

Myland and Braiswick Neighbourhood Plan (2016 - 2032) Reviewed 2022-2023

Decision Statement

Introduction

Under the Town and Country Planning Act 1990 (as amended), the Council has a statutory duty to assist communities in the preparation of Neighbourhood Development Plans (and Orders) and to take plans through the processes of examination and referendum. The Localism Act 2011 (Part 6, Chapter 3) sets out the Local Planning Authority's responsibilities under Neighbourhood Planning.

Schedule A2 to the Planning and Compulsory Act 2004 Section 38A (11A) introduces a process for the modification of neighbourhood development plans where a neighbourhood development plan or order has already been made in relation to that area.

The Planning Practice Guidance Note on Neighbourhood Planning sets out the three types of modification which can be made to a neighbourhood plan or order. The process the neighbourhood plan will follow will depend on the degree of change which the modification involves:

- 1) Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
- 2) Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.
- 3) Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

Background

The Myland and Braiswick Neighbourhood Plan covers the area designated by Colchester Borough Council as the Neighbourhood Plan Area in December 2016.

The Myland and Braiswick Neighbourhood Plan passed its referendum with an 87.4% vote in favour on a turnout of 11.76% on 15th September 2016. The Plan was then adopted (made) on 8th December 2016. The Qualifying Body has undertaken a review to propose amendments to the existing policies.

Following the submission of the Myland and Braiswick Review Neighbourhood Plan to the Council, the Plan was published for 6 weeks between 27 March 2023 and 15 May 2023 inviting representations, in accordance with The Neighbourhood Planning (General) Regulations 2012 Regulation 16.

Andrew Seaman BA (Hons) MA MRTPI was appointed by Colchester City Council with the consent of Myland Community Council, to independently examine the Myland and Braiswick Neighbourhood Plan and to prepare a report of the examination.

As the proposal was submitted as a modification to the made Neighbourhood Plan, the Examiner undertook an initial determination under Paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended). This concerned whether the modifications contained in the Review Plan are so significant or substantial as to change the nature of the Neighbourhood Development Plan which the Review Plan would replace. The Examiner set out their determination, in a procedural letter of 2 August 2023, that the modifications proposed in the draft Plan are material but do not change the nature of the made Plan and as a consequence, if the recommendation under the terms of Schedule A2 is that the draft Plan be made (with or without examiner modifications), a referendum stage will not be a necessary part of the statutory process.

The Examiner's Report, which was issued on 13 September 2023, concluded that subject to modifications recommended by the examiner being made to the Plan, the Myland and Braiswick Review Neighbourhood Plan met the Basic Conditions set out in legislation. The Examiner's report recommended that Colchester City Council should make the Review Plan with the modifications specified in the report.

Decision

Section 18(1)c of the Neighbourhood Planning (General) Regulations 2012 requires the Local Planning Authority, in this case Colchester City Council, to outline what action to take in response to the recommendations of the Examiner made in a report under paragraph 13 of Schedule A2 of the 2004 Act in relation to a proposed modification of a neighbourhood development plan.

Having considered the recommendations set out in the Examiner's Report and the reasons for them, Colchester City Council has agreed the modifications made to the draft Plan under paragraph 12(6) of Schedule 4B to the Town and Country Planning Act 1990 in response to the Examiner's modifications. The Neighbourhood Plan will be altered to reflect these changes.

As per the recommendation by the Examiner, the Myland and Braiswick Neighbourhood Plan can proceed to be made without the need for a referendum.

Conclusion

I am taking the above decision as I agree with the advice set out in the Examiner's Report for the Myland and Braiswick Neighbourhood Plan.

I declare that I have no personal or prejudicial interest in respect of this decision.

Signed:



Lindsay Barker
Executive Director – Place
Date: 26/09/23