

TELFORD & WREKIN COUNCIL

CABINET 13 September 2018

LILLESHALL PARISH NEIGHBOURHOOD PLAN

REPORT OF THE ASSISTANT DIRECTOR: BUSINESS, DEVELOPMENT & EMPLOYMENT

LEAD CABINET MEMBER: COUNCILLOR OVERTON

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 The Localism Act (2011) introduced legislation which allows Parish Councils to produce a Neighbourhood Development Plan (NDP) for their administrative area.
- 1.2 The Council is working with a number of Town and Parish Councils across the Borough in their preparation of NDP supporting local communities to engage with and achieve a greater stake in, the planning and development of their local area. To date three have been adopted and five are in preparation. Lilleshall Parish Council submitted their neighbourhood development plan (the “Lilleshall Parish Neighbourhood Plan”) (NP) and other supporting documents to Telford & Wrekin Council as local planning authority. This was received in February 2018. In response and in accordance with its statutory duties, Telford & Wrekin undertook a number of checks to ensure that all the procedural and other requirements had been met and completed a 6-week publicity period which allowed written representations to be made.
- 1.3 Telford & Wrekin appointed an Independent Examiner (the Examiner), John Parmiter, to conduct the Examination of the NDP. His report was received by the Council on 8th of August 2018. The Report recommended proceeding to Referendum, subject to a number of modifications. Those modifications have been applied to the NDP and incorporated into a Referendum version of the NDP (Appendix 3). Lilleshall Parish Council have agreed that, subject to the modifications being made, the NDP progress to the referendum stage.
- 1.4 The purpose of this report is to seek Cabinet approval for the NDP, subject to the modifications, to proceed to formal Referendum. The full list of modifications proposed by the Examiner are set out in the Examiner’s Report. (Appendix 1)
- 1.5 Whilst the Examiner’s proposed modifications are not binding, they are considered by Officers to be appropriate. No additional modifications are considered to be required prior to the Referendum stage.
- 1.6 Members need to be satisfied that the NDP meets certain “basic conditions” before it can proceed to a Referendum. As explained in this report, Officers and the Examiner are satisfied that these “basic conditions” have been met.

2. Recommendation

- 2.1 **That Cabinet agree with the Independent Examiner that, subject to the modifications recommended by him being made, the Lilleshall Parish Neighbourhood Plan meets the “basic conditions” and all other legal requirements as summarised in this report and the Independent Examiner’s report and**
- 2.2 **That Cabinet agree that the required modifications should be made to Lilleshall Parish Neighbourhood Plan and that the Lilleshall Parish Neighbourhood Plan Referendum Version should proceed to Referendum, and**
- 2.3 **That Cabinet agree that the Referendum Area should not be extended beyond the designated area to which the Lilleshall Parish Neighbourhood Plan relates**
- 2.4 **That the Managing Director be authorised to exercise all the relevant powers and duties and undertake all necessary arrangements for the Lilleshall Parish Neighbourhood Plan Referendum Version (May 2018) to now proceed to Referendum and for the Referendum to take place asking the question whether the voter wants Telford & Wrekin Council to use this**

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	Co-operative Council: - Involving local people more in planning and running services - As a Council, supporting our community better and encouraging people to do more to help their own communities
	Will the proposals impact on specific groups of people?	
	Yes	NDP's contribute to the local planning framework for future development within a designated area. Production of the NDP has involved the whole of the community and people have had the opportunity to provide formal comments on policies which will affect the future development of their area including a minimum 6-week formal publicising consultation period. The referendum stage provides an opportunity for the people within the Lilleshall Parish area to vote on the plan prior to formally making the plan.
TARGET COMPLETION/ DELIVERY DATE	Subject to Cabinet approval, the NDP will proceed to referendum, the outcome of which will determine if the NDP can be made (approved) by the Authority. To achieve this, the referendum must result in more than half of those voting, voting in favour of the NDP. It is anticipated that, after putting all necessary arrangements in place, the NDP will proceed to referendum, subject to Cabinet approval. Subject to a favourable outcome, the final version of NDP is anticipated to be presented to Cabinet for approval in the Autumn of 2018.	
FINANCIAL/ VALUE FOR MONEY IMPACT	Yes	The costs associated with the introduction of Neighbourhood Plans, including the additional costs of designations, referendum and examinations have to be met by the Local Authority. The Ministry of Housing, Communities and Local Government confirmed in their letter dated 30 May 2018 that £20,000 funding is available to LPA's which would cover those costs. However, to qualify for this funding a referendum date needs to be scheduled prior to making a funding claim. AEM 09/08/18.
LEGAL ISSUES	Yes	The Localism Act 2011 provided a framework for a new statutory regime to establish Neighbourhood Planning. Subsequent legislation has added more detail to that framework. Lilleshall Parish Council has had to fulfil its publication and consultation obligations under this legislation and the Borough Council as local planning authority has now publicised the Lilleshall Parish NP and processed it through the Independent Examination stage. With the benefit of the Examiner's report the Borough Council as LPA ("the LPA") now has to properly consider a number of matters relating to the NDP before it can proceed to a referendum. The issues which the LPA now needs to consider and determine are set out in this report. If the LPA is satisfied that certain conditions have been met a referendum must be held. If the LPA is not so satisfied, the NDP must be refused. Unless a different date is agreed with the Parish Council, this LPA decision needs to be made within 5 weeks of receiving the Independent Examiner's report. If the referendum takes place and results in more than half of those voting (i.e. 50% + 1) voting in favour of the NDP, subject to certain exceptional circumstances, the LPA must make the NDP as soon as reasonably practical and in any event within 8 weeks of the referendum.

		Further legal points are raised later in this report. EG – 08.08.18
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	The main risk associated with the referendum stage is that the referendum itself does not deliver a majority vote in favour of the Plan. In this context the LPA would be unable to make the NDP a statutory plan to be applied to the determination of planning applications in the designated area. However, this is unlikely bearing in mind the level of engagement carried out by Lilleshall Parish Council with the assistance of the LPA, which has sought to address the key issues identified through the consultation process. Opportunities associated with the NDP include a strengthening of local engagement in the planning process.
IMPACT ON SPECIFIC WARDS	Yes	Church Aston and Lilleshall Ward

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 Neighbourhood planning was introduced by the Localism Act 2011. It provides the opportunity for a Parish/Town Council or local forum to produce a neighbourhood development plan with the involvement of local people, helping to inform future planning decisions in their area. Under the Town and Country Planning Act 1990, Telford & Wrekin Council as LPA has a statutory duty to assist communities in the preparation of the NP through the various statutory stages in the process. In accordance with the 1990 Act and the Neighbourhood Planning Regulations, Lilleshall Parish Council submitted their NP in February 2018 for Telford & Wrekin Council to complete the necessary checks and proceed to the next stages of publication, examination and referendum.
- 4.2 The referendum version of the NDP is in accordance with and supports the policy approach to Lilleshall and the rural area in the recently adopted Telford & Wrekin Local Plan.

5. Examination of the Lilleshall Parish Neighbourhood plan

- 5.1 An independent examination of the plan took place in July 2018. The purpose of the examination was to establish whether procedural and other matters had been properly dealt with and in establishing whether or not the NDP met the ‘basic conditions’. The “basic conditions” include the following:
- Whether, having regard for national planning policy and guidance from the Secretary of State, it is appropriate that the NDP should be made
 - Whether the NDP contributes to the achievement of sustainable development
 - Whether the NDP is in general conformity with the strategic policies contained in the Development Plan for the area of the Authority
 - Whether the NDP is in breach of and/or is otherwise compatible with EU obligations
 - Whether the making of the NDP is likely to have a significant effect on any “European Sites” as defined in the Conservation Habitats and Species Regulations 2012
- 5.2 The Examiner also had to consider whether the area for any referendum should extend beyond the area to which the NDP related.
- 5.3 The Examiner has proposed a number of changes which primarily relate to modifying policies and other supporting text contained in the NDP. Members’ attention is drawn to the proposed modifications which are set out in the Examiner’s report (Appendix 1). These modifications have been incorporated within the Referendum Version of the NDP (Appendix 3). Lilleshall Parish Council have agreed that, subject to the modifications being made, the NDP progress to the referendum stage. The main changes are summarised below:
- Modifications to Policy DEV1 to remove the restriction of infill development to a maximum of three dwellings as this is not supported by robust and proportionate evidence and is generally not consistent with the development plan.
 - Deletion of Policies DEV2 and LE3 which were aimed at preventing the coalescence of settlements and protecting the rural character and nature of the Strategic Landscape Areas. Policy LE3 sought to reinstate the Lilleshall Strategic Landscape Area.

- Deletion of some of the proposed Local Green Spaces in Policy LE1 (like the MoD Sports field) because of failure to meet the criteria in the National; Planning Policy Framework (NPPF).
- Modifications to the supporting text of Policy INF2 which aims to protect local community facilities.
- Due to lack of supporting evidence to justify policy, the Examiner proposes to delete Policy INF3 on developer contributions. The Examiner suggested this is recast as a 'Community Aspiration (appendix 3).

5.4 On all other aspects of the basic conditions tests, the Examiner concluded that, subject to his recommended modifications being made, the NDP met the tests. In addition, the Examiner also concluded that the NDP has been prepared in accordance with all other legal requirements, in particular those under paragraph 8(1) of schedule 4B of Town and Country Planning Act (TCPA), in that:

- the NDP had been prepared and submitted for examination by a qualifying body;
- the NDP had been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA);
- the NDP met the requirements of Section 38B of the PCPA (i.e. the Plan must specify the period to which it has effect (to 2031), must not include provisions about development that is excluded development, and must not relate to more than one Neighbourhood Area); and
- the policies relate to the development and use of land for a designated Neighbourhood Area, in line with the requirements of Section 38A of the PCPA.

5.5 Consequently, the Examiner recommended that the NDP, as modified in accordance with his report met all relevant legal requirements and should proceed to referendum. The Examiner also concluded that the boundary of the referendum (or 'referendum area') should be the same as the boundary of the NDP.

6. Considerations for Cabinet

6.1 Cabinet must:

- a) consider each of the recommendations made by the Examiner and the reasons for them
- b) decide what action to take in respect of each recommendation
- c) be satisfied that the NDP meets the basic conditions (see para 5.1 above) and be satisfied that the NDP is compatible with EU Convention Rights and be satisfied that the NDP complies with the various requirements referred to at paragraph 5.4 above

OR

be satisfied that the NDP would meet those conditions, be compatible with those rights and comply with those requirements if modifications were made to the NDP as recommended by the Examiner.

6.2 In respect of a) and b), Members are recommended to accept each of the Examiner's recommendations and reasons and to agree that all of the Examiner's recommendations be incorporated into a new version of the NDP (the Lilleshall Neighbourhood Plan: Referendum Version).

6.3 In respect of c) Members are recommended to accept the Examiner's recommendation that the NDP would meet these conditions, be compatible with these rights and comply with these requirements if his recommended modifications were made to the NDP and further that these modifications should be made.

6.4 In respect of the area in which the Referendum is to take place, Members are recommended to accept the Examiner's recommendation that the Referendum Area should not change and should be the same as the designated NDP area.

6.5 If Members accept the Examiner's and officers' recommendations, a Referendum must be held on the making of the NDP by the LPA.

6.6 If Members are not satisfied in respect of c) above and do not accept the Examiner's recommendations, they must refuse to make the NDP.

6.7 In any event, Members' decisions and reasoning in these matters has to be published in a decision notice.

7. Preparing for Referendum

7.1 Subject to Cabinet approval, the NDP will proceed to the next stage; Referendum. The Referendum is organised and carried out by Telford & Wrekin Council. The Referendum will only be carried out in Lilleshall Parish as the Neighbourhood Plan area. In accordance with Regulation 4 of the Neighbourhood Planning (Referendum) Regulations 2012 the Council will publish an Information Statement declaring when a Referendum will be held and the questions to be asked no less than 28 working days beforehand. In accordance with Regulation 3, the Referendum will ask whether voters want the LPA to use the NDP to help decide planning applications in the Plan Area.

7.2 It is anticipated that the Referendum will be held, subject to Cabinet approval on 15th November 2018.

7.3 The key tasks involved in preparing for the Referendum include the preparation of documents and website information for inspection including 'information statement', printing of polling cards and organisation of polling stations similar to those used at local government elections. The organisation of the Referendum will be led by TWC Electoral Services in liaison with the Environment & Planning Policy Team and Lilleshall Parish Council.

7.4 If more than 50% of those voting vote in favour of the NDP, Telford & Wrekin Council must then make the NDP within 8 weeks of the referendum.

7.5 A neighbourhood plan comes fully into force as part of the statutory development plan once it has been made. It will be published on Telford & Wrekin Councils website and used in the determination of planning applications in the Neighbourhood Plan area i.e. in the Parish of Lilleshall.

8. Conclusion

8.1 Lilleshall Parish Council is the fifth "qualifying body" in the Borough to progress a NP to this stage, working closely with their community to produce a plan which reflects local views on future development in the Parish and policies which, if the Lilleshall NP is made, will be taken into consideration in the decision making process.

8.2 A further report will be brought for Cabinet consideration following the outcome of the Referendum.

9. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

9.1 Once the Lilleshall Parish NP is made, it will become part of the statutory planning framework for the Borough. In accordance with the ethos of neighbourhood planning, the NDP is based on extensive community engagement and is therefore a product of the community with policies reflecting their views. The policies, once modified, are considered to be in general conformity with the adopted Telford & Wrekin Local Plan

9.2 In accordance with legal requirements, planning applications should be determined in accordance with the provisions of relevant Development Plan's which, once the NDP is made, for the Lilleshall Parish area, would include the NDP as well as the Telford & Wrekin Local Plan. This is unless material considerations indicate otherwise, meaning the NDP policies must be balanced with other considerations as part of the decision making process undertaken by the LPA.

10. PREVIOUS MINUTES

10.1 Application for the Designation of a Neighbourhood Area – Lilleshall (Cabinet, 30 May 2013)

11. BACKGROUND PAPERS

- Lilleshall Neighbourhood plan – Regulation 15 Consultation Version
- Consultation Statement and appendices
- Basic Conditions Statement
- Interim Statement on Regulation 14 Consultation
- Habitat Regulation Assessment Screening Statement
- Strategic Environmental Assessment Statement

Available at: www.telford.gov.uk/lilleshallIndp

12. Appendices

Appendix 1 - Lilleshall Parish Neighbourhood Plan Independent Examiners Report

Appendix 2 - Lilleshall Parish Neighbourhood Plan – Examination / Regulation 15 Consultation Version

Appendix 3 - Lilleshall Parish Neighbourhood Plan – Referendum Version

Date: 06 August 2018

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