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**NON-EXEMPT**

**EAST HAMPSHIRE DISTRICT COUNCIL**

PLANNING POLICY COMMITTEE

18<sup>TH</sup> October 2021

**Alton Neighbourhood Development Plan Review**

**FOR DECISION**

Portfolio Holder: **Cllr Angela Glass**

Key Decision: No

Report Number: [EHDC/0321/21]

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**1. Purpose**

- 1.1. This report is submitted to the Planning Policy Committee for onward recommendation to Council.
  
- 1.2. This report considers whether the Alton Neighbourhood Development Plan (as modified April 2021) should be adopted as part of the statutory development plan (replacing the previous version 'made' in May 2016), following its successful examination.

**2. Recommendation**

- 2.1. Members are requested to recommend to Council:
  - a. That the Alton Neighbourhood Development Plan 2011-2028 (as modified April 2021) is adopted with immediate effect, so that it becomes part of the statutory development plan for the area.

### **3. Executive Summary**

- 3.1. The Localism Act 2011 introduced a right for communities to draw up neighbourhood development plans. Alton Town Council, with support and advice from the District Council (“the Council”), has reviewed and updated their neighbourhood development plan (originally ‘made’ in May 2016 following a positive referendum result) which has successfully passed its examination in August 2021.
  
- 3.2. The Neighbourhood Planning Act 2017 identifies the circumstances that might arise as qualifying bodies seek to review ‘made’ neighbourhood plans. It introduces a proportionate process for the modification of neighbourhood plans where a neighbourhood development order or plan has already been made in relation to that area. The Examiner determined as part of the Examination process that the review of the Plan includes material modifications which do not change the nature of the Plan and which would require examination but not a referendum.
  
- 3.3. Following independent Examination of the Plan, the Examiner concluded that the Plan meets the Basic Conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications. As such, East Hampshire District Council, as the local planning authority, should make the draft plan with the modifications specified in the accompanying Examiner Report.
  
- 3.4. As a result of the Examiners Report the Alton Neighbourhood Development Plan (as Modified April 2021) should be used to help East Hampshire District Council decide planning applications in the designated area of Alton. As such, the plan should be adopted or ‘made’, meaning that it should become part of the statutory development plan.

3.5. Legislation is clear that as local planning authority, the Council must make the modified neighbourhood development plan if it is recommended by the examiner to do so. As confirmed by the Examiner, the proposed changes to the Plan as part of review, do not change the nature of the Plan and hence would not require a further referendum once Examined. Therefore, members are requested to support the recommendation of this report, so that the Alton Neighbourhood Development Plan (as Modified April 2021) is made.

#### **4. Additional Budgetary Implications**

4.1. None.

#### **5. Background and relationship to Corporate Strategy and/or Business Plans**

##### Background

5.1. The production of a neighbourhood development plan (“NDP”) must follow a regulatory process laid out in the Town and Country Planning Act 1990, as amended by the Localism Act 2011, and by Neighbourhood Planning (General) Regulations 2012 and the Neighbourhood Planning (Referendums) Regulations 2012. The key stages in the preparation of NDPs are summarised below.

a) Designation of a neighbourhood area: the area covered by the neighbourhood plan needs to be agreed by the Council.

b) Preparation of a draft neighbourhood plan - The ‘qualifying body’ (e.g. a parish council), then prepares a draft NDP and evidence base.

c) Pre-submission publicity and consultation – The draft NDP is published by the qualifying body for pre-submission consultation, for a minimum of 6 weeks.

d) Submission of the draft plan - The qualifying body formally submits the draft NDP to the Local Planning Authority (LPA). The LPA checks whether the plan

accords with the relevant legislation, publicises the NDP for 6 weeks and appoints an Independent Examiner.

e) Independent Examination - The NDP is examined by an Independent Examiner to assess whether it meets the basic conditions that are established in legislation. The Examiner then issues a report and, if the report is positive and the Council agrees with it, the NP is then subject to referendum.

f) Referendum - The Council organises a referendum on the NDP, asking voters whether it should be used for helping the Council (as local planning authority) to decide planning applications in the designated area, and then publishes the results.

g) Adoption – if the NDP is successful at referendum, it is ‘made’ by the Council.

5.2. The entire Town Council area of Alton, with the exception of a small proportion that lies within the South Downs National park was designated as the Alton Neighbourhood Plan Area, for the purpose of preparing a NDP, on 30 May 2014. Following Examination and a successful Referendum (93% in favour of the Plan), the Alton Neighbourhood Development Plan was made by East Hampshire District Council on 12 May 2016 and became a statutory part of the Development Plan.

5.3. The Neighbourhood Planning Act 2017 identifies the circumstances that might arise as qualifying bodies seek to review ‘made’ neighbourhood plans. It introduces a proportionate process for the modification of neighbourhood plans where a neighbourhood development order or plan has already been made in relation to that area. There are three types of modification which can be made to a neighbourhood plan or order. The process will depend on the degree of change which the modification involves and as follows:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or

- material modifications which do not change the nature of the plan or order and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

- 5.4. In line with the Neighbourhood Planning Act 2017, Alton Town Council took the decision to review their 'made' neighbourhood plan. The Review has been carefully prepared to refresh the Plan and to address changes in national and local planning policy which have arisen since the initial plan was made. In particular, the proposed changes are associated with Policy HO3 (New Housing Site Allocations) to reflect more recent data in respect of completions, commitments, and allocations.
- 5.5. Two new sites were added as allocations, namely the former Molson Coors Brewery and former Magistrates Court, totalling 326 dwellings, both of which have come forward through the planning application process. Amendments were also made to other allocations already featured in the 'made' Plan to reflect more information on the amount of housing to be delivered.
- 5.6. As a result of these changes, the revised plan (once 'made') would engage paragraph 14 within the NPPF, effectively allowing greater protection of the Neighbourhood Plan area for a two-year period. Specifically, if a planning application were to be submitted for a proposal that conflicts with the neighbourhood plan, the adverse impact of allowing development is likely to be viewed as significantly and demonstrably outweighing the benefits, subject to housing supply and delivery tests that are specified in the NPPF (paragraph 14).
- 5.7. Both the East Hampshire District Council and Alton Town Council considered that the modifications are minor and not material. This was a view shared by the

Examiner, who was satisfied that the modifications are minor in their nature as they update the Plan based on the ongoing development of sites allocated in the made Plan and recent planning permissions within the settlement boundary. As a result, following Examination, no referendum is needed.

- 5.8. The Examiner's report was received by the Council in August 2021 and the independent examiner concluded that the Alton NDP (as Modified April 2021) meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.
- 5.9. As confirmed by the Examiner, the proposed changes to the Plan as part of review, do not change the nature of the Plan and hence would not require a further referendum once Examined. Section 4 of the Neighbourhood Planning Act 2017 further requires a local authority to make the modified plan if it is recommended by the examiner. The making of a NDP is therefore a legal requirement following a positive recommendation from the examiner, except in circumstances whereby making the plan would breach, or otherwise be incompatible with, any retained EU or human rights obligations. The Council has considered the matter and concluded that the Alton NDP (as Modified April 2021), including its preparation, does not breach, and would not otherwise be incompatible with, any retained EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998) . The Examiner's Report on the Alton NDP (as Modified April 2021) also concluded that there were no grounds for concluding that there was any breach or incompatibility with the European Convention on Human Rights. Therefore, the Alton NDP (as Modified April 2021) has successfully been recommended for adoption by the Examiner and the Council is now under a statutory duty to make the Alton NDP (as Modified April 2021) .
- 5.10. The effect of making the Alton NDP (as Modified April 2021) is that it becomes adopted as part of the statutory development plan (replacing the version 'made' in

May 2016), for purposes of deciding planning applications in Alton Town Council area (outside the South Downs National Park).

#### Relationship to the Corporate Strategy and Directorate Business Plan

- 5.11. Once adopted, the Alton NDP (as Modified April 2021) forms part of the Council's statutory development plan and helps to meet the operational priorities identified in the Corporate Plan, such as guiding and shaping new development, jobs and infrastructure as well as meeting the corporate priority of assisting neighbourhood development plans as set out in the Business Plan.

#### **6. Options considered**

- 6.1. In line with the Neighbourhood Planning Act 2017, the making of the Alton NDP (as modified April 2017) is a mandatory legal requirement if recommended by the Examiner. In its role as the local planning authority, the Council is therefore under a statutory duty to adopt and 'make' the Alton NDP (as Modified April 2021). There are no other reasonable options.

#### **7. Resource Implications**

- 7.1. Financial Implications: there are no additional resourcing implications, with the costs incurred for publishing the NDP being met within the existing budget.

- 7.2. Once the Alton NDP (as Modified April 2021) is 'made', 25% of Community Infrastructure Levy receipts generated from development within Alton Town Council boundaries (outside the South Downs National Park) will continue to be passed to the Town Council.

**Section 151 Officer comments**

Date: 15/09/2021

There are no financial implications to the authority contained within this report.

- 7.3. Human Resources Implications: There are no additional human resource implications. Staffing costs for publishing the Alton NDP (as Modified April 2021) can be met within existing resources.
- 7.4. Information Governance Implications: There are no implications in relation to Information Governance. The publishing of the Alton NDP (as Modified April 2021) will not involve the use of personal sensitive or confidential information.
- 7.5. Links to Shaping the Future Programme: None

**Shaping our Future Lead comments**

Date: 06/09/2021

This is business as usual activity and has no implications for the SoF Programme.

- 7.6. Other resource implications: None.

**8. Legal Implications**

- 8.1. In accordance with Section 38(A) of the Planning & Compulsory Purchase Act 2004 (as amended by the Neighbourhood Planning Act 2017) the making of the

Alton NDP (as Modified April 2021) is a mandatory legal requirement following the recommendation to do so by the examiner. The Council is therefore under a statutory duty to adopt and 'make' the Alton NDP (as Modified April 2021).

- 8.2. Upon being 'made', the Alton NDP (as Modified April 2021) will be subject to a statutory period of time (six weeks) within which a legal challenge can be lodged.
- 8.3. The making of the Alton NDP (as Modified April 2021) will be published in accordance with the Neighbourhood Planning (General) Regulations 2012.

**Monitoring Officer comments**

Date: 15/09/2021

No further comments.

**9. Risks**

- 9.1. The Alton NDP (as Modified April 2021) has been produced following a statutory process by Alton Town Council, with the assistance of officers from the Planning Policy team. Following consultation with Natural England, the Environment Agency and Historic England, it was determined that no Strategic Environmental Assessment was required for the Alton NDP (as Modified April 2021), as the plan is unlikely to generate any significant environmental effects.
- 9.2. There are no significant residual risks that cannot be fully minimised by existing procedures.

## **10. Consultation**

- 10.1. Alton Council has carried out informal and formal consultation during the drafting of the Alton NDP (as Modified April 2021) with the local community, businesses, landowners and other statutory stakeholders. The Council has also carried out a consultation on the plan in accordance with statutory requirements.

## **11. Communication**

- 11.1. Following a decision to adopt the Alton NDP (as Modified April 2021), Alton Town Council and others who asked to be informed will be notified by e-mail that the plan has been 'made'. The Alton NDP (as Modified April 2021) and supporting documents, including a decision statement, will be published on the Council's website and made available in line with the Neighbourhood Planning (General) Regulations and the Council's adopted Statement of Community Involvement (SCI). The use of hard copy documents and their location will be reconsidered during a review of the SCI, prior to the next Local Plan consultation.

## **12. Appendices**

- 12.1. Appendix A: Alton Neighbourhood Development Plan (as Modified April 2021)

## **13. Background papers**

- 13.1. Alton Neighbourhood Development Plan Review - Examiner's Report

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Agreed and signed off by:

Portfolio Holder: Cllr Angela Glass (Signed off 06 September 2021)

Director: Simon Jenkins (Signed off 06 September 2021)

Monitoring Officer: Daniel Toohey (Signed off 15 September 2021)

Shaping the Future lead: Vicki Potts (Signed off 06 September 2021)

Section 151 Officer: Lydia Morrison (Signed off 15 September 2021)

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