

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