

**Wards Affected:**

Danesborough and Walton

**ITEM 4(d)(i)****MILTON KEYNES COUNCIL****11 JANUARY 2017**

Report considered by Cabinet – 3 January 2017

**WALTON NEIGHBOURHOOD PLAN**

Responsible Cabinet Member: Councillor Gifford - Cabinet Member for Place

Report Sponsor: Anna Rose, Service Director: Planning, Culture and Infrastructure

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**Executive Summary:**

The report seeks Cabinet's agreement to recommend to Council that it makes (brings into legal force) the Walton Neighbourhood Plan following the referendum held on 17 November 2016. The referendum returned a majority 'Yes' to the question asked – whether those voting wanted Milton Keynes Council to use the neighbourhood plan when deciding planning applications in the neighbourhood area. Given the 'Yes' vote, the Council is now obliged to make the Plan.

**1. Recommendation(s)**

- 1.1 That the Cabinet recommends to Council that it makes the Walton Neighbourhood Plan pursuant to the provisions of Section 38(A)(4) of the Planning and Compulsory Purchase Act 2004.
- 1.2 That, subject to the Council's agreement to the making of the Neighbourhood Plan:
  - (a) the decision document (at **Annex A** to the report) and the Walton Neighbourhood Plan (at **Annex B** – web-link) be published on the Council's website and in other manners, to bring them to the attention of people who live, work or carry out business in the neighbourhood area; and
  - (b) the decision document and details on how to view the plan be sent to the qualifying body (Walton Parish Council) and any person who asked to be notified of the decision.
- 1.3 That Walton Community Council be congratulated on the successful outcome of the referendum.

**2. Issues**

- 2.1 The Walton Neighbourhood Plan was submitted to the Council for examination and was subsequently publicised for a six week period, ending on 3 August, 2016. All comments received were then passed to the Examiner, Mr Andrew Ashcroft, who submitted his report on the Plan in September 2016.

- 2.2 On 28 September, 2016, the Service Director for Planning, Culture and Infrastructure made the decision to accept the Examiner's report and the modifications that the examiner had recommended be made to the Neighbourhood Plan in order to ensure its compliance with the basic conditions. It was also agreed that the Plan, as modified, should proceed to a referendum of those residents eligible to vote within the parish of Walton..
- 2.3 The referendum took place on 17 November 2016. The official result is that, 1138 residents voted Yes (88% of those voting) and 145 voted No (11% of those voting), with 3 ballot papers rejected. The turnout for the referendum was 14.63%.
- 2.4 Once a neighbourhood plan has successfully passed all the stages of preparation, including an Examination and Referendum, it is made by the local planning authority and forms part of that authority's Development Plan, meaning that it will be a material consideration when deciding development proposals within the area covered by the Plan.
- 2.5 As with any planning decision there is a risk of legal challenge but that risk has and is being managed by ensuring that the regulations are followed and that the Council's decision making process is clear and transparent.

### 3. **Options**

- 3.1 Once a neighbourhood plan has been supported by a majority of those voting in a referendum the Council is obliged to proceed to make the Plan under section 38(A)(4) of the Planning and Compulsory Purchase Act, 2004. The Council is not subject to this duty if the making of the plan would breach, or otherwise be incompatible with, any EU obligation or any of the convention Rights. The Neighbourhood Plan does not breach nor would it be incompatible with the conventions or obligations.
- 3.2 There are, therefore, no other options than to make the Walton Neighbourhood Plan so that it becomes part of the Milton Keynes Development Plan and specifically part of the Development Plan for Walton Parish area.

### 4. **Implications**

#### 4.1 Policy

The National Planning Policy Framework sets out that Neighbourhood Plans must be in general conformity with the strategic policies of the development plan. Neighbourhood Plans should reflect these policies, and neighbourhoods should plan positively to support them. Neighbourhood Plans and Development Orders should not promote less development than is set out in the Local Plan, or undermine its strategic policies. In Milton Keynes, the strategic policies are set out in the adopted Milton Keynes Local Plan and Core Strategy.

Once a Neighbourhood Plan has successfully passed all of the stages of preparation, including an examination and referendum, it is made by the local planning authority and forms part of the authority's Development Plan, meaning it will be a material consideration when considering development

proposals in the Neighbourhood Plan area. In terms of the planning policy hierarchy, a Neighbourhood Plan, once adopted, carries more weight than a Supplementary Planning Document.

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 which came into force on 1 October, 2016 require local planning authorities to make a plan that has been supported at referendum within eight weeks of the day after the referendum. A decision to make the Plan by Full Council on 11 January 2017 will meet that timescale.

#### 4.2 Resources and Risk

The Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 (“the 2012 Regulations”) placed new duties on local planning authorities in relation to Neighbourhood Planning. These new duties have considerable implications for Council resources. In recognition of the additional burdens that these new duties place on local planning authorities, DCLG now makes extra burden funding of £20,000 available to local authorities, which can be claimed once a date for a referendum has been set following a successful examination. This is a reduction of £10,000 per plan from that which has been available in previous years. Further duties and deadlines for decisions have been imposed through the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, as a result of the 2016 Housing and Planning Act and more are anticipated to follow from the Neighbourhood Planning Bill.

Publicity and officer support costs associated with making Neighbourhood Plans is met within the Development Plans budget and staff resources to implement the Plan come from the existing staff within the Development Plans and Development Management teams.

An internal audit of the Neighbourhood Plans service carried out in 2015 has shown that that the additional costs incurred delivering the service were only just covered by the extra burdens funding.

N	Capital	Y	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

#### 4.3 Carbon and Energy Management

The proposal does not impact on carbon and energy management.

#### 4.4 Legal

Neighbourhood planning is part of the Government’s initiative to empower local communities to take forward planning proposals at a local level, as outlined in Section 116 of the Localism Act, 2011. The Act and the subsequent regulations confer specific functions on local planning authorities in relation to neighbourhood planning and lays down the steps that must be followed in relation to Neighbourhood Planning.

The Walton Neighbourhood Plan has been consulted on and subjected to a referendum in accordance with the 2012 Regulations.

As with any planning decision, there is a risk of legal challenge to the plan and/or judicial review of the Council’s decision to proceed with the referendum and the making of the Plan.

Risk has been managed by ensuring that the 2012 Regulations are followed and that the Council’s decision making process is clear and transparent. Once a Neighbourhood Plan is made it carries real weight and the LPA is obliged to consider proposals for development against the policies in the Plan.

In accordance with Section 61E(4) of the Town and Country Planning Act, as modified by the Localism Act 2011, the Council must, as soon as possible after deciding to make a neighbourhood development plan;

- (a) publish on the website and in such other manner as is likely to bring the Plan to the attention of people who live, work or carry on business in the neighbourhood area:
  - (i) the decision document,
  - (ii) details of where and when the decision document may be inspected;
- (b) send a copy of the decision document to:
  - (i) the qualifying body; and
  - (ii) any person who asked to be notified of the decision.

#### 4.5 Other Implications

The Walton Neighbourhood Plan has been tested against and found to meet a number of basic conditions. Two of the basic conditions are the requirements for the plans to:

- (a) contribute to the achievement of sustainable development; and
- (b) not breach and otherwise be compatible with EU obligations (including Human Rights, the Strategic Environmental Assessment Directive and the Habitats Directive).

The Examiner’s report has confirmed that the Plan meets those Basic Conditions and officers are satisfied that there are no conflicts with these aspects.

The consultations on the draft plan carried out by the Community Council and then the publicity on the submitted plan carried out by Milton Keynes Council have helped to raise awareness of its preparation and have allowed community engagement and participation in the process. .

N	Equalities/Diversity	Y	Sustainability	Y	Human Rights
N	E-Government	n	Stakeholders	N	Crime and Disorder

**Annex A** Decision document for the Walton Neighbourhood Plan

**Annex B** Walton Neighbourhood Plan (<https://www.milton-keynes.gov.uk/planning-and-building/walton-community-council-neighbourhood-plan>)

Background Papers:

The Localism Act, 2011

The Neighbourhood Planning (General) Regulations 2012

The Housing and Planning Act, 2016

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016