

PART A

BRAMPTON NEIGHBOURHOOD PLAN - ASSESSING STATUTORY REQUIREMENTS

Officer Delegation Scheme Reference: tbc

1. Purpose of the report

To provide information to enable the taking of a decision authorised under the Standing Orders of the Authority.

To determine that Brampton Neighbourhood Plan (Regulation 15 submission draft) meets statutory requirements and can be subject to Consultation and Examination.

2. Decision

1. **That Brampton Neighbourhood Plan (Regulation 15 submission draft) complies with statutory requirements.**
2. **That the Authority works with North East Derbyshire District Council (NEDDC) to undertake statutory notification, consultation and independent examination of Brampton Neighbourhood Plan.**

Decision made by:

Date



03/01/2023

**Brian Taylor
Head of Planning**

[date decision made]

3. Options Considered

1. None. This is a legal obligation under the Localism Act 2011.

4. Background information

1. Brampton Parish Council has submitted a neighbourhood plan and supporting documents to the Authority. The Authority is responsible for determining whether this plan complies with statutory requirements, and for initiating the subsequent phases of Consultation and Examination.
2. The Localism Act 2011 enabled parish and town councils and neighbourhood forums to write neighbourhood plans for defined neighbourhood areas. Once 'made' (brought into force) neighbourhood plans become part of the statutory development plan for that neighbourhood area and are used to determine planning applications.

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3. Brampton Neighbourhood Area was designated by the Authority on 13th July 2018. The area is the same as the civil parish area.
 4. Since that time the Authority has:
 - commented on draft neighbourhood plan policies to ensure conformity with strategic planning policies
 - commented on the neighbourhood plan policies during the statutory consultation in accordance with Neighbourhood planning Regulations (Regulation 14)
 5. On 18th October 2022 Brampton Parish Council submitted the following documents, as required by Regulation 15 of the Neighbourhood Planning Regulations (2012), for consideration by the Authority:
 - Brampton Neighbourhood Plan (Regulation 15 submission version – September 2022)
 - Consultation Statement (October 2022)
 - Basic Conditions Statement (August 2022)
 - Strategic Environmental Assessment Screening and Habitats Regulation Assessment Screening Report (August 2022)
 - Evidence documents and appendices
 6. Brampton Neighbourhood Plan contains 15 planning policies:
 - Policy B1 Respecting and enhancing distinctive views
 - Policy B2 Protecting important local green spaces
 - Policy B3 Nature conservation and biodiversity
 - Policy B4 Dark skies
 - Policy B5 Noisy sports
 - Policy B6 Housing mix
 - Policy B7 Brampton parish character buildings of local heritage interest
 - Policy B8 Promoting and ensuring sustainable high quality design
 - Policy B9 Protecting, conserving and enhancing dry stone walls
 - Policy B10 Protection and enhancement of important community facilities
 - Policy B11 Asset of community value
 - Policy B12 Broadband and other telecommunications provision
 - Policy B13 Highway and pedestrian safety
 - Policy B14 Footpaths, cycle paths and bridleways
 - Policy B15 Ultra-low emissions vehicles infrastructure

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7. The Authority must now determine if Brampton Neighbourhood Plan complies with legal requirements.

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8. Alongside NEDDC, the Authority must then undertake or facilitate the following steps to enable the 'making' of Brampton Neighbourhood Plan:
- Statutory notification of the Authority's decision
 - Regulation 16 consultation
 - Independent examination. This will usually be in the form of written representation unless the examiner determines otherwise. He or she will consider whether the draft plan: (i) meets basic conditions, (ii) complies with definitions and provisions, (iii) is compatible with Convention rights, and whether the referendum should extend beyond the neighbourhood area. The examiner will then report that the draft plan is either (i) submitted to referendum, (ii) modified and then submitted for referendum or (iii) refused.
 - Consider examiners recommendations and come to a formal view about whether the draft plan (or the plan as modified): (i) meets basic conditions, (ii) is compatible with Convention rights and (iii) complies with the definition of a neighbourhood plan.
 - Publish a decision notice and the examiner's report. Make modifications to plan if needed.
 - Referendum. A vote in favour (50% plus one of those voting) means that the Authority must 'make' the plan and it becomes part of the statutory development plan for the neighbourhood area.

5. Key issues

1. Neighbourhood Planning (General) Regulations (2012) Part 5 (15) requires that where a qualifying body submits a proposal to the local planning authority it must include:
 - A map or statement which identifies the area. *This is included on page 6 of the Neighbourhood Plan.*
 - A Consultation Statement. *The Consultation Statement submitted contains details of the people and organisations that were consulted and how they were consulted, and summarises the main issues and concerns and how they were addressed.*
 - The proposed neighbourhood development plan.
 - A statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act. *This is submitted as 'The Basic Conditions Statement'.*
 - An environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement that sets out the reasons for determining that the plan would not have significant environmental effects. *A Strategic Environmental Assessment (SEA) screening is submitted. It concludes that no significant effects are likely as a result of the implementation of the Plan and this was agreed by Natural England. On this basis, a full SEA will not be required to be undertaken.*

The requirements of Neighbourhood Planning (General) Regulations (2012) Part 5 (15) have been met.

2. The Conservation of Habitats and Species Regulations (2017) S106 requires that where a qualifying body submits a proposal to the local planning authority it must include sufficient information for the authority to make an assessment concerning the likelihood of significant effects on a European site. *A Habitats Regulations Assessment Screening Statement is submitted. It concludes that no significant adverse effects are likely as the result of the implementation of the Plan. It is not necessary to undertake an Appropriate Assessment, as part of the Brampton Neighbourhood Plan preparation, and this was agreed by Natural England.*

The requirements of the Conservation of Habitats and Species Regulations (2017) S106 have been met.

3. In accordance with the Town and Country Planning Act (1990) Schedule 4B para (5), the Authority must decline to consider a submitted neighbourhood plan if it is a repeat proposal. A repeat proposal occurs if, within 2 years, the Authority has already refused the same or similar proposal, or it was refused at a referendum.

The proposal is not a repeat proposal.

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4. Paragraph 6 Schedule 4B of the Town and Country Planning Act requires the Authority to consider whether:
- the qualifying body is authorised to act. A Parish Council is authorised to act in relation to a neighbourhood area if that area consists of, or includes the whole or any part of the area of the Parish Council. Since the whole of Brampton parish was designated by the Authority as Brampton Neighbourhood Area, Brampton Parish Council is authorised to act.
 - the proposals and accompanying documents comply with the rules for submission to the Authority. These are set out in paragraph 12 and do comply with the rules for submission.
 - the proposals meet the definition of a neighbourhood development plan. This is set out in Section 38 A (2) of the Planning and Compulsory Purchase Act 2004 as 'a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan'. Brampton Neighbourhood Plan contains planning policies for the use and development of land in Brampton Neighbourhood Area.
 - the proposals meet the scope of neighbourhood development plan provisions as set out in Section 38 B (1) of the Planning and Compulsory Purchase Act 2004. These are that a neighbourhood development plan:
 - (i) must specify the period for which it is to have effect. Brampton Neighbourhood Plan specifies that it covers the time period 2017-34.
 - (ii) may not include provision about development that is excluded development as defined by Section 61K of the 1990 Town and Country Planning Act. Accordingly, Brampton Neighbourhood Plan does not include provision for 'County Matters' development (i.e. minerals), waste development or development requiring an Environmental Impact Assessment.
 - (iii) may not relate to more than one neighbourhood area. Brampton Neighbourhood Plan relates only to Brampton Neighbourhood Area.
 - the Parish Council has undertaken the correct procedures in relation to consultation and publicity in accordance with Neighbourhood Planning Regulation 14. The Consultation Statement demonstrates that correct procedures were undertaken.

The requirements of Paragraph 6 Schedule 4B of the Town and Country Planning Act have been met.

5. A neighbourhood plan must also meet the 'Basic Conditions' required by Paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990. A local planning authority has to be satisfied that a Basic Conditions Statement has been submitted but it is not required at this stage to consider whether the draft plan meets basic conditions. It is only after the independent examination that the planning authority comes to a view on whether the draft plan meets basic conditions.

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6. In order to meet Basic Conditions Brampton Neighbourhood must demonstrate that it:
- has regard to national policies and guidance issued by the Secretary of State.
 - achieves sustainable development
 - is in general conformity with the strategic policies contained in the development plan
 - does not breach and is otherwise compatible with EU obligations

6. Policy and Corporate Risk Implications

1. This contributes to the Corporate Strategy 2019-24 by delivering against:
 - the **Outcome** 'thriving and sustainable communities that are part of this special place'
 - the **Strategic Intervention** 'influencing and shaping the place through strategic and community policy development'
 - the **Key Performance Indicator** 'number of communities shaping the place'
 - the **2024 Target** '40% of parishes have helped to shape their future'
2. This contributes to the emerging Authority Plan 2023-28 (to be implemented 1st April 2023) which aims for PDNP communities that are thriving and sustainable places, where all generations can live healthy and fulfilled lives.
3. The steps that the Authority is taking, as described, to respond to the submission of Brampton Neighbourhood Plan, means that the risk of failure to meet Government standards or legal obligations is low.

7. Human Rights and Equalities Issues

1. None have been identified.

8. Financial Implications (include consultation feedback from Finance)

1. The cost of the Regulation 16 public consultation, independent examination and referendum will be met by NEDDC as lead authority. There will be costs for the Authority in staff time to support this process and we are currently liaising with NEDDC regarding a proportion of the £20k 'extra burdens' grant available to the authorities from the Ministry of Communities, Housing and Local Government to come to PDNP. This can be claimed once a decision statement with an intention to send the plan to referendum has been issued.

9. Legal Implications (include consultation feedback from Legal)

1. No legal risks identified but any defects in procedure can be challenged by application to the High Court.

10. List of Consultees

None

11. Matters arising from consultation

None

12. [Other relevant implications] (Optional)

1. PDNP officers are working closely with the Brampton Parish Council and NEDDC to ensure that the final draft policy is in accordance with our strategic policies, but formal, detailed consideration of policy and the check of 'general conformity' is undertaken at a later stage in the process.

13. Background papers

None

Appendices

Submission package – see para 4.5.

Report Author, Job Title and Publication Date

Clare Wilkins
Community Policy Planner
December 2022