



Portfolio Holder Decision  
Making Session and date/time

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Making Session

10am 31<sup>st</sup> March 2014

Item

**1**

Public

## **Much Wenlock Neighbourhood Plan: Examiner's Report and Decision to proceed to referendum**

**Responsible Officer** Andrew Evans, Head of Economic Growth and Prosperity  
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### **1. Summary**

1.1 The Much Wenlock Neighbourhood Plan has now been through an examination conducted by an independent Examiner. Shropshire Council as the local planning authority is tasked with considering the recommendations of the Inspector and determining whether the Plan can proceed to the referendum stage.

### **2. Recommendations**

- 2.1 Mal Price, the Portfolio Holder for Planning, Housing and Commissioning (Central) agrees the modification of the Neighbourhood Plan to meet the Independent Examiner's recommendations.
- 2.2 Mal Price, the Portfolio Holder for Planning, Housing and Commissioning (Central) agrees that the Neighbourhood Plan as modified subject to the Independent Examiners recommendations proceeds to a referendum.

#### Reasons for decision:

To consider the Examiner's recommendations, and whether to accept them, whether the Neighbourhood Plan as amended meets the basic conditions, is compatible with human rights requirements, and complies with the definition of a Neighbourhood Development Plan. If considered to meet these requirements, the Much Wenlock Neighbourhood Plan can proceed to the referendum stage.

## **REPORT**

### **3. Risk Assessment and Opportunities Appraisal**

3.1 The Localism Act and Regulations covering the production of Neighbourhood Development Plans provides the Framework for the production of Neighbourhood Plans. In February 2011 Much Wenlock Town Council agreed to work with Shropshire Council to become a vanguard location for a neighbourhood plan. The Town Council formed a steering group to drive the Plan and in November 2011, the Neighbourhood Plan project was launched. Much Wenlock's Neighbourhood Plan was drafted based on extensive community input and completed its final local stages, culminating in a 6 week pre submission consultation that ended in early April 2013. The Plan was revised following this consultation and submitted to Shropshire Council and then to an external Examiner for evaluation before being put to a local vote, or referendum. Following an exercise which

reviewed available options, Andrew Ashcroft MRTPI, employed by Herefordshire Council as Assistant Director – Economic, Environment and Cultural Services, was appointed as the suitable Independent Assessor (or Examiner) for this Plan. The Examiner is independent of the Parish Council, has no interest in any land that may be affected by the Plan, has appropriate qualifications and experience and was agreed to by the Town Council.

- 3.2 The emerging Neighbourhood Development Plan will, after passing the referendum, go on to become part of the statutory planning framework applied in Shropshire. In spite of the collaborative nature of the process to date, the plan will very much be a product of the community and as such will contain policies that, whilst in general conformity with the Core Strategy, will not have been tested and scrutinised to the same degree as the rest of the Development Plan. The emerging Plan contains a range of locally produced policies which the community have expressly asked to be brought into play to help guide the decision making process. Statute provides that planning applications should be determined in accordance with the provisions of relevant Development Plan policies unless material considerations indicate otherwise. The weight given to the Plan thus still remains to be balanced with other considerations when taken into the round by decision makers.
- 3.3 The Examiners conclusions following the independent examination are presented in his report (attached as Appendix 2) and the recommended modifications therein extracted (attached as Appendix 1). He concludes that the vast majority of the submitted Plan meets the basic conditions subject to recommended modifications. However having conducted a hearing to explore in more detail housing delivery and site allocation he concludes that the Plan does not meet the basic conditions so policy H3 and the associated housing site allocation RES1 are recommended to be deleted from the Plan.
- 3.4 The Examiner has reached this conclusion because the site is not available for housing development as proposed in the Neighbourhood Plan and so does not meet the National Planning Policy Framework (NPPF) policy requirements for deliverable sites and therefore policy H3 and site RES1 fail to meet the basic condition of compliance with national policy. The Neighbourhood Plan process and the role of the Examiner, in contrast to the established process for Local Plans and role of Planning Inspectors, do not allow for alternative sites or changes to proposed allocations to be made.
- 3.5 Following the Hearing session and an exchange of further information with the 3 involved parties (Much Wenlock Town Council, Shropshire Council and RPS Planning) the Examiner is recommending deletion of the policy and site allocation. Instead he is recommending the inclusion of a housing target for Much Wenlock town of 130 additional dwellings to be delivered in the Plan period (2013-2026); monitoring of the Plan on an annual basis; and an early review of the Plan to be carried out within 3 years of the Plan being 'made' (adopted).
- 3.6 In arriving at this recommendation on this contentious local issue the Examiner has considered that:
- the proposed RES1 site is a free-standing policy in the Plan, and its deletion from the Plan would not affect the implementation of any other policy.
  - the Plan's proposed amounts of housing growth are within the range of the indicative levels of housing development for Much Wenlock set out in the Core Strategy
  - the principal housing need set out in the Local Housing Needs Study is for affordable housing, and which has the ability to be implemented through Policy H1 and other policies.

- a delay in the making of the Plan will hinder the implementation of other policies or proposals in the Plan.
- the proposed review of the Plan (and as recommended for modification elsewhere in this report) will provide the flexibility for a revised package of housing proposals to come forward at a future date, and which could include a deliverable housing allocation.

3.7 The Examiner is therefore satisfied that with this modification the Plan can proceed without a specific housing allocation but that other policies in the Plan will allow for housing growth having regard to national policy, will contribute to sustainable development, be in conformity with the Core Strategy and assist with its implementation.

3.8 As with many communities the nature of the debate around local housing provision has proved contentious and to some degree polarised within Much Wenlock. There is therefore a risk that this becomes the overriding issue in the minds of the community for the referendum rather than a focus on the wider elements of the Plan as set out in the 35 policies and their underpinning objectives. The risk of failing to pass the referendum presents issues for both Shropshire Council and the Town Council in terms of procedure and Plan coverage for Much Wenlock if not covered by a Neighbourhood Plan. The alternatives have not been fully explored but could include a further round of Neighbourhood Plan consultation, hearing, additional modifications and another referendum with all the associated time and cost implications; or potentially planning in Much Wenlock is taken on by SAMDev with additional complications to this process and the loss of the valued local engagement, ownership and expenditure to date.

#### **4. Financial Implications**

4.1 The Act and Regulations provide that the costs of appointing an Assessor conducting an Examination and holding a Referendum fall to Shropshire Council. Interim provisions allow an application for these additional costs to be met in this case as Much Wenlock is a Front Runner. A reimbursement of costs will therefore be sought from the Government. As previously acknowledged (report to Cabinet 29<sup>th</sup> May 2013) the robustness of the Neighbourhood Plan Policies will be tested over time by independent Planning Inspectors on appeal. Members are advised that the liability for future appeal costs rests with Shropshire Council as Local Planning Authority and as such the usability of the plan and its impact on local decision making will need to be carefully monitored.

#### **5. Background**

5.1 The legislation provides for neighbourhood planning examinations to be undertaken entirely by written representations. However the Examiner has the ability to hold a hearing when that method is considered necessary to ensure an adequate examination of the issues contained in the Plan. Within this context the Examiner conducted the bulk of the examination on the basis of written representation in July 2013. During this period he concluded that a hearing was necessary to look into greater detail on housing delivery in the Plan area, and that hearing took place on Thursday 17 October 2013 in Much Wenlock.

5.2 Following the examination the Examiner has subsequently produced his report containing a number of recommended modifications (see Appendix 1 – Recommendations and Appendix 2 – Examiners report) none of which fundamentally change the content of the Plan. The proposed modifications are intended to ensure that the Plan meets the basic conditions and is internally consistent and user friendly.

5.3 The majority of recommended modifications have been proposed to provide a greater degree of clarity recognising the fact that Neighbourhood Plans form part of the framework within which decisions on planning applications can be made alongside Shropshire

Council's Core Strategy and SAMDev when adopted. In doing so the Examiner has followed the approach established during the examination of other submitted neighbourhood plans elsewhere in England.

5.4 The Examiner is satisfied that the Much Wenlock Neighbourhood Plan as modified meets the four basic tests, that:

- It broadly complies with the provisions of National Planning Guidance, in particular the National Planning Policy Framework,
- the Plan contributes to sustainable development
- it is in conformity with the Core Strategy and
- it does not breach and is otherwise compatible with European obligations

5.5 On this basis and subject to the proposed recommended modifications the Examiner is satisfied that the Much Wenlock Neighbourhood Plan should proceed to the referendum. The Town Council have indicated their support for all the recommended modifications and therefore it is proposed that the Plan be modified as recommended and proceeds to the referendum stage.

5.6 The referendum is organised and carried out by Shropshire Council and will take place on a date to be fixed. The referendum will only be carried out in Much Wenlock Parish as the Neighbourhood Plan area; the question that will be asked is prescribed in the regulations and is as follows:

*Do you want Shropshire Council to use the Neighbourhood Plan for Much Wenlock Parish to help it decide planning applications in the neighbourhood area?*

If more than 50% of those voting in the referendum vote 'yes' then Shropshire Council will bring the Plan into force.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information):**

Report to Cabinet 29<sup>th</sup> May 2013: Submission of the Much Wenlock Neighbourhood Plan

**Key Decision: Yes/No**

**Included within Forward Plan: Yes/No**

**If a Key Decision and not included in the Forward Plan have the General Exception or Special Urgency Procedures been complied with: Yes/No**

**Name and Portfolio of Executive Member responsible for this area of responsibility:**

Councillor Mal Price, Portfolio Holder Planning, Housing and Commissioning (Central)

**Local Member:**

Councillor David Turner

**Appendices:**

Appendix 1: Schedule of Proposed Recommendations

Appendix 2: Examiners Report

**Declaration of Interest**

- I have no interest to declare in respect of this report

Signed ..... Date .....

NAME: .....

PORTFOLIO HOLDER FOR: .....

- I have to declare an interest in respect of this report

Signed ..... Date .....

NAME: .....

PORTFOLIO HOLDER FOR: .....

(Note: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter.)

For the reasons set out in the report, I agree the recommendation(s) in the report entitled .....

Signed .....

Portfolio Holder for .....

Date .....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and pro-forma is returned to Democratic Services for processing.

Additional comment: .....

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Note: If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, Head of Legal and Democratic Services, Chief Executive and the Head of Finance, Governance and Assurance (S151 Officer) and, if there are staffing implications the Head of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Portfolio Holder: Your decision will now be published and communicated to all Members of Council. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication.