

**Executive**

**19 October 2017**

Report of the Director of Economy and Place

Portfolio of the Executive Member for Transport & Planning

## **Upper and Nether Poppleton Neighbourhood Plan**

### **Summary**

1. The purpose of the report is to consider the results of the Upper and Nether Poppleton Neighbourhood Plan referendum. It asks Members 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 Local Plan Working Group on 12<sup>th</sup> October 2017.

### **Recommendations**

2. The Executive is asked to:
  - i) Consider the results of the referendum and formally 'make' the Upper and Nether Poppleton 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”).
4. The Upper and Nether Poppleton Neighbourhood Plan has been prepared jointly by both Upper Poppleton Parish Council and Nether Poppleton 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:
  - Designation as a Neighbourhood Area (October 2014)
  - Consultation on a Pre-Submission version (March 2015)
  - Consultation on a 2<sup>nd</sup> Pre-submission version (May 2016)
  - Submission to City of York Council (November 2016)
  - Submission consultation (December 2016)
  - Examination (January-May 2017)
  - Further consultation on the Strategic Environmental Assessment (March 2017)
  - Examiner’s Report issued (16<sup>th</sup> May 2017)
  - Referendum (23<sup>rd</sup> August 2017)
5. The Examiner’s Report concluded that subject to modifications, the Upper and Nether Poppleton 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 27<sup>th</sup> June and Executive on 29<sup>th</sup> June 2017, Members accepted the Examiner’s recommendations and agreed that the Upper and Nether Poppleton Neighbourhood Plan should proceed to referendum.
7. A referendum was held on 23<sup>rd</sup> August 2017.

## Referendum

8. A referendum on the Upper and Nether Poppleton Neighbourhood Plan was held on 23rd August 2017 and was organised by the City of York Council. As per the Examiner's recommendations, the referendum area was the same as the Neighbourhood Area designated by the Council, which are the parishes of Nether and Upper Poppleton.
9. Polling Stations at All Saints Church (Upper Poppleton) and the Tithe Barn (Nether Poppleton) were open from 7am until 10pm on Wednesday 23rd August.
10. The Declaration of Results of Poll contained at Annex A to this report confirms that 1,207 residents voted in the referendum, out of a potential 3345 on the electoral roll (36.08% turnout). The results on whether to accept the Upper and Nether Poppleton Neighbourhood Plan were:-
  - YES = 1,102 (91.3%)
  - NO = 103 (8.7%)
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 obliged to 'make' the plan (i.e. bring it into force as part of the Development Plan). The Council is not subject to this 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 91.30% in favour of the Neighbourhood Plan; the Upper and Nether Poppleton 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 18th October 2017.

### **Options**

14. Members are asked to formally 'make' the Upper and Nether Poppleton Neighbourhood Plan and bring it into full legal force as part of the Development Plan for York. There are not considered to be any reasons not to 'make' the Plan.

### **Analysis**

15. This report presents to Members the outcome of the Upper and Nether Poppleton Neighbourhood Plan referendum. At 91.30% 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.
16. 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**

17. 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.

### **Financial Implications**

18. The responsibility and therefore the costs of the Examination and Referendum stages of the Neighbourhood Plan production lie with the City of York Council. The table below sets out a breakdown of the non-staffing costs of producing the Upper and Nether Poppleton Neighbourhood Plan to date and also sets out the costs associated with the Examination and Referendum.

<b>Stage</b>	<b>Cost</b>
Designation consultation	£500
Submission consultation	£500
NP grant to Parish Councils	£3,000
Examination	£8,600
SEA Consultation	£500
Referendum	£5,875.00
<b>Total</b>	<b>£18,975.00</b>

19. There is also a significant level of officer costs required throughout the process to provide the required support to each of the Neighbourhood Planning Bodies. A significant level of officer input at an appropriate level is needed throughout the process 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).

### **Council Plan**

20. Under the 2015-2019 Council Plan objectives the project will assist in the creation of a Prosperous City for All, and be a Council that listens to residents particularly by ensuring that:
- i. Everyone who lives in the city can enjoy its unique heritage and range of activities.
  - ii. Residents can access affordable homes while the greenbelt and unique character of the city is protected.
  - iii. Visitors, businesses and residents are impressed with the quality of our city.
  - iv. Local businesses can thrive.

- v. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.
- vi. Environmental Sustainability underpins everything we do.
- vii. We are entrepreneurial, by making the most of commercial activities.
- viii. Engage with our communities, listening to their views and taking them into account.

## **Implications**

21. The following implications have been assessed:

- **Financial**– The examination and referendum will be funded by City of York Council. Once a date for the referendum is set the Council can apply for a government grant of £20,000 towards the costs of the Councils involvement in preparing the Plan (including the costs of the Examination and referendum). Any shortfall will need to be accommodated within existing resource.
- **Human Resources (HR)** – None
- **Legal** - The Legal implications are set out within the body of this report.
- **Crime and Disorder**– None
- **Information Technology (IT)** – None
- **Property** – None
- **Other** – None

## **Risk Management**

22. In compliance with the Council's risk management strategy, the main risks associated with the Poppleton 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

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Cllr Ian Gillies

**Report**                      **Date** 4/10/17  
**Approved**                      X

### Specialist Implications Officer(s):

Patrick Looker, Finance Manager  
Sandra Branigan, Senior Solicitor, Planning

**Wards Affected:** Rural West

*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

### Glossary of Abbreviations:

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