

SUBJECT:	<i>Chalfont St Peter Neighbourhood Plan</i>
REPORT OF:	<i>Sustainable Development Graham Harris</i>
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WARD/S AFFECTED	<i>Austenwood, Central, Chalfont Common, Gold Hill</i>

1. Purpose of Report

Following the result of the Chalfont St Peter Neighbourhood Plan Referendum the next stage is for the Council to ‘make’ the plan, following which it will become part of the Development Plan for the Chalfont St Peter Parish area.

RECOMMENDATION

That Cabinet recommends to Council to make the Chalfont St Peter Neighbourhood plan.

2. Executive Summary

None.

3. Reasons for Recommendations

If a neighbourhood plan is supported by the majority of people who vote in a referendum then the Local Planning Authority have to make the plan as soon as is practicable in accordance with the regulations unless the plan would be in breach of European legislation or the convention on human rights.

4. Content of Report

The Chalfont St Peter Neighbourhood Plan has been through the formal stages required and following receipt of the Examiner’s report and this Council’s consideration of that report was recommended to proceed to referendum subject to some minor changes.

Therefore on the 5 March the Chalfont St Peter Neighbourhood Plan was put to a referendum of eligible voters within the parish of Chalfont St Peter.

Referendum result

Under the regulations the referendum had to ask the following question –

Do you want Chiltern District Council to use the Neighbourhood Plan for Chalfont St. Peter to help it decide planning applications in the neighbourhood area? Yes or No

Following the close of the referendum the votes cast were counted giving the following result:

Yes – 1632 No – 426

This represented a 78.99% Yes vote from those who voted.

If, following a referendum, more than half of those voting have voted in favour of the plan the Council is under a statutory duty to 'make' the plan as soon as possible after the referendum unless the plan would be in breach of European legislation or the convention on human rights¹.

The Council has considered the European and human rights implications of the Neighbourhood Plan as part of its consideration of the draft Plan and its consideration of the Examiner's report and as such it is not considered to contravene those rights.

Legal Challenge

In the run up to the referendum the Council received prior notification of the intention to challenge by way of Judicial Review the Council's decision to disagree with one of the Neighbourhood Plan Examiner's recommendations and to let the Neighbourhood Plan proceed to referendum. The Council sought legal advice and sent a robust response to the claimant. However, on 10 March the Council received copies of the formal application to the court for mounting a judicial review. Given this is an application to the court for permission to apply for judicial review we are unaware at the time of writing this report whether permission to proceed with the judicial review will be granted. Therefore any recommendation to Council on the making of the Neighbourhood Plan may have to be the subject of an update report if a judicial review is allowed to take place. The Council would be advised to await the formal conclusion of any judicial review process before 'making' the Neighbourhood Plan.

It is worth noting that anyone aggrieved by the conduct of the referendum can make a legal challenge to that process within 6 weeks of the referendum result being announced.

Neighbourhood plan – part of Development Plan

If the Chalfont St Peter Neighbourhood Plan is 'made' by the Council it will form part of the Development Plan for the area of Chalfont St Peter parish. In accordance with the relevant legislation², "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise", so the neighbourhood plan will be a primary consideration in the determination of planning applications made within the parish.

Recommendation to 'make' the Plan

It is recommended that the Cabinet recommend to full Council to 'Make' the Chalfont St Peter Neighbourhood Plan subject to any outstanding legal challenges to the plan that may be applicable.

5. Consultation

¹ Section 38A(4) of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011

² Section 38(4) of the Planning and Compulsory Purchase Act 2004

Extensive consultation was undertaken by the Parish Council in the formulation of the plan and by this Council during the formal stages of the plan culminating in the referendum process itself. In particular given the Council's decision that it was minded not to follow one of the Examiner's recommendations in relation to the community facility status of Winkers Farm, the Council undertook a further round of consultation on that decision.

6. Options

Under the legislation if a neighbourhood plan passes the referendum process and does not contravene European and Human rights legislation the council is required to make the plan. There are no other available options

7. Corporate Implications

7.1 Financial – there are no financial implications in making the Neighbourhood Plan. However should a successful legal challenge be allowed to proceed by the court there will be additional costs in defending the Council's position. Whilst the Council may be able to apply for a contribution to its costs there may well be other legal and associated costs. Any cost would be firstly met from the remainder of the frontrunner and neighbourhood plan grants issued by the government at set stages in the neighbourhood plan process. Although any remaining funds will be reduced once the costs of the referendum process are subtracted.

7.2 Legal – the Council is legally required to 'make' the plan, subject to any legal challenges. Failure to 'make' the plan could in turn lead to legal action from the Parish Council and or the Secretary of State.

7.3 Once 'made' the Plan will form part of the Development Plan for the area of Chalfont St Peter parish. The plan has been the product of partnership working between the Council and the Parish Council.

8. Links to Council Policy Objectives

We will work towards safer and healthier local communities - 3. Promote local communities - Engage with Parish and Town Councils and local neighbourhoods

We will strive to conserve the environment and promote sustainability - 2. Promote sustainability - Complete the Local Development Plan documents

9. Next Step

If the Chalfont St Peter Neighbourhood Plan is 'made' it will become part of the Development Plan for the Chalfont St Peter Parish area. The Parish Council could decide to review the plan in the future but any such review would be subject to the same consultation procedures as the current neighbourhood plan had to follow.

<p>Background Papers:</p>	<p>The Chalfont St Peter Neighbourhood Plan and The referendum result notice both available on the council website. http://www.chiltern.gov.uk/NeighbourhoodPlanningReferendum</p>
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