

THE MAKING (ADOPTION) OF THE WITCHFORD NEIGHBOURHOOD PLAN

Committee: Full Council

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[V4]

1.0 ISSUE

1.1 Following the successful referendum on 19 March 2020, the Witchford Neighbourhood Plan needs to be formally 'made' by East Cambridgeshire District Council and thereby be formalised as part of the Development Plan (alongside the 2015 Local Plan and other made Neighbourhood Plans) for East Cambridgeshire. Please note that the word 'made' is the word used in legislation when referring to Neighbourhood Plans, and means to all intents and purposes 'adopted'.

2.0 RECOMMENDATION(S)

2.1 That the Council:

- (A) congratulates Witchford Parish Council on its preparation of a Neighbourhood Plan and a successful referendum outcome, becoming the third parish council to do so in East Cambridgeshire; and
- (B) formally makes the Witchford Neighbourhood Plan (as attached at Appendix 1) part of the Development Plan for East Cambridgeshire with immediate effect.

3.0 BACKGROUND/OPTIONS

3.1 At the Parish Council's request, the Witchford Neighbourhood Area was designated by East Cambridgeshire District Council in August 2016. This paved the way for a Neighbourhood Plan to be prepared.

3.2 Following preliminary consultation and evidence gathering, the Witchford Neighbourhood Plan was submitted to the Council by Witchford Parish Council on 17 October 2019. As required by legislation, the District Council then published the Plan, for the purpose of final consultation, in October and November 2019. Following the publication period, the District Council submitted the Plan for independent examination. The examination commenced in December 2019 and concluded in February 2020. The examination was carried out through written representations. No public hearing session was required.

3.3 The examiner's report concluded that, subject to recommended modifications being followed (which were relatively minor in nature), the Witchford Neighbourhood Plan makes appropriate provision for sustainable development;

has appropriate regard to national policy; is in general conformity with the strategic policies in the development plan for the local area; and is compatible with EU obligations, including human rights requirements.

- 3.4 In February 2020, the Witchford Neighbourhood Plan was modified as per the examiner's recommendations. The District Council reviewed the modified plan, and was satisfied the Witchford Neighbourhood Plan meets the 'basic conditions' and other legal requirements, as detailed in the required Decision Statement (published 09 February 2020). Following publication of the Decision Statement, the Council proceeded to arrange a referendum.
- 3.5 In March 2020, a legal challenge was lodged by an external party against the Witchford Neighbourhood Plan on the grounds that, in summary, the Plan had not complied with legislative requirements. For the avoidance of doubt, the Council considers that the plan *does* meet its legal obligations, as discussed at para. 3.4.
- 3.6 As part of its legal challenge the external party tried, but was unsuccessful, in obtaining an injunction from the courts to prevent the Council from holding a referendum on the Witchford Neighbourhood Plan. Whilst the legal challenge remains ongoing, the status of the Plan is unaffected until the challenge is concluded. In addition, more recently, a second legal challenge has been lodged, but again, the Plan is unaffected until that challenge is concluded. The two challenges are by separate parties, both of whom have land interests in the Witchford area.
- 3.7 The Council proceeded to hold the referendum on Thursday 19 March 2020. Voters in Witchford were asked the following question (the question wording being set by legislation):
- Do you want East Cambridgeshire District Council to use the neighbourhood plan for Witchford to help it decide planning applications in the neighbourhood area?'*
- 3.8 Of the votes cast, 572 were in favour and 25 were against. 2 ballot papers were rejected.
- 3.9 With approximately 95% of votes in favour, the Witchford Neighbourhood Plan received the majority support it needed. Following the referendum result, the Neighbourhood Planning Act (2017) automatically gave the Witchford Neighbourhood Plan the same legal status as a plan which has been made (or 'adopted') by the applicable District Council. Accordingly, since the referendum result, the Council has treated the Witchford Neighbourhood Plan as part of the Development Plan for the purposes of decision-making.
- 3.10 However, despite this automatic post-referendum legal position, East Cambridgeshire District Council is required (by virtue of 38A(4) of the Planning and Compulsory Purchase Act, 2004) to formally 'make' the Witchford Neighbourhood Plan part of the Development Plan for the district.

3.11 The only exception to 38A(4) is if the Council considers “that the making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998)” (see s38A(6) of the Act). Officers, having carefully considered throughout the process the Plan, the evidence base of the Plan, the representations received on the Plan, the Examiner’s Report and the submitted legal challenges, do not consider there to be any such breach, and hence recommend the plan to be made.

4.0 ARGUMENTS/CONCLUSIONS

4.1 The Witchford Neighbourhood Plan received majority support at a duly held referendum of 19 March 2020. The District Council is therefore required to ‘make’ the Witchford Neighbourhood Plan part of the Development Plan for East Cambridgeshire, as per the will of the majority of voters in Witchford. In doing so, legally it has the same status as the 2015 East Cambridgeshire Local Plan. The ongoing legal challenge does not prevent the Council from adopting the plan, nor does it remove the Council’s obligation to uphold the referendum result.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 There are no financial implications arising from this decision. Costs incurred to date by the District Council (for example, officer support and referendum costs) have been broadly covered by the fixed £25,000 grant payable to East Cambridgeshire District Council by Government (a grant payable for each Neighbourhood Plan which reaches the referendum stage).

5.2 Equality Impact Assessment is not required.

5.3 Climate Impact Assessment not required.

6.0 APPENDICES

6.1 Appendix 1: Witchford Neighbourhood Plan (circulated separately)

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
	Room 12, The Grange, Ely	Edward Dade Strategic Planning Officer (01353) 616458 E-mail: edward.dade@eastcambs.gov.uk