

OFFICER DECISION RECORD (ODR2)

This form records an officer decision and is published in accordance with the Openness of Local Government Bodies Regulations 2014

Date of Decision	29/10/24.
Decision Taker (including Job Title)	Head of Planning in consultation with the Chair of the Environment and Communities Committee. David Malcolm (Head of Planning) Mick Warren Independent Councillor (Macclesfield East Ward) (Chair of the Environment and Communities Committee).
Specific Delegation	The Environment and Communities Committee determined on 7 th of July 2021 ¹ that decisions relating to the neighbourhood plan process as detailed below be delegated to the Head of Planning in consultation with the Chair of the Environment and Communities Committee: <ol style="list-style-type: none">1. Decisions to designate a neighbourhood area.2. Decisions to designate a neighbourhood forum.

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<https://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=962&MId=8678&Ver=4>

	<ol style="list-style-type: none"> 3. Decisions to consider whether plan proposals meet the requirements of Schedule 4B, paragraph 6(2) of the Town and Country Planning Act 1990. 4. Decisions on Examiners Recommendations (including in regard to modification proposals). 5. Decisions on plan proposals (including in regard to modification plan proposals) 6. Decisions on proposals to correct errors or make minor non-material amendments to made neighbourhood plans.
<p>Brief Description of Decision</p>	<p>Accept the examiner's recommendations to make modifications to the High Legh Neighbourhood Plan as set out in High Legh Neighbourhood Plan examiner's report; and confirm that it is the Council's intent to hold a referendum on the High Legh Neighbourhood Plan (as amended), within the High Legh neighbourhood area, at the earliest possible opportunity.</p>
<p>Reasons for the Decision and alternatives considered</p>	<p>Cheshire East Council 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 High Legh 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 High Legh 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 High Legh Neighbourhood Plan, as amended, 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 plan, confirming its status as part of the Development Plan for the specified area. 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 High Legh 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>Member consultation and interests declared</p>	<p>Mick Warren</p>

	<p>Independent Councillor (Macclesfield East Ward) (Chair of the Environment and Communities Committee): Satisfied.</p>
Significant Decision	NO.
Legal Implications	<p>The High Legh 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. Proceeding to referendum will enable the High Legh Neighbourhood Plan to be 'made', and legally form part of the Development Plan for Cheshire East.</p> <p>The High Legh 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 style="text-align: right;"><i>James Thomas, Principal Planning and Highways Solicitor. 31/07/24.</i></p>
Financial Implications	<p>The referendum is estimated to cost circa £5,000. This will be paid for through government grant</p>

	<p>specific to neighbourhood planning. Grant funding will cover the whole referendum cost.</p> <p><i>Wendy Broadhurst, Lead Finance Partner</i> 26/07/24.</p>
Confidential/Exempt Information	N/A.
Background Papers	<ol style="list-style-type: none"> 1. High Legh Neighbourhood Plan. 2. Examiner's report. 3. High Legh Neighbourhood Plan neighbourhood area decision notice. <p>Copies of the relevant documents may be viewed on the Councils website², or by request at Council office: Delamere House (Floor 2), Delamere Street, Crewe, Cheshire, CW1 2JZ.</p>

Signed: 

David Malcolm, Head of Planning.

Signed: 

Councillor Mick Warren, Chair of Environment and Communities Committee.

Dated: 29/10/24.

² <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-planning.aspx>