

MELTON ECONOMIC & ENVIRONMENTAL AFFAIRS COMMITTEE

7TH MARCH 2018

REPORT OF ASSISTANT DIRECTOR OF STRATEGIC PLANNING AND REGULATORY SERVICES

FRISBY NEIGHBOURHOOD DEVELOPMENT PLAN

1.0 PURPOSE OF REPORT

1.1 The purpose of this to inform members of the progress of the Frisby Neighbourhood Development Plan (2017) and determine whether it should proceed to Referendum.

2.0 RECOMMENDATIONS

2.1 It is recommended that the Committee:

(i) Approves the Examiners recommended modifications and agree that the Frisby Neighbourhood Development Plan (as amended by said modifications) (2017) (Appendix 1 to this report) should proceed to Referendum.

3.0 BACKGROUND

3.1 Frisby Parish Council (Qualifying Body – QB) received formal area designation for the purposes of preparing a NP on the 8th February, 2016, after a formal statutory consultation, lasting 6 weeks from 24th December, 2015 to 5th February 2016.

3.2 Before submitting its plan proposal to the Local Authority, the group have, as best as they were able, publicised details of the proposals 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 which concluded on the 21st March, 2017 and a number of informal consultation events.

3.3 Following this, Frisby PC formally submitted the plan to Melton Borough Council in July, 2017. The Council conducted a ‘Regulation 16’ 6-week formal public consultation on the Plan concluding on the 6th July 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, Frisby Neighbourhood Plan group agreed to continue to Examination without amendment.

3.4 Melton Borough Council formally appointed an independent Examiner 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 October, 2017.

3.5 On the 1st of November, the Examiner emailed the Council with his initial comments, confirming that he was calling a hearing to discuss the Neighbourhood

Plan and its proposals. He set out the issues he wished to discuss and set out a timetable. This allowed interested parties to prepare statements. The first hearing was on a number of issues on the 12th December, 2017. The second hearing focused only on Local Green Space and was held on the 11th January 2017. These Hearings allowed the Inspector to produce a finalised report, which was issued on the 21st of February, 2018. This report stated that, subject to selected modifications the plan could proceed to Referendum (**Appendix 1 to this report**).

- 3.6 This report, when issued to the LPA, sets 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, the plan will go before the MEEA committee on the 7th March, 2018, which is well within the statutory timescales. The Local Authority has yet to receive comments from Frisby Parish Council, though they have been sought. If comments are received, they will be presented verbally to this committee.
- 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;
- i. 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).
 - ii. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development
 - iii. 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).
 - iv. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
- 3.8 As the Local Plan is not yet adopted, the Neighbourhood Plan has not been examined against its emerging policies, however the evidence and reasoning contained within the Local plan has been relevant to the Examination (as can be seen in the Examiner's report). Ultimately, on the issue of housing allocations, the Examiner did not think there was reasonable justification for the Neighbourhood Plan's choice of housing allocations or limiting the number of houses to the 'housing requirement' set out in the Local Plan. He therefore concluded that the plan should match the Local Plan sites, which he felt represented a more robust choice and his modifications make these changes.

- 3.9 The changes proposed by the Examiner are significant and exceed those we have previously experienced in other Neighbourhood Plan Examination. Certainly with regard to site selection, to add in two new sites and delete the preferred option of the NP is without precedent from previous Examinations within the Borough.
- 3.10 Likewise on Local Green Spaces (LGS), the Examiner agreed that two of the proposed Local Green Spaces would constitute 'expansive tracts of land' and therefore would not be appropriate under NPPF guidance.
- 3.11 Like other Neighbourhood Plans, this NDP contains a number of policies relating to the environment, including but not limited to the delivery of two LGS designations (2 less than in the submitted Neighbourhood Plan cited above). This plan also introduces two policies protecting other important open areas called 'Important Open Spaces' and 'Protection of other sites of Environmental (natural and historical) Significance'. These offer protection to other areas valued by the community, albeit with less protection than the aforementioned Local Green Space sites. There is also the inclusion of a policy protecting trees, woodland and hedges. There are policies concerned with the protection and creation of community facilities. The plan includes policies relating to the delivery of new area of separation, in particular focusing on the area between Frisby and Asfordby. It is the view of officers that these policies fall within the remit of general conformity of the policies contained within the Emerging Local Plan. Finally, the Neighbourhood Plan Group commits to reviewing the plan on a five year cycle to coincide with the review cycle of the Melton Local Plan.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 The decision of this Committee, subject to successful Referendum, may have limited policy implications on the development of the Local Plan. However the NP if amended by the Examiners recommendations will benefit from good alignment with the content of the emerging Local Plan and it is not considered that there is a significant risk to Examination of the Local plan at this point. There are also clear links to corporate priorities contained within Neighbourhood Planning.
- 4.2 The Examination into the Local Plan considered in detail the relationship between it and Neighbourhood Plans. The Examiner has advised she wishes to continue to give this her attention and has asked for officers to produce a 'discussion document', for debate amongst affected parties, on the subject. This was despatched on 23rd February 2018 and included an update on the Examiners recommendations in respect of Frisby.

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 which due to

the hearings have been the largest to date)

- 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. This means the Borough Council can only claim when a referendum date is set and during one of two 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 £20,000 during the next window. This has been accounted for in relevant budget setting and reporting.

5.3 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 working 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 Frisby 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			4	
	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
4	Failure at Referendum

9.1 The risk profile is considered to be similar as previously considered Neighbourhood Plans. However, it is considered that a further risk emerges (4 above) because the Plan varies significantly from that submitted by the Parish Council and does not reflect their preferences.

10.0 CLIMATE CHANGE

10.1 The Frisby 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 6th March, 2018 and its comments and recommendations will be reported verbally.

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Appendices 1: Examiners Report

Date 26th February 2018