

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL
RECORD OF EXECUTIVE / CHIEF OFFICER DECISION**

This form should be used to record key and other decisions made by individual Portfolio Holders and key decisions made by Chief Officers. The contact officer will ensure that the signed and completed form is given to Democratic Services as soon as reasonably practicable after the decision has been taken.

Unless permission has been obtained from the Chairman of Council and the Chairman of the Scrutiny and Overview Committee that this decision be treated as a matter of urgency under Rule 12.19 of the Scrutiny and Overview Committee Procedure Rules, this decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless called in under Rule 7 of the Budget and Policy Framework Procedure Rules or Rule 12 of the Scrutiny and Overview Committee Procedure Rules.

Portfolio	Joint Director for Planning and Economic Development
Subject Matter	Cottenham Neighbourhood Plan – Receipt of Examiners Report and Decision to Proceed to Referendum.
Ward(s) Affected	Cottenham
Date Taken	12 February 2020
Contact Officer	Alison Talkington Senior Planning Policy Officer, Alison.talkington@greatercambridgeplanning.org 01954 713182
Key Decision?	No.
In Forward Plan?	No, this is not a key decision.
Urgent?	No.

Purpose / Background
<p>Purpose</p> <ol style="list-style-type: none"> 1. The purpose of this report is to consider the conclusions of the Examiner’s Report on the Cottenham Neighbourhood Plan, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner’s recommended modifications to the Neighbourhood Plan should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions. 2. Cabinet agreed at its meeting on 26 July 2018 that where the examiner has concluded that the Neighbourhood Plan is legally compliant, meets the Basic Conditions (with or without modifications), and should proceed to referendum, the Joint Director for Planning and Economic Development has delegated authority to make the decision on the way forward, in consultation with the Planning Lead Member. <p>Background</p> <ol style="list-style-type: none"> 3. Cottenham Parish Council considered in early 2015 the idea of developing a Neighbourhood Plan to provide a more locally focussed set of policies for their parish. An application to designate the whole of their parish as a Neighbourhood Area was submitted to South Cambridgeshire District Council in September 2015 and the Cottenham Neighbourhood Area was designated on 17 November 2015.

4. Cottenham Parish Council carried out consultation on a draft Neighbourhood Plan in 2017. Officers provided informal comments on the draft Neighbourhood Plan, and on subsequent revisions to the plan that were shared with officers ahead of the formal pre-submission consultation process. A Strategic Environmental Assessment and Habitats Regulations Assessment screening was undertaken on a draft version of the Neighbourhood Plan in March 2018 and a further screening in September 2018. A screening determination was published in September 2018. A Strategic Environmental Assessment was carried out in October 2018.
5. Pre-submission public consultation on the draft Neighbourhood Plan was undertaken by the Parish Council from 19 June until 7 August 2018. Officers provided a formal response to the consultation, providing constructive comments about the Neighbourhood Plan to assist the neighbourhood plan group with finalising the Neighbourhood Plan.
6. On 15 January 2019, Cottenham Parish Council submitted their Neighbourhood Plan to South Cambridgeshire District Council. Officers confirmed, as set out in the Legal Compliance Check for the Neighbourhood Plan that the submitted version of the Neighbourhood Plan and its accompanying supporting documents complied with all the relevant statutory requirements at this stage of plan making. Public consultation on the submitted Neighbourhood Plan took place between 11 February and 25 March 2019. South Cambridgeshire District Council provided a response to this consultation.
7. Officers, in conjunction with Cottenham Parish Council, appointed Andrew Ashcroft of Andrew Ashcroft Planning Limited as the independent examiner¹ to examine the Neighbourhood Plan. On 18 April 2019, the Neighbourhood Plan, its accompanying supporting documents, and all comments submitted on the submission version of the Neighbourhood Plan, were provided to the examiner with a request for him to carry out the examination on the Neighbourhood Plan.
8. The examiner issued a series of clarification questions relating to the Neighbourhood Plan in May 2019, and both South Cambridgeshire District Council and Cottenham Parish Council provided responses. The examiner also asked the Parish Council if it had any comments on the various representations made to the Plan during the submission consultation. A response was made by the Parish Council in August 2019.
9. The Examiner's Report was received on 10 December 2019 (see Appendix 1). The examiner in his report concludes that subject to a series of recommended modifications the Cottenham Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum. He also recommends that the referendum should be held within the neighbourhood area only.
10. Now that the Examiner's Report has been received, the Council is required to consider the conclusions of the Examiner's Report, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner's recommended modifications to the Neighbourhood Plan

¹ The examiner appointed to undertake the examination of the Neighbourhood Plan: must be independent of both the District Council and Parish Council; cannot be the same examiner that undertakes a health check of the Neighbourhood Plan; and must not have any interest in any land that may be affected by the Neighbourhood Plan.

should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions. The Council must publish its decision in a decision statement.

Considerations

11. Where an examiner has concluded that the Neighbourhood Plan meets the Basic Conditions (with or without modifications) and is legally compliant, and therefore that the Neighbourhood Plan should proceed to referendum, the Council has limited options in how to respond. The options are as follows:

Option 1: Act upon the conclusions in the Examiner's Report, including making any recommended modifications to the Neighbourhood Plan, and proceed to referendum, provided that the Council confirms that the Basic Conditions have been met.

Option 2: Take a decision substantially different from the Examiner's conclusions, wholly or partly as a result of new evidence or fact, or a different view is taken by the Council as to a particular fact, including that the Council is unable to confirm that the Basic Conditions have been met.

12. National regulations require the Council to make a decision on the Examiner's Report and whether the Neighbourhood Plan should proceed to referendum within 5 weeks of receipt of the report (unless an alternative longer timescale is agreed with the Parish Council). The Parish Council agreed to an extended timescale.

13. Officers have concluded that Option 1 should be followed for the reasons set out in the following paragraphs of this decision statement. Officers agree with the examiner's conclusions, including his recommended modifications to the Neighbourhood Plan, and agree that the Neighbourhood Plan should proceed to referendum.

a. Meeting the Basic Conditions and Legal Requirements

14. To successfully proceed through its examination to a referendum, a Neighbourhood Plan must meet a number of tests known as the 'Basic Conditions'. The Basic Conditions are set out in national planning regulations and are summarised as follows:

- having regard to national policies and advice contained in 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 Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area;
- the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and
- prescribed conditions are met in relation to the Neighbourhood Plan, including that the making of the neighbourhood plan is not likely to have a significant effect on a European wildlife site or a European offshore marine site either alone or in combination with other plans or projects.

The Council's Neighbourhood Planning Toolkit includes Guidance Note 11 (What are the Basic Conditions and How to Meet Them), which sets out further details on each of the Basic Conditions.

15. To proceed to a referendum, a Neighbourhood Plan must also meet a number of legal requirements, such as whether the Neighbourhood Plan has been prepared by a qualifying body and meets the definition and scope of a Neighbourhood Plan.
16. The examiner concludes in the Executive Summary and paragraphs 6.23 and 8.2 of his report that subject to a series of recommended modifications the Cottenham Neighbourhood Plan meets the Basic Conditions and all the necessary legal requirements. The examiner's recommended modifications do not fundamentally change the role or purpose of the Neighbourhood Plan; they have been recommended by the examiner to provide clarity and precision.
17. Officers, in conjunction with Cottenham Parish Council, have reviewed the examiner's conclusions and recommended modifications, and officers and the Parish Council have agreed each of the recommended modifications considered necessary by the examiner for the Neighbourhood Plan to meet the Basic Conditions. A 'For Referendum' version of the Cottenham Neighbourhood Plan has been prepared including these modifications (see Appendix 2).
18. Additional non-material modifications to the Neighbourhood Plan have also been agreed with Cottenham Parish Council, and these additional modifications are also included in the 'For Referendum' version of the Neighbourhood Plan (see Appendix 2). These modifications have been made in accordance with guidance set out in national planning guidance² which states that minor (non-material) updates to a Neighbourhood Plan that would not materially affect the policies in the plan can be made by the District Council at any time, provided they have the consent of the Parish Council, and that these modifications can be made without the need for consultation or examination.
19. In summary, these additional non-material modifications are:
 - updates to Chapter 1 of the Neighbourhood Plan to refer to the current stage in the plan making process and summarise the stages undertaken since the submission version of the Neighbourhood Plan was prepared;
 - Updates on planning permissions for the Nursery and Village Hall in Cottenham.
20. Officers have undertaken a Basic Conditions and Legal Compliance check of the 'For Referendum' version of the Neighbourhood Plan (see Appendix 3) and consider that the Neighbourhood Plan meets all the requirements.
21. As the modifications made to the Cottenham Neighbourhood Plan do not change the essence of its planning policies, the Strategic Environmental Assessment and Habitats Regulations Assessment screening undertaken on a draft version of the Neighbourhood Plan in March and repeated in September 2018 following the Court judgement (CJEU People Over Wind v Coillte Teoranta C- 323/17) to ensure the HRA screening took account of this ruling , and the screening determination published in September 2018 remain valid. A Strategic Environmental Assessment was carried out in October 2018 to accompany the submission version of the Neighbourhood Plan. This was consulted upon from 7 December 2018 until 11 January 2019. This too remains valid.

b. Referendum

² National Planning Practice Guidance, Paragraph 085, Reference ID: 41-085-20180222

22. The examiner concludes in the Executive Summary and paragraphs 8.2-8.3 of his report that, subject to the incorporation of his recommended modifications, the Neighbourhood Plan should proceed to referendum. He also concludes in paragraph 8.4 of his report that it is entirely appropriate for the referendum area to be the neighbourhood area designated by South Cambridgeshire District Council in November 2015.
23. The examiner's conclusions on the referendum area are consistent with that proposed by the Council in its response on the submission version of the Neighbourhood Plan (agreed by the Lead Cabinet member for Planning in March 2019). Therefore as it has been demonstrated by officers that the 'For Referendum' version of the Cottenham Neighbourhood Plan meets all the legislative requirements, officers concur with the examiner that the Neighbourhood Plan should proceed to referendum and that the referendum area should be the neighbourhood area.
24. National regulations set out that where it is concluded that the Neighbourhood Plan should proceed to referendum that the referendum should take place within 56 working days of the day after the publication of this decision statement (unless an alternative longer timescale is agreed with the Parish Council). If a Neighbourhood Plan is successful at referendum, the Neighbourhood Plan becomes part of the development plan for the area³, although the formal 'making' of the Neighbourhood Plan will not happen until South Cambridgeshire District Council's full Council are asked to do this at their next meeting following the referendum.
25. Officers are therefore working with Cottenham Parish Council to enable the referendum to take place as soon as practicably possible, so that provided it is successful at referendum, planning decisions in the neighbourhood area will have to be made in accordance with the Neighbourhood Plan unless material considerations indicate otherwise. There are however statutory requirements relating to a referendum that must be adhered to, including that at least 28 working days before the referendum an information statement and specified documents must be published.

Next Steps

26. At the referendum, if the majority of those that vote are in support of the Neighbourhood Plan, South Cambridgeshire District Council's full Council will be asked to 'make' (adopt) the Neighbourhood Plan at its next meeting.

Implications

27. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered:
28. Financial: the costs of the examination and referendum have to be initially met by South Cambridgeshire District Council. However, the Council can claim a £20,000 government grant per Neighbourhood Plan once it has been through the examination and a referendum date has been set. Once the referendum date is formally set the Council can claim this government grant in the next claims period.

³ National Planning Practice Guidance, Paragraph: 064, Reference ID: 41-064-20170728

29. Legal: where the examiner has concluded that the Neighbourhood Plan is legally compliant, meets the Basic Conditions (with or without modifications), and should proceed to referendum, the Joint Director for Planning and Economic Development has delegated authority to make the decision on the way forward, in consultation with the Planning Lead Member (as agreed by Cabinet at its meeting on 26 July 2018). National regulations and planning guidance for Neighbourhood Plans require that the Council considers the conclusions of the Examiner's Report, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner's recommended modifications to the Neighbourhood Plan should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions. The Council's decision must be published in a decision statement.
30. Staffing: the responsibilities associated with delivering neighbourhood planning are being undertaken within the existing resources of the Planning Policy Team, drawing upon the expertise of other staff as required.
31. Equality and Diversity: these issues have been considered in the preparation of the Neighbourhood Plan, as to meet the Basic Conditions a Neighbourhood Plan must not breach, and is otherwise compatible with, EU obligations, including Human Rights. The Examiner in his report is satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that it complies with the Human Rights Act. There is no evidence that has been submitted to suggest otherwise. (see paragraph 6.22 of the Examiners Report)

Declaration(s) of Interest

Record below any relevant interest declared by any executive Member consulted or by an officer present in relation to the decision.

None.

Consultation

Record below all parties consulted in relation to the decision.

a. Consultation with Cottenham Parish Council (the qualifying body)

Officers, in conjunction with Cottenham Parish Council, have reviewed the examiner's conclusions and recommended modifications, and officers and the Parish Council have agreed each of the recommended modifications considered necessary by the examiner for the Neighbourhood Plan to meet the Basic Conditions. Additional non-material modifications to the Neighbourhood Plan have been agreed with Cottenham Parish Council.

b. Consultation with the Planning Lead Member

This decision statement, the 'For Referendum' version of the Neighbourhood Plan, and the Basic Conditions and Legal Compliance Check undertaken by officers have been shared with and agreed by the Lead Cabinet Member for Planning.

Other Options Considered and Reasons for Rejection

Where an examiner has concluded that the Neighbourhood Plan meets the Basic Conditions (with or without modifications) and is legally compliant, and therefore that the Neighbourhood Plan should proceed to referendum, the Council has limited options in how to respond. The options are as follows:

Option 1: Act upon the conclusions in the Examiner's Report, including making any recommended modifications to the Neighbourhood Plan, and proceed to referendum, provided that the Council confirms that the Basic Conditions have been met.

Option 2: Take a decision substantially different from the Examiner's conclusions, wholly or partly as a result of new evidence or fact, or a different view is taken by the Council as to a particular fact, including that the Council is unable to confirm that the Basic Conditions have been met.

Officers have concluded that Option 1 should be followed for the reasons set out in this decision statement. Officers agree with the examiner's conclusions, including his recommended modifications to the Neighbourhood Plan, and agree that the Neighbourhood Plan should proceed to referendum. Officers have concluded that Option 2 should be rejected as there is no new evidence or fact, and officers are able to confirm that the Basic Conditions have been met (as set out in paragraph 20 in the Purpose / Background section of this decision statement).

Final decision	Reason(s)
<p>That the Joint Director for Planning and Economic Development, having consulted with the Lead Cabinet Member for Planning, agrees:</p> <ul style="list-style-type: none"> a. that South Cambridgeshire District Council should act upon the conclusions in the Examiner's Report on the Cottenham Neighbourhood Plan (see Appendix 1) and that the Neighbourhood Plan should proceed to a referendum; b. the 'for referendum' version of the Cottenham Neighbourhood Plan (as set out in Appendix 2) and c. that the area for the referendum should be the Neighbourhood Area. 	<p>The Examiner's Report on the Cottenham Neighbourhood Plan was received on 10 December 2019. The examiner concludes that subject to a series of recommended modifications the Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum. He also recommends that the referendum should be held within the neighbourhood area only.</p> <p>National regulations and planning guidance for Neighbourhood Plans require that the Council considers the conclusions of the Examiner's Report, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner's recommended modifications to the Neighbourhood Plan should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions. The Council's decision must be published in a decision statement. This report is the Council's decision statement for the purposes of those regulations.</p>

Signed	Name (CAPITALS)	Signature	Date
Lead Cabinet member for Planning	n/a	n/a	n/a

Lead Officer	STEPHEN KELLY	<i>Stephen Kelly</i>	February 2020
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Further Information

Appendices

Appendix 1: Examiner's Report on the Cottenham Neighbourhood Plan

Appendix 2: 'For Referendum' version of the Cottenham Neighbourhood Plan

Appendix 3: Legal Compliance Check on 'For Referendum' version of the Cottenham Neighbourhood Plan

Background Papers

Cottenham Neighbourhood Plan – earlier stages and supporting documents:

<https://www.scambs.gov.uk/planning/local-plan-and-neighbourhood-planning/neighbourhood-planning/cottenham-neighbourhood-plan/>

National Planning Practice Guidance – Neighbourhood Planning:

www.gov.uk/guidance/neighbourhood-planning--2

- Basic Conditions: www.gov.uk/guidance/neighbourhood-planning--2#basic-conditions-for-neighbourhood-plan-to-referendum
- Examination: www.gov.uk/guidance/neighbourhood-planning--2#the-independent-examination
- Referendum: www.gov.uk/guidance/neighbourhood-planning--2#the-neighbourhood-planning-referendum

Neighbourhood Planning Toolkit: www.scambs.gov.uk/npgguidance

Planning Portfolio Holder Decision (November 2015) – Cottenham Neighbourhood Area designation: <https://scambs.moderngov.co.uk/ieListDocuments.aspx?CId=1059&MId=6670>

Lead Cabinet member for Planning (March 2019) – Council's response on submission version of Cottenham Neighbourhood Plan:

<https://scambs.moderngov.co.uk/mgDecisionDetails.aspx?Id=60281&Opt=1>

Cabinet Meeting (July 2018) – Neighbourhood Planning decision making process:

<http://scambs.moderngov.co.uk/ieListDocuments.aspx?CId=293&MId=7343>