

Aldcliffe with Stodday Neighbourhood Plan – Adoption (Making) of the Neighbourhood Plan 28 September 2022

Report of Director of Economic Growth & Regeneration

PURPOSE OF REPORT

To formally “make” the Aldcliffe with Stodday Neighbourhood Plan with immediate effect, with the consequence that it becomes part of the statutory Development Plan for the area.

This report is public.

RECOMMENDATIONS

- (1) That the Council, under section 38A(4) of the Planning and Compulsory Purchase Act 2004, formally make the Aldcliffe with Stodday Neighbourhood Plan with immediate effect, with the consequence that it becomes part of the statutory Development Plan for the area.**

1.0 Introduction

- 1.1 The National Planning Policy Framework (NPPF) and the Localism Act (2011) give local communities direct power to develop their shared vision for their neighbourhood and deliver the sustainable development they need. The preparation of a neighbourhood plan provides a powerful tool for local people to get the right type of development for their community.
- 1.2 Aldcliffe with Stodday Parish (the Parish) was designated as a Neighbourhood Plan Area in December 2018 and since then has worked towards drafting the Aldcliffe with Stodday Neighbourhood Plan (the Plan) (Appendix A of this report) which will meet the needs and aspirations of the residents and businesses within the Parish. The process has included various informal consultation events, statutory consultations and collating evidence to support the policies in the Plan. An independent Examination took place early this year with the Examiner finding that the Plan, subject to recommended modifications, met the basic conditions a plan must pass. These modifications were made allowing the Plan to advance to the referendum stage.
- 1.3 Following a positive referendum result on the 21st July 2022, this report recommends that the Aldcliffe with Stodday Neighbourhood Plan is ‘made’ by the Council and becomes part of the statutory Development Plan for the area. Where planning applications come forward within the parish of Aldcliffe with Stodday, the Plan will form an important basis for making decisions alongside other relevant local and national planning policy and guidance.

- 1.4 Preparing a plan is a complex process and the ‘making’ of this Plan marks the culmination of several years of challenging work by the Parish Council which is to be commended.

2.0 Proposal Details

- 2.1 The content of the Plan seeks to address a range of planning matters and seeks to shape the response to development in a way which reflects the needs and aspirations of the residents and businesses in the Parish. Key issues addressed by policies in the Plan include the protection of wildlife, landscape character and heritage; the role of the area for recreation in particular walking, cycling and horse riding and the safety of those using the transport networks; the type, scale and location of new housing; and sustainable carbon neutral objectives in response to climate change. The following paragraphs summarise the policies.
- 2.2 The Plan expands upon the adopted Local Plan policy when addressing the conservation and enhancement of biodiversity. It seeks to minimise the impacts of light and noise pollution on wildlife and ensure 10% biodiversity net gain as a minimum.
- 2.3 It includes a policy which aims to support cycling and walking by improving cycle storage, ensuring new accesses are sensitively designed, permeable routes, the integration of paths with existing routes, connections with green corridors and the enhancement and creation of accessible links to Lancaster City.
- 2.4 The Plan adopts a design code which seeks to ensure new buildings are in harmony with their setting and sensitive to heritage assets. The design code is embedded within 2 policies which set out criteria relating to green spaces, views and character, gateway and access features, the pattern and layout of buildings, boundary line and treatments, parking and public realm, building heights, materials and building details and traditional and contemporary architecture.
- 2.5 A housing policy seeks to ensure new development is of a modest scale limited to small infill sites, previously developed land or conversions. It sets out criteria for the layout of development, accessibility, private space, support for home working and opportunities to enhance community infrastructure. The policy supports smaller dwellings of up to 3 bedrooms and terraced or semi-detached homes suitable for small households and downsizing.
- 2.6 The Plan includes policies which support community led renewable energy schemes and sustainable design which maximises energy efficiency, renewable energy, reuse of materials, open space and electric vehicle charging points.
- 2.7 The surface water drainage policy includes the sustainable drainage hierarchy within the new policy DM34 of the Climate Emergency Review of the Local Plan (CERLP), setting out a priority for the reuse and reduction of surface water, infiltration and attenuation above ground to provide multi-functional benefits. This is a positive step in advance of the examination and future adoption of the CERLP.
- 2.8 The Parish Council has fulfilled the statutory requirements of the neighbourhood plan-making process undertaking consultation on the issues and options between February and April 2020 and then on a draft plan between January and March 2021. The City Council carried out the consultation on the finalised Plan during October and November 2021.

- 2.9 Following the publication of the final version of the Plan, the Plan and the supporting evidence was scrutinised by an independent Examiner. The Examiner was appointed jointly between the City Council and the Parish Council. The examination of the plan was carried out through the written representations procedure and did not involve any form of hearing sessions. The final version of the Examiner's Report was received in March 2022, and it was recommended that, subject to a series of modifications, the Plan could proceed to referendum. This Examiner Report can be found In Appendix B of this report.
- 2.10 An Individual Cabinet Member Decision Report was subsequently submitted and on 18th May 2022 it was agreed to endorse the modification required by the Examiner and to progress the Plan to referendum. A Regulation 18 Decision Statement (Neighbourhood Planning (General) Regulations 2012/637) was issued giving notice of the forthcoming referendum which was held on the 21st July 2022. The referendum was held in accordance with the Neighbourhood Planning (Referendums) Regulations 2012 (as amended in 2013). There was a turnout of 42% of eligible voters at the referendum, equating to 95 voters (electorate of 225). Of the votes received 90 voted yes in response to the referendum question, "Do you want Lancaster City Council to use the Neighbourhood Plan for Aldcliffe with Stodday to help it decide planning applications in the neighbourhood area?"
- 2.11 The Planning and Compulsory Purchase Act 2004 (as amended) by virtue of Section 38A(4) requires the Council to 'make', a neighbourhood plan if more than 50% of those voting at a referendum vote in support of the neighbourhood plan. It is therefore a legal requirement that the Council 'make' a plan following a positive outcome at referendum, the exception being where making the plan would breach, or otherwise be incompatible with, any EU or human rights obligations. The Council have assessed and concluded that the Plan, including its preparation, does not breach, and would not otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1988). The Examiner's Report also states that the Plan does not breach the European Convention on Human Rights obligations. Therefore, the Council is now under a statutory duty to 'make' the Aldcliffe with Stodday Neighbourhood Plan.
- 2.12 Under Regulation 19 of Neighbourhood Planning (General) Regulations 2012/637 the Council will publish a decision statement (in draft form at Appendix C to this report) on its website setting out the reasons for making the Plan and where it may be inspected, and send a copy of that statement to the Parish Council.
- 2.13 The Plan period runs between the period 2021-2031 to align with the adopted Local Plan and will be used in the determination of planning applications that fall within the parish of Aldcliffe with Stodday. Its effectiveness will be monitored annually and the Parish will need to review the Plan in due course as part of this process.

3.0 Details of Consultation

- 3.1 The Parish and City Councils have carried out informal and statutory consultation as outlined in paragraphs 2.8 and 2.10.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: 'Make' the Aldcliffe with Stodday Neighbourhood Plan	Option 2: Do not 'make' the Aldcliffe with Stodday Neighbourhood Plan
Advantages	The 'making' of the Plan is mandatory given the outcome of the referendum and legislative assessment, and therefore options in this regard are limited.	No advantages.
Disadvantages	No disadvantages.	The making of the Plan is mandatory given the outcome of the referendum and legislative assessment. By not 'making' the Plan the Council would be in breach of the regulations.
Risks	It is possible that a legal challenge, by way of a judicial review, can be brought against the Council's decision to 'make' the Plan. The time period for court challenge would be six weeks from the decision. All reasonable measures have been taken to ensure procedural compliance and minimise risk for the Council.	A legal challenge could be brought against the Council by way of judicial review if the Council does not 'make' the Plan.

5.0 Officer Preferred Option (and comments)

5.1 As outlined above, the making of the Plan is mandatory given the outcome of the referendum and legislative assessment, and therefore the options in this regard are limited. The preferred option is for the Plan to be 'made'.

6.0 Conclusion

6.1 In conclusion, following a positive outcome of the referendum on the Aldcliffe with Stodday Neighbourhood Plan, and subsequent conclusion that the Neighbourhood Plan does not breach, or is incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1988), the Aldcliffe with Stodday Neighbourhood Plan should be 'made' and, as such become part of the statutory Development Plan for the area.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing):

The Examiner has confirmed that the Plan meets the Basic Conditions (subject to recommended modifications). One of these conditions is that it must be compatible with

human rights requirements. Officers agree that the plan, with the modifications made, meets the Basic Conditions.

There are not considered to be any equality impacts relating to recommendations of this report.

Another of the Basic Conditions is to contribute the achievement of sustainable development. The neighbourhood plan was supported by a Strategic Environmental Assessment screening that concluded that the plan would not trigger significant environmental effects. In addition to this, the Council has confirmed that it believes the plan meets the Basic Conditions including in terms of sustainability.

LEGAL IMPLICATIONS

The Council's Legal duties are set out within Section 38A(4) and Section 38A(6) of the Planning and Compulsory Purchase Act 2004, this requires:

- (4) A local planning authority to whom a proposal for the making of a neighbourhood development plan has been made—
 - (a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan, and
 - (b) if paragraph (a) applies, must make the plan as soon as reasonably practicable after the referendum is held [F2and, in any event, by such date as may be prescribed].
- (6) The authority are not to be subject to the duty under subsection (4)(a) if they consider that the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

Given the above, in the case of Aldcliffe with Stodday where;

- a) there was significant positive vote in favour of 'making' the Plan (more than 50% of the turnout); and
- b) it is concluded that the 'making' of the plan would not breach, or otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998),

there is a legal requirement for the plan to be made.

Upon being 'made', the Plan will be subject to a statutory period of time (six weeks) within which a legal challenge can be lodged.

FINANCIAL IMPLICATIONS

Once the Plan is 'made', should the Council seek to bring forward a Community Infrastructure Levy within the district in the future, 25% of any receipts generated from development within Aldcliffe with Stodday parish will be passed to the Parish Council.

There may be a requirement for additional staff resources, but these are expected to be minimal and manageable within the resources available.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces

The Economic Growth and Regeneration Service is adequately resourced to advance neighbourhood plans and consider the policies when making planning decisions. There are no other direct implications.

SECTION 151 OFFICER'S COMMENTS

The 151 Officer has been consulted and has no comments to add.

MONITORING OFFICER'S COMMENTS

Development Plan documents, once made, form part of the Council's Policy Framework and therefore this is a function of Full Council.

BACKGROUND PAPERS

Appendix A – Aldcliffe with Stodday Neighbourhood Plan

Appendix B - Examiners Report on Aldcliffe with Stodday Neighbourhood Plan

Appendix C - Draft Regulation 19 Decision Statement

Contact Officer: Fiona Clark
Telephone: 01524 582222
Email: fjclark@lancaster.gov.uk