



## Committee report

Committee	<b>CABINET</b>
Date	<b>13 JULY 2017</b>
Title	<b>REVIEW GURNARD NEIGHBOURHOOD PLAN</b>
Report to	<b>CABINET MEMBER FOR PLANNING AND HOUSING</b>

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### EXECUTIVE SUMMARY

1. The purpose of this report is to consider modifications to the proposed Gurnard Neighbourhood Development Plan (GNDP) (see the Appendix), to agree to proceed to a referendum and to make (bring into force) the GNDP subject to the outcome of the referendum.

### BACKGROUND

2. The Localism Act 2011 introduced a mechanism for local communities to produce neighbourhood plans, that once adopted are used alongside the [National Planning Policy Framework](#) (NPPF) and the Local Plan (the [Island Plan Core Strategy](#)) to determine planning applications.
3. The GNDP has been through independent examination, and the independent [examiner's report](#) was received on 20 June 2017. It recommended that the GNDP proceeds to a referendum subject to a number of modifications being made.
4. As set out in the national [Planning Practice Guidance](#) (PPG) once the local authority has received the examiner's report, the local authority reaches its own view and, through its Cabinet, takes the decision on whether the plan proceeds to referendum.
5. Representatives of the parish council have also received the examiner's report. Officers have been liaising with the parish council to understand whether they accept the recommended modifications.
6. The final decision on whether the neighbourhood plan meets the basic conditions and can then proceed to a referendum lies with the council.
7. The local authority is responsible for administering the referendum.

8. If the decision is made to proceed with referendum, the anticipated date of the referendum would be Thursday 7 September 2017. This date has been identified as being the most suitable, taking into account best practice of avoiding school holidays and to allow for the necessary notices to be issued after the Cabinet decision.
9. For a neighbourhood plan to pass the referendum, it requires the majority of the votes received to be in favour. If the majority of the votes are in favour the council is required to make the neighbourhood plan as soon as possible. Therefore this report also seeks agreement to make the GNDP, if it is supported through the referendum.

#### Modifications to the GNDP following examination

10. Representatives of the parish council's GNDP steering group and Planning Services officers have liaised regarding the examiner's report and how to deal with all the recommended modifications and other changes.
11. The parish council has agreed the recommended modifications, and notified officers. This position will be formally ratified at the parish council meeting on the 12 July. In the unlikely situation that the recommended modifications are not agreed, the council will receive a request to remove this report from the Cabinet agenda. This will enable further discussion to take place regarding the recommended modifications. While the parish council's agreement to the recommended modifications is not a requirement, it is considered appropriate for such agreement to be in place.
12. It is for the council to make the final determination on whether the neighbourhood development plan proceeds to a referendum. Officers are satisfied that the [proposed plan](#), as set out in the Appendix, meets the basic conditions.

#### STRATEGIC CONTEXT

13. The making of the GNDP will underline the council's commitment to working with the community and town and parish councils, as set out in the Isle of Wight Council's Corporate Plan 2015-2017 particularly priorities 1 (supporting growth in the economy, making the Island a better place and keeping it safe) and 4 (ensuring that all the resources available to the Island are used in the most effective way in achieving the Island's priorities).

#### CONSULTATION

14. A [Consultation Statement](#) (and accompanying [appendices](#)) demonstrates the consultation carried out during the preparation of the GNDP.
15. A six week statutory consultation was undertaken by the council from Friday 13 January 2017 to Monday 27 February 2017. [Representations](#) were received from nine respondents, and these were forwarded to the examiner.

#### FINANCIAL / BUDGET IMPLICATIONS

16. It is a legal requirement that the council covers the costs of the formal stages of a neighbourhood plan and the referendum.

17. The council is able to claim up to £20,000 grant to cover these costs. Once the GNDP has been made there will be no further financial implications for the council.

### LEGAL IMPLICATIONS

18. The rules governing the process for making of neighbourhood development orders can be found in Schedule 4B of the Town and Country Planning Act 1990 (the Act), by virtue of Section 38A of the Planning and Compulsory Purchase Act 2004 and those covering all aspects of organising and conducting the polls can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012. The supporting information includes a [final environmental assessment](#).
19. Based on the information provided, and the work undertaken by officers, it is considered that the proper process including consultation as required under the legislation and guidance has been followed.
20. If the council is satisfied:
- (a) that the draft order meets the basic conditions mentioned in paragraph 8(2) of Schedule 4B of the Act, is compatible with the convention rights and complies with the provision made by or under sections 61E(2), 61J and 61L of the act; or
  - (b) that the draft order would meet those conditions, be compatible with those rights and comply with that provision if modifications were made to the draft order (whether or not recommended by the examiner),
- a referendum must be held by the council. In any other case the proposal must be refused.
21. Once the GNDP has been made it will form part of the development plan, alongside the NPPF and the Island Plan Core Strategy, and together these documents will be used to determine planning applications within the parish of Gurnard.

### EQUALITY AND DIVERSITY

22. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
23. A full equality impact assessment (EIA) on the GNDP was undertaken. It identified that due to the population age demographic in Gurnard parish, there could be a potential impact. However, the assessment went on to demonstrate that the plan is unlikely to have a negative impact on any of the protected characteristics and could facilitate positive impacts.

24. Furthermore, the GNDP is required to be in general conformity with the strategic policies of the core strategy which, as a higher level policy document, has already been subject to its own EIA. When determining planning applications relevant national guidance, policy and legislation are required to be considered, which would take account of our legal duties under equality legislation. The EIA was finalised following consideration of the consultation responses and the examiner's report.

## OPTIONS

25. The options are set out as follows:
- a) To agree that the proposed Gurnard Neighbourhood Development Plan, as attached, meets the requirements of paragraph 12(4) of Schedule 4B to the Town and Country Planning Act 1990, as amended by part 3 of the Planning and Compulsory Purchase Act 2004 and therefore proceeds to a referendum covering the designated neighbourhood plan area of the parish of Gurnard.
  - b) If there is a positive referendum vote in favour of the proposed Gurnard Neighbourhood Development Plan, that the plan be made (brought into force) as soon as possible and form part of the statutory development plan.
  - c) Not to agree that the proposed Gurnard Neighbourhood Development Plan, as attached, proceeds to a referendum.
  - d) To authorise the head of place to make editorial amendments to the proposed Gurnard Neighbourhood Development Plan, in consultation with the Cabinet member for planning and housing services. These changes will not alter the meaning of the document and will be restricted to correcting factual, grammatical and typographical errors and improving clarity.

## RISK MANAGEMENT

26. The council needs to be satisfied that the GNDP meets the requirements of paragraph 12(4) of Schedule 4B to the Town and Country Planning Act 1990, as amended by part 3 of the Planning and Compulsory Purchase Act 2004. In doing so the council must then refer the proposal to a referendum. Officers are satisfied that with the [modifications identified](#), the GNDP meets the requirements. Without the changes being made it is considered that the GNDP would not meet the basic conditions and should therefore not proceed to referendum.
27. Should there be a positive referendum and the council does not then make the GNDP, it will not be meeting its legal responsibilities.
28. This would lead to uncertainty for any development proposals within the parish of Gurnard, and would have serious implications for the relationship between the council and the parish council. It may also result in other neighbourhood plan areas not wanting to proceed due to the uncertainty.

## EVALUATION

29. Officers consider that the proposed Gurnard Neighbourhood Development Plan, incorporating the recommended modifications, meets the national requirements to proceed to the next stage of preparation (a referendum).
30. It is considered that there is no procedural reason why the proposed plan should not proceed, and that there would be reputational damage to the council along with a harmful impact on the council's relationship with the parish council if the decision was taken not to proceed.
31. If, at the referendum, there is a majority vote supporting the plan, the council is required by legislation to 'make' the plan. If the majority vote does not support the proposed neighbourhood development plan, the council will not bring it into force. In this scenario Gurnard Parish Council will then need to consider whether it takes no further action, or takes a revised version of the plan through the required consultation processes.

## RECOMMENDATION

32. To agree that the proposed Gurnard Neighbourhood Development Plan, as attached, meets the requirements of paragraph 12(4) of Schedule 4B to the Town and Country Planning Act 1990, as amended by part 3 of the Planning and Compulsory Purchase Act 2004 and therefore proceeds to a referendum covering the designated neighbourhood plan area of the parish of Gurnard.
33. If there is a positive referendum vote in favour of the proposed Gurnard Neighbourhood Development Plan, that the plan be made (brought into force) as soon as possible and form part of the statutory development plan.
34. To authorise the head of place to make editorial amendments to the proposed Gurnard Neighbourhood Development Plan, in consultation with the Cabinet member for planning and housing. These changes will not alter the meaning of the document and will be restricted to correcting factual, grammatical and typographical errors and improving clarity.

## APPENDICES ATTACHED

[Appendix](#) – Draft Gurnard Neighbourhood Development Plan

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