

TELFORD & WREKIN COUNCIL

CABINET - 23 SEPTEMBER 2021

**TIBBERTON & CHERRINGTON PARISH NEIGHBOURHOOD DEVELOPMENT PLAN:
CONSIDERATION OF EXAMINER'S RECOMMENDATIONS AND PROPOSED
MODIFICATIONS PRIOR TO REFERENDUM**

REPORT OF THE DIRECTOR – HOUSING, EMPLOYMENT & INFRASTRUCTURE

LEAD CABINET MEMBER – COUNCILLOR DAVID WRIGHT

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 The Localism Act (2011) introduced legislation which allows Parish and Town Councils to produce a Neighbourhood Development Plan (NP) for their administrative area.
- 1.2 Tibberton & Cherrington Parish Council submitted their neighbourhood development plan (the “Tibberton & Cherrington Parish Neighbourhood Development Plan”) (TCNP) to Telford & Wrekin Council as local planning authority in July 2020. In accordance with its statutory duties, Telford & Wrekin undertook a number of checks to ensure that all the procedural and other requirements had been met and completed a 6-week publication period which allowed written representations to be made.
- 1.3 Telford & Wrekin appointed an Independent Examiner (the Examiner), Tony Burton, to conduct the Examination of the TCNP and his report was submitted to the Council in July 2021. The Report recommended proceeding to Referendum, subject to a number of modifications. Those modifications have now been applied to the TCNP and incorporated into a Referendum version of the TCNP (Appendix 1).
- 1.4 The purpose of this report is to seek Cabinet approval for the TCNP, subject to the modifications, to proceed to formal Referendum. The full list of modifications proposed by the Examiner are set out in the Examiner’s Report. (Appendix 2)
- 1.5 Whilst the Examiner’s proposed modifications are not binding, they are considered by Officers to be appropriate. No additional modifications are considered to be required prior to the Referendum stage.
- 1.6 Members need to be satisfied that the TCNP meets certain “basic conditions” before it can proceed to a Referendum. As explained in this report, Officers and the Examiner are satisfied that these “basic conditions” have been met.
- 1.7 The referendum version of the TCNP supports the policy approach to Tibberton & Cherrington and the rural area in the adopted Telford & Wrekin Local Plan.

2. RECOMMENDATIONS

- 2.1 That Cabinet agree with the Independent Examiner that, subject to his recommended modifications, the Tibberton & Cherrington Parish Neighbourhood Development Plan meets the “basic conditions” and all other legal requirements as summarised in this report and in the Independent Examiner’s report and
- 2.2 That Cabinet agree that the required modifications should be made to Tibberton & Cherrington Parish Neighbourhood Development Plan and that the Tibberton & Cherrington Parish Neighbourhood Development Plan Referendum Version (August 2021) should proceed to Referendum, and
- 2.3 That Cabinet agree that the Referendum Area should not be extended beyond the designated area to which the Tibberton & Cherrington Neighbourhood Development Plan relates and
- 2.4 That the Chief Executive proceed to exercise all the relevant powers and duties and undertake all necessary arrangements for the Tibberton & Cherrington Parish Neighbourhood Development Plan (Referendum Version) to now proceed to Referendum and for the Referendum to take place asking the question whether the voter wants Telford & Wrekin Council to use this neighbourhood development plan for the Tibberton & Cherrington Parish Neighbourhood Development Plan area to help it decide planning applications in this neighbourhood area.

3. IMPACT OF ACTION

- 3.1 The Tibberton & Cherrington Neighbourhood Development Plan proceeds to referendum whereby a vote will be held in the Neighbourhood Area, if more than 50% vote in favour of the Plan, Telford & Wrekin Council must then make the Tibberton & Cherrington Neighbourhood Development Plan.

4. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes	Co-operative Council: - Involving local people in planning and running services - As a Council, supporting our community to engage with the future development of their area
	Will the proposals impact on specific groups of people?	
	Yes	NDP’s contribute to the local planning framework for future development within a designated area. Production of the TCNP has involved the whole of the parish community and people have had the opportunity to provide formal comments on policies which will affect the future development of their area including a minimum 6-week formal publicising consultation period. The referendum stage provides an opportunity for the whole Tibberton & Cherrington Parish to vote on the plan prior to formally making the plan.

TARGET COMPLETION/ DELIVERY DATE	Subject to Cabinet approval, the TCNP will proceed to referendum in November 2021. Subject to the outcome of the referendum the final version of TCNP would be presented to Cabinet in December 2021 to be made.	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	<p>The costs associated with the introduction of Neighbourhood Development Plans, including the additional costs of designations, referendum and examinations have to be met by the Local Authority. DCLG confirmed in their letter dated 29th June 2021 that, up to £20,000 funding is available to LPA's which would cover those costs.</p> <p>However, to qualify for this funding the Council will need to issue a decision statement detailing their intention to send the plan to referendum (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012), rather than when a referendum date has been set.</p> <p>AEM 09/08/21.</p>
LEGAL ISSUES	Yes	<p>The Localism Act 2011 provided a framework for a new statutory regime to establish Neighbourhood Planning. Subsequent legislation has added more detail to that framework. Tibberton & Cherrington Parish Council has had to fulfil its publication and consultation obligations under this legislation and Telford & Wrekin Council as local planning authority has now publicised the TCNP and processed it through the Independent Examination Stage. With the benefit of the Examiner's Report, the Council now has to consider a number of matters relating to the TCNP to check compliance before it can proceed to referendum.</p> <p>The issues which the LPA now needs to consider and determine are set out in this report. If the Council is satisfied that certain conditions have been met, a referendum must be held. If the Council is not so satisfied, the TCNP must be refused.</p> <p>If the referendum takes place and results in more than half of those voting (i.e. 50% + 1) voting in favour of the TCNP, subject to certain exceptional circumstances, the Council must make the TCNP as soon as reasonably practical. Further legal points are raised later in this report</p> <p>IR (06.08.21)</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	<p>The main risk associated with the referendum stage is if the referendum itself does not deliver a majority vote in favour of the Plan. In this context the Council would be unable to make the TCNP. However, this is unlikely bearing in mind the level of engagement carried out by Tibberton & Cherrington Parish Council with the assistance of the Council, which has sought to address the key issues identified through the consultation process.</p> <p>Opportunities associated with the TCNP include a strengthening of local engagement in the planning process.</p>
IMPACT ON SPECIFIC WARDS	Yes	Edgmond & Ercall Magna

PART B) – ADDITIONAL INFORMATION

5. INFORMATION

5.1 Neighbourhood planning was introduced by the Localism Act 2011. It provides the opportunity for a Parish/Town Council or local forum to produce a neighbourhood development plan with the involvement of local people, helping to inform future planning decisions in their area. Under the Town and Country Planning Act 1990, Telford & Wrekin Council as LPA has a statutory duty to assist communities in the preparation of the NP through the various statutory stages in the process. In accordance with the 1990 Act and the Neighbourhood Planning Regulations, Tibberton & Cherrington Parish Council submitted their NP in July 2020 for Telford & Wrekin Council to complete the necessary checks and proceed to the next stages of publication, examination and referendum.

5.2 The referendum version of the TCNP is in accordance with and supports the policy approach to Tibberton & Cherrington and the rural area in the adopted Telford & Wrekin Local Plan.

6. Examination of the Tibberton & Cherrington Neighbourhood Development Plan

6.1 An independent examination of the plan took place between May and July 2021. The purpose of the examination was to establish whether procedural and other matters had been properly dealt with and to establish whether or not the TCNP met the 'basic conditions'. The "basic conditions" include the following:

- Whether, having regard for national planning policy and guidance from the Secretary of State, it is appropriate that the TCNP should be made
- Whether the TCNP contributes to the achievement of sustainable development
- Whether the TCNP is in general conformity with the strategic policies contained in the Development Plan for the area of the Authority (i.e. the adopted Telford & Wrekin Local Plan)
- Whether the TCNP is in breach of and/or is otherwise compatible with retained EU obligations
- Whether the making of the TCNP is likely to have a significant effect on any "European Sites" as defined in the Conservation Habitats and Species Regulations 2012

6.2 The Examiner also had to consider whether the area for any referendum should extend beyond the area to which the TCNP related.

6.3 The Examiner has proposed a number of recommended changes to policies contained in the TCNP, which are set out in the Examiner's report (Appendix 2). These modifications have been incorporated within the Referendum Version of the TCNP (Appendix 1). The main changes are summarised below:

- Deleted all references to the Landscape Character Assessment (which has not been completed) other than as an expression of intent to prepare for publication at a future date.
- Rewording of Policies CA1, CA2 and CA3 to meet the Basic Conditions

- Amendment to Policy RCH1 removing its ambiguity and to align with national planning policy.
- Clarification of Policy RCH2 including an amended title.
- Deletion of Policy RCH3 as this duplicates existing local planning policy.
- Minor amendments to Policy RCH4 to be positively expressed in terms of support for development.
- Amendments to Policy EOR1 to clarify that development for the school or community use maybe accepted as an exception to the policy and to clarify the boundary of open space being protected.
- Subsequent supporting text has also been amended to further clarify importance of Tibberton C of E Primary School.
- Minor amendments to Policy HB1 to meet Basic Conditions

6.4 On all other aspects of the basic conditions tests, the Examiner concluded that, subject to his recommended modifications being made, the TCNP met the tests. In addition, the Examiner also concluded that the TCNP has been prepared in accordance with all other legal requirements, in particular those under paragraph 8(1) of schedule 4B of Town and Country Planning Act (TCPA), in that:

- the TCNP had been prepared and submitted for examination by a qualifying body;
- the TCNP had been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood Development plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA);
- the TCNP met the requirements of Section 38B of the PCPA (i.e. the Plan must specify the period to which it has effect (to 2031), must not include provisions about development that is excluded development, and must not relate to more than one Neighbourhood Area); and
- the policies relate to the development and use of land for a designated Neighbourhood Area, in line with the requirements of Section 38A of the PCPA.

6.5 Consequently, the Examiner recommended that the TCNP, as modified in accordance with his report met all relevant legal requirements and should proceed to referendum. The Examiner also concluded that the boundary of the referendum (or 'referendum area') should be the same as the boundary of the TCNP. An additional business referendum is not required.

6.6 As stated above, it is important for the Examiner and the LPA to be satisfied that the TCNP is in general conformity with the strategic policies contained in the Telford & Wrekin Local Plan. The Examiner noted that the Parish Council prepared its TCNP policies in the context of and alongside the Local Plan and the Examiner himself had regard for the relevant strategic policies of the Local Plan when making his recommendations. Further, officers are satisfied that the TCNP is in general conformity with the strategic policies contained in the adopted Telford & Wrekin Local Plan.

7. Considerations for Cabinet

7.1 Cabinet must:

- a) consider each of the recommendations made by the Examiner
- b) decide what action to take in respect of each recommendation

- c) be satisfied that the TCNP meets the basic conditions (see para 5.1 above); is compatible with EU Convention Rights and complies with the requirements in paragraph 6.4 above

OR

be satisfied that the TCNP would meet these conditions, rights and requirements if modifications were made to the TCNP as recommended by the Examiner.

- 7.2 In respect of a) and b), Members are recommended to accept each of the Examiner's recommendations and reasons and to agree that all of the Examiner's recommendations be incorporated into a new version of the TCNP (the Tibberton & Cherrington Neighbourhood Development Plan: Referendum Version August 2021).
- 7.3 In respect of c) Members are recommended to accept the Examiner's recommendation that the TCNP would meet these conditions, be compatible with these rights and comply with these requirements if his recommended modifications were made to the TCNP and further that these modifications should be made.
- 7.4 In respect of the area in which the Referendum is to take place, Members are recommended to accept the Examiner's recommendation that the Referendum Area should not change and should be the same as the designated TCNP area.
- 7.5 If Members accept the Examiner's and officers' recommendations, a Referendum must be held on the making of the TCNP by the LPA.
- 7.6 If Members are not satisfied in respect of c) above and do not accept the Examiner's recommendations, they must refuse to make the TCNP.
- 7.7 Members' decisions and reasoning in these matters will be published in a decision notice.

8. Preparing for Referendum

- 8.1 Subject to Cabinet approval, the TCNP will proceed to the next stage; Referendum. The Referendum is organised by Telford & Wrekin Council. It will only be carried out in Tibberton & Cherrington Parish as the Neighbourhood Plan Development area. In accordance with Regulations the Council will publish an Information Statement declaring when a Referendum will be held and the questions to be asked no less than 28 working days beforehand and will ask whether voters want the Council to use the TCNP to help decide planning applications in the Plan Area.
- 8.2 Subject to Cabinet approval, it is anticipated the Referendum will be held on 11th November 2021.
- 8.3 The organisation of the Referendum will be led by T&WC Policy, Governance Democracy Team in liaison with the Strategic Planning Team & Tibberton & Cherrington Parish Council.
- 8.4 If more than 50% of those voting vote in favour of the TCNP, Telford & Wrekin Council must then make the TCNP within 8 weeks of the referendum.
- 8.5 A neighbourhood plan comes fully into force as part of the statutory development plan once

it has been made. If it is made, it will be published on Telford & Wrekin Councils website and used in the determination of planning applications in the Neighbourhood Development Plan area i.e. in the Parish of Tibberton & Cherrington.

9. Conclusion

9.1 Tibberton & Cherrington Parish Council is the sixth “qualifying body” in the Borough to progress a NP to this stage, working closely with their community to produce a plan which reflects local views on future development in the Parish and policies which.

9.2 Subject to Cabinet approval (above), a further report will be brought for Cabinet consideration following the outcome of the Referendum.

10. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

10.1 Once the Tibberton & Cherrington NP is made, it will become part of the statutory planning framework for the Borough. In accordance with the ethos of neighbourhood planning, the TCNP is based on extensive community engagement with policies reflecting their views. The policies, once modified, are considered to be in general conformity with the adopted Telford & Wrekin Local Plan

10.2 In accordance with legal requirements, planning applications should be determined in accordance with the provisions of the local Development Plan which, for the Tibberton & Cherrington Parish, would include the TCNP as well as the Telford & Wrekin Local Plan. This is unless material considerations indicate otherwise, meaning the TCNP policies must be balanced with other considerations as part of the decision making process by the Council.

11. BACKGROUND PAPERS

- Tibberton & Cherrington Parish Neighbourhood Development Plan – Examination / Regulation 15 Consultation Version
- Letter to Telford & Wrekin Council (TWC) accompanying the documents
- Consultation Statement (July 2020)
- Basic Conditions Statement (July 2020)
- Strategic Environmental Assessment Screening Statement
- Habitat Regulation Assessment Screening Statement

Available at: www.telford.gov.uk/tibbertonandcherringtonndp

Appendices

Appendix 1 – Tibberton & Cherrington Parish Neighbourhood Development Plan –Referendum Version

Appendix 2 – Tibberton & Cherrington Parish Neighbourhood Development Plan Independent Examiners Report

Appendix 3 – Tibberton & Cherrington Parish Neighbourhood Development Plan – Regulation 15 Consultation Version

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