

- a) Receive the examiner's report and agree its publication on the Council's web-site,
- b) Agree the Council's responses to the examiner's recommendations as set out in the attached appendix to this report.
- c) Agree that the NDP, if satisfactorily modified in accordance with the examiner's recommendations, can progress to local referendum.

3. Background

3.1 Neighbourhood planning was introduced by the Localism Act 2011 and enables Parish/Town Council's and local communities to prepare a Neighbourhood Development plan (NDP) which can shape development and growth in their local area. When adopted the NDP becomes part of the adopted borough-wide development plan.

3.2 A NDP is intended to be community led and should set out policies to guide the future use and development of land within the defined neighbourhood area. The NDP must meet specified 'basic conditions' including that it must contribute to the achievement of sustainable development and be in general conformity with the strategic policies of the adopted local plan.

3.3 The regulatory process for preparation of an NDP is, in summary, as follows:

Key Stage / Process	Action
1. Neighbourhood Area Designation	Parish/Town Council or Neighbourhood Forum applies to Solihull Council for Area designation and the Council formally designate.
2. Pre-Submission Consultation	Six week consultation on draft Neighbourhood Plan undertaken by the local community.
3. Submission	Neighbourhood Plan formally submitted to Solihull Council.
4. Technical Compliance Check	Local planning authority checks that all regulatory procedures have been followed.
5. Publication	Six week consultation undertaken by Solihull Council.
6. Examination	Solihull Council sends Neighbourhood Plan to independent Examination.
7. Plan Proposal Decision	Solihull Council considers examiners report, including any recommended modifications and if satisfied with the Plan proposal, proceeds to referendum.
8. Referendum	Organised and funded by Solihull Council. Where 50% or more of those voting are in favour of the draft Neighbourhood Plan, it must be 'made' by the local authority and it then forms part of the statutory Development Plan.

3.4 In June 2013 the Council approved Hampton in Arden Parish Council's application for designation of a NDP area. Stage 2 was reached in August 2015 and stage 3 in February last year. In April last year Cabinet Member agreed that the submission draft of the NDP complied with regulatory requirements enabling it to be subject to a

period of consultation followed by Independent Examination of the plan and representations received – i.e. stage 6 (link to April 2016 report – <http://eservices.solihull.gov.uk/mgInternet/ieListDocuments.aspx?CId=525&MId=5268>).

- 3.5 The NDP is now at stage 7, the subject of this report. The independent examiner was chosen through Neighbourhood Planning Independent Examiner Referral Service (NPIERS a service operated through the Royal Institute of Chartered Surveyors - RICS) that introduces local authorities to examiners with the required expertise, knowledge and qualifications. The examination took place in January 2017.

4. Independent Inspector's Report

- 4.1 The independent examiner's role is limited to testing whether or not a draft neighborhood plan meets '[basic conditions](#)', and other matters set out in [paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 \(as amended\)](#). In regard to representations it is not an expectation that the examination will include a public hearing (but it can in some circumstances). Usually the examiner is expected to reach a view by considering written representations, which is what has occurred in this instance. The submitted basic conditions statement is therefore the main way the 'qualifying body' (the Parish Council in this case) can demonstrate that its NDP meets 'basic conditions'.
- 4.2 If the examiner recommends that the NDP should proceed to referendum, he must advise whether the referendum area should extend beyond the NDP area. This may occur where a proposal in the NDP will have a substantial direct impact beyond the NDP area.
- 4.3 The examiner must send his report to the qualifying body (the Parish Council in this instance) and the local planning authority (LPA). The LPA must then decide what action to take in response to each of the report's recommendations. If the LPA propose to depart from the examiners recommendations, it must notify: the qualifying body; those who made representations to the examiner; and any body previously consulted, of the proposed decision, with reasons, and invite representations.
- 4.4 The Council is required by statute to make arrangements for the referendum to take place. If the majority of those who vote in a referendum are in favor of the NDP it must be brought into force by the LPA within [8 weeks](#) of the referendum, unless subject to legal challenge.
- 4.5 In terms of the examiners findings, he congratulates the Parish Council (PC) on its 'extensive efforts' and on a 'well presented' plan of a manageable length that helpfully and appropriately combines narrative text, policy and action boxes. He is satisfied that the plan has regard to the NPPF, provides a positive vision and promotes 'proportionate and sustainable' policies and sets out community needs whilst safeguarding the NDP area's distinctive features and character.
- 4.6 However, he found some phraseology to be imprecise or falling short in its justification of selected policy. In particular he considers that the polices may not meet the obligation to provide a practical framework for decision making on planning applications with the required high degree of predictability and efficiency required by the NPPF and this has led to recommended modifications (56 in total). Despite the number of recommendations he advises that the plan is fundamentally unchanged in regard to role and direction set by the PC.

Basic Conditions document (separate document dated Feb 2016)

- 4.7 In regard to the 'basic conditions document' the examiner (page 6 of his report)

acknowledged that the document includes the NPPF required commitment to the achievement of sustainable development but he is concerned there is insufficient substantiation that the NDP aligns with the commitment. Consequently, recommendation 1 is to include in the basic conditions statement a brief explanatory paragraph on the plan's contribution to sustainable development. The remaining 55 recommendations are summarised as follows:

Detail of the Plan (page 7 of the inspector's report)

- 4.8 3 recommendations suggest deleting unnecessary or redundant text, including deletion of the Executive Summary and Forward and amending the NDP start date to either 2016-2028 or 2017-2028 instead of 2015-2028.

Introduction & Background (page 7)

- 4.9 13 recommendations are about simplifying text and information in figures to achieve greater clarity or remove confusion, for example, in regard to the relationship of the NDP to the NPPF, local plan factual updates, or improved referencing of supporting documents, or else removal of redundant text such as references to 'submission draft'.

A plan for the Parish (page 10)

- 4.10 11 recommendations relate to deleting unnecessary or unsubstantiated statements or text that are not purely about the defined area of the NDP such as speculative comment on affects of HS2 and Airport flight paths. They also relate to improving cross-referencing to the adopted local plan and removing text that is beyond the scope of the NDP such as creating a 'viable and sustainable community' (2.3.1).

Policies & Key Actions (page 11)

- 4.11 26 recommendations relate mainly to clarifying wording of text or policy. Some require deletion of text that has become redundant through the plan process and some seek factual corrections to the NDP. In terms of clarification of text and policies, among the more significant are those that relate to differentiating between that which is policy (that will eventually become part of the development plan) and that which is aspiration. For example recommendations 29, 36 and 38 seek clarification that 'Key Actions' referred to in the NDP cannot become part of the development plan and that they simply relate to aspirational matters that the PC desires to progress. Recommendations 35, 37, 45, 46, 53 and 54 are about tidying up the wording of policies so that they better reflect the NPPF or the adopted local plan, or to simply remove ambiguity.
- 4.12 In terms of deletions, more notable are recommendations 47, 48, 49, 51, 55 and 56 that seek to delete policies ENV4 and ENV5 that are considered to add nothing to local plan policy and to modify ENV6 and ENV7 by deleting text that is irrelevant or that repeats national or local policy.
- 4.13 Recommendations 32, 33, 39, 40, 42 and 50 seek relatively minor corrections, the more notable being 33 that seeks to substitute the word 'encourage' in some polices for 'support' as the correct terminology. 39 seeks to correct para 3.3.13 by removing any none factual comment in response to a representation from the Airport that challenged references to airport activity and 40 that satisfies a Warwickshire County Council representation in correcting erroneous reference to 'Arden Pastures' in para 3.4.3 (substitute with Arden Parklands).

Next Steps & Sources (page 18)

- 4.14 These 2 short sections each attract 1 recommendation that seeks to delete section 4.1 and section 5 respectively that have become redundant on reaching this post-examination stage.

Other matters raised in representations (page 18)

- 4.15 In this section the inspector refers to 2 representations that were seeking to promote housing sites through the NDP. The inspector advises that it is not his role as examiner to test soundness, but to consider NDP content against 'basic conditions' and related requirements. He is therefore unable to recommend additional content or widen the scope of the plan as suggested by the 2 representations (these are being dealt with through the local plan review process).

The Examiner's Conclusions (page 20)

- 4.16 The examiner concludes (page 20) that the recommended modifications are made to ensure clarity and ensure basic conditions are met. The examiner concludes that subject to the recommended modifications:

- The NDP has had regard to national policies and advice issued by the Secretary of State
- Contributes to achieving sustainable development
- Is in conformity with the strategic policies of the adopted local plan
- Is compatible with EU & European Convention on Human Rights obligations

- 4.17 Finally, the examiner considers the defined neighborhood area to be appropriate and that no evidence has been put forward to suggest otherwise. He recommends that the NDP should proceed to referendum based on the Neighborhood Area as approved by SMBC on 24th June 2013 (and shown in the NDP at Fig. 1.1).

- 4.18 Attached is a schedule of the examiner's recommendations with the Council's recommended response to each.

- 4.19 The Parish Council have confirmed they are content with the Inspector's recommendations.

Next Steps

- 4.20 Solihull MBC will make arrangements for the referendum to be held and whilst a date has yet to be fixed, this is likely to take place towards the end of June/beginning of July 2017.

5. Reasons for Recommending Preferred Option

- 5.1 Recommended modifications are relatively minor in nature and do not fundamentally alter the role and direction of the plan set by the Parish Council. There is no justification for departing from the examiner's recommendations.

6. Scrutiny

- 6.1 To date there have been no scrutiny issues regarding neighbourhood planning in Hampton in Arden.

7. Implications

7.1 Delivery of the Council's Priorities

The options/proposals in this report will contribute to the delivery of the following Council Priorities:

- Managed Growth (assisting delivery of the adopted local plan)
- Build Stronger Communities (enabling the local community to identify and meet local needs within the NDP area)

- 7.2 Policy/Strategy Implications – The NDP must be in general conformity with the strategic policies of the adopted local plan. Once the NDP is adopted it becomes part of the statutory development plan and decisions on planning applications will need to be made in accordance with the adopted NDP as well as the adopted local plan, unless material considerations indicate otherwise.
- 7.3 Parts of the NDP could get superseded with the adoption of the Local Plan Review, which would then take precedence in the event of any conflicting policies.
- 7.4 **Meeting the duty to involve** The NDP area application was subject to public consultation, the parish council undertook pre-submission consultation on a draft NDP and a Consultation Statement was submitted that describes the consultation process and how each representation received was dealt with. The submission draft was the subject of 6 weeks consultation undertaken by the Council and the Independent examiner has considered the report and the representations received in making his recommendations for modifications to the NDP.
- 7.5 **Financial Implications** – The Council has a legal obligation to assist Parish/Town council's and Neighbourhood Forums with the process of preparing NDPs. Although the regulations do not require local planning authorities to provide financial assistance to such groups, the Council is required to organise and pay for independent examination of the plan and the referendum.
- 7.6 LPAs can claim financial assistance for fulfilling their duties to support neighbourhood planning. New arrangements for this funding came into effect in April 2016. The basic level of funding of £30,000 has been reduced. LPAs can still claim £20,000 once an NDP has been examined and a referendum date set, but the £5,000 that local authorities could claim for every designation of a NDP area (up to a maximum of 20 per year or £100,000) can now only be claimed for the first 5 NDP area designations. The limit of 5 applies to the total number in the LPA area i.e. it is not 5 per year. As Solihull has already reached this maximum no further claims can be made. Previously £5,000 could also be claimed when the final pre-examination version of the NDP is publicised by the LPA prior to examination. This can no longer be claimed.
- 7.7 Once a referendum date has been set the Council is able to claim £20,000, which will not only cover the costs of holding the referendum itself (estimated to be between £2,000 and £3,000), but also the costs of supporting the NDP plan making process that has occurred to date; including the cost of the independent examination.
- 7.8 **Legal implications** – See above regarding assistance in the process of preparing NDPs
- 7.9 **Risk Implications** – None identified at this stage.
- 7.10 **Statutory Equality Duty** – A Fair Treatment Assessment is not required.
- 7.11 **Carbon Management/Environmental** – None identified
- 7.12 **Partner Organisations** – Consultation has been undertaken with statutory consultees, including adjoining LPAs, county councils, and parish councils
- 7.13 **Safeguarding/Corporate Parenting Implications** – None identified
- 7.14 **Customer Impact** – None identified at this stage
- 7.15 **Other implications** – None identified

8. List of Appendices Referred to

- 8.1 Schedule of Independent Inspectors recommendations to modify the Hampton in

Arden NDP and the Council's response to each.

9. Background Papers Used to Compile this Report

9.1 Independent Inspectors Report on the Hampton in Arden NDP (Jan 2017)

10. List of Other Relevant Documents

10.1 Hampton in Arden Neighbourhood Plan and supporting Consultation Statement and Basic Conditions Document.