

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – 14 MARCH 2017

Title of report	ASHBY NEIGHBOURHOOD PLAN - PROPOSED RESPONSE TO PRE-SUBMISSION (PART 2) CONSULTATION
Key Decision	a) Financial No b) Community Yes
Contacts	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Director of Services 01530 454555 steve.bambrick@nwleicestershire.gov.uk</p> <p>Head of Planning & Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p>
Purpose of report	To determine the District Council's response to a consultation on the pre-submission draft (part 2) neighbourhood plan for Ashby de la Zouch
Reason for decision	The District Council is a statutory consultee and so it is appropriate to provide comments to assist with the formulation of the neighbourhood plan.
Council priorities	Business and Jobs Homes and Communities Green Footprint Challenge
Implications: Financial/Staff	<p>Supporting the Ashby Neighbourhood Plan will incur direct costs to the District Council such as the cost of undertaking an independent examination of the plan and, should the examination be successful, the costs associated with a local referendum. Grant funding from central government (£30,000 per neighbourhood plan) is payable to the District Council to support this agenda, but is unlikely to meet the costs in full.</p> <p>Once the Ashby Neighbourhood Plan is adopted it will form part of the Development Plan for North West Leicestershire. Should the document be subject to legal challenge, the District Council will be responsible for meeting such costs.</p>

Link to relevant CAT	None
Risk Management	The ultimate decision on how to proceed in respect of the Neighbourhood Plan rests with Ashby Town Council. As currently set out there are differences between the Ashby Neighbourhood Plan, national policies and the adopted Local Plan, as well as the District Council's draft Local Plan which is currently at Examination. These differences represent a risk to the success of the Ashby Neighbourhood Plan. It is appropriate for the District Council to work with Ashby Town Council to seek to minimise risks to the Ashby Neighbourhood Plan.
Equalities Impact Screening	Not applicable
Human Rights	No discernible impact
Transformational Government	Not applicable
Comments of Head of Paid Service	Report is satisfactory
Comments of Deputy Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	None
Background papers	National Planning Policy Framework The Neighbourhood Planning (General) (Amendment) Regulations 2015 Planning Practice Guidance Ashby Neighbourhood Plan Report to Cabinet – 8 December 2015 Ashby Neighbourhood Plan Report to Cabinet – 14 June 2016
Recommendations	<p>IT IS RECOMMENDED THAT</p> <ol style="list-style-type: none"> 1. THE SUGGESTED RESPONSE TO ASHBY DE LA ZOUCH TOWN COUNCIL AT APPENDIX 1 BE ENDORSED; 2. FOLLOWING SUBMISSION OF THE NEIGHBOURHOOD PLAN TO THE DISTRICT COUNCIL THE DIRECTOR OF

	<p>SERVICES, IN CONSULTATION WITH THE PORTFOLIO HOLDER FOR REGENERATION & PLANNING</p> <p>A) CONSIDER THE PLAN’S LEGAL COMPLIANCE;</p> <p>B) PUBLISH THE PLAN FOR A SIX WEEK PERIOD AND INVITE REPRESENTATIONS;</p> <p>C) NOTIFY CONSULTATION BODIES; AND</p> <p>D) APPOINT AN INDEPENDENT EXAMINER TO CONDUCT THE EXAMINATION OF THE NEIGHBOURHOOD PLAN; AND</p> <p>3. FOLLOWING RECEIPT OF THE INDEPENDENT EXAMINER’S REPORT, THE DIRECTOR OF SERVICES IN CONSULTATION WITH THE PORTFOLIO HOLDER FOR REGENERATION & PLANNING DETERMINE WHETHER THE CONDITIONS HAVE BEEN MET FOR THE NEIGHBOURHOOD PLAN TO PROCEED TO REFERENDUM</p> <p>4. IF THE MAJORITY OF THOSE WHO VOTED IN THE REFERENDUM ARE IN FAVOUR OF THE ASHBY NEIGHBOURHOOD PLAN AND THE DISTRICT COUNCIL DOES NOT CONSIDER THE MAKNG OF THE NEIGHBOURHOOD PLAN TO BE INCOMPATIBLE WITH ANY EU OR HUMAN RIGHTS OBLIGATIONS, THE ASHBY NEIGHBOURHOOD PLAN MUST BE MADE BY THE DISTRICT COUNCIL WITHIN EIGHT WEEKS OF THE REFERENDUM. THIS WILL TAKE PLACE BY WAY OF DELEGATED AUTHORITY</p>
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1.0 INTRODUCTION

1.1 Ashby de la Zouch Town Council (“the Town Council”) has published a Pre-Submission (Regulation 14) consultation Part 2 Draft of its Neighbourhood Plan for consultation. The District Council commented on the earlier version of the Neighbourhood Plan on 14 June 2016. The purpose of this report is to formulate the Council’s response to the current consultation.

2.0 BACKGROUND

2.1 The Ashby Neighbourhood Plan area covers the wards of Ashby Holywell, Ashby Money Hill, Ashby Ivanhoe, Ashby Castle and Ashby Willesley, and includes the town of Ashby de la Zouch but excludes Blackfordby.

2.2 The Town Council area (excluding Blackfordby) was designated by the District Council as a Neighbourhood Area on 27 February 2014.

2.3 Since its designation the Town Council has published both a Draft (October 2015) and a Pre-Submission (May 2016) Neighbourhood Plan for consultation. The District Council responded to the consultations relating to each of these draft plans.

3.0 STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) & HABITATS REGULATION ASSESSMENT (HRA)

- 3.1 Following a request by the Town Council for a screening opinion as to whether there was a requirement for a Strategic Environmental Assessment (SEA) or a Habitats Regulation Assessment (HRA) to be undertaken for the Ashby Neighbourhood Plan, the District Council has confirmed to the Town Council that these reports were required.
- 3.2 The Pre-Submission Consultation Part 2 Neighbourhood Plan takes into account the results of the SEA and HRA, and as a result a further period of public consultation (now being undertaken) is required before the Ashby Neighbourhood Plan can be submitted.

4.0 PRE-SUBMISSION CONSULTATION PART 2 CONSULTATION

- 4.1 The current Pre-Submission consultation runs from 30 January to 13 March 2017. Although the Cabinet Meeting is after this deadline, it has been agreed with the Town Council that the comments could be submitted ahead of the Cabinet meeting but that they needed to be endorsed by Cabinet on 14 March 2017.
- 4.2 The vast majority of issues concerning the Ashby Neighbourhood Plan, those that have previously been raised by the District Council during earlier consultations, have now been addressed. Key remaining concerns with the published document can be summarised as follows:
- Policy S1 (presumption in favour of sustainable development) seeks to take primacy over the NPPF and both the adopted and draft Local Plan, which is not in accordance with the Localism Act 2011 which states that a neighbourhood plan is part of the development plan (alongside, not superior to, the local plan). It is important that this is clarified to provide a clear understanding of the relationship between various policies, and facilitate consistency of decision making and;
 - Policy H1 (Sustainable housing growth) does not make not clear how many homes are envisaged to come forward on the wider Money Hill site. This represents a risk to the proposed development, the Ashby Neighbourhood Plan and the draft Local Plan because inconsistency between documents makes it more difficult for the District Council to demonstrate a five year housing supply against the draft Local Plan and the Ashby Neighbourhood Plan; and
 - Policy H5 (affordable housing) seeks to assume the role of the housing authority which is held by the District Council. The housing authority has a statutory duty to ensure that all of the district's residents are adequately housed. It is the case that most people live in towns and it follows that due to economies of scale, housing need that is generated in the countryside will not always be met in the countryside. By restricting new homes in the town of Ashby to people with a strong connection to the town itself, rural people's options for accessing suitable housing would be disproportionately limited. There is also a risk that by applying a restriction within Ashby, it would provide a disincentive against people deciding to move out of the town. Affordable housing is an asset of and for the district.
- 4.3 The key concerns were discussed with representatives of the Town Council, during a constructive meeting, and it was agreed that they would be addressed. This will be subject to formal consideration by the Town Council, so it remains appropriate for the District Council to raise the issues in its response to the current consultation. A fuller list of

suggestions to improve the clarity of the plan, ahead of submission, are proposed to be provided to the Town Council, this appears at appendix 1 to this report.

5.0 NEXT STEPS

- 5.1 Once the current consultation concludes, the Town Council intends to review all of the responses and prepare a Submission version of the Ashby Neighbourhood Plan. The SEA will also be updated.
- 5.2 The Submission version of the Ashby Neighbourhood Plan will be presented to the Town Council Planning and Transportation Committee for approval after which the document will be submitted to the District Council.
- 5.3 The remaining timetable for the preparation of the Ashby Neighbourhood Plan is governed by when the Town Council submits it to the District Council. However once the plan has been submitted to the District Council, the District Council is required to check that the submitted proposal complies with all relevant legislation including EU Regs (such as the River Mease SAC). If the District Council finds that the Ashby Neighbourhood Plan meets the legal requirements it must:
 - publicise the proposal for a minimum of 6 weeks and invite representations;
 - notify consultation bodies referred to in the consultation statement; and
 - appoint an independent examiner (with the agreement of the Town Council) to test whether or not the Ashby Neighbourhood Plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended). The independent examiner will not test the soundness of the neighbourhood plan or examine other material considerations. The examination of the Ashby Neighbourhood Plan is likely to take place by way of written representations unless the independent examiner considers it necessary to ensure adequate examination of an issue by way of an oral hearing, or is minded to give somebody a fair chance to put their case forward by way of oral representations at a hearing. A report will subsequently follow.

Given the technical/procedural nature of these tasks, it is recommended that the above tasks be delegated to the Director of Services, in consultation with the Portfolio Holder for Regeneration & Planning.

- 5.4 Following receipt of the independent examiner's report, the District Council must formally decide whether to send the plan to referendum (with or without modifications). Reg 17A(5)(b) of the Neighbourhood Planning (General) and Development Management Procedure (Amendment Regulations 2016 ("the 2016 Regs")) gives the District Council 5 weeks from receipt of the Examiners report to decide whether to proceed with the referendum or not. Given the short timescale allowed for this, which is required by Government regulation and is not negotiable, it is recommended that this decision be delegated to the Director of Services, in consultation with the Portfolio Holder for Regeneration & Planning.
- 5.5 Should the Ashby Neighbourhood Plan be sent to referendum, and the referendum declares in favour of the Ashby Neighbourhood Plan, then the District Council is required to adopt the Ashby Neighbourhood Plan within 8 weeks of the referendum (Reg 18A(1) of the 2016 Regs). It is anticipated that the decision to adopt the Ashby Neighbourhood Plan would be the subject of a specific Cabinet report at the appropriate time.