

MELTON ECONOMIC & ENVIRONMENTAL AFFAIRS COMMITTEE

4th DECEMBER 2017

REPORT OF HEAD OF REGULATORY SERVICES

CLAWSON, HOSSE AND HARBY NEIGHBOURHOOD DEVELOPMENT PLAN

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this to inform members of the progress of the Clawson, Hose & Harby Neighbourhood Development Plan (2017) and determine whether it should proceed to Referendum.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the Committee:

Agree that the Clawson, Hose & Harby Neighbourhood Development Plan (2017) (Appendix 1 to this report) should proceed to Referendum, subject to its amendment to incorporate the Examiner's recommendations.

3.0 BACKGROUND

- 3.1 Clawson, Hose & Harby Parish Council (Qualifying Body – QB) received formal area designation for the purposes of preparing a NP the 18th January, 2016, after a statutory 6 week consultation which ran from the 12th October 2015 to the 25th November, 2015, with no representations being received.
- 3.2 Before submitting its plan proposal to the local authority, the group have publicised details of the proposals locally as best they can to everybody who lives or works in the Parish. The group consulted with other interested bodies that are affected by the proposals and the Neighbourhood Plan through a Regulation 14 Consultation and a number of consultation events.
- 3.3 Following this, Clawson, Hose & Harby PC formally submitted the plan to Melton Borough Council on the 18th July, 2017. The Council conducted a 'Regulation 16' 6-week formal public consultation on the Plan, lasting from the 20th July 2017, until 30th August 2017. As per the Regulation 14 consultation, Melton Borough Council submitted formal representations to this Plan. After going through the responses to the Regulation 16 consultation, Clawson, Hose & Harby Neighbourhood Plan group agreed to continue to Examination without amendment.
- 3.4 Melton Borough Council formally appointed independent Examiner Andrew Ashcroft to examine this plan.. He is independent of both Melton Borough Council, and the Parish and had no interests in any land that was affected by the Neighbourhood Plan. The Examination of this Neighbourhood Plan began in September, 2017.

3.5 On the 26th September, the Examiner emailed the Council to confirm no hearings would be required. This was followed on the 6th October by the Examiners Clarification note, which included a number of questions relating to the Plan, to be answered by the QB and LPA. The Examiner then submitted to the LPA his draft report for fact checking on the 26th October 2017. The LPA worked with the QB to respond to this document quickly allowing him to issue his final report to the Borough Council on the 1st November, 2017. This report contained the Examiners conclusions on the plan, which, like the fact checking report, concluded the Clawson, Hose & Harby Neighbourhood Plan could precede to referendum, subject to modifications. **(Appendix 2 to this report).**

3.6 This decision, when issued to the LPA, set in motion statutory timescales by which the Local Authority has to, in the first instance, decide whether to advance the Neighbourhood Plan to referendum. Then, following its decision (if positive), the LPA has to set a date for a referendum and ultimately conduct it. In the first instance, the LPA has to decide within 5 weeks of receiving the Examiner's report whether it agrees to advance the Plan to referendum. Following publication of this decision, the Authority has 56 working days to run the referendum. To comply with these statutory timescales a special MEEA committee has been arranged for the 4th December, 2017, within the statutory timescales (which extend to 6th December, 2017). The Local Authority received confirmation from CHH Parish Council on the 21st of November, 2017 that the Parish Council had accepted the Examiners recommended modifications at a Parish Council meeting on the 20th of November. There was one issue within the examiners report regarding projects in Policy DC1, which has since been rectified and an audit trail established. Due to Christmas, there will be a longer time period between the MEEA decision and the referendum.

3.7 Neighbourhood Plans, unlike Local Plans do not have to pass the same tests as Local Plans. In particular of note is that neighbourhood plans are not tested for soundness. Instead, neighbourhood plans are tested against specific caveats known as 'Basic Conditions'. For Neighbourhood Plans the relevant basic conditions are listed below;

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 order (or neighbourhood plan) contributes to the achievement of sustainable development.

the making of the order (or 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 order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations..

3.8 In determining the Authority's decision on whether or not to advance the

Neighbourhood Plan, it is important to understand how the above basic conditions relate to the examination of the CHH Neighbourhood Plan, and in particular Basic Condition E (iii above). This Basic Condition is fundamental to the relationship between the Neighbourhood Plan and the Local Plan. Where an up to date made Local Plan is present, all Neighbourhood Plans must be within strategic conformity with it. However, wherein the Local Plan is not yet adopted, and still emerging (as is the case with the Melton Local Plan), there is no requirement of Neighbourhood Plans to conform in this way, which means Neighbourhood Plan advancing ahead of the Local Plan, such as Asfordby, Frisby and CHH have used this to promote different housing allocations.

- 3.9 The Clawson, Hose and Harby Neighbourhood Plan is unique however, insofar as it is the first Neighbourhood Plan in the Borough to actively promote and justify its own housing requirement (p22). In this instance, some 30% less than that promoted in the Local Plan. The CHH NDP document justifies this figure by using the base OAN from HEDNA, which is lower than the OAN derived from the SHMA (2014). The Neighbourhood Plan allocates in each settlement accordingly, using the methodology devised in the Local Plan, to meet the lower figures.
- 3.10 The Neighbourhood Plan does designate reserve sites, which are to be brought forward in the event that there is a shortfall of delivery on the allocated development sites (similar to how the Local Plan reserve sites operate) or if there is an increase in recognised housing requirement across the Borough. The Neighbourhood Plan confirms that should the Local Plans housing figures be ratified or changed through the EiP of the Local Plan , this would constitute a recognised housing need which could justify reserve sites being brought forward. The recommendations of the Examiner are to insert a requirement to review the NP in the event that the housing requirements increase through the LP Examination process.

The following is a summarised comparison of the site allocations between the 2 Plans:

<u>LP Ref and capacity</u>	<u>NDP Ref and capacity</u>	<u>Notes</u>
Harby		
HAR 1 (15 dwellings)	NPHAR1 (15 dwellings)	Outline permission granted
HAR 2 (10 dwellings)	NP HAR 2 (10 dwellings)	Full permission granted
HAR3 (53 dwellings)	NPHAR6 (53 dwellings)	Outline permission granted on appeal
HAR 4 (61 dwellings)	NPHAR4 + 5 (50 dwellings)	Outline permission granted
Total: 139	Total:139	Difference: 0
Hose		
HOS1 (42 dwellings)	NPHOS1 (36 dwellings)	Outline on part with application on remainder.
HOS2 (35)	NPHOS2 (15)	Application for part of the site.

dwellings)	dwellings	
Total:77	Total:51	Difference: - 26
LONG1 (10 dwellings)	NPLONG1(10 dwellings)	Outline permission granted
LONG2 (35 dwellings)	NPLONG6 (32 dwellings)	Site included in NDP, slightly different estimation of dwellings.
LONG3 (41 dwellings)	NPLONG3 (45 dwellings)	Site included in NDP, slightly different estimation of dwellings. Application received.
LONG4 (55 dwellings)	N.A	Not included in NDP
Total:141	Total:87	Difference: - 54
Overall Total: 355	Total: 277	Difference: - 82

- 3.11 Reserve Sites are present in both Hose (9 dwellings) and Long Clawson (40 dwellings) for the Neighbourhood Plan, however these would still leave a shortfall of 31 dwellings against the Local Plan allocations.
- 3.12 The Group will likely also need to engage with the EiP, to convince the Local Plan Inspector to endorse their approach. If the Local Plan is adopted in its current form, its housing allocations could supersede those in the Neighbourhood Plan if they still conflict. This is because the NPPG makes it clear that wherein there is a conflict between planning policies (including those within Neighbourhood Plans), it is the document adopted most recently which should take precedent. The Neighbourhood Plan Group have been informed of the risks of actively promoting a housing requirement and allocations different from the Local Plan, and have decided on balance it is what they wish to do.
- 3.13 Beyond housing allocations, the group has reintroduces' limits to development' (village envelopes) for the three settlements, which has been done in all emerging Neighbourhood Plans to date. Whilst this is has been, on balance, deemed as acceptable through examinations, there is still a level of concern that such policies could restrict windfall developments and hinder the operation of Local Plan Policy SS3. However, this aspect has been considered by the Examiner and found tom be acceptable.
- 3.14 The Neighbourhood Plan also designates a number of additional Local Green Spaces, with only 2 out of 10 being removed by the examiner. Furthermore the CHH NP introduces further policies including, but not limited design, housing mix, affordable housing, environment and biodiversity. These policies have been modified by differing amounts through the examination process, but mostly this is to ensure clarity, rather than changing the thrust of the policy.
- 3.15 It is the view of officers and the examiner that despite concerns, the Neighbourhood Plan does meet the basic conditions required to advance to referendum. However, depending on the result of the EiP, it may be necessary for the reserve sites to be released or even further land be allocated via the Local Plan, or at the very least

their may need to be early review of the NDP to reflect the outcome of the LP.

- 3.16 Members should also be aware of the difficulties arising because of conflicts between the emerging Local Plan and advanced Neighbourhood Plans and the effect on planning applications. This is particularly pertinent wherein sites are allocated in the emerging local plan but not in the Neighbourhood Plan, as arises in this case with regard to LONG 4. This could lead to sites being refused, despite forming part of the strategy agreed by the Council when the Local Plan was submitted and sites which form the Council's five year land supply. Examples of this can be found thus far in Frisby, Asfordby and indeed Clawson, Hose and Harby.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 The decision of this Committee, subject to successful referendum, will have policy implications on the development of the Local Plan. However the NP has very strong alignment with the content of the Local Plan to date and it is not considered that there is a significant risk to either. There are also clear links to corporate priorities contained within Neighbourhood Planning.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 There has already been significant resource put into the Neighbourhood Plan by both the Parish and Borough Council. For the Borough Council resource has been spent on;
- Advertisement of the NDP in Melton Times.
 - Examination of the Neighbourhood Plan (examiners fees)
 - Significant staff time
- 5.2 Previously Councils could apply for grant funding amounting to £20,000 in instalments. Firstly when a Neighbourhood Plan Area was designated, then when Examination was set and finally for the referendum. Now however claims can only be made for the full amount after a date for examination has been set.
- 5.3 The Borough Council received £5,000 in funding when the Neighbourhood Plan Area was designated and the old funding regime was in place, however since then the above restrictions have come into force. This means the Borough Council can only claim when a referendum date is set and during one of three claims windows per year. This means there is financial advantage in Neighbourhood Plans advancing to this stage, as costs such as those listed above will still be incurred without any opportunity to claim for funding. In accepting the recommendation, this will allow the Borough Council to set a date for Referendum allowing a claim to be made for £15,000 during the next window. This has been accounted for in relevant budget setting and reporting.
- 5.4 There are additional costs incurred in running the referendum. These are ran in the same way as a, for example a general election or the EU Referendum, with polling cards, polling station and staff. The costs incurred would be

transferred from the Neighbourhood Planning budget.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 The Act specifies timetables for the Referendum following publishing of a decision to agree it should proceed to that stage. This is 56 days to arrange the referendum. There are various other duties to publish the result of this decision and to notify interested parties.
- 6.2 Section 1 of The Neighbourhood Planning Act 2017 requires the Asfordby Parish Neighbourhood Plan to be taken into account in relation to planning applications once it has been accepted through the Examination process.

7.0 COMMUNITY SAFETY

- 7.1 There are no direct community safety implications arising from this report, as safety, especially on highways and access, will form the basis of any future planning application.

8.0 EQUALITIES

- 8.1 There are no foreseen equalities issues. This issue has been discussed by government and can be viewed here - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6042/1830054.pdf.

9.0 RISKS

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

Risk No	Risk Description
1	Inability to progress to Referendum within required timetable
2	Legal challenge from dissatisfied interested parties
3	Impact on Melton Local Plan

10.0 CLIMATE CHANGE

10.1 The Wymondham Neighbourhood Plan has been assessed by an independent Examiner as contributing to sustainable development.

11.0 CONSULTATION

- 11.1 The Neighbourhood Plan has been through various stages of consultation, totalling 12 weeks over the past couple of years. If the decision of this Committee is to ratify the recommendation, then a referendum will ensure it is the community who have the final say on whether or not the Neighbourhood Plan should be made.
- 11.2 The NP was considered by the Melton Local Plan Working Group on 28th November 2017 and its comments and recommendations will be reported verbally.

Contact Officers	J Worley – Head of Regulatory Services J Beverley – Planning Policy Officer
Appendices	1: Clawson, Hose & Harby Neighbourhood Plan Examiners Report 2: The Submission Draft Neighbourhood Plan 3. Clarification email from CHH Neighbourhood Plan Examiner
Date	23 rd November 2017