

## Report of the Portfolio Holder for Economic Development and Asset Management

### CHETWYND: THE TOTON AND CHILWELL NEIGHBOURHOOD PLAN

#### 1. Purpose of Report

The purpose of this report is to obtain approval for the Chetwynd: The Toton and Chilwell Neighbourhood Plan to be modified as recommended by the Independent Examiner and to proceed to referendum based upon the current Neighbourhood Plan Area.

It is also to confirm that the Council is of the view that, once modified as per the Independent Examiner's recommendations, the Chetwynd: The Toton and Chilwell Neighbourhood Plan will meet the Basic Conditions and other relevant legislative requirements.

#### 2. Recommendation

**Cabinet is asked to RESOLVE that:**

- 1. the Chetwynd: The Toton and Chilwell Neighbourhood Plan should be modified as proposed by the Independent Examiner.**
- 2. once modified as proposed by the Independent Examiner, it is considered the Neighbourhood Plan will meet the Basic Conditions and other legislative requirements.**
- 3. the Chetwynd: The Toton and Chilwell Neighbourhood Plan should proceed to a referendum, with the extent of the area eligible to vote to be based upon the Chetwynd: The Toton and Chilwell Neighbourhood Area as shown within APPENDIX 1 to this report.**

#### 3. Detail

The Chetwynd: The Toton and Chilwell Neighbourhood Development Plan has been prepared by the Chetwynd: The Toton and Chilwell Neighbourhood Forum over the past six years since the official designation of the Chetwynd: The Toton and Chilwell Neighbourhood Forum in 9 March 2017. (The designation of the Neighbourhood Forum was extended for a further five-year period on 2 March 2022). The Chetwynd: The Toton and Chilwell Neighbourhood Area was designated on 9 March 2017. The Neighbourhood Plan was produced by a Steering Group made up of volunteers from the local community.

The Independent Examiner's Report was received by Broxtowe Borough Council on 17 January 2024. The Independent Examiner states within her Report that, from her examination of Chetwynd: The Toton and Chilwell Neighbourhood Plan and its supporting documentation, including the representations made and the discussion at the Public Hearing, she has concluded that, subject to the policy modifications set out in her report, the Plan meets the Basic Conditions.

The Independent Examiner also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Chetwynd: The Toton and Chilwell Neighbourhood Forum;
- The Plan has been prepared for an area properly designated;
- The Plan specifies the period to which it is to take effect – 2020 - 2040; and,
- The policies relate to the development and use of land for a designated neighbourhood area.

Within the Report, the Independent Examiner recommends that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

The Independent Examiner considered whether the referendum area should extend beyond the designated area to which the Plan relates and concluded that it should not.

The recommendation to Cabinet is based upon the Independent Examiner's recommendations, which Officers concur with.

Assuming that the Independent Examiner's recommendations are all accepted, the Neighbourhood Plan would now include 28 policies. These are:

- ENV01 - Local Green Space
- ENV02 - Natural Environment
- ENV03 - Green and Blue Infrastructure Requirements
- INF01 - Road Infrastructure
- INF02 - Active Travel
- INF03 - Public Transport
- INF04 - Parking & Reducing Travel Demand
- HAS01 - Housing Mix
- HAS02 - Green Design & Sustainability
- HAS03 - Broadband Connectivity
- HAS04 - On-Site Construction
- URB01 - Amenity Space & Privacy
- URB02 - Minimising Crime
- URB03 - Street Design
- URB04 - Well Designed Neighbourhoods
- URB05 - Strategic Location for Growth, West of Toton Lane
- URB06 - Infill Development
- LHC01 - Local Centres
- LHC02 - Heritage Assets
- LHC03 - Heritage Trail
- LHC04 - Secondary Education

- LHC05 - Primary Education and Medical Facilities
- LHC06 - New Leisure Centre
- LHC07 - Sports Field and Pavilion
- LHC08 - Provision of Allotments
- EMP01 - Strategic Location for Growth Business Zone
- EMP02 - Chetwynd Barracks Business Zone
- EMP03 - Smart Building Technologies & Modern Methods of Construction

The (Submission) draft of the Neighbourhood Plan and accompanying documents were formally submitted to Broxtowe Borough Council on 24 November 2021.

The Borough Council screened the Neighbourhood Plan and determined that a Strategic Environmental Assessment (SEA) was likely to be required but that an 'appropriate assessment' under the Habitats Regulations (HRA) would not be. Screening opinions were sought from Natural England, Historic England and the Environment Agency. Natural England agreed with the Borough Council that a Strategic Environmental Assessment was likely to be required and so an appropriate Strategic Environmental Assessment was produced in relation to the Neighbourhood Plan. This formed a part of the formal submission to the Borough Council and this document is included as an appendix to this Report.

The Borough Council arranged a period of public consultation (the 'Regulation 16' consultation) between Wednesday 8 June and Friday 5 August 2022. (The consultation period was extended by two weeks). The Borough Council subsequently submitted the Neighbourhood Plan for Independent Examination.

The Independent Examination was undertaken by Jill Kingaby BSc (Econ) MSc MRTPI. The Independent Examiner's Report was received by the Borough Council on 17 January 2024.

The Independent Examiner found that, subject to 43 proposed modifications (including groups of amendments), the Neighbourhood Plan meets the Basic Conditions and other requirements. Further information in relation to the Basic Conditions and the Independent Examiner's recommendations are set out within the Independent Examiner's Report, which is included as **APPENDIX 2**. The Submission Version of the Chetwynd: The Toton and Chilwell Neighbourhood Plan is included as **APPENDIX 3**.

The Independent Examination of the Chetwynd: The Toton and Chilwell Neighbourhood Plan included a public hearing, which was held on 10 November 2022 in the Council Offices of Broxtowe Borough Council. Following this public hearing, extensive modifications were proposed to the Plan and agreed, in principle, by Broxtowe Borough Council and the Neighbourhood Forum. Due to the extent of the proposed amendments, and to ensure that no party would be at a disadvantage, the Borough Council invited further comments on the proposed amendments for a four-week period which ended on 25 August 2023 (although late representations were accepted by the Independent Examiner). Any

individual or organisation that commented during the original Regulation 16 consultation was invited to comment on the proposed amendments. However, the period of this additional targeted consultation was published on the Borough Council's website and the consultation was open for anyone or any organisation to respond to, regardless of whether they had previously made representations.

Two documents were produced to inform the additional targeted consultation. One was a Consultation Document, which set out some of proposed amendments to the Neighbourhood Plan in 'track changes' and also listed the proposed new policies. Some of these had been amended or combined with other policies. This document is included as appendix 4. The other document was an Explanatory Document (included as appendix 5), which set a schedule of the proposed amendments. The Independent Examiner has also referred to these documents within her Report (these form two of the appendices to her Report). The Independent Examiner stressed that she would not necessarily accept the amendments which had been proposed by the Neighbourhood Forum and Borough Council, and that instead she would first review any representations made by other parties to the targeted consultation, before coming to a view as to whether or not to recommend that these proposed amendments should form a part of the formal recommendations for 'proposed modifications' to be set out within her Report.

Due to the location of two large strategic sites – the Toton Strategic Location for Growth and Chetwynd Barracks (which are also allocations within the Borough Council's Part 2 Local Plan), within the Neighbourhood Plan's boundary and also as a result of some of the very complex issues involved, the Independent Examination process has taken a very considerable amount of time and many individuals and organisations have made representations. The representations received by the Borough Council are included on the Borough Council's website, which also provides a 'history' of the process. The link to the Borough Council's website page for the Chetwynd: The Toton and Chilwell Neighbourhood Plan is: <https://www.broxtowe.gov.uk/for-you/planning/planning-policy/neighbourhood-planning/chetwynd-the-toton-and-chilwell-neighbourhood-plan/>.

The next steps (should Cabinet resolve to approve the recommendations) are that the Borough Council will amend the Neighbourhood Plan as per the Independent Examiner's recommendations and then arrange a referendum, co-ordinated by the Elections Team. It should be stressed that it could take a longer period of time than normal to produce the final version of the Neighbourhood Plan, due to the number of proposed modifications and the complexity of the issues involved. For this reason, there may need to be a delay to arranging the referendum and the Neighbourhood Forum's agreement would need to be sought for this in order to ensure compliance with all relevant legislation. Therefore, at this point in time, it is not yet possible to confirm a date for a referendum, should Cabinet resolve to approve the recommendations within this report.

Should the Neighbourhood Plan achieve more than half of votes cast in favour (50%, plus one) at the referendum, then in most cases the Borough Council would be required to adopt the Neighbourhood Plan. Once adopted (or 'made'), it would form part of the Development Plan and would be given full weight in the determination of planning applications and decisions on planning appeals in the Plan Area.

**APPENDIX 1** shows a plan showing the extent of the Chetwynd: The Toton and Chilwell Neighbourhood Area.

[https://www.broxtowe.gov.uk/media/3056/chetwynd\\_webmap.pdf](https://www.broxtowe.gov.uk/media/3056/chetwynd_webmap.pdf)

The Independent Examiner's Report is set out in **APPENDIX 2**.

The Submission Version of the Chetwynd: The Toton and Chilwell Neighbourhood Plan is included as **APPENDIX 3**.

<https://www.broxtowe.gov.uk/media/9603/chetwynd-the-toton-and-chilwell-neighbourhood-plan.pdf>

The July 2023 Consultation Document is included as **APPENDIX 4**.

<https://www.broxtowe.gov.uk/media/10750/cttc-np-proposed-amendments-june-2023.pdf>

The Explanatory Document is included as **APPENDIX 5**.

<https://www.broxtowe.gov.uk/media/10756/explanatory-document.pdf>

The Strategic Environmental Assessment is included as **APPENDIX 6**.

<https://www.broxtowe.gov.uk/media/9614/strategic-environmental-assessment-sea-produced-by-aecom-regulation-16.pdf>

**APPENDIX 7** sets out the Equality Impact Assessment.

#### 4. Key Decision

This is a Key Decision as it relates to two of the Borough Council's wards: Chilwell West ward and parts of the Toton and Chilwell Meadows ward.

#### 5. Updates from Scrutiny

N/A

#### 6. Financial Implications

The comments from the Head of Finance Services were as follows:

The Council can claim £20,000 from the Department for Levelling Up, Housing and Communities (DLUHC) when it issues a decision statement detailing its intention to send the Neighbourhood Plan to referendum (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended) rather than when a referendum date has been set. Whilst the Council

will have already invested resources in the preparation of the Chetwynd: The Toton and Chilwell Neighbourhood Plan and the Neighbourhood Plan process, the costs of the Independent Examination should be covered by this funding.

#### 7. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

The Council needs to determine whether, once amended as recommended by the Independent Examiner, the Neighbourhood Plan meets the 'Basic Conditions', as set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. 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;
- Be compatible with and not breach European Union (EU) obligations (under retained EU law); 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 Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

In order to comply with Regulation 18A of the Neighbourhood Planning (General) Regulations 2012, as amended by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017, the Council must make a decision as to whether or not the Plan meets the Basic Conditions and so should or should not proceed to referendum, by the last day of the period of 5 weeks beginning with the day immediately following that on which the Independent Examiner's Report was received by the local authority (which was on 17 January 2024) or by another date agreed in writing with the Neighbourhood Forum.

#### 8. Human Resources Implications

The comments from the Head of Human Resources were as follows:

Not Applicable.

9. Union Comments

Comments from the Union were as follows:

No Comments.

10. Climate Change Implications

The Chetwynd: The Toton and Chilwell Neighbourhood Plan includes local planning policies to promote sustainable development, to protect and enhance blue and green infrastructure and to protect and enhance biodiversity.

11. Data Protection Compliance Implications

This report does not contain any OFFICIAL (SENSITIVE) information and there are no Data Protection issues in relation to this report.

12. Equality Impact Assessment

As this is a change to policy / a new policy an equality impact assessment is included in the appendix to this report.

13. Background Papers

Nil.