



CABINET: 6 November 2018

Report of: Director of Development and Regeneration

Relevant Portfolio Holder: Councillor J Hodson

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**SUBJECT: BURSCOUGH PARISH NEIGHBOURHOOD PLAN SUBMISSION
VERSION**

Wards affected: Burscough West, Burscough East and Scarisbrick (part of)

1.0 PURPOSE OF THE REPORT

1.1 To seek authorisation to undertake public consultation upon the Submission version Burscough Parish Neighbourhood Plan, providing that it meets the required compliance check, and to seek delegated authority for associated actions.

2.0 RECOMMENDATIONS TO CABINET

2.1 That authority is delegated to the Director of Development and Regeneration in consultation with the Portfolio Holder for Planning to consider whether the Submission version Burscough Neighbourhood Plan meets the requirements of regulation 15 of the Neighbourhood Planning (General) Regulations 2012, and if so to publicise the plan in accordance with regulation 16 of those regulations.

2.2 That authority is delegated to the Director of Development and Regeneration, in consultation with the Portfolio Holder for Planning, to make the Borough Council's formal response to the Submission version Burscough Parish Neighbourhood Plan and for subsequent submission of the Neighbourhood Plan for examination under regulation 17 of the Neighbourhood Planning (General) Regulations 2012 and appointment of an independent examiner.

3.0 BACKGROUND

3.1 Neighbourhood planning is a way for communities to shape the future of the places where they live and work. It enables Parish Councils and Neighbourhood Forums to prepare planning policies, decide where they want new development, have their say in relation to design and indicate what infrastructure should be provided. The provisions for neighbourhood planning are set out in Part 6 of the Localism Act 2011 which amended the Town and Country Planning Act 1990. The Neighbourhood Planning (General) Regulations 2012 and subsequent amendments in 2015 and 2016 set out the detailed arrangements that neighbourhood planning needs to follow including the stages of preparing a neighbourhood plan. These have been supplemented by the Neighbourhood Planning Act 2017, which gained Royal Assent on 27 April 2017 and is progressively being brought into force.

3.2 The Burscough Parish Neighbourhood Plan (BPNP) is currently the only neighbourhood plan being produced in West Lancashire and is now at an advanced stage of preparation. Burscough Parish Council has been responsible for preparing this plan and are referred to as the 'qualifying body'. The local planning authority (LPA) has a statutory duty under Schedule 4B of the Town and Country Planning Act 1990 to support the Parish Council in the preparation of the plan (referred to as the duty to support). This requires the LPA to give advice or assistance, where appropriate, to facilitate the preparation of the Neighbourhood Plan. The stages in preparation of the BPNP that have taken place are:

Stage 1: Defining the Neighbourhood Area

Stage 2: Preparing the Plan

Stage 3: Pre-submission publicity and consultation

3.3 In terms of stage 1, West Lancashire Borough Council Cabinet approved the designated Burscough neighbourhood area on 11 November 2014. This area covers Burscough Parish which comprises Burscough West and Burscough East wards in entirety and part of Scarisbrick ward. The Parish Council then worked on the preparation of the BPNP (stage 2) which included information gathering, developing proposals, engaging with those in the area, and determining whether the plan is likely to have significant environmental effects. Officers of the Borough Council have met with representatives of the Parish Council and given advice in writing in relation to the content of drafts of the Neighbourhood Plan and the evidence base used to inform it as part of the 'duty to support'. The Neighbourhood Plan subsequently reached stage 3 pre-submission publicity and consultation with a 6 week public consultation on a draft of it taking place between 11 August and 6 October 2017. The Council provided a formal response to the content of this draft version of the Neighbourhood Plan; that response was subject to endorsement by Cabinet (report of 12 September 2017) and by Overview and Scrutiny Committee (28 September 2017). The report to Cabinet provided detailed information in relation to the content of the draft Neighbourhood Plan and legislative and procedural background which is consequently not repeated here.

3.4 In conjunction with their appointed consultant, the Parish Council subsequently considered all responses received during the public consultation on the draft BPNP, have amended it as a result and have also prepared additional supporting

documentation. This has enabled the Parish Council to move on to stage 4 in the plan preparation process whereby they have submitted it to the local planning authority. This corresponds to regulation 15 of the Neighbourhood Planning (General) Regulations 2012 and importantly the responsibility for progressing the BPNP at this point and future stages now rests with the Borough Council. Those subsequent stages in preparation are as follows:

Stage 5: Independent Examination

Stage 6: Referendum

Stage 7: "Making" the Neighbourhood Plan

- 3.5 It is important to note that once a neighbourhood plan is completed and brought into force it becomes part of the Development Plan for the area it covers, along with the Local Plan, meaning that it would be used in the determination of planning applications in that area and to direct where future development takes place.
- 3.6 Further details in relation to stages 5-7 are given under Section 5 'Next Steps' of this report including the Borough Council's responsibilities for progressing the Neighbourhood Plan. Stage 4 is dealt with immediately below.

4.0 THE SUBMISSION NEIGHBOURHOOD PLAN

- 4.1 The Submission Burscough Parish Neighbourhood Plan covers the time period to 2027, which corresponds with the end of the adopted West Lancashire Local Plan Development Plan Document (DPD) plan period. The BPNP identifies issues and considerations for the neighbourhood area, a vision and objectives, a strategy, a key diagram, set of policies and sections dealing with plan delivery and implementation and plan monitoring and review. General conformity of neighbourhood plan policies with strategic and non-strategic policies of the adopted West Lancashire Local Plan are also considered. The Submission BPNP contains 21 policies (a decrease of 3 compared to the previous draft) which compares to the adopted West Lancashire Local Plan DPD's 26. Policies are grouped within 9 different topic areas which are: infrastructure, housing, employment, retail, visitor economy, transport, environment, design and community with a full list of them being contained at Appendix A.
- 4.2 The previous Cabinet report of 12 September 2017 identified concerns in terms of the content of some of the policies contained in the previous draft of the BPNP and this then formed the Borough Council's formal response to that earlier draft. Burscough Parish Council have sought to address those concerns, most pertinently in terms of revising those policies relating to infrastructure.
- 4.3 The Parish Council submitted the Neighbourhood Plan to the Borough Council under regulation 15 of the Neighbourhood Planning (General) Regulations 2012 by correspondence dated 18 September 2018. This also contained other supporting documentation, including a consultation statement, a basic conditions statement and a selection of supporting evidence. It is now the Borough Council's responsibility to undertake a compliance check of the Submission BPNP in relation to relevant legislation and requirements. The compliance check is procedural in nature and primarily focuses on legal requirements and not upon

policy content of the document. Regulation 15 requires that the following documentation is included as part of the submission:

- a map or statement which identifies the area to which the proposed neighbourhood development plan relates;
- a consultation statement;
- the neighbourhood development plan;
- a basic conditions statement (see section 5 below for further explanation); and, in this particular instance,
- an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations (Sustainability Appraisal);

Any supporting or evidence base documents should also be provided. The submission documents are to be regarded as what the Parish Council consider to be the final version of the BPNP as further changes to it or the provision of additional supporting evidence can only be undertaken at the request of an independently appointed examiner.

- 4.4 If the Plan satisfies the compliance check, the Borough Council must then publicise it under regulation 16 of the 2012 Regulations for a minimum of 6 weeks and invite representations, notify consultation bodies referred to in the consultation statement and (with agreement of the Parish Council) appoint an independent examiner. There is also an opportunity for the Borough Council to formally respond again in relation to the policy content of the BPNP and this would then be considered by an examiner at independent examination. This Cabinet report therefore seeks authorisation to undertake public consultation on the Submission Neighbourhood Plan and for delegated authority to be given to the Director of Development and Regeneration, in consultation with the Portfolio Holder for Planning, to make the Borough Council's formal response to the Neighbourhood Plan. It also seeks authorisation for subsequent submission of the Plan for examination under regulation 17 of the 2012 Regulations and appointment of an independent examiner. The reason for this request to Cabinet is that under both regulation 16 (publicising a plan proposal) and regulation 17 (submission of a plan proposal to examination) a local planning authority must undertake the required actions "As soon as possible...".

5.0 NEXT STEPS

- 5.1 The Borough Council has recently commenced public consultation upon the West Lancashire Local Plan Review Preferred Options between 12 October and 13 December 2018 inclusive. In order to avoid overlapping public consultation upon planning policy documents, should the Burscough Parish Neighbourhood Plan meet the compliance check, it is therefore considered that public consultation upon the BPNP under regulation 16 should commence after 13 December at a date to be decided.
- 5.2 Importantly, the BPNP has been prepared in accordance with the National Planning Policy Framework (NPPF) 2012 which was replaced by a new NPPF in July 2018. Paragraph 214 of NPPF 2018 states that the policies of the NPPF 2012 will apply for examining plans where those plans have been submitted on

or before 24 January 2019. Submitted in the case of neighbourhood plans means where a qualifying body (the Parish Council in this instance) submits a plan proposal to the local planning authority in accordance with regulation 15 of the 2012 Regulations. A decision to commence public consultation on the BPNP after the closure of public consultation upon the West Lancashire Local Plan Review Preferred Options would not therefore adversely affect examination of the BPNP in relation to NPPF 2012.

- 5.3 The earlier Burscough Parish Neighbourhood Plan Cabinet Report of 12 September 2017 dealt in detail with the future stages in preparing the Plan so are not repeated extensively here. However, for information the main components of those future stages 5-7 are as follows:

Stage 5: Independent Examination

- 5.4 The Borough Council submits the neighbourhood plan to the examiner for examination which can take place by either written representations (most likely) or hearing. The examiner considers the Plan and then issues a report to the Parish Council and to the Borough Council, who must publish it. The Borough Council must consider the examiner's report, and consider whether the Plan (as amended by the examiner) meets legal requirements and the basic conditions and then produce a Decision Statement within 5 weeks of receipt of the examiner's report.

- 5.5 The legal requirements that the plan has to meet are:

- It is being submitted by a qualifying body.
- It sets out policies in relation to the development and use of land in the whole or any part of the neighbourhood area.
- It states the time period in which it is to have effect.
- The policies in the plan do not relate to excluded development, for example minerals and waste or nationally significant infrastructure projects.
- It does not relate to more than one neighbourhood area.

As discussed above, the basic conditions that the plan needs to meet are that it:

- Has regard to national policies and advice.
- Contributes to the achievement of sustainable development.
- Is in general conformity with the strategic policies contained in the development plan for the area of the authority.
- Does not breach, and is otherwise compatible with, EU obligations.
- Meets prescribed conditions and prescribed matters have been complied with. This means that the 'making' of the neighbourhood plan is not likely to have a significant effect on a European designated habitats site or European Offshore Marine site.

- 5.6 In considering a neighbourhood plan the independent examiner has the option of making one of three recommendations:

- That the plan should proceed to referendum on the basis that it meets all of the legal requirements;
- That the plan should proceed to referendum if modified; or

- That the plan should not proceed to referendum on the basis that it does not meet all of the legal requirements.

5.7 If the examiner concludes that at this point the plan should proceed to referendum they must consider whether the area covered by the referendum should extend beyond the boundaries of the neighbourhood plan area.

5.8 A local planning authority has to have regard to a 'post-examination', 'unmade' neighbourhood plan as a material consideration in the determination of planning applications.

Stage 6: Referendum

5.9 West Lancashire Borough Council would have to make arrangements for a referendum to take place within 56 days of the Decision Statement being agreed and published, publicise the referendum and then polling would take place and a result declared. Those entitled to vote upon whether the 'making' (see below) of the plan should be supported are those entitled to vote in a local election and living in the neighbourhood area (or the extended referendum area as appropriate).

Stage 7: 'Making' the Neighbourhood Plan

5.10 If the majority of those who vote in a referendum are in favour of the draft neighbourhood plan then the plan must be 'made' (brought into legal force) by the Borough Council within 8 weeks of the date of the Referendum. Prior to a draft neighbourhood plan being 'made' after succeeding at referendum, it automatically forms part of the development plan, but it would not continue to do so if the Borough Council were to decide it should not be 'made'. There are limited circumstances where the Borough Council could decide not to make a neighbourhood plan.

5.11 Given that elements of stages 5 to 7 above are time sensitive a further Cabinet report requesting an additional scheme of delegation in relation to decision making for the BPNP will be produced in due course.

6.0 SUSTAINABILITY IMPLICATIONS

6.1 A Strategic Environmental Assessment has been undertaken on the Submission BPNP which considers effects from the policies it contains. There is no statutory requirement to undertake a Sustainability Appraisal in this instance. However, in order to meet the 'basic conditions' it will need to be demonstrated that the Plan contributes to the achievement of sustainable development. There would be no significant impact on crime and disorder.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 The Borough Council's duty to support the preparation of the BPNP will have financial and staff resource implications which are unable to be precisely defined at present. A total grant of £25,000 of funding is potentially available to the local

authority from DCLG to enable fulfilling our statutory duty to support. However, £20,000 of this can only be claimed once a neighbourhood plan has been successfully examined and the date for a local referendum has been set. The Borough Council previously received the remaining £5,000 following the neighbourhood area designation in 2014.

- 7.2 Therefore, the Borough Council must first incur significant costs for public consultation and the examination, at risk, and can only claim the remaining £20,000 if the BPNP is successful at examination and proceeds to a referendum. In addition, while the £25,000 might ultimately cover the costs of public consultation and examination, it will not cover the costs of the Referendum or the officer resource utilised in supporting the preparation of the Plan. It is estimated that the Referendum (assuming it only covers the Parish of Burscough) would cost at least £18,000.
- 7.3 A further financial consideration is that, once a neighbourhood plan is 'made', 25% of any CIL income received from applications determined in the neighbourhood area after the Plan is made must be passed to the Parish Council, as opposed to the 15% that is currently passed to the Parish Council. Depending on the nature and size of applications that are granted after the Plan is made, this could mean a significant sum of CIL monies being redirected from strategic infrastructure (where funding decisions are made by the Borough Council) to local infrastructure in Burscough Parish (decided upon by the Parish Council).

8.0 RISK ASSESSMENT

- 8.1 Given that the decision being sought is to seek authorisation to undertake public consultation upon the Submission version BPNP (providing that it meets the required compliance check) and to seek delegated authority to the Director of Development and Regeneration, in consultation with the Portfolio Holder for Planning, for the Borough Council's response to the Submission version Burscough Parish Neighbourhood Plan and for subsequent submission of the Neighbourhood Plan for examination there are minimal initial risks.
- 8.2 However, there are clearly risks to the Borough Council associated with the BPNP related to the financial implications of its preparation (covered in section 7.0 above) and in relation to the possibility that even after an examination, certain policies or policy wording might be contained in the Neighbourhood Plan that the Borough Council may not be supportive of but which would then form part of the Development Plan for the Borough and have to be used in planning decisions related to applications in the Parish of Burscough. In a worst case scenario, there is a risk that certain policy wording may not be supported by the Borough Council, and the Borough Council has limited abilities to remove those policies after examination and may incur significant legal costs having to deal with those policies in decision making.

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

Appendix A – List of Burscough Parish Neighbourhood Plan policies

Appendix B – Equality Impact Assessment

APPENDIX A

LIST OF BURSCOUGH PARISH NEIGHBOURHOOD PLAN POLICIES

Infrastructure

BPI 1: Development and Infrastructure

BPI 2: Surface Water Drainage

BPI 3: Foul Water Drainage

BPI4: High Quality Communications Infrastructure

Housing

BPH1: New Residential Development

BPH 2: Housing Mix

Employment

BPE1: Burscough Industrial Estate

Retail

BPR1: Burscough Centre

BPR2: Lord Street Opportunity Area

Visitor Economy

BPVE1: Visitor Economy

Transport

BPT1: Transport and Development

BPT2: Environmental Improvement Corridors

BPT3: Car Parking

BPT4: Sustainable Transport Routes

Environment

BPEV1: Green Space

BPEV2: Local Heritage Assets

Design

BDP1: Design and Accessibility Principles

BPD2: Detailed Design Elements

BPD3: Microgeneration

Community

BPC1: Community Infrastructure

BPC2: Community Hub Opportunity Area