

Report to	-	Chief Executive
Date	-	6th July 2021
Report of the	-	Head of Service – Strategy and Planning
Subject	-	Examiner’s Report into the Burwash Neighbourhood Development Plan 2020-2028

Recommendation: That: Under the Chief Executive’s delegated authority, it be decided that the Burwash Neighbourhood Development Plan incorporating the Examiner’s modifications, as set out at Appendix 4, proceed to local Referendum, and that the Referendum Area be the Parish.

Introduction

1. The Examiner, Mr. Andrew Ashcroft, appointed with the agreement of Burwash Parish Council, to consider whether the Parish Council’s submitted Neighbourhood Development Plan meets the required ‘basic conditions’, issued his report of 19th April 2021. It is attached as Appendix 2. The analysis and assessments of the policies of the Burwash Neighbourhood Development Plan (BNDP) are contained on pages 13 to 34 of his report.
2. Attention is drawn to the earlier Cabinet report of 2nd November 2020, which summarises the submitted Plan and its background, as well as this Council’s own representations.
3. This report focuses on the legal responsibilities of this Council, to consider the Examiner’s recommendations and to decide whether the Plan, with the Examiner’s modifications, meets the required ‘basic conditions’, such that it should proceed to referendum.

The Examination & Examiners recommendations

4. The Examiner undertook the Examination by means of a Written Representations meaning that no hearings were held as part of the process. The Examiner produced a Written Report which concluded as follows:-

‘The Plan sets out a range of policies to guide and direct development proposals in the period up to 2028. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community.

Following my independent examination of the Plan I have concluded that the Burwash Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.

On the basis of the findings in this report I recommend to Rother District Council that subject to the incorporation of the modifications set out in this

report that the Burwash Neighbourhood Development Plan should proceed to referendum.

I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as originally approved by Rother District Council on 7 June 2016.

I am grateful to everyone who has helped in any way to ensure that this examination has run in an efficient manner.'

5. The recommended modifications include:
 - the relocation of the majority of Section 3 into an appendix of the Plan (by way of background commentary on the work undertaken during Plan preparation and the content of the Plan itself)
 - the incorporation within the revised Section 3 of an explicit reference to the effect of policy OVE1 of the DaSALP
 - consequential changes to the Executive Summary of the Plan
 - deletion of GP02 and addition of a criterion concerning views into GP01
 - modifications to GP04 Development Boundaries
 - modifications to GP05 Design Standards to ensure the policy has the clarity required by the NPPF
 - deletion of GP07 New Open Space
 - deletion of HO01 Housing tenure and mix
 - deletion of HO02 Rural Exception sites
 - re-wording of policy EN03 Green infrastructure: footpaths and bridleways
 - deletion of EN05 Historic landscape environment
 - re-wording of EN06 Integration of landscaping
 - modifications to IN01 Pedestrian Safety
 - re-wording of IN03 Supporting businesses and supporting text
6. In relation to the Examiner's report, discussions have taken place between RDC and Burwash Parish Council (the Qualifying Body) which results in mapping changes as follows :
 - The existing open spaces, listed in policy GP05, are now shown on the policies map
7. The recommended modifications to the BNDP have resulted in the rewording of various policies and text along with some amended mapping throughout the Plan.
8. The Examiner has confirmed that the referendum area does not need to be extended beyond the plan area, therefore it remains as the Parish.

Consideration of the Examiner's report and proposed modifications

9. The Council must now consider each of the Examiner's recommendations. It is not obliged to accept them but should be aware that the purpose of the examination is to provide independent scrutiny by a duly qualified person. The legislative position¹ is that the Local Planning Authority can only make modifications post-examination if it considers them necessary to meet the 'basic conditions', be compatible with Convention rights, accord with relevant Regulations or to correct errors. Also, in this event, further consultation and potentially a further examination would be required.
10. For reference, the 'basic conditions' relate to the need to:
 - have regard to national policies and advice
 - contribute to sustainable development
 - be in general conformity with the development plan's strategic policies
 - not breach or otherwise be incompatible with EU obligations
11. Overall, it is believed that the Examiner has undertaken a fair and robust examination of the submitted Neighbourhood Plan, properly considering all duly-made representations.
12. It is noted that the Examiner has taken the view that, as modified, the BNDP would meet basic conditions, particularly general conformity with the Core Strategy.

¹ Paragraph 12(6) of the Schedule 4B of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, and the Planning and Compulsory Purchase Act 2004 (as amended).

Parish Council Response and Referendum version of the Neighbourhood Plan

13. Burwash Parish Council has advised that it has agreed to accept all of the modifications recommended by the Independent Examiner. It has corresponded with officers who have made the necessary amendments to the Neighbourhood Plan for it to progress to Referendum.
14. A full draft of the Burwash Neighbourhood Development Plan, incorporating all of the Examiner's modifications, consequential changes and updating, as agreed with the Parish Council, has been collated and is contained in Appendix 4. A separate Schedule of Changes has also been prepared in Appendix 1.

Conclusion, Implications and Referendum

15. With reference to representations on the submitted BNDP Development Plan, the Examiner has carefully considered whether it meets the necessary 'basic conditions' and concluded that it does, subject to a number of modifications. Planning officers accept these conclusions, as does the Parish Council; hence, it is recommended to endorse the Examiner's recommendations (Appendix 3), including the proposed modifications as agreed by RDC & BPC (Appendix 1) and put the modified version of the Neighbourhood Plan, (Appendix 4), forward for Referendum to the residents of Burwash Parish.
16. If there is a majority support for the Neighbourhood Plan at Referendum, this Council will be obliged (subject to certain, limited exceptions) to formally make it part of the statutory development plan.
17. A notable implication of making the Neighbourhood Plan is that the Parish Council will then receive 25%, rather than the current 15%, of Community Infrastructure Levy receipts from future developments in the Parish.
18. As regards the local Referendum, it is likely that it will be held in early September and assuming a 'yes' majority vote it will progress to Cabinet and Full Council.

Tim Hickling
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