

North Yorkshire Council

Executive

16 July 2024

Examiner's Report on the Pannal and Burn Bridge 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 Pannal and Burn Bridge Neighbourhood Plan.

2.0 SUMMARY

2.1 This report presents the independent examiner's report on the Pannal and Burn Bridge Neighbourhood Development Plan (the "Plan"). The examiner has considered whether the Plan meets the basic conditions, and other requirements set out by law, with or without 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 Harrogate Borough Council (the Pannal and Burn Bridge parish).

2.3 It is now the responsibility of North Yorkshire Council (the "Council"), as the local planning authority, to decide what action to take in response to the examiner's report in relation to meeting the basic conditions, the specific modifications recommended and whether the Plan can proceed to referendum. The Council must also publish a Regulation 18 Decision Statement in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) which sets out their decision.

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

3.0 BACKGROUND

3.1 The Localism Act 2011 introduced new rights for communities and individuals aimed at making it easier for them to achieve their ambitions for where they live. Town planning provisions within the Act enable qualifying bodies, such as parish level councils, to prepare neighbourhood development plans, commonly referred to as neighbourhood plans.

3.2 Neighbourhood plans set out policies in relation to the development and use of land within a neighbourhood area. Following preparation, and subject to meeting the 'basic conditions', and other relevant requirements, and receiving a positive result at referendum, neighbourhood plans are 'made' (adopted) by the local planning authority (LPA). Once 'made', neighbourhood plans become part of the statutory development plan and are used to determine planning applications within the neighbourhood area, alongside other development plan policies.

3.3 The former Harrogate Borough Council designated the Pannal and Burn Bridge neighbourhood area on 10 August 2017 following receipt of an application from Pannal and Burn Bridge Parish Council. The neighbourhood area has the same boundaries as the parish council area.

3.4 Following designation, the parish council has prepared a neighbourhood plan on behalf of the local community. Preparation of the Plan has involved on-going engagement with stakeholders, including the local community, and a formal opportunity for interested parties to comment on a draft of the Plan to inform consideration of further revisions.

3.5 The parish council formally submitted the Plan and supporting documents to the former Harrogate Borough Council in December 2022. On 1 April 2023 local government re-organisation in North Yorkshire took place. This resulted in a new council, North Yorkshire Council (NYC), taking on the local planning authority (LPA) functions previously carried out by the former Harrogate Borough Council and the other former district councils in North Yorkshire.

3.6 Following submission North Yorkshire Council arranged for an independent examination of the plan to take place. To help inform the examination, the Council carried out a formal consultation on the submitted plan and supporting documents between 17 April and 2 June 2023 where representations were sought from interested parties.

3.7 The Council used the Neighbourhood Planning Independent Examiner Referral Service (NPIERS), administered by the Royal Institute of Chartered Surveyors (RICS), to identify suitable independent examiners and appointed Ann Skippers to undertake the examination, with the agreement of the parish council, in July 2023.

3.8 The examination took place between August 2023 and April 2024 and was conducted by written representations. During the examination the examiner identified a need for further consultation to inform her consideration. The examination was, therefore, paused to allow a further focussed consultation to be held on a Design Code document that had not been included in the original suite of submission documents, and to consider any implications arising from the publication of a new National Planning Policy Framework (NPPF). This took place from 31 January to 28 February 2024. The examiner issued her final report to both the Council and Pannal and Burn Bridge Parish Council on 23 April 2024.

3.9 The role of an independent examiner is to consider whether a proposed neighbourhood plan meets the following 'basic conditions' set out in legislation. A plan proposal needs to:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies in the development plan for the area;
- Be compatible with retained European Union (EU) obligations;
- Not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Be compatible with human rights obligations.

3.10 The examiner is also required to consider whether a proposal meets other legal requirements, including provisions set out in the relevant sections of the Planning and Compulsory Purchase Act 2004 & the Neighbourhood Planning (General) Regulations 2012 as amended.

3.11 The examiner is required to make one of the following recommendations:

- The plan proposal can proceed to a referendum on the basis it meets all the necessary legal requirements;
- The plan proposal can proceed to a referendum subject to modifications; or

- The plan proposal should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

3.12 If a plan can proceed to referendum, the examiner must also consider whether the voting area for the referendum should be extended beyond the neighbourhood area to which the plan relates.

4.0 EXAMINER'S REPORT ON THE PANNAL AND BURN BRIDGE NEIGHBOURHOOD DEVELOPMENT PLAN

4.1 Following examination, it is the responsibility of the Council, as the local planning authority, to ensure that the Pannal and Burn Bridge Neighbourhood Development Plan meets the basic conditions and other relevant requirements set out above, and to determine whether or not it proceeds to referendum with or without modifications.

4.2 If the authority is satisfied that the Plan does meet the basic conditions and other relevant requirements, or can do so if modified, a referendum must be held. It is therefore the responsibility of the Council to decide what action to take in response to the recommendations set out in the examiner's report.

4.3 The examiner's report on the Pannal and Burn Bridge Neighbourhood Development Plan is included at Appendix A to this report and recommends a total of 35 modifications to the submitted Plan. Subject to the proposed modifications being made, the examiner concludes that the Plan meets the 'basic conditions' and other relevant requirements and should proceed to referendum. In proceeding to referendum, the examiner considers that the voting area should be the Pannal and Burn Bridge neighbourhood area approved by the former Harrogate Borough Council on 10 August 2017.

4.4 The local planning authority is required to prepare and publish a Regulation 18 Decision Statement, considering each of the examiner's recommended modifications to the Plan and setting out what decision is taken in response to each of them. A Regulation 18 Decision Statement has been prepared and is included at Appendix B to this report. Within the statement, table 1 sets out each of the examiner's recommended modifications and reasons, together with recommended decisions to be taken by the Council in response to each proposed modification.

4.5 Members will note that the Regulation 18 Decision Statement recommends that each of the Examiner's modifications are made to the Plan and that, subject to these modifications, the Plan meets the basic conditions and other relevant requirements and can proceed to referendum.

4.6 Following the examination, officers have worked with the parish council to update the Plan in-line with the Examiner's recommended modifications. This 'referendum ready' version of the plan is included at Appendix C.

4.7 As soon as possible after considering the examiner's recommendations and making a formal view about whether the Plan meets the basic conditions, the Council, as the local planning authority, must publish on its website, and in such other manner as it considers is likely to bring these documents to the attention of people, who live, work or carry-on business in the neighbourhood area:

- The Regulation 18 Decision Statement;
- The Examiner's Report;
- Details of where and when the Regulation 18 Decision Statement and report can be inspected.

4.8 Paragraph 1.5 of the Regulation 18 Decision Statement explains where these documents will be published.

4.9 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).

4.10 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 Pannal and Burn Bridge 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 preparation of the plan by Pannal and Burn Bridge Parish Council was informed by on-going engagement with stakeholders, including the local community. This included an opportunity for interested parties to comment on a draft of the Plan to inform consideration of further revisions by the parish council (Regulation 14). The parish council submitted a Consultation Statement setting out how parties were consulted, the main issues raised, and how these were considered and, where relevant, addressed in the plan.

5.2 Following submission to North Yorkshire Council, the local planning authority carried out a formal consultation on the submitted plan and supporting documents (Regulation 16) to help inform the examination of the plan. 17 comments were received and although many were supportive of the plan, a number of issues were raised, which were considered by the examiner. During the examination, the examiner identified a need for further consultation on a Design Code document that had not been included in the original suite of submission documents, and to consider any implications arising from the publication of a new National Planning Policy Framework (NPPF). Nine comments were received and considered by the examiner.

5.3 To help inform the decision of the Executive, the examiner's report and Regulation 18 Decision Statement were considered by the Harrogate and Knaresborough Area Constituency Committee (ACC) on 30 May 2024. The Committee praised the work of the parish council in preparing a Plan that addresses all aspects of future development in a thorough manner and resolved to recommend that the Executive agree the proposed recommendations. Advice was sought about how the Plan would interact with the county-wide Local Plan, which is in the early stages of development. The officer provided advice, which can be found in the Minutes of the Meeting, included at Appendix D.

6.0 CONTRIBUTION TO COUNCIL PRIORITIES

6.1 Progressing the Pannal and Burn Bridge Neighbourhood Development Plan to referendum will contribute positively to the Council's priorities, as set out in the Council Plan. The Plan will play a role in helping to realise ambitions across the priority themes. It is particularly relevant to the Place and Environment ambition that *communities are supported and work together to improve their local area*.

7.0 ALTERNATIVE OPTIONS CONSIDERED

7.1 No other options considered. The report sets out the steps that the Council, as the local planning authority, is required to take to comply with its legal duties under the Town and Country

Planning Act relating to preparation of a neighbourhood plan. These are deciding what action to take in response to each modification recommended by an independent examiner as necessary for a neighbourhood plan to meet the basic conditions, and where it is concluded that a plan meets those conditions, or can meet them following specific modifications, arranging a referendum.

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 Once a local planning authority has designated a neighbourhood area in response to an application from a qualifying body, such as a parish level council, it is legally required to support, advise and assist the qualifying body in producing a neighbourhood plan, although this 'Duty to Support' does not require the provision of financial assistance to the qualifying body. However, the Localism Act does require the local planning authority to pay for the independent examination of a neighbourhood plan and the referendum.

9.2 The Department for Levelling Up, Housing and Communities (DLUHC) provides financial support for neighbourhood planning through the Neighbourhood Planning Grant (NPG). As part of this financial support, local planning authorities can claim £5,000 for the first five neighbourhood areas they designate and £20,000 when they issue a decision statement detailing their intention to progress a plan to referendum (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012). Therefore, if Members choose to approve the recommendations contained in this report, monies received from the NPG could be used to fund the referendum on the Pannal and Burn Bridge Neighbourhood Development Plan.

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.

11.0 EQUALITIES IMPLICATIONS

11.1 An Equality Impact Assessment (EIA) of the Pannal and Burn Bridge Neighbourhood Development Plan has taken place and is included at Appendix E. The EIA demonstrates that the policies within the Plan do not show potential for discrimination, and that opportunities to advance the equality of opportunity for people with protected characteristics and to foster good relations between groups have been taken.

11.2 While many of the policies within the Plan are not relevant to equalities, the Plan includes policies that will 'make things better' for people with protected characteristics. The protected characteristics with the largest number of positive benefits identified are age and disability, although the Plan will also be beneficial in relation to religion or belief and pregnancy or maternity. In conclusion, it is considered that the EIA demonstrates that the public sector equality duty has been met.

12.0 CLIMATE CHANGE IMPLICATIONS

12.1 An initial Climate Change Impact Assessment (CCIA) has taken place and is included at Appendix F. This screening indicates that the Pannal and Burn Bridge Neighbourhood Development Plan will have both positive and neutral environmental effects, but importantly no negative effects.

12.2 The positive effects are: decreasing greenhouse gas emissions, achieved through policies encouraging improvements to walking, cycling and horse riding provision, and supporting electric vehicle charging infrastructure; decreasing potential pollution, through policy requiring no unacceptable impacts on air quality; a positive impact on ecology, through policies protecting wildlife and biodiversity; and increasing protection of heritage and landscape, through the addition of relevant policies.

13.3 While positive effects are identified a full CCIA is not included. This is in-line with the Council's guidance, which states that a full CCIA may not be necessary if the proposal will be subject to planning permission, Environmental Impact Assessment (EIA), or Strategic Environmental Assessment (SEA). As the policies in the Plan would be used to assess proposals seeking planning permission, it is considered that a full CCIA it is not necessary. In addition, the Plan has been subject to SEA and HRA screening processes. Through these exercises it is concluded that the plan is unlikely to have significant environmental effects and, as such, a full SEA and/or HRA is not required.

14.0 PERFORMANCE IMPLICATIONS

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

15.0 POLICY IMPLICATIONS

15.1 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.

16.0 RISK MANAGEMENT IMPLICATIONS

16.1 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.

17.0 HUMAN RESOURCES IMPLICATIONS

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

18.0 ICT IMPLICATIONS

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

19.0 COMMUNITY SAFETY IMPLICATIONS

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

20.0 REASONS FOR RECOMMENDATIONS

20.1 In order to meet the requirements of The Neighbourhood Planning (General) Regulations 2012 (as amended) and The Neighbourhood Planning (Referendums) Regulations 2012 (as amended), the Council is required to publish the examiner's report and respond to each recommended modification via a Regulation 18 Decision Statement, and to make a decision as to whether the Pannal and Burn Bridge Neighbourhood Development Plan meets the basic conditions and other relevant requirements and should, therefore, proceed to referendum. The following recommendations relate to these legal requirements:

21.0 RECOMMENDATIONS

- i) Agree and publish the Regulation 18 Decision Statement which confirms the modifications made to the submission version of the Pannal and Burn Bridge Neighbourhood Plan and Policies Map.
- ii) Agree that as modified, the Plan (Appendix C) meets the basic conditions and other necessary requirements.
- iii) Agree that the Plan (Appendix C) should proceed to referendum.
- iv) That the voting area for the referendum should be the neighbourhood area designated by the former Harrogate Borough Council on 10 August 2017 (the parish of Pannal and Burn Bridge).

APPENDICES:

- Appendix A – Examiner's Report on the Pannal and Burn Bridge Neighbourhood Plan
- Appendix B – Regulation 18 Decision Statement
- Appendix C – Pannal and Burn Bridge Neighbourhood Plan: Referendum Version
- Appendix D – Minutes of Harrogate and Knaresborough ACC 30 May 2024
- Appendix E – Equality Impact Assessment Form
- Appendix F – Initial Climate Change Impact assessment

BACKGROUND DOCUMENTS: None

Nic Harne
Corporate Director Community Development
County Hall
Northallerton
30 May 2024

Report Author – Joe Varga Senior - Policy and Delivery Officer

Presenter of Report – Rachael Balmer – Planning Policy and Place Manager

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

PLEASE ALSO NOTE THAT IF ANY REPORTS / APPENDICES INCLUDE SIGNATURES THESE MUST BE REMOVED / DELETED PRIOR TO SENDING REPORTS / APPENDICES TO DEMOCRATIC SERVICES. Appendices should include an Equality Impact Assessment and a Climate Impact Assessment where appropriate