

**Slyne-with-Hest Neighbourhood Plan – Adoption (Making)  
of the Neighbourhood Plan  
27 September 2023**

**Report of Chief Officer Planning and Climate Change**

**PURPOSE OF REPORT**

To formally “make” the Slyne-with-Hest 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 Lancaster City Council, under section 38A(4) of the Planning and Compulsory Purchase Act 2004, formally make the Slyne-with-Hest 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 directly influence the development of their local community.
- 1.2 Slyne-with-Hest Parish Council (the Parish Council) was designated as a Neighbourhood Plan Area on 14<sup>th</sup> April 2016 and since then has worked towards drafting the Neighbourhood Plan (the Plan) (Appendix A 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 3<sup>rd</sup> August 2023, this report recommends that the Slyne-with-Hest Neighbourhood 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 the Parish Council, 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 Plan contains a range of descriptive policies which seek to address issues which are important to the community. These include policies relating to the scale, design and type of new development, tourism and business development, flooding, the impact of development on views, development which may affect the coastline ecology, community facilities and green spaces.
- 2.2 Section 2 of the Plan sets out a brief history of the Parish, identifies development styles and provides an appraisal of the different character areas within the Parish. It also provides a summary of economic activity and the demographic profile of the Parish and highlights the important environmental designations and community facilities.
- 2.3 The Plan contains 2 policies which relate to housing. Policy HE1 addresses housing need. The policy supports new housing outside the greenbelt where the mix and tenure meets housing need, in particular smaller 1 and 2 bed dwellings. It states that where housing is intended to meet the needs of an ageing population it should be easily accessible to facilities and public transport, should be integrated into the neighbourhood and designed in accordance with Planning Practice Guidance and the HAPPI report. It also requires that where affordable housing is required, it is provided on-site or other location in the Parish. Financial contributions for delivery outside the Parish will not be acceptable. Policy H2 supports residential development on windfall sites within the village footprint where schemes respond to the character area within which they are located.
- 2.4 A design policy (BE1) sets out expectations and criteria for design. It refers to the character areas, use of the National Design Code, the Slyne Conservation Area, use of high quality thermal efficient materials which limit carbon use, strategies to reduce use of concrete, use of permeable ground surface materials and encourages the provision of M4(2) (accessible and adaptable dwellings) compliant homes and the use of BREEAM, Passivhaus or the Quality Mark.
- 2.5 Policy B1 supports sustainable rural tourism and small business development in the village. Outside the village, business development is supported if it complies with national greenbelt policy. The policy supports extensions to businesses and for homeworking subject to design and the latter remaining ancillary. It also supports small storage/work units (not B2) subject to the impact on the neighbourhood and the use of appropriate design.
- 2.6 Policy NE1 relates to flooding, encouraging regard to be given to localised areas where flooding is identified.
- 2.7 The plan identifies 20 key viewpoints within the Parish. Policy NE2 expects development that would affect the views towards and from these points, to protect and where possible enhance them.
- 2.8 Policy NE3 seeks to protect biodiversity and sets out criteria for development between the sea and the West Coast railway line.

- 2.9 Policy COM1 identifies important community facilities to be retained and supports new community facilities in the greenbelt subject to design and context.
- 2.10 Policy COM2 identifies areas of valued green spaces to be protected and improved. The policy states development will not be permitted on the spaces unless they support improvements, and it sets out criteria for such improvement.
- 2.11 The Parish Council has fulfilled the statutory requirements of the neighbourhood plan-making process by undertaking engagement on the scoping of the Plan and its vision, values and objectives through drop in events, leaflets and questionnaires between April 2016 and December 2017. During the latter phases, work was refocused towards site allocations and presentations were made to the Parish council by potential developers of the sites. The Parish Council then carried out the statutory Regulation 14 consultation, in accordance with the Neighbourhood Planning (General) Regulations 2012, on the draft plan in the Autumn of 2019 between 2<sup>nd</sup> September to 14<sup>th</sup> October.
- 2.12 The Plan was submitted and the Council published the Plan and carried out the Regulation 16 consultation between 4<sup>th</sup> February and 18<sup>th</sup> March 2022.
- 2.13 The Plan, the supporting evidence and consultation responses were then scrutinised by an independent Examiner, 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. The final version of the Examiner's Report was received on 28<sup>th</sup> September 2022. 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 Examiner's Report can be found In Appendix B of this report.
- 2.14 The most significant modification required relates to the removal of a proposed housing 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 strategic policies in the Local Plan. The Report draws attention to paragraph 140 of the NPPF which states, "Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans. Strategic policies should establish the need for any change to Green Belt boundaries, having regard to the permanence in the long-term, so they can endure beyond the plan period." In the Examiners opinion, to enable this proposal, strategic policies within the Local Plan would need to specifically indicate that the neighbourhood plan could establish changes to the Green Belt boundary. He concluded that the proposal would be contrary to the Secretary of State's policies for keeping Green Belt land permanently open and would not be in general conformity with the strategic policies in the Local Plan, especially with regard to the North Lancaster Green Belt.
- 2.15 An Individual Cabinet Member Decision Report was subsequently submitted and on 2<sup>nd</sup> December 2022, the Cabinet Member decided to accept and endorse the modifications recommended by the Examiner and to progress the Plan to referendum.

- 2.16 A developer with an interest in the site the Plan had sought to remove from the Greenbelt and allocate for housing, applied for permission to bring a claim for a Judicial Review of the decision to proceed to referendum. Permission to apply for a Judicial Review and a subsequent appeal was refused.
- 2.17 Notice of the referendum was given and it was held on the 3<sup>rd</sup> August 2023. The referendum was held in accordance with the Neighbourhood Planning (Referendums) Regulations 2012 (as amended in 2013). There was a turnout of 23.3% of eligible voters at the referendum, equating to 582 voters (electorate of 2495). Of the votes received 83% (483) voted yes in response to the referendum question, *“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?”*
- 2.18 Recent concerns have been raised about a lack of engagement, access to the Plan documentation and the notice time for the referendum. As noted above, the Parish Council has carried out various consultation events since they started the process in 2016. In his report, the Examiner concluded that the Parish Council has actively sought the views of residents and other stakeholders and their input has helped shape the Plan. The Plan and associated documentation have been available on the Parish Council and Council websites throughout the process. The referendum was carried out in accordance with the required timescale and procedures.
- 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, 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 1998). The Examiner’s Report also states that he is satisfied the basic conditions regarding compliance with European legislation are met and there is no conflict with Human Rights Act. The Council agrees with this conclusion. Therefore, the Council is now under a statutory duty to ‘make’ the Slyne-with-Hest Neighbourhood Plan.
- 2.20 Under Regulation 19 of Neighbourhood Planning (General) Regulations 2012 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, where it may be inspected and send a copy of that statement to the Parish Council.
- 2.21 The Plan runs between the period 2017-2031 to align with the adopted Local Plan and will be used in the determination of planning applications that fall within the boundary of Parish Council. Its effectiveness will be monitored by the Parish Council and they 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 paragraphs 2.11 and 2.12.

### **4.0 Options and Options Analysis (including risk assessment)**

	<b>Option 1: 'Make' the Slyne-with-Hest Neighbourhood Plan</b>	<b>Option 2: Do not 'make' the Slyne-with-Hest Neighbourhood Plan</b>
<b>Advantages</b>	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.
<b>Disadvantages</b>	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.
<b>Risks</b>	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 Option 1 for the Plan to be 'made'.

## **6.0 Conclusion**

6.1 In conclusion, following a positive outcome of the referendum on the Slyne-with-Hest Neighbourhood 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 1998), the Slyne-with-Hest 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 and is compatible with human rights.

There are not considered to be any health and wellbeing, equality or diversity or community safety 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 an Environmental Report that concludes the Plan has been positively prepared and does not generate any significant negative 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 Slyne-with-Hest 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 Slyne-with-Hest 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 Section 151 Officer has been consulted and has no further comments to add to those already outlined in the financial implications above.

**MONITORING OFFICER'S COMMENTS**

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

**BACKGROUND PAPERS**

Appendix A – Slyne-with-Hest  
Neighbourhood Plan

Appendix B - Examiners Report on Slyne-  
with-Hest Neighbourhood Plan

Appendix C - Draft Regulation 19 Decision  
Statement

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