

DECISION ITEM



REPORT OF		MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE		18 JANUARY 2017	4
BRYNING WITH WARTON 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 Bryning with Warton Neighbourhood Development Plan (the Plan), the Independent Examiner, Mr Nigel McGurk BSc(Hons), NCD, MBA, 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 Development 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 Bryning with Warton Neighbourhood Development Plan will form part of the statutory Development Plan, alongside the current saved Local Plan policies.

RECOMMENDATIONS

1. That the Development Management Committee accept the Independent Examiners modifications, as set out in Appendix A and Appendix B of this report; and
2. Development Management Committee recommend to Full Council to agree to approve the attached draft Decision Statement (Appendix C), and proceed the Bryning with Warton Neighbourhood Development Plan to Referendum.

SUMMARY OF PREVIOUS DECISIONS

Development Management Committee 20 January 2012 – Neighbourhood Development Plan Update

For information purposes the planning policy team produced an indicative timetable for the five emerging Neighbourhood Development Plans in the Fylde Borough.

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 17 July 2013, Bryning with Warton Parish 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 Council confirmed that for the purposes of section 5 (1) of the Regulations the Parish 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 22 August 2013 to 04 October 2013. The application was also advertised in the local newspaper and also on the Parish Council's website. The Neighbourhood Area application was then approved on the 25 October 2013.
4. Following on from this approval, a Bryning with Warton Neighbourhood Plan Steering Group (BwWNPSG) was established, which comprised of volunteers, parish councillors and advised by planning consultants, all working on behalf of the Parish Council in preparing a Neighbourhood Development Plan (the Plan).
5. The Parish Council submitted their Submission version plan to Fylde Council, in accordance with part 5 of Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, and the Plan was publicised and comments were invited over a six week consultation period, which ran from 9 October 2014 to 28 November 2014. However, after careful deliberation the Plan was delayed from going to Independent Examination due to the pending outcome of the Blackfield End Farm planning appeal, the result of which had the potential to have a significant impact on the Plan.

6. After receiving the appeal decision (which was significantly delayed) BwWNPSG were advised by Fylde Council to revise the Plan, taking into account the outcome of that appeal decision and the number of dwellings now approved at Warton. However, the BwWNPSG chose to keep the Plan as originally drafted. Therefore, Fylde Council, with the approval of Bryning-with-Warton Parish Council appointed an Independent Examiner, Mr Nigel McGurk BSc (Hons) MCD MBA MRTPI to review the NDP and to consider whether it met the 'Basic Conditions' required by legislation and whether it should proceed to referendum.
7. The Examiner subsequently submitted his final report (Appendix A) in April 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. However, the Examiner's modifications were significant including the removal of the entire housing section of the Plan including policies and allocations as he *'could not conclude with any degree of certainty that the neighbourhood plan will have no likely significant environmental effects.'* He went on to state that he could not conclude that the Neighbourhood Plan did not breach EU obligations especially as the Plan allocated land for housing. Further modifications were textual, including the deletion of a further three policies.
8. After careful consideration and the thorough exploration of alternative options, including developing design codes and policies, retaining the housing section after first carrying out a Habitat Regulations Assessment (HRA) which would be required in order to identify any impact the proposed housing allocations had on the nearby protected European sites leading to further consultation and re-examination of the Plan, together with a recent public consultation with local residents (who voted in favour of accepting the Examiner's recommendations and modifications and proceeding to Referendum), the BwWNPSG have decided to go ahead and accept the Examiner's recommendations and proceed the Plan to Referendum.
9. Paragraph 12 of Schedule 4B 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'.
10. 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

11. 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 B and Appendix C of this report.

12. The modifications are in line with the National Planning Policy Framework and the emerging Fylde Local Plan to 2032, which has now been submitted to the Secretary of State.

IMPLICATIONS	
Finance	<p>The Council received a grant of £5,000 for the designation of the Bryning with Warton 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 confirmation that the Plan will proceed to Referendum.</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 also 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 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.</p>
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	<p>The Neighbourhood Development Plan should promote the principles of sustainable development. The submitted Neighbourhood Development Plan is also supported by a Sustainability Report.</p>
Health & Safety and Risk Management	<p>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.</p>

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Bryning with Warton NDP Examiner's Report	April 2016	http://www.fylde.gov.uk/council/planning-policy--local-plan-/local-development-framework/warton-neighbourhood-plan/
Bryning with Warton Submission Neighbourhood Plan 2030	September 2014	http://www.fylde.gov.uk/council/planning-policy--local-plan-/local-development-framework/warton-neighbourhood-plan/
Amended draft Plan – with suggested modifications version	January 2017	http://www.fylde.gov.uk/council/planning-policy--local-plan-/local-development-framework/warton-neighbourhood-plan/
Bryning with Warton Submission Neighbourhood Plan – Consultation Statement	September 2014	http://www.fylde.gov.uk/council/planning-policy--local-plan-/local-development-framework/warton-neighbourhood-plan/
Bryning with Warton Submission Neighbourhood Plan – 'Basic Conditions' Statement	September 2014	http://www.fylde.gov.uk/council/planning-policy--local-plan-/local-development-framework/warton-neighbourhood-plan/

Attached documents

1. Appendix A: Examiners Report
2. Appendix B: Schedule of Changes
3. Appendix C: draft Decision Statement
4. Appendix D: draft Bryning with Warton Neighbourhood Plan (with modifications)