

**Wards Affected:**

**Woughton**

**ITEM 4(b)**

**MILTON KEYNES COUNCIL**

**22 NOVEMBER 2017**

Item considered by Cabinet – 7 November 2017

## **MAKING THE WOUGHTON NEIGHBOURHOOD PLAN**

Responsible Cabinet Member: Councillor Gifford (Cabinet Member for Place)

Report Sponsor: Brett Leahy, Head of Development Management,  
Planning & Transport, Tel: 01908 252605

Author and contact: Jon Wellstead, Senior Planning Officer, Tel: 01908  
254761

### **Executive Summary:**

The report seeks Cabinet's agreement to recommend to Council that it makes (brings into legal force) the Woughton Neighbourhood Plan following the referendum held on 19 October 2017. The referendum returned a majority 'Yes' to the question asked – whether those voting wanted Milton Keynes Council to use the neighbourhood plan when deciding planning applications in the neighbourhood area. Given the 'Yes' vote, the report seeks Cabinet's agreement to make minor modifications to the neighbourhood plan and to recommend to Council that it makes (brings into legal force) the Woughton Neighbourhood Plan.

### **1. Recommendation(s)**

- 1.1 That the modifications to the Woughton Neighbourhood Plan set out at **Annex A** be approved
- 1.2 That the Council be recommended to make the modified Woughton Neighbourhood Plan pursuant to the provisions of Section 38(A)(4) of the Planning and Compulsory Purchase Act 2004.
- 1.3 That, subject to the Council's agreement to the making of the Neighbourhood Plan:
  - (a) the decision document (**Annex B**) setting out the results of the referendum and the Council's decision to make the plan, and a copy of the made Woughton Neighbourhood Plan (**Annex C**) be published on the Council's website and in other means, to bring them to the attention of people who live, work or carry out business in the neighbourhood area; and
  - (b) the decision document and details on how to view the plan be sent to the qualifying body (Woughton Parish Council) and any person who asked to be notified of the decision.
- 1.4 That Woughton Community Council be congratulated on the successful outcome of the referendum.

## 2. Issues

- 2.1 The Woughton Neighbourhood Plan was submitted to the Council for examination and was subsequently publicised for a six-week period, ending on 10 April 2017. All comments received were then passed to the Examiner, Mr Andrew Ashcroft, who submitted his report on the Plan in June 2017, stating that the plan met relevant basic conditions and requirements, subject to modifications, and should proceed to referendum.
- 2.2 On 21 July 2017, the Service Director for Growth, Economy and Culture made the decision to accept the Examiner's report and the modifications that the examiner had recommended be made to the Neighbourhood Plan in order to ensure its compliance with the basic conditions. It was also agreed that the Plan, as modified, should proceed to a referendum of those residents eligible to vote within the neighbourhood plan area (being the Parish Council area) of Woughton.
- 2.3 Under the requirements of the Neighbourhood Planning (Referendums) Regulations 2012 (as amended), the Council is obliged to hold a referendum on a neighbourhood plan within 56 days of issuing its decision on the Examiner's report and modifications. With this in mind, and having sought the views of the Community Council as to a suitable date, the referendum on the Woughton Neighbourhood Plan was therefore scheduled for 19 October 2017 to keep within the 56-day time limit.
- 2.4 In the event of a 'Yes' vote, the Council is obliged under the relevant legislation<sup>1</sup> to pass a resolution within eight weeks of the day after the referendum to 'make' the neighbourhood plan (i.e. by 14 December).
- 2.5 As the referendum period for the Neighbourhood Plan was starting, the Council was made aware that due to an administrative error, a representation from the Canal and River Trust to the submitted Woughton Neighbourhood Plan had not been forwarded to the Neighbourhood Plan Examiner. The representation was valid having been received within the 6-week publicity period for the submitted Neighbourhood Plan and Section 17 of the Neighbourhood Planning (General) Regulations 2012 refers to documents being forwarded to the examiner *as soon as possible*. Consequently the representation was forwarded to the examiner at the earliest opportunity following the discovery of this error.
- 2.6 The examiner, Mr Andrew Ashcroft, considered the representation and has recommended a number of changes to the supporting text of the Neighbourhood Plan. These are set out in the table at **Annex A**. The additional changes affect the supporting text rather than the policies, and are not considered to be material to the Neighbourhood Plan, but, rather, are being made to improve its clarity.
- 2.7 Woughton Community Council is aware of the issue and with the Examiner's revised recommendations and is in agreement with the proposal to include the

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<sup>1</sup> The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 and section 38(A)(4) of the Planning and Compulsory Purchase Act 2004

additional modifications on the basis that they do not strike at the heart of the plan. An updated and final version of the Woughton Neighbourhood Plan is available at **Annex C** and it is this version that Full Council are being asked to make a part of the Development Plan for the Woughton area.

- 2.8 The referendum took place on 19<sup>th</sup> October, 2017. The official result is that, 1140 ballot papers were issued, 988 residents voted Yes and 147 voted No with 6 ballot papers rejected. The turnout for the referendum was 13.44%.
- 2.9 Once a neighbourhood plan has successfully passed all the stages of preparation, including an Examination and Referendum, it is made by the local planning authority and forms part of that authority's Development Plan, meaning that it will be a material consideration when deciding development proposals within the area covered by the Plan.
- 2.10 As with any planning decision, there is a risk of legal challenge and in this case there is a specific risk that the Canal and River Trust could legally challenge the plan as a result of the late referral of their representations to the Examiner. It is however considered that the risk of a successful challenge has been mitigated by the actions that the Council took as soon as it was made aware that the Trust's representations had not been passed to the Examiner. As a result of the action taken by the Council, the Canal and River Trust's representations have still been considered by the Examiner and Recommendation 1.1 of this Cabinet report is that the plan is modified in line with his recommendations before it is made by Full Council.

### 3. **Options**

- 3.1 As the Plan received a 'Yes' vote in the referendum, the Council is obliged to proceed to make the Plan as outlined above. Therefore, there are no options available other than for Cabinet to recommend to the Council to make the Woughton Neighbourhood Plan, and for Council to implement that recommendation, so that the Woughton Neighbourhood Plan becomes part of the Milton Keynes Development Plan. The only exception to this is where the Council considers the plan would breach, or otherwise be incompatible with, any EU obligation or any of the convention Rights. That is not the case here.

### 4. **Implications**

#### 4.1 Policy

The National Planning Policy Framework sets out that Neighbourhood Plans must be in general conformity with the strategic policies of the development plan. Neighbourhood Plans should reflect these policies, and neighbourhoods should plan positively to support them. Neighbourhood Plans and Development Orders should not promote less development than is set out in the Local Plan, or undermine its strategic policies. In Milton Keynes, the strategic policies are set out in the adopted Milton Keynes Local Plan and Core Strategy.

Once a Neighbourhood Plan has successfully passed all of the stages of preparation, including an examination and referendum, it is made by the local planning authority and forms part of the authority's Development Plan,

meaning it will be a material consideration when considering development proposals in the Neighbourhood Plan area. In terms of the planning policy hierarchy, a Neighbourhood Plan, once adopted, carries more weight than a Supplementary Planning Document.

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, which came into force on 1 October 2016, require local planning authorities to make a plan that has been supported at referendum within eight weeks of the day after the referendum. A decision to make the Plan by Council on 22 November 2017 will meet that timescale.

#### 4.2 Resources and Risk

Further duties and deadlines for decisions have been imposed through the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, as a result of the 2016 Housing and Planning Act. The Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 (“the 2012 Regulations”) placed new duties on local planning authorities in relation to Neighbourhood Planning. These new duties have considerable implications for Council resources. In recognition of the additional burdens that these new duties place on local planning authorities, DCLG now makes extra burden funding of £20,000 available to local authorities, which can be claimed once a date for a referendum has been set following a successful examination. This is a reduction of £10,000 per plan from that which has been available in previous years.

Publicity and officer support costs associated with making Neighbourhood Plans is met within the Development Plans budget and staff resources to implement the Plan come from the existing staff within the Development Plans and Development Management teams.

An internal audit of the Neighbourhood Plans service carried out in 2015 has shown that that the additional costs incurred delivering the service were only just covered by the extra burdens funding.

N	Capital	Y	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

#### 4.3 Carbon and Energy Management

The proposal does not impact on carbon and energy management.

#### 4.4 Legal

Neighbourhood planning is part of the Government’s initiative to empower local communities to take forward planning proposals at a local level, as outlined in Section 116 of the Localism Act, 2011. The Act and the subsequent regulations confer specific functions on local planning authorities in relation to neighbourhood planning and lay down the steps that must be followed in relation to Neighbourhood Planning.

The Woughton Neighbourhood Plan has been consulted on and subjected to a referendum in accordance with the 2012 Regulations (as amended).

As with any planning decision, there is a risk of legal challenge to the plan and/or judicial review of the Council's decision to proceed with the referendum and the making of the Plan.

Risk has been managed by ensuring that the relevant regulations are followed and that the Council's decision making process is clear and transparent. As explained in paragraph 2.9 above, there is a specific risk of a potential legal challenge from the Canal and River Trust as a result of an administrative error. The Council considers that, once it became aware of error, it took all possible steps to mitigate the error.

Once a Neighbourhood Plan is made it becomes part of the statutory Development Plan against which the Local Planning Authority is obliged to consider proposals for development.

In accordance with Section 61E(4) of the Town and Country Planning Act, as modified by the Localism Act 2011, the Council must, as soon as possible after deciding to make a neighbourhood development plan:

- (a) publish on the website and in such other manner as is likely to bring the Plan to the attention of people who live, work or carry on business in the neighbourhood area:
  - (i) the decision document,
  - (ii) details of where and when the decision document may be inspected;
- (b) send a copy of the decision document to:
  - (i) the qualifying body and
  - (ii) any person who asked to be notified of the decision.

#### 4.5 Other Implications

The Woughton Neighbourhood Plan has been tested against and found to meet a number of basic conditions. Two of the basic conditions are the requirements for the plans to:

- Contribute to the achievement of sustainable development
- Not breach and otherwise be compatible with EU obligations (including Human Rights, the Strategic Environmental Assessment Directive and the Habitats Directive)

The Examiner's report has confirmed that the Plan meets those Basic Conditions and officers are satisfied that there are no conflicts with these aspects.

The consultations on the draft plan carried out by the Community Council and then the publicity on the submitted plan carried out by Milton Keynes Council

have helped to raise awareness of its preparation and have allowed community engagement and participation in the process. .

N	Equalities/Diversity	Y	Sustainability	Y	Human Rights
N	E-Government	N	Stakeholders	N	Crime and Disorder

**Annex A** Additional modifications to the Woughton Neighbourhood Plan

**Annex B** Decision document for making the Woughton Neighbourhood Plan

**Annex C** Final version of the Woughton Neighbourhood Plan (<https://www.milton-keynes.gov.uk/planning-and-building/planning-policy/Woughton-neighbourhood-plan>)

Background Papers:

The Localism Act 2011

The Neighbourhood Planning (General) Regulations 2012

The Housing and Planning Act 2016

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016