

Part I

Main author: Julie Spicer/Matthew Wilson

Executive Member: Cllr Stephen Boulton

Ward: Northaw and Cuffley

WELWYN HATFIELD BOROUGH COUNCIL
CABINET PLANNING AND PARKING PANEL – 23 JUNE 2022
REPORT OF THE HEAD OF PLANNING

PUBLICATION OF THE NORTHAW AND CUFFLEY NEIGHBOURHOOD PLAN AND SUPPORTING DOCUMENTATION FOR PUBLIC CONSULTATION AND EXAMINATION

1 Executive Summary

1.1 Northaw and Cuffley Parish Council have been preparing a Neighbourhood Plan for several years. Following consultation in October-November 2021 the Parish Council have submitted the Plan to the Council and have requested it be published for public consultation.

2 Recommendation(s)

2.1 That the Cabinet Planning and Parking Panel recommends to Cabinet that:

(1) the Council, as Local Planning Authority (LPA), accepts the draft Northaw and Cuffley Neighbourhood Plan as validly made:

(2) the draft Northaw and Cuffley Neighbourhood Plan go out for consultation for a period of 6 weeks; and,

(3) an independent examiner be appointed and for the neighbourhood plan to be submitted for examination following public consultation.

3 Background

3.1 The Northaw and Cuffley neighbourhood planning area was designated by the Council in September 2014. The Parish Council undertook consultation on their draft neighbourhood plan (regulation 14) between October and November 2021, as reported to CPPP on 11 November 2021.

3.2 Following the consultation, the Parish Council has prepared the submission version of their neighbourhood plan which they are requesting be published for public consultation. This will include all statutory consultees, councillors, adjoining Parish Councils, local community organisations, known landowners and developers and local residents.

3.3 The Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and orders and to take plans through a process of examination and referendum. The Northaw and Cuffley Neighbourhood Development Plan (Northaw and Cuffley NDP) has been submitted to the Council as Local Planning authority (LPA). The Plan was accompanied by a Basic Conditions Statement, a Consultation Statement, an Evidence base document and evidence of compliance with European Environmental legislation, as required by the Neighbourhood Planning (General) Regulations 2012. Under The Localism Act 2011, the Council is required, upon submission of a Neighbourhood Plan, to check that it

meets the legal requirements for those plans before it can progress to formal consultation, examination, and referendum.

4 **Explanation**

- 4.1 The Neighbourhood Planning (General) Regulations 2012 (as amended) set out the documentation which must accompany a proposed plan. This includes the following documents:
- A map or statement identifying the area to which the neighbourhood plan relates;
 - A consultation statement;
 - The proposed neighbourhood plan;
 - A “basic conditions” statement; and,
 - Either a screening opinion confirming that the plan proposal is unlikely to have significant environmental effects; or an environmental report in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004.
- 4.2 The relevant document for the Northaw and Cuffley Neighbourhood Plan are attached as Appendices to this report.
- 4.3 The submitted Neighbourhood Plan and supporting documents have been subject to a compliance check by officers. The compliance check is included as Appendix 1. The check sets out the required legislation and guidance and comments on whether this has been met, this includes whether the requirement documents listed in paragraph 4.1 have been provided; that the submitted plan is from a ‘qualifying body’; and, that consultation on a draft plan has taken place in line with the requirements.
- 4.4 The compliance check has found that the documentation submitted by Northaw and Cuffley Parish Council fulfils the requirements of the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Council as Local Planning Authority is now under a legal duty to continue to public consultation.
- 4.5 The Neighbourhood Planning (General) Regulations 2012 state that as soon as possible after receiving a plan proposal which includes each of those documents, the local planning authority must undertake a consultation on that plan.
- 4.6 This decision does not preclude the Council from making representations on the Northaw and Cuffley Neighbourhood Plan during the consultation period. These will be considered at another meeting of the Panel during the consultation period. For this reason, the content of the Neighbourhood Plan is not discussed in this report.
- 4.7 The Council is responsible for publicising the plan, to give people an opportunity to make representations that will be passed to the independent examiner. The Council is also responsible for the appointment of an appropriately qualified and experienced person to carry out the independent examination of the neighbourhood plan.
- 4.8 In accordance with the principles of the Statement of Community Involvement (SCI), consultation bodies will be informed of the neighbourhood plan consultation. An advert will be placed in the local paper and the plan made available to view on the Council’s website and deposit points within the parish area. Representations in respect of the neighbourhood plan will be invited through the Council’s website, email

or by post. The Parish Council is likely to promote the consultation through various means including their website.

- 4.9 Following the examination, the examiner will issue a report to the local authority and the neighbourhood planning body. If the plan meets the basic conditions, the examiner will recommend that the plan proceeds to the referendum stage.
- 4.10 If the neighbourhood plan is found to be satisfactory, with modifications if necessary, the Council is to arrange for the referendum to take place. This will be organised by the local authority's elections unit.
- 4.11 A report will be taken to full Council following receipt of the examiner's report advising and prior to the referendum taking place.
- 4.12 If successful at the referendum, a neighbourhood plan comes into force as part of the development plan for the area alongside the local plan. Local planning authorities and planning inspectors considering planning applications or appeals must make their decisions in accordance with the policies of the development plan unless material considerations indicate otherwise.

Implications

5 Legal Implication(s)

- 5.1 Under the Town and Country Planning Act 1990 (as amended), the Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and orders and to take plans through a process of examination and referendum. The Localism Act 2011 (Part 6 chapter 3) sets out the Local Planning Authority (LPA) responsibilities.
- 5.2 Paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 provides that when assessing the neighbourhood plan the LPA must consider whether the Parish Council or neighbourhood forum is authorised to act.
- 5.3 Sections 38 A and B of the Planning and Compulsory Purchase Act 2004 further provides that when assessing the neighbourhood plan the LPA must consider whether the proposal and accompanying documents:
 - comply with the rules for submission to the LPA;
 - meet the definition of a Neighbourhood Development Plan (NDP);
 - meet the scope of NDP provisions; and
 - whether the parish council or neighbourhood forum has undertaken the correct procedures in relation to consultation and publicity.
- 5.4 Regulation 16 of The Neighbourhood Planning (General) Regulations 2012 provides the LPA must publicise the plan proposal on its website and include:
 - the details of the Plan;
 - where and when it can be inspected;
 - how to make representations on the plan proposals;
 - that a representation can include a request to be notified of the LPA decision on the plan proposal, and

- the deadline for receipt of the proposals (this must be not less than 6 weeks from the first day the proposed plan is publicised).

6 Financial Implication(s)

- 6.1 It is up to the community to pay for the preparation of a Neighbourhood Plan, in this case the Parish Council. The Borough Council is legally obliged to pay for the independent examination and referendum.
- 6.2 The cost to progress the Neighbourhood Development Plan to consultation and examination will be met through existing budgets. It is anticipated the appointment of an Examiner will be between £5,000 and £10,000 depending on whether hearing sessions are required.
- 6.3 Paragraph 9(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) states that the general rule is that the examination of the issues by the examiner is to take the form of the consideration of written representations. Therefore, typically, examinations are undertaken without the need for public hearing sessions. However, public hearings remain an option for examiners in the event they consider receiving oral representations about a particular issue to be necessary. Officers understand that public hearings are reserved for complex or controversial Neighbourhood Plans, the Northaw and Cuffley Neighbourhood Plan is not considered to either of these.
- 6.4 There will be costs associated with the referendum, details of these will be set out in a subsequent report to CPPP following the examination and receipt of the Inspector's report. The Council can reclaim costs associated with these requirements once the Referendum has taken place and can be claimed irrespective of the outcome of the Referendum.

7 Risk Management Implications

- 7.1 Public consultation of the Northaw and Cuffley Neighbourhood Plan and any subsequent examination of the neighbourhood plan must be undertaken in accordance with the Localism Act, 2011 and the Neighbourhood Planning (General) Regulations 2012 (as amended). Failure to undertake such a consultation without a legal basis could expose the Council to possible claims.

8 Security & Terrorism Implication(s)

- 8.1 There are no security and terrorism implications as a direct result of checking the legal compliance of the Northaw and Cuffley Neighbourhood Plan.

9 Procurement Implication(s)

- 9.1 There are no procurement implications arising as a direct result of checking the legal compliance of the Northaw and Cuffley Neighbourhood Plan.

10 Climate Change Implication(s)

- 10.1 The Northaw and Cuffley Neighbourhood Plan has to comply with the National Planning Policy Framework and as such, it must seek to promote sustainable development.

11 Policy Implication(s)

- 11.1 The Northaw and Cuffley Neighbourhood Plan will form part of the development plan for Welwyn Hatfield Borough. It must be in conformity with the Welwyn Hatfield Local Plan.

12 Link to Corporate Priorities

- 12.1 The Northaw and Cuffley Neighbourhood Plan is linked to all five of the Council's corporate priorities, but with particular links to protect and enhance the environment and, meet the borough's housing needs.

13 Equality and Diversity

- 13.1 An Equality Impact Assessment (EIA) has not been carried out, as this will form part of the examination of the Northaw and Cuffley Neighbourhood Plan.

14 Health and Wellbeing

- 14.1 There are no health and wellbeing implications arising as a result of finding the Northaw and Cuffley Neighbourhood Plan to be legally compliant.

15 Human Resources

- 15.1 Consultation for the submission draft of the Northaw and Cuffley Neighbourhood Plan will be undertaken by existing staff resources.

16 Communications and Engagement

- 16.1 The recommendation is for the Northaw and Cuffley Neighbourhood Plan to progress to consultation, and this will involve a 6 week public consultation. During the consultation representations from stakeholders and the public will be sought. The Council's role is as facilitator of the consultation on the Neighbourhood Plan which has been prepared by the Parish Council. The Parish Council will coordinate their own publicity within the Parish.

Appendices:

- Appendix 1 - NP Legal Compliance Checklist
- Appendix 2 - NP Submission Draft
- Appendix 3 - NP Consultation Statement
- Appendix 4 - NP Basic Conditions Statement
- Appendix 5 - NP SEA/HRA Statement of Reasons

Background Papers

[Response to Northaw and Cuffley Neighbourhood Plan Consultation CPPP 11/11/2021](#)