

COUNCIL

Wray-with-Botton Neighbourhood Plan – Adoption (Making) of the Neighbourhood Plan 17 July 2019

Report of the Director for Economic Growth & Regeneration

PURPOSE OF REPORT

To formally “make” the Wray-with-Botton 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 Wray-with-Botton 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 development their shared vision for their neighbourhood and deliver the sustainable development they need. The preparation of a neighbourhood plan provides a powerful set of tools for local people to get the right type of development for their community.
- 1.2 Wray-with-Botton are one of eleven designated neighbourhood plan 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 reference stage.
- 1.3 Following a unanimously positive referendum result on the 30th May 2019, this report recommends that the Wray-with-Botton 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 Wray-with-Botton (including the village of Wray), alongside other relevant local and national planning policy and guidance, the Neighbourhood Plan will form an important basis for making decisions.
- 1.4 The making of the Wray-with-Botton Neighbourhood Plan marks the culmination of over four years’ of challenging work by the neighbourhood plan working group

which should be commended. Upon making the plan, it will become the second neighbourhood plan within the district to be 'made' following the adoption of the Wennington Neighbourhood Plan in April of this year.

2.0 PROPOSAL DETAILS

- 2.1 Wray-with-Botton began work on their Neighbourhood Plan following designation in early 2015. 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 planning matters and seeks to make specific allocations for future housing growth, particularly in the village of Wray (which is reflective of the fact that Wray is considered a sustainable settlement in both adopted and emerging district-wide policy). The allocations made within the Neighbourhood Plan include a number of small sites that have previously secured planning permissions and also includes the identification of Hoskins Farm (which is located at the centre of the village) for future housing development should the farm operations cease on the site.
- 2.3 The plan also contains a number of more descriptive policies that seek to address a range of matters including the built environment, the rural economy, the natural environment, transport and community aspirations.
- 2.4 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 over the summer of 2018. The plan and the policies / allocations within it have been supported by the majority of residents at these stages.
- 2.5 Following the publication of the final version of the Wray-with-Botton Neighbourhood Plan, the documentation 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 on the 12th December 2018 and it 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.
- 2.6 A report was taken to Cabinet on 5th March 2019 that sought approval to progress to referendum and agree proposed changes as advised by the Examiner. Approval was granted and a Regulation 18 Decision Statement was issued giving notice of the forthcoming referendum.
- 2.7 The referendum for the Wray-with-Botton Neighbourhood Plan took place on 30th May 2019 in accordance with the Neighbourhood Planning (Referendums) Regulations 2012.
- 2.8 The referendum was held in the Wray Village Institute in the centre of the Parish. There was a turnout of 49% of eligible voters at the referendum, equating to 197 voters (electorate of 402). Of the votes received 187 voted yes in response to the referendum question, "Do you want Lancaster City Council to use the Neighbourhood Plan for Wray-with-Botton to help it decide planning applications in the neighbourhood area?"

- 2.9 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 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 stated that the Wray-with-Botton 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 Wray-with-Botton Neighbourhood Plan.
- 2.10 The Wray-with-Botton Neighbourhood Plan will be used in the determination of planning applications that fall within the parish of Wray-with-Botton. Its effectiveness will be monitored annually and the need to review the Wray-with-Botton Neighbourhood Plan in due course will be considered as part of this process.

3.0 OPTIONS AND OPTIONS ANALYSIS (INCLUDING RISK ASSESSMENT)

- 3.1 As outlined, the making of the Plan is mandatory given the outcome of the referendum and legislative assessment, and therefore 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 Wray-with-Botton Neighbourhood Plan, and subsequent consideration 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 Wray-with-Botton 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 Wray-with-Botton 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 Wray-with-Botton 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', Wray-with-Botton 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 Wray-with-Botton Neighbourhood 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 Wray-with-Botton 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

The s151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

Monitoring Officer has been consulted and has no further comments

BACKGROUND PAPERS

Appendix A – Wray-with-Botton
Neighbourhood Plan

Appendix B - Examiners Report on Wray-
with-Botton Neighbourhood Plan

Appendix C - Draft Regulation 19 Decision
Statement

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