

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**CABINET – 14 JUNE 2016**

Title of report	<b>ASHBY NEIGHBOURHOOD PLAN – PROPOSED RESPONSE TO PRE-SUBMISSION CONSULTATION</b>
Key Decision	a) Financial No b) Community Yes
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Purpose of report	To determine the District Council's response to a consultation on the pre-submission draft neighbourhood plan for Ashby de la Zouch.
Reason for Decision	The District Council is a consultee and so it is appropriate to provide comments to assist with the formulation of the neighbourhood plan.
Council Priorities	Businesses and Jobs Homes and Communities Green Footprint Challenge
Implications:  Financial/Staff	<p>The emerging neighbourhood plan for Ashby will incur direct costs to the District Council to support an independent examination of the plan and, should the examination be successful, a local referendum. Grant funding from central government (£30,000 per neighbourhood plan) is payable to the authority to support this agenda.</p> <p>Once the Ashby Neighbourhood Plan is made it will form part of the Development Plan for North West Leicestershire. Should the document be legally challenged, 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 conflicts between the draft Neighbourhood Plan and national policies and the adopted Local Plan as well as the District Council's draft Local Plan. These conflicts represent a risk to the success of the Neighbourhood Plan. It is appropriate for the District Council to work with Ashby Town Council to seek to minimise risks to the Neighbourhood Plan.
Equalities Impact Screening	Not applicable
Human Rights	No discernible impact
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Deputy Section 151 Officer	The report is satisfactory
Comments of Deputy Monitoring Officer	The report is satisfactory
Consultees	None
Background papers	<p>National Planning Policy Framework which can be found at <a href="http://www.gov.uk/government/publications?topics%5B%5D=planning-and-building">www.gov.uk/government/publications?topics%5B%5D=planning-and-building</a></p> <p>The Neighbourhood Planning (General) Regulations 2012. <a href="http://www.legislation.gov.uk/uksi/2012/637/pdfs/uksi_20120637_en.pdf">http://www.legislation.gov.uk/uksi/2012/637/pdfs/uksi_20120637_en.pdf</a></p> <p>The Neighbourhood Planning (General) (Amendment) Regulations 2015. <a href="http://www.legislation.gov.uk/uksi/2015/20/pdfs/uksi_20150020_en.pdf">http://www.legislation.gov.uk/uksi/2015/20/pdfs/uksi_20150020_en.pdf</a></p> <p>Planning Practice Guidance. <a href="http://planningguidance.communities.gov.uk/blog/guidance/neighbourhood-planning/">http://planningguidance.communities.gov.uk/blog/guidance/neighbourhood-planning/</a></p>
Recommendation	<b>THAT CABINET RATIFIES THE RESPONSE TO THE PRE-SUBMISSION ASHBY NEIGHBOURHOOD PLAN AS SET OUT IN APPENDIX A OF THIS REPORT</b>

## 1.0 INTRODUCTION

- 1.1 Members will recall that a report on the draft Ashby Neighbourhood Plan was considered by Cabinet at its meeting of 8 December 2015. The report noted that there were a number of instances where there was a conflict between policies proposed in the Neighbourhood Plan and both national and local policies. It was agreed to respond to the draft Neighbourhood Plan highlighting these issues together with a number of suggested amendments to policies which were designed to provide clarity.
- 1.2 Following consideration of the various comments made to the draft Neighbourhood Plan Ashby Town Council has published a pre-submission draft Neighbourhood Plan for consultation. The purpose of this report is to formulate the District Council's response to the pre-submission Ashby de la Zouch Neighbourhood Plan.

## 2.0 BACKGROUND

- 2.1 Neighbourhood Plans should consider local and not strategic issues and must be in line with higher level planning policy. A Neighbourhood Plan can be detailed or general, depending on what local people want but they must be in line with European Union obligations and human rights requirements.
- 2.2 In reviewing the draft Neighbourhood Plan it is important to note that a neighbourhood plan must:
- have regard to national policy;
  - contribute towards sustainable development;
  - generally conform with the strategic policies of the local plan and;
  - not breach any EU obligations including those relating to the Strategic Environmental Assessment (SEA) Directive 2001/42/EC.
- 2.3 In terms of the relationship between a neighbourhood plan and a local plan, it is important to note that the conformity required is to the local plan in force (i.e. adopted) at the time that the neighbourhood plan is examined. In this instance it is the North West Leicestershire Local Plan adopted in 2002. The age of the adopted Local Plan is such that most of its provisions, for example sites for development, have been implemented and therefore are not matters considered in the Neighbourhood Plan.
- 2.4 The Planning Practice Guidance (PPG) advises that "*They [neighbourhood plans] can be developed before or at the same time as the local planning authority is producing its Local Plan*" (paragraph 9).
- 2.5 There are a number of examples across the country where neighbourhood plans have been made (i.e. adopted) before a new local plan is in place.
- 2.6 Where a neighbourhood plan progresses before a local plan the PPG advises that "*Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between the policies. It is important to minimise any conflicts between policies in:*
- *The emerging neighbourhood plan*
  - *The emerging Local Plan*
  - *The adopted development plan*

*with appropriate regard to national policy and guidance”.*

- 2.7 In response to the draft Neighbourhood Plan it had been noted that in the interests of trying to ensure that the Neighbourhood Plan was supported by an examiner and that it had some longevity to it, it would be appropriate for consideration to be given to delaying the progression of the Neighbourhood Plan until such time as the District Council has agreed the pre-submission Local Plan and for the Neighbourhood Plan to then take account of the provisions of the emerging Local Plan.
- 2.8 At the time that the draft Neighbourhood Plan was considered it had been envisaged that the Council would be asked to agree the pre-submission Local Plan in March 2016. This was subsequently put back until June 2016.
- 2.9 Notwithstanding this change in date for consideration of the Local Plan the fact remains that Ashby Town Council has decided to not await confirmation of the Local Plan by the District Council.

### **3.0 THE PRE-SUBMISSION NEIGHBOURHOOD PLAN**

- 3.1 The consultation on the pre-submission Neighbourhood Plan runs from 2 May 2016 to 14 June 2016. In order to ensure that the District Council's comments were made during this period officers have forwarded comments to Ashby Town Council with a proviso that these are subject to ratification by Cabinet. Officer's comments are attached at Appendix A of this report.
- 3.2 Whilst Ashby Town Council has decided to not await confirmation of the pre-submission Local Plan it is however clear from the Neighbourhood Plan that account has been taken of the discussions on the Local Plan which have taken place at the Local Plan Advisory Committee (LPAC). It is also apparent that a number of changes have been made which take account of comments made at the draft stage.
- 3.3 A particular concern raised in respect of the draft Neighbourhood Plan was the fact that the amount of housing proposed in Ashby de la Zouch was significantly less than that proposed in the draft Local Plan. In addition, land north of Ashby (Money Hill) which was proposed to be allocated for housing as part of the draft Local Plan was not included in the draft Neighbourhood Plan.
- 3.4 The pre-submission Neighbourhood Plan now proposes a higher housing figure and also proposes the allocation of land at Money Hill for housing development. This change is to be welcomed, although the Town Council should appreciate that until such time as the District Council has agreed the pre-submission Local Plan there can be no guarantees that the Local Plan will, notwithstanding the views of the LPAC, include this allocation.
- 3.5 The issue of housing numbers and the omission of the Money Hill site were the most significant issues raised in response to the draft Neighbourhood Plan. However, a number of other issues were also raised.
- 3.6 As noted above a neighbourhood plan has to be in conformity with national policies. There are a number of instances where this is not considered to be the case. For example, a key aspect of national policy is to ensure that developments are deliverable. The PPG makes it clear that "*a neighbourhood plan needs to be deliverable*". Some of the policies, such as the affordable housing policy and the housing mix policy in the draft Neighbourhood Plan would, it is considered, impact upon the viability of development.

- 3.7 The PPG also advises that “*A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.*” This is particularly important bearing in mind that the decision maker in most instances will be the District Council as the Local Planning Authority but as the Council is not the author of the neighbourhood plan it would not necessarily be aware of the intention of a policy if it is not clearly set out in the Neighbourhood Plan.
- 3.8 Both of these issues are likely to be addressed at examination stage and whilst an examiner might recommend changes it is considered that it would be better to make changes now, so as to avoid undermining the rest of the plan. Officers have highlighted these concerns and suggested the changes that may be needed to various policies to provide clarity or overcome potential conflicts with national policy.
- 3.9 Further concerns have also been identified by the Strategic Housing Team in terms of the proposed policy in respect of affordable housing as many aspects of it conflict with this Council’s approach and would be likely to reduce the ability to deliver the type of affordable housing required.

#### **4.0 NEXT STEPS**

- 4.1 Notwithstanding the comments made at Appendix A, it is considered that the changes made from the draft Neighbourhood Plan are generally positive.
- 4.2 It is understood that it is the intention of Ashby Town Council that the responses to the pre-submission Neighbourhood Plan will be considered in July with a view to then submitting the Neighbourhood Plan to the District Council for it to take forward in accordance with The Neighbourhood Planning (General) Regulations 2012 and The Neighbourhood Planning (General) (Amendment) Regulations 2015.
- 4.3 Once the District Council has formally received the neighbourhood plan and checked it for compliance with the regulations, it is necessary to invite representations (potentially September/October 2016) following which an independent examination takes place (potentially December 2016/January 2017). Subject to the outcome of this ultimately the neighbourhood plan has to be approved by a referendum of people living in the area covered by the neighbourhood plan.
- 4.4 It had to been hoped that such a referendum could be held at the same time as the County Council elections in May 2017 as this would save on the costs of a referendum as these are borne by the district council.
- 4.5 However, the Town Council has also sought an opinion from the District Council as to whether it considers that a Strategic Environmental Assessment /Sustainability Appraisal of the Neighbourhood Plan are required. Officers are discussing this matter with representatives of the Town Council but it would appear that such an assessment is likely to be required. This being the case the Neighbourhood Plan would be unlikely to be capable of being submitted in July 2016. It is not clear what this might mean in terms of a timescale for the remainder of the process, but a delay of 2 to 3 months at least seems likely.
- 4.6 From the district council’s perspective this has resource implications as it will been a separate referendum may be required as no more elections are currently planned between the County Council elections in May 2017 and the District Council elections in May 2019.

- 4.7 Officers are continuing to discuss timetabling matters with representatives of the Town Council and a verbal update will be provided at the meeting.