

EXECUTIVE

9th February 2023

Report Title	Barnwell Neighbourhood Plan – Proposed Adoption
Report Author	George Candler – Executive Director of Place and Economy
Lead Member	Councillor David Brackenbury – Executive Member for Growth and Regeneration

Key Decision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

- Appendix A** – Barnwell Neighbourhood Plan
- Appendix B** – Draft Decision Notice
- Appendix C** – Equality Screening Assessment

1. Purpose of Report

- 1.1. To propose the making the Barnwell Neighbourhood Plan as part of the statutory development plan, following an independent examination and positive outcome from the referendum.

2. Executive Summary

- 2.1. The Barnwell Neighbourhood Plan (**Appendix A**) has been prepared by Barnwell Parish Council and is proposed to form part of the statutory development plan for the area. On adoption its policies and proposals will form part of the statutory development plan for decision makers when determining any planning application or appeals within the neighbourhood area.
- 2.2. The Barnwell Neighbourhood Plan provides a clear understanding of the vision of the local community within the parish with regards to future aspirations. This was endorsed by a majority (79%) of voting residents in favour of making the

Plan on the day of the referendum, 15th December 2022. Following the community's endorsement of the plan the final step is for it to be formally 'made' or adopted by this Council.

3. Recommendations

- 3.1. It is recommended that the Executive make the Barnwell Neighbourhood Plan, so that it becomes part of the statutory development plan for the area.
- 3.2. Reason for Recommendation – The plan was approved through a public referendum, identifying a majority in favour verdict of making the Plan, in addition the Council is satisfied that the making of the Plan would not breach, or otherwise be incompatible with, any EU or human rights obligations. Therefore, the Council is procedurally required to “make” the Barnwell Neighbourhood Plan part of the statutory development plan for the Barnwell Neighbourhood Area within the timeframe set out by the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 3.3. Alternative Options Considered – The Council is required by the Localism Act and provisions of the Neighbourhood Planning (General) Regulations 2012 (as amended) to ‘make’ a neighbourhood plan within 8 weeks of the day following a successful referendum. The only circumstance where the Council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU or human rights obligation. Failure to make the Plan would prevent it being adopted.

4. Report Background

- 4.1. Neighbourhood planning was introduced by the Localism Act 2011. Barnwell is one of a number of parishes in the area to exercise the powers granted to communities by the Act that enables them to produce neighbourhood plans. When formally made a neighbourhood plan comprises part of the statutory development plan and carries full weight when determining planning applications in the geographical area covered by its policies, which, in this case, relates to the parish of Barnwell.
- 4.2. The first legal step towards the production of the Barnwell Neighbourhood Plan was taken back on 12th February 2014 when the former East Northamptonshire Council formally designated the entire parish of Barnwell as the relevant ‘neighbourhood area’ to be covered by the policies of the plan. Since this time work has been undertaken by the parish council and its representatives, assisted by officers of the Council, to ensure a plan is produced that is technically robust and reflects the wishes of the community.
- 4.3. A key milestone in the process was reached when the plan was found to be both legally and technically compliant by an independent examiner, subject to recommended modifications. The report of Nigel McGurk BA (Hons) MCD MBA MRTPI was formally issued in August 2022 and recommended that the plan

proceeded to referendum subject to the modifications (relating primarily to policy rewording and amendments) that he recommended.

- 4.4. The plan, alongside the examiner's report and the schedule of proposed modifications was considered by the Executive Director of Place and Economy under delegated authority and a Decision Statement was agreed and issued on 17th October 2022. This concluded that with the proposed modifications the plan meets the Basic Conditions in full, is compatible with the European Union obligations and Convention rights and complies with the definition of a neighbourhood plan and the provisions that can be made by a neighbourhood plan. Accordingly, the plan proceeded to a referendum on 15th December 2022.

5. Issues and Choices

- 5.1. The referendum provides the community with the final decision as to whether a plan should come into force in their area. The regulations specify the question to be asked. Section 38A of the Planning and Compulsory Planning Act 2004, as updated by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, require that if the majority of those who vote in a referendum are in favour of the draft neighbourhood plan, then the neighbourhood plan must be made by the local planning authority within 8 weeks of the referendum.
- 5.2. For the plan to formally move towards adoption there was a requirement that it gained the support of the people of the parish, to be indicated by a simple majority voting 'yes' (50% plus one person of all those who turned out to vote). The referendum resulted in support for the plan amongst the residents of the parish, receiving 49 yes votes and 13 voting no. This return represents a 20% turnout and a 79% majority voting 'yes'.
- 5.3. As a majority has voted in favour of the plan it should be made by the Council within 8 weeks of the referendum. This means that the deadline for the Council making the neighbourhood plan is 9th February 2023. The 8-week time limit does not apply where a legal challenge has been brought in relation to hold a referendum or around the conduct of the referendum. There are narrow circumstances where the local planning authority is not required to make the neighbourhood plan. These are where it considers that the making of the neighbourhood plan would breach, or otherwise be incompatible with, any EU or human rights obligations.
- 5.4. As a result of the Council's previous decision to allow the plan to proceed to referendum on the basis that the plan satisfied all legal requirements, alongside the successful outcome of the referendum itself, and the fact that no legal challenge has been brought, councillors are asked to formally 'make' the Barnwell Neighbourhood Plan. The Neighbourhood Planning Act 2017 stipulated that a Neighbourhood Plan forms part of the statutory development plan following a successful referendum. In the very limited circumstances where the Council decides not to make a neighbourhood plan, it would cease to be part of the development plan for the area.

6. Next Steps

- 6.1. Regulation 19 and 20 of the Neighbourhood Planning (General) Regulations 2012 require the Council as soon as possible after making the plan to publish the decision and reasons for the decision (decision statement) and publicise the plan. A draft decision statement is appended as **(Appendix B)** which can be published following the resolution of the Executive.
- 6.2. As part of the development plan for the area the neighbourhood plan must be considered when determining planning applications in the neighbourhood area alongside other documents such as the North Northamptonshire Joint Core Strategy and saved policies from the former East Northamptonshire Council area, including the East Northamptonshire Local Plan Part 2, when adopted. It will remain in force until the qualifying body proposes to either modify or replace it. Monitoring of the Barnwell Neighbourhood Plan will be undertaken by Barnwell Parish Council.
- 6.3. There is a six-week period where a claim for judicial review can be brought starting from the date of the decision statement. This claim can only be brought where it is considered that there have been procedural irregularities, or an error of law associated with the preparation of the plan.

7. Implications (including financial implications)

7.1. Resources, Financial and Transformation

- 7.1.1. The making of the Neighbourhood Plan will have limited implications on finance. Central Government grant assistance can be obtained to support the neighbourhood plan process, and the Council has successfully applied for, and received £20,000 from the Government's Neighbourhood Plan Grant scheme to cover all costs, including the referendum. The plan has now been drafted in full and the Council's financial support required towards the plan will now end.
- 7.1.2. As part of the development plan, the neighbourhood plan provides a further suite of policies that must be considered by development management officers as and when planning applications are submitted falling within the neighbourhood area of Barnwell. This may account for a limited amount of additional officer time when considering the full suite of policies applicable to any application in the neighbourhood area prior to a decision being reached.
- 7.1.3. The policies map, which graphically illustrates policies of the development plan, will need to be updated to include the policies of the neighbourhood plan. This will be done as soon as practicable. It is likely that this will initially be done for the East Northamptonshire area only until such time as a North Northamptonshire wide online policy map is available.

7.2. Legal and Governance

- 7.2.1. The Localism Act 2011 (Part 6, Chapter 3, Sections 116-121 and Schedule 9 and 10), The Planning and Compulsory Purchase Act 2004 (as amended), The Neighbourhood Planning (General) Regulations 2012 (SI 2012 No.637), The Neighbourhood Planning (General) (Amendment) Regulations 2015 (SI 2015 No.20), The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 (SI 2016 No.873) and the Neighbourhood Planning Act 2017 set out the powers and duties in preparing Neighbourhood Plans.
- 7.2.2. Paragraphs 5-7 of Schedule 9 of The Localism Act 2011 amends section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA) to make Neighbourhood Development Plans part of the development plan in accordance with which planning applications must be determined. Section 3 of the Neighbourhood Planning Act 2017 further amends section 38 of the PCPA to provide that a neighbourhood development plan for an area becomes part of the development plan for that area after it is approved in a referendum. In the very limited circumstances that the Council decide not to make the neighbourhood development plan, it will cease to be part of the development plan for the area.
- 7.2.3. It is considered that there are no circumstances which would justify the Council not making the plan. If the plan was not formally made that decision could be challenged.

7.3. Relevant Policies and Plans

- 7.3.1. The adoption of the Barnwell Neighbourhood Plan will add another layer of detail to the planning policy framework for North Northamptonshire for the parish of Barnwell. The Neighbourhood Plan will complement the planning policies set out in the Joint Core Strategy and East Northamptonshire Local Plan Part 2, when adopted, to provide comprehensive policy coverage and form part of the development plan for the area.
- 7.3.2. The 'making' of the Barnwell Neighbourhood Plan supports the delivery of the Council's Corporate Plan, particularly in relation to the Council's key commitment to connected communities – ensuring our communities are connected with one another so they are able to shape their lives and the areas where they live.

7.4. Risk

- 7.4.1. If the Council decides not to make the plan, then there is a risk that this decision could be legally challenged. The impact of taking this approach is that the plan may be delayed or not made, which would be detrimental to the local community, and may invoke legal costs.

7.5. Consultation

7.5.1. Statutory consultation has taken place during the preparation of the neighbourhood plan. There is no requirement for consultation as a result of this decision on whether to make the plan.

7.6. Consideration by Executive Advisory Panel

7.6.1. None.

7.7. Consideration by Scrutiny

7.7.1. None.

7.8. Equality Implications

7.8.1. An Equalities Screening Assessment has been completed and is attached to this report (**Appendix C**).

7.9. Climate and Environment Impact

7.9.1. The plan has been prepared in accordance with national planning policy and guidance which seeks to deliver sustainable development through planning decisions including adaptation to and mitigation of climate change. Of note is the Ecology and Biodiversity section of the neighbourhood plan (Chapter 10).

7.10. Community Impact

7.10.1. Neighbourhood planning is intended to improve community cohesion. The plan has been prepared with full engagement of the local community and the referendum showed a clear majority of people voting supporting the plan.

7.11. Crime and Disorder Impact

7.11.1. The plan has been prepared in accordance with national planning policy and guidance which seeks to deliver healthy, inclusive, and safe places.

8. Background Papers

8.1. Background papers relating to the preparation of the neighbourhood plan are available on the Barnwell Parish Council website at: <https://www.barnwellparishcouncil.org.uk/neighbourhood-plan>

- 8.2. Details of the process and various stages of plan preparation, including the examination and the examiner's report are also available on the Council's website at :

https://www.east-northamptonshire.gov.uk/site/scripts/documents_info.php?documentID=1511&pageNumber=3