

CABINET

Caton with Littledale Neighbourhood Plan Decision to Proceed to Referendum

Individual Cabinet Member Decision (Councillor Dowding)

Report of Head of the Planning and Place Service

PURPOSE OF REPORT				
To seek approval from the cabinet member for the Caton with Littledale Neighbourhood Plan to proceed to referendum at the earliest possible opportunity.				
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input checked="" type="checkbox"/>	Referral from Cabinet Member
Date of notice of forthcoming key decision	N/A			
This report is public				

RECOMMENDATION OF THE HEAD OF THE PLANNING AND PLACE SERVICE

1. That the Cabinet Member endorses the proposed changes to the Neighbourhood Plan as set out in Appendix A and for the reasons given in the Examiner's Report at Appendix B 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 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 Caton with Littledale Parish Council (Parish Council) has prepared their own neighbourhood plan under the powers described and have now reached an

advanced stage in the process. The Independent Examination into the Caton with Littledale Neighbourhood Plan (Plan) took place between May and November 2021 and an Examiners Report has now received indicating that, subject to modifications their Plan can be advanced to the referendum stage. These modifications have now been made.

2.0 PROPOSAL DETAILS

- 2.1 The Parish Council began work on their Plan following the areas designation in March 2015. In preparing the Plan 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 conservation and enhancement of the landscape, wildlife, geology, heritage and settlement character; ensure development is sustainable in terms of its location and high quality design; provide appropriate housing mix with an emphasis on the provision of affordable housing without adverse impact on the AONB; support for the local economy; protection and improvement of local facilities; provision of services and infrastructure and the management and improvement of flood risk and water quality. The Plan contains a range of policies which seek to address these issues which are important to the community.
- 2.3 The Parish Council (who are responsible for preparing the Plan) have carried out various informal consultation events throughout the process. They initially undertook a formal consultation on a draft plan (Regulation 14) in the spring of 2017. The Plan was then amended and further informal consultation took place before the statutory consultation (Regulation 14) on the draft plan, which has proceeded to examination, took place in the spring of 2021.
- 2.4 Following the publication of the final version of the Plan, the documentation was scrutinised by an independent Examiner. The Examiner was appointed jointly between Lancaster City Council (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 Examiners Report was received on the 3rd November 2022 and recommended that, subject to a series of modifications, the Plan can proceed to referendum.
- 2.5 The most significant modification required relates to the removal of a policy which sought to designate 7 areas of Local Green Space and provide for their protection. The Examiner concluded that the spaces were, “already identified and adequately and appropriately safeguarded under adopted planning policy, it is considered that there is no merit in designating them as LGS in addition. Furthermore, five of the sites are listed and protected under Policy CL12 as existing recreational facilities. It is considered that there is no merit in designating them as LGS in addition.” The Examiner’s Report is attached at Appendix B of this Report.
- 2.5 The Examiner considered that the modifications set out in their report are necessary to ensure that the 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 Examiner’s modifications are necessary for the Plan to meet the Basic Conditions. Since receiving the modifications, the Parish Council have agreed that the changes are acceptable, they have amended the Plan accordingly and have confirmed that they wish for it to proceed to referendum.

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 Caton with Littledale 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 (the documents that make up the Development Plan are used when making decisions on planning applications) for Lancaster district and would then need to be formally ‘made’ (adopted) by the council. This ‘making’ of the Plan would be a decision made by full council.

3.0 DETAILS OF CONSULTATION

3.1 The Plan was formally consulted upon at Regulation 16 (The Neighbourhood Planning (General) Regulations 2012 (as amended) stage prior to the submission of the Plan for examination by the appointed Examiner. The details can be found using the following link:

<https://www.lancaster.gov.uk/planning/planning-policy/neighbourhood-planning>

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 statement.	Option 3: Reject all of the modifications of the Examiner.
Advantages	The benefit of a Plan enables the community to influence development in their area through plan	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 Plan on the basis that

	making. It will enable the community as a whole to decide if the Plan should be used by the council for determining planning applications.		the council could not be satisfied that the Plan could meet the Basic Conditions required by Schedule 4B Town and Country Planning Act 1990.
Disadvantages	<p>The Examiner's modifications remove policies proposed by the community and effect the influence the community will have in plan making.</p> <p>None known</p>	<p>Officers and the Parish Council have agreed the modifications are acceptable and that the Plan is suitable to be the subject of a referendum.</p> <p>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.</p> <p>Rejecting modification will require further consideration by the Parish Council and the council as to the suitability of the Plan.</p>	The Plan would not meet the Basic conditions and would not be made.
Risks	Acceptance of the Examiners' recommendations and adoption could lead to legal challenge.	<p>Removal of some of the modifications may lead to the Plan not meeting the Basic Conditions and to the decision that the Plan should not be progressed.</p> <p>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.</p>	The Plan, with the Examiners' recommendations, is agreeable to the Parish Council. To reject the Plan by not accepting the modifications would be contrary to the will of the Parish Council and could be subject to public law challenge.

5.0 CONCLUSIONS

- 5.1 The preferred option is Option 1. The Independent Examiner has scrutinised the 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. Given the level of work undertaken by the Parish Council and the conclusion of the Examiner, that the Plan should go forward to referendum with the recommended modifications. This will allow the community of Caton with Littledale to determine if the support the Plan and wish it to be adopted as part of the Development Plan.
- 5.2 In conclusion, it is the opinion of the Head of the Planning and Place Service that the Caton with Littledale 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, supporting a sustainable district, an inclusive and prosperous local economy, healthy and happy communities and a co-operative, kind and responsible council.

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 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 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 meet the basic requirements. The Examiner has also confirmed via their report that the Plan does not breach and is compatible with the ECHR.

If the 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 council will have to notify prescribed persons of the proposed decision (and the reason for it) and invite representations. The council may refer the issue to independent examination.

If the council rejects all of the Examiner's recommendations then the council 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 the 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 Caton with Littledale Neighbourhood Plan the Independent Examination has already taken place, costing the City Council £7,451. 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 £7,500.

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 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 comment to make.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has no further comments to add.

BACKGROUND PAPERS

Appendix A – Caton with Littledale 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

Appendix C – Background information including the Caton with Littledale Neighbourhood Plan Submission Version, Reg16 responses and supporting documents

<https://www.lancaster.gov.uk/planning/planning-policy/neighbourhood-planning>

Contact Officer: Fiona Clark
Telephone: 01524 582222
E-mail: fjclark@lancaster.gov.uk