

**TELFORD & WREKIN COUNCIL**

**CABINET – 4 NOVEMBER 2021**

**DONNINGTON & MUXTON PARISH NEIGHBOURHOOD DEVELOPMENT PLAN:  
CONSIDERATION OF EXAMINER’S RECOMMENDATIONS AND PROPOSED  
MODIFICATIONS PRIOR TO REFERENDUM**

**REPORT TO THE DIRECTOR – HOUSING EMPLOYMENT & INFRASTRUCTURE**

**LEAD CABINET MEMBER – CLLR DAVID WRIGHT**

**PART A) – SUMMARY REPORT**

**1. SUMMARY OF MAIN PROPOSALS**

- 1.1 The Localism Act (2011) introduced legislation which allows Parish Councils to produce a Neighbourhood Development Plan (NP) for their administrative area. Donnington & Muxton Parish Council is one of the Parish Councils in the Borough to take the opportunity of preparing a Neighbourhood Development Plan.
- 1.2 Donnington & Muxton Parish Council submitted their neighbourhood development plan (the “Donnington & Muxton Parish Neighbourhood Development Plan”) (DMNP) and other supporting documents to Telford & Wrekin Council as local planning authority in January 2021. In response and 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 11-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 DMNP with a report being submitted back to the Council in September 2021. The Report recommended proceeding to Referendum, subject to a number of modifications. Those modifications have now been applied to the DMNP and incorporated into a Referendum version of the DMNP (Appendix 1).
- 1.4 The purpose of this report is to seek Cabinet approval for the DMNP, 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 DMNP 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.

## **2. RECOMMENDATIONS**

- 2.1 That Cabinet agree with the Independent Examiner that, subject to the modifications recommended by him being made, the Donnington & Muxton 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 Donnington & Muxton Parish Neighbourhood Development Plan and that the Donnington & Muxton Parish Neighbourhood Development Plan Referendum Version (September 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 Donnington & Muxton Neighbourhood Development Plan relates**
- 2.4 That the Chief Executive proceed to exercise all the relevant powers and duties and undertake all necessary arrangements for the Donnington & Muxton 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 Donnington & Muxton Parish Neighbourhood Development Plan area to help it decide planning applications in this neighbourhood area.**

## **3. IMPACT OF ACTION**

- 3.1 The Donnington & Muxton 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 Donnington & Muxton Neighbourhood Development Plan.**

## **4. SUMMARY IMPACT ASSESSMENT**

<b>COMMUNITY IMPACT</b>	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes	Co-operative Council: - Involving local people more in planning and running services As a Council, supporting our community better and encouraging people to do more to help their own communities
	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 DMNP 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 Donnington & Muxton Parish to vote on the plan prior to formally making the plan.
<b>TARGET COMPLETION/ DELIVERY DATE</b>		Subject to Cabinet approval, the DMNP will proceed to referendum, the outcome of which will determine if the DMNP can be made by the Authority. To achieve this, the referendum must result in more than half of those voting in favour of the DMNP. It is anticipated that, after putting all necessary arrangements in place, the DMNP will proceed to referendum, subject to Cabinet approval, in November 2021. Subject to a favourable outcome, the final version of DMNP is anticipated to be presented to Cabinet in January 2022 to be made.
<b>FINANCIAL/VALUE FOR MONEY IMPACT</b>	Yes	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. MHCLG confirmed in their letter dated 29 <sup>th</sup> June 2021 that, up to £20,000 funding is available to LPA's which would cover those costs. 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. PT 29/9/21
<b>LEGAL ISSUES</b>	Yes	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. Donnington & Muxton 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 DMNP 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 DMNP to check compliance before it can proceed to referendum.  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 DMNP must be refused.  If the referendum takes place and results in more than half of those voting (i.e. 50% + 1) voting in favour of the DMNP, subject to certain exceptional circumstances, the Council must make the DMNP as soon as reasonably practical. Further legal points are raised later in this report  IR (29.09.21)
<b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b>	Yes	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 DMNP. However, this is unlikely

		<p>bearing in mind the level of engagement carried out by Donnington &amp; Muxton 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 DMNP include a strengthening of local engagement in the planning process.</p>
<b>IMPACT ON SPECIFIC WARDS</b>	Yes	Donnington & Muxton

## **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, Donnington & Muxton Parish Council submitted their NP in January 2021 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 DMNP is in accordance with and supports the policy approach to Donnington & Muxton and the rural area in the adopted Telford & Wrekin Local Plan.

### **6. Examination of the Donnington & Muxton Neighbourhood Development Plan**

- 6.1 An independent examination of the plan took place between August and September 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 DMNP 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 DMNP should be made
  - Whether the DMNP contributes to the achievement of sustainable development
  - Whether the DMNP is in general conformity with the strategic policies contained in the Development Plan for the area of the Authority
  - Whether the DMNP is in breach of and/or is otherwise compatible with retained EU obligations
  - Whether the making of the DMNP 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 DMNP related.
- 6.3 The Examiner has proposed a number of recommended changes which principally relate to modifying the policies contained in the DMNP, which are set out in the Examiner's report (Appendix 2). These modifications have been incorporated within the Referendum Version of the DMNP (Appendix 1), the main changes are summarised below:
- Provision of Neighbourhood Boundary plan and clarification of Neighbourhood Plan period.
  - Deletion of reference to "*allocation of key sites for specific kinds of development*" as no sites have been proposed for allocation.
  - Amend Bio-diversity Annex to omit references to it being a policy avoiding confusion

with Neighbourhood Plan policies.

- Amendment to Policy H1 removing reference to specific development sites that become outdated once adopted.
- Amended Policy B1 to align with updates to Use Class Order in September 2020 and clarification that use class B2/B8 (industrial and warehousing) will be determined through the Telford & Wrekin Local Plan.
- Amend Policy B2 to clarify that the policy does not apply to Strategic Employment Areas that are protected under the Telford & Wrekin Local Plan.
- Minor amendments / clarifications to Policies GS1 and GS3 to meet the basic conditions.
- Amendment and combination of Policies GS2 and RPF1 as there is unnecessary overlap. Policy RPF1 then deleted.
- Include map detailing boundaries of Granville Country Park and Local Nature Reserve for clarity.
- Deletion of Policy CF1 as does not meet the basic conditions and duplicates Local Plan Policy 'COM1 Community Facilities'.

6.4 On all other aspects of the basic conditions tests, the Examiner concluded that, subject to his recommended modifications being made, the DMNP met the tests. In addition, the Examiner also concluded that the DMNP 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 DMNP had been prepared and submitted for examination by a qualifying body;
- the DMNP 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 DMNP 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 DMNP, 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 DMNP. 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 DMNP is in general conformity with the strategic policies contained in the Telford & Wrekin Local Plan. The Examiner noted that the Parish Council prepared its DMNP 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 DMNP 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 and the reasons for them
- b) decide what action to take in respect of each recommendation
- c) be satisfied that the DMNP meets the basic conditions (see para 6.1 above) and be satisfied that the DMNP is compatible with EU Convention Rights and be satisfied that the DMNP complies with the various requirements referred to at paragraph 6.4 above

OR

be satisfied that the DMNP would meet those conditions, be compatible with those rights and comply with those requirements if modifications were made to the DMNP 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 DMNP (the Donnington & Muxton Neighbourhood Development Plan: Referendum Version September 2021).

7.3 In respect of c) Members are recommended to accept the Examiner's recommendation that the DMNP would meet these conditions, be compatible with these rights and comply with these requirements if his recommended modifications were made to the DMNP 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 DMNP area.

7.5 If Members accept the Examiner's and officers' recommendations, a Referendum must be held on the making of the DMNP 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 DMNP.

7.7 In any event, Members' decisions and reasoning in these matters has to be published in a decision notice.

## **8. Preparing for Referendum**

8.1 Subject to Cabinet approval, the DMNP will proceed to the next stage; Referendum. The Referendum is organised and carried out by Telford & Wrekin Council. The Referendum will only be carried out in Donnington & Muxton Parish as the Neighbourhood Plan Development area. In accordance with Regulation 4 of the Neighbourhood Planning (Referendums) Regulations 2012 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. In accordance with Regulation 3, the Referendum will ask whether voters want the Council to use the DMNP to help decide planning applications in the Plan Area.

8.2 It is anticipated that the Referendum will be held, subject to Cabinet approval, on 27 January 2022.

8.3 The key tasks involved in preparing for the Referendum include the preparation of documents and website information for inspection including 'information statement', printing of polling cards and organisation of polling stations similar to those used at local government elections. The organisation of the Referendum will be led by the Council's Policy & Governance Democracy Team in liaison with the Strategic Planning Team and Donnington & Muxton Parish Council.

8.4 If more than 50% of those voting vote in favour of the DMNP, Telford & Wrekin Council must then make the DMNP 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 Donnington & Muxton.

## **9. Conclusion**

9.1 Donnington & Muxton Parish Council is the seventh "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, if the Donnington & Muxton NP is made, will be taken into consideration in the decision making process.

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 Donnington & Muxton NP is made, it will become part of the statutory planning framework for the Borough. In accordance with the ethos of neighbourhood planning, the DMNP is based on extensive community engagement and therefore a product of the community 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 relevant Development Plan's which, for the Donnington & Muxton Parish, would include the DMNP as well as the Telford & Wrekin Local Plan. This is unless material considerations indicate otherwise, meaning the DMNP policies must be balanced with other considerations as part of the decision making process undertaken by the Council.

## **11. BACKGROUND PAPERS**



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

Available at: [www.telford.gov.uk/DonningtonMuxtonNP](http://www.telford.gov.uk/DonningtonMuxtonNP)

## **Appendices**

Appendix 1 – Donnington & Muxton Parish Neighbourhood Development Plan –Referendum Version

Appendix 2 – Donnington & Muxton Parish Neighbourhood Development Plan Independent Examiners Report

Appendix 3 – Donnington & Muxton Parish Neighbourhood Development Plan – Examination / Regulation 15 Consultation Version

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