would not be justified because the Examiner has identified that the Plan is sound and can proceed to referendum.

## Organisational Impact and Implications

45. **Financial:** The examination and referendum will be funded by City of York Council. A claim by the City of York Council will be able to be made to government for a grant of £20,000 at the point the City of York Council issues a decision statement (as set out under Regulation 25 of the Neighbourhood Planning (General) Regulations 2012) detailing its intention to send the plan to referendum. The government grant of £20,000 can be put towards the costs of the City of York Council's involvement in preparing the Plan (including the costs of the Examination and referendum). Any shortfall will need to be accommodated within existing resource.
46. **Human Resources (HR):** There are no HR implications contained within this report.
47. **Legal:** The Legal implications are set out within the body of this report. A decision to proceed to referendum is, like all decisions of a public authority, open to challenge by judicial review. The risk of any legal challenge to the Neighbourhood Plan being successful has been minimised by the thorough and robust way in which it has been prepared and tested.
48. **Procurement:** Should any outcomes from this report require procurement, all works and/or services must be procured via a compliant, open, transparent, and fair process in accordance with the council's Contract Procedure Rules and where applicable, the Procurement Act 2023. Further advice regarding the procurement process and development of procurement strategies must be sought from the Commercial Procurement team.
49. **Health and Wellbeing:** Public Health endorses the proposal to accept the examiners recommendations, and the plan now proceeds to local referendum. Public Health supports the inclusion of well-designed, sustainable developments which meets the needs of local residents, and accessible green infrastructure and more emphasis on these points could be made within the plan. Public Health along with planning colleagues are developing a Healthy Places Supplementary Planning Document which will challenge developers to: prioritise Healthy Homes and affordability; active travel and accessibility; healthy environments and vibrant neighbourhoods. The use of the Rapid Planning for Health checklist and the Health Impact Assessment is recommended to be used for any development proposals made within Murton.

50. **Environment and Climate action:** Neighbourhood Planning help shape and develop a sense of place. The environment is a key consideration in this process.

Policies contained within the Murton Neighbourhood Plan support the objectives of the Climate Change Strategy. In particular, policies ENV1 and ENV2 promote biodiversity and enhancement of nature and ENV6 contributes to climate adaptation and resilience to flooding.

Policy CA2, CA6 and CA9 support ambitions for increasing active travel and public transport use.

Other climate change and carbon reduction requirements are covered by policies in the Local Plan.

51. **Affordability:** Communities with Neighbourhood Plans in place can benefit financially should York adopt a Community Infrastructure Levy (CIL). They can benefit from 25% of the revenues from the CIL arising from the development that takes place in their area bringing the opportunity to fund local community developments.
52. **Equalities and Human Rights** - The EIA produced no likely significant impacts from the policies in the Neighbourhood Plan.
53. **Data Protection and Privacy:** The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.
54. **Communications:** The Murton Neighbourhood Plan comms will be contained to the announcement through Executive decision and reactive communications in response to media enquiries.
55. **Economy:** The economy of Murton is a due consideration of the development of the Murton Neighbourhood Plan which has been led by the local community to meet the local community needs.

## Risks and Mitigations

56. In compliance with the Council's risk management strategy, the main risk associated with the Murton Neighbourhood Plan arise 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.
57. The Examiner's conclusions state that he is satisfied that, with proposed modifications, the plan meets the statutory requirements and can proceed to the next stages. Overall risk associated with failure to comply is therefore deemed to be low.

## Wards Impacted

58. This Neighbourhood Plan relates to the Parish of Murton which is within the Ward of Osbaldwick and Derwent.

## Contact details

For further information please contact the authors of this Decision Report.

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<b>Date:</b>	07/04/2025
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## **Background papers**

Murton neighbourhood plan application and boundary was approved at the [Executive Member Decision Session on 23 July 2015](#)

## **Annexes**

- Annex A: Murton Neighbourhood Plan (Submission version)
- Annex B: Examiner's Report
- Annex C: Draft Decision Statement
- Annex D: Equalities Impact Assessment (EIA)