

Executive

15 June 2023

Report of the Corporate Director of Place
Portfolio of the Executive Member for Economy and Strategic Planning

Strensall with Towthorpe Neighbourhood Plan – Referendum outcome and ‘making’ the Plan

Summary

1. The purpose of the report is to seek agreement that the Strensall with Towthorpe Neighbourhood Plan can be made following a successful referendum.

Recommendations

2. The Executive is asked to:
 - i) Note the successful results of the referendum that the Strensall with Towthorpe Neighbourhood Plan now forms part of the City’ statutory Development Plan.
 - ii) Agree that, in accordance with the statutory requirements, the Strensall with Towthorpe Neighbourhood Plan be formally ‘made’.
 - iii) To approve the Decision Statement attached at Annex B to be published in accordance with the statutory requirements.

Reasons: 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.

4. The Strensall with Towthorpe Neighbourhood Plan has been prepared by Strensall with Towthorpe Parish Council, with on-going engagement with the local community and City of York Council. The Plan has been through the following stages of preparation:
 - Area to be covered by Neighbourhood Plan submitted to City of York Council (27th August 2015);
 - Consultation on Neighbourhood Plan area (16th November -14th December 2015);
 - Designation as a Neighbourhood Area (6th January 2016);
 - Submission of an amended application boundary (to include the whole of Towthorpe Moor Lane and the area around its junction with the A64 (April 2017);
 - Consultation on amended application boundary (28th March – 11th May 2018);
 - Amended application boundary approved by City of York Council (14th June 2018);
 - First Pre-Submission consultation Regulation 14 (1st June – 15th July 2018);
 - Second Pre-Submission consultation – Regulation 14 (1st March – 12th April 2019);
 - Further consultation (1st July – 26th August 2019);
 - Submission of Neighbourhood Plan to City of York Council (June 2021);
 - Submission Consultation – Regulation 16 (15th November 2021 – 7th January 2022);
 - Examination commenced April 2022;
 - Examiners Report received October 2022;
5. The Independent Examiner's report concluded that subject to a number of modifications, the Neighbourhood Plan should proceed to referendum.
6. Members considered the Examiner's report at Local Plan Working Group on 6th March 2023 and Executive on 16th March 2023, and agreed that the Plan (as modified to accord with the agreed recommendations of the Examiner and an additional modification by the Local Planning Authority) should proceed to referendum.

Strensall with Towthorpe Neighbourhood Referendum

7. A referendum was held on Tuesday 4th May 2023 and was organised by the City of York Council. It was held alongside the local elections, which also took place on the same day. As per the Examiner's recommendations, the referendum area is the neighbourhood area and residential properties within the immediate vicinity of the neighbourhood area. Residents eligible to vote were asked to answer 'yes' or 'no' to the following question as set out in the regulations:

“Do you want City of York Council to use the Neighbourhood Plan for Strensall with Towthorpe to help decide planning applications in the neighbourhood area?”

8. The Declaration of Results of Poll contained at Annex A to this report confirms that 1,493 ballot papers were issued in the referendum, out of a potential 4,521 on the electoral roll (33.0% turnout). The results on whether to accept the Strensall with Towthorpe Neighbourhood Plan were:

- YES = 1,194 (82.5%)
- NO = 253 (17.5%)

9. The Regulations require that where over 50% of those voting in the referendum, vote in favour of the Neighbourhood Plan, then the Council is legally obliged to 'make' the plan (i.e. formally adopt it as part of the statutory Development Plan) within 8 weeks, which in this case is 30th June 2023.

10. The Regulations also provide that a Neighbourhood Plan becomes part of the statutory development plan immediately after it is approved through referendum, regardless of whether it is 'made' by the Council or not. Given the referendum result the Strensall with Towthorpe Neighbourhood Plan is now part of the statutory development plan for the City of York. Its policies will therefore be used in determining planning applications that are located within the defined Neighbourhood Area.

Consultation

11. As set out in paragraph 4, the Neighbourhood Plan has been through several stages of consultation, in accordance with the relevant regulations. This has provided interested stakeholders with the opportunity to comment on the Plan.

12. 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.
13. In accordance with the statutory requirements, publicity was carried out in advance of the referendum and the specified documents were made available on the Council's website, at West Offices reception, York Explore Library and Strensall Library.

Options and analysis

14. Section 38A(4)(b) of the Planning and Compulsory Purchase Act 2004 requires that a local planning authority must make a neighbourhood plan if more than half of those voting have voted in favour of the plan. The plan must be 'formally' made within 8 weeks of the referendum.
15. There are only limited circumstances where the local planning authority is not required to make the neighbourhood plan. These are where it considers that the making of the plan would breach, or otherwise be incompatible with, any EU obligations or any of the Convention rights (within the meaning of the Human Rights Act 1998), or there are unresolved legal challenges. There is nothing to suggest that this is the case with regard to the Strensall with Towthorpe Neighbourhood Plan and there have been opportunities for these issues to be considered throughout the process during Examination of the Plan. Therefore, if the Council does not make the Plan, it will not fulfil its statutory obligations.

Council Plan

16. 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

17. The following implications have been assessed:

- **Financial** – The staff time associated with providing support to areas currently undertaking neighbourhood planning is funded through the existing Strategic Planning Policy budget. The examination and referendum costs (anticipated to be circa £8750) have been funded by City of York Council. However, the Council will be applying for a government grant towards these costs.
- **Human Resources (HR)** – There are no HR implications
- **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).

18. 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

19. 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.

20. The examination process tested the Strensall with Towthorpe Neighbourhood Plan against the Basic Conditions. The modifications that were recommended by the examiner have been taken forward in the plan so that it fully meets the Basic Conditions. This has managed the risk of challenge and removed any potential conflict between the Neighbourhood Plan and the policies in the emerging Local Plan. This process has resulted in clear, robust and deliverable policies for applicants and the Council as local planning authority.

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Report Approved **Date:** 11.5.2023

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Wards Affected: Strensall

For further information please contact the author of the report

Background Papers:

<https://www.york.gov.uk/planning-policy/strensall-towthorpe-neighbourhood-plan>

Annexes:

Annex A: Declaration of Result of Poll
Annex B: Regulation 19 Decision Statement
Annex C: Equalities Impact Assessment (EqIA)

List of Abbreviations Used in this Report:

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

