

## PLANNING COMMITTEE

9<sup>TH</sup> NOVEMBER 2017

### REPORT OF HEAD OF REGULATORY SERVICES

#### RECEIPT OF PETITION – LONG CLAWSON, HOSE AND HARBY

##### 1.0 PURPOSE OF REPORT

1.1 To advise Members of the receipt of a petition relating to the Neighbourhood Plan and Planning Applications in Long Clawson, Hose and Harby

##### 2.0 RECOMMENDATIONS

2.1 It is recommended that the Committee:

- (i) Considers the Petition the details of which are set out in paragraph 3 below; and;
- (i) Declines the request to postpone the consideration of all applications in Long Clawson, Hose and Harby until the Neighbourhood Plan is adopted for the reason set out in this report.

##### 3.0 KEY ISSUES

3.1 A petition has been received which contains 307 signatories, 297 from residents of Long Clawson and 10 from various other nearby villages. The petition requests that:

***“We the undersigned residents of Long Clawson, Hose and Harby are concerned about excessive development in our villages and the lack of concern shown by MBC about heritage and infrastructure issues focussing on traffic, flooding and schooling for which evidence has been formally presented to them but ignored. We “request” that MBC accelerates the process for determining the Clawson, Hose and Harby Neighbourhood Plan for which Regulation 16 will be completed at the end of August before determining ANY of the outstanding planning applications.”***

The petition itself is not appended to this report owing to the presence of information deemed sensitive by the Data Protection Acts. However, officers can confirm that the signatories and addresses appear legitimate and there is no reason to question the validity of the petition.

3.2 Under the Council’s Scheme for Petitions, the petition is required to be referred to the appropriate Committee for consideration of a response. The Neighbourhood Plan process is assigned to MEEA Committee and that Committee will consider the request to accelerate the process for determining the Long Clawson, Hose and Harby Neighbourhood Plan (NP). The Planning Committee is invited to consider the request to postpone determination of any planning applications.

3.3 The petition makes reference to the ‘Regulation 16’ consultation which took place in July and August 2017. The signatures are also dated August 2017. There is no information explaining the period of time between its compilation and submission. The NP has now progressed and completed its ‘Regulation 16’ consultation and was subsequently submitted for independent Examination, the result of which was received on 4<sup>th</sup> November 2017. The steps remaining are summarised as:

- For the Qualifying Body to express a view whether it is satisfied with the recommendations of the Examiner
- For the Council to consider whether to progress the NP to Referendum

- Arrange and hold the Referendum
- Finally 'make' (adopt as complete) the NP

(n.b. Recent changes in legislation have enabled NP's to obtain full Development Plan status once it has received a favourable Referendum result, i.e. a status in law equivalent to when it is finally 'made', in terms of decision making on planning applications).

- 3.4 There are currently 14 'live' applications awaiting determination within the area addressed by the NP. These range in scale from smaller 'householder' applications to substantial proposals for residential development, with 7 falling into the 'major' (13 week) category
- 3.5 All planning applications must be determined within a period of 8 or 13 week, dependent on their scale, under the Town and Country Planning (Development Management Procedure) (England) Order 2015. This can be extended by agreement with the applicant. Applicants can require that their application fee is refunded if an application exceeds 26 weeks and there is no extension of time agreed, and may make an appeal for non-determination of their application
- 3.6 The oldest application currently undetermined is dated 14<sup>th</sup> January 2016 and the most advanced determination date or extension of time extends to 14<sup>th</sup> December 2017.
- 3.7 Clearly there are elements of uncertainty regarding the progress of the NP and the timetable associated with it. There is no guarantee that NP will meet that the steps required at para 3.3 above will be successfully completed and, in theory at least, that the NP will never be completed. However the 'best case scenario' it that it is able to progress, normal timetables would be that the decision to proceed to Referendum would be 6 weeks for receipt of the Examination report (14<sup>th</sup> December 2017) and the Referendum within 8 weeks of that decision (by 8<sup>th</sup> February 2018). A NP must be 'made' within 8 weeks of the Referendum result (5th April 2018, applying this timetable). It is considered that there will be very limited scope to reduce this prospective timetable.
- 3.8 It is conventional practice and a normal expectation of applicants that planning applications are determined when they are ready to be so, i.e. have reached a stage when all of the necessary information etc. has been supplied. A Neighbourhood Plan (and indeed the emerging Local Plan) will be material considerations when determining such considerations but the weight they carry, prior to being made, requires assessment based on the criteria provided by the NPPF:

*From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

- 3.9 It is further considered that applications cannot be delayed without justification to do so. It is considered that to do so would amount to an unjustified manipulation of normal process which is likely to have the effect of creating advantage or disadvantage to individual applications, depending on how they relate to the Neighbourhood Plan (and indeed 'collaterally' by other changes in circumstances that may transpire during the period of delay). At worst, it is considered that an applicant, or a 'third party' expressing support or opposition to a particular application, could mount a challenge suggesting the system has been unjustifiably manipulated to a position less favourable to their aspirations.

3.10 Members will naturally wish to respond to the heading of the petition that alleges that lack of concern has been given heritage and infrastructure issues focussing on traffic, flooding and schooling and that information that has been presented on these subject matters has been ignored. In this regard it is worth noting that in every determination detailed assessment of the impact on these issues has been carried out (where applicable) as material considerations, alongside all others. This has involved procuring expert advice and has given rise to amendments to applications, conditions and s106 contributions, for example to increase school capacity. It is also worth noting that addressing these issues are **the very same reasons** several of the long standing applications referred to above have not yet been determined.

3.11 The evidence referred to in the petition was received in December 2016 and since then several determinations have been made in relation to larger scale residential development (10 units or more). These are detailed in the table at the end of this report.

#### **4.0 POLICY AND CORPORATE IMPLICATIONS**

4.1 Neighbourhood Plans operate alongside the Local plan to deliver growth for the area. Corporate Priority of Helping to Provide Homes that the Borough Needs is related to this subject matter.

#### **5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 There are significant financial risks associated with the postponement of planning applications arising from the 'refund provisions described at para. 3.5 above, the expense incurred in dealing with any appeal that arise and the prospect of an adverse award of cost in any such appeal.

5.2 It is not possible to estimate the costs likely as these depend on the decisions of applicants whether to appeal etc, their outcome, and any requests for refunds. The total fee receipts for the applicable applications is approx. £55,000.

#### **6.0 LEGAL IMPLICATIONS/POWERS**

6.1 The timetables set out for applications derive from the Town and Country Planning (Development Management Procedure) (England) Order 2015 (A34). Those relating to the NP process are set out in the Neighbourhood Planning (General) (Amendment) Regulations 2015 and the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, which amend the Neighbourhood Planning (General) Regulations 2012.

#### **7.0 COMMUNITY SAFETY**

7.1 There are no Community Safety issues arising from this report.

#### **8.0 EQUALITIES**

8.1 There are no direct equality implications as a result of this report

#### **9.0 RISKS**

The risks identifies below are the potential outcomes should this report not receiving member support.

9.1

<b>L I K E L I H O O D</b>	<b>A</b>	<b>Very High</b>				
	<b>B</b>	<b>High</b>			<b>1</b>	
	<b>C</b>	<b>Significant</b>				
	<b>D</b>	<b>Low</b>				
	<b>E</b>	<b>Very Low</b>				
	<b>F</b>	<b>Almost Impossible</b>				
			<b>Negligible 1</b>	<b>Marginal 2</b>	<b>Critical 3</b>	<b>Catastrophic 4</b>

**IMPACT**

<b>Risk No</b>	<b>Risk Description</b>
<b>1</b>	Further legal challenges by aggrieved party

**10.0 CLIMATE CHANGE**

10.1 There are no direct implications or impacts resulting from, this report

**11.0 CONSULTATION**

11.1 No direct consultation has been carried out in regards to this report.

**12.0 WARDS AFFECTED**

12.1 All

Contact Officer: Head of Regulatory Services  
Date: 8<sup>th</sup> November/2017

Appendices : None

Background Papers:

- Petition as submitted
- Undetermined Planning applications in the Long Clawson, Hose and Harby Neighbourhood Plan area

App. Ref	Address	Proposed Development	Determination	Consideration of infrastructure, heritage, drainage and traffic issues.
<b>Long Clawson</b>				
15/00547/OUT	Field No 7858 Melton Road	10 dwellings	Approved 3.3.2017	<ul style="list-style-type: none"> <li>Detailed drainage scheme to prevent increasing demand on existing systems;</li> <li>Traffic calming on Melton Road</li> <li>Financial contribution for increase in capacity of Long Clawson PS</li> <li>No significant heritage issues</li> </ul>
<b>Harby</b>				
15/00942/OUT	Allotment Gardens Boyers Orchard Harby	15 dwellings	Approved 1.8.2017	<ul style="list-style-type: none"> <li>Requirement for Sustainable Drainage System to prevent any increase in run off.</li> <li>Financial contribution to Village Hall of £22,625.00</li> <li>No significant heritage issues</li> </ul>
16/00318/OUT	Land at Colston Lane Harby	50 dwellings	Approved subject to s106 6.7.2017	<ul style="list-style-type: none"> <li>Financial contribution to Village Hall of £105,437.50</li> <li>Financial contribution for increase in capacity of Hose PS of £145,188.12</li> <li>Improvements to the bus stop nearest to the proposed development</li> <li>Improvement of the existing footway facilities on Colston Lane from the site access to Main Street</li> <li>No significant heritage issues</li> <li></li> </ul>
<b>Hose</b>				
15/00944/OUT	Land Off Canal Lane Hose	25 dwellings	Approved 21.07.2017	<ul style="list-style-type: none"> <li>Requirement for Sustainable Drainage System to prevent any increase in run off.</li> <li>New footpath adjacent to Canal Lane to improve pedestrian safety and linkage to village centre</li> <li>No significant heritage issues</li> </ul>
17/00401/OUT	Land Off Canal Lane Hose	16 dwellings	Approved subject to s106 7.9.2017	<ul style="list-style-type: none"> <li>Requirement for Sustainable Drainage System to prevent any increase in run off.</li> <li>Financial contribution for increase in capacity of Hose PS</li> <li>No significant heritage issues</li> </ul>
<b>TOTAL:</b>		116 dwellings		