



FULL COUNCIL

Monday 16 December 2019

MUTFORD NEIGHBOURHOOD PLAN

EXECUTIVE SUMMARY

1. The purpose of this Report is to “make” the Mutford Neighbourhood Plan part of the Development Plan for the area in light of the result of the referendum held on 17th October 2019 and to consider any legal implications.
2. The referendum question asked; “Do you want East Suffolk Council to use the Mutford Neighbourhood Plan to help it decide planning applications in the Neighbourhood Area?” More than 50% of those voting in the referendum voted “YES” to the question. Accordingly, the Council must now “make” the Mutford Neighbourhood Plan, unless it considers the Mutford Neighbourhood Plan would breach or be incompatible with any EU obligation or any of the Convention Rights.
3. Once “made” the Mutford Neighbourhood Plan will become part of the Development Plan for the area and sit alongside the adopted East Suffolk Council Waveney Local Plan. For decision making purposes, the Mutford Neighbourhood Plan has had full effect since the positive referendum result, meaning that it can be afforded full weight in the determination of relevant planning applications.

Is the Report Open or Exempt?	Open
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Wards Affected:	Carlton Colville
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Cabinet Member:	Councillor David Ritchie Cabinet Member for Planning and Coastal Management
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Supporting Officers:

Dickon Povey

Principle Planner (Planning Policy and Delivery)

01502 523043

Dickon.povey@eastsoffolk.gov.uk

Ben Wright

Planning Officer (Planning Policy and Delivery)

01502 523082

Ben.wright@eastsoffolk.gov.uk

1 INTRODUCTION

- 1.1 Mutford is one of a number of towns and parishes in East Suffolk to take up the opportunity to produce a Neighbourhood Plan for their community. The Mutford Neighbourhood Plan has been produced entirely by the Neighbourhood Plan Working Group without the assistance of a Planning Consultant. A copy of the Mutford Neighbourhood Plan is provided at Appendix A to this Report. The Mutford Neighbourhood Plan covers a range of topics including landscape character, dark skies, parking standards and employment development.
- 1.2 The Mutford Neighbourhood Plan covers the entire parish of Mutford. The Neighbourhood Area was designated by the former Waveney District Council on 14th September 2016. A link to the Neighbourhood Area Decision Notice is provided under the list of Background Papers.
- 1.3 Mutford Parish Council consulted with the local community to produce the Mutford Neighbourhood Plan. They conducted a pre-submission consultation (The Neighbourhood Planning (General) Regulations 2012: Regulation 14) for the Mutford Neighbourhood Plan between 1st December 2018 and 31st January 2019.
- 1.4 Following this, the Mutford Neighbourhood Plan was submitted to East Suffolk Council and the Council publicised the Neighbourhood Plan. Comments were invited over a six week period, closing on the 7th June 2019.
- 1.5 The draft Mutford Neighbourhood Plan had previously been screened to determine whether or not additional environmental assessment work would be required. This included consultation with Environment Agency, Historic England and Natural England. The Strategic Environmental Assessment Screening Opinion Determination (August 2018) concluded that the draft Mutford Neighbourhood Plan 'does not allocate land for built development and applies to a localised area. All of the policies reflect and implement strategic policies in the Waveney Final Draft Local Plan | March 2018 which has been subject to Sustainability Appraisal including Strategic Environmental Assessment and Appropriate Assessment under the Habitats Regulations Assessment. It is considered by Waveney District Council that it is not necessary for a Strategic Environmental Assessment to be undertaken of the draft Mutford Neighbourhood Plan to ensure compliance with EU obligations.' A link to the Screening Opinion is provided under the list of Background Papers.
- 1.6 The Mutford Neighbourhood Plan was also assessed in terms of its potential impact on protected European sites. The Habitats Regulations Assessment Screening Statement (June 2019) concluded that 'The Mutford Neighbourhood Plan has been prepared to be in general conformity with the relevant policies in the Local Plan and will not lead to likely significant effects on protected European sites.' A link to the Habitats Regulations Assessment Screening Statement (June 2019) is provided under the list of Background Papers.
- 1.7 Following the publication consultation, East Suffolk Council, with the agreement of Mutford Parish Council, appointed an Independent Examiner, Andrew Ashcroft BA(Hons) M.A. DMS MRTPI to review the Mutford Neighbourhood Plan and to consider whether it met the Basic Conditions as required by section 38A of the Planning and Compulsory Purchase Act 2004 and whether it should proceed to Referendum. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990.
- 1.8 Following independent examination, the Examiners Report was received by the Council and shared with the Parish Council on 1st August 2019. The Examiners Report concluded

that subject to modifications the Mutford Neighbourhood Plan meets the Basic Conditions and that it should proceed to referendum. The Independent Examiner further concluded that there was no reason to extend the referendum area beyond the neighbourhood plan area. A link to the Independent Examiner's Report is provided under the list of Background Papers.

- 1.9 Using powers delegated to the Portfolio Holder with responsibility for Planning and Coastal Management, and following discussion with the Parish Council, each of the recommended modifications were considered and agreed. The Decision Statement for the Mutford Neighbourhood Plan was published in the 2nd September 2019. A link to the Decision Statement is provided under the list of Background Papers. Modifications were made to the Mutford Neighbourhood Plan in line with the Independent Examiner's recommendations, and arrangements made for the Mutford Neighbourhood Plan to proceed to referendum. A copy of the Mutford Neighbourhood Plan (referendum version) is attached as Appendix A to this Report.
- 1.10 Schedule 4B to the Town and Country Planning Act 1990, The Neighbourhood Planning (Referendum) Regulations 2012 (as amended) and The Neighbourhood Planning (Prescribed Dates) Regulations 2012 all outline the rules governing Neighbourhood Plan referendums. In accordance with The Neighbourhood Planning (Referendums) (Amendment) Regulations 2016 the referendum took place on 17th October 2019 within 56 days of the day after publishing the Decision Statement. Eligible voters (electorate 404) were asked to vote Yes or No to the following question:

"Do you want East Suffolk Council to use the Mutford Neighbourhood Plan to help it decide planning applications in the neighbourhood area?"
- 1.11 The result of the referendum (declared on 18th October 2019) was as follows:

Votes cast – 125 (30.9% turnout)
YES votes – 102 (81.6%)
NO votes – 23 (18.4%)
- 1.12 Where a referendum results in more than half of the voter turnout voting in favour of the proposals, the Council must "make" (i.e. adopt) the Mutford Neighbourhood Plan unless it considers that this would breach, or be incompatible with any EU obligation or any of the Convention of Rights.
- 1.13 Amendments to the original Neighbourhood Planning Regulations under the Neighbourhood Planning Act 2017 mean that for decision making purposes, the Mutford Neighbourhood Plan has carried full weight in the determination of planning applications for the Neighbourhood Plan area since it received a positive vote at referendum. To achieve full statutory status, however, the Council is required to "make" the Mutford Neighbourhood Plan within 8 weeks of the date following the referendum.
- 1.14 The results of the referendum clearly indicate that more than half of those voting cast their vote in favour of the Mutford Neighbourhood Plan. The only reason that the Council would not now make the Mutford Neighbourhood Plan is if it considers it would breach or be incompatible with any EU obligation or any of the Convention of Rights.
- 1.15 Nothing has changed since the original screening opinion and the consideration by the Independent Examiner as set out in his conclusions in paragraphs 8.1 – 8.5 of his Report that the Mutford Neighbourhood Plan would not breach or be incompatible with any EU obligation or Convention of Rights. Accordingly, the Council is now required to "make" the Mutford Neighbourhood Plan. This is set out in the Recommendation.
- 1.16 The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 amended the Neighbourhood Planning (General)

Regulations 2012 (Regulation 18) to state that a Neighbourhood Plan must be “made” within 8 weeks of the day following a successful Referendum result, however they do not state any implications if this does not occur. Following the Referendum, the Full Council meeting scheduled for the 27th November 2019 was cancelled due to it taking place during the ‘Pre-Election Period’ and rescheduled for the 16th December 2019. This date falls three working days outside of the 8 week period for the Mutford Neighbourhood Plan. Locality (a national network that supports local communities, including providing assistance in developing Neighbourhood Plans) have advised that there are no implications for the Mutford Neighbourhood Plan, Mutford Parish Council or East Suffolk Council if the Mutford Neighbourhood Plan is “made” outside of the 8 week period. Following discussion with the Council’s Head of Legal and Democratic Services, the recommendation to “make” The Mutford Neighbourhood Plan remains the same.

2 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?

- 2.1 As a part of the Development Plan for the district the Mutford Neighbourhood Plan will help provide a positive contribution to the Vision in the East Suffolk Business Plan.
- 2.2 Enabling Communities: The Mutford Neighbourhood Plan is an example of how a community can help influence the way it develops and contribute to wider district ambitions. In contrast to other Neighbourhood Plans either “made” on in preparation across the district the Mutford Neighbourhood Plan has been prepared without the help of a Planning Consultant.

3 FINANCIAL AND GOVERNANCE IMPLICATIONS

- 3.1 In accordance with current CIL Regulations the Parish Council is entitled to 25% of CIL receipts from eligible development schemes permitted after the date the Mutford Neighbourhood Plan is “made”. The date a scheme is permitted is the date the detailed/reserved matters planning permission is issued. For towns and parishes with no “made” Neighbourhood Plan, the CIL contribution to which they are entitled stands at 15%. (Details on CIL can be found via the following link <http://www.eastsuffolk.gov.uk/planning/community-infrastructure-levy/>)
- 3.2 Following the decision to “make” the Mutford Neighbourhood Plan, the Council is required to publish the Mutford Neighbourhood Plan, including details of when and where it can be inspected, and notify any person who has asked to be notified that it has been “made” (The Neighbourhood Planning (General) Regulations 2012: Regulation 20). The final published version of the Mutford Neighbourhood Plan will state “made” and the date.

4 EQUALITIES IMPACT ASSESSMENT AND PARTNERSHIP IMPACT ASSESSMENT

- 4.1 This Report has been prepared having taken into account the results of an Equality Impact Assessment and a Partnership Impact Assessment. The Equalities Impact Assessment showed that there were no adverse impacts on those who, under the Equalities Action

2010 (EA) have protected characteristics. There are no outstanding issues as a result of these assessments.

5 CONSULTATION

- 5.1 The Mutford Neighbourhood Plan has been subject to consultation through its preparation. Securing and maintaining public support for a Neighbourhood Plan is critical to it achieving a positive result at referendum.

6 OTHER OPTIONS CONSIDERED

- 6.1 None. The Mutford Neighbourhood Plan has received the required vote in favour at referendum and is not considered to be in breach of, or otherwise incompatible with, any EU obligation or any of the Convention of Rights.

7 REASON FOR RECOMMENDATION

- 7.1 The Mutford Neighbourhood Plan (referendum version) received a YES vote at referendum held on 17th October 2019. The Mutford Neighbourhood Plan is not considered to be in breach of, or otherwise incompatible with, any EU obligation or any of the Convention of Rights. Legislation and regulation governing the neighbourhood planning process now requires the Council to formally “make” the Mutford Neighbourhood Plan, the consequence of which is that it becomes part of the statutory Development Plan.

RECOMMENDATION

1. That the Council “make” the Mutford Neighbourhood Plan (referendum version) part of the statutory Development Plan for the Mutford Neighbourhood Area.

APPENDICES

Appendix A	Mutford Neighbourhood Plan (Referendum version) https://www.eastsuffolk.gov.uk/assets/Planning/Neighbourhood-Planning/Designated-Neighbourhood-Areas/Mutford/Referendum-Version.pdf
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BACKGROUND PAPERS

Date	Type	Available From
09/2016	Neighbourhood Area Decision Notice	https://www.eastsuffolk.gov.uk/assets/Planning/Neighbourhood-Planning/Designated-Neighbourhood-Areas/Mutford/Decision-notice.pdf
08/2018	Strategic Environment Assessment Screening Opinion Determination	https://www.eastsuffolk.gov.uk/assets/Planning/Neighbourhood-Planning/Designated-Neighbourhood-Areas/Mutford/Submission-Consultation/Strategic-Environmental-Assessment-Screening-Opinion-Determination.pdf

06/2019	Habitats Regulations Assessment Screening Statement	https://www.eastsuffolk.gov.uk/assets/Planning/Neighbourhood-Planning/Designated-Neighbourhood-Areas/Mutford/Mutford-Neighbourhood-Plan-HRA-Screening-Statement.pdf
08/2019	Examiners Report	https://www.eastsuffolk.gov.uk/assets/Planning/Neighbourhood-Planning/Designated-Neighbourhood-Areas/Mutford/Examiners-Report.pdf
10/2019	Equality Impact Analysis	Available on request from Planning Policy Team