



Committee and Date

Item

Public



Recommendation for Cleobury Mortimer Neighbourhood Plan to Proceed to Referendum

Responsible Officer:	Mark Barrow		
email:	mark.barrow@shropshire.gov.uk	Tel:	01743 258919
Cabinet Member (Portfolio Holder):	Cllr Chris Schofield		

1. Synopsis

This report seeks Cabinet approval to proceed to local referendum on the Cleobury Mortimer Neighbourhood Development Plan.

2. Executive Summary

2.1. The purpose of this report is to seek Cabinet approval for the Cleobury Mortimer Neighbourhood Development Plan (the Plan) to proceed to referendum to determine whether the Plan should become part of the statutory Development Plan for the neighbourhood area, and therefore be used in the determination of planning applications in the neighbourhood.

2.2. The Shropshire Plan recognises the importance of creating a Healthy Environment with a strategic objective to '*maintain, protect and enhance our outstanding natural and historic environment, promoting positive behaviours and greater biodiversity and environmental sustainability*'. The Cleobury Neighbourhood Development Plan contains policies which strive to encourage development to achieve these objectives alongside those contained within the wider Development Plan for Shropshire.

- 2.3. The Cleobury Mortimer Neighbourhood Development Plan (also referred to as the Neighbourhood Plan) has been produced in accordance with the Neighbourhood Planning (General) Regulations 2012 (referred to in this report as 'the Regulations'). The plan has been prepared by the Cleobury Mortimer Neighbourhood Plan Steering Group, with Cleobury Mortimer Town Council acting as the local 'Qualifying Body'. Work on the plan began in 2017 and has included several consultation stages. Cleobury Mortimer Town Council submitted the draft version of the plan to Shropshire Council in January 2023, after which Shropshire Council undertook further statutory consultation and appointed an independent person to conduct the examination into the plan.
- 2.4. 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 Cleobury Mortimer Neighbourhood Plan concluded in August 2023. The Examiner's Report is attached as Appendix 1.
- 2.5. 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 can proceed to referendum.
- 2.6. The schedule of modifications is shown in Appendix 2. This schedule has followed consideration of the Examiner's conclusions and proposed modifications. Appendix 3 of this report sets out the proposed final 'referendum' version of the Cleobury Mortimer Neighbourhood Development Plan. It is therefore recommended that the 'referendum' version of the Plan proceed to referendum.
- 2.7. If agreed, the referendum will take place on a date to be arranged, but, must be between 30th November 2023 and 11th January 2024. Should the Plan gain public support at the referendum, Shropshire Council's Full Council will be asked to formally 'make' (adopt) the Cleobury Mortimer Neighbourhood Development Plan to form part of the Statutory Development Plan for Shropshire.

3. Recommendations

Cabinet agrees:

- 3.1. The Cleobury Mortimer Neighbourhood Plan meets the 'Basic Conditions' and all the other legal requirements as summarised in the Independent Examiner's Report, subject to the modifications proposed in the Schedule of Modifications (Appendix 2)
- 3.2. The required modifications be agreed, and that the final 'referendum' version of the Cleobury Mortimer Neighbourhood Development Plan (September 2023) (Appendix 3) proceed to local referendum.
- 3.3. The referendum area be that as defined as the designated area to which the Neighbourhood Development Plan relates, i.e. the Cleobury Mortimer Town Council boundary.

- 3.4. The Executive Director of Place be authorised to exercise all the relevant powers and duties and undertake necessary arrangements for the Cleobury Mortimer Neighbourhood Development Plan final referendum version (September 2023) (Appendix 3) 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 Cleobury Mortimer neighbourhood plan area to help it decide planning applications in this neighbourhood area'.

Report

4. Risk Assessment and Opportunities Appraisal

- 4.1. 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 (LPA), under regulation 16 of the Neighbourhood Planning (General) Regulations 2012, to publicise and to seek representations on the 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 Cleobury Mortimer Neighbourhood Development Plan for eight weeks between 16th January 2023 to 10th March 2023 and appointed Tony Burton to examine the Plan in May 2023. As required Mr Burton's appointment was agreed by Cleobury Mortimer Town Council.
- 4.2. Only a draft Neighbourhood Plan that meets the 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 that are applied to Neighbourhood Development Plans by section 38A of the Planning and Compulsory Purchase Act 2004 are:
- Having regard to national policies and advice contained within guidance issued by the Secretary of State it is appropriate to make the Neighbourhood Plan;
 - The making of the Neighbourhood Plan contributes to the achievement of sustainable development;
 - 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);
 - The making of the Neighbourhood Plan does not breach, and is otherwise compatible with retained EU obligations;
 - Prescribed conditions are met (in relation to the Neighbourhood Plan) and prescribed matters have been completed in connection with the proposal for the Neighbourhood Plan.
- 4.3. 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 change 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.

- 4.4. 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 legal challenge if the Local Authorities conclusions were to differ significantly from that of the Examiner's without appropriate rationale. However, it is considered that there will be occasions where it may be necessary for the Local Authority to propose different modification to that proposed by the Examiner or indeed to disagree with the need for a modification.
- 4.5. The Examiner's Report into the Cleobury Mortimer Neighbourhood Development Plan has concluded that it should be modified by the Local Planning Authority to meet the basic conditions. It is this modified version of the Plan which should proceed to referendum. The Schedule of Modifications attached as Appendix 2 to this report show how the Local Planning Authority has considered each of the proposed modifications proposed by the Examiner.
- 4.6. In this case, officers have considered in detail the recommendations of the Examiner, supported by further discussions with Cleobury Mortimer Town Council. In summary it is proposed that all but two of the recommended changes to the Plan are incorporated into the final 'referendum' version. It is this version which is before Cabinet and included as Appendix 3. The two recommendations not considered suitable for inclusion relate to the manner in which site specific development guidelines contained in policies M3 and M6 are visually represented within the Plan. In summary, it is not considered the proposed level of specificity is beneficial to the delivery of these two allocated sites and provide an unhelpful inconsistency between these allocations and other allocations in the wider development plan. It is not considered this modification alters the Plan meeting the basic conditions. Therefore, it is considered there to be little risk of challenge
- 4.7. It is considered all other proposed modifications are necessary and support the Plan meeting the 'basic conditions'. The changes involve partial amendments to wording of the policies and in some cases replacement with a suggested alternative. It is not considered that these changes taken as a whole fundamentally impact on the wider objectives of the Cleobury Mortimer Neighbourhood Plan.
- 4.8. The Examiner's report recommends that the Referendum Area be restricted to the Neighbourhood Plan Area, i.e. the Town Council boundary, as the Plan does not have a substantial, direct and demonstrable impact beyond the Neighbourhood Area. Assuming the Cabinet approve the Plan to proceed to referendum, the Councils Electoral Services will administer this process in line with the Neighbourhood Plan Regulations, which specifies that this should take place no more than 56 days from publication of the decision statement. Taking into account the necessary notice periods it is considered the referendum will take place between 30th November 2023 and 11th January 2024. It is considered there is little risk to the Council if this process follows the regulations closely.

5. Financial Implications

- 5.1. 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; conducting an Examination and holding a Referendum. Current provisions allow an application for these additional costs to be met, and a reimbursement of the costs will therefore be sought from Central Government. From previous experience of organising and managing Neighbourhood Planning referendums, it is considered that the likely cost of this process will be met in full by the reimbursement.
- 5.2. 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 the future appeal costs rests with Shropshire Council as the 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 Development Plan is in broad conformity with the policies of Shropshire's adopted Local Plan. It is therefore considered that there is very limited risk to Shropshire Council and additional financial liability as a result of this report and recommendations.

6. Climate Change Appraisal

- 6.1. **Energy and fuel consumption:** The recommendations propose that Cabinet agree to proceed to referendum with the Cleobury Mortimer Neighbourhood Development 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 CM6 of the Plan requires housing proposal to demonstrate they have had regard to the Plans good residential design principals, which includes reference to the provision of energy efficient homes.
- 6.2. **Renewable energy generation:** The Plans good residential design principals supported through Policy CM6 encourages the use of renewable energy.
- 6.3. **Carbon offsetting and mitigation:** The referendum version of the Plan includes an objective seeking carbon neutral development and the Plans good design principles, supported by Policy CM6 seeks to encourage the use of materials, design, orientation, and technology which has a zero-carbon impact.
- 6.4. **Climate change adaptation:** Whilst not specifically identified within the Neighbourhood Development Plan, the Plan is in general conformity with the current adopted Local Plan and the emerging Local Plan Review, which includes a positive policy framework for mitigating and adapting to the impacts on climate change.

7. Background

- 7.1. Shropshire Council support Neighbourhood Development Plans being brought forward under the Localism Act and the 2012 Neighbourhood Planning Regulations, indeed the Council is legally obliged to do so. 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 the 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 Development Plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.
- 7.2. 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 of the Final Draft version of the Plan (Regulation 16 stage).
- 7.3. Cleobury Mortimer Town Council formally requested that the parish of Cleobury Mortimer be designed as a Neighbourhood Area in July 2017 and following a period of consultation was formally agreed by Shropshire Council in May 2018. A Neighbourhood Plan Steering Group was established locally to undertake the preparation of the Plan. This group included representatives from the Town Council and community members. From an early point in this process the Steering Group provided positive opportunities for the local community to have their say in the vision and objectives of the Plan through a range of means, including public meetings, circulation of a newsletter, flyers, conduction of a community survey. Information was also provided on the Town Councils website and social media throughout the process.
- 7.4. Between 12th July to 27th August 2021 Cleobury Mortimer Town Council undertook a statutory six-week consultation into the pre-submission version of the Neighbourhood Development Plan (Regulation 14 stage). This consultation was suspended due to the landowner's withdrawal of their sites for the proposed housing allocations. The pre-submission version of the Neighbourhood Development Plan was updated following a further call for sites and a fresh statutory consultation was carried out between 27th May to 11th July 2022. The draft version of the Plan responded to the initial community consultation and survey results and included a proposed housing allocation site and a number of development management policies.
- 7.5. In November 2022 Cleobury Mortimer Town Council submitted the Neighbourhood Development 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 16th January 2023 to 10th March 2023 with statutory consultees and other locally interested individuals and organisations. In May 2023 Tony Burton was appointed to examine the Plan. As required by the Regulations, the appointment was agreed by Cleobury Mortimer Town Council.
- 7.6. Mr Burton's examination of the Cleobury Mortimer Neighbourhood Development Plan was carried out by written representations only. As well as the Plan

documents, Mr Burton also considered the representations made to the Regulation 16 stage consultation. The conclusions of this consultation were subsequently considered in the Examiner's final report. Officers have liaised with Cleobury Mortimer Town Council on the updated version of the Plan, which takes account of the conclusions of the Examiner's report and they are satisfied that this version of the Plan should now proceed to referendum.

- 7.7. If Cabinet agree for the Cleobury Mortimer Neighbourhood Development Plan to proceed to referendum, the question will be:

Do you want Shropshire Council to use the Cleobury Mortimer Neighbourhood Plan to help it decide planning applications in the neighbourhood area?

- 7.8. 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 to Full Council. A date for the referendum will be formalised after 18th October 2023 assuming the recommendations are agreed.

8. Additional Information

- 8.1. The appendices to this report provide information on the Examiner's report into the Neighbourhood Plan, the proposed modifications, and the final 'referendum' version of the Plan which incorporates all the required modifications.

9. Conclusions

- 9.1. Further to the outcomes of the Examiner's report into the Cleobury Mortimer Neighbourhood Development Plan, it is recommended that all the necessary modifications are agreed and that the final version of the Plan proceed to local referendum.

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

Cabinet Report 02nd May 2018 – application by Cleobury Mortimer Town Council to be considered as a Neighbourhood Plan Area

Local Member: Cllr Gwilym Butler and Cllr Simon Harris

Appendices

Appendix 1 – Examiner's Report

Appendix 2 – Schedule of Modifications

Appendix 3 – Final 'referendum' version of Cleobury Mortimer Neighbourhood Plan