

## OFFICER DECISION RECORD (ODR2)

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<b>Date of Decision</b>	<b>31 July 2024</b>
<b>Decision Taker (including Job Title)</b>	<b>David Malcolm, Head of Planning</b>
<b>Specific Delegation</b>	<p>Chapter 2 part 4, paragraph 2.3 (page 15) of the Cheshire East Constitution states that the Environment and Communities Committee is responsible for the development and delivery of the Council's Local Plan, including neighbourhood plans.</p> <p>Chapter 2, part 5, paragraph 53 (page 57) of the constitution also gives the Executive Director of Place delegated powers related to neighbourhood planning.</p> <p>To clarify responsibilities, on 7<sup>th</sup> July 2021 the Council's Environment and Communities Committee considered a report titled 'Delegation of Neighbourhood Planning Decisions' and confirmed that decisions regarding examiner's recommendations are to be delegated to the Head of Planning in consultation with the Chair of the Environment and Communities Committee.</p> <p><a href="#">(Agenda for Environment and Communities Committee on Wednesday, 7<sup>th</sup> July, 2021, 10.30 am   Cheshire East Council)</a></p>
<b>Brief Description of Decision</b>	<p>It is recommended that the Head of Planning, in consultation with the Chair of the Environment and Communities Committee:</p>

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	<p>Accept the examiner's recommendations to make modifications to the Over Alderley Neighbourhood Plan as set out in Over Alderley Neighbourhood Plan examiner's report; and</p> <p>Confirms that it is the Councils intent to hold a referendum on the Over Alderley Neighbourhood Plan (as amended), within the Over Alderley Neighbourhood Area, at the earliest possible opportunity.</p>
<p><b>Reasons for the Decision and alternatives considered</b></p>	<p>Cheshire East has a legal duty to provide advice and assistance on neighbourhood plans, to hold an independent examination on neighbourhood plans submitted to the Council, and to arrange for a referendum following a favourable examiner's report.</p> <p>Subject to the modifications set out in the examiner's report, the Over Alderley Neighbourhood Plan is considered to meet the statutory tests held in the Basic Conditions, and procedural requirements set out in paragraph 8 of Schedule 10 to the Localism Act 2011. As such the plan can now proceed to referendum.</p> <p>Holding a referendum on the Over Alderley Neighbourhood Plan will enable the local community to vote on whether the plan should be used to determine planning applications in the neighbourhood area and bring the plan into statutory effect. The Plan, as modified, will contribute to the strategic aims set out in the CELPS and upon the outcome of a successful referendum result will form part of the Development Plan for Cheshire East. Following the referendum, the Council is required to 'make' the neighbourhood</p>

	<p>plan, confirming its status as part of the Development Plan for the specified area.</p> <p>The progress of the plan to the post examination stage, and the Council's confirmation of its intention to hold a referendum on the plan, ensures it must be awarded significant status in planning decisions. Section 70 (2) of the Town and Country Planning Act 1990 requires that local planning authorities must have regard to a post-examination neighbourhood plan, so far as the relevant policies are material to the application.</p> <p>The Council has very little discretion to decide not to proceed to referendum. The only circumstances under which this would be appropriate are where an error in the legal process of preparing the neighbourhood plan has come to light. This is not the case for the Over Alderley Neighbourhood Plan. The examiner has found that subject to modification, the plan meets the relevant legal, procedural, and planning tests and therefore there is no reason a referendum should not be held.</p> <p>Copies of the relevant documents and this notice may be viewed on the Councils website, or by request at Council headquarters: Westfields, Middlewich Road, Sandbach CW11 1HZ.</p>
<b>Member consultation and interests declared</b>	Councillor Mick Warren, Chair of E&CC, commented that he has no objections and supports the proposal.
<b>Significant Decision</b>	<b>NO</b>
<b>Legal Implications</b>	The Over Alderley Neighbourhood Plan has been found to meet the Basic Conditions tests and all relevant legal and procedural requirements. This conclusion is supported in the examiner's report.

	<p>Proceeding to referendum will enable the Over Alderley Neighbourhood Plan to be 'made', and legally form part of the Development Plan for Cheshire East.</p> <p>The Over Alderley Neighbourhood Plan will become part of the development plan for that area after it is approved in the referendum. Following the referendum, if Cheshire East Council decides not to make the Neighbourhood Development Plan, it will cease to become part of the development plan.</p> <p>Cheshire East Council has considered the Human Rights Act 1998 and has not found that the Plan breaches the Act. The Examiner did not disagree with that position.</p> <p>Section 70 (2) of the Town and Country Planning Act 1990 allows local planning authorities to pay due regard to post-examination neighbourhood plans, as far as their policies are material to applications.</p> <p>James Thomas 31/07/24, Principal Planning and Highways Solicitor.</p>
<b>Financial Implications</b>	<p>The referendum is estimated to cost circa £5,000. This will be paid for through government grant specific to neighbourhood planning. Grant funding will cover the whole referendum cost.</p> <p>Wendy Broadhurst, Lead Finance Partner 26/07/24.</p>
<b>Confidential/Exempt Information</b>	N/A.
<b>Background Papers</b>	<p>Over Alderley Neighbourhood Plan.</p> <p>Over Alderley Neighbourhood Plan Examiner's Report.</p>

**Signed:**

A handwritten signature in black ink, appearing to be 'Dr' followed by a stylized flourish.

**Dated: 31/07/2024**