

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Cabinet

11 February 2020

TITLE:	Leekfrith Neighbourhood Plan
PORTFOLIO HOLDER:	Councillor Edwin Wain - Portfolio Holder for Planning, Development and Property
CONTACT OFFICER:	Mark James – Principal Planning Officer
WARDS INVOLVED:	Dane;

Appendices Attached

Appendix 1 - Examiner's report of the independent examination of the Leekfrith Neighbourhood Development Plan

Appendix 2 – Leekfrith Parish Neighbourhood Plan Submission Version (February 2018)

1. Reason for the Report

- 1.1 To consider the findings of the examiner's report of the independent examination of the Leekfrith Neighbourhood Development Plan and to determine if the plan has met the "basic conditions" required for the plan to proceed to referendum.

2. Recommendation

- 2.1 It is recommended that Cabinet;

- a) accepts the Examiner's modifications in respect of the Leekfrith Neighbourhood Plan and notes that the basic conditions as required by Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 have been met.
- b) Approves the Examiner's recommendation that the Leekfrith Neighbourhood Plan, as modified by recommendation a), be submitted to a referendum in the Parish of Leekfrith on 7th May 2020.

3. Executive Summary

- 3.1 The Neighbourhood Plan Area was designated in March 2015. The Draft Plan was consulted on between 31 January - 21 March 2018. The Independent Examination of the Leekfrith Neighbourhood Plan commenced on 27th November 2019.
- 3.2 The Plan sets out planning policies for Leekfrith Neighbourhood Area concerning: the redevelopment of Upper Hulme Mill, full-time rental of holiday accommodation and the requirement for a transport statement to support development.
- 3.3 The Examiner's report was received by the Council on 23rd December 2019. It finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements. It is recommended by the Examiner that the plan should proceed to a local referendum based on the plan area. Having reviewed the report and evidence, it is recommended that the Council concurs with the Examiner's advice and that provisions are put in place for the plan to be subject to referendum in the Parish on 7th May 2020.

4. How this report links to Corporate Priorities

- 4.1 The Leekfrith Neighbourhood Plan will have implications for the following aims of the Corporate Plan (2019-2023). Aim 1 - To help create a safer and healthier environment for our communities to live and work, Aim 3 - To help create a strong economy by supporting further regeneration of towns and villages and Aim 4 - To protect and improve the environment and respond to the climate emergency.

5. Alternative Options

- 5.1 Option 1 (recommended) – that the Council agrees with the recommendations set out in Section 2 of this report. This option is recommended as the Neighbourhood Plan (as modified) is considered to meet the necessary requirements in order to proceed to referendum. This will enable the community to determine whether the Neighbourhood Plan should be used to determine relevant planning applications in the Parish.
- 5.2 Option 2 (not recommended) – that the Council does not concur with the recommendations set out in Section 2 of this report or the Examiner's report. This is not recommended as the Neighbourhood Plan (as modified) is considered to have met the relevant requirements to proceed to the referendum stage. If the Council were to pursue this option and not follow the advice of the Examiner, it must notify the Parish Council, previous consultation bodies and parties which had submitted representations to the Examiner to invite further representations.

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

None direct.

6.2 Workforce

Staff time and resource will be required from the Election Services team to prepare for the referendum.

6.3 Equality Impact Assessment

This report has been prepared in accordance with the Council's equalities procedures.

6.4 Financial Considerations

Local Planning Authorities can claim £20,000 once they have set a date for a referendum following a successful examination where a neighbourhood plan has not previously been made for that area. As the neighbourhood area is split between the Staffordshire Moorlands and Peak District National Park plan areas, this grant will be shared. The National park Authority led on the examination and will be reimbursed for the full cost of this. The District Council will be reimbursed for the full cost of the Referendum. Any of the £20,000 grant remaining will be divided equally.

6.5 Legal

The Neighbourhood Plan as proposed to be amended, is considered to meet the basic conditions which were set out in law following the Localism Act 2011. Only a draft neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be made. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990.

Should Cabinet decide to accept the recommendations in this report; a Decision Statement will be prepared and published on the Council's website in accordance with the Regulations and preparations for a referendum in accordance with the Neighbourhood Planning Referendum Regulations 2012.

6.6 Climate Change

The Basic Conditions Statement which accompanied the submission of the Neighbourhood Plan to the Council confirms that any development of the Upper Hulme site must conform to policies on climate change and carbon usage as set out by the Peak District National Park Authority. Applications for development outside of the Peak District National Park will need to comply with relevant policies in the Staffordshire Moorlands Core Strategy or successor document.

6.7 Consultation

The Neighbourhood Plan was subject to formal consultation in accordance with Regulation 14 and 16.

6.8 Risk Assessment

The risks are considered in section 7.

Simon Baker
Chief Executive

Web Links and Background Papers

<https://www.staffs Moorlands.gov.uk/article/3460/Leekfrith-Neighbourhood-Plan>

<https://www.gov.uk/guidance/neighbourhood-planning--2#key-stages-in-neighbourhood-planning>

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7. **Detail**

Background and process

- 7.1 Leekfrith Parish was designated as a Neighbourhood Area by the District Council and the Peak District National Park Authority on 24th March and 13th March 2015 respectively. Both authorities are required to approve the designation of the area and fulfil statutory duties as local planning authorities in the process as the Parish boundary spans the boundary of the National Park. The designation of the area was a key stage in the statutory process of preparing the Neighbourhood Plan.
- 7.2 Subject to the examination of the plan and referendum, the plan will form part of the statutory development plan for the District and will be used to determine planning applications alongside other adopted documents. At present, the adopted Core Strategy, Minerals Local Plan for Staffordshire (2015-2030) Staffordshire and Stoke-on-Trent Waste Local Plan (2010 to 2026) form the development plan for Staffordshire Moorlands outside of the National Park.

Upon the adoption of the emerging Staffordshire Moorlands Local Plan, this will supersede the Core Strategy to form part of the statutory development plan.

- 7.3 The Leekfrith Neighbourhood Plan has been prepared by the Parish Council under powers introduced in the 2011 Localism Act. This enables Town and Parish Councils or “neighbourhood forums” in areas without such authorities to establish planning policies for their area provided that the plan meets the basic conditions and is supported by the majority of votes at a referendum. The District Council and Peak District National Park Authority have supported the Parish Council through this process.
- 7.4 The Neighbourhood Plan was informed by consultation undertaken by the Parish Council with the local community and stakeholders. This included the statutory “regulation 14”¹ consultation between 31 January - 21 March 2018. A summary of the comments submitted to the Parish Council is provided in the “Consultation Statement” which is available on the neighbourhood plan website (link above). The District Council’s response was supportive of the plan.
- 7.5 Subsequently, the plan and supporting documents were submitted to the District Council and Peak District National Park Authority under Regulation 15(1) of the Town and Country Planning Neighbourhood Planning (General) Regulations 2012 (as amended). A report to the District Council’s Cabinet on 18th June 2019 considered the plan and 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. The Cabinet agreed that:
- The draft Leekfrith Neighbourhood Plan was to be 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.
- 7.6 Following consideration by the National Park Authority, the plan was then formally published for comments by the two local planning authorities for a period of six weeks closing on 23rd September. The Plan that was published at this stage set out planning policies for Leekfrith Neighbourhood Area concerning: the redevelopment of Upper Hulme Mill , full-time rental of holiday accommodation, the requirement for a transport statement and parking at the Roaches.
- 7.7 Responses were received from Highways England, Historic England, the Environment Agency and the Coal Authority. The Environment Agency

¹ Regulation 14 of the Neighbourhood Planning (General) Regulations 2012

requested an addition to Policy 1 regarding the development of Upper Hulme Mill to require contamination and ground condition surveys to be undertaken. No further amendments were requested in the other responses.

- 7.8 In agreement with the National Park Authority and Parish Council, Christopher Edward Collison BA (Hons) MBA MRTPI MIED MCMI IHBC, was appointed as the independent examiner. The Examination in Public commenced on 27th September 2019 by written representations and the Examiner's report was submitted to the Council on 23rd December 2019.

Examiner's report

- 7.9 The Examiner's role is to consider whether the Neighbourhood Plan meets the legislative and procedural requirements. This includes determining whether the plan meets the "basic conditions". Only when a Neighbourhood Plan is considered to have met the basic conditions can it be put to referendum and be made. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
- the making of the neighbourhood plan contributes to the achievement of sustainable development.
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017²

- 7.10 In addition to the basic conditions, the Examiner's report also considers:

- whether a neighbourhood plan is compatible with the Convention Rights³
- whether the Neighbourhood Plan complies with the provisions made by

² This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 whereby the Neighbourhood Planning Regulations 2012 are amended. This basic condition replaced a basic condition "the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects".

³ The Convention Rights has the same meaning as in the Human Rights Act 1998

or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.

7.11 The Examiner's report must recommend either:

- that the Neighbourhood Plan is submitted to a referendum, or
- that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.

7.12 Whilst the Examiner's report must address the issues above, it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress.

7.13 A summary of the Examiner's key findings is provided below alongside a recommended response from the District Council. The Examiner's full report is available at Appendix 1.

Requirement	Examiner's recommendations	District Council's response
Consideration of Convention Rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017	The Neighbourhood Plan is compatible with the Convention Rights, and does not breach, and is otherwise compatible with, EU obligations. I also conclude the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.	SMDC accepts the Examiner's recommendations.
Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development	Subject to my recommended modifications of the Submission Plan, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.	SMDC accepts the Examiner's recommendations.
Consideration whether the making of the Neighbourhood Plan is in general conformity with the	Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity	SMDC accepts the Examiner's recommendations.

Requirement	Examiner's recommendations	District Council's response
strategic policies contained in the development plan for the area of the authority (or any part of that area)	with the strategic policies contained in the Development Plan.	The Neighbourhood Plan is not tested against the emerging Staffordshire Moorlands Local Plan which is currently subject to examination. However, the reasoning and evidence that has supported the emerging Local Plan can be of relevance when determining if the basic conditions have been met. The Examiner has reviewed the emerging Local Plan and has not identified any concerns.
Whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.	I have seen nothing to suggest that the policies of the Plan will have "a substantial, direct and demonstrable impact beyond the neighbourhood area". I have seen nothing to suggest the referendum area should be extended for any other reason. I conclude the referendum area should not be extended beyond the designated Neighbourhood Area.	SMDC accepts the Examiner's recommendations.

7.14 As highlighted in the table above, the Examiner has recommended modifications to the Neighbourhood Plan in order to meet the basic conditions. They are:

Recommended modification	Reason
<p>Recommended Modification 1:</p> <ul style="list-style-type: none"> • in the Neighbourhood Plan Contents Page refer to the Policies using numbers, and replace "Development" with "Redevelopment" • add the Policy titles to the text boxes for Policies 2,3, and 4 	<p>So that the Neighbourhood Plan "is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.</p>
<p>Recommended modification 2:</p> <p>In Policy 1 (Redevelopment of Upper Hulme Mill)</p> <ul style="list-style-type: none"> • in Part A (i) replace "associated parking and garaging" with "sufficient vehicle parking facilities to ensure no 	<p>To address a representation from the Environment Agency and to ensure sufficient regard to national policy.</p> <p>To ensure that the policy is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" as required by paragraph 16d) of the Framework.</p>

<p>additional on-road parking results”</p> <ul style="list-style-type: none"> • in Part A (ii) replace “may be suitable” with “will be supported” • continue Part A (iii) with “subject to proposed uses being compatible with nearby uses” • delete Part B and transfer the text to Section 7.1 of the supporting text • insert replacement Part B “All development proposals must include a detailed site-specific flood risk assessment and demonstrate the suitability of the proposals taking into account any mitigation measures.” • in Part C replace the text before “parking on” with “All development proposals must include sufficient vehicle parking provision to ensure no additional”; and replace “is completely discouraged” with “results” • add as Part E “All development proposals must include results of a contamination survey and demonstrate necessary mitigation appropriate to the use proposed.” 	<p>In the interests of achieving acceptable living standards and recognises the importance of securing well-designed, attractive and healthy places as set out in paragraph 122 of the Framework.</p>
<p>Recommended modification 3:</p> <p>In Policy 2 (Full time rental of holiday cottages)</p> <ul style="list-style-type: none"> • present points ii and iii as alternative circumstances and then present points i, iv and v to apply in every case • replace “permitted” with “supported” • replace “permission will be granted” with “proposals will be supported” 	<p>So that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.</p>
<p>Recommended modification 4:</p> <p>In Policy 3 (Parking on the narrow roads throughout the Parish)</p> <p>Replace the final sentence with “To be supported development proposals must demonstrate that they will not result in additional on-road vehicle parking.”</p>	<p>So that the policy “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.</p>
<p>Recommended modification 5:</p> <p>Policy 4 (Parking at the Roaches)</p>	<p>The development to which the policy relates is permitted development not requiring a grant of planning permission.</p>

Delete policy and transfer the policy text and supporting text to become a non-policy community aspiration in a new Part 8 of the Neighbourhood Plan	
Recommended modification 6: Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.	Consequential modifications to the general text in so far as it is necessary to correct an error or where it is necessary so that the Neighbourhood Plan “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.

7.15 The Examiner’s report concludes by stating that; *“I recommend to the Peak District National Park Authority and Staffordshire Moorlands District Council that the Leekfrith Neighbourhood Development Plan for the plan period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.”*

Next steps

7.16 Given the above, it is recommended that the District Council agrees to send the Neighbourhood Plan (as modified) to referendum. As the Peak District National Park Authority is also the local planning authority for parts of this Parish, the National Park Authority will need to reach its own conclusions on this. If both authorities agree, then the Neighbourhood Plan will proceed to referendum.

7.17 Should the Council agree to the recommendations of this report, it will need to issue a decision statement which sets out the decision taken by the District Council that the plan should proceed to referendum.

7.18 The District Council is responsible for making the necessary arrangements for the referendum to be held. A notice of the referendum will need to be issued. In line with the Neighbourhood Planning (referendums) Regulations 2012, Schedule 1, the following question will be asked:

“Do you want Staffordshire Moorlands District Council and the Peak District National Park Authority to use the neighbourhood plan for Leekfrith to help it decide planning applications in the neighbourhood area?”

7.19 In the interests of making efficient use of resources, it is proposed that the referendum is held 7th May 2020. This is the date of the already scheduled election for the Police and Crime Commissioner but just beyond the timeframe envisaged in the regulations. If the Council wish to take the plan to referendum within timescales that differ from those set out in the regulations, agreement with the Parish Council is required. This consent has been sought and granted.

7.20 A neighbourhood plan attains the same legal status as a Local Plan (and other documents that form part of the statutory development plan) once it has been approved at a referendum. At this point it comes into force as part of the statutory development plan. Applications for planning permission must be

determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004).

- 7.21 If a majority of votes is in favour of the Neighbourhood Plan, the plan comes into force as part of the statutory Development Plan for the District. The Council must ensure that the plan is “made” within eight weeks of the referendum for the plan to take effect. An exception to this time limit is when the decision made by the Council to proceed to referendum is subject to legal challenge. The risk of challenge is considered to be low as the plan has been subject to scrutiny by Council officers to help ensure that it fulfils the statutory requirements.