

North East Derbyshire District Council

Cabinet

13 December 2017

Decision and Referendum on Ashover Neighbourhood Plan

Report of the Councillor Michael Gordon, Portfolio Holder with Responsibility for Environment

This report is public

Purpose of the Report

- To approve the recommended modifications of the Examiner of the Ashover Neighbourhood Plan and agree a date for the referendum.
- Approval is also sought to authorise that following a successful referendum, if more than half of those voting in the referendum vote in favour of the Ashover Neighbourhood Plan, then the Neighbourhood Plan is brought into effect ('Made').

1 Report Details

Background

- 1.1 On 3 December 2014 Ashover 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 16 February 2015 for the preparation of the Ashover Neighbourhood Plan.
- 1.2 The Parish Council consulted its residents and businesses and prepared the Ashover Draft Neighbourhood Development Plan. Consultation on the Parish's Draft Plan was held between 22 January and 8 March 2016 and again on a revised Draft Plan between 30 January 2017 and 13 March 2017.
- 1.3 The Submission version of the Neighbourhood Plan for Ashover was completed and submitted to the District Council in May 2017. North East Derbyshire District Council accepted the Plan was legally compliant and held a 6 week consultation period on the submitted Plan from 20 July and 31 August 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. The most significant are outlined below:
 - Some policies relate to matters that will be superseded by the Local Plan, when approved; others offer guidance or support. The Parish has been informed of this situation through preparation, however the Council is only objecting to such policies where they compromise its role in development management.

- The Plan does not make any specific housing allocations, as planning permissions are now in place. The way in which the Plan is providing for housing is broadly in line with the strategy for the Local Plan.
- The Plan will not change settlement development limits (SDLs), leaving this matter to be dealt with by the Local Plan within the scope of its review of SDLs. This is acceptable and planning officers will liaise closely with the Parish.
- The Policy on existing employment uses seeks to prevent the loss of unspecified employment uses. This policy is stricter than the CDLP employment protection policies and is unreasonable.
- Under AP7 development proposals for new, or the expansion of existing, small scale employment uses will be supported in all circumstances, implying employment development is acceptable in the countryside; this is contrary to Council planning policy.
- Policy AP9 15 specific buildings or locations of community value to be protected. The reasons are not presented and in the case of the several public houses, a policy for these may be unnecessary.
- Policy AP15 designates Local Green Spaces, with supporting evidence in an Appendix. There are several spaces listed in this policy which do not appear to fulfil the criteria for Local Green Space Designation. The emerging Local Plan will give appropriate protection to some these areas.
- The policy on renewable energy and low carbon technologies and the emerging Local Plan policy are similar and comprehensive. Only one criterion in this policy could apply once an emerging Local Plan Policy is finalised and this policy is considered unnecessary as a result.
- Policies that specifically address issues not in the emerging Local plan include noisy sports and dark skies.

1.5 An Independent Examiner was appointed in September 2017 to undertake the examination of the Submission version of the Ashover Neighbourhood Plan.

Issues for Consideration

Examiners Report

1.6 The Examiner's Report into the Plan was received by the District Council on 7 November 2017 and was made available to the public on the Council's website soon after. The Examiner's report is attached at **Appendix 1** and concludes that:-

- The Ashover 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 Ashover Neighbourhood Plan should proceed to a referendum subject to the modifications that he recommended.

- 1.7 In his summary the Examiner has the following comments that are pertinent to the Council's Local Plan and Development Management process:

“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.”

- 1.8 The Examiner made some significant changes to the Plan, including removing some ambiguity over whether the settlement boundaries in the Plan were, as intended, those of the existing (2005) Local plan. He also agreed with the Council over new employment uses in the countryside.
- 1.9 The main changes recommended by the Examiner (in order to meet the 'Basic Conditions') are shown in the table in **Appendix 2**, along with the Council's response. In line with the examiner's recommendation, therefore, it is recommended that they are applied to the Referendum version Ashover Neighbourhood Plan.

Referendum Arrangements

- 1.10 The Neighbourhood Planning (General) Regulations 2012 set out that if the District Council agrees to the recommendations of this report, it has to publish a 'Decision Statement' on the Plan. This must set out the Council's decision on the Neighbourhood Plan and the reasons for making that decision. It is normal practice for the date of the Referendum to be specified also. The proposed decision statement, which includes the Examiner's amendments, is contained within Appendix 2.
- 1.11 The date for the Referendum is provisionally set for **Thursday, 8th February 2018**. 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 **4th January 2018**. The detailed requirements in respect of the referendum process are 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 their 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 Ashover 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. Ashover Parish Council would have to decide if it wishes to make changes and re-submit an amended Plan.

‘Making’ the Plan

- 1.14 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 Ashover Neighbourhood Plan has been subject to examination by an independent examiner. It is 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 Ashover 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 Ashover to help it decide planning applications in the neighbourhood area?” will be held in the Parish of Ashover on **Thursday, 8th February 2018.**

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 three stages; twice at the Draft Plan stage and once with the Submitted Plan; The next step will be 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 by the end of March 2018. 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

- (1) That the Examiner's report and recommended modifications are accepted in their entirety and the Plan, as amended, is taken forward to a referendum within the Parish as outlined in this report.
- (2) That Cabinet delegate authority to the Chief Executive in consultation with the Portfolio Holder for Environment 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>	Ashover
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
1	Report of the Examiner into the Ashover Neighbourhood Plan.
2	Decision Notice on the Ashover Neighbourhood Plan.
<p>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)</p>	
None	
Report Author	Contact Number
Helen Fairfax - Planning Policy Manager	7168