

North Yorkshire Council

Executive

16 July 2024

Malton and Norton on Derwent Neighbourhood Plan Decision Statement and Referendum

Report of the Corporate Director Community Development.

1.0 PURPOSE OF REPORT

1.1 To agree the Decision Statement for the Malton and Norton on Derwent Neighbourhood Plan.

2.0 SUMMARY

2.1 This report presents the independent Examiner's report on the Malton and Norton on Derwent Neighbourhood Development Plan (the "Plan"). The Examiner has considered whether the Plan meets the basic conditions, and other requirements set out by law, or if it can be made so with modifications to it.

2.2 The examiner recommends that the Plan, subject to a number of proposed modifications being made, meets the basic conditions and other relevant requirements, and should proceed to a referendum with a voting area that is the same as the neighbourhood area originally designated by the former Ryedale District Council (Malton and Norton on Derwent Parish areas).

2.3 Malton and Norton on Derwent Neighbourhood Plan has reached an advanced stage where the Council makes a decision on whether it passes the Basic Conditions test or can do so with modifications, and whether it can proceed to Referendum.

2.4 The recommendation is that with the identified modifications (recommended by the Examiner in Appendix 1) the Neighbourhood Plan as now amended meets the Basic Conditions Tests and can proceed to referendum.

3.0 BACKGROUND

3.1 Malton and Norton on Derwent Town Councils as Qualifying Body (QB) have prepared a Neighbourhood Plan for their Parish areas (Appendix 2 and 2a). Whilst production started in 2011, it was formalised in early 2019 with designation of the plan area.

3.2 The Plan was subject to a series of consultations culminating in a Regulation 14 draft plan consultation, concluded prior to vesting date, and in June 2023 was submitted to the North Yorkshire Council for submission. North Yorkshire confirmed that it met the requirements for consultation and a Consultation (Regulation 16) was undertaken. The Plan was then subject to Examination over the winter 2023-4 and the Examiners report was received on the 28 February.

3.3 The regulations set out the process on Neighbourhood Plan state that within five weeks of the Examiner's report being published, the Council should normally issue a Decision Statement on

the Neighbourhood Plan this effectively confirms the Council's position on the Neighbourhood Plan and sets out:

- That the Council as Local Planning Authority is/is not in agreement with the Examiner's recommendations
- That the Neighbourhood Plan as now amended satisfies the Basic Conditions
- That the Neighbourhood Plan can proceed to referendum

3.4 However, because making a key decision on a policy matter would fall within the pre-election period, the Qualifying Body agreed in writing within the five-week period to have this considered post elections in June at the Thirsk and Malton Area Constituency Committee and this meeting of Executive on the 16 July 2024.

4.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

4.1 At this stage in the process the Council has very limited ability to make substantive changes to the plan- unless recommended to do so by the Examiner. In the accompanying Decision Statement (Appendix 3) a table sets out the recommended changes. These range from typographical amendments to factual updates, to re-ordering of selected sections, and culminating in select changes to policy wording and removal of selected site-specific designations.

4.2 The most significant change, in terms of modifications, is the removal of the parcel of land known as High Malton from the Local Green Space Designation. It was deemed by the Examiner to be a large tract of land and not consistent with the designation of LGS in accordance with the NPPF. The Examiner was content to allow the site to remain identified as a Visually Important Undeveloped Area (VIUA). The Local Planning Authority were not objecting to the principle of a VIUA designation but questioned whether the methodology for assessing the contribution had been followed. The Examiner felt that the QB had justified on key grounds that the site could meet at least two of the VIUA tests.

4.3 The Examiner's report was duly published and shared with the Qualifying Body. The process to make the plan is then effectively driven by the Council, but it is good practice to engage with the QB to ensure that they are content with the actions of the LPA.

4.4 At an informal meeting of the Qualify Body Steering Group and a Senior Council Officer on the 13 March it was discussed about the next steps and the principle of whether to agree to all the modifications recommended by the Examiner. Both the Qualifying Body and the Senior Officer of the Council mutually agreed that all Examiner's recommendations be taken forward.

4.5 The Qualifying Body and Officers have worked through the Plan to ensure all the recommended modifications have been undertaken. This resulted in a small selection of queries which resulted in Officers being asked to decide on the wording or confirm our agreement with the wording. These are set out below:

- Rec 1B – Interpretation regarding the presentation of the new text provided by the steering group on the structure of the plan. Officer Agreed.
- Rec 2A – suitable form of words that accurately reflect the position re the RLP and NYLP. Officer provided wording and QB agree it.
- Rec 7E – Re Policy E2 final sentence of policy was unclear as to whether it was to be removed. Officer considered it should be removed, and discussed it with the Examiner who agree as:

The text is applicable to any NP policy- but the NP supersedes the LP in respect of identifying LGS.

- Rec 13B – Re Policy TC2 – Deletion of final 9 words of original policy. Officers consider that the words ‘prior to the commencement of any works on site’ is to be removed. This is on the basis that LPA are considering the heritage significance implications during the consideration of the application in order to make the decision, not retrospectively.
- Rec 16C – Proposed expansion of the supporting text at 4.6.8 regarding policy for equine routes and activities. Officers we happy with the changes, but also felt that we need to reflect the protection side too- i.e. ensure that existing routes are not undermined by being truncated by development/changes of use.

4.6 The views of the Examiner were sought informally, and he was content with our interpretation of the above.

4.7 Subject to the approval of the Regulation 18 Decision Statement by the Executive, the Council will arrange for a referendum to take place as soon as possible following the publication of the statement. Detailed requirements for the referendum are set out in The Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2014 etc).

4.8 The Council is required to publish information about the referendum 28 days before the date it takes place. It must then give notice that the referendum is taking place and the date of the poll 25 working days before the date of the referendum. All local government electors whose names appear on the electoral register in the parish of Pannal and Burn Bridge as of 12 working days before polling day will be entitled to vote. The question that will be asked of electors is: *Do you want North Yorkshire Council to use the Neighbourhood Plan for Malton and Norton on Derwent to help it decide planning applications in the neighbourhood area?* If more than 50% of those voting vote ‘yes’ then the Council is required to bring the plan into force, which means that it would form part of the statutory development plan for North Yorkshire. As the Neighbourhood Plan will form part of the Development Plan this final part of the process is a matter for Council.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

5.1 The Neighbourhood Plan has been subject to consultation on shaping and scope of the plan, followed by a draft plan consultation (undertaken by the Qualifying Body prior to and including the Regulation 14 draft plan stage).

5.2 There was general support with some specific objections/concerns were received. Notably, the former District Council was concerned about the inclusion of a parcel of land (known as High Malton) as Local Green Space, because it considered it did not meet national plan (as a large tract of land) this was also objected to by the owner of the land.

5.3 In response the plan was modified to include the area of land as a Visually Important Undeveloped Area (VIUA) (a designation in the strategic Ryedale Plan- Local Plan Strategy).

5.4 Once submitted the plan is consulted upon by the Local Planning Authority (Regulation 16 – submission consultation). The inclusion of the land as Local Greenspace was objected to again, by the landowner, and other objections related to non-inclusion or identification of land as areas of restraint to development (including the proposed VIUA designation). Given the Council was undertaking the consultation, it did not repeat the concerns it had previously raised.

5.5 The Thirsk and Malton Area Constituency Committee discussed the Neighbourhood Plan and its progress to Decision Statement (report at Appendix 6). They were supportive of the Neighbourhood Plan in principle progressing to referendum. Specific observations were made around ensuring the Local Green Space designation and the Visually Important Undeveloped Area designation were taken into account going forward. Advice was sought about the weight of neighbourhood plans and the emerging local plan, the Officer gave initial advice and agreed that a briefing paper would be prepared:

Draft Minutes:

Malton and Norton-on-Derwent Neighbourhood Plan Decision Statement and Referendum Considered - report of the Corporate Director Community Development.

The Planning Policy and Place Manager gave a brief introduction and confirmed that Members were being asked to consider and note the draft Decision Statement for the Malton and Norton on-Derwent Neighbourhood Plan.

Malton and Norton on Derwent Neighbourhood Plan had reached an advanced stage where the Council decides whether it passed the Basic Conditions test or can do so with modifications, and whether it can proceed to Referendum.

The recommendation was that the Decision Statement to agree to modifications (recommended by the Examiner in Appendix 1) of the Malton and Norton Neighbourhood Plan and for that modified plan to proceed to referendum be noted.

The officer confirmed that, subject to a positive referendum outcome, the Neighbourhood Plan was made by Council, it then forms part of the development plan. Under planning legislation, the development plan has primacy in decision making. Applications would be considered in accordance with it unless material considerations indicate otherwise.

Plans usually have a timeline of 15 to 20 years but there would be an expectation that plans are reviewed on a cycle of about five years and neighbourhood plans are no different. There would be an expectation that a neighbourhood plan would be subject to review to ensure that it is compatible with any potential emerging plan for North Yorkshire.

When a new Development Plan for North Yorkshire is adopted, it sets out, which plans or policies are effectively superseded by its operation.

In the preparation of the plan for North Yorkshire, regard would be given to the strategic direction approach and site-specific designations that are within neighbourhood plans. However, those strategic principles and considerations may be revisited as part of the preparation of the North Yorkshire Local Plan.

Councillor Burr emphasised the commitment of the two Town Councils to develop the Plan. They have engaged with all members of the community and hope that it will give some steer moving forward, with particular regard to local green space and the Visually Important Undeveloped Area of High Malton.

The Chair offered the Committee's thanks and congratulations to all involved with the production of the Plan.

Resolved That the Decision Statement to agree to modifications of the Malton and Norton Neighbourhood Plan and for that modified plan to proceed to referendum be noted.

6.0 CONTRIBUTION TO COUNCIL PRIORITIES

6.1 Neighbourhood Plans are an important vehicle of planning policy for local communities to shape decisions on planning in their local areas. They must be positively prepared and in conformity with the strategic local plan, but they can make place-specific policies that complement those of the local plan. On that basis they have the ability to impact on many external-facing objectives of the Council Plan in the themes of: 'Place and Environment, Economy, Health and Well- Being and People'.

6.2 Neighbourhood Plans attain greater weight as they progress through the formal, latter stages: Once the Council has published its Decision Statement the plan can be considered as a 'material consideration' in the determination of planning applications- but it does not have full weight as part of the Development Plan. It would still require applications, if they departed from the Local Plan on the basis of compliance with the Neighbourhood Plan, to be considered/treated as a departure from the Development Plan.

6.3 They are of equal status to the Development Plan (and have significant weight) if the referendum is in majority favour of the plan being made. Once made, Neighbourhood Plans form part of the Development Plan used to assess planning applications and have full weight.

6.4 Neighbourhood Plans are a demonstration of local policy making by communities and this is welcomed and endorsed by the Council as part of its pillars of locality working in respect of local action and local empowerment.

7.0 ALTERNATIVE OPTIONS CONSIDERED

7.1 It is the prerogative of the Qualifying Body to prepare a neighbourhood Plan as part of the Localism Act, and the Council, as Local Planning Authority, has a duty to support Neighbourhood Plan making and that process. The Plan has been subject to independent examination and the Examiner has recommended that the plan is modified before the referendum.

7.2 Given this recommendation from the independent Examiner, there is an expectation that a neighbourhood plan will be progressed with those modifications and subjected to a referendum in order to determine whether or not the Plan can be 'made' by the Council. It is therefore not advised that the plan be denied the ability to proceed to referendum, and so no alternative options are available to be considered.

8.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

8.1 No direct impacts on other services or organisations. If made the plan will be used by the Council in its capacity as the Local Planning Authority. If approved, Election Services will undertake the referendum.

9.0 FINANCIAL IMPLICATIONS

9.1 The referendum costs can be recouped from Locality grant funding (via Central Government). No further financial comments raised.

10.0 LEGAL IMPLICATIONS

10.1 The legal requirements of the Neighbourhood Planning (General) Regulations 2012 (as amended) have been complied with to date. The next step requires the Council to publish the examiner's report and the Pannal and Burn Bridge Neighbourhood Development Plan proposal decision via a Regulation 18 Decision Statement on the Council's website and in such other manner

as the Council considers is likely to bring these documents to the attention of people, who live, work or carry on business in the neighbourhood area.

10.2 The Localism Act 2011 places a duty on local planning authorities to hold referendum(s) on a neighbourhood plan once a successful examination has taken place and the authority is satisfied that a plan meets the basic conditions and other relevant legal requirements. The Neighbourhood Planning (Referendums) Regulations 2012, as amended by the Neighbourhood Planning (Referendums) (Amendment) Regulations 2014, sets out the Council's legal duties in relation to all aspects of organising and conducting polls, including the opening hours of polling stations and the content of ballot papers. These largely replicate the Local Authorities (Conduct of Referendums) (England) Regulations 2012. In accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) the Plan should now proceed to the referendum stage in a timely manner.

10.3 No legal implications have been identified with the recommendation to this committee. A legal right to challenge the making of a neighbourhood plan would only come once the plan is made/adopted. Risk of such a challenge is minimised by following the due process, and taking on board the Examiner's recommendations. No further legal implications raised.

11.0 EQUALITIES IMPLICATIONS

11.1 The Neighbourhood Plan is subject to its own EqIA assessment as part of its production and considered during the Examination. It is therefore considered there are no equalities implications as a result of seeking to issue a decision statement and proceed to referendum.

12.0 CLIMATE CHANGE IMPLICATIONS

12.1 The Plan is subject to Sustainability Appraisal and Strategic Environmental Assessment as part of its production and this is scrutinised by the Local Planning Authority, Statutory Bodies and the Examiner. The plan does not conflict with any aspirations in the Climate Change Strategy. The Plan was subject to Sustainability Appraisal/Strategic Environmental Assessment.

13.0 PERFORMANCE IMPLICATIONS

13.1 Performance will be measured through the Authority Monitoring Report (produced annually) and determining planning applications if 'made'.

14.0 POLICY IMPLICATIONS

14.1 Subject to Executive decision, this Neighbourhood Plan will become a material planning consideration, then subject to Referendum agreeing for the plan to be adopted, it will attain the equivalent status of a Development Plan Document. Once 'made' by the Council the Plan would then be part of the Development Plan and used to assess planning applications.

15.0 RISK MANAGEMENT IMPLICATIONS

15.1 No significant risks to the recommendation. The Plan has been subject to independent external review and it is proposed to adhere to those recommendations. Risks in terms of compliance with regulations around Neighbourhood Plan production could arise if the Council made changes which went beyond those recommended by the Examiner and agreed with the Qualifying Body.

16.0 HUMAN RESOURCES IMPLICATIONS

16.1 There are no implications. The application of the plan if made will be undertaken through the existing staffing arrangements.

17.0 ICT IMPLICATIONS

17.1 There are no significant implications. The Neighbourhood Plan and Policies Map will need to be published on the Council's website.

18.0 COMMUNITY SAFETY IMPLICATIONS

18.1 No community safety implications are identified as a result of this decision statement.

19.0 CONCLUSIONS

19.1 There are no implications identified.

20.0 REASONS FOR RECOMMENDATIONS

20.1 To ensure the Council determines the position and process for post-examination of the Malton and Norton concerning the Decision Statement and decision to proceed to Referendum in accordance with the requirements of The Neighbourhood Planning (General) Regulations 2012 (as amended) and The Neighbourhood Planning (Referendums) Regulations 2012 (as amended).

21.0 RECOMMENDATIONS

- i) Agree and publish the Decision Statement which confirms the modifications made to the submission version of the Malton and Norton on Derwent Neighbourhood Plan and Policies Map.
- ii) Agree that as modified the Plan at appendixes 2 and 2a meets Basic Conditions and other necessary requirements
- iii) Agree that the Plan (appendices 2 and 2a) to proceed to referendum.
- iv) The voting area for the referendum should be the area designated by the former Ryedale District Council 19 February 2019 (the Parishes of Malton and Norton on Derwent).

APPENDICES:

Appendix 1 – Examiner's Report on the Malton and Norton on Derwent Neighbourhood Plan

Appendix 2 – Modified Neighbourhood Plan for Referendum

Appendix 2a- Modified Neighbourhood Plan for Referendum Policies Map

Appendix 3 – Regulation 18 Decision Statement

Appendix 4 – Equality Impact Assessment form

Appendix 5 – Initial Climate Change Impact Assessment

Appendix 6 - Thirsk and Malton Area Constituency Committee Report

BACKGROUND DOCUMENTS:

Documents produced by the Qualifying Body as part of the Neighbourhood Plan's preparation can be viewed at

<https://www.northyorks.gov.uk/planning-and-conservation/planning-policy/neighbourhood-planning/malton-and-norton-neighbourhood-plan>

Nic Harne

Corporate Director – Community Development
County Hall
Northallerton
16 July 2024

Report Author – Rachael Balmer -Title Planning Policy and Place Manager
Presenter of Report – Rachael Balmer –Title Planning Policy and Place Manager

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.