

Report to: Cabinet
Date of Meeting: 5 June 2019
Public Document: Yes
Exemption: None



Agenda item: 15

Subject: **The Payhembury Neighbourhood Plan ('the Plan') to be formally 'made'**

Purpose of report: The Plan has now passed referendum and must be formally made by East Devon District Council in order to form part of the development plan.

Recommendation: **It is recommended that:**

- 1. The Plan is made so it forms part of the development plan.**
- 2. That the Council writes to the Neighbourhood Plan Steering Group to congratulate them on all their hard work and advise them that once made the Plan will carry full weight in the planning decision making process.**

Reason for recommendation: The Plan received a majority 'yes' vote in the referendum as required by the regulations and there is no substantive reason not to make the Plan.

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Financial implications: No specific financial implications

Legal implications: Following a majority vote in favour of the plan at referendum the Council must proceed to adopt (or 'make') the plan, unless in doing so it causes a breach of EU obligations or Convention rights. The Council has adopted a Screening Opinion, accepted by relevant statutory consultees, which confirms that there is no need for a formal SEA or HRA and accordingly there would be no breach in respect of those obligations under EU legislation. The Independent Examiner concluded that regard has been had to Convention rights. It is considered that there are no breaches of relevant EU obligations that can be identified. Accordingly, the legal position is that the Council must 'make' the Neighbourhood Plan as modified. As noted, following being made, the neighbourhood plan will become part of the Development Plan for decision making on planning applications.

Equalities impact: Low Impact
The Plan has been produced with considerable community engagement. All persons living in the parish have been engaged throughout the Plan's production and all persons registered to vote in the area could vote in the referendum.

Risk: Low Risk
The only reason for the Plan not to be made now is if the Council consider that to do so would breach an EU obligation or a Convention

right. There is a risk that should we take that decision it will be subject to legal challenge and that the Parish Council will feel disenfranchised that their right to produce a Neighbourhood Plan under the Localism Act has been prevented.

Links to background information:

- [The Localism Act](#)
- [Plain English Guide to the Localism Act](#)
- [National Planning Policy Framework \(2019\)](#)
- [National Planning Policy Framework \(2012\) \(As used to examine the Plan under transition arrangements\)](#)
- [Neighbourhood Planning Regulations](#)
- [East Devon Neighbourhood Planning pages](#)

Link to Council Plan:

Neighbourhood planning helps to deliver the priorities identified in the Council plan by:

Encouraging communities to be outstanding

Developing an outstanding local economy

Delivering and promoting our outstanding environment

1.0 Payhembury Neighbourhood Plan Referendum

1.1 On 2 May 2019, a referendum was held on the Payhembury Neighbourhood Plan at Payhembury Parish hall, from 7am to 10pm.

1.2 Voters were asked the following question:

"Do you want East Devon District Council to use the Neighbourhood Plan for Payhembury to help it decide planning applications in the neighbourhood area?"

1.3 The regulations advise that if more people vote 'yes' than 'no' in the referendum, East Devon District Council should use Payhembury Neighbourhood Plan to help it decide planning applications in Payhembury Parish. The Plan once adopted will then become part of the development plan.

1.4 In East Devon the development plan currently consists of the East Devon Local Plan, 2013-2031; the East Devon Villages Plan, July 2018; any made Neighbourhood Plan; the Devon Waste Plan, December 2014; and the Devon Minerals Plan, 2011-2033.

1.5 The final results of the Payhembury Neighbourhood Plan referendum are shown below:
Yes: 207
No: 34
Voter turnout 42.25%
In favour: 82%

1.6 The results show a clear majority in favour. The cabinet must now consider whether it would be appropriate to make the Plan.

1.7 Once the Plan is formally made it will carry full weight in the planning decision making process. As part of the development plan any planning applications in Payhembury Parish

will be judged against the Plan as well as policies of East Devon District Council and also the National Planning Policy Framework. Application of the policies of the Plan will ensure that the hard work that has gone into its production will result in effective application of local community expectations and aspirations in the decision making process.

- 1.8 The only reason for the Plan not to be made now is if Cabinet consider that to do so would breach an EU obligation or Convention right. During the examination process the Examiner stated that they were satisfied that the Plan was compatible with EU obligations.

2.0 Next stages

- 2.1 Following the decision whether or not to make the Plan (or where the referendum results in a 'no' vote or the Plan is refused as it would cause a breach of an EU obligation or Convention right), we will produce a decision notice for the Plan (detailing the decision and reasons for it and where it may be viewed) and publish it:-

- on the neighbourhood planning pages of our website
- by sending a copy to the Plan producer and requesting that they notify those persons who live, work or carry on business in the neighbourhood area to which the Plan relates
- by notifying the 'consultation bodies' referred to in the consultation statement
- by advising:-
 - those adjoining authorities
 - anyone who asked to be notified of a copy of the decision
 - all those who made representations on the relevant plan