

Caton-with-Littledale Neighbourhood Development Plan – Adoption (Making) of the Neighbourhood Plan 19 July 2023

Report of Chief Officer – Planning and Climate Change

PURPOSE OF REPORT

To formally “make” the Caton-with-Littledale Neighbourhood Development 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 Lancaster City Council, under section 38A(4) of the Planning and Compulsory Purchase Act 2004, formally make the Caton-with-Littledale Neighbourhood Development 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 vision for their neighbourhood and deliver the sustainable development they need. The preparation of a neighbourhood plan provides a tool for local people to directly influence the development of their local community.
- 1.2 Caton-with-Littledale Parish (the Parish Council) was designated as a Neighbourhood Plan Area on 2nd July 2015 and since then has worked towards drafting the Caton-with-Littledale Neighbourhood Development Plan (the Plan) (The Plan is at Appendix A and the Policies Map at Appendix B of this report) which will meet the needs and aspirations of the residents and businesses within the Parish Council boundary. 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 last 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 4th May 2023, this report recommends that the Plan is ‘made’ by Lancaster City Council (the Council) and becomes part of the statutory Development Plan for the area. Where planning applications come forward within the boundary of Caton-with-Littledale Parish (the parish), 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 issues including the landscape and natural environment, housing scale, type and mix, the environment, heritage, design, the economy and the community. It contains a range of objectives and policies which seek to address issues which are important to the community. The policies reflect the location of the parish within the Forrest of Bowland AONB. The following paragraphs outline the policies.
- 2.2 The Plan sets out a development strategy for the parish. A policy (CL1) sets great weight on conserving and enhancing the AONB. It provides a set of criteria for consideration and differentiates between the sustainable settlements of Caton and Brookhouse and other settlements in the parish. The policy states that development should be sustainable, consistent with the primary purpose of the AONB, landscape capacity led and in keeping with the AONB. Development should contribute to meeting the needs of the community and then sets out three criteria for the parish as a whole and then criteria for the settlements of Caton and Brookhouse, and development on the edge of other settlements.
- 2.3 It includes a policy (CL2) which expands upon national and local plan policies when addressing the AONB and the landscape. It states that proposals will not be permitted where they would have an adverse effect upon the landscape character or visual amenity of the AONB or its setting. The policy sets out a series of criteria where development will be supported. The criteria relate to the AONB.
- 2.4 The Plan includes a policy (CL3) which seeks to ensure that the number, size, types and tenure of new homes reflect identified needs. It supports the affordable housing requirements within policy DM6 of the Development Management Development Plan Document (DMDPD) and gives priority to the delivery of affordable housing.
- 2.5 A policy (CL4) on the Natural Environment has been included. The policy expands on national and local policies and requires new development to conserve and enhance biodiversity and geodiversity to minimise impacts, avoid fragmentation or disturbance of wildlife, habitats and species, help create and reinforce green corridors, blue infrastructure. The policy sets an aim for biodiversity net gain where possible, requires development to protect and contribute to enhancement and sets out a range of situations where this applies and provides for exceptions. It goes on to require that new buildings and conversions include measures to support biodiversity provides criteria in relation to the impact on water bodies. There is a section specifically in relation to trees and woodland.
- 2.6 The plan (policy CL5) designates an Area of Separation between Caton and Brookhouse to prevent coalescence between the settlements. It sets out criteria for the consideration of development within the designated area.
- 2.7 A policy (CL6) seeks to minimise light pollution and sets out criteria for the consideration of external lighting.

- 2.8 The Plan includes a policy (CL7) which reflects national and local plan policies in seeking to ensure that development conserves or enhances the significant of heritage assets.
- 2.9 A policy (CL8) requires high standards for the design and construction of development, which conserve or enhance the landscape, built environment, distinctive character of the parish and historic, cultural and architectural features. It sets out a series of criteria which add to those in the local plan and are specific to the locality.
- 2.10 The Plan includes a policy (CL9) supporting new small scale employment opportunities in the settlements of Caton and Brookhouse, where they bring economic benefits to the AONB. It sets out criteria for the consideration of proposals.
- 2.11 A policy (CL10) supports development which helps maintain the vitality and viability of the village centres of Caton and Brookhouse and the Willow Mill Business Centre. The policy sets out criteria for shop front design, retention of distinctive and detailed features, refuse and recycling and cycle parking. It seeks to ensure that the loss of buildings/uses which provide a local service are supported by compelling evidence as detailed in DM56 of the DMDPD.
- 2.12 A policy (CL11) identifies and protects community and recreation facilities and refers to the requirements of DM56 of the DMDPD. The policy supports new community facilities and improvements to existing facilities where they accords with criteria provided.
- 2.13 A policy (CL12) relates to managing flood risk and water quality. The policy reflects national guidance in terms of discharge rates and the incorporation of SuDS into landscaping schemes to provide multifunctional benefits. It requires development to take account of the topography to manage the flow of water, provide water attenuation on site, to minimise hard surfacing and to use porous materials where possible. The policy supports rainwater harvesting. It states that where development will overload, use an already overloaded sewage system or use a leaking or out-of-date sewage system, an upgrade to the system will be required. The policy seeks to ensure proposals reflect the special qualities of the AONB in relation to water quality.
- 2.14 The last policy (CL13) notes that medium to large scale energy or communications infrastructure is likely to be major development and will not be permitted. It encourages small scale energy, renewables or communications infrastructure subject to criteria and the retrofitting of buildings. The policy states that new development should include superfast broadband infrastructure if appropriate, opportunities to share infrastructure should be explored first. Sensitive developments that enhance mobile coverage will be supported.
- 2.15 The Parish Council has fulfilled the statutory requirements of the neighbourhood plan-making process by undertaking engagement at various stages during the preparation of the Plan. A public meeting was held in October 2015 to gauge support and gather ideas and concerns. A drop in event was held in November 2016 to discuss issues and during November 2016 to January 2017, two surveys were carried out. A consultation was then held on the issues and options during February and March 2016. A draft plan was then published and drop-in sessions were held in March 2017. The Parish Council then carried out a statutory Regulation 14 consultation, in accordance with the Neighbourhood Planning (General) Regulations 2012, on the draft plan between 15th May and 26th June 2017. A further informal

consultation took place during September 2019 following the production of further studies and two consultation events were held on 24th and 25th September. Further consultation took place with the Highway Authority and the developers associated with the potential allocation sites in March 2020. A second Regulation 14 consultation was carried out by the Parish Council between 7th May and 20th June 2021. The finalised Plan was submitted and the Council carried out the statutory Regulation 16 consultation between 18th November 2021 and 6th January 2022.

- 2.16 Following the publication of the submission version of the Plan, the Plan and the supporting evidence was scrutinised by an independent Examiner. The Examiner was appointed jointly between the 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.
- 2.17 The Plan submitted to the Council for examination included a policy which designated seven areas as Local Green Spaces. The Council objected to the designations as the proposed sites were protected via other policies. The Examiner agreed with the Council's representation and required the removal of the policy. The Examiner concluded that subject to a series of recommended modifications, the Plan would meet the Basic Conditions and the legal requirements for neighbourhood plans and could proceed to referendum. The final version of the Examiner's Report was received at the beginning of November 2022 and can be found In Appendix C of this report. The Plan was subsequently amended in accordance with the Examiner's recommended modifications.
- 2.18 An Individual Cabinet Member Decision Report was subsequently drafted and on 23rd January 2023, the Cabinet Member decided to accept and endorse the modifications recommended by the Examiner and to progress the Plan to referendum. Notice of the referendum was given on 27th March 2023 and it was held on the 4th May 2023. The referendum was held in accordance with the Neighbourhood Planning (Referendums) Regulations 2012 (as amended in 2013). There was a turnout of 39.03% of eligible voters at the referendum, equating to 909 voters (electorate of 2329). Of the votes received 733 voted yes in response to the referendum question, *"Do you want Lancaster City Council to use the Neighbourhood Plan for Caton-with-Littledale to help it decide planning applications in the neighbourhood area?"*
- 2.19 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 as modified, 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 Council accepts the Examiner's reasoning for the recommended modifications to the Plan to ensure it meets the Basic Conditions. The Examiner's Report also states that the Plan does not breach the European Convention on Human Rights obligations. The Council agrees with this conclusion. Therefore, the Council is now under a statutory duty to 'make' the Plan.
- 2.20 Under Regulation 19 of Neighbourhood Planning (General) Regulations 2012 the Council will publish a decision statement (in draft form at Appendix D to this report)

on its website setting out the reasons for making the Plan, where it may be inspected and send a copy of that statement to the Parish Council.

- 2.21 The Plan runs between the period 2020-2031 to align with the adopted Local Plan and will be used in the determination of planning applications that fall within the boundary of Caton-with-Littledale Parish Council. Its effectiveness will be monitored annually, and the Parish Council will need to review the Plan in due course as part of this process.

3.0 Details of Consultation

- 3.1 The Parish Council and Council have carried out informal and statutory consultation as outlined in paragraph 2.15.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: 'Make' the Caton-with-Littledale Neighbourhood Development Plan	Option 2: Do not 'make' the Caton-with-Littledale Neighbourhood Development 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 in this report, 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 Caton-with-Littledale Neighbourhood Development Plan, and subsequent conclusion that the Plan accords with the Basic Conditions for Neighbourhood Plans and 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 Caton-with-Littledale Neighbourhood Development 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 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 [and, 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 Caton-with-Littledale 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', if the Council seek to bring forward a Community Infrastructure Levy within the district in the future, 25% of any receipts generated from development within the boundary of Caton-with-Littledale Parish Council 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 Planning and Climate Change 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 s151 Officer has been consulted and has no further comments.

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 – Caton-with-Littledale Neighbourhood Development Plan

Appendix B – Caton-with-Littledale Neighbourhood Development Plan Policies Map

Appendix C - Examiners Report on Caton-with-Littledale Neighbourhood Development Plan

Appendix D - Draft Regulation 19 Decision Statement

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