

CABINET

21 OCTOBER 2024

REPORT OF THE PORTFOLIO HOLDER RESPONSIBLE FOR HOUSING AND PLANNING

A.4 – MAKING (ADOPTION) OF THE ARDLEIGH NEIGHBOURHOOD PLAN

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

For Cabinet to agree to 'make' (adopt) the Ardleigh Neighbourhood Plan as part of the Council's statutory development plan and for it to therefore become a material consideration in planning decisions alongside the Tendring District Local Plan. This follows a local referendum in which a clear majority of residents that turned out were in favour of the plan.

EXECUTIVE SUMMARY

Key Points:

- Ardleigh Neighbourhood Plan has been through formal and informal consultation processes.
- The Plan was the subject of an independent examination where a number of modifications were suggested.
- The modifications were agreed by TDC and the Parish Council, allowing the Plan to proceed to referendum.
- The public voted in favour of adopting the Neighbourhood Plan to help in the determining of planning applications.

Ardleigh Parish Council has prepared a 'Neighbourhood Plan' for its area that has passed through all the necessary stages of the plan-making process set out in the Town and Country Planning Act 1990 ("the Act") and the Neighbourhood Planning (General) Regulations 2012 (as amended) including public consultation, independent examination and a referendum.

In an official referendum held on Thursday 12th September 2024 and administered by Tendring District Council, residents of the Parish of Ardleigh were asked "Do you want Tendring District Council to use the Neighbourhood Plan for the Parish of Ardleigh to help it decide planning applications in the neighbourhood area?" With an overall turnout of 13%, 257 residents voted 'YES' and 40 residents voted 'NO' – a vote of 86.5% in favour of the plan.

If the majority of those who vote in a referendum are in favour of the Neighbourhood Plan, it must be 'made' (adopted) by the Local Planning Authority within 8 weeks of the referendum.

An Order must be made by the local authority before it has effect. Decisions in relation to the making of Neighbourhood Plans are an executive function and it therefore falls to the Cabinet to confirm the making or adoption of the Neighbourhood Plan. It will then become part of the 'Development Plan' and will be a material consideration, alongside the District Council's Local Plan, in the determination of planning applications and in making other planning decisions.

RECOMMENDATION(S)

That Cabinet notes the result of the referendum held on Thursday 12th September 2024 and duly agrees that the Ardleigh Neighbourhood Plan (attached as Appendix 1) be 'made' and that the necessary publicity and notifications are administered in accordance with Section 20 of the Neighbourhood Planning Regulations Town and Country Planning (Local Planning) (England) Regulations 2012.

REASON(S) FOR THE RECOMMENDATION(S)

To comply with the Neighbourhood Planning Regulations Town and Country Planning (Local Planning) (England) Regulations 2012 – ensuring that the Council, as Local Planning Authority, has made (adopted) the Neighbourhood Plan within 8 weeks of the successful referendum held on 12 September 2024.

ALTERNATIVE OPTIONS CONSIDERED

None – as the Council is compelled to agree to the making of the Neighbourhood Plan following the local referendum.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Neighbourhood Plan will support the Corporate Plan 2024-28 (aligned with the core themes of Tending4Growth and Community Leadership) in the following areas:

- Pride in our area and services to residents
- Raising aspirations and creating opportunities
- Championing our local environment
- Working with partners to improve quality of life
- Promoting our heritage offer, attracting visitors and encouraging them to stay longer
- Listening to and delivering for our residents and businesses

OUTCOME OF CONSULTATION AND ENGAGEMENT (including with the relevant Overview and Scrutiny Committee and other stakeholders where the item concerns proposals relating to

the Budget and Policy Framework)

The Ardleigh Neighbourhood Plan has been subject to all the necessary consultation stages required under the Town and Country Planning Act 1990 (“the Act”) and the Neighbourhood Planning (General) Regulations 2012 (as amended). The referendum on the final version of the Neighbourhood Plan resulted in a majority vote in favour of the Neighbourhood Plan being adopted by Tendring District Council.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	NO	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	13 May 2024

The ability for a town or parish council to produce a Neighbourhood Development Plan is contained within the Localism Act 2011. The Town and Country Planning Act 1990 (“the Act”) and the Neighbourhood Planning (General) Regulations 2012 (as amended) provide the statutory process as to how a Neighbourhood Development Plan will be developed and implemented. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, introduced new statutory timescales by which decisions relating to Neighbourhood Planning had to be made.

Neighbourhood Development Plans give communities the opportunity to set planning policies which will form part of the development plan of a local authority once implemented and will sit alongside the Local Plan. The District Council’s responsibility as Local Planning Authority is largely technical in nature, for example advising on conformity with the Development Plan and checking that Plans have followed correct procedures. Once made, a Local Planning Authority must consider a Neighbourhood Development Plan when deciding applications for planning permission, along with any other material consideration.

Decisions in relation to the making of Neighbourhood Development Plans are an executive function, that is because Neighbourhood Development Plans are not Development Plan Documents as defined in regulation 5 of the Town and Country Planning (Local Planning) England Regulations 2012 and as such do not come within the list of plans and strategies listed in column 1 of the table to Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, which would require Council approval or

adoption.	
X	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
No additional comments.	
FINANCE AND OTHER RESOURCE IMPLICATIONS	
<p>Neighbourhood Plans are usually prepared by their respective Parish or Town Council. The responsibilities for resourcing this project lies principally with the Parish Council as the 'qualifying body'. However, this Council has statutory duties in regards to the preparation of the Local Plan and Neighbourhood Plans and these have been discharged by the Planning Team and any additional expenses funded through the Local Plan Budget.</p> <p>A Neighbourhood Plan, once formally adopted, carries the same legal status as a District Local Plan (and other documents that form part of the statutory 'development plan') and therefore becomes a material consideration in the determination of planning applications. Applications for planning permission would therefore be determined in accordance with the development plan (including any Neighbourhood Plan), unless material considerations indicate otherwise</p> <p>It is important that Neighbourhood Plans support and supplement the policies and proposals in the District Local Plan. To ensure this, Officers have worked constructively with the Parish Council in an advisory capacity in the preparation of their Neighbourhood Plans.</p> <p>Although Tendring District Council does not currently apply Community Infrastructure Levy (CIL) at present, if CIL is introduced in the future alongside the review of the Tendring Local Plan, Town and Parish Councils can receive 25% of CIL income secured from developments in their area (15% would apply in locations where there is no Neighbourhood Plan). Decisions around the future introduction of CIL are a separate matter that will be considered in due course alongside the Local Plan review.</p>	
X	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
No additional comments.	
USE OF RESOURCES AND VALUE FOR MONEY	
The following are submitted in respect of the indicated use of resources and value for money indicators:	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The production of the Neighbourhood Plan has been funded mainly by the Parish Council with TDC providing support and assistance at key stages of the process.

<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</p>	<p>Decisions in respect of the Neighbourhood Plan have been made in accordance with the Council’s constitution at all key stages. Going forward, the Neighbourhood Plan will be a material consideration in planning decisions in the Ardleigh area alongside the policies in the District Local Plan.</p>
<p>C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.</p>	<p>The Ardleigh Neighbourhood Plan will be the second made in Tendring following Alresford and the Council has learned, and will continue to learn, from previous experience of navigating the process and providing the best advice.</p>

MILESTONES AND DELIVERY

On agreement of the Cabinet, the Ardleigh Neighbourhood Plan will be ‘made’ and its policies will become a material consideration in planning decisions alongside the policies in the District Local Plan.

ASSOCIATED RISKS AND MITIGATION

The making of the Neighbourhood Plan is a decision that could be subjected to a legal challenge by third parties – for which an application for Judicial Review would need to be made within six weeks of the decision. Any legal challenge would have to relate to law and procedure as opposed to the policy content of the Neighbourhood Plan. Officers have worked closely with the Parish Council at all stages of the process to carefully ensure the correct procedures have been followed.

EQUALITY IMPLICATIONS

The Neighbourhood Plan will sit alongside the District Local Plan as part of the overall ‘development plan’ against which planning decisions are taken. The policies in the development plan aim to address matters of equality and deprivation and equality considerations are taken into account in making planning decisions.

SOCIAL VALUE CONSIDERATIONS

Alongside the policies in the District Local Plan, the policies in the Ardleigh Neighbourhood Plans seek to achieve sustainable development that, amongst other things, seeks to address the needs of society and quality of life considerations.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2050

Alongside the policies in the District Local Plan, the policies in the Ardleigh Neighbourhood Plans seek to achieve sustainable development that, amongst other things, seeks to address the fight against climate change and measures aimed at reducing carbon emissions.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	Alongside the policies in the District Local Plan, the policies in the Ardleigh Neighbourhood Plan seek to achieve sustainable development that, amongst other things, is designed to minimise the opportunities for crime and disorder.
Health Inequalities	Alongside the policies in the District Local Plan, the policies in the Ardleigh Neighbourhood Plan seek to achieve sustainable development that, amongst other things, creates the conditions for good health and wellbeing – including the promotion of green infrastructure and quality development.
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	No implications.
Area or Ward affected	Ardleigh Parish and Ardleigh and Little Bromley District Ward.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Background

The Neighbourhood Area of Ardleigh was designated on 8 June 2020 for the purpose of preparing a Neighbourhood Plan. The Neighbourhood Area follows the boundary of Ardleigh Parish. The Ardleigh Neighbourhood Plan has been prepared by Ardleigh Parish Council.

The Plan sets objectives on key identified themes such as transport, community, the built and historic environment, local green spaces, housing and the general approach to development, including landscape features and design quality of physical structures. It builds on current and future planned activity in the Local Plan and says what the Parish Council and its partners will work towards.

The Plan also contains six planning Policies, these are:

- Policy GDP - General Approach to Development
- Policy CFP - Community Facilities
- Policy HP - Housing
- Policy EP - Natural, Built & Historic Environment
- Policy LGP - Local Green Spaces
- Policy TP - Transport & Parking

Following submission of the Neighbourhood Plan to Tendring District Council, a consultation under Regulation 16 took place between the 15th May and 26th June 2023.

Examination in Public

In June 2023, Ms Ann Skippers MRTPI was appointed by Tendring District Council, with the consent of the Parish Council, to undertake the examination of the Ardleigh Neighbourhood Plan and to prepare a report of the independent examination. The examination commenced on Wednesday 12th July 2023.

On the 18th August 2023, the Examiner issued a note of interim findings. This was followed by a follow-up from the Examiner on the 6th November, in which she identified three areas of concern on procedural matters as well as a number of points of clarity. The Examiner considered that a focused consultation on specific matters should be undertaken.

A focussed Regulation 16 Consultation took place between 22nd January and the 4th March 2024, with comments being invited on:

- the Significant Modifications proposed by the Examiner;
- the Council's Decision on HRA and SEA; and,
- the implications of the newly published NPPF.

Following the additional consultation, the Examiner concluded the examination of the Plan. The Examiner's report concludes that subject to making the minor modifications recommended, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.

The Examiner recommended a wide variety of modifications to the Plan. These included consequential changes and items of a minor nature. Only the key modifications are therefore listed below:

- Clarification is now given as to which parts of any Policy in the Neighbourhood Plan relate to the Tendring Colchester Borders Garden Community project. Section 1 of the Plan is therefore revised to accommodate this.
- Within Section 5 a change is made to differentiate between Safeguarded Open Spaces and Local Green Spaces.
- Policy GDP is updated to reflect the Garden Community issue raised above.
- Changes to Policy CFP for clarity.
- Within Policy HP, changes are made to prevent the building's energy efficiency going beyond Building Regulations.
- Amongst others, a change is made in Policy EP to clarify the weight of the Village Design Statement and the Green Spaces Assessment which are Appendices and do not have the same weight as the Neighbourhood Plan.
- Changes are made to Policy LGT to remove three spaces which do not accord with the criteria set out in the NPPF.
- Policy TP is also amended to clarify certain aspects and to remove some references to

the Garden Community in line with the issue above.

These changes have been agreed by the Parish and District Councils and the amended Plan can be found at Appendix 1.

On 13th May 2024, the Director of Planning in consultation with the Portfolio Holder for Housing & Planning determined that the Neighbourhood Plan, with the necessary modifications, could proceed to a local referendum which was duly held on Thursday 12th September 2024. In the referendum which was administered by Tendring District Council, residents of the Parish of Ardleigh were asked “Do you want Tendring District Council to use the Neighbourhood Plan for the Parish of Ardleigh to help it decide planning applications in the neighbourhood area?” With an overall turnout of 13%, 257 residents voted ‘YES’ and 40 residents voted ‘NO’ – a vote of 86.5% in favour of the plan.

The Neighbourhood Plan must now be ‘made’ (or adopted) within 8 weeks of the referendum – at which point it will form part of the statutory development plan and will become a material consideration alongside the Local Plan in the determination of planning applications and other planning matters. On making the Neighbourhood Plan, the document will be made available on both the District Council and Parish Council’s websites, and stakeholders will be notified, in accordance with Section 20 of the Neighbourhood Planning Regulations Town and Country Planning (Local Planning) (England) Regulations 2012.

PREVIOUS RELEVANT DECISIONS

8 July 2020 – Planning Policy and Local Plan Committee – Minute 10: that the application from Ardleigh Parish Council to designate the whole of the Ardleigh Parish as a Neighbourhood Plan Area (NDPA) be noted and that designation be approved.

17 March 2023 – Cabinet – Minute 136: authorises the Director (Planning) to carry out a six week consultation on the Ardleigh Neighbourhood Plan and other related documents in accordance with Regulation 16 of the Neighbourhood Planning Regulations 2012.

22 December 2023 – Decision of the Director of Planning: Confirmation that the Neighbourhood Plan would meet the requirements of Regulations 9(2)(b) and 12(5) of the Environmental Assessment of Plans and Programmes Regulations 2004.

13 May 2024 – Decision of the Director of Planning: For the Ardleigh Neighbourhood Plan to proceed to referendum.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None.

APPENDICES

Appendix 1 – Ardleigh Neighbourhood Plan

REPORT CONTACT OFFICER(S)	
Name	Gary Guiver
Job Title	Director of Planning
Email/Telephone	<u>gguiver@tendringdc.gov.uk</u>