

## Decision Report - Executive Decision

Decision Date – 23 May 2024

Key Decision – yes

Confidential Information – no



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### Kingston St Mary Neighbourhood Plan to be made

Executive Member(s): Lead Member for Economic Development, Planning and Assets, Councillor Ros Wyke

Local Member(s) and Division: Division Councillors for Rowbarton and Staplegrove; Councillor Dixie Darch and Councillor Derek Perry

Lead Officer: Ann Rhodes (Principal Planning Policy Officer)

Author: Ann Rhodes (Principal Planning Policy Officer)

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### Summary / Background

1. The [Kingston St Mary Neighbourhood Development Plan](#) (“the Plan”) is a community led planning document which has been produced by Kingston St Mary Parish Council (as Qualifying Body). The document and its evidence base was the subject of an [Independent Examination](#) from February 2024 following which Somerset Council (SC) as local planning authority (LPA) put the Plan to a local referendum which took place on Thursday 2 May 2024. The outcome of the referendum was 92% of those voting voted “yes” in support of the Plan.
2. The position following a referendum is that if more than 50% of those voting are in favour of the Plan, then SC is required to formally make the Plan part of the development plan within eight weeks of the date on which the referendum has been held (however, the Council is not obliged to do so if it considers that the making of the Plan would breach or otherwise be incompatible with any EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998). Once the Plan is formally made, it will form part of the statutory development plan, and so will be able to be used in the determination of planning applications in the Kingston St Mary Neighbourhood Area which is the whole Parish of Kingston St Mary Parish.
3. The making of the Plan is the culmination of a formal neighbourhood planning process which is set out in [The Planning and Compulsory Purchase Act 2004 \(as amended\)](#); [Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations 2016](#), and

the [Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations 2017](#) which amend the [Neighbourhood Planning \(General\) Regulations 2012](#).

## **Recommendations**

4. The Executive Planning and Transport Policy Sub-Committee agrees:
  - a. That the Kingston St Mary Neighbourhood Development Plan be 'made' (adopted) as part of the statutory Development Plan and to be used in determining planning applications in the Neighbourhood Area which is the Parish of Kingston St Mary.

## **Reasons for recommendations**

5. The decision of the committee responds to the statutory requirement to have the Neighbourhood Plan Made.
6. The Neighbourhood Plan has been through the requisite regulatory stages:
  - Pre-submission consultation (Regulation 14)
  - Submission of the draft Neighbourhood Plan to the LPA and statutory consultation (Regulation 16)
  - Independent examination of the draft Plan, at which stage an examiner undertakes an examination and determines whether the Plan satisfies the "basic conditions" (see Compliance with the Basic Conditions and General Information with regard to TCPA and Referendum) and makes a recommendation as to whether the Plan should proceed to referendum.
  - Acceptance of the Independent Examiners report.
  - [Local referendum](#).
7. SC is legally obliged to 'Make' the Plan within eight weeks of the date on which the referendum has been held if the majority of those voting in the local referendum have voted in favour of the Plan, unless it considers that the making of the Plan would breach or otherwise be incompatible with any EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998. If the Council failed to do so, then it would be in breach of its statutory obligations and would be vulnerable to legal challenge.

## **Other options considered**

8. There are no legal grounds to not have the Neighbourhood Plan Made. Neighbourhood Plans are subject to detailed statutory processes. The Neighbourhood Plan is in conformity with the [Town and Country Planning Act 1990 \(as amended\)](#) and [The Planning and Compulsory Purchase Act 2004 \(as amended\)](#). It is compatible with retained European Union (EU) obligations including those in respect of Strategic Environmental Assessments and Environmental Impact Assessments. [The Conservation of Habitats and Species Regulations 2017](#) (transposed into domestic law Directive 92/43/EEC); [the Environmental Assessment of Plans and Programmes Regulations 2004](#) (transposed into domestic law Directive 2001/42/EC) and [European Convention on Human Rights](#) (ECHR).

### **Links to Council Plan and Medium-Term Financial Plan**

9. The Neighbourhood Plan policies have the following links to [Somerset Council Plan 2023-2027](#)
- A Greener, More Sustainable Somerset:
    - i. Addressing ecological and environmental emergencies in planning policy.
    - ii. Supporting renewable energy and promoting energy hierarchy in building design.
    - iii. Promoting active travel.
    - iv. Protecting Local Green Spaces, promoting bio-diversity and dark skies.
  - A Healthy and Caring Somerset:
    - i. Improving the health and wellbeing of Somerset Residents.
    - ii. Access to active travel, open spaces and good housing.
  - A Fairer, Ambitious Somerset:
    - i. Reduce inequalities through quality housing, affordable housing, improving access to services and facilities.
  - A Flourishing and Resilient Somerset:
    - i. Supporting employment through provision of live/work units.
10. The Neighbourhood Plan does not have any links to the [Medium-Term Financial Plan](#).

### **Financial and Risk Implications**

11. The Council's costs associated with regulatory stages of the Neighbourhood Plan process are covered by the Neighbourhood Planning Grant received from

Central Government. In the case of this Neighbourhood Plan a grant of £20,000 is received when the date for the referendum is set.

12. The Neighbourhood Plan is in the former Taunton Deane Borough Council area where Community Infrastructure Levy is applied to developments. A Parish which has an adopted Neighbourhood Development Plan receives 25% of Community Infrastructure Levy (CIL) receipts relating to development proposals which receive planning permission within the parish area, as opposed to 15% (capped at £10 per council tax dwelling) for those which do not. Somerset Council is required to do this under [The Community Infrastructure Levy \(Amendment\) Regulations 2013](#).

13. Key risk(s) to the Council:

<b>Please enter risk description:</b>					
<b>Not having the Neighbourhood Plan Made the Council would be in breach of its statutory obligations and would be vulnerable to legal challenge.</b>					
<b>Likelihood</b>	<b>1</b>	<b>Impact</b>	<b>4</b>	<b>Risk Score</b>	<b>4</b>
<b>Please enter mitigation here:</b>					
<b>The Sub-Committee making the Neighbourhood Plan removes the risk of this specific legal challenge.</b>					
<b>This reduces risk to: Likelihood - 1, Impact - 1, Risk Score - 1</b>					
<b>Please enter risk description:</b>					
<b>Changes to the National Planning Policy Framework and the adoption of the Somerset Local Plan could override Neighbourhood Plan policies.</b>					
<b>Likelihood</b>	<b>3</b>	<b>Impact</b>	<b>3</b>	<b>Risk Score</b>	<b>9</b>
<b>Please enter mitigation here:</b>					
<b>The Parish Council should monitor their Neighbourhood Plan and can undertake a review of it in light of changes to legislation, evidence base, or local planning policy. Somerset Council has an obligation to support communities in the production of and when undertaking a review of a Neighbourhood Plan</b>					
<b>This reduces risk to: Likelihood - 3, Impact - 1, Risk Score - 3</b>					

## Legal Implications

- Somerset Council is legally obliged to Make the Plan within eight weeks of the date on which the referendum has been held if the majority of those voting in the local referendum have voted in favour of the Plan, unless it considers that the making of the Plan would breach or otherwise be incompatible with any EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998. If the Council failed to do so, then it would be in breach of its statutory obligations and would be vulnerable to legal challenge.
- There are no legal grounds to not have the Neighbourhood Plan 'Made'.

### **HR Implications**

- There are no HR implications.

### **Other Implications:**

### **Equalities Implications**

14. An Equalities Impact Assessment (EIA) is appended to this report.

15. The impacts for most protected characteristics are neutral. In general terms all the policies are beneficial for all protected characteristics. There are specific positive impacts for:

- Older persons (housing – lifetime homes and active travel)
- Children and Young People (local green spaces, active travel, local connections housing)
- Families (housing – local connections, tenure and type; active travel)
- Disability (housing - lifetime homes, active travel – multi-user paths)
- Rurality and isolation (active travel, local green spaces, community shop and café, small scale employment)

See attached EIA for details.

### **Community Safety Implications**

16. In general terms there are positive implications for:

- Overall impact upon quality of life and wellbeing
- Impact on social isolation or exclusion

17. There are no impacts or links with any existing projects/services of other community safety partners.

### **Climate Change and Sustainability Implications**

18. The making of the Neighbourhood Plan will have a positive impact on
- climate change – energy efficiency, renewable energy, energy hierarchy
  - natural environment – local green space, dark skies, bio-diversity net gain
  - sustainability – active travel.
19. The Neighbourhood Plan is in general conformity with spatial strategy for development in the area: The adopted Core Strategy and adopted Site Allocations and Development Management Plan.

### **Health and Safety Implications**

20. There are no Health and Safety Implications.

### **Health and Wellbeing Implications**

21. The Neighbourhood Plan has positive impacts on:
- health and wellbeing
  - preventing ill-health (physical and mental health)
  - reducing health and social inequalities.

### **Social Value**

22. Social value comprises of an understanding of environmental, economic and social wellbeing. The definition of social value differs relative to the context. However, there is a specific focus on outcomes for people, and their quality of life. [SCC - Public - Social Value Policy](#).

23. The Neighbourhood Plan supports the Councils social value priority areas (SVPA) of:
- Improving health and wellbeing, maintaining independence and reducing inequalities of local residents and employees
  - Reducing air pollution

### **Scrutiny comments / recommendations:**

24. The proposed decision has not been considered by a Scrutiny Committee. The Neighbourhood Plan has been subject to statutory consultation and independently examined to determine if it is legally compliant. There is nothing to scrutinise with regard to the content of the Neighbourhood Plan.

## **Background**

25. The Localism Act 2011 introduced Neighbourhood Development Plans to the planning system, giving communities direct power to develop a shared vision for their neighbourhood and shape a locally distinctive development plan document which reflect the growth needs and priorities of their communities.

26. The Kingston St Mary Neighbourhood Plan is a community led planning document which has been produced by Kingston St Mary Parish Council who are Qualifying Bodies under [The Town and Country Planning Act 1990 \(as amended\)](#).

27. Under [Section 61G of The Town and Country Planning Act 1990 \(as amended\)](#) the Neighbourhood Area for the Kingston St Mary Neighbourhood Development Plan was designed by the former by the former Taunton Deane Borough Council on 21 December 2021. However, boundary changes took place and came into being on 1 April 2023 following a boundary review. The new area was approved by Somerset Council on 30 May 2023.

28. A Neighbourhood Development Plan is a means by which planning policies can be set for a local area which then (once the Plan is made) form part of the statutory development plan. A Neighbourhood Plan should therefore contain policies for the development and use of land, and generally will not include wider non-planning aspirations for the area. A Neighbourhood Plan must also meet the “basic conditions” as set out in the [Town and Country Planning Act 1990 Schedule 4B paragraph 8](#), and so as a result must be in general conformity with the policies already contained in the development plan for the area, and must also contribute to the achievement of sustainable development. A Neighbourhood Plan must also not be in conflict with EU obligations.

29. The Kingston St Mary Neighbourhood Plan has been developed by the Parish Council over a number of years with the community and was subject to parish led statutory consultation between 1 June – 14 July 2023.

30. The Neighbourhood Plan was submitted to Somerset Council in May 2023. In line with the legislation, it was subject to statutory consultation between 23 November 2023 – 19 January 2024.
31. In accordance with [Schedule 4B Section 7 of the TCPA 1990 \(amended\)](#) the Neighbourhood Plan and its evidence base was subject to Independent Examination. The [Examiners report](#) was received 6 March 2024. The report concluded that a modified Neighbourhood Plan, in accordance with the Examiner’s recommendations, could proceed to referendum. The area for the referendum is the designated Neighbourhood Area.
32. In accordance with [Regulation 18 of The Neighbourhood Planning \(General\) Regulations 2012](#) Somerset Council accepted the Independent Examiners report for Kingston St Mary Neighbourhood Plan and that is a modified Neighbourhood Plan should progress to referendum. The decision was made on the 18 March 2024 through an Officer Non Key Decision. Under the Somerset Council Chief Executive’s Scheme of Delegation to Officers, Alison Blom-Cooper (Chief Planning Officer) is authorised to discharge responsibilities as they relate to Somerset Council functions under Town and Country Planning and Localism legislation and policy guidance as set out in the Council’s constitution Section I2, paragraph 114.
33. A local referendum on the Plan was held on Thursday 2 May 2024 in accordance with [The Town and Country Planning Act 1990 \(as amended\)](#); [Neighbourhood Planning \(Referendum\) Regulations 2012](#) (as amended by the [Neighbourhood Planning \(Referendum\) \(Amendment\) Regulations 2013](#) and 2014) and the [Neighbourhood Planning \(Prescribed Dates\) Regulations 2012](#). 92% of those voting voted “yes” in support of the Plan
34. The Kingston St Mary Neighbourhood Plan contains 12 policies which following the making of the revised Plan - will form part of the statutory development plan and so may be used when determining planning applications in the Neighbourhood Area.
35. The Kingston St Mary Neighbourhood Plan Policies are:
- Policy 1 – Protecting Local Character
  - Policy 2 – Protecting the Character: Separation.



- Policy 3 – Protecting the Character: Natural Environment.
- Policy 4 – Active Travel.
- Policy 5 – Climate Change: Energy Hierarchy.
- Policy 6 – Climate Change: Renewable Energy.
- Policy 7 – Local Green Spaces.
- Policy 8 – Dark Skies.
- Policy 9 – Housing.
- Policy 10 – Housing: Households with a Local Connection.
- Policy 11 – Housing: Live Work Units.
- Policy 12 – Housing: Self-build (and Custom Build).

## Background Papers

36. Supporting documents for the Kingston St Mary Neighbourhood Plan are on the Councils website - [Kingston St Mary Neighbourhood Plan](#)

## Appendices

- EIA

## Assurance checklist (if appropriate)

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	06/05/2024
Communications	Peter Elliott	N/A
Finance & Procurement	Nicola Hix	29/04/2024
Workforce	Alyn Jones	N/A
Asset Management	Oliver Woodhams	N/A
Executive Director / Senior Manager	Micky Green / Paul Hickson	13/05/2024
Strategy & Performance	Alyn Jones	N/A
Executive Lead Member: Economic Development, Planning and Assets.	Cllr Ros Wyke	
<b>Consulted:</b>	Councillor Name	
Local Division Members: Rowbarton & Staplegrove	Cllr Dixie Darch, and Cllr Derek Perry	29/04/2024
Opposition Spokesperson	Cllr Mark Healey	26/04/2024
Scrutiny Chair: Climate and Place	Cllr Martin Dimery	26/04/2024