

Report of Head of Policy and Plans

Report to Chief Planning Officer

Date: 27 February 2019

Subject: The Making of Kippax Neighbourhood Plan

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, name(s) of ward(s): Kippax and Methley		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:		
Appendix number:		

Summary of main issues

1. On 14 February 2019 a local referendum was held on the Kippax Neighbourhood Plan (hereafter Kippax NP). The Kippax NP can be viewed: <https://www.leeds.gov.uk/planning/planning-policy/neighbourhood-planning/kippax-neighbourhood-plan>. 88.7% of those who voted were in favour of the Plan being made.
2. Section 3 of the Neighbourhood Planning Act 2017 (enacted) states that Plans are considered part of the Development Plan once they have received a 'yes' vote at referendum and that they should be given full weight in the determination of planning applications in the Neighbourhood Area.
3. The Kippax NP forms part of the Council's Development Plan and will be used by the Council alongside other local planning documents to determine planning applications in the Kippax Neighbourhood Area. The Council is now formally making the Plan part of the Development Plan. The Plan sets out a locally distinctive vision for the area and is the result of local consultation and positive collaboration between the Parish Council and the Council.

1. Recommendations

It is recommended that:

The Chief Planning Officer makes the Kippax Neighbourhood Plan for the Kippax Neighbourhood Area.

Purpose of this report

- 1.1 This report recommends that the Chief Planning Officer makes the Kippax NP following the result of the local referendum on Thursday 14 February 2019 where a majority of those voting (88.7%) voted in favour the Plan.

2. Background information

- 2.1 The Localism Act 2011 amended the Planning and Compulsory Purchase Act 2004 to introduce major reforms to the planning system, giving local communities the 'right' to prepare a neighbourhood plan. A neighbourhood plan is a statutory planning document which can set out local planning policies for the development and use of land in a neighbourhood and is subject to public consultation, independent examination and a referendum.
- 2.2 A neighbourhood plan must meet the statutory 'basic conditions', the key 'conditions' being 'general conformity' with local strategic planning policies and 'regard' to the national planning policies in the National Planning Policy Framework. These set the parameters for the plan and an independent examiner then assesses whether a plan meets the 'basic conditions' or not.
- 2.3 There are 35 groups in Leeds preparing neighbourhood plans. Of the 35, 10 have been formally made by the Council. Over the next 12 months it is expected that many more of the Plans will reach examination and referendum stage. Clifford was the first neighbourhood plan in Leeds to be formally made by the Council's Executive Board in March 2017. Executive Board also resolved that further plans in Leeds that come forward can be made by the Chief Planning Officer through delegated powers.

3. Main issues

Referendum

- 3.1 A referendum was held in the Kippax Neighbourhood Area on Thursday 14 February 2019 and posed the question "Do you want Leeds City Council to use the Neighbourhood Plan for Kippax to help it decide planning applications in the neighbourhood area?"
- 3.2 A majority of those who voted were in favour of the Kippax NP being used to help decide planning applications in the neighbourhood area. The results of the referendum were:

Response	Votes
Yes	1337 (88.7%)
No	170 (11.3%)
Turnout	20.2%

Making the Plan

- 3.3 Section 3 of the Neighbourhood Planning Act 2017 (enacted) states that:
"a neighbourhood plan which relates to that area also forms part of the development plan for that area if-

- (a) Section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but*
- (b) The local planning authority to whom the proposal for making the plan has been made have not made the plan.”*

- 3.4 This means that once a neighbourhood plan has received yes vote at referendum, a plan is considered part of the development plan for the area in the determination of planning applications.
- 3.5 Given that more than half of those voting voted in favour of the Plan, statutory requirements state that the Council must make the Kippax NP within 8 weeks following the day of the referendum. It is therefore considered appropriate for the Council to formally make the Kippax NP part of the Development Plan for Leeds.
- 3.6 The Council has no discretion in making the Plan unless it considers that 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).
- 3.7 Officers are satisfied that the making of the Kippax NP would not breach, nor be otherwise incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

4. Corporate considerations

Once the Kippax NP is made, it will be part of the Development Plan for Leeds.

4.1 Consultation and engagement

- 4.1.1 The Plan was prepared through ongoing community consultation and engagement as well as collaboration with the Council.
- 4.1.2 Ward Members and the Executive Member have been kept informed of the Plan's progress by both officers and the Parish Council.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 The Government has undertaken an Equalities Impact Assessment of the Localism Act in relation to neighbourhood planning (2011). The Council views the neighbourhood planning process as an opportunity to deliver equality, diversity, cohesion and integration objectives. Neighbourhood Plans by their very nature should be inclusive and be shaped by a range of people who live, work and carry out business in a neighbourhood area.

4.3 Council policies and best council plan

- 4.3.1 Neighbourhood planning links well to all three of the Council's corporate priorities set out in the Vision for Leeds:
- Leeds will be fair, open and welcoming (neighbourhood plans must not breach, and be otherwise compatible with, EU obligations and be compatible with human rights requirements);
 - Leeds' economy will be prosperous and sustainable (the making of the neighbourhood plan must contribute to the achievement of sustainable development);

- All Leeds' communities will be successful (the making of the neighbourhood plan must be in general conformity with the strategic policies contained in the development plan for Leeds, a significant part of which is planning for growth).

4.4 Resources and value for money

- 4.4.1 The expenditure cost of neighbourhood plans to the Council varies, related to local issues and the local capacity to prepare a plan as well as the size of the referendum area. The Parish Council has had a high capacity to prepare the Plan. The cost to the Council of the Kippax NP independent examination was £6822.36 and the referendum was £10302.35
- 4.4.2 Local Planning authorities are able to claim £20,000 from the Ministry of Housing, Communities and Local Government following the successful examination of a neighbourhood plan and the fixing of a date for the referendum. A claim for £20,000 for the Kippax NP has been submitted.

4.5 Legal implications, access to information, and call-in

- 4.5.1 As soon as possible after a neighbourhood plan is made, the Local Planning Authority must publish the Plan together with the 'decision statement'. This will set out the details of where and when the Plan can be viewed. The decision is exempt from call-in pursuant to Rule 5.1.3 of the Executive Decision making Procedure rules as it is considered urgent as any delay in making the decision will seriously prejudice the Council's interest, namely that it would not be possible to make the Plan in accordance with the statutory timeframe which requires that the Plan be made within 8 weeks from the day after the referendum is held.

4.6 Risk management

- 4.6.1 The Examination process tested the Kippax NP against the 'Basic Conditions'. The modifications that were recommended by the Examiner have amended the Plan so that it fully meets the Basic Conditions. This has minimised risk of challenge and removed any potential conflict between the Neighbourhood Plan and the adopted policies of the development plan. The process has resulted in clear, robust and deliverable policies for applicants and the Council as the Local Planning Authority.
- 4.6.2 Once a neighbourhood plan is made, its policies take precedence over existing non-strategic policies in the Local Plan for that neighbourhood area if there is conflict. However, with the collaboration between the Council and the Parish Council throughout the preparation of the Plan, no areas of conflict have been identified.

5. Conclusions

- 5.1 The Plan meets the statutory 'basic conditions' and given the referendum result it must be made by the Council.

6. Recommendations

- 6.1 It is recommended that:

The Chief Planning Officer makes the Kippax Neighbourhood Plan for the Kippax Neighbourhood Area.

7. Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.