

North East Derbyshire District Council

Cabinet

27 September 2017

Decision and Referendum on Holymoorside and Walton Neighbourhood Plan

Report of Portfolio Holder for Planning and Environmental Health

This report is public.

Purpose of the Report

- To advise Members on the background to the preparation of the Holymoorside and Walton Neighbourhood Plan.
- To consider the recommended modifications of the Examiner of the Holymoorside and Walton Neighbourhood Plan and make a decision on how to proceed.
- Approval is sought to authorise that following a successful referendum, if more than half of those voting in the referendum vote in favour of the Holymoorside and Walton Neighbourhood Plan, then the Neighbourhood Plan is brought into effect ('Made').

1 Report Details

Background

- 1.1 On 12 January 2015 Holymoorside and Walton Parish Council submitted an application to North East Derbyshire District Council for the designation of the Parish as a Neighbourhood Area. This was in line with Neighbourhood Planning (General) Regulations 2012. The designation was confirmed on 4 March 2015 for the preparation of the Holymoorside and Walton Neighbourhood Plan.
- 1.2 The Parish Council subsequently consulted its residents and businesses and prepared the Holymoorside and Walton Draft Neighbourhood Development Plan. A 6 week consultation period on the Parish's Draft Plan was held between 22 January and 8 March 2016.
- 1.3 The Submission version of the Neighbourhood Plan for Holymoorside and Walton was completed and submitted to the District Council in April 2017. North East Derbyshire District Council accepted the Plan was legally compliant and held a 6 week consultation period on the submitted Plan from 26 May to Friday 7 July 2017, in accordance with regulation 16 of the Neighbourhood Planning Regulations.
- 1.4 The Council as Local Planning Authority submitted formal comments on the Submitted Neighbourhood Plan. These related to:

- Policies that were considered unlikely to be applied in practice, i.e. offer guidance or support or apply to circumstances that cannot be controlled under Planning Law, for example protection of dry stone walling. Objections were only raised where policies were considered to compromise the Council's role in development management.
- Repetition in some policies, of the Local Plan or National policy.
- Settlement development limits (SDLs) and Green Belt boundaries are strategic matters to be dealt with by the Local Plan.
- The proposed policy for small scale employment uses would freely allow employment development in the countryside and needed revision.
- There was no clear evidence of the reasons to include the community facilities listed and some could be protected in other ways, there was an objection to this policy.
- A policy protects nine Important Open Views. The policy itself was considered satisfactory, as was the selection process.
- The policy protecting Important Local Green Spaces required clarification.

1.5 An Independent Examiner was appointed in July 2017 to undertake the examination of the Submission version of the Holymoorside and Walton Neighbourhood Plan and this was completed with the final examination report sent to both the Parish Council and District Council on 12 September 2017.

Issues for Consideration

Examiners Report

1.6 The Examiner's Report into the Plan was received by the District Council on 12 September 2017 and was made available to the public on the Council's website soon after. A copy of the Examiner's Report is attached at **Appendix 1** of this report. In his summary the Examiner has the following comments that are pertinent to the Council's Local Plan and Development Management process:

"111. The Neighbourhood Plan for Holymoorside and Walton has been thoughtfully prepared to address the issues that are of concern to the community. While it does not envisage significant new development other than small scale infill, this reflects the existing Local Plan policy, the direction of the emerging Local Plan and the location of Holymoorside and Walton in relation to the Green Belt.

"113. I have found it necessary to recommend some modifications for a variety of reasons. ... In light of the local planning authority's comments it is important to emphasise that, while I accept that some policies may eventually be superseded by the emerging Local Plan, that does not render them unnecessary at this stage as the Local Plan is some way from adoption."

1.7 In his conclusions the Examiner states that:;

- The Holymoorside and Walton Neighbourhood Plan has been prepared in accordance with Sections 38A and 38B of the Town and Country Planning Act 1990 and the Neighbourhood Planning Regulations 2012;

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it would be appropriate to make the Plan;
- The making of the Plan would contribute to the achievement of sustainable development;
- The making of the Plan would be in general conformity with the strategic policies of the development plan for the area;
- The Plan would not breach and would be otherwise compatible with European Union obligations and the European Convention on Human Rights.

The Examiner therefore recommends that the Holymoorside and Walton Neighbourhood Plan should proceed to a referendum subject to his recommended modifications

- 1.8 *Officer Comment:* The main changes recommended by the Examiner (in order to meet the 'Basic Conditions') are summarised in the Decision Statement at **Appendix 2**. It is considered that these changes do not fundamentally alter the main aims of the Plan and are not regarded to be significant and it is therefore recommended that they are applied to the final version of the Holymoorside and Walton Neighbourhood Plan put to Referendum.

Referendum Arrangements

- 1.9 The Neighbourhood Planning (General) Regulations 2012 set out that if the District Council agrees to the Examiner's recommendations, it should publish a 'Decision Statement' on the Plan. This Statement must set out the Council's decision on the Holymoorside and Walton Neighbourhood Plan and the reasons for making that decision. It is also normal practice for the date of the Referendum to be specified. The proposed Decision Statement, which includes the Examiner's amendments, is attached at Appendix 2 of this report.
- 1.10 The Examiner did not consider it necessary to widen the area in which the Referendum would be held, beyond the defined Neighbourhood Area, comprising the Parish of Holymoorside and Walton only.
- 1.11 The date for the Referendum is provisionally set for **23 November 2017**. Therefore the final version of the Plan and other relevant documents must be on the website at least 28 working days before that date. The Council will also need to ensure that the publication of the 'notice of referendum' takes place at least 25 days (excluding Saturdays, Sundays and Public Holidays) before the referendum. This would require that the notice is published on **19 October 2017**. This is in line with the detailed requirements set out in the Neighbourhood Planning (Referendums) Regulations 2012.
- 1.12 The Referendum will follow a similar format to an election. All Local Government electors registered to vote within the Neighbourhood Area will be given the opportunity to vote in the Referendum and will be sent poll cards, setting out the voting method whether by post or at a polling station. Electors will be issued with a ballot paper with the question 'Do you want North East Derbyshire District Council to use the Neighbourhood Plan for Holymoorside and Walton to help it decide planning applications in the neighbourhood area?' Residents will be given the opportunity to vote 'yes' or 'no'.

- 1.13 If more than 50% of those voting in the referendum vote 'yes' then the District Council, as Local Planning Authority is required to adopt the plan as part of the development plan for North East Derbyshire. If the result of the Referendum is "no", then nothing further happens. Holymoorside and Walton Parish Council would have to decide if it wishes to make changes and re-submit an amended Plan.
- 1.14 The referendum will be run by the Council's Electoral Services Team.

'Making' the Plan

- 1.15 If more than half of those voting in the referendum vote in favour of the relative Neighbourhood Plan, then before being formally made, the Neighbourhood Plan will be included in the development plan for the area and will be given weight when applications for planning permission are determined. It is proposed here that Cabinet delegates authority to the Chief Executive in consultation with the Portfolio Holder for Environmental Health and Planning to formally 'make' the Neighbourhood Plan within eight weeks of a successful referendum, unless there is any legal reason to prevent this.

2 Conclusions and Reasons for Recommendation

- 2.1 The Holymoorside and Walton Neighbourhood Plan has been subject to examination by an independent examiner. The Examiner's view that subject to modifications the Plan would meet the Basic Conditions and other relevant legal requirements.
- 2.2 The Council must consider each of the recommendations made in the Examiner's report and decide what action to take in response. The Council's Decision Statement (attached at Appendix 2) sets out the Examiner's recommended modifications and a proposed Council decision in respect of each of them.
- 2.3 It is not considered that the Examiner's proposed modifications fundamentally alter the main aims of the Plan and are not regarded to be significant and it is therefore recommended that they are applied to the final Referendum version Holymoorside and Walton Neighbourhood Plan.
- 2.4 Therefore, subject to the modifications being made, the Draft Neighbourhood Plan meets the legal requirements and basic conditions as set out in legislation and can proceed to referendum.
- 2.5 To meet the requirements of the Localism Act 2011, a referendum which poses the question "Do you want North East Derbyshire District Council to use the Neighbourhood Plan for Holymoorside and Walton to help it decide planning applications in the neighbourhood area?" will be held in the Parish of Holymoorside and Walton on 23 November 2017.

3 Consultation and Equality Impact

- 3.1 Consultation with residents, businesses and other bodies with an interest in the Parish has been an integral part of the process from before the initial drafting of the Plan. A consultation statement is required of the Parish, which describes the consultations that have taken place. It has been examined both by the District

Council, in order to establish that the Plan accords with relevant regulations, and the Examiner. Formal consultation has taken place at two stages,; Draft Plan and Submitted Plan, with the next step being the referendum of all Parish residents, which is an important part of the legislative framework specifically identified in the Action Plan within the Localism Bill: neighbourhood plans:

- 3.2 There is no requirement for an equality impact assessment of an individual Neighbourhood Plan

4 Alternative Options and Reasons for Rejection

- 4.1 An alternative option would be to reject some of the Examiners amendments or introduce some of the District Council's own amendments. The Inspectors recommendations generally align with the District Council's Planning Officers' views, and do not compromise the emerging Local Plan. Consequently neither of these are necessary in order to produce a Plan that meets the basic conditions.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 The arrangements for claiming financial support for neighbourhood planning have been confirmed for 2017/18. From April 2017, local planning authorities (LPAs) will be able to claim up to £20,000 once they have set a date for a referendum following a successful examination where a neighbourhood plan has not previously been made for that area. It is not currently known whether this will cover all costs. Any shortfall will need to be met from the reserve. A claim for payment will need to be made during November-December 2017 or March 2018. From March 2018, only claims for activity that has taken place in that current financial year will be eligible. The costs of the Examination and Referendum will be the responsibility of the Local Planning Authority.

5.2 Legal Implications including Data Protection

- 5.2.1 None arising from this report.

5.3 Human Resources Implications

- 5.3.1 The planning support for current NPs has demanded a significant amount of officer time equivalent to 0.5 FTE, this is currently being accommodated within existing staffing arrangements. The Council's Electoral Services Team will also be required to carry out the referendum.
- 5.3.2 Going forward if there are further requirements to administer neighbourhood plans then it is likely to be necessary to review the resources needed.

6 Recommendations

- i. That the recommended modifications of the Examiner of the Holymoorside and Walton Neighbourhood Plan are accepted in full and that the Plan is amended accordingly.
- ii. That the Plan, as amended, is taken forward to a referendum within the Parish of Holymoorside and Walton, as the defined Neighbourhood Area as outlined in this report.
- iii. That Cabinet delegate authority to the Chief Executive in consultation with the Portfolio Holder for Environmental Health and Planning that following a successful referendum, if more than half of those voting in the referendum vote in favour of the relative Neighbourhood Plan, then the Neighbourhood Plan is brought into effect ('Made').

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Affected</p>	Brampton & Walton
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
1	Report of the Examiner into the Holymoorside and Walton Neighbourhood Plan.
2	North East Derbyshire District Council's Decision Notice on the Holymoorside and Walton Neighbourhood Plan.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
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AGIN5 CAB 0927 – H&W NHPlan