

Report to: **Hub Committee**

Date: **23 July 2024**

Title: **Okehampton Town and Hamlets  
Neighbourhood Plan**

Portfolio Area: **Planning and the Built Environment –  
Cllr. Mott**

Wards Affected: **Okehampton North and Okehampton South**

Urgent Decision: **N** Approval and clearance obtained: **N**

Date next steps can be taken: From when  
decisions take effect on 1<sup>st</sup> August 2024

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## **RECOMMENDATIONS**

**That the Hub Committee:**

- 1. RECEIVES the Examiner’s report for the Okehampton Town & Hamlets Neighbourhood Plan set out at Appendix A.**
- 2. CONSIDERS the recommendations made by the Examiner’s report and the reasons for them.**
- 3. AGREES that the Okehampton Town & Hamlets Neighbourhood Plan (set out at Appendix B) does not meet the Basic Conditions.**
- 4. AGREES that the Okehampton Town & Hamlets Neighbourhood Plan should not proceed to Referendum, as recommended by the Examiner.**
- 5. AUTHORISES the Director of Strategy & Governance to publish the Regulation 18 Decision Statement set out at Appendix C.**

## **1. Executive summary**

- 1.1 Neighbourhood Plans are a community right introduced by the Localism Act 2011. They are the responsibility of Parish Councils (or Neighbourhood Forums if established in non-parished areas).
- 1.2 The Okehampton Town & Hamlets Neighbourhood Plan Area (the plan area) was designated by the Borough Council in June 2015. It comprises the whole of the parishes of Okehampton Town and Okehampton Hamlets.
- 1.3 In order to comply with the Neighbourhood Planning (General) Regulations 2012, following independent examination of a Neighbourhood Plan and receipt of the Examiner's report, the Council must consider the Examiner's recommendations. The Council is under no obligation or statutory requirement to accept the Examiner's recommendations. Notwithstanding the Examiner's report, the Council must be satisfied that the Neighbourhood Plan meets the Basic Conditions and is compatible with the European Convention on Human Rights (ECHR) and other European Union Obligations Convention Rights, or would do so if modifications were made to it. The Council, in making its decision, should have regard to the Examiner's report and recommendations.
- 1.4 The Localism Act requires that the independent Examiner considers whether the area for any Referendum should extend beyond the neighbourhood area to which the draft plan relates. If a recommendation is made to extend the area the independent Examiner must make a recommendation as to what the extended area should be. In this case, had the Examiner been able to recommend that the plan should progress to its Referendum stage, he would have determined that the designated plan area would have been the appropriate area for the Referendum to be held.
- 1.5 Where the Council is satisfied that the Neighbourhood Plan meets the Basic Conditions and recommends the Neighbourhood Plan proceeds to a Referendum, under Schedule 4B to the Town and Country Planning Act 1990, the Council must make arrangements for the Referendum to take place. In this case, the Council is being recommended to agree with the Examiner that the plan does not meet the Basic Conditions and therefore should not proceed to Referendum.
- 1.6 If it is agreed that the plan should not proceed to a Referendum, the decisions regarding the future of the plan rest with the Qualifying Body (Okehampton Hamlets PC) and Okehampton Town Council. The Council will continue to offer support and advice. Okehampton Hamlets PC and Okehampton TC are both considering the Examiner's report, its implications and the best way forward.

## **2. Background**

- 2.1 The Okehampton Town & Hamlets Neighbourhood Plan has been prepared by a working group on behalf of Okehampton Town Council and Okehampton Hamlets Parish Council (the designated Qualifying Body).
- 2.2 The Okehampton Town & Hamlets Neighbourhood Plan Area was designated in June 2015 under the Neighbourhood Planning Regulations 2012. The area covers the administrative boundary of the Parishes of Okehampton Town and Okehampton Hamlets.
- 2.3 Following community engagement, consultation (six-week public consultation at Regulation 14 stage) and background work (including informal officers' advice), a draft plan and accompanying documents were submitted to the Council in September 2023.
- 2.4 Throughout the process of preparing the neighbourhood plan, Council officers have given support and advice to the steering group. This included at the pre-Regulation 14 stage and detailed comments on the draft plan during its six-week consultation in 2022. Advice was also given on the plan-making process. Significant concerns were raised with the steering group by e-mail in April 2023 prior to the documents being submitted to WDBC (as acknowledged by the Examiner in para. 43 of his report). The Qualifying Body decided to press ahead with the submission of the documents for Regulation 16 consultation and Examination.
- 2.5 The Council formally consulted on the draft plan (under Regulation 16) from 15<sup>th</sup> September to 27<sup>th</sup> October 2023. The plan then proceeded to Examination, and the Examiner held an Examination Hearing on 11<sup>th</sup> April 2024, with site visits taking place the day before.
- 2.6 The Examiner's final report was produced on 28<sup>th</sup> May 2024. A copy is set out at Appendix A. It provides an independent examination of the Neighbourhood Plan and its process of preparation. Council officers provided feed-back and fact checking to the Examiner on a draft report. Officer comments were taken into consideration and where required points of fact were amended.
- 2.7 The Examiner's report concludes that the plan should not proceed to Referendum. There are two reasons for this: First, the Regulation 14 consultation was not carried out in accordance with the Neighbourhood Planning (General) Regulations 2012. Second, the plan, when taken as a whole, does not meet the Basic Conditions.
- 2.8 The Examiner expressed significant concerns regarding consultation undertaken on the draft plan, especially at Regulation 14 stage. He was not confident that the methods of engagement would be likely to bring the fact that a draft plan had been produced to the attention of the public and stakeholders in the plan area. Of great concern was the fact that the steering group did not actively consult any of the parties set out in Schedule 1 of the Regulations, meaning

that key consultees and stakeholders were not able to engage with the Regulation 14 consultation process. The Regulations set-out what should be included in a Statement of Community Consultation, and in the Examiner's opinion the submitted Statement was not fit for purpose. The Examiner concluded (para.73) that, *'It is unquestionable that the legal requirements regarding the Pre-Submission, Regulation 14 publicity and consultations were not followed and that fact alone would have been sufficient for me to conclude that the examination must fail.'*

- 2.9 The Examiner's report also concludes that the plan does not meet the Basic Conditions. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. A Neighbourhood Plan meets the Basic Conditions if:
- a. Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
  - b. The making of the plan contributes to the achievement of sustainable development;
  - c. The making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority;
  - d. The making of the plan does not breach, and is otherwise compatible with, retained EU Obligations, and;
  - e. Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.
- 2.10 The Examiner concluded that many of the plan's policies would need to be deleted, *'as they are deficient in terms of being capable of being used for decision making on planning applications or are not in general conformity with strategic policy or do not have regard to national policy and advice or would not deliver sustainable development.'* (para.74). Overall, his conclusion was that the plan when read as a whole, does not meet the Basic Conditions.
- 2.11 Council officers have considered the Neighbourhood Plan and the Examiner's report with regard to the Basic Conditions, including conformity with the development plan and national policy. Officers accept the Examiner's reasoning for his conclusions, agree that the Basic Conditions have not been satisfied, and confirm that the plan should not proceed to Referendum in accordance with the Examiner's recommendation.
- 2.12 Okehampton Hamlets Parish Council considered the issue of the neighbourhood plan at its meeting on 2<sup>nd</sup> July 2024. The outcome was that, 'The clerk was asked to email the Chair of the steering group to ask that she calls a meeting following recent emails.' Okehampton Town Council considered the Examiner's report at its

Full Council meeting on 24<sup>th</sup> June. The outcome of the Hearing and the resulting report from the Examiner were considered. The Town Council resolved 'to seek expert advice in relation to recommending a Neighbourhood Plan for the town and surrounding area, including required consultation with Okehampton Hamlets Parish Council.'

### **3. Outcomes/outputs**

- 3.1 Given its own assessment that the plan does not meet the Basic Conditions, and the strength of the Examiner's recommendations, it is considered that the Council has no option other than to decide that the plan should not proceed to Referendum. If this recommendation is approved, the Council is required to publish a Decision Statement under Regulation 18, setting out its decision and the reasons for it. The Decision Statement is attached as Appendix C.
- 3.2 In his report, the Examiner commented (para.75) that, '*there is no reason why Okehampton should not be able to produce a neighbourhood plan, which, if prepared in a way that meets the legal requirements and addresses basic conditions, would be capable of passing its examination stage.*' Accordingly, the Examiner undertook to review the plan and its policies, highlighting the deficiencies that can be addressed, in the hope that this would help guide the production of a new version of the plan. His comments on all the policies are set-out in the report.
- 3.3 The decisions relating to the future of any neighbourhood plan rest with Okehampton Town Council and Okehampton Hamlets Parish Council on behalf of the local community. Council officers would be pleased to meet with the two local councils to discuss options for the future and to give advice.

### **4. Options available and consideration of risk**

- 4.1 Given the recommendation of the Examiner and the opinion of Council officers that the Okehampton Town & Hamlets Neighbourhood Plan does not meet either the statutory requirements or the Basic Conditions, it is considered that the plan should not continue through the process to Referendum.
- 4.2 Given the fundamental flaws in the consultation process that was undertaken, that led, in the Examiner's opinion (para.43), '*to some parties being significantly disadvantaged*', it is considered that there are no feasible options available to the Council.
- 4.3 In terms of Risk, this relates to the potential for challenge through a Judicial Review to the Hub Committee's decision that the plan

does or does not meet the Basic Conditions and has or has not followed the statutory requirements.

## 5. Proposed Way Forward

- 5.1 It is recommended that the Hub Committee approves the recommendation that the Okehampton Town & Hamlets Neighbourhood Plan does not proceed to Referendum.

## 6. Implications

Implications	Relevant to proposals Y/N	Details are set out in this report.
Legal/Governance	Y	The decision whether to proceed to Referendum for a Neighbourhood Plan is the responsibility of the Council. The Okehampton Town & Hamlets Neighbourhood Plan has not followed the procedure in the Neighbourhood Planning (General) Regulations 2012 and it is considered that it should not proceed to Referendum.
Financial implications to include reference to value for money	N	There are no financial implications. Neighbourhood Plans are supported through the Government grants program.
Risk	Y	There is a risk of legal challenge on the Neighbourhood Plan process.
Supporting Corporate Strategy	Y	The Council's role in the Neighbourhood Plan process is a statutory duty. Neighbourhood Plans assist in delivering key themes in the West Devon Council Plan, including: Adapting & mitigating climate change and increasing biodiversity; Protecting, conserving and enhancing the built and natural environment; Stimulating a thriving economy.
Climate Change - Carbon / Biodiversity Impact	Y	If a revised Neighbourhood Plan is prepared it would have the opportunity to align with the Joint Local Plan and include policies aimed at mitigating the effects of climate change and impacts upon biodiversity.

Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	The Neighbourhood Plan has assessed Equality and Diversity implications as part of its background evidence.
Safeguarding	N	None.
Community Safety, Crime and Disorder	N	No direct implications.
Health, Safety and Wellbeing	Y	No direct implications.
Other implications	N	None.

### **Supporting Information**

#### **Appendices:**

Appendix A: Okehampton Town & Hamlets Neighbourhood Plan Examiner's report

Appendix B: Okehampton Town & Hamlets Neighbourhood Plan Submission version

Appendix C: Regulation 18 Decision Statement

#### **Background Papers:**

Background documents to the Okehampton Town & Hamlets Neighbourhood Plan are on-line at:-

<https://www.neighbourhoodplanning.swdevon.gov.uk/okehampton>