



**Epping Forest
District Council**

Report to the Cabinet

Report reference: C-005-2019/20

Date of Meeting: 11 July 2019

Subject: Moreton, Bobbingworth and the Lavers Neighbourhood Plan

Responsible Officer: Alison Blom-Cooper (01992 564066)

Democratic Services: Adrian Hendry (01992 564246)

Recommendations/Decisions Required:

- (1) To consider the recommendations included in the Examiner's Report;**
- (2) To agree that the draft Moreton, Bobbingworth and the Lavers Neighbourhood Plan, with proposed amendments, meets the basic conditions and is compatible with European obligations; and**
- (3) To approve the Decision Statement (see Appendix A) for the Moreton, Bobbingworth and the Lavers Neighbourhood Plan to progress to referendum.**

Executive Summary:

The Examiners Report for the draft Moreton, Bobbingworth and the Lavers Neighbourhood Plan the (MBL Neighbourhood Plan) was received by Epping Forest District Council on 17 June 2019. The Examiners Report recommended that, with modifications, the MBL Neighbourhood Plan meets the basic conditions and should proceed to a local referendum. The recommended referendum area is the Parish of Moreton, Bobbingworth and the Lavers.

This report sets out the background to the MBL Neighbourhood Plan, the recommendations made by the Examiner, the Council's proposed action against each of the recommendations and potential timescale for a local referendum.

Reasons for Proposed Decision:

To comply with the statutory requirements in relation to Neighbourhood Planning and to progress the Draft MBL Neighbourhood Plan to referendum stage.

Other Options for Action:

Not to make a decision on the draft MBL Neighbourhood Plan and the recommendations in the Examiner's Report. This would mean that the Council is not meeting the legislative requirements and is not fulfilling its statutory duty in the production of neighbourhood plans.

Background:

1. Moreton, Bobbingworth and the Lavers Parish Council started to prepare a Neighbourhood Plan for the Parish in 2013. A draft plan was produced and consulted upon in 2014 and a further draft plan was produced and consulted in 2015. The plan was submitted for examination and the examiner's report was published on 18 May 2016. This recommended that the plan should not proceed to referendum as it did not meet the basis conditions. The Examiner's report was considered at the Cabinet meeting on 21 July 2016 where the Council agreed that the Neighbourhood Plan proposal should be refused and therefore should not proceed to the referendum stage.

2. Since then the draft plan has been revised by the Parish Council and underwent further consultation in 2017. A revised plan was submitted to the Council on 30 November 2018 and was published under Regulation 16 between 22 January and 5 March 2019. Following that an Independent Examiner was appointed by the Council with the agreement of the Parish Council (Mr Nigel McGurk BSc (Hons) MCD MBA MRTPI) to examine the draft Plan against the basic conditions set out in the Localism Act 2011 (as amended). The examination took place by way of the written representation procedure. The Examiner's Report was received on 17 June 2019 and recommends that, subject to a number of modifications, the draft MBL Neighbourhood Plan meets the basic conditions and should progress to referendum.

3. The next step is for the Council to consider the Examiner's recommendations, form a view on whether the draft MBL Neighbourhood Plan meets the basic conditions, and if so organise a local referendum as soon as practicable.

Examiner's recommendations:

4. Paragraph 12 of Schedule 4B of the Town and Country Planning Act (1990) requires local authorities to consider each of the examiners recommendations, the reasons for them and decide what action to take in response to each recommendation. It must also come to a formal view about whether the draft plan meets the basic conditions. If the authority is satisfied that the draft plan meets the basic conditions (requirements of para 8 schedule 4B to the 1990 Act) and is compatible with respective European obligations such as Human Right Convention and Habitats Directive, a referendum must be held.

5. The Local authority's decision on the examiner's recommendations is bound by section 14 of Schedule A2 of the Planning and Compulsory Purchase Act 2004. Following a referendum with a majority vote, local authorities must make the draft plan with examiner's recommended modifications except where the authority considers that the modifications are incompatible with any European obligations. It is possible to include minor modifications to the Plan for the purposes of correcting errors such as typos and grammatical mistakes. The following table outlines each of the Examiner's 32 recommendations and the Council's proposed actions against them.

Examiner's recommendation and EFDC proposed actions

| Ref. | Examiner's recommendations | Proposed action |
|------|--|------------------------------|
| 1 | Page 5, Neighbourhood Plan, penultimate paragraph, delete first sentence ("This is a long term plan covering the next 20 years.") | To accept the recommendation |
| 2 | Page 3, Para A5, change to "...In addition Epping Forest's emerging District Local Plan is nearing adoption and the Moreton, Bobbingworth and the Lavers Neighbourhood Plan has taken relevant information relating to this emerging District-wide Local Plan into account." | To accept the recommendation |
| 3 | Delete "draft" from Paras A11, A14, A17, A24, A27 (second "draft" only), | To accept the recommendation |
| 4 | Delete Para A28, which has been overtaken by events, but retain the last sentence and change to "This Neighbourhood Plan will guide...18 years." | To accept the recommendation |
| 5 | Page 5, Para A29, change to "...with monitoring the Neighbourhood Plan, with the aim of ensuring that its objectives and policies are effective. In addition...for." | To accept the recommendation |
| 6 | Para A30, change to "...the next 18 years. It..." | To accept the recommendation |
| 7 | Page 6, delete "Development which has a detrimental...not be supported." | To accept the recommendation |
| 8 | Policy MBL 1.1, change the Policy text to "New open market housing developments should predominantly comprise one or two bedroomed homes. All new development should be sensitively designed to respect local character and to conserve heritage assets and their settings. Affordable housing should be of a type and tenure that reflects the latest available local affordable housing needs survey." (delete rest of Policy) | To accept the recommendation |
| 9 | Policy MBL 1.2, change the Policy text to "The delivery of affordable housing through rural exception sites where appropriate should take into account the need to minimise impacts on the openness of the Green Belt." (delete rest of Policy) | To accept the recommendation |
| 10 | Policy MBL 1.3, change the Policy text to "The conversion of a redundant building into residential use will be supported where the building is of permanent and substantial construction and development preserves the openness of the Green Belt. The incorporation of sustainable construction techniques and renewable energy technologies that respect the character of the building and its surroundings will be supported." (delete rest of Policy) | To accept the recommendation |
| 11 | Policy MBL 1.4, change the Policy text to "The replacement of a permanent dwelling will be supported, subject to the new dwelling not being materially larger than the one it replaces. Replacement dwellings should be sympathetic to and respect local character. The incorporation of sustainable construction techniques and renewable energy technologies that respect the character of the building and its surroundings will be supported." (delete rest of Policy) | To accept the recommendation |
| 12 | Page 9, supporting text, second para, line 10, change to "...must have regard to national planning policy and advice and be in general conformity with our District's Local Plan." (delete remainder of sentence) | To accept the recommendation |

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| 13 | Page 9, supporting text, last para, delete and replace with “National Green Belt policy is set out in the Green Belt chapter of the National Planning Policy Framework. This establishes that the construction of new buildings in the Green Belt is inappropriate, but that exceptions to this include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; limited infilling in villages, and limited affordable housing for local community needs; the redevelopment of brownfield land; and the re-use of buildings provided that they are of permanent and substantial construction.” | To accept the recommendation |
| 14 | Delete Policy MBL 2.1 | To accept the recommendation |
| 15 | Policy MBL 2.2, change wording to “Proposals for the sustainable growth and expansion of business and enterprise, both through the conversion of existing buildings and the development of well-designed new buildings, will be supported, subject to demonstrating respect for local character, residential amenity and highway safety. Development should, where viable and deliverable, incorporate renewable and low carbon technologies.” (Delete rest of Policy) | To accept the recommendation |
| 16 | Policy MBL 2.3, change wording to “The development and diversification of agricultural and other land-based rural businesses will be supported, subject to taking into account local character, residential amenity and highway safety Development should, where viable and deliverable, incorporate renewable and low carbon technologies.” (Delete rest of Policy) | To accept the recommendation |
| 17 | Delete Policy MBL 2.4 | To accept the recommendation |
| 18 | Page 8, supporting text, first para, first line, change to “The Parish Council is keen to enable small businesses...employment opportunities.” Delete second sentence. | To accept the recommendation |
| 19 | Page 8, supporting text, second para, first line, change to “The Parish Council also seeks to ensure that development is sympathetic to the...signage and parking. The Parish Council is keen to ensure that the approach to new development does not preclude modern...designs; and that business growth does not result in harm to highway safety, for example through a significant amount of extra...rural lanes. The Parish Council is also keen to target zero carbon emissions and encourage the use of renewable technologies.” | To accept the recommendation |
| 20 | Policy MBL 3.1, change first line to “Proposals for communications infrastructure will be supported provided that the following criteria are met” | To accept the recommendation |
| 21 | MBL 3.1 ii, add “...seek to minimise any impact on the external...” | To accept the recommendation |
| 22 | MBL 3.1 iii, delete the second sentence (“Such...authority”) which is a planning application requirement matter for the Local Planning Authority | To accept the recommendation |
| 23 | Delete the final criterion (“iv. the development...interest”) | To accept the recommendation |
| 24 | Page 14, supporting text, first para, change to “The Parish Council seeks the improvement of broadband speeds and mobile phone signals for residents and businesses, to enhance quality...our Parish. We will...” | To accept the recommendation |

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| 25 | Policy MBL 4.1, change to “Development should not result in harm to highway safety.” (delete rest of Policy) | To accept the recommendation |
| 26 | Policy MBL 4.2, change to “New development should provide sufficient off-road parking spaces such that development does not result in increased on-road car parking. Development must achieve adopted County car parking standards as a minimum.” (delete rest of Policy) | To accept the recommendation |
| 27 | Policy MBL 4.3, change to “Improvements to public rights of way will be supported, as will proposals to enhance rights of way as green corridors in the living landscape.” | To accept the recommendation |
| 28 | Page 15, supporting text, delete Para A69 and replace with: “Whilst not an issue that can be tackled by the Neighbourhood Plan, the Parish Council, whilst recognising the need for the movement of people and goods by road, would like to see a reduction in the negative impacts caused by vehicles to roads and lanes within the Parish. The Neighbourhood Plan provides for highway safety, car parking and the enhancement of public rights of way.” | To accept the recommendation |
| 29 | Policy MBL 5.1, delete wording and replace with “Renewable energy installations will be supported where they respect local character and residential amenity.” | To accept the recommendation |
| 30 | Page 16, supporting text, Para A72, delete and replace with “The Parish Council seeks to reduce the carbon footprint of the Parish and will encourage proposals to incorporate the technology to help to achieve this.” | To accept the recommendation |
| 31 | Update the Contents and where necessary, Policy, paragraph and page numbering, to take into account the recommendations contained in this Report. | To accept the recommendation |
| 32 | I recommend to Epping Forest District Council that, subject to the recommended modifications, the Moreton, Bobbingworth and the Lavers Neighbourhood Plan should proceed to a Referendum. | To accept the recommendation |

6. Taking into account the recommendations in the Examiner’s Report, it is considered that the draft MBL Neighbourhood Plan meets the basic conditions and should proceed to a local referendum. Section 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires local authorities to produce a decision statement on the above matters within five weeks of the publication of the Examiner’s Report, or within a timescale agreed with the qualifying body (the MBL Parish Council). The draft decision statement is included in Appendix A of this report.

Local Referendum

7. To meet the requirements of the Localism Act 2011 a referendum will need to be held in the area formally designated as the Moreton, Bobbingworth and the Lavers Neighbourhood Area. In this case the designated area is the same as the parish of Moreton, Bobbingworth and the Lavers. The proposed date for the referendum is 26 September 2019. In accordance with Schedule 1 of the Neighbourhood Planning (Referendums) Regulation 2012, the question to be used in the referendum will be:

“Do you want Epping Forest District Council to use the Moreton, Bobbingworth and the Lavers Neighbourhood Plan to help it decide

planning applications in the Moreton, Bobbingworth and the Lavers Neighbourhood Area?"

8. If the majority of those who vote in a referendum are in favour of the draft neighbourhood plan, the Council will need to formally adopt the Neighbourhood Plan within 8 weeks of the referendum.

Resource Implications:

The activities in relation to the publication of the decision statement and the cost for undertaking local referendum are all to be met within the 2019/20 budget. The Council can claim £20,000 grant once a date has been set for a referendum following a successful examination.

Legal and Governance Implications:

It is the Council's statutory duty to make a decision on the draft MBL Neighbourhood Plan and the recommendations in the Examiner's Report, as well as undertaking a local referendum on the draft Plan.

Safer, Cleaner, and Greener Implications:

N/A

Consultation Undertaken:

N/A.

Background Papers:

Examiner's Report on the Draft MBL Neighbourhood Plan (2018)

The Draft MBL Neighbourhood Plan and associated documents

Report to Cabinet on 21 July 2016

All documentation is available on the Council's website at:

<https://www.eppingforestdc.gov.uk/planning-and-building/planning-policy/neighbourhood-planning/moreton-bobbingworth-and-the-lavers-neighbourhood-plan-examination/>

Risk Management:

To avoid being challenged on not meeting relevant legal requirements, the Council should make a decision on the MBL Neighbourhood Plan and progress the Plan to the referendum stage in a timely manner in line with the timescale set out in the relevant legislations.

Appendix A

The Neighbourhood Planning (General) Regulations 2012

Regulation 18 Decision Statement

Summary

Moreton, Bobbingworth and the Lavers Neighbourhood Plan

Following an Independent Examination Epping Forest District Council confirms formal acceptance of the recommendations outlined in the Chigwell Neighbourhood Plan Examination Report. The Examiner recommended that the Moreton, Bobbingworth and the Lavers Neighbourhood Plan (hereafter, the Plan) should proceed to referendum as, subject to recommendations made by the Examiner, the plan meet all of the basic conditions required of a Neighbourhood Plan. This matter was considered at the Epping Forest District Council Cabinet Meeting held on 11 July 2019 where the Cabinet agreed that, the plan proposal be accepted and should therefore proceed to referendum.

Background

Moreton, Bobbingworth and the Lavers Parish Council, as the qualifying body successfully applied in 2013 for the whole Parish to be designated as a Neighbourhood Area, under the Neighbourhood Planning (General) Regulations (2012), which came into force on 6 April 2012.

A draft neighbourhood plan was produced and consulted upon in spring 2014 and a further draft plan was produced and consulted in spring 2015. The plan was submitted in September 2015 for examination and the examiner's report was published in May 2016. The report recommended that the plan should not progress to referendum as it did not meet the basis conditions.

A revised plan was published and consulted upon in winter 2017. The revised plan was submitted and publicised between 22 January 2019 and 5 March 2019. All representations were sent to the independent examiner appointed to examine the plan which was undertaken under the written representations procedure. The Examiner's Report was published on 17 June 2019.

Recommendations, Decisions and Reasons

The Neighbourhood Planning (General) Regulations 2012 (Regulation 18) require the local planning authority to outline what action is to be taken in response to the recommendations of an examiner under paragraph 10 of Schedule 4a to the Town and Country Planning Act 1990 (as applied by Section 38A of the Planning and Compulsory Purchase Act 2004).

Having considered the recommendations made in the Examiner's Report, and the reasons for them, Epping Forest District Council has agreed to accept the modifications made to the draft plan under paragraph 12(6) of Schedule 4B to the Town and Country Planning Act

1990 in response to the Examiner's recommendations. The Council also agreed that the plan proposal should proceed to referendum.

The report to Cabinet on 11 July 2019 can be viewed at

[\[link\]](#)

The Examiner's Report can be viewed at:

<https://www.eppingforestdc.gov.uk/planning-and-building/planning-policy/neighbourhood-planning/moreton-bobbingworth-and-the-lavers-neighbourhood-plan-examination/>

Local Referendum

To meet the requirements of the Localism Act 2011 a referendum which poses the question,

'Do you want Epping Forest District Council to use the Moreton, Bobbingworth and the Lavers Neighbourhood Plan to help it decide planning applications in the Moreton, Bobbingworth and the Lavers Neighbourhood Area?'

will be held in the area formally designated as the Moreton, Bobbingworth and the Lavers Neighbourhood Area.

The date on which the referendum will take place is 26 September 2019.