

TRAFFORD COUNCIL

Report to: Executive
Date: 26th June 2017
Report for: Decision
Report of: Executive Member for Housing and Strategic Planning

Report Title

Altrincham Town Centre Neighbourhood Business Plan – Regulation 18 – Publication of the Examiner’s Report and Modifications and Decision to proceed to Referendum.

Summary

This report provides a summary of the Examiner’s report and proposed modifications to the Altrincham Town Centre Neighbourhood Business Plan (ATCNBP). The report seeks approval of the Examiner’s modifications in order to ensure that the ATCNBP meets the Basic Conditions which a draft neighbourhood plan must meet if it is to proceed to referendum.

The report also seeks approval that the ATCNBP should proceed to referendum and for the proposed area in which the referendums (for both the residents and businesses) are to take place Plan.

Recommendation(s)

That the Executive will be asked to:

1. Approve each of the proposed modifications to the text of the ATCNBP contained within the Examiner’s report (Appendix 2).
2. Approve the proposed modification to the ATCNBP area made by the Examiner (see PM7 in Appendix 2 and the Plan at Appendix 3).
3. Approve that the ATCNBP should proceed to referendum and delegate authority to the Director of Growth and Regulatory Services and the Director of Legal and Democratic Services to carry out any action to enable the ATCNBP to proceed to referendum.
4. Approve the referendum boundary as recommended by the Examiner (detailed in Appendix 3).

Contact person for access to background papers and further information:

Name: Clare Taylor-Russell (Strategic Planning and Growth Manager)
Extension: 4496

Background Papers: None

<p>Relationship to Policy Framework/Corporate Priorities</p>	<p>Upon adoption, the Altrincham Town Centre Neighbourhood Business Plan will form part of the Trafford Development Plan. As such, it will contribute to a number of Corporate Priorities, in particular: Economic Growth and Development; Safe Place to Live - Fighting Crime; Services Focused on the Most Vulnerable People.</p>
<p>Financial</p>	<p>The Council is eligible for financial assistance from the government at various stages of neighbourhood Plan preparation. The Council has already drawn down £10,000 of funding for the designation of the Area and the Forum. The Council will be eligible to claim a further £30,000, (i.e. an “additional burdens” grant) once a date has been set for the referendum.</p> <p>There will be a cost associated with holding the two referendums. If the Executive decides to set the boundary, as recommended by the Examiner, it is likely that only one polling station, at Altrincham Town Hall, would be required since the ATCNBP area covers only relatively small parts of the wards of Altrincham, Bowdon and Hale Central. Therefore, the costs for both referendums (business and residents) are estimated at between £13,000 and £16,000. The cost of these referendums would be covered by the CLG grant and should also leave sufficient funding to cover the cost of the adoption process.</p> <p>Should the Executive resolve to hold the referendum over a wider area, such as the wards of Altrincham, Bowdon, Broadheath, Hale Barns, Hale Central, Timperley and Village (similar to area proposed by the Forum) is estimated to be approximately £100,000.</p> <p>In order to cover the gap between the cost of a referendum over this area and the additional burdens’ grant, £70,000 would need to be earmarked from EGEI reserves in 2017/2018. In this event, additional funds would also need to be identified for the adoption process, likely to be in the region of £5,000 - £10,000.</p>
<p>Legal Implications:</p>	<p>The Plan and the Forum have been proposed in accordance with the requirements of the Neighbourhood Planning Regulations (2012). Once the Plan is adopted, Planning decisions must be taken in accordance with the Trafford Local Plan (of which the Neighbourhood Plan will form part), unless material considerations indicate</p>

	otherwise. Until adoption, the draft Neighbourhood Plan is a material consideration in Planning decisions with its materiality (in decision making) increasing as it progresses through the preparation stages.
Equality/Diversity Implications	The Core Strategy Equality Impact Assessment is considered to be relevant to the Neighbourhood Plan on the basis that the purpose of the Neighbourhood Plan is to deliver a number of the objectives and policies of the Core Strategy.
Sustainability Implications	A Strategic Environmental Assessment (SEA) has been carried out on the Altrincham Neighbourhood Business Plan which found the main policies of the Neighbourhood Plan to be sustainable.
Resource Implications e.g. Staffing / ICT / Assets	<p>The Plan seeks to allocate two Council owned sites:</p> <ul style="list-style-type: none"> • Site of Altrincham Leisure Centre (once the new centre is developed as part of the Altair scheme), and adjoining land between Oakfield Road and the railway; for a combination of leisure uses, residential, offices and car parking; • The redevelopment of the Regent Road frontage and adjoining public car park to complete the commercial (Mixed use with Ground Floor Active Frontage) development of Regent Road and its corner with New Street and provide increased short stay car parking with improved pedestrian access via Kings Court to Railway Street and the new hospital. <p>The ATCNBP Plan has been prepared by the Neighbourhood Forum with ongoing support from Council Officers. The Council is now responsible for taking it through the referendum process. This stage will be carried out by Council Officers within the existing Strategic Planning and Growth Team along with officers from Democratic Services. The Plan and supporting documents will be available to view via the Council's website.</p>
Risk Management Implications	The ATCNBP Plan will be a key document that supports the Council's Core Strategy and Development Management function.
Health & Wellbeing Implications	None
Health and Safety Implications	None

1.0 Background

- 1.1 Under the Town and Country Planning Act 1990 (as amended), and the Localism Act 2011, the Council has a statutory duty to assist communities in the preparation of Neighbourhood Development Plans and to take Plans through a process of examination and referendum(s).
- 1.2 The Altrincham Town Centre Neighbourhood Business Forum was formally designated by the Council on the 28th July 2014 as the qualifying body to prepare the Altrincham Town Centre Neighbourhood Business Plan (ATCNBP) and the membership currently stands at over 100. The Council also designated the proposed ATCNBP area at the same time as the Forum. The designated Plan area is attached as Appendix 1.
- 1.3 Following three previous rounds of public consultation, which took place between the autumn of 2014 and the winter of 2015/16, and under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012; the Forum formally submitted the ATCNBP, along with the required supporting documentation to the Council on 30th June 2016¹.
- 1.4 The ATCNBP includes a vision, a number of objectives, design principles and a number of land use Planning and development management policies which include:
 - Main shopping and mixed use area with ground floor active frontages.
 - New retail development.
 - Town centre housing.
 - Car parking.
 - Digital infrastructure.
 - Design and quality and green infrastructure.
 - Office uses.
 - The market.
 - Community facilities.
- 1.5 The ATCNBP also includes six site allocations which are as follows:
 - Oakfield Rd/Balmoral Road builders' merchant site - for residential use.
 - Mayors Rd/Manor Rd builders' merchant site - for residential use.
 - Ashley Rd/St Johns Rd (the former YWCA building) - for residential use.
 - The Old Hospital site on Market Street/Greenwood Street - for mixed use including residential, offices, library, community purposes and public open space next to the market.
 - The Council owned Altrincham leisure centre site (once the new centre is developed as part of the Altair scheme) and adjoining land - for leisure, residential, offices and car parking.
 - Redevelopment of the Council owned Regent Road car park and adjoining land - for mixed use purposes.
- 1.6 Throughout the preparation of the ATCNBP, Council officers have maintained a positive working relationship with the Forum. This has ensured that the ATCNBP

¹ Details of the previous rounds of public consultation are contained within the Executive report dated 10th August 2016. <https://democratic.trafford.gov.uk/ieDecisionDetails.aspx?ID=561>

does not conflict with Council priorities in relation to land holdings and wider policies such as parking, transportation and public realm improvements. It has also ensured that the ATCNBP is deliverable in Planning terms.

2.0 Publicising the Submitted ATCNBP

2.1 In accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 the Council carried out a formal six week consultation on the submitted Plan between 30th August and 11th October 2016. The ATCNBP and all of the supporting documents were made available on the Council's website and at all Trafford's libraries and Access Trafford points.

2.2 All of the consultees included within the consultation statement submitted with the ATCNBP were notified of the Regulation 16 consultation and a total of 15 responses were received by the Council during the consultation period.

2.3 Copies of the representations received to the Regulation 16 consultation and a copy of the Forum's consultation statement are available to view on the Council's website via the following links:

<http://www.trafford.gov.uk/Planning/strategic-Planning/docs/07022017/All-Comments.pdf>

<http://www.trafford.gov.uk/Planning/strategic-Planning/docs/August2016-Update/PL1447-ID-032-00-3-Altrincham-Town-Centre-Neighbourhood-Business-Plan-Consultation-Statement.pdf>

3.0 Independent Examination

3.1 Following the close of the consultation period the Council appointed an independent Examiner, in order to examine whether the ATCNBP meets the necessary basic conditions² set out within the legislation and whether (or not) it should proceed to referendum. The Council submitted the ATCNBP to the Examiner along with the required supporting documents, including the Forum's consultation statement and all of the responses received to the Regulation 16 consultation.

3.2 The Examiner, having reviewed the representations made to the Regulation 16 consultation, concluded that it would not be necessary to hold a formal hearing into the ATCNBP and the final Examiner's report setting out the proposed modifications was received on 26th January 2017. The report is available by the following link:

<http://www.trafford.gov.uk/Planning/strategic-Planning/docs/07022017/Altrincham-NBP-Final-Report.pdf>

3.3 In summary, the Examiner concluded that:

- The ATCNBP has been prepared and submitted for Examination by a qualifying body – The Altrincham Town Centre Neighbourhood Business Forum.

² In relation to neighbourhood planning the basic conditions' test includes an assessment of the neighbourhood Plan against national guidance, sustainability matters, the LA's development Plan policies and, EU obligations.

- The ATCNBP has been prepared for an area properly designated – Altrincham Town Centre as shown in Plan 2 of the ATCNBP (Appendix 1 of this report).
- The ATCNBP specifies the period to which it is to take effect – 2015 to 2030.
- The policies relate to the development and use of land for a designated neighbourhood area.
- Subject to the policy modifications set out in her report (see Appendix 2); the ATCNBP meets the Basic Conditions.
- That the ATCNBP should proceed to referendum.

Examiners Modifications to the Plan

- 3.4 The Examiner has made a number of recommendations to modify the ATCNBP in order to ensure that the Plan meets the Basic Conditions and other legal requirements. The proposed modifications are set out in Appendix 2 and are summarised below.
- 3.5 In relation to the proposed allocation of the Council owned Regent Road Car Park, the ATCNBP stated that the preparation of a ‘masterplan’ should be led by the Council. Although the Examiner agreed that a masterplan or overall scheme framework should be set to achieve the best future use of the site in an integrated fashion, she has recommended that the reference to it being “led by the Council” should be removed so that other parties or consultants could prepare the masterplan or development framework (see PM2 in Appendix 2). This is in line with the Council’s comments made at the Regulation 16 stage and reiterated during the Examination process.
- 3.6 The Examiner has recommended a small amendment to the ATCNBP boundary (see PM7 in Appendix 2) in order that the rear gardens of the houses along New Street and four additional properties are included within the town centre boundary (as per the Regulation 16 consultation response from The Bowdon Downs Residents’ Association). See Appendix 3 which illustrates the extent of the amended boundary.
- 3.7 The remainder of the Examiner’s modifications propose minor wording changes to a small number of policies. These changes are in order to provide additional information or clarification, or to ensure that the proposed policies are brought into general conformity with policies of the adopted Trafford Core Strategy.
- 3.8 It is felt that the Examiner’s recommendations are sound and there are no reasons to contest them. If, however, the Executive decides to not accept any of the proposed policy modifications or to make a decision which differs from that of the Examiner’s recommendations, in relation to the content of the Plan, clear reasons must be given and it should also be noted that there would be a requirement for a further period of public consultation which would add further delays to the ATCNBP. It is considered that it would be undesirable to carry out the required consultation over the summer months, therefore it would have to be carried out during the autumn of 2017 which would mean that it is unlikely that the referendums could take place before early 2018.

Referendum Boundary

- 3.9 In addition to making recommendations in relation to the content of the Plan, and whether it should proceed to referendum, the Examiner was required to make a recommendation in relation to the referendum boundary. As the ATCNBP is a

business Plan there will need to be two referendums held, one for businesses and one for residents. The Neighbourhood Forum put forward to the Examiner that there should be two different referendum boundaries, one for businesses should be limited to the Plan area only; while the one for residents should extend more widely and be reflective of the geographical spread of the comments received to its Regulation 14 consultation.

- 3.10 Details of the Forum's Regulation 14 consultation, including postcode information from those that responded, are included within the Forum's consultation statement which was submitted to the Council and the Examiner along with the ATCNBP. Based on this information, the Forum proposed a residential referendum boundary which would broadly cover the following seven wards: Altrincham, Bowdon, Broadheath, Hale Barns, Hale Central, Timperley and Village.
- 3.11 In response to this, the Council set out its position to the Examiner in relation to the referenda boundaries as follows:
- To define two separate boundaries would be inequitable.
 - To define two separate boundaries would place significant financial burden on the Council.
 - The preferred boundary for both of the referendums is the Plan boundary as originally submitted.
- 3.12 Notwithstanding the above points the Council put to the Examiner that should she see merit in extending the boundaries beyond the Plan boundary, then it was suggested that a single, extended boundary should to include the wards of Altrincham, Bowdon, Broadheath, Hale Barns, Hale Central, Timperley and Village. This would be a reasonable extension for both of the referendum boundaries (see Appendix 4).
- 3.13 The Examiner considered the issue of two referendum areas and made the following considerations:
- The relevant legislation does not appear to contemplate there being anything other than a single, shared referendum area.
 - To define two separate referendum boundaries would give rise to issues of inequality and conflicted democracy in defining the areas differently.
- 3.14 The Examiner therefore concluded that the respective referendums need to be both comparable and complimentary to enable the Council to be in the most informed position to proceed (or not) with the Plan to adoption. In assessing whether a wider boundary should be set for the referendums, especially the residents' referendum, the Examiner considered the hierarchy of town centres in Trafford. Based on the Trafford Retail and Leisure Study 2007, the Trafford Core Strategy defines the hierarchy as follows:
- Main town centre – Altrincham.
 - Other town centres – Sale, Stretford, Urmston.
 - District centres – Hale, Sale Moor, Timperley.
 - Local centres.

3.15 In reaching her decision on the referendum boundary, the Examiner made the following comments:

- Although Altrincham clearly has a very wide catchment area, it would be disproportionate to try and capture within the residents' referendum area every potential shopper, or user of the leisure services that might have an interest in Altrincham.
- Any judgement on a wider boundary would be somewhat arbitrary even if the relevant area was cast extremely wide.
- Although many residents and businesses outside of the ATCNBP boundary may have an interest in the ATCNBP, it is considered that these are less significant than the people who live and operate businesses within the ATCNBP area.

Examiner's Conclusion on the Referendum Boundaries

3.16 Taking the above issues into account, and in conjunction with the information contained within the Forum's consultation statement and the Council's Regulation 16 response, the Examiner concluded that the boundaries for both referendums should be the same and that both referendums should be limited to the residents and businesses based within the ATCNBP Area. This is in line with what the Council's preferred position.

The Forum's Representations

3.17 Following the publication of the Examiner's report, the Neighbourhood Forum has expressed concerns regarding the referendum area. There is no formal right of appeal for the Forum in respect of the Examiner's report and recommendations. Therefore the Forum has specifically requested that in considering the ATCNBP Examiner's recommendations regarding the boundaries for the referendums, the Council extends the boundaries as per the postcode information contained in its submitted consultation statement, and the maps appended to the Forum's correspondence at Appendix 5 of this report.

3.18 The Forum has requested that the boundaries be extended for the following reasons:

- To restrict the referenda boundary to the ATCNBP boundary would disenfranchise the majority of the general public who are impacted by the ATCNBP and who participated in the preparation of the ATCNBP.
- The Evidence contained within Appendix 5 was not available to the Executive Member when making his decision on 10th August 2016 nor to the Examiner when she considered the ATCNBP.
- The Milton Keynes Business Neighbourhood Plan and more recently the Central Ealing (Business) Neighbourhood Plan set a precedent in that the Examiner in both of these cases recommended that the referendum boundaries should be set wider than the Plan boundaries.

Conclusions in relation to the Examiner's Recommendations

3.19 Notwithstanding the Examiner's recommendation regarding the referendum boundaries, the Council's Executive has the final decision making authority for determining the referendum boundary in accordance with paragraph 12(8) of the Localism Act 2011. The Council can extend the referendum area, going against the Examiner's recommendation, only if it considers it appropriate to do so which has to

be based on sufficient new evidence to justify this decision. In this event, the Executive must give clear reasons for rejecting the Examiner's recommendation. Also, whilst not the determining factor, it should be noted that to extend the referendum boundary as proposed by the Forum would place a significant additional financial burden on the Council which could not be met by the CLG grant.

- 3.20 Although the Forum has submitted a substantial amount of evidence regarding the referenda boundary since August 2016, it is considered that the facts remain the same as when the Executive Member made his decision in August 2016 and when the Examiner considered the ATCNBP. Whilst the Executive report itself did not detail the location of the majority of the respondents, the consultation statement which was submitted alongside the ATCNBP and referred to in that report does. Therefore it is considered that both the Executive Member and the Examiner were in receipt of the relevant facts when they made their decisions.
- 3.21 In relation to the matter of precedent raised by the Forum (see 3.19 above), the following issues should be noted:
- The Examiner would have been fully aware of the Milton Keynes case in making her decision and nevertheless she still came to the view that the referendum boundary should be that of the ATCNBP area. It is considered that this case is different to Trafford in that the Milton Keynes retail hierarchy is very different to that of Trafford's. Milton Keynes Core Strategy states that the Milton Keynes Primary Shopping Area will function and develop as a regional shopping centre. Although Altrincham is Trafford's principal town centre, Manchester City Centre is the City Region's Regional Centre. Therefore it is not considered that the Milton Keynes case sets a precedent in respect of the ATCNBP.
 - Although the Central Ealing Neighbourhood Plan was published after the ATCNBP Examiner's report was issued, it is not considered that it raises significantly new evidence pertinent to the ATCNBP case.
- 3.22 In conclusion, it is not considered that the Forum has provided significant new evidence, not previously considered by the Examiner (or Executive Member in August 2016) in reaching their decisions not to extend the referenda boundaries beyond the ATCNBP area. It is therefore considered that the referendum boundaries (for business and residents) should be the same as the ATCNBP area, as recommended by the Examiner.
- 3.23 The Examiner stated that the ATCNBP has met the basic conditions and therefore must proceed to referendum. Not to take the ATCNBP forward would be contrary to the Examiner's recommendations and the Regulations under the Town and Country Planning Act 1990 (as amended).
- 3.24 Providing appropriate reasons are given, the Council could reject or amend the Examiner's recommendations but this would delay the referendum process and would require a further period of public consultation which could result in the ATCNBP not meeting the 'basic conditions' test, because the Examiner proposed her modifications with the purpose of ensuring that the ATCNBP met this test. The Council could also accept the Examiner's proposed recommendations, other than the referendum boundary, and propose an alternative (eg. as per Appendix 4). However

this would be arbitrary and would go against the recommendations made by the independent Examiner.

- 3.25 It is therefore recommended, in light of all the issues detailed above, that the Council should accept all the recommendations made by the independent Examiner.

Costs associated with conducting the referendums

- 3.26 It is estimated that the proposed cost of holding referendums covering the ATCNBP area only (as recommended by the Examiner) would cost c £13,000 to £16,000. It is estimated that the cost of holding referendums for an extended boundary to cover the 7 wards, b as proposed by the Forum, would cost c£100,000.

4.0 Next Steps

- 4.1 In accordance with the Neighbourhood Planning (Referendums) (Amendment) Regulations in the case of business neighbourhood Plans the LPA has a period of 84 days to hold the referendums from the day after the LPA publishes its decision that a referendum must be held. Subject to Executive approval, in June 2017, they must therefore take place by mid October 2017.

Other Options

- The Examiner stated that the ATCNBP has met the basic conditions and therefore must proceed to referendum. Not to take the ATCNBP forward would be contrary to the Examiner's recommendations and therefore the Regulations under the Town and Country Planning Act 1990 (as amended).
- The Executive could reject/amend some or all of the Examiner's recommendations and delay proceeding to referenda. Because this would be contrary to the Examiner's recommendations the Executive would need to provide clear reason(s) for its change(s) to the Modifications. It would also result in a need for a further period of public consultation. Changing the modifications could result in the ATCNBP not meeting the "basic conditions" test because the Examiner considered that her modifications were necessary to ensure that the ATCNBP met this test.
- The Executive could accept the Examiner's proposed recommendations other than in respect of the referenda boundary and propose a, potentially arbitrary, alternative referenda boundary, for example that as defined at Appendix 4 or some such other boundary, to be defined by the Executive; appropriate reasons would need to be provided for such a decision.

Consultation

In accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 the Council carried out a formal six week consultation on the submitted ATCNBP between 30th August and 11th October 2016. The ATCNBP and all of the supporting documents were made available on the Council's website along with all libraries and access Trafford points. There are no further Planned public consultation stages prior to adoption.

Reasons for Recommendation

The Examiner concludes that the ATCNBP has met the basic conditions and, subject to the policy modifications set out in her report, should proceed to referendum. Therefore, approval is sought to make the proposed modifications to the ATCNBP as set out in the Examiner's report (Appendix 2), to approve the referendum boundary and agree that the ATCNBP should proceed to referendum under the direction of both the Director of Growth and Regulatory Services and the Director of Legal and Democratic Services. To make a decision to not take the ATCNBP forward to referenda in accordance with the Examiner's

recommendations would be contrary to the Neighbourhood Planning (General) Regulations 2012 (as amended by) The Neighbourhood Planning (General) (Amendment) Regulations 2015.

Key Decision: Yes

Key Decision, has 28-day notice been given? Yes

Finance Officer Clearance *(type in initials)*.....PC.....

Legal Officer Clearance *(type in initials)*...CK.....

[CORPORATE] DIRECTOR'S SIGNATURE *(electronic)*.....



To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.