

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL**

**Report to Cabinet**

**18 June 2019**

<b>TITLE:</b>	<b>Consideration of the submitted draft Leekfrith Neighbourhood Plan</b>
<b>PORTFOLIO HOLDER:</b>	<b>Councillor Wain - Portfolio Holder for Planning, Development and Property</b>
<b>CONTACT OFFICER:</b>	<b>Sarah Porru</b>
<b>WARDS INVOLVED:</b>	<b>Dane</b>

**Appendices Attached –**

**Appendix 1: Draft Leekfrith Neighbourhood Plan**

**Appendix 2: Other submission documents, comprising the Consultation Statement, the Basic Conditions Statement; Screening Opinions regarding the need for Strategic Environmental Assessment and Habitats Regulations Assessment and a determination statement.**

**1. Reason for the Report**

- 1.1 To receive and consider the draft Leekfrith Neighbourhood Plan submitted by Leekfrith Parish Council and to approve publication of the Plan and appointment of an Examiner.

**2. Recommendation**

- 2.1 That Cabinet agree that:

- the draft Leekfrith Neighbourhood Plan as set out at Appendix 1 of this report is published for public consultation for a minimum of six weeks;
- the Head of Regeneration is authorised to appoint an independent examiner in consultation with the Portfolio holder, the Peak District National Park Authority and Leekfrith Parish Council; and
- following public consultation, the draft Plan and representations received are submitted for independent examination.

### **3. Executive Summary**

- 3.1 Leekfrith Frith Parish Council has submitted its draft Neighbourhood Plan and accompanying documents to the District Council and the Peak District National Park Authority. Before the Plan can be taken forward for publication and examination, the District Council is required to check that the submitted Neighbourhood Plan has followed the proper legal process and that the plan has met the legal requirements for consultation and publicity.
- 3.2 Leekfrith Parish Council carried out public consultation on the draft plan between 31<sup>st</sup> January and 21<sup>st</sup> March 2018, prior to submitting the plan to the two local planning authorities. A Consultation Statement at Appendix two sets out an account of the consultation, providing details of people and organisations consulted; how they were consulted; a summary of the main issues and concerns raised; and a description of how the issues have been addressed.
- 3.3 The Neighbourhood Plan is considered to have met the legal requirements for consultation and publicity.
- 3.4 A Neighbourhood Plan must meet certain “basic conditions” before it can proceed to referendum. These conditions are set out in paragraph 7.10 of this report. A Basic Conditions Statement has been prepared by the Parish Council and submitted with the Plan (included at Appendix 2) to demonstrate how the draft Plan meets each of the basic conditions.
- 3.5 The Basic Conditions Statement includes opinions received from the Environment Agency, Historic England and Natural England that no further assessment of the draft Plan is required in order for the plan to be compatible with EU obligations for Strategic Environmental Assessment and Habitats Regulations Assessment.
- 3.6 The District Council is also required to consider the draft Plan against statutory requirements set out in paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 (as amended). The requirements, and details of the Neighbourhood Plan’s compliance, are set out from paragraph 7.13 of this report.
- 3.7 Preparation and submission of the draft Leekfrith Neighbourhood Plan is considered to have followed the required legal process.
- 3.8 Since the Leekfrith Neighbourhood Plan area also falls within the local planning authority area for the Peak District National Park (PDNP), the draft neighbourhood plan is going through a similar consideration process via the PDNP.
- 3.9 Should the District Council and the Peak Park be satisfied that the proposed Neighbourhood Plan can be taken forward, the two authorities are required to issue notification that the Plan has been received, publicise the draft Neighbourhood Plan for a further minimum six week period of consultation and appoint an independent examiner.

3.10 Cabinet's approval is also sought for this to be undertaken and for the draft Plan and its associated documents, plus consultation representations to be submitted to the appointed examiner for independent examination.

#### 4. **How this report links to Corporate Priorities**

4.1 Given the broad nature of Neighbourhood Planning, there will be direct implications for all of the Council's corporate priorities.

#### 5. **Alternative Options**

5.1 On the basis of the assessment of the draft Neighbourhood Plan and accompanying documents, to find that the proposal does not comply with the criteria for a neighbourhood plan and thus to recommend that the plan is not taken forward for publication and examination. **Not Recommended.** If Councillors were minded to refuse the submitted Neighbourhood Plan, the authority is required to notify the Parish Council of the reasons for the refusal and to publicise its decision. This will result in a delay to the Neighbourhood Development Plan timetable.

#### 6. **Implications**

##### 6.1 Community Safety - (Crime and Disorder Act 1998)

None directly.

##### 6.2 Workforce

None directly.

##### 6.3 Equality and Diversity/Equality Impact Assessment

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

##### 6.4 Financial Considerations

The main financial considerations will result from:

- Cost of examination (estimated £8,000).
- Cost of referendum (estimated £10,000).

The Council is eligible for Neighbourhood Planning New Burdens funding – paid by MHCLG for supporting progression of Neighbourhood Plans. The 2018/19 claims criteria allow grant payment of £20,000 to be claimed once a date is set for a referendum, following a successful examination. Details of financial support for neighbourhood planning in 2019/20 have yet to be released.

## 6.5 Legal

Neighbourhood Planning (General) Regulations 2012 Part 5 govern preparation of Neighbourhood Development Plans. Regulation 15 sets out the requirements for submission of plan proposals. Regulation 16 sets out requirements for publicising a plan proposal and Regulation 17 provides requirements for submission of a plan proposal to examination. The Localism Act 2011 Schedule 9 amends the Town and Country Planning Act 1990 with Schedule 4B, paragraph 6 of which sets out the criteria that a Local Planning Authority must consider when assessing a neighbourhood plan and paragraph 8 provides the basic conditions.

## 6.6 Sustainability

Planning Practice Guidance advises that Neighbourhood Plans, Supplementary Planning Documents, the Statement of Community Involvement, the Local Development Scheme and the Authority Monitoring Report are excluded from the requirement for a sustainability appraisal. The Local Plan has been subject to a sustainability appraisal, it is not considered necessary to repeat this assessment of policies in the Neighbourhood Plan. Neighbourhood plans may require Strategic Environmental Assessment (SEA), but only where there are potentially significant environmental effects. It is the opinion of the SEA consultation bodies that the Leekfrith Neighbourhood Plan would not have any significant effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations.

## 6.7 Consultation

The draft Leekfrith Neighbourhood Plan has been subject to a six week period of pre-submission public consultation. The revised plan will be published for a further minimum period of six weeks to seek representations.

## 6.8 Risk Assessment

Risks are identified in the report.

Dai Lerner  
**Executive Director (Place)**

<b>Web Links and Background Papers</b>	<b>Location</b>	<b>Contact details</b>
Leekfrith	<a href="http://www.leekfrithparishcouncil.btck">www.leekfrithparishcouncil.btck</a>	Joanna Bagnall

## 7. Detail

7.1 Neighbourhood planning was introduced through the Localism Act 2011. It enables communities to develop planning policies that will become part of the statutory development plan for their area. Neighbourhood planning is delivered by Town or Parish Councils for their 'neighbourhood area', in this case, the parish of Leekfrith.

### **Leekfrith Neighbourhood Plan – progress to date**

7.2 The draft Leekfrith Neighbourhood Plan is attached as Appendix 1.

7.3 The Leekfrith Neighbourhood Plan Area was designated in March 2015. The designation was made jointly by the District Council and the Peak District National Park Authority as the Parish lies within both local planning authority areas.

7.4 In May 2016 a postal survey questionnaire was sent to every household in the parish, a 25% response rate was achieved. A drop in day event was held in October 2016 to enable parishioners to see proposals and to ask questions about the emerging plan and further consultation events were held as the plan was finalised.

7.5 The formal stage of public consultation, prior to submission to the District Council, and as set required by Regulation 14 of the Neighbourhood Planning (General) Regulations 2012, was undertaken by Leekfrith Parish Council between 31<sup>st</sup> January and 21<sup>st</sup> March 2018. As a result of the pre-submission consultation, a number of amendments were made to the draft Plan.

### **Summary of draft Plan: vision, planning policies and site allocations**

7.6 The draft Leekfrith Neighbourhood Plan sets out a vision to help to maintain, enhance and secure the longevity of the community in the Leekfrith Parish. The Plan comprises four policies described below.

7.7 Policy 1 Redevelopment of Upper Hulme Mill: supports a mixed use scheme on this small industrial site in the Peak District National Park to include provision of new homes and light industrial units. Policy 2 supports the temporary renting of ancillary holiday accommodation on the general rented market - subject to a number of criteria being met. Policy 3 seeks to control parking on narrow roads throughout the Parish via the requirement for a transport statement. Policy 4 identifies the use of a small site for overspill car parking at the Roaches for up to 28 days per calendar year.

### **Submission documents**

7.8 In line with Neighbourhood Planning Regulations, the Parish Council has

prepared a Consultation Statement for submission to the District Council alongside their plan (Appendix 2). This Statement is required to include:

- details of people and organisations consulted;
- how they were consulted;
- a summary of the main issues and concerns raised;
- a description of how these issues and concerns were considered and addressed in the proposed Neighbourhood Plan.

7.9 Neighbourhood Plans must meet certain basic conditions before they can proceed to referendum. Whether or not the draft Plan has met these conditions must be checked by the District Council and will be tested through the independent examination. A Basic Conditions Statement - prepared by the Parish Council and submitted with the Plan (Appendix 2) - is required to demonstrate how the draft Plan meets each of the “basic conditions”.

7.10 The basic conditions for a Neighbourhood Plan are that it must:

- have appropriate regard to national policy;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan (this is the adopted Core Strategy with weight to be given to the policies in the emerging Local Plan);
- be compatible with EU obligations, including human rights requirements.

7.11 As part of the District Council’s duty to check conformity of the draft Plan with the basic conditions, screening assessments have been prepared to determine whether a Strategic Environmental Assessment (SEA) of the Plan is required under the Environmental Assessment of Plans and Programmes Regulations and whether a Habitat Regulations Assessment (HRA) of the Plan is required under the EU Habitats Directive. Screening reports have been sent to the statutory consultation bodies: Historic England, Natural England and the Environment Agency for their opinion.

7.12 The Basic Conditions Statement includes the opinions received from the consultation bodies in support of the conclusion that the preparation of a Strategic Environmental Assessment is not required in support of the Plan. Natural England also agrees with the screening report’s conclusions that the Leekfrith Neighbourhood Plan would not be likely to result in a significant effect on any European Site either alone or in combination and therefore no further assessment work under the Habitats Regulations would be required.

### **Council’s role and procedural steps**

7.13 A local planning authority must satisfy itself that a draft neighbourhood plan submitted to it for independent examination complies with all the relevant statutory requirements. In particular the District Council is required to consider the draft Plan against the statutory requirements set out in paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 (as amended). The requirements, and details of compliance with them, are set out below.

#### **Test 1: Is this a repeat proposal?**

7.14 Town and Country Planning Act 1990 Schedule 4B, Paragraph 5 (as amended): The District Council can decline to consider a plan proposal if it is considered to be a “repeat” proposal. To qualify as a repeat proposal, the following should have taken place:

1. the authority has refused the same or similar proposal within the previous two years; or
2. a referendum relating to the proposal that is the same as, or similar, has been held and 50% or under of those voting, voted in favour; and
3. the authority considers that there has been no significant change in national policy or local strategic policy since the refusal or referendum.

7.15 The Leekfrith Neighbourhood Plan is not a repeat submission.

**Test 2: Is the Parish Council authorised to act?**

7.16 Town and Country Planning Act 1990 Schedule 4B, Paragraph 6 (2)(a) and Section 61F: A Parish Council is authorised to act in relation to a neighbourhood area if the neighbourhood area consists of, or includes the whole or any part of the area of the Council.

7.17 Leekfrith Parish Council is the qualifying body for the purposes of preparing a neighbourhood plan.

**Test 3: Does the proposal comply with other relevant provisions made under Section 61F?**

7.18 Town and Country Planning Act 1990 Schedule 4B, Paragraph 6 (2)(b) and Section 61F: sets out other relevant provisions in relation to designation and authorisation to act.

7.19 Leekfrith Parish was designated as the Neighbourhood Area by the District Council and the Peak District National Park Authority in March 2015. The Leekfrith Neighbourhood Plan complies with other relevant provisions made under Section 61F.

**Test 4: Has the Qualifying Body submitted all required accompanying documents?**

7.20 Town and Country Planning Act 1990 Schedule 4B, Paragraph 6 (2)(c) and Regulation 15 of the Neighbourhood Planning (General) Regulations (as amended) require that where a Parish Council submits a plan proposal to the District Council, it must include:

- A map or statement identifying the area to which the plan relates;
  - The Consultation Statement;
  - The proposed Neighbourhood Development Plan; and
  - The Basic Conditions Statement.
- EITHER an environmental report prepared in accordance with Paragraph (2) and (3) of Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004) OR a Statement of Reasons for determination under Regulation 9(1) of the Environmental Assessment of

Plans and Programmes Regulations 2004 that the Plan is unlikely to have significant environmental effects.

- Where required, information to enable appropriate environmental assessments such as SEA or HRA.

- 7.21 The above items are attached as Appendices 1 and 2 and considered below.
- 7.22 The map of the designated neighbourhood area is shown on page 5 of the Basic Conditions Statement.
- 7.23 A Consultation Statement has been submitted. It includes details of people and organisations consulted; how they were consulted; a summary of the main issues and concerns raised; and a description of how these issues and concerns were considered and addressed in the proposed Neighbourhood Plan.
- 7.24 The District Council received the submission Neighbourhood Plan on 5<sup>th</sup> March 2019.
- 7.25 A Basic Conditions Statement has been submitted. In the first instance it is the role of the Examiner to determine whether the Plan meets the Basic Conditions.
- 7.26 The statutory consultees were consulted for a 6 week period from 25<sup>th</sup> July 2018 and concluded on the basis of the SEA and HRA screening assessments that the Leekfrith Neighbourhood Plan would not have any significant effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations. The Peak District National Park Authority provided a determination to this effect dated June 2019. It was also agreed that the Neighbourhood Plan would not be likely to result in a significant effect on any European Site either alone or in combination and therefore no further assessment work under the Habitats Regulations would be required.

**Test 5: Has the Parish Council undertaken the correct procedures in relation to consultation and publicity?**

- 7.27 Town and Country Planning Act 1990 Schedule 4B, Paragraph 6 (2)(d) and Regulation 15 (2) of the Neighbourhood Planning (General) Regulations 2012 (as amended) set requirements for the scope of pre-submission consultation. The submitted Consultation Statement provides evidence of compliance with these requirements.

**Test 6: Does the plan meet the definition of a Neighbourhood Development Plan?**

- 7.28 The Planning and Compulsory Purchase Act 2004 Section 38A (2) (as amended) provides the definition of a Neighbourhood Development Plan: A plan which sets out policies (however expressed) in relation to the development and use of land in the neighbourhood area. The Leekfrith Neighbourhood Plan meets this definition.

### **Test 7: Does the Plan specify the period it covers?**

- 7.29 The Planning and Compulsory Purchase Act 2004 Section 38B (1)(a) provides that a Plan must specify the period for which it is to have effect.
- 7.30 The Leekfrith Neighbourhood Plan period is given as 2019 – 2033.

### **Test 8: Does the Plan include provisions relating to “excluded development”?**

- 7.31 The Planning and Compulsory Purchase Act 2004 Section 38B (1)(b) provides that a Plan may not include any provisions relating to “excluded development” as defined by Section 61K of the Town and Country Planning Act 1990. Excluded development includes: development that consists of a county matter eg relating to minerals; any operation relating to waste development; development falling within Annex 1 to Council Directive 85/337/EEC (Environmental Impact Assessment) eg oil refineries, power stations, radioactive waste disposal, motorways, airports, toxic and dangerous waste disposal; or a nationally significant infrastructure project.
- 7.32 The Leekfrith Neighbourhood Plan does not include any policies or proposals relating to excluded development.

### **Test 9: Does the plan relate to more than one Neighbourhood Area?**

- 7.33 The Planning and Compulsory Purchase Act 2004 Section 38B (1)(c) provides that a Plan may not relate to more than one neighbourhood area.
- 7.34 The Leekfrith Neighbourhood Plan relates only to the designated Leekfrith Neighbourhood Area.

### **Conclusion of tests**

- 7.35 The submitted Leekfrith Neighbourhood Plan is considered to meet the legislative requirements.

### **Next steps**

- 7.36 Where the draft Neighbourhood Plan submitted to a local planning authority meets the requirements in the legislation, the Local Planning Authority must publicise the neighbourhood plan for a minimum of six weeks, invite comments, notify any consultation body referred to in the Consultation Statement and send the draft neighbourhood plan to independent examination.
- 7.37 Following examination, the Council will determine, based on the Examiners report, whether or not to take the plan forward to a public referendum.
- 7.38 A timetable for next steps is proposed as follows:

- July / Aug: Notify any consultation body which is referred to in the Consultation Statement, that the plan has been received (in accordance with Regulation 16 (b) of the Neighbourhood Planning (General) Regulations 2012).
- July / Aug to September: Publicise the draft plan for a minimum six week period of public consultation (in accordance with Regulation 16 (a) of the Neighbourhood Planning (General) Regulations 2012).
- August: Appoint an independent examiner in consultation with the Peak District National Park Authority and Leekfrith Parish Council.
- September / October: Draft Plan and consultation representations are submitted for independent examination.
- Autumn: Examination takes place through written representations and/or hearings – modifications may be proposed throughout this process.
- End of 2019: Examiner's report received.