

North East Derbyshire District Council

Cabinet

23 May 2024

Decision on the Shirland and Higham Parish Neighbourhood Plan

Report of Councillor S Pickering, Portfolio Holder for Environment and Place

Classification: This report is public

Report By: Helen Fairfax – Planning Policy and Environment Manager

Contact Officer: As Above

PURPOSE

- To advise Members on the proposed Shirland and Higham Parish Neighbourhood Plan, and the findings of the independent Examiner.
- To consider the Examiner’s recommended modifications to the Neighbourhood Plan and make a decision on how to proceed.
- To secure authorisation that following a successful referendum, if more than half of those voting in the referendum vote in favour of the Shirland and Higham Parish Neighbourhood Plan, then the Neighbourhood Plan is brought into effect (‘Made’).

RECOMMENDATIONS

1. That the Examiner’s report and recommended modifications to the Plan as set out in the Decision Statement at **Appendix 1** 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 asks the Managing Director to exercise his existing delegation to make the Shirland and Higham Parish Neighbourhood Plan, if more than half of those voting in the referendum vote in favour of the Neighbourhood Plan.

Approved by the Portfolio Holder – Cllr Pickering, Cabinet Member for NEDDC

IMPLICATIONS

Finance and Risk: Yes No

Details:

The costs of the Examination and Referendum are the responsibility of the Local Planning Authority (LPA). However, LPA’s are 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, as is the case in Shirland and Higham Parish. It is expected that this funding will be sufficient to cover expenditure incurred in relation to the Examiner's fees and the holding of the referendum. A claim for payment will need to be made for any activity that has taken place during the relevant financial year, i.e. 2024/25, at a time determined by the Department for Levelling Up, Housing and Communities.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

As detailed in the report at paragraphs 2.5 – 2.8.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details:

Work on Neighbourhood Plans is currently accommodated within existing staffing resources.

On behalf of the Head of Paid Service

DECISION INFORMATION

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:</p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <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 Significantly Affected</p>	Shirland and Higham
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input checked="" type="checkbox"/> Public <input checked="" type="checkbox"/> Other <input checked="" type="checkbox"/></p>	Consultation with residents, businesses and other bodies with an interest in the Parish has been an integral part of the process in line with regulations.

Links to Council Plan priorities, including Climate Change, Equalities, and Economics and Health implications.
All

REPORT DETAILS

1. Background

- 1.1 On 10 June 2021 Shirland and Higham Parish Council submitted an application to North East Derbyshire District Council for the designation of the Parish as a Neighbourhood Area. Following the designation of the neighbourhood Area on 11 October 2021, Shirland and Higham Neighbourhood Plan Steering Group prepared a draft version of Shirland and Higham Parish Neighbourhood Plan ('the Plan') and consulted on it for 6 weeks ending on 3 July 2023.
- 1.2 The Submission version of the Neighbourhood Plan for Shirland and Higham was completed and submitted to the District Council on 17 November 2023. The District Council accepted the Plan was legally compliant and held a 6-week consultation period ending on 28 February 2024.
- 1.3 The District Council as Local Planning Authority made formal comments on the submitted Plan concluding that overall, the draft Plan was well presented, and in the main, scoped appropriately, dealing with relevant local issues, relying on surveys from the local populace to highlight local concerns, and create the policies and objectives of the plan. There were, however, some areas where changes were needed to be compliant with regulations in general and to be in conformity with the Local Plan.
- 1.4 Following liaison with the Parish Council, Christopher Collison, Planning and Management Ltd, was appointed as Independent Examiner. He undertook the examination of the Submission version of the Plan from March to May 2024. The Examiner's Report into the Plan was issued on 1 May 2024. Details of the Plan preparation and Examiners Report are available on the Council's Neighbourhood Planning page:

<https://www.ne-derbyshire.gov.uk/index.php/neighbourhood-planning>.
- 1.5 In accordance with the Neighbourhood Planning (General) Regulations 2012, (Regulation 17a), the District Council has 5 weeks to decide what action to take in response to each recommendation made by the Examiner in their report, unless an alternative date is agreed with the Parish Council.

2. Details of Proposal

Examiners Report

- 2.1 The Examiner's Report into the Plan was received by the Council on 1 May 2024. The Examiner states in his overall finding that *"I recommend to North East Derbyshire District Council that the Shirland and Higham Parish Neighbourhood Development*

Plan for the plan period up to 2034 should, subject to the modifications I have put forward, be submitted to referendum.”

- 2.2 With regards to the Plan’s policies the Examiner recommends 12 main modifications to the Submission Version of the Plan. This includes the deletion of one Policy (4b: Tree Planting and Replacement) and amendments to policies 1, 3, 4a, 5, 6, 7, 8, 9a, 9b and 10. The proposed modifications are made in the interests of clarity, conformity with national policies and deliverability. These modifications are included in the schedule at Appendix 1, with some of the more significant changes explained in paragraph 2.5 below.

Examiners conclusions over consultation

- 2.3 The Examiner notes the key stages of the consultation undertaken. concluding: “.../ am satisfied the requirements have been met. In addition, sufficient regard has been paid to the advice regarding plan preparation and engagement contained within the Guidance...”

Examiner’s recommendations

- 2.4 The Examiner recommended modifications to the Plan, including agreement with the majority of the comments made by the District Council. He considered the Plan against Basic Conditions that it needs to meet, in particular whether individual policies have regard to national policy (including the NPPF), and whether they are in general conformity with the strategic policies in the North East Derbyshire Local Plan.

- 2.5 The main modifications are summarised below:

- 2.5.1 The Examiner has recommended modifications to Policies 1, 3, 4a, 4b, 5, 6, 7, 8, 9a, 9b and 10:

- Policy 1: Sustainable Development
- Policy 3: Protecting the Landscape Character
- Policy 4a: Protecting and Enhancing the Natural Environment
- Policy 4b: Tree Planting and Replacement
- Policy 5: Designation of Local Green Spaces
- Policy 6: Protecting Heritage Assets
- Policy 7: Achieving High Quality Design
- Policy 8: Renewable Energy, Energy Efficiency and Low Carbon Technologies
- Policy 9a: Housing Mix and Type
- Policy 9b: Affordable Housing
- Policy 10: Protecting or Enhancing the Provision of Community Facilities

- 2.5.2 Most of the Examiner’s recommended modifications were made to ensure the policies in the Plan were in line with national guidance. However, further modifications were recommended to Policies 4a, 7, 8 and 9b to ensure there was no repetition or duplication of national and local policies.

- 2.5.3 The Examiner also recommended the deletion of Policy 4b as he considered that the policy did not serve a clear purpose, and unnecessarily duplicated policies that already applied to the area.

- 2.5.4 More significant modifications were recommended for Policy 3. The Examiner recommended the full removal of one of the designated Significant Green Gaps (SGGs) and the partial deletion of another. These recommendations were made following the Examiner's consideration of the suitability and justification of the proposed SGGs.
- 2.5.5 The Examiner made a few further minor modifications to the above listed policies, explanatory text, and associated maps and appendices. These minor modifications were made to improve the clarity and accuracy of the policies in the Plan and the associated maps.
- 2.5.6 The Examiner's Report concludes that the Submitted Plan meets each basic condition and human rights obligations, specifically:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and
 - the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The Council's Decision

- 2.6 The Neighbourhood Planning (General) Regulations 2012 set out that if the District Council agrees to the recommendations of the examiner's 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 in the decision statement. The proposed Decision Statement is contained within **Appendix 1**.
- 2.7 It is recommended that the District Council agrees to all the changes put forward by the Examiner as set out in the schedule attached to the Decision Statement. The schedule lists the Examiner's recommendations and the Council's response, which is agreement in all cases. The Examiner's recommendations will be incorporated into a Referendum Version Shirland and Higham Neighbourhood Plan, along with any consequential amendments. The schedule and the referendum version Plan will be publicised prior to the referendum. Changes have yet to be applied to a version of the Plan as produced by the Parish Council. This will be done once (and if) a Final Plan is required.

Referendum Arrangements

- 2.8 The date for the Referendum is provisionally set for **Thursday 18 July 2024**. The Information Statement, the Referendum version of the Plan and other relevant documents will be published on the Council's website at least 28 working days (i.e. excluding Saturdays, Sundays and Public Holidays) before the chosen date. The

Council will also need to ensure that the publication of the 'Notice of Referendum' takes place at least 25 working days before the referendum.

- 2.9 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 polling cards, setting out their polling method. 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 Shirland and Higham to help it decide planning applications in the neighbourhood area?' Residents will be given the opportunity to vote 'yes' or 'no'.
- 2.10 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. Shirland and Higham Parish Council will then decide if it wishes to make changes and re-submit an amended Plan.

'Making' the Plan

- 2.11 If electors vote in favour of the Plan, then the Neighbourhood Plan will immediately be included in the Development Plan for the area and will be given weight when applications for planning permission are determined. Nevertheless, the Plan has to be formally 'made' by the District Council. It is proposed here that Cabinet requests the Managing Director to use his existing delegation to formally 'make' the Neighbourhood Plan soon after a successful referendum unless there is any legal reason to prevent this. Once this happens a final version of the Plan will be produced.

3. Reasons for Recommendation

- 3.1 The Shirland and Higham Neighbourhood Plan has been subject to examination by an independent examiner. The Examiner's view is that subject to specified modifications the Plan meets the Basic Conditions and other relevant legal requirements.
- 3.2 Officers have considered each of the recommendations made in the Examiner's report (see the Council's Decision Statement attached at Appendix 1) and agrees with the Examiner's findings in all cases.
- 3.3 It is considered that, subject to the modifications set out in the Decision Statement the Draft Neighbourhood Plan will meet the legal requirements and basic conditions as set out in legislation. The modifications do not fundamentally alter the main aims of the Plan and do not compromise the strategic policies in the North East Derbyshire Local Plan. Therefore, the Plan should proceed to Referendum.

4. Alternative Options and Reasons for Rejection

- 4.1 An alternative option would be to reject the Examiners recommendations, but only if there is good reason to do so. The Examiner's recommendations align with Officers' views and as such there does not appear to be any justification for not making the Plan, subject to a positive outcome at Referendum.

DOCUMENT INFORMATION

Appendix No	Title
1	Decision Statement on the Shirland and Higham Parish 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 you must provide copies of the background papers)	
None	