

## **CABINET**

**29<sup>TH</sup> NOVEMBER 2022**

### **REPORT OF THE DIRECTOR OF PLACE**

#### **TIVERTON NEIGHBOURHOOD PLAN**

**Cabinet Member(s):** Cllr Richard Chesterton, Cabinet Member for Planning and Economic Regeneration

**Responsible Officer:** Richard Marsh, Director of Place

**Reason for Report:** To make (adopt) the Tiverton Neighbourhood Plan in order to meet the requirements of the relevant Acts and Regulations.

#### **RECOMMENDATION:**

**That Cabinet recommends to Council that:**

- **the Tiverton Neighbourhood Plan (Appendix 1) is ‘made’ (adopted) and brought into force as part of the statutory development plan for the Tiverton area.**
- **the Tiverton Neighbourhood Plan Adoption Decision Statement (Appendix 2) is published to meet the publicity requirements in the Regulations.**

**Financial Implications:** There are no direct financial implications from adopting the Tiverton Neighbourhood Plan.

**Legal Implications:** Changes made to section 38 of the Planning and Compulsory Purchase Act 2004 (through provision 3 of the Neighbourhood Planning Act 2017) mean a neighbourhood plan attains the same legal status as a local plan (and other documents that form part of the statutory development plan) once it has been approved at a referendum, rather than when it is made (adopted) by the relevant authority. At this 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. Policies of the Neighbourhood Plan will be used alongside policies in the adopted Mid Devon Local Plan, the Devon Minerals and Waste Plans, to help guide planning applications submitted to the Council for determination and the decisions made on these. There is a need for the Council to ‘make’ (adopt) the Tiverton Neighbourhood Plan, following its local referendum, under Section 38A (4) of the Planning and Compulsory Purchase Act 2004 (as amended) and to publish a statement setting out the decision and the reasons for making this decision under the Regulation 19 of the Neighbourhood Planning (General) Regulations 2012.

**Risk Assessment:** None identified.

**Budget and Policy Framework:** No direct budget implications. Now that the Neighbourhood Plan has been approved by referendum, it forms part of the

Council's policy framework for decision-making purposes on land use planning matters.

**Equality Impact Assessment:** The Council has previously determined that 'the Plan, as modified, meets the basic conditions as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990'. Therefore, the Council has concluded that the 'making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area, which were subject to a full Equalities Impact Assessment. On this basis, the Tiverton Neighbourhood Plan will not in itself lead to any impacts on the equality strands protected under the Equality Act 2010 (the "protected characteristics") over and above those considered and addressed through the Local Plan Equalities Impact Assessment.

**Relationship to Corporate Plan:** now that it has been approved by referendum, the Tiverton Neighbourhood Plan forms part of the statutory development plan for Mid Devon and the strategy for guiding new development in the district, allocate sites for housing and economic development, the provision of infrastructure, as well as policies for the protection of the environment and managing development. The plan will help meet the Corporate Plan priorities: 'Homes', 'Environment', 'Community' and 'Economy'.

**Impact on Climate Change:** The preparation of development plans is a key method for climate change mitigation and environmental protection, through appropriate policies and development strategy.

## 1.0 Introduction/Background

### *About neighbourhood plans*

- 1.1 The Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (as amended) introduced powers to allowing qualifying bodies (parish councils, or neighbourhood forums in areas without parish councils) to produce neighbourhood plans and Neighbourhood Development Orders. Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided, and grant planning permission for the new buildings they want to see go ahead. Neighbourhood planning provides a powerful set of tools for local people to plan for the types of development to meet their community's needs and where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.
- 1.2 Mid Devon is a fully parished district, where parish councils can choose to prepare a neighbourhood plan and can work with other members of the community who are interested in, or affected by, the neighbourhood planning proposals to allow them to play an active role in preparing a neighbourhood plan or Order.

- 1.3 There are currently six designated neighbourhood areas in Mid Devon, for which the preparation for Neighbourhood Plans has reached various stages.
- Cullompton Neighbourhood Plan – adopted / ‘made’ 1<sup>st</sup> July 2021.
  - Crediton Neighbourhood Plan – adopted / ‘made’ 26<sup>th</sup> October 2022.
  - Silverton Neighbourhood Plan – Regulation 14 stage draft plan.
  - Willand Neighbourhood Plan – Neighbourhood Area designated in February 2022. Draft plan currently being prepared.
  - Newton St Cyres Neighbourhood Plan – Neighbourhood Area designated December 2021.
  - The Tiverton Neighbourhood Plan, awaiting decision to ‘make’ (adopt) following a local referendum - which is the subject of this report.

#### *The role of the Council*

- 1.4 The Council, as the Local Planning Authority must take decisions at key stages in the neighbourhood planning process and within specified time limits, and has a duty to provide advice or assistance to a parish council as it considers appropriate for the purpose of, or in connection with, facilitating the making of proposals in relation to the neighbourhood plan. This includes providing comments on ‘general conformity’ of the neighbourhood plan policies with the strategic policies of the Local Plan, advising on neighbourhood plan requirements (including Strategic Environmental Assessment ‘SEA’ and Habitat Regulations Assessment ‘HRA’), undertaking post-submission consultation on the neighbourhood plan (Regulation 16 consultation), the appointment of an independent examiner, making arrangements for the referendum, and bringing the neighbourhood plan into force.
- 1.5 This report seeks Council approval to bring the neighbourhood plan into force through its formal adoption i.e. that the Tiverton Neighbourhood Plan is ‘made’.

## **2.0 Tiverton Neighbourhood Plan**

### *About the Plan*

- 2.1 The Tiverton Neighbourhood Plan has been prepared by the Neighbourhood Plan Steering Group for Tiverton Town Council and the period to which it relates is 2020 – 2033.
- 2.2 The Tiverton Neighbourhood Plan includes:
- A vision statement for Tiverton
  - 7 sections:

Spatial Strategy; Housing; Design and Heritage; Natural Environment; Community Facilities; Transport and Movement; Tiverton Town Centre and the Wider Local Economy.

Each section has identified a series of aims and community actions which support the delivery of the vision and objectives, but which do not constitute planning policies. The neighbourhood plan includes 18 policies covering a range of planning matters. The neighbourhood plan recognises that the area is a subject to significant housing growth. It also points out that there is a shortage of adequately sized affordable housing, particularly for couples and young families.

### *Examination*

- 2.3 The Tiverton Neighbourhood Plan has been subject to an independent examination. The Examiner’s report has concluded that, subject to the modifications set out in her report, the Tiverton Neighbourhood Plan met the basic conditions and other statutory requirements and can proceed to a Referendum in the Tiverton Neighbourhood Area (Tiverton parish).

### *Referendum*

- 2.4 On the 6<sup>th</sup> September 2022 (minute 53) the Council’s Cabinet agreed that the Tiverton Neighbourhood Plan (subject to the Examiner’s modifications and the correction of errors) proceed to a local referendum, and that a Decision Statement be approved. The Decision Statement was published on the Council’s website and to meet the publicity requirements in the Regulations.
- 2.5 The local referendum for the Tiverton Neighbourhood Plan was held on Thursday 17<sup>th</sup> November 2022.
- 2.6 In accordance with the Neighbourhood Planning regulations the referendum asked persons eligible to vote within the neighbourhood plan area (Tiverton Parish) the following question:

*“Do you want Mid Devon District Council to use the neighbourhood plan for Tiverton to help it decide planning applications in the neighbourhood area?”*

- 2.7 The result of the referendum was as follows:

Ballot papers	Votes Recorded
Number cast in favour of a Yes	1735
Number cast in favour of a No	314
Number of spoilt ballot papers	4
Total number of votes cast	2052
Electorate: 16681	Turnout: 12.30%

- 2.8 Since 84.55 % of voters are in favour of the Tiverton Neighbourhood Plan the plan becomes part of the statutory development plan for the area and the Council must bring it into force through the plan being ‘made’ (adopted).

### **3.0 Adoption of the Neighbourhood Plan**

- 3.1 In accordance with Section 38(4) of the Planning and Compulsory Purchase Act 2004 (as amended) and regulation 25A of The Neighbourhood Planning (General) Regulations 2012 (as amended), the Council must make (adopt) the Plan as soon as reasonably practicable after the referendum is held and, in any event, not later than the last day of the period of 8 weeks from the day after the referendum is held.
- 3.2 However, the Council may refuse to make the Plan if it considers that making it would be a breach, or would otherwise be incompatible with, any EU obligations or any human rights obligations. Council officers hold the view that the making of the Plan would not breach these obligations (as set out within the Council's Decision Statement). The Council must decide whether to make, or refuse to make, the Plan. There is no opportunity at this stage to seek to amend the contents of the plan or make further representations to it.
- 3.3 It is recommended that the Plan is 'made' and the Adoption Decision Statement (**Appendix 2**) is published to meet the publicity requirements in the Regulations.

### **4.0 Groups Consulted**

- 4.1 None. There has been no need to consult the Planning Policy Advisory Group on the decision to adopt the Tiverton Neighbourhood Plan following its successful referendum.

### **5.0 Next steps**

- 5.1 The Tiverton Neighbourhood Plan (**Appendix 1**) and the Adoption Decision Statement (**Appendix 2**) will be published on the Council's website and made available to the public.
- 5.2 Tiverton Town Council will be responsible for any future review of the Tiverton Neighbourhood Plan, although there is no requirement to review or update a neighbourhood plan.
- 5.3 Requests for printed copies of the Tiverton Neighbourhood Plan should be made to Tiverton Town Council.

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**Circulation of the Report:** Cabinet Member

**List of Background Papers and relevant links:**

Appendix 1 - Tiverton Neighbourhood Plan referendum version

Appendix 2 – Tiverton Neighbourhood Plan – Adoption Decision Statement