

**Wards Affected:**

ALL WARDS

**APPOINTMENT OF EXAMINERS FOR NEIGHBOURHOOD PLANS**

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**Executive Summary:**

The Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 require local planning authorities to appoint independent persons to examine neighbourhood plans. The first such examination in Milton Keynes is likely to be the CMK Alliance Business Neighbourhood Plan, which is likely to be ready for examination in Spring/early Summer 2013. This report seeks approval to tender for and appoint appropriate persons to carry out neighbourhood plan examinations using the Neighbourhood Planning Independent Examiners Referral Panel. This approach will be evaluated at the end of 12 months and if it has proved successful will continue to be followed.

**1. Recommendation(s)**

- 1.1 That the tender and appointment of an independent examiner for the examination of each neighbourhood and business neighbourhood development plan that reaches the examination stage, be approved.
- 1.2 That, in the first instance, suitable candidates for the role of examiner be sourced from the Neighbourhood Planning Independent Examiners Referral Service (NPIERS).
- 1.3 That should a suitable candidate not be found from the NPIERS, the Planning Inspectorate (PINS) be invited to identify an appropriate person.
- 1.4 That this approach be reviewed at the end of 12 months and, if proven to be successful, continue to be used.

**2. Issues**

- 2.1 As members will be aware, neighbourhood planning is a new right conferred on parish and town councils and local communities in the Localism Act 2011. The Act provides for the holding of an independent examination of a neighbourhood plan and requires the Local Planning Authority to make arrangements for the examination, including the appointment of the examiner.
- 2.2 The Act requires an examiner to meet three requirements:
  - To be independent of the qualifying body (the parish or town council) and the local planning authority
  - Not to have an interest in any land that may be affected by the draft plan and
  - To have appropriate qualifications and experience.

Additionally, the Local Planning Authority needs the consent of the qualifying body (in Milton Keynes this will be the parish or town council leading the preparation of the neighbourhood plan).

- 2.3 Unlike examinations of Local Development Documents (such as the Core Strategy), there is no stipulation that the Local Planning Authority (LPA) has to appoint an examiner from the Planning Inspectorate (PINS). The LPA can appoint anyone who meets the requirements in paragraph 2.2 above. To assist LPAs find suitably qualified persons, a Neighbourhood Planning Independent Examiners Referral Service (NPIERS) has been established by the Royal Town Planning Institute (RTPI), Royal Institute of Chartered Surveyors (RICS) and the Planning Officers' Society (POS). RICS has produced detailed information about the Referral Service and this is set out in the Annex to this report.
- 2.4 In summary, upon receipt of an application from a Local Authority and qualifying body the NPIERS will provide the names of three independent examiners who:
- Have the skills and experience that meet the particular criteria of the plan
  - Are available as and when needed
  - Are independent and free from conflicts of interest
  - Have been trained and assessed to undertake neighbourhood plan examinations by POS, RICS, RTPI, with support from community bodies
  - Can be drawn from various professions including RICS, RTPI, POS, RIBA, ICE, IHT etc. This means they are all professionally qualified, and regulated members of at least one professional body
  - Have appropriate professional indemnity insurance
  - Are continually monitored to ensure they maintain performance and standards

Milton Keynes Council will consider with the relevant parish or town council the acceptability of each of the three possible Independent Examiners in terms of their skills and experience and will appoint the candidate who best meets the requirements for the examination, based on the issues addressed by the neighbourhood plan and the particular planning skills required.

- 2.5 The costs of using an examiner appointed from the NPIERS is £700 per day, plus VAT, plus a one-off administrative fee of £350 plus VAT payable to RICS for the administration of the referral service. It is difficult to estimate with complete accuracy how long an examination will take as every Neighbourhood Plan is different and the issues and scale of proposals will vary from plan to plan. PINS estimate at present that they expect examinations to last for no more than 7-8 days in total, which includes the Examiner's consideration of the comments received during the publicity stage; any public hearings deemed necessary and the writing of the report.
- 2.6 The cost of the examination is to be met by the Local Planning Authority and funding is available from central government to meet the extra burdens on local authorities that neighbourhood planning creates. On 18 December 2012, DCLG announced changes to the way that funding is delivered. Local authorities can apply for grants of up to £30,000 for each neighbourhood plan to help cover their costs. This payment is phased so that £5,000 is available when the neighbourhood area is designated; a further £5,000 when the plan is submitted

to the local authority for publicity and examination; and the final £20,000 following successful examination.

- 2.7 The process to appoint an examiner has been discussed with the council's Contracts Unit. Their advice is that given the relatively small cost of the contract and the process that the RICS, RTPI and POS have put in place to recruit members to the Examiner Panel, that the NPIERS is a suitable body from which to seek to appoint an examiner. The council will formalise the appointment of the suitable candidate with an award letter. The recommendation of the Contracts Unit is that we use the NPIERS for any examinations arising over the next 12 months and monitor the calibre of candidates and the performance of this service. At the end of 12 months from now, officers will review the experience of all stakeholders involved in the examinations. If found to be successful then this arrangement will continue.
- 2.8 Should the NPIERS not result in the identification of a suitable candidate, Recommendation 1.3 above seeks approval to approach the Planning Inspectorate to appoint an examiner. This is a more costly option – PINS charge a rate of £993 per day plus VAT, which for an 8 day examination would cost around 40% more than using an examiner through NPIERS. However where neighbourhood plans raise complex issues and there are significant and competing interests involved, then, it will be important to ensure that the appointed examiner has all of the necessary experience and qualities.
- 2.9 The first examination is likely to be for the CMK Business Neighbourhood Plan in late Spring/early Summer 2013; closely followed by one for Woburn Sands Neighbourhood Plan. Given the progress that other neighbourhood plans are making, it is likely that no more than 2 further examinations will take place in the next 12 months.

### 3. Options

- (a) **Do not appoint an examiner:** this is not a viable option as the Localism Act 2011 and the Neighbourhood Planning Regulations 2012 place a duty on local authorities to support neighbourhood planning and to make arrangements for the examination, including the appointment of the examiner. Once a neighbourhood plan has been submitted to Milton Keynes Council and publicised for the 6 week prescribed period, it will proceed to examination.
- (b) **Invite individual bidders to quote for their appointment as examiner:** this is a viable option, but will incur considerable officer and administrative costs given the relatively small cost of the overall contract. The creation of the NPIERS by the RICS, RTPI and POS provides a cost effective system with panel members already having been assessed for their experience and qualifications.
- (c) **Seek an examiner from the Planning Inspectorate (PINS) rather than using the NPIERS:** this report recommends that an examiner be sought and appointed from the NPIERS in the first instance as it provides a cost effective option with the panel members already subject to a degree of quality control. The appointment of an examiner from

PINS would cost some 40% more than NPIERS. Due to the additional costs of using PINS, it is recommended that PINS are approached only if the calibre of candidates from NPIERS is not considered to be suitable to meet the requirements for an examination of a particular plan.

#### 4. Implications

##### 4.1 Policy

Neighbourhood plans have to be prepared so as to be in general conformity with the NPPF and the strategic policies in the development plan. Once the neighbourhood plan has completed a successful examination and has been accepted by a referendum, then the local planning authority brings it in to legal force and it becomes a material consideration for the assessment of planning applications in the area that it covers. Once brought into legal force, the plan also has the effect of superseding non-strategic policies in the development plan with which it is in conflict.

##### 4.2 Resources and Risk

Six neighbourhood plans in Milton Keynes have the status of frontrunner plans, and each of these benefit from £20,000 of funding from the DCLG which is held by MKC in the Development Plans budget area. DCLG's intention, though, is that the frontrunner funding should be made available to the parish and town councils preparing the plans to support their work on the plan. Additional funding to support neighbourhood planning across the borough is included in the Planning, Economy and Development budget for 2012/13.

As set out in para 2.6 above, the cost of the examination is to be met by the Local Planning Authority and funding is available from central government to meet the extra burdens on local authorities that neighbourhood planning creates.

A claim for £20,000 for the designation of the first 4 Neighbourhood Areas in the borough against the extra burden funding was submitted to DCLG in October 2012 and it is anticipated that a further three Neighbourhood Area designations will be claimed for in the period January to March 2013.

It is not possible to state exactly how many examinations will take place in the next 12 months, but given the status of current neighbourhood plans under preparation, officers believe that it is unlikely to exceed 4.

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

##### 4.3 Carbon and Energy Management

Not relevant to this item

##### 4.4 Legal

Neighbourhood planning is a new right conferred on parish and town councils and local communities in the Localism Act 2011. The Neighbourhood Planning Regulations, 2012 prescribe the process that must be followed by parish and town councils and the Local Planning Authority in the preparation of neighbourhood plans. As set out in paras 2.1 and 2.2 above, the Act provides for the holding of an independent examination of a neighbourhood plan and requires the Local Planning Authority to make arrangements for the examination, including the appointment of the examiner.

#### 4.5 Other Implications

Matters such as equality, sustainability and the Human Rights Act will be considered by the examiner appointed as part of the examination of the business neighbourhood plan. .

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

#### Background Papers:

The Localism Act 2011

The Neighbourhood Planning Regulations 2012