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| Report for: ACTION/INFORMATION |
| Item Number: 8 |

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| Contains Confidential or Exempt Information | NO |
| Title | West Ealing Centre Neighbourhood Plan |
| Responsible Officer(s) | David Moore, Interim Director of Regeneration and Planning |
| Author(s) | Steve Barton, Strategic Planning Manager and Samuel Cuthbert, Principal Policy Planner |
| Portfolio(s) | Cllr Julian Bell, Leader of the Council |
| For Consideration By | Cabinet |
| Date to be Considered | 16 th Jan 2018 |
| Implementation Date if Not Called In | 29 th Jan 2018 |
| Affected Wards | Ealing Broadway, Cleveland, Elthorne, and Walpole. |
| Keywords/Index | Local development Plan, Local development Framework, Neighbourhood Planning, Localism. |

Purpose of Report:

This report provides an update on the emerging West Ealing Centre Neighbourhood Plan and sets out the proposed revisions to the plan arising from its examination and seeks authorisation to proceed to joint referenda in May 2018.

1. Recommendations

It is recommended that Cabinet:

- 1.1 Agrees to the wording of draft West Ealing Centre Neighbourhood Plan as set out in Appendix 1 and, in particular, agrees to the revisions to the plan noted in Paras 3.12.
- 1.2 Agrees to proceed to resident and business referenda on the Plan within the boundary of the plan area as set out on p12 of Appendix 1.

- 1.3 Agrees that the Council will draw down a contribution of up to £0.010m towards its costs from the government's Neighbourhood Planning Grant (NPG) which will defray most of the costs.
- 1.4 Agrees to meet any costs exceeding the £0.010m NPG funding in covering the costs of conducting the referenda from the Council's £0.025m corporate budget available in the 2018/19 MTFS for Neighbourhood Planning referenda, subject to confirmation of the availability of the budget by Democratic Services.
- 1.5 Authorises the Counting Officer to publish the Notices of Referendums and take the necessary steps to hold referendums for residents and businesses for a 3rd May 2018 poll.
- 1.6 Agrees that approval of the Boundaries Panel is sought, to use only one central area polling place for the Business Referendum.
- 1.7 Note and agree that in the event that the outcome of the referenda is split and it falls to the Council to decide whether or not to bring the Plan into force a further report will be brought back to Cabinet for decision in accordance with the criteria set out in paragraphs 3.18 and 3.19 below.
- 1.8 Note that in the event of a positive referendum outcome the plan will immediately take force for planning decisions, and a report will be submitted to full Council to complete the process of formal adoption.

2. Reason for Decision and Options Considered

- 2.1 The reasons are:
 1. To agree proposed modifications and revisions to the Central Ealing Neighbourhood Plan, and
 2. To proceed to a referendum of residents and businesses on Thursday 3 May 2018.
- 2.2 The Plan has been the subject of an independent examination process, and following receipt of an Examiner's report the Council is required to decide whether or not to take the Plan to referendum.
- 2.3 Whilst the Council is not bound by the Inspector's recommendations a failure to accept them without good reason runs the risk of legal challenge and/or intervention by the Secretary of State for Communities and Local Government.

3. Key Implications

- 3.1 A neighbourhood plan is a community-led framework for guiding the future development of an area. Once adopted it becomes part of the statutory development plan for an area and provides policies which are used to help determine planning applications.
- 3.2 The West Ealing Centre Neighbourhood Plan (WECNP) is primarily focused on the western part of the Metropolitan Centre around West Ealing and

comprising parts of four wards – Ealing Broadway, Cleveland, Elthorne, and Walpole. Central Ealing forms the other part of the Centre and is subject to a separate Neighbourhood Plan that was approved at joint referenda on 12th October 2017.

- 3.3 The plan area is also a “business area” which means that there must be separate votes held for residents and for business voters, meaning two referenda in total.
- 3.4 On March 27th 2013 the Council formally designated the West Ealing Centre Neighbourhood Forum as the body capable of bringing forward proposals for neighbourhood planning (the qualifying body).
- 3.5 Following informal consultation on the draft Plan in March 2016, which generated feedback from seven organisations and individuals, the first statutory consultation, in accordance with Regulation 14 of the Neighbourhood Planning (General) Regulations 2012, was held, initially for 8 weeks to 5 October 2016, and then extended to 31 October 2016.
- 3.6 A revised plan was submitted to the Council in February 2017. From this point the Plan legally became the Council’s plan, and the Council was responsible for a further round of formal public and stakeholder consultation (Regulation 15), commissioning an independent examination process and, if it successfully passes the examination will be required to conduct the vote. If both referenda result in a simple majority in favour of the plan, the Council must adopt it as part of its statutory local development plan.
- 3.7 The Council published the plan and undertook a further round of public and stakeholder consultation for six weeks from 3 March to 14 April 2017 (Regulation 16).
- 3.8 The plan was subsequently submitted for formal examination and Jill Kingaby BSc (Econ) MSc MRTPI was formally appointed by the Council with the consent of the West Ealing Centre Neighbourhood Forum as the independent Examiner (Regulation 17). The Plan and all of the representations that were received were sent on to the independent Examiner who concluded that a public hearing was unnecessary. Her report was received by the Council on 28 July 2017 and is attached for information at Appendix 2.
- 3.9 The Examiner recommended a number of important modifications to the draft Plan and, subject to these modifications being accepted, concluded that the Plan met the relevant legal requirements and the basic conditions (see Paragraphs 5.7 and 5.8 below). The revised Plan identifies five Objectives relating to: Crossrail, the Broadway, Pedestrian Links, Dean Gardens, and Community Facilities. These are addressed through 12 site specific and 4 thematic policies.
- 3.10 On submission of the draft Examiner’s report the Forum raised a number of concerns about process and the conclusions of the report which were answered by the Examiner

- 3.11 Since the Examiner's final report was received officers have been working with the Forum to implement the changes and agree the revisions that were recommended. The vast bulks of these amendments are straightforward and could be directly transposed from the report itself.
- 3.12 In addition to this, officers agreed at the request of the Forum, to include a redrafted Policy WECNP 14 which facilitates the inclusion of additional buildings on the Borough's Register of Local Heritage Assets. The Examiner had agreed with officer's assessment of the original policy as technically flawed and accordingly revised it to include only those buildings currently on the Register. However officers saw no problem with the principle of additions to the Register as long as these follow the same procedure as the original. The Forum has agreed to accept both this change and the other revisions recommended by the Examiner.
- 3.13 A copy of the revised Plan with proposed modifications and the amendments is attached at Appendix 1. Minor revisions were made to most policies through the examination process, with the policy wording itself changed in thirteen cases, and one policy deleted in its entirety. The version of the Plan included with this report shows all new text in red and the Examiner's recommended changes are set out in Appendix 2 from p21 onward.
- 3.14 No substantive changes to maps emerged from the examination process and those maps set out in the Plan should correspond accurately with its policies and supporting text.
- 3.15 The Examiner also recommended that the Plan should now proceed to referenda. She recommended that the referendum area should match the Plan area itself. Her rationale is set out at para 5.3 of her report and in short she concluded that the Plan's policies would have no substantial, direct and demonstrable impact beyond the Plan area. It is proposed that the Council accepts the Examiner's recommendation.
- 3.16 The WECNP referendum area covers five polling districts, one in its entirety and four in part, straddling four wards. A map showing the neighbourhood plan referendum area is attached as an Annex to the Examiner's report at Appendix 1. It is proposed that all five parliamentary polling places in the area will be used for the residential referendum, and that the approval of the Boundaries Panel is sought to use only one central polling place in the area for the business referenda.
- 3.17 It is currently proposed that the referendum is to be held on Thursday 3 May 2018 together with the Borough Council elections to be held on the same day. If more than 50% of those voting in both referendums vote 'yes', then the local planning authority will bring the plan into force (i.e. adopt the Plan). If there is a different result from each of the referendums, the local planning authority will decide whether to bring the Plan into force.

- 3.18 In the event that it falls to the local planning authority (LPA) to decide whether or not to bring the Plan into force it is advisable for the LPA to set out its decision-making criteria in advance of the referendum taking place. National Planning Policy Guidance (NPPG), Para 064) confirms that the LPA may for example, wish to consider the following criteria:
- a) The level of support received at each referendum
 - b) The relative size of the electorate
 - c) The characteristics of the neighbourhood area
- 3.19 Officers therefore recommend that the criteria as set out in the NPPG should be taken into account should the Council need to decide whether to bring the Plan into force following the referenda.
- 3.20 Once adopted a neighbourhood plan becomes part of the statutory local development plan for the area. Consequently, decisions on whether or not to grant planning permission in the neighbourhood area will need to be made in accordance with the Plan unless material considerations indicate otherwise. The Plan will cover the period to 2026, which is co-terminus with the plan period of the Council's Development (or Core) Strategy, adopted in 2012.
- 3.21 Although the Plan cannot be formally adopted until after successful referenda the amended Plan must now be accorded significant weight as a material consideration in the determination of any relevant planning applications for the area, and will take full legal force immediately subsequent to approval at referenda.

4. Financial Implications

- 4.1 There is no specific budget approved for the purposes of preparing a neighbourhood plan or, where appropriate, for conducting a referendum. However, the 2018/19 MTFS contains an allocation for Neighbourhood Planning referenda of £0.025m, managed by Democratic Services.
- 4.2 The cost of the proposed referenda will be met by drawing down the balance of Neighbourhood Planning Grant regime allocation of £0.030m, of which £0.020m has been applied to the cost of the procuring an Examiner for the plan. The balance of £0.010m will be used to meet costs of running the referenda of estimated at £0.010m.
- 4.3 The referenda estimated costs incorporate a £0.020m saving due to the proposals to hold both referendums on the same day as the Borough Council elections. If Boundaries Panel disagrees with the proposal to use only one central polling place for the Business Referendum then the costs will rise by a further £0.005m.
- 4.4 The use of one voter polling station is based on the business voter polling station turnout at the recent CENP Business Referendum, which equated to

just two votes cast in person at each of the Business Polling Places. 90% of business registrants chose to vote by post.

- 4.4 If the cost exceeds the maximum estimate of £0.010m, the excess can be met from the £0.025m corporate budget available in the 2018/19 MTFS for Neighbourhood Planning referenda, subject to the confirmation of the availability of the budget by Democratic Services.

5. Legal

- 5.1 Chapter 3 of Part 6 of the Localism Act 2011 creates a new neighbourhood planning regime in England mainly by inserting new provisions into the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 (see Part 1 of Schedule 9, and Schedules 10 and 11, for the provisions inserted into the 1990 Act, and Part 2 of Schedule 9 for the provisions inserted into the 2004 Act).
- 5.2 The 1990 Act provides that within a designated neighbourhood area a parish council or a designated neighbourhood forum may propose a neighbourhood development order and Schedule 4B (as read with the modifications in Schedule 4C for community right to build orders (which are a particular type of neighbourhood development order)) sets out the framework for making such orders.
- 5.3 The 2004 Act provides that within a designated neighbourhood area a parish council or a designated neighbourhood forum may propose a neighbourhood development plan and Schedule 4B to the 1990 Act (as applied, with modifications, by section 38A of the 2004 Act) sets out the framework for making such plans.
- 5.4 The Neighbourhood Planning (General) Regulations 2012 (as amended) came into force on April 6th 2012 and set out the detailed provisions for the setting up and administration of neighbourhood areas.
- 5.5 The Regulations require that the Neighbourhood Forum and Area must, inter alia have a constitution, at least 21 members representative of the area and no part of the proposed Neighbourhood Area may overlap with any other designated Neighbourhood Area.
- 5.6 A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that (amongst other things) that it is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists of or 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).
- 5.7 A Neighbourhood Plan must meet certain “basic conditions” including having regard to national planning policy, contribute to the achievement of sustainable development, be in general conformity with the strategic policies

in the development plan for the local area, be compatible with human rights requirements and EU obligations. In his examination of the plan the independent examiner concludes that: “the plan does contribute to the achievement of sustainable development and is just sufficient to meet the Basic Conditions” (Para 4.6).

- 5.8 A Neighbourhood Plan must comply with certain legal requirements which in summary include whether it has been prepared and submitted for examination by a qualifying body; has been prepared for an area that has been properly designated; meets the requirements that they must not have excluded development; relates to more than one neighbourhood area; and, relates to the development and use of land. In his examination of the plan the independent examiner concludes that the Plan meets these legal requirements.
- 5.9 Following receipt of the Examiner’s report the LPA must itself decide whether it wishes to bring the Plan into force and if it decides to do so must first make arrangements for the necessary referendum’s to take place. The rules relating to the process for the referendum/s are contained in the neighbourhood Planning (Referendum) Regulations 2012.
- 5.10 If the outcome of the referenda is split the LPA must itself decide whether or not the Plan should be brought into force. The criteria recommended to be taken into account in that scenario are set out in paragraphs 3.21 and 3.22 above.
- 5.11 If the outcome of the referenda supports the Plan then it must be brought into force within 8 weeks of the referenda

6. Value For Money

Administering these referendums stand-alone would cost an estimated £0.030m. In combining with the Borough Council elections on 3 May 2018, and applying value for money principles, and using one central business polling place, it will result in savings of £0.020m.

7. Sustainability Impact Appraisal

The Council determined, in a screening statement, that the plan would not require a Strategic Environmental Assessment. The independent Examiner concluded that the plan meets the basic conditions which include contributing towards sustainable development.

8. Risk Management

With regard the referenda, sound risk management control and review mechanisms are in place. Regular progress monitoring is conducted through an established election project board.

9. Community Safety

None arising directly from this report.

10. Links to the 6 Priorities for the Borough

10.1 Neighbourhood plans can help meet and deliver all of the council's six priorities for the borough but the extent to which this can be achieved will ultimately depend on the scope of any individual plan. Sound planning policy should help provide certainty so that developers will want to invest in the borough and add to prosperity.

11. Equalities, Human Rights and Community Cohesion

11.1 The Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. It also complies with the Human Rights Act 1998. CENF has been advised by Ealing Council that it does not need to produce an Equalities Impact Assessment.

11.2. The Central Ealing Neighbourhood Forum and the Council have, at all times, sought to ensure that all sections of the community have been given the opportunity to get involved in making the plan and have had the opportunity to express their views on the plan. The process of drawing up the plan, and the work of the Forum since its inception, is set out in the separate Consultation Statement and its operation is governed by the approved constitution. The Consultation Statement details the extensive consultation and engagement on which the Plan has been based.

11.3 Subsequent to the receipt of the Examiner's report, guidance states (NPPG 092 Reference ID: 41-092-20161116) that the LPA must then decide what action to take in response to each of the report's recommendations. If the authority proposes to make a decision which differs from that recommended by the examiner, it must notify the following people or groups of their proposed decision (and the reason for it) and invite representations. Officers do not recommend any departure from the recommendations made by the examiner, and modifications contained in the annexed version of the plan are limited to clarifications and technical revisions designed to implement these recommendations.

12. Staffing/Workforce and Accommodation implications

There are no direct staffing implications arising from this report.

13. Property and Assets

There are no property implications arising from this report.

14. Any other implications

There are no other implications arising from this report.

15. Consultation

See Paragraph 11 above.

16. Timetable for Implementation

It is currently proposed that the referenda will be held on Thursday 3rd May 2018. Assuming a positive outcome a report will then be prepared to Full Council recommending formal adoption of the Plan.

17. Appendices

Appendix 1 – Central Ealing Neighbourhood Plan

Appendix 2 – Examiner's Report

18. Background Information

The following documents are relevant to this report. Most can be viewed on the internet site at www.ealing.gov.uk/planpol (Ealing Council) or www.communities.gov.uk (the Department of Communities and Local Government) or www.london.gov.uk (the Mayor of London). Alternatively, contact the author of this report.

(i) In respect of the legislative framework:

- Localism Act, 2011
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- Communities and Local Government information and guidance
<http://www.communities.gov.uk/localgovernment/decentralisation/localismbill/>
- Neighbourhood Planning Regulations, 2012
<http://www.legislation.gov.uk/uksi/2012/637/made>
- The Neighbourhood Planning (Referendums) Regulations 2012 as amended
<http://www.legislation.gov.uk/ukdsi/2012/9780111525050/contents>
- The Housing and Planning Act 2016
<http://www.legislation.gov.uk/ukpga/2016/22/section/141/enacted>

(ii) In respect of previous reports on the Localism Act considered by LBE:

- The Localism Act, Report to Cabinet, January 10th 2012
- The Localism Act 2011: Some Implications for Planning Policy, Report to Local Development Framework Advisory Committee, January 18th 2012
- Neighbourhood Planning, Report to Cabinet, July 25th 2012

(iii) In respect of the Planning Policy framework:

- Ealing's Adopted Development (or Core) Strategy, April 3rd 2012.

- Ealing's Adopted Development Sites DPD and Development Management DPD (together with an associated Adopted Policies map), December 10th 2013.
- Ealing's Planning for Schools DPD – Submission Version July 2015.
- Authorities' Monitoring Reports, Ealing Council, 2005, 2006, 2007, 2008, 2009, 2010, 2011 2012, 2013 and 2014.
- Statement of Community Involvement, June 2006 and July 2011.
- Ealing's Sustainable Community Strategy, 2006, updated 2008 and 2011.
- Ealing's Local Area Agreement, 2008.
- West London Sub regional Development Framework, 2006
- Park Royal Opportunity Area Planning Framework, 2008.
- Southall Opportunity Area Planning Framework, July 2014
- The London Plan, March 2015.
- Localism Act, 2011.
- National Planning Policy Framework, March 27th 2012.
- Town and Country Planning (Local Development) (England) (Amendment) Regulations 2012.

There is also a number of background and evidence base reports that have informed the local planning process and these can be accessed at:

http://www.ealing.gov.uk/info/200921/local_plans/614/evidence_base

In addition there are a number of reports relating to previous rounds of community and stakeholder consultation including reports on representations made and the council's responses. This can be accessed at:

http://www.ealing.gov.uk/info/200921/local_plans/1242/previous_consultations

Consultation

| Name of consultee | Post held | Date sent to consultee | Date response received | Comments appear in paragraph: |
|--------------------------|--|-------------------------------|-------------------------------|--------------------------------------|
| Internal | | | | |
| David Moore | Director of Regeneration and Planning | 14.12.2017 | | |
| David Scourfield | Borough Planner | 14.12.2017 | | |
| Jackie Adams | Head of Legal (Property & Regulatory) | 1.12.2017 | 14.12.2017 | |
| John Prince | Finance Business Partner (Interim) | 1.12.2017 | 13.12.2017 | Section 4 |
| Keith Townsend | Exec Director of Environment and Customer Services | 14.12.2017 | | |

Report History

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| Decision type: | Urgency item? No |
| Key decision | Yes |
| Report no.: | Report author and contact for queries: |
| | Steve Barton, Strategic Planning Manager, x8056 bartons@ealing.gov.uk |