

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).
 The form must be completed and passed to the Chief Officer Legal and Democratic Services no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Chief Officer Legal and Democratic Services has confirmed the decision has not been called in.

1. Description of decision

To formally 'make' the Oakley Neighbourhood Plan in accordance with the Neighbourhood Planning Regulations.

2. Date of decision

23rd
 March 2020

3. Reasons for decision

The purpose of this report is to provide information about the outcome of the referendum for the Oakley Neighbourhood Plan, which achieved a majority vote in favour of the plan, and to formally 'make' the plan.

4. Alternatives considered and rejected

The Neighbourhood Plan achieved a majority vote in favour of the neighbourhood plan. The Regulations require that the plan must be made within 8 weeks following the referendum unless:

- the local planning authority considers that the making of the plan would breach, or otherwise be compatible with, any EU or human rights obligations, or
- a legal challenge has been brought in relation to the decision to hold a referendum or around the conduct of the referendum.

Neither circumstance exists in relation to the Oakley Neighbourhood Plan so it must be 'made' by the Council.

5. How decision is to be funded

From existing budgets.

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

--	--	--	--

The Mayor has been consulted on this decision

Signed Don Hodge Date 23/3/2020 Name of Decision Taker MAYOR DAVE HODGON

This is a public document. A copy of it must be given to the Chief Officer Legal and Democratic Services as soon as it is completed.

Date decision published:23March2020.....

Date decision can be implemented if not called in:2April2020.....

(Decision to be made exempt from call in..... NO.....)

Bedford Borough Council – Executive Decision

Report by the Chief Officer Planning and Highways

Subject: OAKLEY NEIGHBOURHOOD PLAN

1. Executive Summary

Neighbourhood plans are statutory development plans produced by parish/town councils or neighbourhood forums. Oakley Parish Council has produced a neighbourhood plan for the Oakley parish area (Appendix A to this report).

The Plan was submitted to Bedford Borough Council on 9th April 2019 and, in line with regulatory requirements, was subject to a six-week consultation (12th June to 25th July 2019). It has since been formally examined by Wendy Burden BA (Hons) DipTP MRTPI who is an independent examiner. The examiner produced a report which recommended that the Plan be modified in order to meet legal requirements and then be progressed to a referendum of people who live within the designated neighbourhood area. On 6th December 2019 the Council resolved to progress to the referendum stage. The referendum took place on 27 February 2020 and a majority of those who took part voted in favour of the Plan. It must now be formally 'made' by Bedford Borough Council.

2. Recommendations

Executive is asked to consider this report and if satisfied agree:

- (a) That under Section 34A(4) of the Planning and Compulsory Purchase Act 2004 the Oakley Neighbourhood Development Plan be 'made' with immediate effect.**
- (b) That the Council congratulates the neighbourhood plan group and the local community on their work to develop the Plan.**
- (c) That the Chief Officer Planning and Highways be authorised in conjunction with the Parish Council to make minor editorial textual changes to the neighbourhood plan.**

3. Reasons for Recommendations

To formally 'make' the neighbourhood plan to confirm it as part of the development plan covering the Oakley neighbourhood area (Oakley Parish) and to recognise the significant amount of work undertaken by the neighbourhood plan group and local community in preparing the neighbourhood plan.

4. Key Implications

(a) Policy

Neighbourhood plans are examined to ensure that they meet the 'Basic Conditions' which are set out in Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The 'Basic Conditions' ensure, amongst other things, that appropriate regard has been had for local and national policies. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area (in this case saved policies in the Local Plan 2002, policies in the Core Strategy & Rural Issues Plan 2008 and the Allocations and Designations Local Plan 2013);
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The Oakley Neighbourhood Plan was prepared in parallel with Bedford Borough Council's Local Plan 2030. As a result whilst the neighbourhood plan was assessed for its general conformity with the development plan as described above, the Plan has been written to take into account the strategic policies of the Local Plan 2030. The Examiner commented '*It is appropriate that the ONP has had regard to the policies and proposals of the emerging BBC LP 2030. This ensures that the ONP is as up to date as possible in its proposals.*'

(b) Legal Issues

Section 38A(4) of the Planning and Compulsory Purchase Act 2004 requires the Council to ‘make’ a neighbourhood plan if more than half of those voting in a referendum have voted in favour. In such circumstances the making of a neighbourhood plan is therefore a legal requirement except in narrow circumstances where adoption of the plan would breach or otherwise be incompatible with EU or human rights obligations. In respect of this plan no such circumstances exist, therefore the Council is under a statutory duty to make the Oakley Neighbourhood Plan and has eight weeks from the date of the referendum in which to do so.

Decisions to ‘make’ a neighbourhood plan are taken by Bedford Borough Council’s Executive rather than Full Council¹.

Bedford Borough Council can be challenged on the making of a plan by way of judicial review. Challenges must normally be made within six weeks of the making of the plan.

Once ‘made’ the Council must publicise its decision in accordance with the Neighbourhood Planning (General) Regulations 2012.

(c) Resource Implications

Costs associated with assisting the neighbourhood plan group to prepare their plan are funded from the Plans and Strategies Reserve.

When the neighbourhood plan is formally ‘made’, the percentage of Community Infrastructure Levy (CIL) receipts payable to the Parish Council arising from development within the parish will increase from 15% to 25% resulting in Bedford Borough Council’s percentage decreasing to 75%. National Planning Practice Guidance explains that parish councils must use the CIL receipts passed to them to support the development of the parish council’s area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area.

(d) Risk Implications

The making of a neighbourhood plan following a positive referendum outcome is a statutory duty under the Town and Country Planning Act 1990. There is a risk that the making of the plan could be challenged in the courts.

¹ Section 9D of the Local Government Act 2000

(e) Environmental Implications

The Oakley Neighbourhood Plan was screened for Strategic Environmental Assessment (SEA) by Oakley Parish Council with assistance from Bedford Borough Council. The SEA screening concluded that it was unnecessary to undertake SEA. The examiner supported this conclusion.

The Plan was further screened to determine if Habitats Regulations Assessment (HRA) was necessary. The HRA was carried out by specialist consultancy Bodsey Ecology Ltd. It concluded that the Plan would not have a significant effect on European sites either alone or in combination. Natural England, as a statutory consultee, did not dispute this conclusion. The examiner found no reason to disagree. Both the SEA screening and the HRA were reviewed in light of the proposed modifications to the Plan. The conclusions of both remained unchanged.

(f) Equalities Impact

In preparing this report, due consideration has been given to the Borough Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The development of the Oakley Neighbourhood Development Plan is relevant to Oakley Parish Council's General Equality Duty. The Parish Council is responsible for discharging their duty. An equality analysis has been carried out by the parish Council. The findings can be found on the as an annex to the basic conditions statement.

5. DETAILS

Neighbourhood planning was introduced through the Localism Act 2011. New powers allow qualifying bodies (parish or town councils, or neighbourhood forums in areas without parish or town councils) to produce neighbourhood plans which enable communities to set planning policies for their area. Once adopted, neighbourhood plans become part of the Council's statutory development plan and must be taken into account alongside Bedford Borough Council's local plans and national policy when planning applications are determined.

Producing a neighbourhood plan allows parish and town councils to increase the amount of Community Infrastructure Levy (CIL) funds they receive from developments within their area from 15% to 25%, incentivising the production of plans, especially those that propose growth.

The stages of preparation of a neighbourhood plan are similar to those for the preparation of a local plan. They are summarised in the following table.

Preparing a neighbourhood plan		
Stage	Responsibility	Oakley
Neighbourhood Area Designation	Application by parish council, publicity & decision by BBC	Complete (14/11/13)
Prepare draft neighbourhood plan	NP group/parish council with assistance from others	Complete
Pre submission consultation (Regulation 14)	NP group/parish council (6 weeks minimum)	Complete (19/9/18 – 31/10/18)
Finalise plan in light of comments made	NP group/parish council	Complete
Submit plan to the local planning authority	NP group/parish council	Complete
Pre-examination consultation (Regulation 16)	BBC (6 weeks minimum)	Complete (12/6/19 – 25/7/19)
Examination	Examiner appointed by BBC (agreed by NP group/ PC)	Complete (submitted 13/8/19)
Consider examiner's recommendations	BBC and NP group/parish council	Complete (Exec decision 6/12/19)
Referendum	Organised by BBC	Complete (27/2/20)
Plan 'made' (part of the development plan)	BBC	We are here

Bedford Borough Council resolved by way of Executive decision on 6th December 2019 that the neighbourhood plan should proceed to referendum. The referendum covered the parish area of Oakley and anyone who can usually vote in a local election and who is resident in the referendum area was able to vote.

The referendum question was 'Do you want Bedford Borough Council to use the neighbourhood plan for Oakley Parish to help it decide planning applications in the Neighbourhood Area?' This form of wording is that required by the Neighbourhood Planning (Referendum) Regulations 2012. **From an electorate of 1932 the turnout was 519 or 27% and the votes in favour were 459 and against were 60.**

As more than half of the people who voted were in favour of the plan, it must now be formally 'made'. It will be used in the determination of planning applications that fall within the parish of Oakley. Its effectiveness will be monitored by the Parish Council and the need to review it to keep it up to date will be considered as part of this process.

Following Executive's decision to 'make' the Plan, the Parish Council and others who asked to be kept informed will be formally notified. The Plan and supporting documents, including a decision statement, will be published on the Council's web site and made available in line with the Neighbourhood Planning (General) Regulations 2012.

6. **Summary of Consultations and Outcome**

The Plan has been the subject of two statutory consultations. The neighbourhood plan group carried out pre-submission consultation on a draft plan, known as Regulation 14 stage, and the Council undertook post-submission consultation; the Regulation 16 stage. Details of the Regulation 14 responses are posted on the [neighbourhood plan web site](#). The Regulation 16 responses were provided to the examiner of the

Plan who considered them during the examination. They can be found on Bedford Borough Council's web-site on the [neighbourhood planning pages](#).

The following people have been consulted in preparing this report:

- Management Team
- Director for Environment
- Team Leader (Governance, Property, Planning, Litigation)
- Chief Officer for Corporate Finance & Pensions
- Chief Officer for Financial Control

No adverse comments have been received.

7. **Ward Councillor Views**

Not applicable for this report.

Report Contact Officer: Kim Wilson
(01234)228484
Kim.wilson@bedford.gov.uk

File Reference: Neighbourhood Plans

Previous Relevant Minutes: Executive decision 1437

Background Papers: None

Appendices: [Appendix A - Oakley Neighbourhood Plan](#)