

Report to	-	Chief Executive
Date	-	29 th June 2021
Report of the	-	Head of Service – Strategy and Planning
Subject	-	Examiner’s Report into the Battle Civil Parish Neighbourhood Development Plan 2019-2028

Recommendation: That: Under the Chief Executive’s delegated authority, it be decided that the Battle Civil Parish Neighbourhood 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. John Slater, appointed with the agreement of Battle Town Council, to consider whether the Town Council’s submitted Neighbourhood Development Plan meets the required ‘basic conditions’, issued his report of 28th May 2021. It is attached as Appendix 2. The analysis and assessments of the policies of the Battle Civil Parish Neighbourhood Plan (BCP NDP) are contained on pages 13 to 34 of his report.
2. Attention is drawn to the earlier Cabinet report of 2nd November 2020, which summarised 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:-

‘It is clear that much work has gone into this plan by volunteers on behalf of the local community and the work does the Town Council and its volunteers’ great credit.

To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

I am therefore delighted to recommend to Rother District Council that the Battle Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.’

5. The recommended modifications include:
 - Simplifying the purpose of the development boundary policy.
 - In the site allocation policy, refer to the capacity of sites as delivering “approximately x units” rather than “up to x units”.
 - Removing the requirement that all development should include affordable housing and shared ownership flats.
 - Deleting the local connection policy.
 - Removing the requirements for development within the development boundary to have to be well related to local facilities.
 - Deleting three out of the four proposed green gaps and clarifying the basis for decision-making, by referring to the impact on the openness of the gap.
 - Removing the presumption against the amalgamation of shop units.
 - Clarifying when development within the AONB needs to address particular issues.
 - Differentiating the heritage policy between those that cover designated heritage assets and non-designated heritage assets
 - Deleting the local retail and employment policy and also the development contribution policy, as they effectively duplicate existing policy.
 - Re-title Assets of Community Value policy as Community Facilities.
6. In relation to the Examiner’s report, discussions have taken place between RDC and Battle Town Council (the Qualifying Body) which results in (mapping) changes as follows :
 - Delete map shading for Green Gaps GG01 and GG02 in Map 4a pg 72, and G04 in Map 4b pg.73.
 - Various text and map key edits
7. The recommended modifications to the BCP NP 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 BCP NP would meet basic conditions, particularly general conformity with the Core Strategy and the DaSA.

Town Council Response and Referendum version of the Neighbourhood Plan

13. Battle Town 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 consequential amendments to the Neighbourhood Plan for it to progress to Referendum.
14. A full draft of the Battle Civil Parish Neighbourhood Plan, incorporating all of the Examiner's modifications, consequential changes and updating, as agreed with the Town 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 BCP NP 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 Town Council; hence, it is recommended to endorse the Examiner's recommendations (Appendix 3), including the proposed modifications as agreed by RDC & BTC (Appendix 1)

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).

and put the modified version of the Neighbourhood Plan, (Appendix 4), forward for Referendum to the residents of Battle Civil 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 Town 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 September and assuming a 'yes' majority vote it will progress to Cabinet and Full Council.

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