

COUNCIL

Wennington Neighbourhood Plan – Adoption (Making) of the Neighbourhood Plan 10th April 2019

Report of the Director for Economic Growth & Regeneration

PURPOSE OF REPORT				
To formally “make” the Wennington Neighbourhood Plan with immediate effect, with the consequence that it becomes part of the statutory Development Plan for the area.				
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input checked="" type="checkbox"/>	Referral from Cabinet Member
Date of notice of forthcoming key decision				
This report is public				

RECOMMENDATIONS OF THE DIRECTOR FOR ECONOMIC GROWTH & REGENERATION

- (1) That the Council, under section 38A(4) of the Planning and Compulsory Purchase Act 2004, formally make the Wennington 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. Neighbourhood planning provides a powerful set of tools for local people to get the right type of development for their community.
- 1.2 Wennington are one of eleven designated neighbourhood areas within Lancaster District. The Independent Examination took place in the autumn of 2018, the outcome being that subject to modifications the neighbourhood plan could advance to the referendum stage. Following a unanimously positive referendum result on 14th February 2019, the report recommends that the Wennington Neighbourhood Plan is ‘made’ by the Council and becomes part of the statutory Development Plan for the area. Where planning applications come forward within Wennington, alongside other relevant local and national policy and guidance, the Neighbourhood Plan will form an important basis for making

decisions.

- 1.3 The making of the Wennington neighbourhood Plan marks the culmination of over two years' of challenging work by the Neighbourhood Plan working group. Upon making the plan, this will be the first Neighbourhood Plan within the district.

2.0 PROPOSAL DETAILS

- 2.1 Wennington began work on their Neighbourhood Plan following designation in late 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 is relatively straightforward and does not seek to address the allocations of land (which is reflective of the fact that Wennington is not seen as an area for future development growth). The plan contains a range of descriptive policies which seek to address issues which are important to the community, for example flood risk.
- 2.3 The Parish Council (who are responsible for preparing the plan) fulfilled the statutory requirements of the neighbourhood plan making process and undertook consultation on a draft plan in late 2017 and a finalised version in 2018. The plan and the policies contained within it have been supported by the majority of respondents at the earlier stages.
- 2.4 Following the publication of the final version of the Wennington 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 Examiner's Report was received on the 22nd October 2018 and 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.
- 2.5 A report was taken to Cabinet on 4th December 2018 which sought approval to progress to referendum and agree proposed changes as advised by the Examiner. Approval was granted and a Regulation 18 Decision Statement Issued giving notice of the forthcoming referendum.
- 2.6 The referendum of the Neighbourhood Plan took place on 14th February 2019 in accordance with the Neighbourhood Planning (Referendums) Regulations 2012.
- 2.7 The referendum was held in Hornby Institute due to the lack of a suitable venue in Wennington which does not possess a polling station or village hall. There was a turnout of 60.19% of eligible voters at the referendum, equating to 62 voters (electorate of 103). All 62 voters voted in yes in response to the referendum question, "Do you want Lancaster City Council to use the Neighbourhood Plan for Wennington to help it decide planning applications in the neighbourhood area?"

- 2.8 The Planning and Compulsory Purchase Act (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 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 has 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 stated that the Wennington Neighbourhood Plan does not breach the European Convention on Human Rights obligations. Therefore the Local Planning Authority is now under a statutory duty to 'make' the Wennington NP.
- 2.9 The Wennington Neighbourhood Plan will be used in the determination of planning applications that fall within the parish of Wennington. Its effectiveness will be monitored annually and the need to review the Wennington NP in due course will be considered as part of this process.

3.0 Options and Options Analysis (including risk assessment)

- 3.1 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.
- 3.2 It is possible that a legal challenge can be brought against the Local Planning Authority by way of judicial review of the decision in relation to the Local Planning Authorities decision to hold a referendum or around the conduct of the referendum. All reasonable measures have been taken to ensure procedural compliance and minimise risk for the Council.

4.0 Officer Preferred Option (and comments)

- 4.1 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.

5.0 Conclusion

- 5.1 In conclusion, following a positive outcome of the referendum of the Wennington and Neighbourhood Plan, and subsequent consideration that the Neighbourhood Plan is not in breach of or incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998), the Wennington Neighbourhood Plan should be made and, as such become part of the statutory Development Plan for the area.

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 Wennington 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 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 Wennington where there was unanimous vote in favour of making the Neighbourhood Plan and after consideration, conclusion is that the making of the plan would not 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), there is a legal requirement for the plan to be made.

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

FINANCIAL IMPLICATIONS

Once the Wennington NP 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 Wennington 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

Human Resources:

The Economic Growth and Regeneration Service is adequately resourced to advance the challenges of preparing DPDs as part of the Council's Local Plan.

Information Services:

No direct implications.

Property:

No direct implications.

Open Spaces:

No direct implications.

SECTION 151 OFFICER'S COMMENTS

No comment

MONITORING OFFICER'S COMMENTS

Monitoring Officer has been consulted and has no further comments

BACKGROUND PAPERS

Appendix A - Wennington Neighbourhood Plan

Appendix B - Examiners Report on Wennington Neighbourhood Plan

Appendix C - Draft Regulation 19 Decision Statement

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