

DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE	12 OCTOBER 2016	5
ST.ANNE'S ON THE SEA NEIGHBOURHOOD DEVELOPMENT PLAN – EXAMINER'S REPORT AND PROGRESSION TO REFERENDUM			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Following the Independent Examination of the St. Anne's on the Sea Neighbourhood Development Plan (the Plan), including a Public Hearing held on the 7 June 2016, the Independent Examiner, Mr John Slater BA (Hons), DMS, MRTPI, has now issued his examination report. The Examiners report concludes that subject to recommended modifications, the Plan meets with the "Basic Conditions" set out in legislation and should proceed to a Neighbourhood Planning Referendum.

Following on from the receipt of the Examiner's Report, the Local Planning Authority must consider each recommendation and decide what action to take in response to each recommendation. If satisfied that, subject to the modifications made, the draft Neighbourhood Plan meets the legal requirements and Basic Conditions, a Referendum must be held on 'making' the Plan by the Local Authority. Following a successful Independent examination and public Referendum, the St. Anne's on the Sea Neighbourhood Development Plan will form part of the statutory Development Plan, alongside the current saved Local Plan policies.

RECOMMENDATIONS

1. That a Habitat Regulations Assessment of the St Annes on the Sea Neighbourhood Development Plan as modified by by the Examiner is completed and that, subject to the completion of the Habitat Regulations Assessment and the making of any amendments to the plan to ensure it is compatible with EU obligations:
 - a. the Development Management Committee accept the Independent Examiners modifications, as set out in Appendix 1 and Appendix 2 of this report, and
 - b. Development Management Committee recommend to Full Council to agree to approve the attached Draft Decision Statement (Appendix 3), and proceed the St. Annes on the Sea Neighbourhood Development Plan to Referendum.

SUMMARY OF PREVIOUS DECISIONS

Development Management Committee – 29 July 2015 – Consultation on pre-submission draft June 2015

Development Management Committee agreed to submit comments as part of the formal consultation response to the Town Council as part of the Regulation 14 consultation process.

Development Management Committee 19 December 2012 – Delegated Powers for Neighbourhood

Area Applications

Development Management Committee resolved the following powers to be delegated to the Director of Strategic Development:

Power to designate an area as a Neighbourhood Area under section 61G(1) of the Town and Country Planning Act 1990 where the relevant body that has applied for the designation is a parish council, the designation is in accordance with that application and the area to be designated consists of the whole of the area of that Council.

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	√
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

REPORT

INTRODUCTION

1. Under the Town and Country Planning Act 1990 (as amended), Fylde Borough Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and orders and to take plans through a process of examination and referendum. The Localism Act 2011 (Part 6 Chapter 3) sets out the local planning authority's responsibilities under Neighbourhood Planning.

BACKGROUND

2. On the 12 July 2013, St. Annes Town Council requested that, in accordance with section 5(1) of the Neighbourhood Planning (General) Regulations 2012 (the Regulations), their Parish boundary be designated as a Neighbourhood Area, for which a Neighbourhood Development Plan be prepared.
3. Fylde Borough Council confirmed that for the purposes of section 5 (1) of the Regulations the Town Council is the "relevant body" for their area and in accordance with section 6 of the Regulations, Fylde Borough Council placed on their website this application, including a parish boundary map, details of where representations could be sent, and by what date, for a six week period from 25 April 2013 to 06 June 2013. The application was also advertised in the local newspaper and also on the Town Council's website. The Neighbourhood Area application was then approved on the 12 July 2013.
4. Following on from this approval, a Steering Group comprising of volunteers and advised by planning consultants, were appointed and led by St. Anne's Town Council in preparing a Neighbourhood Development Plan.
5. The Town Council submitted their Submission version plan to Fylde Borough Council under Regulation 16 for a six week consultation period. During this process, an Independent Examiner, Mr John Slater BS (Hons), DMS, MRTPI was formally appointed by Fylde Borough Council (in consultation with St. Anne's Town Council) on 24 March 2016. During his initial stages of the examination, the Examiner took the uncommon decision to examine the Plan at a Public Hearing

in order to hear oral evidence on matters he wished to explore further and to give all parties a fair chance to put a case forward.

6. Following on from the Public Hearing, which took place on the 7 June 2016, the Examiner subsequently submitted his final report (Appendix 1) on the 10 August 2016 and concluded that subject to the suggested modifications the Plan was capable of meeting the legal requirements set out in the Localism Act 2011, including meeting with the Basic Conditions, and should proceed to Referendum.
7. Schedule 4B s.12 to the Town and Country Planning Act 1990, as inserted by the Localism Act 2011, requires a local planning authority to consider each of the recommendations made in the examiner's report and decide what action to take in response to each recommendation. If the authority is satisfied that, subject to the modifications made, the draft Neighbourhood Development Plan meets the legal requirements and Basic Conditions as set out in legislation, a Referendum must be held on the making of the Plan by the local planning authority. If the local planning authority is not satisfied that the Plan meets the Basic Conditions and legal requirements then it must refuse the proposal. A Referendum must take place and a majority of residents who turn out to vote, must vote in favour of the Neighbourhood Plan (50% plus one vote) before it can be 'made'.
8. The Basic Conditions are as follows:
 - Having regard to national policies and advice contained in the guidance issued by the Secretary of State is it appropriate to make the Plan?
 - Will the making of the Plan contribute to the achievement of sustainable development?
 - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
 - Does the making of the Plan breach or is otherwise incompatible with EU obligations or Human Rights legislation?
 - Will the making of the Plan have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

DECISION

9. The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action it will take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 Act (as applied by Section 38A of the 2004 Act) in relation to a Neighbourhood Development Plan, this is outlined in both Appendix 2 and Appendix 3 of this report.
10. The majority of the recommended modifications are in line with the Publication Version of the emerging Fylde Local Plan to 2032, Publication Version, with just one modification which differs. The Examiner has recommended that the settlement boundary be amended to incorporate land identified as Countryside outside of the Green Belt, to the west of Heyhouses Lane St Annes. The Examiner considers that the inclusion of this land would offer St. Annes town the flexibility to be able to meet its housing needs over the next 15 years. The land in question is also a designated Biological Heritage Site (see Appendix 4 for the proposed amended settlement boundary and Appendix 5 for the relevant part of the Policies Map of the Fylde local Plan to 2032 Publication Version). It should be noted that the Inspector for the emerging Local Plan could also decide to amend the Policies Map in accordance with the St. Annes on the Sea Neighbourhood Development Plan as it will form part of the Development Plan for the borough.
11. Following the submission of the Examiners report, Fylde Borough Council carried out further consultation with the three statutory consultees, the Environment Agency, Historic England and Natural England in order to help it formulate a screening opinion on the modified Plan. Both the

Environment Agency and Historic England raised no objections or had any concerns regarding the new modified Plan.

12. Natural England, however, have raised concern regarding the proposed amendment to the settlement boundary as it is known that this land is utilised by pink footed geese related to the Ribble and Alt Estuaries Special Protection Area (SPA). They have recommended that the importance of the land proposed to be incorporated within the settlement boundary needs to be assessed through an update of the Habitat Regulations Assessment that has been carried out in regard to the submission version of the plan. This update would need to examine data to determine the importance of the land and, if the land supports significant numbers of SPA/Ramsar birds, the local planning authority would need to determine whether this is possible to resolve and ultimately whether the land can be developed.
13. In his report, the Examiner considers that this assessment could be carried out prior to the determination of any future planning application. However, prior to proceeding to referendum, the local planning authority must be satisfied that the plan itself meets the basic conditions tests set out in the Regulations. Until the potential implications of including this additional land within the settlement boundary are known, it would not be possible to confirm whether or not there would be any adverse impact on the SPA and so proceeding to referendum without this information could place the plan at risk of a potential legal challenge.
14. It is, therefore, recommended that prior to the plan being considered by Full Council, further information in regard to the importance of the land proposed to be included within the extended settlement boundary for SPA/Ramsar birds be sought to inform the final Habitat Regulations Assessment. Subject to the outcome of this assessment, the plan, together with any amendments that may be necessary to allow the plan to meet the basic conditions would be considered by Full Council.

IMPLICATIONS	
Finance	<p>The Council received a grant of £5,000 for the designation of the St. Anne's on the Sea Neighbourhood Area.</p> <p>A second grant of £5,000 was received when the local planning authority publicised the Neighbourhood Development Plan prior to Examination. A final grant of £20,000 will be applied for in the next quarter, following the successful completion of the Neighbourhood Development Plan Examination.</p> <p>It should be noted that pre-examination and examination stages have incurred costs that may be funded from the neighbourhood planning grants but in all probability will not cover the full cost. There is a potential for legal challenges which would incur additional costs.</p> <p>Neighbourhood planning is currently included in the Council's approved revenue budget, however this may not cover the full cost of this and other emerging neighbourhood plans. As is usually the case additional costs will be met from existing approved budgets. However should this not be possible a subsequent funded budget increase to the Council's current approved budget may be necessary.</p>
Legal	<p>The Local Planning Authority is required to accord with the Regulations at relevant stages of the process. There will be a</p>

	potential need for a legal officer input at relevant stages, which will have time resource issues. There is a potential for judicial review if the Council do not agree with all the modifications suggested by the Examiner.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	The Neighbourhood Development Plan should promote the principles of sustainable development. The submitted Neighbourhood Development Plan is also supported by a Sustainability Report.
Health & Safety and Risk Management	There is a possible risk that the level of request to undertake Neighbourhood Planning and the level of input required will exceed the capacity of the Council to provide support and have a detrimental impact on progressing the Local Plan.

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Independent Examiners Final Report	August 2016	http://www.fylde.gov.uk/council/planning-policy--local-plan-/neighbourhood-planning/st-annes-sea-town-council-neighbourhood-plan/
Statement of Consultation (July 2016)	July 2016	http://www.fylde.gov.uk/council/planning-policy--local-plan-/neighbourhood-planning/st-annes-sea-town-council-neighbourhood-plan/
Amended Submitted Plan – Suggested Changes version	July 2016	http://www.fylde.gov.uk/council/planning-policy--local-plan-/neighbourhood-planning/st-annes-sea-town-council-neighbourhood-plan/
Amended Blackpool Airport Boundary (following Public Hearing)	July 2016	http://www.fylde.gov.uk/council/planning-policy--local-plan-/neighbourhood-planning/st-annes-sea-town-council-neighbourhood-plan/
Amended Schedule of Local Green Spaces (following Public Hearing)	July 2016	http://www.fylde.gov.uk/council/planning-policy--local-plan-/neighbourhood-planning/st-annes-sea-town-council-neighbourhood-plan/

Attached documents

1. Appendix 1: Examiners Report
2. Appendix 2: Schedule of Changes
3. Appendix 3: Draft Decision Statement
4. Appendix 4: Proposed Amended Settlement Boundary
5. Appendix 5: Section of Policies Map for the Fylde Local Plan to 2032 Publication Version in relation to the Proposed Amended Settlement Boundary