

<b>Committee(s):</b> Planning, Resources and Economic Development Committee	<b>Date:</b> 24 November 2021
<b>Subject:</b> Ingatestone and Fryerning Neighbourhood Plan (2020-2033), Regulation 15	<b>Wards Affected:</b> Ingatestone, Fryerning and Mountnessing
<b>Report of:</b> Phil Drane, Corporate Director – Planning and Economy	<b>Public</b>
<b>Report Author/s:</b> Name: Andrea Pearson, Senior Policy Planner Telephone: 01277 312572 E-mail: andrea.pearson@brentwood.gov.uk	<b>For Decision</b>

### Summary

The 2011 Localism Act introduced new powers for local communities to produce neighbourhood plans, which can be used to guide and shape future development in an area. Once adopted a neighbourhood plan forms part of the statutory Development Plan for the area and it is used in the determination of planning applications.

Brentwood Borough Council approved the designation of the Ingatestone and Fryerning Parish as a Neighbourhood Plan Area in October 2017. The draft neighbourhood plan was published for consultation (Regulation 14) in September 2020. The Council responded to the consultation offering support of the neighbourhood plan but highlighted a that a Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Screening Report was needed to comply with the Neighbourhood Plan Basic Condition. An SEA Screening Report has since been completed (Appendix B), and the environmental bodies consulted as required by the Neighbourhood Plan Regulations and guidance.

The neighbourhood plan has now been formally submitted to the Council under Regulation 15 (Appendix A). As set out in the Neighbourhood Planning Regulations, once a neighbourhood plan has been submitted and accepted by the Council under Regulation 15, the Council is then responsible for taking the plan through to adoption. Once adopted a neighbourhood plan forms part of the statutory Development Plan for the area and is used in the determination of planning applications alongside the Brentwood Local Plan and other material planning considerations, including the National Planning Policy Framework.

## Recommendations

**Members are asked to:**

**R1. Approve the formal submission of the Ingatestone & Fryerning Neighbourhood Plan under Regulation 15.**

**R2. Permit the Council to undertake a consultation on the neighbourhood plan as required under Regulation 16.**

**R3. Grant delegated powers to the Corporate Director (Planning and Economy) to make modifications to the neighbourhood plan as identified within the Basic Conditions Statement and determined through the examination process.**

**R4. Grant delegated powers to the Corporate Director (Planning and Economy) in consultation with the Chair of Policy, Resources and Economic Development Committee, to authorise the neighbourhood plan referendum process (Regulation 19).**

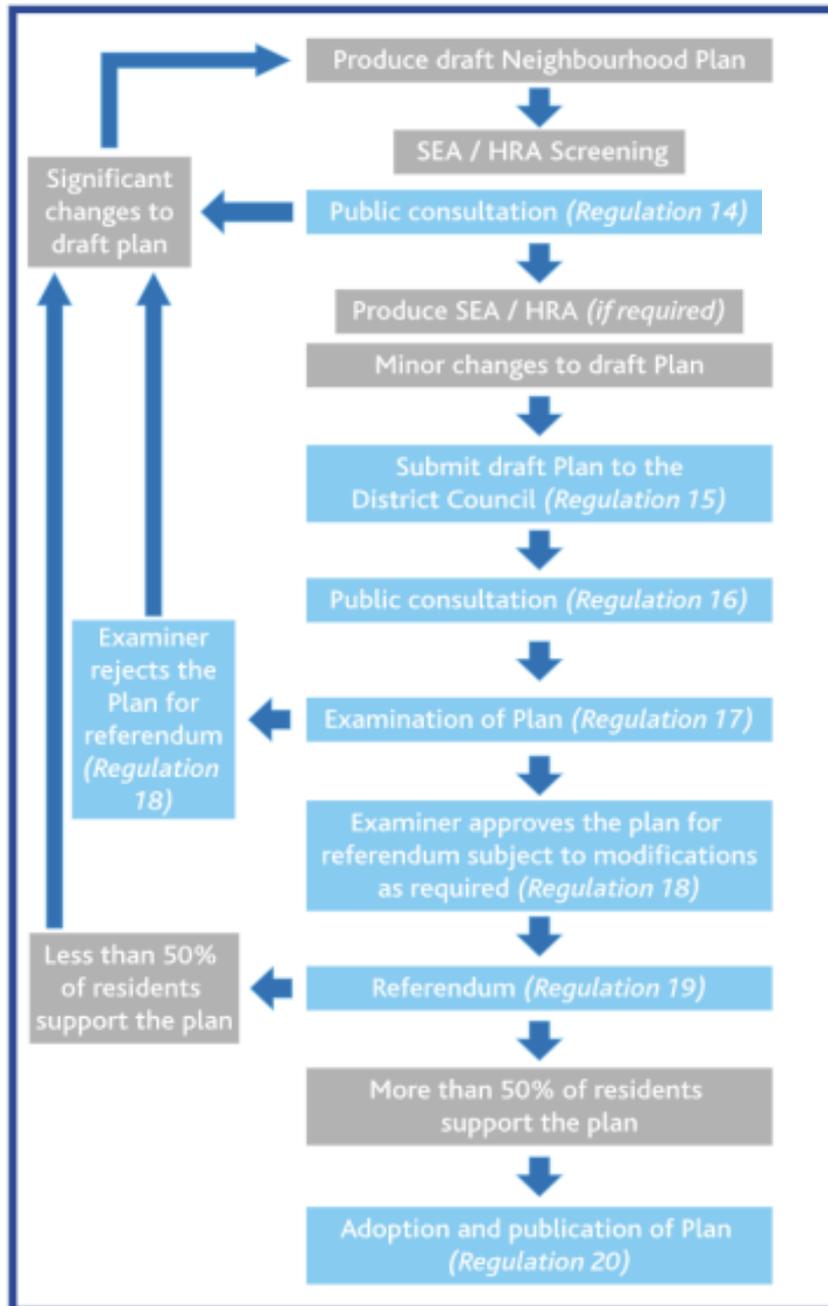
## Main Report

### **Introduction and Background**

1. The Localism Act 2011 introduced new powers for local communities to produce neighbourhood plans, which can be used to guide and shape future development in an area. Once adopted a neighbourhood plan forms part of a statutory Development Plan for the area and it is used in the determination of planning applications alongside the Brentwood Local Plan and other material planning considerations, including the National Planning Policy Framework (NPPF).
  
2. Brentwood Borough Council approved the designation of the Ingatestone & Fryerning Parish as a Neighbourhood Plan Area in October 2017 (Item 136, Planning & Licensing Committee, 11 October 2017). The neighbourhood plan was available for public consultation as required by Regulation 14 between 1 September and 31 October 2020. The Council responded to the Regulation 14 consultation expressing general support of the neighbourhood plan but highlighting that a SEA / HRA Screening report was needed in order to comply

with the neighbourhood plan basic conditions requirements (Item 571, Planning & Licensing Committee, 11 November 2020).

3. According to the Neighbourhood Planning (General) Regulations 2012 (as amended), the Council is responsible for undertaking a Strategic Environmental Assessment (SEA) and/or Habitat Regulations Assessment (HRA) Screening Opinion, where appropriate, for the neighbourhood plan due to the technical nature of the assessment. Brentwood Borough Council commissioned AECOM to undertake this assessment given their work preparing similar evidence for the Local Plan and expertise in the field. The SEA Screening Opinion report concluded that a full SEA was not required for the neighbourhood plan (Appendix B). The advice obtained from AECOM regarding a HRA Screening Opinion Report was not required as the neighbourhood plan is not allocating any new sites and the Brentwood Local Plan HRA evidence can be used to meet this requirement. The Ingatestone & Fryerning neighbourhood planning group consulted the environmental bodies on the SEA Screening Opinion Report as required by the regulations (Natural England, Environment Agency, and Heritage England).
4. National planning practice guidance states that a neighbourhood plan must meet basic conditions as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. The submission of the Ingatestone & Fryerning Plan also includes a statement which sets out how the plan has met the basic conditions as set out below (refer to Appendix C for the basic condition statement):
  - a) The neighbourhood plan has regard to national policies and advice contained in guidance issued by the Secretary of State;
  - b) How the neighbourhood plan contributes to the achievement of sustainable development;
  - c) The neighbourhood plan conforms with the strategic policies of the Brentwood Local Plan;
  - d) The neighbourhood plan must be in conformity with the EU obligations; and
  - e) Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with proposals within the neighbourhood plan.
5. The Neighbourhood Planning (General) Regulations 2012 (as amended) sets out the statutory stages which must be completed in the production of a neighbourhood plan, as illustrated in the diagram below:



**Source:** Ingatestone & Fryerning Neighbourhood Plan

6. The neighbourhood plan has now reached Regulation 15 stage. It is at this stage the neighbourhood planning group formally submit the plan to the Council. The documents submitted to Brentwood Borough Council under Regulation 15 are:
- a) Ingatestone & Fryerning Neighbourhood Plan (Appendix A)
  - b) SEA Screening Opinion Report (Appendix B)
  - c) Basic Conditions Statement (Appendix C)
  - d) Regulation 14 Consultation Statement (Appendix D & E)

7. Once the Council has accepted the neighbourhood plan under Regulation 15 the plan becomes the Council's responsibility to lead on the final stages of the neighbourhood planning process, consisting of:
  - a) Undertaking a consultation (Regulation 16);
  - b) Taking the plan through an examination process (Regulation 17);
  - c) Making any amendments to the neighbourhood plan as directed by the inspector (Regulation 18); and
  - d) Managing the neighbourhood plan referendum (Regulation 19). The neighbourhood plan will be adopted at Regulation 20 provided at least 50% of residents vote to adopt the plan. Assuming a minimum of 50% in favour of the neighbourhood plan, the plan will then be 'made' and form part of the Council's Development Plan.

### **Issue, Options and Analysis of Options**

8. Neighbourhood plans give local communities direct power to develop a shared vision and shape the development and growth of their local area. The Parish Council has met all the requirements according to the Neighbourhood Plan Regulations and guidance to proceed to formally submitting the plan to the Council under Regulation 15.
9. When submitting a Neighbourhood Plan to a local authority, Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) states that the Plan should be accompanied by a statement which identifies how the draft Neighbourhood Plan meets the requirements of the basic conditions listed above in paragraph 4.
10. The basic conditions require a different level of assessment between national and local planning policy. In relation to national policies and advice, neighbourhood plans are only required to 'have regard' to their content, therefore referencing and relating appropriately to relevant national policy and guidance. In relation to local planning policy, neighbourhood plans are required to be "in general conformity" with strategic policies, therefore complying, agreeing, and seeking similar outcomes as local strategic planning policies. Table 2 of the Basic Conditions Statement (Appendix C) provides a detailed summary of how the Neighbourhood Plan has regard to national planning policy and guidance and how it conforms to the Brentwood Local Plan (referencing the current Potential Main Modifications document).
11. The neighbourhood plan consists of the following seven policies:
  - a) Policy 1: Housing
  - b) Policy 2: Housing Design

- c) Policy 3: Heritage
- d) Policy 4: Economy
- e) Policy 5: Transport
- f) Policy 6: Environment
- g) Policy 7: Wellbeing, Leisure and Community Facilities

12. Following the Regulation 14 consultation the Parish Council made some amendments to the draft plan to address some of the responses received during the consultation and where amends were needed to ensure the plan aligns with the national planning policy and guidance. The Basic Conditions Statement (Appendix C) also highlights where amendments are needed prior to proceeding to Regulation 16. As the neighbourhood plan becomes the Council's responsibility at Regulation 15, the proposed amendments in the Basic Conditions Statement will be made by officers before commencing the Regulation 16 consultation. A summary of the neighbourhood plan policies, and changes required prior to Regulation 16 is outlined below.

### **Policy 1: Housing**

- 13. Policy 1 in the neighbourhood plan has not allocated any new sites, but rather supports the allocations that fall within the neighbourhood plan designed area in the proposed Brentwood Local Plan (R21 and R22).
- 14. No changes have been recommended in the Basic Conditions Statement for this policy as the original policies conforms with national planning policy and guidance, and the Brentwood Local Plan.

### **Policy 2: Housing Design**

- 15. Policy 2 focuses on the type of housing required, including a requirement of 35% affordable housing and 5% M4(3) Building Regulations.
- 16. A minor change to the M4(3) Building Regulations is recommended, setting a minimum threshold of developments of 20 homes or more to meet a 5% M4(3) Building Regulation. This change will ensure compliance with paragraph 16 of the NPPF.
- 17. The policy requirements will assist to meet the borough's affordable housing and adaptive housing requirements set out in Local Plan policy HP05: Affordable Housing and HP01: Housing Mix (strategic policy). The policy within the Neighbourhood Plan goes beyond the requirements set within the Brentwood Local Plan and provided the amendments proposed, the requirements have regard to national planning policy, guidance and local policy.

### **Policy 3: Heritage**

18. Ingatestone and Fryerning Parish contains several heritage assets, including three conservation areas. Two of the conservation areas are located within Ingatestone, due to its location on Old Roman Road between London and Colchester. The village still retains the original medieval street plan and contains historic coaching inns. This policy seeks to protect and enhance where possible, designated and non-designated heritage assets.
19. Following the Regulation 14 consultation no changes were deemed necessary and so the policy remains unchanged. It conforms with Brentwood Local Plan policy BE16: Conservation and Enhancement of Historic Environment (strategic policy).

### **Policy 4: Economy**

20. This policy supports the Brentwood Local Plan employment allocation E8: Land Adjacent to A12 Slip Road, Ingatestone. The policy seeks to support business use and ancillary uses where it is demonstrated that the locations of these uses will not inhibit the operation of the principle use on the site. At the time of the Regulation 14 consultation there were changes made to the Use Class Order. The Council's representation suggested the uses identified within the policy be amended to align with the new Use Class Order. These changes have been made.
21. The policy requires a minor amendment to the existing wording in the submitted neighbourhood plan. Criteria B outlines requirements for employment generating developments, with the last bullet point seeking infrastructure that supports the use of ultrafast broadband and 5G mobile telecommunications. It is recommended that this text be removed from the policy and placed in the supporting text to align with paragraph 16 of the NPPF. Pending the proposed amendment being made the policy conform with national planning policy and guidance and the Brentwood Local Plan.

### **Policy 5: Transport**

22. This policy seeks to protect, and where possible provide additional parking places, provide new and/or improved bridleways, pedestrian and cycle routes connecting Ingatestone and Fryerning and within Ingatestone, Fryerning and Mill Green. The policy includes a requirement for major developments (10 dwellings or more) within the parish to assess and clearly demonstrate the impact of the scheme on the local highway capacity and public transport system.

23. This policy has remained unchanged since the Regulation 14 version and aligns with Brentwood Local Plan policies and national planning policy and guidance.

#### **Policy 6: Environment**

24. This policy seeks to protect the environment, requiring development proposals to achieve biodiversity net gains, encourages sustainable transport, active travel and provision for electric car charging points. The Council suggested that reference to Natural England's *Nature Network Evidence Handbook, and Nature Networks – a summary for practitioners* and the Essex Coastal Recreational disturbance Avoidance & Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) to be included in the supporting text as it directly affects a portion of the parish. These changes were made and support from the environmental bodies were given for this policy (Natural England, Environment Agency, and Heritage England).
25. The policy remains unchanged since the Regulation 14 consultation and conforms with the Local Plan and national planning policy and guidance.

#### **Policy 7: Wellbeing, Leisure and Community Facilities**

26. This policy seeks to protect open space and leisure facilities, where possible, unless they are no longer in use. The Council suggested that reference be made to the Brentwood Built Facilities Strategy and Brentwood Leisure Strategy to ensure no loss of indoor and outdoor recreational facilities, and these conform with the Council's evidence base. Reference to the Council's evidence base has been made.
27. No changes to the existing policy are required. It complies with both national planning policy and guidance and the Brentwood Local Plan.

#### **Requirement to conform with the EU obligations**

28. In addition to the Neighbourhood Plan being required to have regard to national planning policy and guidance and having general conformity with local policy, evidence needs to be prepared on how the plan conforms with the EU obligations. Where appropriate an SEA and/or HRA Screening Opinion is required to determine if a full SEA or HRA is needed. The Council is responsible for undertaking this assessment on behalf of the Parish Council. AECOM were commissioned to undertake a SEA Screening Opinion assessment (Appendix B) and concluded that a full SEA was not required.
29. An HRA Screening Opinion report was not deemed necessary, on the advice of AECOM, as the Neighbourhood Plan is not allocating new site but rather

supporting those sites identified within the Brentwood Local Plan. Therefore, the Council's Local Plan HRA has adequately assessed the sites, as well as considered within the Essex Coastal RAMS Strategy.

### **Human Rights requirements**

30. The assessment of the neighbourhood plan policies contained within this report has concluded that there would be no impact upon the European Convention on Human Rights and the UK Human Rights Act 1998, including equality implications.

### **Reasons for Recommendation**

31. The Parish Council has met all the criteria as outlined within the Neighbourhood Planning (General) Regulations (as amended), including the Basic Conditions, to proceed to Regulation 15, where the plan would now become the Borough Council's responsibility to take the neighbourhood plan through to adoption.
32. The Council is responsible for undertaking a consultation of the Neighbourhood Plan (Regulation 16). Once the public consultation has concluded and representations on the Neighbourhood Plan have been received, the Council should submit the Plan and any proposed changes considered appropriate along with the supporting documents to the Planning Inspectorate for examination on behalf of the Secretary of State. This is Regulation 17 stage. Submitted documents should include the Neighbourhood Plan, Basic Conditions Statement, SEA Screening Opinion Report, and Consultation Statement. The Council must also include details of the representations made from Regulation 16 and a summary of the main issues raised.
33. Delegated authority for the Corporate Director (Planning and Economy) is sought to make modifications to the neighbourhood plan as determined to be necessary through the examination process and authorise the neighbourhood plan referendum. This is recommended as the most efficient way of progressing the Neighbourhood Plan towards adoption, consistent with planning practice guidance to undertake this work swiftly.

### **Consultation**

34. The draft neighbourhood plan was consulted on under Regulation 14 between 1 September and 31 October 2020. The Council responded to the consultation and identified the need for an SEA Screening Opinion Report be prepared and the environmental bodies consulted. Brentwood Borough Council commissioned AECOM to prepare the SEA Screening Report and the Parish Council consulted the environmental bodies on this document. The Parish

Council proceeded to finalise the neighbourhood plan and prepared the Basic Conditions Statement as required by the national planning policy and guidance.

35. The Council is required under Regulation 16 to consult on the neighbourhood plan for a minimum of six weeks prior to submitting the plan to the Secretary of State. Officers will start the neighbourhood plan consultation as soon as possible. It is anticipated this will enable the neighbourhood plan to be adopted around the third quarter of 2022.

### **References to Corporate Strategy**

36. The Ingatestone and Fryerning Neighbourhood Plan is not a Council produced document and so there are no direct references to the Council's Corporate Strategy. However, the neighbourhood plan will support the Council's Local Development Plan, which is a key vehicle in the delivery of corporate priorities. It will be part of decision-making process for planning applications in its area.

### **Implications**

#### **Financial Implications**

**Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources) and S151 Officer**

**Tel/Email: 01277 312500/jacqueline.vanmellaerts@brentwood.gov.uk**

37. Government grants and technical support is available directly to neighbourhood planning groups immediately following area designation.
38. Neighbourhood Planning Regulations require local planning authorities to bear the costs of examination and referendum of neighbourhood plans or orders. Current arrangements from the Department for Levelling Up, Housing and Communities enable local planning authorities to claim some financial support towards neighbourhood planning. This is for £20,000 for each neighbourhood plan once a date has been set for a referendum (limited to five neighbourhood plans in the borough). So far, the Council has received £5,000 of grant monies following designation of Ingatestone and Fryerning Parish as a Neighbourhood Plan Area. The remaining grant can be claimed once a date has been set for referendum, as above.
39. It is likely that the level of grant that can be claimed in relation to the preparation of the Ingatestone and Fryerning Neighbourhood Plan, will broadly cover the level of anticipated expenditure incurred to meet the Council's prescribed responsibilities.

### **Legal Implications**

**Name & Title: Amanda Julian, Corporate Director (Law & Governance) and Monitoring Officer**

**Tel & Email: 01277 312500/amanda.julian@brentwood.gov.uk**

40. It is a statutory requirement to support the preparation of neighbourhood plans and for the Council to adopt, or 'make' them, if supported by the referendum. Relevant legislation includes the Neighbourhood Planning (General) Regulation 2012 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended). Failure to support Ingatestone and Fryerning Parish Council to prepare a neighbourhood plan could result in legal challenge with any subsequent consequences for the Council.
41. The next steps as they relate to legal requirements on the Council are set out within this report, including referendum for which the Council's Elections Team will be responsible. Preparation for that task is underway with support from the Planning Policy Team.

### **Economic Implications**

**Name/Title: Phil Drane, Corporate Director (Planning & Economy)**

**Tel/Email: 01277 312500/philip.drane@brentwood.gov.uk**

42. There are no direct economic implications, although the neighbourhood plan will support the Council's Local Development Plan that is a key vehicle in the delivery of corporate priorities, such as growing the economy.

### **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Corporate Manager (Communities, Leisure and Health)**

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43. The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
  - a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
  - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
44. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil

partnership' is not a relevant protected characteristic for b) or c) although it is relevant for a).

45. The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

### **Background Papers**

- Item 136, Planning & Licensing Committee, 11 October 2017, Ingatestone & Fryerning Parish Neighbourhood Plan Area Designation
- Item 496, Policy, Resources and Economic Development Committee, 9 September 2020, Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS) Supplementary Planning Document (SPD)
- Item 571, Planning & Licensing Committee, 11 November 2020, Response to Ingatestone & Fryerning Draft Neighbourhood Plan Regulation 14 Consultation

### **Appendices to this report:**

- Appendix A: Ingatestone & Fryerning Neighbourhood Plan (Regulation 15)
- Appendix B: Ingatestone & Fryerning Neighbourhood Plan Strategic Environmental Assessment (SEA) Screening Opinion
- Appendix C: Ingatestone & Fryerning Neighbourhood Plan Basic Conditions Statement
- Appendix D: Ingatestone & Fryerning Neighbourhood Plan Consultation Statement
- Appendix E: Ingatestone & Fryerning Neighbourhood Plan Consultation Statement Appendix 7 – Review of Regulation 14 Consultation representations