



Decision to 'make' the Buckland Neighbourhood Plan

23rd December 2022



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1.1 The purpose of this report is to recommend that the Director of Planning and Environment in consultation with the Cabinet Member for Planning and Enforcement exercises his delegated authority to make the (replacement) Buckland Neighbourhood plan.

Recommendation

1.2 That the Director of Planning and Environment uses his delegated powers to declare that the (Replacement) Buckland Neighbourhood Plan be made part of the Buckinghamshire Development Plan in accordance with Regulation 18A of The Neighbourhood Planning (General) Regulations 2012 as amended and under section 38A (4) of the 2004 Act.

Background

Reasons for Recommendation

2.1. 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, within 8 weeks of the day after the referendum is held, in accordance with the relevant regulations unless the plan would be in breach of European legislation or the Convention on Human Rights.

2.2. Under the Councils Scheme of delegations, the decision to 'make' a Neighbourhood Plan is delegated to the Director of Planning and the Environment.

2.3. The referendum process and the subsequent decision to make the neighbourhood plan can be subject to a legal challenge being lodged within 6 weeks of the referendum result of the decision to make the plan.

2.4. The (replacement) Buckland 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, it was recommended to proceed to referendum subject to the examiners modifications being made to the plan.

2.5. Therefore, on the 3rd November 2022, the (replacement) Buckland Neighbourhood Plan was put to a referendum of eligible voters within the parish of Buckland.

Referendum result

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

Do you want Buckinghamshire Council to use the Neighbourhood Plan for Buckland to help it decide planning applications in the neighbourhood area?

Yes or No

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

Yes – 149 No – 3

This represented a 98% Yes vote from those who turned out to vote.

2.7. Since more than half of those voting in the referendum voted 'YES', the plan became a part of the development plan on the 4th November 2022 and the Council is under a statutory duty to 'make' the plan within 8 weeks from the day after the referendum unless the plan would be in breach of European legislation or the Convention on Human Rights.

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

2.9. Anyone aggrieved by the conduct of the referendum result can make a legal challenge to the process within 6 weeks of the referendum result being announced. If such a legal challenge is made the Council is not bound to the 8 week deadline for making the neighbourhood plan. However, the 6 week period has now passed and so the plan should be made within 8 weeks.

Neighbourhood Plan – part of Development Plan

2.10. If the (replacement) Buckland Neighbourhood Plan is 'made' by the Council, it will continue to form part of the Development Plan for the area of Buckland parish and replace the previous Buckland Neighbourhood Plan. In accordance with the relevant legislation, "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", and so will be a primary material consideration in the determination of planning applications made within the parish.

Next Steps

2.11. When a neighbourhood plan has been 'made' by the Council it is under a duty to publicise the making of the neighbourhood plan and to make copies of the neighbourhood plan available. The regulations require the decision to make the neighbourhood plan and the neighbourhood plan documents to be published on the Council website and to publicise the making of the neighbourhood plan in any other way the Council feels will bring the making of the plan to the attention of people who live and work in the neighbourhood plan area. In addition, the Council is under a duty to inform any person who asked to be notified that the neighbourhood plan had been made.

2.12. The Council will seek to ask the parish to;

publish the matter on the Parish Council's website and/or Parish newsletter (if there is one) and;

post a notice on the Parish Notice Board or, in the absence of such a board, in a prominent position in the Parish stating where the plan can be inspected.

The future

2.13. The Parish Council could decide to review the plan again in the future but any such review would be subject to further consultation procedures and involvement by Buckinghamshire Council at key stages.

Financial and Legal Implications

Financial –

2.14. The costs of the public consultation, undertaking the referendum and publishing the Plan are initially met by the Council. The Government issues neighbourhood plan grants at set stages in the neighbourhood plan process. As such the costs of the making of the plan should be met by the Government grant.

Legal –

2.15. 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.

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

Delegated authority

2.16. The Council's Scheme of Delegations to Officers contained at Part I paragraphs 2.10 and 2.18a of the Council's Constitution authorises the Director of Planning and Environment to determine all decisions relating to neighbourhood planning. This is further delegated under the scheme of delegation to the Head of Policy and Compliance, Planning Policy Manager and Policy Team Leaders.

Exercise of Delegated Authority

I, Steve Bambrick, Director of Planning and Environment agree the above recommendation.

Signed:



Dated 23/12/22

Background papers

Buckland neighbourhood plan - referendum version.

Declaration of result of neighbourhood plan referendum – Buckland Neighbourhood Plan