

Cheltenham Borough Council

Council – 18 March 2024

Leckhampton with Warden Hill Neighbourhood Plan – Progression to Examination

Accountable member:

Cllr Rowena Hay, Leader of the Council

Accountable officer:

Tracey Birkinshaw, Director of Community & Economic Development

Ward(s) affected:

Leckhampton with Warden Hill

Key/Significant Decision:

No

Executive summary:

The Leckhampton with Warden Hill Neighbourhood Development Plan is being produced by Leckhampton with Warden Hill Parish Council. All of the consultation requirements under Regulation 14 of the Neighbourhood Planning Regulations (2012) as amended were undertaken by the Parish Council and all the required documentation was submitted under Regulation 15. Those submitted documents were publicised for a minimum six-week period and representations invited.

Cheltenham Borough Council has a neighbourhood planning protocol dating from 2015. This protocol, amongst other aspects, sets out that at the 'Submission of Neighbourhood Development Plan' stage, it is for the **Council** to decide whether the Neighbourhood Plan should be submitted for examination.

The Parish Council have used local knowledge and that of consultants to draw up the Neighbourhood Plan and have continued to closely engage with the Planning Policy Team through the drafting process. As appropriate, the Planning Policy Team has provided guidance. The Neighbourhood Plan is now reaching its final stage.

Overall, it is considered that there are no fundamental issues relating to the Neighbourhood Plan which would prevent it being submitted to the examiner for independent examination.

Recommendations:

1. Council is asked to:

- a) Recommend that the Leckhampton with Warden Hill Neighbourhood Plan progresses to examination; and**
- b) Delegate authority to the Director of Community & Economic Development, in consultation with the Leader to submit the Leckhampton with Warden Hill Neighbourhood Plan along with other prescribed documentation to the examiner.**

1. Implications

1.1. Financial, Property and Asset implications

The NDP has to be examined by an independent Examiner. The Examiner is paid for and appointed by the Local Planning Authority. Financial support for neighbourhood planning is available at different stages of the process. The Local Planning Authority has already made claims via the DELTA grant administration system in respect of neighbourhood planning, which will be used to cover the costs of the independent examination process.

Signed off by: Director of Finance and Assets (Deputy Section 151 Officer)

gemma.bell@cheltenham.gov.uk

1.2. Legal implications

It is a statutory requirement to support the preparation of neighbourhood plans.

Under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, the Council must publicise details of the plan proposal and details of how to make representations (which must run for not less than 6 weeks) as soon as possible after receiving a neighbourhood plan proposal from a qualifying body (a parish council or designated neighbourhood forum) which includes: a map or statement which identifies the area to which the proposed plan relates; a consultation statement; the proposed plan; a statement explaining how the proposed plan meets legislative requirements and basic conditions (basic conditions statement); and either an environment assessment or statement with reasons an environment assessment is not required.

All these documents have been received and the Regulation 16 consultation has already been put in hand and ran between 29 January 2024 to 12 March 2024.

Further under paragraphs 6 and 7 of Schedule 4B of the Town and Country Planning Act 1990 (as applied and modified to applied to the making of neighbourhood plans by virtue of Section 38A(3) of the Planning and Compulsory Purchase Act 2004).

The Council must consider whether the procedural matters mentioned in paragraph 6(2) and (3) (as set out for consideration in this report), and if satisfied that the matters mentioned there have been met or complied with, the Council must submit the plan for independent examination.

If the Council is not satisfied that those procedural matters have been satisfied it must refuse the proposal and notify the qualifying body of their reasons for doing so.

Signed off by: One Legal, legalservices@onelegal.org.uk

1.3. Environmental and climate change implications

The Neighbourhood Plan highlights the local concerns of flood risk and the need for mitigation and adaptation in future climate, which is part of the Climate pathway, alongside providing insight at a neighbourhood level, of the walking and cycling connections that could improve sustainable travel at a local level.

Signed off by: [Maizy McCann, Climate Emergency Officer, maizy.mccann@cheltenham.gov.uk]

Corporate Plan Priorities

This report contributes to the following Corporate Plan priorities:

- Working with residents, communities and businesses to help make Cheltenham net zero by 2030
- Ensuring residents, communities and businesses benefit from Cheltenham's future growth and prosperity

1.4. Equality, Diversity and Inclusion Implications

Annex 3 of the Leckhampton with Warden Hill Neighbourhood Plan sets out the demographic, social and economic profile of the local community. This includes data on age, gender, ethnicity, country of birth, household language, religion, belief and vulnerability. This data is then summarised within the neighbourhood profile section of the plan. The plan sets out a number of policies, of which a number will contribute to wider social objectives. These links are summarised in table 2 of the Basic Conditions Statement.

In addition, the Basic Conditions Statement sets out that the plan has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights including the prohibition of discrimination. The statement also sets out that all reasonable attempts were made to ensure that all Leckhampton with Warden Hill Parish residents, including those living outside the Neighbourhood Area but within the Parish, and all relevant stakeholders, were given the opportunity to contribute to and comment upon the plan.

Signed off by: Head of communities, wellbeing & partnerships, richard.gibson@cheltenham.gov.uk

1.5. Performance management – monitoring and review

The submitted Neighbourhood Plan contains a section on monitoring and review. Amongst other aspects, it refers to monitoring local conditions so that information supporting policies in the Neighbourhood Plan remain up to date.

2. Background

- 2.1. The Leckhampton with Warden Hill Neighbourhood Development Plan has been produced by Leckhampton with Warden Hill Parish Council. All of the consultation requirements under Regulation 14 of the Neighbourhood Planning Regulations (2012) as amended were undertaken by the Parish Council and all the required documentation was submitted under Regulation 15. Those submitted documents were publicised for a minimum six-week period and representations invited.
- 2.2. Cheltenham Borough Council has a neighbourhood planning protocol dating from 2015. This protocol, amongst other aspects, sets out that at the 'Submission of Neighbourhood Development Plan', it is for the Council to decide whether the Neighbourhood Plan should be submitted for examination.
- 2.3. The examination of the proposed Neighbourhood Plan will be carried out by a qualified and independent person. The purpose of an examination is limited to determining whether a Neighbourhood Plan meets the basic conditions, and other statutory requirements, or not.
- 2.4. Cheltenham Borough Council is in the process of appointing an examiner in consultation with the Qualifying Body (the Parish Council) to carry out an examination of the draft Leckhampton with Warden Hill Neighbourhood Plan should the Council be satisfied that the relevant procedural matters have been satisfied.

3. Reasons for recommendations

- 3.1. The Planning Policy team has provided ongoing guidance throughout the preparation of the Neighbourhood Plan. The Parish Council has worked hard in drawing in local knowledge and utilising the skill set from within the Parish Council and wider local community to develop their plan together with support from consultants at different stages of preparing the plan. Overall it is considered that there are no fundamental issues relating to the Neighbourhood Plan which would prevent it progressing to examination and the Neighbourhood Plan is therefore being presented with the positive recommendation to enable the Plan to proceed to examination. I would like to take this opportunity to congratulate the Parish Council in delivering the plan as now presented and the many community hours that have been given by numerous dedicated members of the community
- 3.2. The following table sets out the rationale.

<i>Legal requirement question</i>	<i>Reference to section of the legislation</i>	<i>Does the Neighbourhood Plan meet the requirements?</i>
Is the organisation making the area application the relevant body under?	Section 61G (2) of the Town and Country Planning 1990 Act (as amended)	Yes

<p>Is all the relevant documentation included within the submission?</p> <ul style="list-style-type: none"> • Map showing the area • Consultation Statement • The Neighbourhood Plan • Strategic Environmental Assessment (SEA) report / Habitats Regulation Assessment • Basic Condition statement 	<p>Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended)</p>	<p>Yes</p>
<p>Does the plan meet the definition of a NDP - 'a plan which sets out policies in relation to the development use of land in the whole or any part of a particular neighbourhood area specified in the plan'?</p>	<p>Section 38A(2) of the Planning and Compulsory Purchase Act 2004 (as amended)</p>	<p>Yes</p>
<p>Does the plan specify the period for which it is to have effect?</p>	<p>Section 38B(1) of the Planning and Compulsory Purchase 2004 as amended</p>	<p>Yes</p>
<p>The plan contains no 'excluded development'?</p> <ul style="list-style-type: none"> • County matter • Any operation relating to waste development • National infrastructure project 	<p>Section 61K and Schedule 1 of the Town and Country Planning Act 1990 (as amended)</p>	<p>Yes</p>
<p>Does it relation to only one neighbourhood area?</p>	<p>Section Act 38B(1 and 2) of the Planning and Compulsory Purchase 2004 as amended</p>	<p>Yes</p>
<p>Have the parish council undertaken the correct procedures in relation to consultation under Regulation 14?</p>	<p>Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as amended)</p>	<p>Yes</p>

<p>Is this a first time proposal and not a repeat?</p> <ul style="list-style-type: none"> • Has a proposal that is the same or similar to the proposal in question been refused in the last 2 years or • Has a referendum relating to a proposal that is the same or similar to the proposal in question been held and • No significant change in relevant considerations (national policies and advice contained in guidance issued by the Secretary of State) or strategic policies contained in the development plan since the refusal or referendum. 	<p>Schedule 4B para 5 of the Town and Country Planning Act 1990 (as amended)</p>	<p>Yes</p>
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4. Alternative options considered

4.1. Neighbourhood Plans have to be examined by an independent examiner in order that they can be progressed. Therefore, there is no alternative option.

5. Consultation and feedback

5.1. The Neighbourhood Plan has already been consulted on, including at Regulation 16 stage. As part of Regulation 17, copies of the representations that have been made at Regulation 16 stage must be sent onto the independent examiner.

6. Key risks

6.1. As set out in Appendix 1, the risk can be avoided through the Council decision in terms of enabling the Neighbourhood Plan to proceed to independent examination.

Report author:

John Spurling, Planning Policy Manager (Interim), john.spurling@cheltenham.gov.uk

Appendices:

- i. Risk Assessment
- ii. Link to website where the submitted Leckhampton with Warden Hill Neighbourhood Plan can be found

Background information:

N/A

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
	If the Council does not enable the Neighbourhood Plan to be able to proceed to examination, then it will not be performing part of its statutory duty	Director of Community & Economic Development	3	1	3	Avoid the risk	Close	This risk will be mitigated by the Council decision.	18 March 2024

Appendix 2: Link to website where the submitted Leckhampton with Warden Hill Neighbourhood Plan can be found

The documentation can be found via <https://haveyoursay.cheltenham.gov.uk/planning/lwwh-neighbourhoodplan-reg-16/>