



**AGENDA ITEM:**

**SUMMARY**

<b>Report for:</b>	<b>Cabinet</b>
<b>Date of meeting:</b>	<b>24 April 2018</b>
<b>PART:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Grovehill Future Neighbourhood Plan</b>
Contact:	<p>Cllr Graham Sutton, Portfolio Holder for Planning &amp; Regeneration.</p> <p>Author/Responsible Officer: James Doe, Assistant Director, Planning, Development and Regeneration.</p> <p>Chris Taylor, Group Manager – Strategic Planning and Regeneration</p>
Purpose of report:	To acknowledge the 'YES' vote at Referendum on 15 <sup>th</sup> March 2018 and propose that Council formally 'make' the Grovehill Future Neighbourhood Plan as a statutory planning document
Recommendations	That Cabinet recommend Council formally 'makes' the Grovehill Future Neighbourhood Plan as part of the Local Plan following a YES vote at Referendum 15 <sup>th</sup> February.
Corporate objectives:	The Grovehill Future Neighbourhood Plan supports the Council's vision and in particular the corporate objectives of building community capacity, regeneration and affordable housing.

'Value For Money Implications'	<u>Value for Money</u> None arising from this report.
Risk Implications	Risk Assessment included within the PID for this area of work.
Equalities Implications	An equalities impact assessment has been undertaken as part of the project documentation.
Health And Safety Implications	None arising from this report.
Implications:	<p><u>Financial</u></p> <p>To date the development of the Neighbourhood Plan has been funded from grant payments through the Department for Communities and Local Government, although there is an element of Officer time not directly funded.</p> <p>£20,000 has been received by the Council due to the successful completion of the neighbourhood planning inspection. This money is designed to help the Local Authority to cover the costs of carrying out an independent Inspection and local referendum. The grant has met the cost of completing the Neighbourhood Plan.</p> <p>The plan includes a range of policy objectives which would potentially involve the Council in the future. If any of these projects are lead on by the Council (for example, because it involves the regeneration of a Council owned asset or requires delivery on our land), for these to go forward, there will need to a business case presented and considered by Cabinet, including a full analysis of any financial implications.</p>

Monitoring Officer/S.151 Officer Comments	<p><b>Monitoring Officer:</b></p> <p>The Localism Act states the “<i>Council must make a neighbourhood development plan to which the proposal relates, if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan</i>”. The referendum result is clear and so therefore the only option available to the Council is to make the Grovehill Future Neighbourhood Plan.</p> <p><b>Deputy S.151 Officer</b></p> <p>There are no direct immediate financial implications for the council. Any future plans will need to be developed within the normal council financial planning processes and be submitted for consideration as part of the Medium Term Financial planning cycle.</p>
Consultees:	Portfolio Holder for Strategic Planning and Regeneration Strategic Planning Development Management Ward Councillors for Grovehill
Background papers:	Cabinet reports - December 2012, February 2014 and April 2017
Glossary of acronyms and any other abbreviations used in this report:	NP - Neighbourhood Plan NDP - Neighbourhood Development Plan LPA - Local Planning Authority SEA – Strategic Environmental Assessment

## Background

1 The Localism Act 2011 provides the foundation for neighbourhood planning. This aims to give local communities more control over housing and planning decisions. A neighbourhood plan sets a vision for the future and can be detailed or general depending on what local people want. A neighbourhood plan is prepared by the local community but is adopted ('made') by the local authority and becomes part of the Local Plan.

Neighbourhood planning can be taken forward by either town or parish councils or in un-parished areas via 'Neighbourhood Forums'. These Forums are local community groups that are specifically designated to take a plan forward.

2 In February 2011 the Council made a bid to the Department of Communities and Local Government neighbourhood planning front runners scheme to support the development of a plan for Grovehill in Hemel Hempstead. In May 2011, the Council was awarded a £20,000 grant as part of the third wave of the scheme. The Council invited the local community of Grovehill to create a Neighbourhood Plan and since its inception meeting in December 2011, the group now known as Grovehill Future have been progressing their plan, supported by the Council. In January 2013, the Council were awarded £5,000 for the successful Plan Area Designation of the Grovehill Future Group.

## Summary of Neighbourhood Plan Area Designation - Cabinet December 2012

- 3 On September 2012, the Council received an application from Grovehill Future to designate the Grovehill Neighbourhood Area. This application was approved for designation by Cabinet in December 2012, and part of the relevant criteria for the group making the application is that they are, or are capable of becoming, a qualifying body or Forum.
- 4 Grovehill Future's terms of reference provide evidence of its purpose of establishment, written constitution and eligibility for joining the group. Grovehill Future currently has greater than the required 21 voting members (comprising residents, ward Members, business or organisation representatives who have attended a minimum of three meetings).

## Summary of Neighbourhood Forum Application - Cabinet February 2014

- 5 On 31 October, as a result of reaching compliance with the Forum criteria, the application to 'Designate the Neighbourhood Forum' was deemed to be valid and a consultation took place from 20 November 2013 to 3 January 2014. The application was advertised in the Gazette, on the Council's website, and locally in Grovehill through posters, notice boards and networking.
- 6 Following completion of the consultation, the Council was required to ensure that the Neighbourhood Forum met the criteria set out in section 61F (5) & (7) of the Town and Country Planning Act 1990 (as amended by the Localism Act). In this regard, an application to designate a Neighbourhood Forum area could only have been refused if there were valid planning reasons.

Under section 61F(5) a local planning authority may designate an organisation, in this case Grovehill Future Project as a Neighbourhood Forum, if it is satisfied that it met the following conditions:

- a) *It is established for the express purpose -*
  - (i) *of promoting or improving the social, economic and environmental well-being of an area that consists of, or*
  - (ii) *includes the neighbourhood area concerned (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area).*
- b) *Its membership is open to individuals who -*
  - (i) *live in the neighbourhood area concerned, or*
  - (ii) *work there (whether for businesses carried on there or otherwise), or*
  - (iii) *are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,*
- c) *Its membership includes a minimum of 21 individuals each of whom either -*
  - (i) *live in the neighbourhood area concerned, or*
  - (ii) *work there (whether for a business carried on there or otherwise), or*
  - (iii) *is an elected member of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned.*
- d) *It has a written constitution.*

- 7 Under section 61F(7) in deciding whether to designate an organisation or body as a

Neighbourhood Forum, the Council was mindful that they:

- (a) *Must have regard to the desirability of designating an organisation or body-*
  - (i) *that has taken reasonable steps to secure membership that includes at least one person from each of the three membership groups identified,*
  - (ii) *that has membership drawn from different places in the area and different sections of the community in the area, and*
  - (ii) *whose purpose reflects the character of the area.*
- (b) *May only designate one organisation or body as a neighbourhood forum for a neighbourhood area, and only if the body has applied to do so, and only where the area does not include part or all of a parish.*
- (c) *If the Council refuse an application it must give reasons for the decision to the applicant.*

- 8 The Council received 43 responses to the Forum application. The consultation responses received did not raise any valid issues which could lead to refusal by the Council. It was therefore recommended in February 2014 that Members approve the application to designate the Grovehill Future Neighbourhood Forum.
- 9 The Forum, with the ongoing help and support of Council Officers progressed and wrote their draft Grovehill Future Neighbourhood Plan.
- 10 As per The Neighbourhood Planning (General) Regulations 2012, Regulation 14, the Forum formally consulted on this draft plan for 6 weeks between 28<sup>th</sup> September and 4<sup>th</sup> November 2016.
- 11 Following receipt of the responses to the consultation on the Neighbourhood Plan Forum, amendments were made, where appropriate.

### **Submission of the Neighbourhood Plan**

- 13 On Monday 13<sup>th</sup> March, the Chairman of Grovehill Future Forum formally submitted the Grovehill Future Neighbourhood Plan and supporting appendices (**Appendix A & B**) and further supporting documents to the Council (see 13 below), in accordance with the relevant legislation,

#### Supporting documents to the Submitted Neighbourhood Plan

- 14 The **Consultation Statement (Appendix C)** and **Basic Conditions Statement (Appendix D)** were also prepared in accordance with requirements within the *Neighbourhood Planning (General) Regulations 2012*

### **Conformity and acceptance of the Neighbourhood Plan by the Council**

- 16 Following receipt of the Grovehill Future Neighbourhood Plan and supporting documents the Neighbourhood Plan was checked to ensure conformity to ensure that and that it meets the general requirements.
- 17 **A Neighbourhood Plan** must:
  - *Meet the requirements of certain EU directives relating to human rights and habitat protection;*
  - *Be in keeping with policies that determine how UK planning decisions should be made which are set out in the National Planning Policy Framework and National Planning Practice Guidance;*

- *Be in compliance with the most important strategic policies prepared by the local planning authority; and*
- *Explain how the community and organisations have helped to prepare the Neighbourhood Plan.*

Although it is the Forum's responsibility to undertake any necessary environmental assessments and the LPA's duty to check the need for them and their fitness does not arise until after the inspection. Council Officers have worked with the Forum, during the creation of the NP to help avoid the need to make representations during consultation on the draft plan. Council Officers are satisfied that this element of the process has been carried out appropriately. .

18 The LPA must consider:

1. whether the parish council or neighbourhood forum is authorised to act (see 'determining the application criteria for a neighbourhood forum'),
2. whether the proposal and accompanying documents
  - a. comply with the rules for submission to the LPA (see 'receipt of an NDP by the LPA'), and
  - b. meet the 'definition of an NDP' and
  - c. meet the 'scope of NDP provisions', and
3. whether the parish council or neighbourhood forum has undertaken the correct procedures in relation to consultation and publicity (see 'pre submission consultation by the parish council or neighbourhood forum')

19 As the Grovehill Future Neighbourhood Plan did meet all of the requirements as set out by legislation and that the Council, as the LPA could now formally submit the Grovehill Future Neighbourhood Plan for Independent Examination.

20 On 26<sup>th</sup> April 2017 the Council formally acknowledged the Neighbourhood Plan as compliant, the Council was then required to carry out a formal 6 week publicity consultation on the website (Regulation 16) this took place from 14<sup>th</sup> June 2017.

21 Upon receipt of representations, the Council considered that there were no critical objections to the Neighbourhood Plan and moved to formally submit to Independent inspection in August 2017.

### **Independent Inspection of the Neighbourhood Plan**

22 In order to progress to inspection, the Council was required to choose a suitable 'Independent Examiner' and obtain the agreement of the Forum prior to their appointment and subsequent Inspection.

23 The Council considered two potential examiners, through the NPEIRS (the Neighbourhood Planning Examination Independent Referral Service). Both of these were put to the Forum, with a recommendation of the Council's preferred examiner, whom the Forum also indicated they would support.

24 Following Cabinet approval to progress to inspection, the Council formally requested the Forum's approval at their meeting on 8<sup>th</sup> May to appoint Nigel McGurk as the Independent Examiner

25 The Council formally submitted the Grovehill Future Neighbourhood Plan to the Independent Examiner for inspection along with any representations and any other documents submitted with the plan.

This included:

- 1) Map or statement identifying the area to which the plan relates
- 2) Consultation statement
- 3) The proposed plan
- 4) The qualifying bodies statement as to how the plan meets the basic conditions of Schedule 4B to the 1990 Act (including compliance with national policy, how it contributes to sustainable development, general conformity with the strategic policy of the development plan for the area, compatibility with EU obligations)
- 5) The SEA of the plan if required for that plan
- 6) A Habitat Regulations Assessment (where appropriate)
- 7) Any other relevant evidence
- 8) Any other document submitted to the LPA by the qualifying body in relation to the draft plan
- 9) A copy of any representations received in response to the draft plan

26 The formal Inspection took place in August 2017.

27 The Inspection could take two forms of either:

- a) a public hearing or
- b) written only representation

with the Inspection expected to take anything from 4 days to 2 weeks. In this case the inspection was undertaken as written only representation (as no significant objections were received which required a formal public hearing).

28 The Council was aware that the Inspection would provide either:

- a) approval to proceed to referendum;
- b) approval to proceed to referendum, subject to minor amendments to the Neighbourhood Plan; or
- c) Rejection of the Neighbourhood Plan.

### **Recommendations from the Examiner**

29 If the examiner had rejected the Neighbourhood Plan, the Council would have no further legal obligations regarding the Neighbourhood Plan. Where the recommendation from the examiner is 'approved to proceed to referendum without amendment', the Council could seek to undertake a referendum as soon as practicable.

30 Should the Examiner's report seek to make amendments, Cabinet approval in April 2017, allowed for amendments to be made without seeking further Cabinet approval to proceed to referendum.

31 Having received the examiner's recommendations and determined its response the Council can:

1. **make modifications** to correct errors, or to make the plan:
  - a. meet the basic conditions (note 2 and 2b)
  - b. compatible with the Convention rights
  - c. comply with the definition of an NDP and the provisions that can be made by a NDP
  - d. comply with suitable periods for making applications and starting development.
2. **extend the area** to which the referendum(s) are to take place. If the authority decides to extend the area for referendum it must publish a map for that area.
3. decide **that they are not satisfied** with the plan proposal with respect to meeting basic conditions, compatibility with Convention rights, definition and provisions of the NDP even if modified.

32 It is important to note that the legislation and guidance is clear that while neighbourhood plans are prepared by the community, with recommended modifications from the examiner, the final decision on whether the neighbourhood plan meets the basic conditions and can then proceed to a referendum lies with the local authority.

- 33 Following receipt of the Examiners report on 3 October 2017, it was recommended that the Neighbourhood Plan proceed to Referendum with minor amendments.
- 34 These changes were accepted and the necessary amendments to the Grovehill Future Neighbourhood Plan made.

**Referendum**

- 35 A ‘Decision Notice’ of the Examiner’s approval and schedule of changes were published on the Council’s website 2 November 2017. This notice acknowledged the Councils intention to hold a Referendum on 15<sup>th</sup> February 2018. A date in February was identified as being the most suitable (by the Council’s Electoral Services team), taking into account best practice of avoiding school holidays and for the necessary notices of poll etc.
- 36 Permission to hold the Referendum on a date longer than 56 days after approval from independent inspection was obtained from the Forum in October 2017
- 37 For a neighbourhood plan to pass the Referendum, it required the majority of the votes received to be in favour of making the Neighbourhood Plan a formal part of the Local Plan.
- 38 Where the majority of the referendum votes are in favour, the Council is required to ‘make’ the neighbourhood plan as soon as possible.
- 39 On Thursday 15<sup>th</sup> February 2018 a Referendum was held (overseen by the Council Electoral Services team).

**The results were as follows:**

Grovehill referendum results	Number of votes
The total number of ballot papers counted was	852
The number of votes cast in favour of YES was	657
The number of votes cast in favour of NO was	194

**Turnout:** 15.36%

- 40 The Forum were officially advised of the YES vote.

**Legal Challenge**

- 41 Following a successful YES vote at Referendum, a legal challenge can be made in relation to:
  1. *a LPA declining to make an NDP if an applicable referendum resulted in over half of those voting (50% plus 1) in favour, as soon as reasonably practical. The LPA is not to be subject to the duty if they consider that the making of the plan would breach, or otherwise be incompatible with any EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998.*  
  
*only if proceedings are brought by a claim for Judicial Review within 6 weeks of the day on which the decision is published.*
  2. *The consideration of Inspectors recommendations and decisions made upon them only if proceedings are brought by a claim for Judicial Review within 6 weeks of the day on which the decision is published.*

3. *The conduct of the referendum only if the proceedings are brought by a claim for judicial review and this is filed within 6 weeks beginning the day on which the results are published.*

- 42 As, the results were officially published on the Council's website on 16<sup>th</sup> February 2018 – the end of the 6 weeks judicial review period was 30<sup>th</sup> March 2018. No challenges were made during this time.
- 44 It is considered by the Council that relevant Neighbourhood Planning legislation was complied with at all times throughout the Neighbourhood Plan process. Cabinet are therefore asked to recommend that Council formally 'makes' the Grovehill Future Neighbourhood Plan as part of the Local Plan. This means that the policies contained within the Neighbourhood Plan will be used in the determination of planning applications within the defined area.