

Meeting: Council

Date: 15 November 2018

Wards Affected: All Wards in Torbay

Report Title: Torquay Neighbourhood Plan – Determination of Independent Examination

Is the decision a key decision? Yes

When does the decision need to be implemented? A decision statement must be issued “as soon as possible” after Council.

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1. Proposal and Introduction

- 1.1 Neighbourhood planning was introduced by the Localism Act 2011; that Act introduced new rights and powers to enable communities to become directly involved in planning for their areas. Neighbourhood planning enables interested communities to produce a Neighbourhood Plan. There are detailed statutory requirements which dictate the process for formulating and making a neighbourhood plan.
- 1.2 Once ‘made’ (i.e. “adopted”), Neighbourhood Plans form part of the statutory development plan and therefore become an important consideration when determining planning applications.
- 1.3 This report sets out the local planning authority (LPA) officers’ recommendations in respect of the submitted plan.
- 1.4 The Torquay Neighbourhood Plan (‘the Plan’) has been submitted by the Torquay Neighbourhood Forum (‘the Forum’) who are the Qualifying Body for the area of Torquay as formally designated in December 2012 and reaffirmed in December 2017. A map of the designated area is shown in Appendix 4. It should be recognised by the Council that the Forum has worked tirelessly to prepare the Plan.

- 1.5 The Plan has been the subject of a consultation and, following that an independent examination which tested whether the Plan meets the requirements of the 'basic conditions' as set out by law.
- 1.6 The Examiner's report on the Plan was received by Torbay Council and the Forum on 12th July 2018. It recommends that, subject to the modifications proposed in the report, the Plan does meet 'basic conditions' and should proceed to a referendum. The Examiner also recommends that the referendum area does not need to be extended beyond the designated Plan Area.
- 1.7 Officers have considered each of the Examiner's recommendations and reasons given in accordance with the law as set out in Appendix 2. In summary, a set of modifications that meet the legal 'basic conditions' are now proposed.
- 1.8 These modifications address, substantively, the Examiner's findings but do not concur with a large number of his recommendations. The modifications proposed in this report, are based upon the Examiner's findings that the Plan, as submitted to the Council, did not meet the tests. However, the modifications proposed make a number of changes not recommended by the Examiner, particularly the rewording and retention of a considerable number of policies which the Examiner recommended were deleted from the Plan. The originally submitted plan contained 62 planning policies. The new plan with proposed modifications contains 41 policies. These additional modifications have reasons for doing so which find a proper statutory basis, and reflect an appropriate exercise of planning judgment taking all of the submitted representations into account. The rewording and retention of these policies are considered to better meet the 'basic conditions' rather than the Examiner's modifications. The requirement for re-consultation is discussed later in the Report, but officers' advice is that this is not legally necessary in this case. In summary, the modifications proposed are not as a result of new evidence, or a new fact, or a different view taken by the authority as to a particular fact. Instead the modifications are as a result of a planning judgement taken on how the submitted Plan can meet the 'basic conditions' whilst maintaining the original intent of the community.
- 1.9 The Forum have indicated that they are in agreement with the Officer recommendations to Council.
- 1.10 It is recommended that the Council:
 1. Agrees the decision statement in Appendix 2, which shall be adopted and published accordingly, and that the Torquay Neighbourhood Plan as modified in Appendix 3, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended); and,
 2. Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the

referendum, reflecting all modifications set out in the decision statement in Appendix 2; and,

3. Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Torquay Neighbourhood Area.

Appendices

Appendix 1: Independent Examiner's Report

Appendix 2: Decision Statement

Appendix 3: Post Examination Neighbourhood Plan with modifications as recommended

Appendix 4: Neighbourhood Area Map

Background Documents

Torquay Neighbourhood Plan Submission Version, and representations –

www.torbay.gov.uk/neighbourhood-plans

Council Approval of area designation – 7th December 2012 –

www.torbay.gov.uk/council

National Planning Policy Frameworks 2012 and 2018

Planning Practice Guidance

NPIERS Guidance

Locality Neighbourhood Plans Roadmap

Supporting Information

Section 1 : Background Information

2. What is the proposal/issue

- 2.1 The Localism Act 2011 introduced new rights and powers to enable communities to get directly involved in planning for their areas. Neighbourhood planning allows interested communities through a Neighbourhood Forum to produce a Neighbourhood Plan.
- 2.2 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPG) state that neighbourhood planning enables communities to play a much stronger role in shaping the areas in which they live and work and in supporting new development proposals. It provides the opportunity for communities to set out a positive vision for how they want their community to develop and can put in place planning policies that will help deliver that vision of granting planning permission for the development they want to see.
- 2.3 In 2012, the Council decided to designate three large neighbourhood areas covering 100% of the geographical area of Torbay. This decision was unusual in the UK and has meant that the three neighbourhood plans are large and complex, which has required significant work by the community and LPA in formulating the plans.
- 2.4 There are a series of regulatory stages required by the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the Regulations') that a plan must follow and the Torquay Neighbourhood Plan has been through these to date. Key dates are as follows:
- December 2012: Torquay Neighbourhood Forum and Area Designated
 - 7 August – 17 September 2017: Pre-submission (Regulation 14) consultation on the draft Plan
 - October 2017: Torquay Neighbourhood Plan submitted to Torbay Council as the LPA
 - 1 November - 18 December 2017: Plan published by Torbay Council for formal Regulation 16 public consultations
 - December 2017: Neighbourhood Forums and Areas Re-Designated for statutory 5 years
 - March 2018: Independent Examiner (Nigel McGurk) appointed. His examination commenced in April 2018
 - 14 May 2018: Public Hearing held as part of examination process
 - 18 July 2018: Final Examiner's Report received
- 2.5 The Council has a duty to provide advice and assistance to town councils and to engage constructively with the community throughout the neighbourhood planning process including when considering the recommendations of the

independent examiner. However, the Council remains the Local Planning Authority with statutory responsibility for ensuring that the neighbourhood plans it 'makes' are lawful. If a neighbourhood plan is not lawful, the LPA (not the neighbourhood forum in question) will be liable to legal challenge e.g. by landowners whose interests may be affected by the plan.

- 2.6 A neighbourhood plan must support the strategic development needs set out in the Local Plan, positively support local development, not promote less development than set out in the Local Plan, nor undermine its strategic policies.
- 2.7 If successful at examination and referendum a Neighbourhood Plan must then be 'made' (i.e. adopted) by the Council within 8 weeks and at that point it comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, that conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.
- 2.8 Unlike a local plan, the test for a neighbourhood plan is not one of 'soundness'. The role of the Examiner (and the Council acting as LPA) is limited to testing whether the draft Plan meets the 'basic conditions' and other matters set out in para 8 of Schedule 4B of the Town & Country Planning Act 1990 (as amended). The 'basic conditions' are that;
 - a. having regard to national policy, it is appropriate to make the Plan;
 - b. the Plan contributes to the achievement of sustainable development;
 - c. the Plan is in general conformity with the adopted strategic local policies for the local area;
 - d. the Plan is compatible with EU obligations;
 - e. the Plan meets Human Rights requirements.

The Examiner must also consider whether the referendum area should extend beyond the neighbourhood area.

- 2.9 It is the responsibility of the Council, as LPA, considering the recommendations and reasons of the Examiner, to ensure that, with or without modifications, the Plan meets the 'basic conditions'. If it is so satisfied, the Council must make arrangements for the Plan to proceed to referendum – in accordance with paragraph 12(4) of the Town & Country Planning Act 1990 (as amended). Although the Examiner is the specialist advisor, the Council is the decision-maker. The Examiner's report cannot, of itself, be the subject of a legal challenge. The Council must consider each of the Examiner's recommendations (and the reasons given) and decide what action to take in response to each of those recommendations. Regulation 18(2)(a) of the Neighbourhood Planning Regulations 2012 (as amended) require the Council to give the reasons for its decision. The decision must then be published in the form of a 'Decision Statement'. A Decision Statement must be published within 5 weeks of receipt of the Examiner's report, unless some other date has been agreed with the Neighbourhood Forum. In this case, it was agreed by the LPA

and Neighbourhood Forum that the time would be extended to allow time to consider the matters in full.

- 2.10 The modifications that the Council may make are prescribed in legislation – extract set out below:
- a modifications that the authority consider need to be made to secure that the draft order meets the ‘basic conditions’,
 - b modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights,
 - c ...
 - d ..., and
 - e modifications for the purpose of correcting errors.’
- (note: (c) and (d) do not apply to Neighbourhood Plans)

If the Council (as LPA) can make modifications to a neighbourhood plan to enable that plan to meet the ‘basic conditions’, it must make those modifications (rather than refuse a Plan proposal). However, the Council can only make such changes and cannot modify a plan for betterment. Such modifications should be discussed with the Neighbourhood Forum, but there is no general requirement for a formal consultation with interested parties or the public.

- 2.11 If the Council decides not to follow the Examiner’s recommendations, or make minor alterations as described in paragraph 2.9 above; it may instead make alternative modifications or even refuse to submit the plan to referendum. Clear reasons must be given for departing from the Examiner’s recommendations. Modifications not recommended by the Examiner must be discussed with the Forum, which has the option of withdrawing the plan if it is unhappy with the changes proposed by the Council.
- 2.12 Generally paragraph 12 of Schedule 4B gives the LPA a fairly broad power to make minor modifications that accord with the Examiner’s recommendations without the need for further consultation. Paragraph 13 of Schedule 4B states that if the LPA propose to make a decision which differs from that recommended by the Examiner and the reason for the difference is wholly or partly as a result of new evidence or a new fact or a different view taken by an authority as to a particular fact, then the LPA must consult on the changes for a minimum of six weeks.
- 2.13 In respect of the requirement to undertake further consultation on any changes not recommended by the Examiner, Officers have considered the relevant legislation and taken legal advice¹. It is not considered that further consultation is necessary in this case as there has been no new evidence or facts, and the reasons why the decision is differing from the Examiner is based upon the

¹ The Court of Appeal in *Keibell Developments* [2018] EWCA Civ 450) especially paragraphs 34-35. It is noted that Lord Justice Lindblom clearly distinguishes between the exercise of planning judgements and matters of fact (paragraph 49). Paragraph 50 rules that paragraph 13 (of Schedule 4B) “does not generate.... a general entitlement to additional consultation after the examination has taken place”,

planning judgement of compliance with the 'basic conditions', but it is not a different view of a fact.

- 2.14 A Forum may withdraw its Neighbourhood Plan at any time before the Council issues its Decision Statement (which is to be issued shortly after the Council meeting).
- 2.15 Members should also note that a new National Planning Policy Framework (NPPF) was issued in July 2018. Paragraph 214 of the new NPPF allows a transition period for examining plans submitted up to 24th January 2019: therefore the three Neighbourhood Plans in Torbay continue to be considered against the 2012 NPPF. However the new (2018) NPPF is material to decision-taking, with respect to planning applications, immediately. Paragraph 14 of the 2018 NPPF specifies the weight that may be given to neighbourhood plans and provides a degree of protection against the Presumption in Favour of Sustainable Development (now in NPPF 11).
- 2.16 Legislation sets out that the Secretary of State has powers to intervene at the request of a Qualifying Body where requested in writing by them, within 6 weeks of the publication of the decision notice, in the following circumstances;
- the Council fails to make a decision within 5 weeks of an examination report (*Note: all Forums have agreed to an extension to the 5 week period until the Council meeting on 15 November 2018*), or;
 - where the Council does not follow all of the Examiner's recommendations; or
 - the Council modifies the plan in a way that was not recommended by the Examiner (except where the modification is to ensure compatibility with EU or human rights obligations or to correct an error).

However the Secretary of State may agree to intervene in other situations.

- 2.17 In such cases the Secretary of State (or an Inspector appointed by him) may exercise the functions of the local planning authority in deciding what actions to take with respect to the Examiner's report.

3. Options for Council's Determination of Neighbourhood Plans

- 3.1 In response to the report of an Independent Examiner, the LPA must decide whether the Plan should be submitted to referendum. The LPA's options are that:
1. **Council accepts the Independent Examiner's recommendations in their entirety** that the Plan (with any modification by the Independent Examiner) should be submitted to referendum.
 2. **The Council does not accept the Independent Examiner's recommendations in their entirety.** Reasons must be included and what modifications are proposed by the Council which must show they accord with the 'basic conditions' requirements in relation to the plan as

submitted. A schedule of proposed further modifications has been prepared (at Appendix 2) which both the Forum and officers support.

3. To refuse the plan (on the basis that the plan proposal does not meet, or cannot meet with modification, the 'basic conditions' and Convention rights). Reasons must be included.

3.2 The issues around Torquay Neighbourhood Plan are discussed in section 4 of this report. In summary, officers consider that the Plan is capable of proceeding to referendum. However there are a number of matters that have been developed further from the Examiner's recommended modifications, ensuring those modifications are within the limitations of the regulations. The most significant of which are the retention in modified form of a large number of policies recommended for deletion by the Examiner, which are considered by Officers to contain legitimate elements capable of being retained in policy form that would meet the 'basic conditions'. These further changes have been discussed with the Neighbourhood Forum, and are considered by officers to maintain the original intent of the community and ensure it meets the 'basic conditions'. The modifications are not as a result of new evidence or facts, or as a result of a different view of a fact. They are matters of planning judgement, identifying alternative solutions to meeting the 'basic conditions', not seeking betterment of the submitted plan. These changes are discussed in more detail in Section 4 of this report and set out fully in Appendix 2.

3.3 The LPA must also decide whether to extend the area to which the referendum is to take place. As the three neighbourhood areas are clearly defined and there are no significant cross-border policies in the Plan, it is not considered necessary by the Examiner or the LPA to extend the area to which the referendum is to take place.

4. Examiner's Recommendations (see Appendix 1)

4.1 The Examiner did consider it necessary to make extensive changes to the content of the Torquay Neighbourhood Plan. This includes 43 (out of 61) policies which are recommended for deletion whilst a number of other policies have been modified to ensure they meet the 'basic conditions'. The LPA, in consultation with the Forum consider that many of these deleted policies are capable of being retained in a modified form to meet the 'basic conditions' (about 30 policies). A more detailed assessment of the Examiner's recommendations is set out at Appendix 2.

4.2 The LPA, made a series of representations on the submitted plan which have been considered by the examiner, along with those from other Council departments, and third parties including the development industry. The key concerns raised by the LPA are set out below but the Examiner's report, in Appendix 1, addresses these and others in full.

Housing Allocations

4.3 The submitted Torquay Neighbourhood Plan seeks to allocate 3,979 dwellings in Torquay within the planning period. This figure supports the growth levels for

Torquay identified by the Torbay Local Plan and includes the allocation of a significant proportion of potential housing sites which were identified within the Local Plan. There are two identified housing sites which the Forum chose not to allocate (land near Broadley Drive and to the rear of Lichfield Avenue) but the Forum have allocated a number of alternative sites (such as the site of former Dairy Crest, Parkfield Road) in order to make up for and indeed exceed the shortfall. One housing site has been recommended to be removed from the allocations on the basis of a representation from the site owner that it would not be available for development ('Kwik Fit '). Notwithstanding, the Plan still meets the required strategic growth level for housing and the allocations of sites within the plan will help contribute to the need for the LPA to demonstrate a 5-year housing land supply.

- 4.4 As previously reported to Council, officers have assessed the stock of deliverable housing sites against the local Plan housing requirement and have concluded that Torbay has around 4.19 year supply of deliverable housing sites. The Forums disagree with this figure, and argue that that there is at least 6.1 year supply. The LPA's position, including responses to the Forum's position, is set out at:
<https://www.torbay.gov.uk/council/policies/planning-policies/evidence-base-and-monitoring/>
- 4.5 However, the Government has sought to provide some protection for neighbourhood plans against the effect of a five year supply shortfall. Paragraph 14 of the 2018 NPPF provides that, where a 5-year housing land supply cannot be demonstrated, development which conflicts with the provisions of a recent neighbourhood plan is less likely to be 'sustainable development' where, amongst other things:
- i. the LPA can demonstrate a 3-year housing land supply; and
 - ii. the neighbourhood plan contains policies and allocations to meet its identified housing requirement (*emphasis added*).

Employment Allocations

- 4.6 The submitted Torquay Neighbourhood Plan seeks to meet the strategic employment needs set out in the Torbay Local Plan by allocating a number of employment sites for the creation and retention of employment land. Whilst the LPA is not under a NPPF obligation to maintain 5-years supply of employment sites, the allocation of sufficient employment land would support the delivery of the Local Plan's strategy.
- 4.7 The Examiner has recommended the deletion of these employment sites as part of the deletion of a number of employment policies contained within the plan. Generally this has been on the basis that the employment policies, taken together, represent an unclear, confused approach and is generally more restrictive than the Local Plan. This would revert those allocations back to that as set out in the Local Plan which, in most cases, is an identification as 'potential development site for consideration in the Neighbourhood Plan – primarily employment investment' shown only for 'information only' purposes. The result of having no formal allocated employment land is that it would

increase the risk of non-delivery of Local Plan policies SDT1, SS4 and SS5 in particular.

- 4.8 As part of the LPA's power to make modifications, the LPA has modified the employment policies to address the concerns raised by the Examiner rather than deleting them, which has had the effect of retaining an employment policy (and related policies) which is helpful in supporting the Local Plan's strategic employment needs. The Torquay Neighbourhood Plan also seeks to safeguard employment uses on a number of allocated sites.

Local Green Spaces

- 4.9 Local Green Space designations allow local communities give special protection to green areas of particular importance to them. Local Green Spaces have a similar status to green belt and development can only occur in very specific circumstances.
- 4.10 Government guidance (contained in paragraphs 76 and 77 of the 2012 NPPF) says that the Local Green Space designation will not be appropriate for most green areas or open space; and that the designation should be consistent with the local planning of sustainable development and complement investment in a sufficient number of homes, jobs and other essential services. The designation should only be used:
- where the green space is in reasonably close proximity to the community it serves;
 - where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife; and
 - where the green area concerned is local in character and is not an extensive tract of land.
- 4.11 The submitted Plan designated 100 Local Green Spaces, the Examiner discusses the issue of Local Green Spaces on pages 72-75 of the Report. In summary, the Examiner found that of the 100 areas of designation submitted in the Plan, 98 meet the requirements of the NPPF. One proposed area of Local Green Space is recommended for deletion (Nightingale Park) and the boundaries of one other area has been revised in light of a landowner representation.
- 4.12 The Council in its capacity as landowner and the LPA made representations on a number of Local Green Spaces which were proposed on the basis that they had development potential. The Examiner did not consider that to be a valid objection in and of itself to the Local Green Space tests. A more detailed discussion of specific Local Green Spaces is set out in Appendix 4. The LPA also raised concerns that certain Local Green Space designations (e.g. Nightingale Park) were not in general conformity with the Local Plan. In the case of Nightingale Park, the designation was removed.
- 4.13 The extent to which the Local Green Space designations are in general conformity with the Local Plan and NPPF requires a planning judgement. The

Examiner's judgement is considered to be within a range of rational responses. Independent advice from Locality has confirmed that decisions on specific local greenspaces must be made against the 'basic conditions' rather than corporate landownership.

Views of the Forum on Deleted Policies

- 4.14 The Forum did not agree with a large number of the Examiner's recommendations. In particular, the Forum felt that the extensive number of deleted policies (43 out of a total of 61) was not necessary. Whilst the Forum recognise and agree with many of the findings raised within the report, the Forum believe that most of the policies contained within the Plan seek to address legitimate planning issues and modification of a large number of these policies, as opposed to deletion, would better address the need for the Plan to meet the 'basic conditions'.
- 4.15 Officers have had a two way consulted with the Forum on the revised form of wording for a number of proposed deleted policies (and also further modifications elsewhere in the Plan where necessary), which Officers consider do now meet the 'basic conditions' whilst maintaining the original intent, and it is accordingly recommended that they should be retained (as modified) in the Plan. In total this accounts for the introduction of 32 modified policies that replace policies which were proposed by the Examiner to be deleted. These policies cover a number of planning issues spanning across all areas of the plan. The schedule of recommended changes are set out in Appendices 2 and 3, and are considered by Officers to strengthen the Plan and bring it into closer alignment with the 'basic conditions' and are not included for betterment.
- 4.16 The LPA's powers to make modifications that have not been recommended by the Examiner and are not needed to correct errors are explained above. The recommended changes are as a result of a difference of planning judgement rather than "new evidence or a new fact".

Policies Map

- 4.17 To take account of Examiner's recommendations and further modifications (as outlined in the Decision Statement in Appendix 2 the Council has updated the Policies Maps of the submitted Torquay Neighbourhood Plan to take account of updated housing allocations, employment allocations, sports policies, Local Green Spaces, etc. In preparing the maps it has also been necessary to make minor adjustments to boundaries and text for the purposes of adding clarity and to correct minor errors. This has also been done for mapping consistence reasons with that of the Local Plan and does not substantively change policy boundaries. Not all of the changes have been made at the time of writing, many are reflected in the latest document but these will require further updates to be made, and accordingly it is proposed that Council delegates authority to the Assistant Director of Business Services to make any necessary further changes.

EU Obligations

- 4.18 The Council maintains the responsibility for deciding whether, or not, a Neighbourhood Plan is compatible with EU regulations.

Strategic Environmental Assessment (SEA)

4.19 A SEA is necessary due to the possibility of significant environmental effects arising from the plan (including through the allocation of sites). This was carried out as part of a Sustainability Appraisal which concluded that the plan mitigated negative effects and identified opportunities to enhance positive effects.

Habitats Regulation Assessment (HRA)

4.20 A HRA is required by the Habitats Directive (92/43/EEC) when the implementation of the Plan may lead to likely significant effects on European Sites. A HRA Screening Assessment was submitted alongside the Plan and this identified the plan had potential to have effect two European sites but concluded that this would be safeguarded by the effect of Local Plan policies which restrict development. Provided that the plan is in accordance with these policies then the effect would not be significant. Natural England raised some initial concerns over the Plan but did not appear at a Hearing when invited to elaborate on those concerns. The Examiner considered that in any case the concerns would be addressed by modifications, including deletions to element of the Plan which he recommended. The modified plan does reinstate those policies but clarity has been added to the HRA to overcome Natural England's concerns about the impending supplementary planning document. The Ruling of the European Court of Justice (People over Wind (PoW)) is unlikely to affect this approach. However, necessary review of the HRA position has been undertaken and changes made to the Plan, to ensure compliance with the Habitats Regulations.

4.21 The Examiner has agreed with the LPA's approach (para 48 and pp 10-13 of his report).

Human Rights

4.22 Officers have raised no objection in respect of Human Rights, as considered against the European Convention for Human Rights and the Human Rights Act 1998. The Examiner did not raise human rights issues in his assessment of the Plan against the 'basic conditions' (Page 10 of his report).

5. Recommended Modifications (see Appendix 3)

5.1 Officers have consulted with the Forum to modify and retain a large number of policies within the Plan rather than delete them (as recommended by the Examiner), and have subsequently consulted the Forum on the modified wording. Officers are satisfied that the policy wording as modified overcomes the Examiner's reasons for their deletion and satisfies the 'basic conditions'. It is therefore appropriate to modify the Plan as set out above and in more detail at appendix 2.

5.2 A number of additional minor modifications have been necessary for the purpose of ensuring legibility, grammatical and numbering accuracy of the Plan. These have been discussed with the Forum and are indicated at Appendix 2.

6. Corporate Plan and Responsibilities

- 6.1 The Neighbourhood Plan has no legal requirement to consider or support the Corporate Plan of the Council. It must only be in general conformity with the Torbay Local Plan 2012-2030.
- 6.2 The Torquay Neighbourhood Plan generally supports the strategic growth requirements of the Local Plan, particularly in terms of contributing to maintaining a housing land supply.
- 6.3 The Neighbourhood Plan has no legal requirement to consider or contribute towards the Council's responsibilities as corporate parents.
- 6.4 The Neighbourhood Plan has no legal requirement to consider deprivation. However, the plan (if approved) would contribute to sustainable development in accordance with the requirement set out in the 'basic conditions'.
- 6.5 The Plan contains strong policies to improve the quality of the built environment and to resist poor quality developments. As such it provides a framework that will help resist poor quality development that would worsen environmental deprivation.

7. Financial and Legal Implications

- 7.1 The Town and Country Planning Act 1990 (as amended), Planning and Compulsory Purchase Act 2004, Localism Act 2011, Neighbourhood Planning Act 2017, and Neighbourhood Planning (General) Regulations 2012 (as amended) all apply. The law on neighbourhood plan is complex and has required clarification by the Courts. The LPA's ability to make further modifications outside the examiner's Report and the need for further consultation is discussed in the main report.
- 7.2 The Council must ensure that the Plan meets the 'basic conditions' as set out in the legislation.
- 7.3 There will be financial implications in respect of officer resources and direct costs associated with any referendum, should the decision be taken to put the plan to referendum. If the decision is taken to undertake further consultation and examination this will also incur additional costs and time.
- 7.4 The Council can be challenged on its decision and any such challenge arising would incur additional costs as well as the resource implications.
- 7.5 Central Government will provide additional grant funding to the LPA on completion of the referendum. Any costs not covered by the grant funding will fall to the revenue budget.
- 7.6 When it is made, the "Neighbourhood Portion" of CIL that must be spent in the area where development arises will increase from 15% to 25%.

8. Risks

- 8.1 The Council must consider its duty to support Neighbourhood Planning whilst ensuring that only a Plan which meets the 'basic conditions' is put to referendum. Failure to do so could result in legal challenge.