CABINET

Slyne with Hest Neighbourhood Plan Decision to Proceed to Referendum

Individual Cabinet Member Decision (Councillor Dowding)

Report of Director for Economic Growth & Regeneration

PURPOSE OF REPORT					
To seek approval from the cabinet member for the Slyne with Hest Neighbourhood Plan to proceed to referendum at the earliest possible opportunity.					
Key Decision		**Non-Key Decision**	**X**	**Referral from Cabinet Member**	
Date of notice of forthcoming key decision	N/A				
This report is public					

RECOMMENDATION OF THE DIRECTOR OF ECONOMIC GROWTH & REGENERATION

1. **That the Cabinet Member endorses the proposed changes to the Neighbourhood Plan, as set out in in the Examiners Report and agrees that decision statement can be issued to inform interested parties that the modified Neighbourhood Plan should proceed to Referendum as soon as reasonably possible.**

2. **That Cabinet Member agrees to the advance funding of the Referendum which will be claimed back from the Government in due course.**

1. 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. Neighbourhood planning provides a powerful set of tools for local people to get the right type of development for their community. The referendum is the culmination of the neighbourhood plan production process.

1.2 Slyne with Hest Parish Council is seeking to prepare their own neighbourhood plan

under the powers described and have now reached an advanced stage in its preparation. The Independent Examination into the Plan took place between June to September and an Examiners Report has now received indicating that, subject to modifications their neighbourhood plan can be advanced to the referendum stage. These modifications have now been made.

2.0 PROPOSAL DETAILS

2.1 Slyne with Hest Parish Council began work on their Neighbourhood Plan following the areas designation in April 2016. In preparing the document the group has placed community engagement at the heart of their plan, undertaking a series of consultations and building evidence to support the policies contained in the plan.

2.2 The content of the plan seeks to address a range of issues including ecology, the scale, design and type of new development, tourism and business development, flooding and drainage, the impact of development on views, development which may affect the coastline, landscape, community facilities, green spaces, footpaths and road safety and heritage. The plan contains a range of descriptive policies which seek to address issues which are important to the community.

2.3 The Parish Council (who are responsible for preparing the plan) fulfilled the statutory requirements of neighbourhood plan making process and have undertaken consultation on a draft plan in the autumn of 2019 and a finalised version early this year.

2.4 Following the publication of the final version of the Slyne with Hest Neighbourhood Plan, the documentation was scrutinised by an independent examiner. The examiner was appointed jointly between the City Council and 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 Examiners Report was received on the 28th September 2022 and recommended that, subject to a series of modifications, the plan can proceed to referendum. The most signficiant modification required relates to the removal of a proposed land allocation within the plan. The Slyne with Hest Neighbourhood Plan, sought to remove a site from the greenbelt and allocate this for housing. The Inspector did not consider this justified or in accordance with the Local Plan. The Examiner's Report is attached at Appendix B of this Report.

2.5 The modifications set out by the Examiner are considered to be necessary to ensure that the neighbourhood plan meets the Basic Conditions as required by the Localism Act. The basic conditions for neighbourhood plan making are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood 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.
- The making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
- Prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

2.6 Officers have reviewed the plan in light of the proposed modifications and conclude that the plan will continue to meet the Basic Conditions when incorporating the Examiner's modifications. Since receiving the modifications, the Qualifying Body agree that the changes are acceptable, and they have amended the Neighbourhood Plan accordingly and have confirmed that they wish for it to proceed to referendum at the earliest practicable opportunity.

2.7 If approved, the referendum will be held at the earliest practicable opportunity, in accordance with legislation. The question to be used in the referendum is set by the 'Neighbourhood Planning (Referendums) Regulations 2012', and must be "Do you want Lancaster City Council to use the neighbourhood plan for Slyne with Hest to help it decide planning applications in the neighbourhood area?"

2.8 If more than 50% of those voting in the referendum answer "yes", the plan would then form part of the Development Plan for the City Council and would then need to be formally 'made' (adopted) by the Council. This 'making' of the neighbourhood plan would be a decision made by full Council.

3.0 DETALS OF CONSUTLATION

3.1 The Slyne with Hest Neighbourhood Plan was formally consulted upon at Regulation 16 (The Neighbourhood Planning (General) Regulations 2012 (as amended) stage prior to the submission of the neighbourhood plan for examination by the appointed Examiner.

4.0 OPTIONS AND OPTIONS ANALYSIS (including Risk Assessment)

	Option 1: Accept the modifications of the Examiner, issue a decision statement to this effect and approve the Neighbourhood Plan to go forward to referendum.	**Option 2:** Reject some of the modifications of the Examiner and delegate authority to the Planning Manager to publish the decision.	**Option 3:** Reject all of the modifications of the Examiner.
Advantages	The benefit of a Neighbourhood Plan shaped by local residents of Slyne with Hest, enables the community to influence development in their area through plan making. It will enable the community as a whole to decide if the Neighbourhood Plan should be used by the Council for determining planning applications.	That the plan could be prepared in line with (or closer in line with) the original intentions of the Parish Council.	None known. Rejection of all the modifications would mean rejection of the Neighbourhood Plan on the basis that the Council could not be satisfied that the Plan could met the Basic Conditions required by Schedule 4B Town and Country Planning Act 1990.
Disadvantages	None known	Officers and the Parish	The Neighbourhood

		Council have agreed the modifications are acceptable and that the plan is suitable to be the subject of a referendum. Rejecting modifications may remove clarity, factual correctness or compatibility with other local authority plans or policies. It could also lead to the Basic Conditions requirement not being met. Rejecting modification will require further consideration by officers as to the suitability of the plan and further consideration by Council.	Plan would not be made.
Risks	Acceptance of the Examiners' recommendations and adoption could lead to legal challenge.	Removal of some of the modifications may lead to the Neighbourhood Plan not meeting the Basic Conditions and to the ultimate decision that the plan should not be progressed. Removal of some of the Examiner's recommendations may also create ambiguity and uncertainty in the application of the Plan. This could lead to legal challenge and difficulty in the application of planning policy to planning decisions.	The Neighbourhood Plan, with the Examiners' recommendations, is agreeable to the Neighbourhood group. To reject the Neighbourhood Plan by not accepting the modifications could be subject to public law challenge.

5.0 CONCLUSIONS

5.1 The preferred option is Option 1. Given the level of work undertaken by the Parish Council alongside the extensive consultation that took place prior to the Examination of the plan it is considered that subject to the outcome of the referendum that it is the will of the community of Slyne with Hest for a neighbourhood plan to be adopted.

5.2 The Independent Examiner has scrutinised plan in making an assessment as to

whether it meets the Basic Conditions and subject to modification is of the view that the plan is ready to proceed to Referendum.

5.3 In conclusion it is the opinion of the Director that the Slyne with Hest Neighbourhood Plan is ready to proceed to referendum, subject to modifications as recommended by the Examiner being made.

RELATIONSHIP TO POLICY FRAMEWORK

Neighbourhood Planning contributes to the Council's corporate plan priorities, in particular, sustainable economic growth.

Once made (adopted), neighbourhood plans will form part of the Council's Lancaster District Local Plan.

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

The Examiner has confirmed that the Slyne with Hest Neighbourhood 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 modifications 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 the body of this Report and within the relevant sections of the Localism Act 2011. In accordance with regulation 12 (4) Schedule 4B of the Town and Country Planning Act 1990 (as applicable by virtue of s38A (3) of the Planning and Compulsory Purchase Act 2004), the Council must hold a referendum if it is satisfied either:

a. The proposed Neighborhood Plan meets the following conditions

(i) The basic conditions are met
(ii) It is compatible with the ECHR
(iii) It complies with the provision made by or under S38A (6) and S38B of the Planning and Compulsory Purchase Act 2004

Or

b. The proposed NP would meet the criteria if modifications are made (whether or not recommended by the examiner).

As per paragraph 2.5 of the report, the modifications set out by the Examiner, will ensure that the Neighbourhood Plan will meets the basic requires. The Examiner has also confirmed via their report that the plan does not breach and is compatible with the ECHR.

If Council resolves to reject some of the Examiner's recommendation, it will have to give clear reasons for its rejection. If the rejection is due to some new evidence, fact or a different interpretation of a fact, then the authority will have no notify prescribed persons of the proposed decision (and the reason for it) and invite representations. The Authority may refer the issue to independent examination.

If the Council rejects all of the Examiner's recommendations then the Authority will not be able to satisfy itself that the Basic Conditions are met. This would mean that the Plan would have to be refused. This could be subject to a public law challenge if the Council's rejection of all the modifications is not justified by sound reasoning.

FINANCIAL IMPLICATIONS

As set out in the body of the report, to support the preparation of any neighbourhood plan Lancaster City Council has a duty to provide officer support to the community preparing the plan and as a result will also incur additional costs to cover (1) various stages of publicity, (2) Independent Examination and (3) a referendum. The local planning authorities are able to claim monies from DLUHC to offset the costs of undertaking this work.

A payment of £20,000 becomes eligible once the local authority have set a date for the referendum following a successful examination and this is expected to sufficiently cover all costs.

Given the advance stage of the Slyne with Hest Neighbourhood Plan the Independent Examination has already taken place, costing the City Council £10,200 + VAT. The Council's democratic service officers have advised that the estimated direct costs of holding a referendum (comprising printing and posting of voting materials, the Poll Station day staff and count voters) would be in the region of £2510.

Budgets will be updated accordingly to provide provision for the costs in the year that they are expected to occur.

There are no financial implications associated with the recommended changes to the Neighbourhood Plan as set out in the Examiners Report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

Managing a referendum will also need the resources of democratic services officers, this would need to be funded from the grant, and may require additional staff resources if it impacts on other elections.

Information Services:

None.

Property:

None.

Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS The S151 officer has been consulted and has no further comments to add to those provided within the financial implications.
MONITORING OFFICER'S COMMENTS The Monitoring Officer has been consulted and has no further comments to add.

BACKGROUND PAPERS Appendix A - Slyne with Hest Neighbourhood Plan Referendum Version Appendix B - Examiners report – the examiner's report is appended for consideration and should be read in conjunction with the submission version of the neighbourhood plan https://keepconnected.lancaster.gov.uk/slyne-with-hest-np-consultation	**Contact Officer:** Fiona Clark **Telephone:** 01524 582222 **E-mail:** fjclark@lancaster.gov.uk