

Recommendation for Market Drayton Neighbourhood Development Plan Not to Proceed to Referendum

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1. Summary

- 1.1 This report provides information and feedback on the recent examination into the Market Drayton Neighbourhood Development Plan (The Plan). The conclusion of the Examiner's report was that the Plan should not proceed to referendum because it does not meet the nationally prescribed set of basic conditions.
- 1.2 The Market Drayton Neighbourhood Development Plan has been produced by a local Neighbourhood Plan Steering Group, with Market Drayton Town Council acting as the local 'qualifying body'. Work on the Plan began in 2014 and has included a number of consultation stages. Market Drayton Town Council submitted the draft version of the Plan to Shropshire Council in May 2018, after which Shropshire Council undertook further statutory consultation and appointed an independent person to conduct the examination into the plan.
- 1.3 The Examiner's report is attached to this Report as Appendix 1. In this instance the Examiner has recommended the Plan should not proceed to local referendum because, in his view, it does not meet the basic conditions. Whilst the Examiner's report is not binding on the authority there is a significant risk of challenge to the Authority should it decide to go against the Examiner's very clear conclusions on this matter.
- 1.4 It is now a requirement for Shropshire Council to either agree or disagree with the findings of the Examiner's report. Having considered the report's findings, it is recommended Cabinet agree with the Examiner's conclusions, which are considered to be justified. Whilst this is clearly a disappointing outcome, it is also recognised that a significant amount of work has gone into the preparation of the Plan by both the Town Council and local volunteers, which has directly led to a number of locally derived objectives which seek to achieve positive transformational change for the town. It is therefore also recommended that work towards these objectives should continue, either through further work on the Neighbourhood Plan itself, led by the Town Council in consultation with the adjoining Parish Councils, or through incorporating elements of the Plan into Shropshire Council's emerging Local Plan Review.

2. Recommendations

1. Cabinet agrees the conclusions of the Examiner's report into the Market Drayton Neighbourhood Development (Appendix 1) and that the plan in its current form should NOT proceed to referendum, and that this resolution be communicated through a decision notice published by Shropshire Council.
2. Cabinet agrees that Shropshire Council, Market Drayton Town Council and other relevant Parish Councils continue to work constructively together to determine the most appropriate means of delivering the objectives of the draft Neighbourhood Development Plan.

REPORT

2 Risk Assessment and Opportunities Appraisal

- 3.1 Having received a draft Neighbourhood Plan from a qualifying body (normally a Parish or Town Council), it is the responsibility of the Local Planning Authority, under regulation 16 of the Neighbourhood Planning (General) Regulations 2012, to publicise and to seek representations on Plan. It is also the responsibility of the Local Planning Authority under paragraph 7 of Schedule 4B to the Town and Country Planning Act 1990 to appoint an independent person to assess the Plan. In following these requirements Shropshire Council published and consulted on the submission version of the Market Drayton Neighbourhood Development Plan in June to July 2018, and appointed John Parmiter to examine the Plan in August 2018. Mr Parmiter's appointment was agreed by Market Drayton Town Council.
- 3.2 Only a draft Neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be 'made' (adopted) by the Local Authority. The basic conditions, as set out in the 2004 Planning and Compulsory Purchase Act, as they relate to Neighbourhood Development Plans, are:
 - a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
 - b) the making of the neighbourhood plan contributes to the achievement of sustainable development.
 - c) the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
 - d) the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
 - e) prescribed conditions are met in relation to the neighbourhood plan) and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 3.3. In assessing the Plan, the Examiner has three options:
 - a) that the plan proceeds to referendum as submitted;
 - b) that the plan is modified by the LPA to meet basic conditions and then the modified version proceeds to referendum; or

c) that the plan does not proceed to referendum.

A neighbourhood development plan examination is therefore a particularly focussed process, unlike that of an examination applied to Local Plans prepared by Local Planning Authorities. This therefore leave little in the way of opportunity to actively make changes to improve the Plan at this stage, unless these changes (or modifications) are to ensure the Plan meets one or more of the basic conditions.

- 3.4 Mr Parmiter's Examiner's report is included as Appendix 1 to this report. It is the role of Shropshire Council to consider the overall conclusions and the proposed modifications (if appropriate) in the Examiner's report. Whilst the Examiner's report is not binding on the authority, it is considered there is a risk of a legal challenge if the Local Authority's conclusions were to differ significantly from that of the Examiner without relevant justification.
- 3.5 In this instance, the Examiner's report into the Market Drayton NDP has concluded that the Plan should not proceed to referendum. In his report Mr Parmiter cites concerns over: the level of evidential support for the main policies; the site selection and assessment process; Strategic Environmental Assessment (SEA); and, consultation with the neighbouring parishes. Mr Parmiter's conclusions have been informed by the submission documents as well as the representations made to the Plan at Regulation 16 stage. His conclusion is that the draft Plan does not meet the necessary basic conditions and does not meet the legal requirement to avoid excluded development in a defined Mineral Safeguarding Area.
- 3.6 It is important to note the highly aspirational nature of the draft Plan, which seeks to achieve significant land allocations to support the delivery of the proposed relocation of the Market Drayton Sports Association from its current location at Greenfields Lane, and the delivery of a new marina and associated development at land adjacent to Victoria Wharf, both of which would be accompanied by significant additional housing allocations to cross-subsidise their delivery. It is considered these objectives could be transformational for the town, and indeed the level of aspiration is commended by the Examiner. It is considered the draft Plan fully embraces the Government's ethos for the preparation of neighbourhood plans as a means to positively supplement the strategic policies of the Local Plan. However, it is also recognised that the highly aspirational nature of the Plan has inevitably placed a heavier expectation on the Town Council to fully justify the proposed site allocations, especially given the vast majority of proposed land release is on land within an adjoining Parish Council area.
- 3.7 One of the Examiner's concerns relates to consultation process with the adjoining parish areas (Norton in Hales, Adderley and Moreton Say). With regard to this issue, whilst it is considered the Examiner has provided a significant, and perhaps overly critical assessment of the Plan's consultation process, it is nevertheless accepted that all three adjoining Parish Councils have raised concerns and, on this basis, cannot be considered to be in support of the Plan. Whilst it is noted that the concern of the Parish Councils originated after the formal designation of the Neighbourhood Plan Area in 2015 (to which no objection was raised), and that representatives from all three Parish Councils were included on the Neighbourhood Plan Steering Group, it is nevertheless accepted that this is an important issue which remains unresolved. It is therefore considered the Examiner's conclusions on this matter are justified and reasoned.
- 3.8 If Cabinet agree with recommendation 1 to this report, in accordance with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012, the Council will need to issue a decision notice setting out that this resolution. However, it remains open for Market Drayton Town Council to seek to address the Examiner's concerns and to continue with the preparation of their Neighbourhood Plan.

In order to do this there would need to be further statutory consultation on a draft Plan and another examination process. At this stage it is considered this does present a risk to the Town Council and ultimately this is a decision for them to take having considered the factors involved in seeking to deliver the outcomes through alternative means.

- 3.9 At the time of drafting this report the formal decision on how to proceed had not yet been taken by the Town Council, and officers at Shropshire Council will continue constructive discussions with the Town Council to support an agreed approach. Ahead of this decision, it has been considered prudent for Shropshire Council to pursue the emerging Local Plan Review process as an alternative means of delivering some of the objectives of the Neighbourhood Plan, principally the relocation of the Market Drayton Sports Association and the allocation of a marina and associated uses on land adjacent to Victoria Wharf. It should therefore be noted that in anticipation of the outcome of the Neighbourhood Plan's examination process, Shropshire Council's recent consultation on Preferred Site Allocations for the Local Plan Review identified these two key objectives for the town up to 2036 in the proposed Development Strategy for the area. In doing so the draft version of the Neighbourhood Plan was a material factor for Shropshire Council in its choice of preferred residential sites for the town. The 'Preferred Sites' consultation document for Market Drayton is included as Appendix 3 to this report for information. It is therefore considered the Local Plan process can be an effective mechanism for delivering these objectives of the Neighbourhood Plan.
- 3.10 If it is agreed that the Local Plan Review will seek to deliver the proposed outcomes of the draft Neighbourhood Plan, Shropshire Council will clearly need to ensure it has considered and addressed thoroughly the relevant outcomes of the Examiner's report. In particular this will need to be supported by an appropriately robust site assessment process and appropriate consultation with both residents of Market Drayton and the adjoining parish areas.

4. Financial Implications

- 4.1 The Localism Act and Regulations provide that the following costs would fall to Shropshire Council: delivering a supporting role particularly in the latter stages of the Plan's development; appointing an Examiner for the Plan; and conducting an Examination and holding a Referendum. Current provisions allow an application for these additional costs to be met, and a reimbursement of costs will therefore be sought from Central Government. It is considered likely the robustness of adopted Neighbourhood Plan Policies will be tested over time by independent Planning Inspectors on Planning appeals made under Section 78 of the Planning Act. Members are advised that the liability for future appeal costs rests with Shropshire Council as Local Planning Authority and as such the usability of such plans and their impact on local decision making will need to be carefully monitored.

5. Background

- 5.1 Shropshire Council's localised planning approach supports Neighbourhood Plans being brought forward under the Localism Act and the 2012 Neighbourhood Planning Regulations, indeed the Council is legally obliged to do so. However, Shropshire Council is also committed to promoting and supporting other forms of locality planning for neighbourhoods as potentially more cost effective and sustainable alternatives to a full Neighbourhood Plan through Community-led planning, parish planning, design guides etc. The Government's National Planning Policy Framework (NPPF) supports the principle of Neighbourhood Plans and their status as part of the Development Plan.

The NPPF states “Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies”. It is also made clear that Neighbourhood Plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.

- 5.2 Neighbourhood Development Plans must follow a defined regulatory process in both their preparation and adoption. This includes the formal designation of the area (Regulation 6 Stage), the consultation on a draft version of the Plan (Regulation 14 Stage), submission to the Local Planning Authority (Regulation 15 stage), and consultation and examination on the Final Draft version of the Plan (Regulation 16 stage).
- 5.3 Market Drayton Town Council, acting as the ‘qualifying body’ for the purposes of regulations, requested that an area including the whole of the Town Council area and some adjoining land within the parishes of Norton-in-Hales, Morton Say and Adderley be designated as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan in May 2015. Following a period of period of consultation in accordance with Regulation 6 of the Neighbourhood Planning (General) Regulation 2012, this area formally agreed by Shropshire Council in December 2015. No objections were received to this designation.
- 5.4 A Neighbourhood Plan Steering Group was established in order to prepare and consult on the Plan. The Steering Group consisted of representatives from the Town Council, each of the three adjoining Parish Councils and other local volunteers. A draft version of the Plan (Regulation 14 stage) was consulted on by Market Drayton Town Council between September and October 2016. The Plan was then amended to reflect the consultation and was formally agreed by Market Drayton Town Council in March 2018 and submitted to Shropshire Council (Regulation 15 stage) in May 2018.
- 5.5 Shropshire Council appointed John Parmiter to examine the Plan in August 2018. As well as considering written representations made at Regulation 16 stage, Mr Parmiter also required a one-day public hearing session to be held. This took place on 27th September 2018 at Market Drayton Town Hall. Whilst it is normally considered the exception for an Examiner to require a hearing session, given the Plan specifically sought to allocate land for development this approach was not surprising. Officers from the Town Council and Shropshire Council, along with the Town Council’s planning consultants, were present to answer questions along with invited individuals and organisations who made representations to the Plan. Section 3 of this report outlines the process of the examination and summarises Mr Parmiter’s conclusions.

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

Portfolio Holder:

Councillor Robert Macey, Portfolio Holder for Planning and Regulation

Local Member:

Councillors Roger Hughes, David Minnery, Roy Aldcroft and Paul Wynn

Appendices:

Appendix 1: Examiners Report into the Market Drayton Neighbourhood Development Plan

Appendix 2: Submission version of the Market Drayton Neighbourhood Plan

Appendix 3: Local Plan Review: Preferred Sites Consultation (November 2018) – Market Drayton Place Plan Area