

Report of the Corporate Director of Place

Huntington Neighbourhood Plan

Summary

1. The purpose of the report is to consider the results of the Huntington 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 20 July 2021.

Recommendations

2. Members are asked to recommend that Executive:
 - i) Consider the results of the referendum and formally 'make' the Huntington 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 Huntington Neighbourhood Plan has been prepared by Huntington 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 (28 September 2015)
 - Consultation on Pre-Submission Version (29 January to 23 March 2018)
 - Submission to City of York Council (31 July 2019)
 - Submission Consultation (7 October to 18 November 2019)
 - Regulation 17A (2) Consultation (3 December 2020 – 28 January 2021)
 - Examiner Report considered at LPWG and Executive (16 March and 18 March 2021 respectively)
 - Referendum (10 June 2021)
5. The Examiner’s Report concluded that subject to a series of recommended modifications, the Huntington 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 16 March 2021 and Executive on 18 March 2021, Members accepted the Examiner’s recommendations (excluding the ones in relation to Green Belt) and the additional modifications recommended by officers in relation to the Green Belt Policy and associated supporting text (in line with the Neighbourhood Plan Regulation 17A(2) Consultation) and agreed that the Huntington Neighbourhood Plan as so modified should proceed to referendum.
7. A referendum was held on Thursday 10 June 2021.

Referendum

8. A referendum on the Huntington Neighbourhood Plan was held on Thursday 10 June 2021 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 is the parish of Huntington.
9. Two polling stations were open from 7am until 10pm on Thursday 10 June 2021. One at Orchard Park Community Centre, off Kestrel Wood Way and the other at Huntington Community Centre at 26 Strensall Road in Huntington.
10. The Declaration of Results of Poll contained at Annex A to this report confirms that 1318 residents casted a valid vote in the referendum, out of a potential 7733 on the electoral roll (17.1% turnout). The results on whether to accept the Huntington Neighbourhood Plan were:-
 - YES = 1144 (86.8%)
 - NO = 174 (13.2%)
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 86.8% in favour of the Neighbourhood Plan; the Huntington 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 6 August 2021.

Consultation

14. As mentioned earlier in the report, the Huntington Neighbourhood Plan has been through several stages of consultation. These are: consultation on designation as a Neighbourhood Area (28 September 2015), consultation on Pre-Submission version (29 January to 23 March 2018), consultation on a Submission version (7 October to 18 November 2019), Regulation 17A (2) Consultation (3 December 2020 – 28 January 2021) and the Referendum (10 June 2021).
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 Huntington 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 Huntington Neighbourhood Plan referendum. At 86.8% 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 has been funded by City of York Council. However the Council has applied for and received 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).
 - **Human Resources (HR)** – There are no HR implications
 - **One Planet Council / Equalities** – There are no equality implications

- **Legal** - The legal implications are set out within the body of this report.
- **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 Huntington 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.

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Report Approved **Date:** 1.07.2021

Specialist Implications Officer(s):

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Wards Affected: Huntington & New Earswick

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

List of Abbreviations Used in this Report:

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