

**Carnforth Neighbourhood Plan – Adoption (Making) of the
Neighbourhood Plan
15 March 2023**

Report of Head of Planning and Place

PURPOSE OF REPORT

To formally “make” the Carnforth 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 Carnforth 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 Carnforth Town Council (the ‘Town Council’) was designated as a Neighbourhood Plan Area on 8th May 2018 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 Town 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 26 January 2023, this report recommends that the Carnforth 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 Carnforth Town 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 Town 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 heritage, the economy, access and movement, housing scale, type and mix, the environment, and the community. It contains a range of objectives and policies which seek to address issues which are important to the community. The following paragraphs outline the policies.
- 2.2 The Plan contains three policies (CNDP HD1, HD2 & HD3) which expand upon national and adopted Local Plan policies when addressing the conservation of the historic environment and design. It includes a list of non-designated heritage assets and a Design Code which seek to protect and enhance the significance of the historic environment and influence the design of development to ensure it responds to the existing built form and achieves high quality design.
- 2.3 It includes a policy (CNDP E1) which supports improvements to the quality and diversity of existing and new leisure and tourism subject to criteria in relation to design, impacts on amenity, public transport links and traffic impacts. The policy also recognises the Carnforth Community Pool as an important community and leisure asset to be retained.
- 2.4 The Plan (policy CNDP HD2) supports employment uses in established employment areas, in particular small start-up units and flexible working, and encourages opportunities for employment diversity. Outside established areas, it seeks to ensure employment uses should be compatible with the area and proposals should consider accessibility via active travel and sustainable transport.
- 2.5 A policy (CNDP E3) specific to the town centre is included. The policy supports development which falls within Use Class E¹, where they improve diversity and footfall, and employment proposals which will generate employment and develop local businesses/services in the town centre. It sets out criteria for this support relating to amenity, local and rural character, and traffic issues. It also supports redevelopment within the Regeneration Priority Area of Central Carnforth (designated by policy EC5 of the SPLA DPD). A policy (CNDP E4) supports well designed shop fronts.
- 2.6 The plan (policy CNDP AM1) supports active travel and the improvement of footpaths and cycle paths. It sets out criteria including, paths should be direct, safe to use and use natural surveillance, non-residential development should support and enable active travel by including cycle parking and changing facilities. It also states that proposals which would reduce the capacity or safety of active travel will not be considered favourably.
- 2.7 A policy (CNDP AM2) encourages public parking to include a proportion of spaces with EV charging stations, the provision of infrastructure which will enable expansion of EV

¹ Class E, Part 1, Schedule 2 of the Town and Country Planning (Use Classes) (Amendments) (England) Regulations 2020 includes shops, offices/services principally for visiting members of the public, offices and Research and Development for operational and administration purposes, indoor sport recreation and fitness, medical and health services, creche, nurseries and day centres, and any industrial process that can be carried out in a residential area without detriment to amenity.

charging stations and requires new houses and flats with an allocated parking space to be provided within at least one EV charging point. It seeks to ensure charging points are sensitively sited and do not have harmful impacts on pedestrian circulation.

- 2.8 The Plan includes two policies (CNDP H1 & H2) in respect of new residential development. A policy supports proposals within the urban boundary (the policies map includes a boundary) which meet the need identified in the Carnforth Housing Needs Assessment. The policy sets out criteria which will be looked upon favourably when considering proposals. The criterion includes development which is on infill sites or previously developed land, development which reflects the existing scale and density, responds to the design code, is well-integrated within built form, laid out with good connections for walking/cycling and avoids cul-de-sacs.
- 2.9 A policy (CNDP EC1) reflects national and local plan policy with regard to the conservation and enhancement of local biodiversity, landscape and character. The plan (policy CNDP EC2) aims to ensure that development adjacent to parks respond positively towards them.
- 2.10 The last policy (CNDP EC3) encourages high standards of sustainability in new development and accordance with BREEAM or Passivhaus standards or the Home Quality Mark. It also requires proposals to show how they incorporate resource efficiencies and climate change adaptation measures.
- 2.8 The Town Council has fulfilled the statutory requirements of the neighbourhood plan-making process by undertaking engagement on the vision, values and objectives through newsletters and then drop in events in September 2019. A four week informal consultation took place from the end of September through October 2019. The Town Council then carried out the statutory Regulation 14 consultation, in accordance with the Neighbourhood Planning (General) Regulations 2012, on the draft plan in the summer of 2021 between 26th July and 20th September. The Council carried out the Regulation 16 consultation on the finalised Plan between 4th February and 18th March 2022.
- 2.9 Following the publication of the final 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 Town 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 at the beginning of October 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.
- 2.10 An Individual Cabinet Member Decision Report was subsequently submitted and on 17th November 2022, the Cabinet Member decided to endorse the modifications recommended by the Examiner and to progress the Plan to referendum. Notice of the referendum was given and it was held on the 26th January 2023. The referendum was held in accordance with the Neighbourhood Planning (Referendums) Regulations 2012 (as amended in 2013). There was a turnout of 13.04% of eligible voters at the referendum, equating to 547 voters (electorate of 4195). Of the votes received 476 voted yes in response to the referendum question, *"Do you want Lancaster City Council to use the Neighbourhood Plan for Carnforth to help it decide planning applications in the neighbourhood area?"*

- 2.11 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 1988). 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 Carnforth Neighbourhood Plan.
- 2.12 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 Town Council.
- 2.13 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 Carnforth Town Council. Its effectiveness will be monitored annually, and the Town Council will need to review the Plan in due course as part of this process.

3.0 Details of Consultation

- 3.1 The Town Council and Council have carried out informal and statutory consultation as outlined in paragraph 2.8.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: 'Make' the Carnforth Neighbourhood Plan	Option 2: Do not 'make' the Carnforth Neighbourhood 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	A legal challenge could be brought against the Council by way of judicial review if the Council does not 'make' the

	<p>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.</p>	<p>Plan.</p>
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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 Carnforth Neighbourhood Plan, and subsequent conclusion that the Neighbourhood 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 Carnforth 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.

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 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 Carnforth 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', 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 the boundary of Carnforth Town Council will be passed to the Town 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 Economic Growth and Regeneration 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

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 – Carnforth Neighbourhood Plan

Appendix B - Examiners Report on Carnforth Neighbourhood Plan

Appendix C - Draft Regulation 19 Decision Statement

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