

Recommendation for Stoke Upon Tern Neighbourhood Development Plan to Proceed to Referendum

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1. Summary

- 1.1 This report seeks Cabinet approval for the Stoke Upon Tern Neighbourhood Development Plan (the Plan) to proceed to a referendum to determine if the Plan should be used for the purposes of deciding planning applications in the neighbourhood area.
- 1.2 The Stoke Upon Tern Neighbourhood Plan has been produced by the Stoke Upon Tern Neighbourhood Plan Steering Group, with Stoke Upon Tern Parish Council acting as the local 'Qualifying Body'. Work on the Plan began in 2015 and has included a number of consultation stages. Stoke Upon Tern Parish Council submitted the draft version of the Plan to Shropshire Council in March 2018, after which Shropshire Council undertook further statutory consultation and appointed an independent person to conduct the examination into the plan.
- 1.3 The purpose of the independent examination process is to ensure Neighbourhood Development Plans meet a set of nationally prescribed 'Basic Conditions', and to recommend if the Plan should proceed to a local referendum. The examination into the Stoke Upon Tern Neighbourhood Plan concluded in May 2019. The Examiner's Report is attached to this Report as Appendix 1.
- 1.4 The Examiner has recommended the Plan can proceed to local referendum, subject to a number of modifications being made. It is now Shropshire Council's role to consider the outcome of the Examiner's report, including the proposed modifications, and to agree if the Plan should proceed to referendum.
- 1.5 Appendix 3 to this report sets out the proposed final 'referendum' version of the Stoke Upon Tern Neighbourhood Development Plan. The schedule of modifications is shown in Appendix 2. This schedule has followed consideration of the Examiner's conclusions and proposed modifications. It is therefore recommended that the 'referendum' version of the Plan proceed to referendum.
- 1.6 If agreed, the referendum will take place on a date to be agreed, but must be between Thursday 26 March and Thursday 30 April. Should the Plan gain public support at the referendum, Shropshire Council's Full Council will be asked to formally 'make' (adopt) the Stoke Upon Tern Neighbourhood Plan to form part of the statutory Development Plan for Shropshire.

2. Recommendations

Cabinet agrees:

1. The Stoke Upon Tern Neighbourhood Development meets the 'basic conditions' and all other legal requirements as summarised in the Independent Examiner's Report, subject to the modifications proposed in the Schedule of Modifications (Appendix 2)
2. The required modifications be agreed to the Stoke Upon Tern Neighbourhood Development Plan and that the Stoke Upon Tern Neighbourhood Development Plan Referendum Version (January 2020) proceed to referendum.
3. The referendum area be that as defined as the designated area to which the Neighbourhood Development Plan relates, i.e. the Stoke Upon Tern parish boundary.
4. The Executive Director for Place be authorised to exercise all the relevant powers and duties and undertake necessary arrangements for the Stoke Upon Tern Neighbourhood Development Plan Referendum Version (January 2020) to now proceed to Referendum and for the Referendum to take place asking the question 'whether the voter wants Shropshire Council to use this neighbourhood plan for the Stoke Upon Tern Neighbourhood Plan area to help it decide planning applications in this neighbourhood area'.

REPORT

3 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 (TCPA 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 Stoke Upon Tern Neighbourhood Development Plan for six weeks between 10th August and September 2018 and appointed Nigel McGurk to examine the Plan in February 2019. As required Mr McGurk's appointment was agreed by Stoke Upon Tern Parish 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 paragraph 8(2) of Schedule 4B of the TCPA 1990 and applied to Neighbourhood Plans by the Planning and Compulsory Purchase order 2004, 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) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. NB. this applies only to Neighbourhood Development Orders.
 - c) the making of the neighbourhood plan contributes to the achievement of sustainable development.
 - d) 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).
 - e) the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.

- f) 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.

The 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 leaves 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 The 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 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 appropriate rationale. However, it is considered there will be occasions where it may be necessary for the Local Authority to propose different modifications to that proposed by the examiner or indeed to disagree with the need for a modification.
- 3.5 In this instance, the Examiner's Report into the Stoke Upon Tern NDP has concluded that it be modified by the Local Planning Authority to meet the basic conditions and it should be this modified version of the Plan which should proceed to referendum. The Schedule of Modifications attached as Appendix 2 to this report shows how the Local Planning Authority has considered each of the proposed modifications proposed by the Examiner.
- 3.6 It is noted the Examiner has recommended an extensive schedule of modifications to the Plan. Given the scale of the Examiner's proposed changes it has been necessary for the Council to engage further with the Parish Council on a number of points before moving to a positive recommendation regarding the referendum. These necessary discussions have meant that there has been a longer than normal timeframe following receipt of the Examiner's report.
- 3.7 Having given due consideration to the Examiner's Report, and following the further discussions with the Parish Council, it is recommended all but three of the Examiner's proposed modifications should be agreed and taken forward into a revised version of the Plan for referendum. This report goes on to explain the rationale for disagreeing with the three recommendations, and outlines alternative approaches for each. All of the proposed modifications, including the three alternative proposed changes, are included on the Schedule of Proposed Modifications which is included as Appendix 2 to this report. It is understood the principle of the revised modifications have been agreed by Stoke Upon Tern Parish Council and on this basis they will be able to positively support the revised Neighbourhood Plan at the proposed referendum.
- 3.7 Two of the alternative modifications (PM16 and PM17) are intended solely to ensure additional clarity to the Examiner's proposals and to ensure consistency between the Neighbourhood Plan and Shropshire's adopted Local Plan. Ref 16 proposes the inclusion of a minor addition to one of the Examiner's recommendations which further clarifies the relationship between the Neighbourhood Plan and the Local Plan. PM17 proposes the

inclusion of an additional 'Context Map' to show all currently adopted Local Plan allocated sites and other development commitments.

- 3.8 The third alternative modification (PM 23) relates specifically to how the Neighbourhood Plan deals with gypsy and traveller accommodation within the Neighbourhood Plan area. The Examiner's report recommended the deletion of Policy H3 and explanatory text, with the Examiner considering this policy was unnecessary given it referred to two planning applications which have already been given permission. Stoke Upon Tern Parish Council raised significant concern over this proposed modification as it was felt the Examiner has misinterpreted the full intention of the proposed policy. Following constructive discussions between the Parish Council and Shropshire Council it has been agreed that it would continue to be beneficial for the Plan to address the issue by alternative means. The proposed alternative modification therefore provides additional explanatory text to the Plan clarifying the overall approach to determining proposals for gypsy and traveller accommodation within the Neighbourhood Plan area. The proposed alternative modification therefore does not introduce new policy requirements for the provision of gypsy and traveller accommodation within the area, and instead provides some important clarification as to the how the current adopted policy within Shropshire's Local Plan will be implemented, alongside consideration of the Government's guidance note on the issue.
- 3.9 The remainder of the Examiner's proposed modifications range from minor changes to explanatory text, through to more significant changes to policy wording. Whilst extensive in nature, the Examiner provides clear rationale for each of the proposed modifications and Mr McGurk acknowledges the hard work put in by the volunteers and the clear manner in which the Plan has been presented. However, it is also relevant to acknowledge the Examiner expresses some general concern about the extent of evidence presented to support the proposed policies and manner in which some of the policies have been presented, which has affected his consideration of the basic conditions. This highlights the general risk to preparation of other neighbourhood development plans in the County.
- 3.10 The examiner's report also recommends the Referendum Area be restricted to the neighbourhood plan area, i.e. the Parish boundary, as the plan does not have a substantial, direct and demonstrable impact beyond the neighbourhood area. Assuming Cabinet approve the Plan to proceed to referendum, the Council's Electoral Services will administer this process in line Neighbourhood Plan Regulations, which specifies that this should take place no more than 56 days from the publication of the decision statement. Taking into account the necessary notice periods it is considered the referendum will take place between Thursday 26 March and Thursday 30 April. It is considered there is little risk to the Council if this process follows the regulations closely.

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 the Neighbourhood Plan Policies will be tested over time by independent Planning Inspectors on Planning appeals made under Section 78 of the TCPA 1990. 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. However, it should be noted that in seeking approval to proceed to referendum on this Plan, there is agreement that the content of the Neighbourhood Plan is in broad conformity with the policies of Shropshire's adopted Local Plan. It is therefore considered there is very limited risk to Shropshire Council of additional financial liability as a result of this report and recommendations.

5. Climate Change Appraisal

- 5.1 **Energy and fuel consumption:** The recommendations propose that Cabinet agree to the proceed to referendum with the Stoke Upon Tern Neighbourhood Plan. If successful at referendum, and the Plan is subsequently adopted by the Council, it will become part of the statutory Development Plan for the area and will be used in the determination of planning applications. Policy D1 'Design of New Development' of the Plan includes a requirement for development to have good access to public transport or otherwise help reduce car dependency
- 5.2 **Renewable energy generation:** Whilst not specifically identified in the proposed Neighbourhood Plan, the Plan is in general conformity with the Shropshire Local Plan, which includes a positive policy framework for supporting appropriate renewable energy schemes (SAMDev policy MD8)
- 5.3 **Carbon offsetting or mitigation:** The proposed referendum version of the Plan includes the following objective: "To ensure the area is safe from flood risk, is adaptable to climate change and has the lowest carbon dependence possible". It is therefore considered the Plan takes a proactive and positive approach to this objective;
- 5.4 **Climate Change adaptation:** The proposed referendum version of the Plan includes the following objective: "To ensure the area is safe from flood risk, is adaptable to climate change and has the lowest carbon dependence possible". It is therefore considered the Plan takes a proactive and positive approach to this objective.

6 Background

- 6.1 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.
- 6.2 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).

- 6.3 Stoke Upon Tern Parish Council formally requested that the parish of Stoke Upon Tern be designated as a Neighbourhood Area in February 2015, and, following a period of consultation this was formally agreed by Shropshire Council in May 2015. A Neighbourhood Plan Steering Group was established locally to undertake the preparation of the Plan. This group included representatives from the Parish Council and other local volunteers. It is acknowledged that from an early point in this process the Steering Group provided positive opportunities for the local community to have their say on the vision and objectives of the Plan through a range of means, including public meetings, drop-in sessions, information in newsletters and the website, a Community Questionnaire in 2015 and a housing needs survey in 2016.
- 6.4 Between October and November 2017, Stoke Upon Tern Parish Council undertook a statutory six week consultation into the pre-submission version of the Neighbourhood Plan (Regulation 14 stage). This draft version of the Plan responded to the survey evidence and contained a number of draft Development Management policies. However, the Plan did not seek to allocate any further land for development above that already included in the adopted SAMDev Plan.
- 6.5 In May 2018 Stoke Upon Tern Parish Council submitted the Neighbourhood Plan to Shropshire Council (Regulation 15 Stage), along with the required Consultation Statement and Basic Conditions Statements. In meeting our statutory requirement, Shropshire Council proceeded to carry out the Regulation 16 stage consultation between August and September 2018 with statutory consultees and other locally interested individuals, organisations, and appointed independent assessor Nigel McGurk to examine the Plan. As required by regulation, the appointment of Mr McGurk was agreed by Stoke Upon Tern Parish Council.
- 6.6 Mr McGurk's examination of the Stoke Upon Tern Neighbourhood Plan was carried out by written representations only, which is normal for neighbourhood plans which are not seeking to allocate any land for development. As well as the Plan documents, Mr McGurk also considered the representations made to the Regulation 16 stage consultation. Section 3 of this report describes the outcome of the examination process. The Examination was suspended in January 2019 for a month in order for Shropshire Council to further consult a number of statutory consultees on a Habitat Regulation Assessment (HRA) Screening Report. The conclusions of this consultation were subsequently considered in the Examiner's final report.
- 6.7 If Cabinet agree for the Stoke Upon Tern Neighbourhood Development Plan to proceed to referendum, the question will be:
- Do you want Shropshire Council to use the Stoke Upon Tern Neighbourhood Plan to help it decide planning applications in the neighbourhood area?*
- 6.8 The Plan will need to gain the support of over 50% of those who cast a vote to be able to move forward to be 'made' (adopted) by Shropshire Council. If this is the case the decision to 'make' the Plan will need to be taken by Full Council. A date for the referendum will be formalised after 12th February, assuming the recommendation is agreed.

not include items containing exempt or confidential information):

Portfolio Holder Decision Making Session 19th May 2015 - Application by Stoke upon Tern Parish Council to be considered as a Neighbourhood Plan Area

Portfolio Holder:

Councillor Robert Macey, Portfolio Holder for Housing and Strategic Planning

Local Member:

Councillor Karen Calder

Appendices:

Appendix 1: Stoke Upon Tern Neighbourhood Development Plan Examiner's Report

Appendix 2: Schedule of Proposed Modifications

Appendix 3: Proposed 'Referendum' Version of the Stoke Upon Tern Neighbourhood Development Plan