



CABINET: 12 March 2019

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**Report of: Director of Development and Regeneration**

**Relevant Portfolio Holder: Councillor J Hodson**

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**SUBJECT: BURSCOUGH PARISH NEIGHBOURHOOD PLAN**

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

## **1.0 PURPOSE OF THE REPORT**

1.1 To seek delegated authority to publish a Decision Statement in relation to the Burscough Parish Neighbourhood Plan once the examination of the Plan is completed by an independent examiner, and to 'make' (adopt) the Neighbourhood Plan if it passes the subsequent referendum.

## **2.0 RECOMMENDATIONS**

2.1 That authority be delegated to the Director of Development and Regeneration to publish a Decision Statement in relation to the Burscough Parish Neighbourhood Plan once the examination of the Plan is completed by an independent examiner and in accordance with regulation 18 of the Neighbourhood Planning (General) Regulations 2012.

2.2 That authority be delegated to the Director of Development and Regeneration to 'make' the Burscough Parish Neighbourhood Plan in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004, should it pass a referendum.

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## **3.0 BACKGROUND**

3.1 The Burscough Parish Neighbourhood Plan is currently the only neighbourhood plan being prepared in West Lancashire and is now at an advanced stage. The

designated neighbourhood area covers Burscough Parish which comprises Burscough West and Burscough East wards in entirety and part of Scarisbrick ward. The Plan contains 21 policies and has a time period to 2027, which corresponds with the end of the adopted West Lancashire Local Plan Development Plan Document (DPD) plan period.

- 3.2 Preparation of the Neighbourhood Plan has been the subject of previous Cabinet reports dated 11 November 2014, 12 September 2017 and 6 November 2018. Those reports provided detailed information in relation to the content of the draft Neighbourhood Plan and legislative and procedural background. The stages in preparation of the Neighbourhood Plan that have already taken place are:

Stage 1: Defining the Neighbourhood Area

Stage 2: Preparing the Plan

Stage 3: Pre-submission publicity and consultation

Stage 4: Plan submitted to the local planning authority

- 3.3 Burscough Parish Council has been responsible for preparing the Plan and West Lancashire Borough Council, in the role of local planning authority (LPA) has a statutory duty to support the Parish Council in the preparation of it. In terms of stage 1, West Lancashire Borough Council Cabinet approved the designated Burscough neighbourhood area on 11 November 2014. The Neighbourhood Plan subsequently reached stage 3, pre-submission publicity and consultation, with an 8 week public consultation on a draft of it taking place between 11 August and 6 October 2017.

- 3.4 In relation to stage 4, the Parish Council submitted the Neighbourhood Plan and other supporting documentation to the local planning authority on 18 September 2018 and progressing the Plan from this point onwards then became the responsibility of the Borough Council. As part of the requirements of the Neighbourhood Planning (General) Regulations 2012, the Borough Council undertook a compliance check of the Neighbourhood Plan in relation to it meeting relevant legislation and requirements. Once officers were content that the Submission version Neighbourhood Plan satisfied the compliance check, public consultation was organised and took place on the Plan for 6 weeks between 9 January and 20 February 2019. The timing of consultation was arranged in order to avoid overlapping public consultation with the West Lancashire Local Plan Review Preferred Options.

- 3.5 The subsequent stages in neighbourhood plan preparation are as follows:

Stage 5: Independent Examination

Stage 6: Referendum

Stage 7: "Making" the Neighbourhood Plan

Prior to a draft neighbourhood plan being 'made' (brought into legal force) after succeeding at referendum, it automatically forms part of the development plan for the area it covers, but it would not continue to do so if the Borough Council were to decide it should not be 'made'. Once it becomes part of the development plan it would be used alongside with the Local Plan in the determination of planning applications in that area and to direct where future development takes place.

## **4.0 INDEPENDENT EXAMINATION OF THE NEIGHBOURHOOD PLAN**

4.1 39 responses were received during the public consultation on the Submission Neighbourhood Plan, including the Borough Council's comments. As part of stage 5, these will now be sent to an independent examiner alongside the Neighbourhood Plan, evidence base and other supporting documents. The examiner will consider if the Plan is satisfactory in terms of both legal requirements and whether a set of basic conditions are satisfied. The legal requirements 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.

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.

4.2 As well as granting authorisation to undertake public consultation upon the Neighbourhood Plan, Cabinet of 6 November also gave delegated authority 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 Plan and for subsequent submission of the Plan for examination.

4.3 The Neighbourhood Planning (General) Regulations 2012 (as subsequently amended) requires the Borough Council to issue a Decision Statement within 5 weeks of receipt of the examiner's report. When the local authority fails to take a decision to send a plan to referendum within 5 weeks of receipt of the examiner's report, where requested by a qualifying body (the Parish Council in this instance), the Secretary of State has the power to intervene.

4.4 In considering the 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.

Upon receipt of the examiner's report, officers will then consider the recommendations of the examiner, whether the Plan (as amended by the examiner) meets legal requirements and the basic conditions and then advise how to proceed in relation to the examiner's recommendation. As an audit trail, an officer report will be produced explaining the reasons for the decision taken in accordance with the delegated authority set out above at paragraph 2.1.

## **5.0 NEXT STEPS**

### **Stage 6: Referendum**

- 5.1 West Lancashire Borough Council will have to make arrangements for a referendum to take place subsequent to the Decision Statement being agreed and published, if it is decided that the Plan should proceed to referendum, publicise the referendum and then polling would take place and a result declared. The referendum must take place within 8 weeks of the Decision Statement being issued. It is important to note that there is no need to seek authority to undertake the referendum as this is part of the process set by the Regulations that will automatically follow on from the issuing of the Decision Statement. 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).
- 5.2 The rules covering all aspects of organising and conducting the referendum can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012.

### **Stage 7: 'Making' the Neighbourhood Plan**

- 5.3 If the majority of those who vote in a referendum are in favour of a 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.
- 5.4 Due to the referendum likely taking place in June (see indicative timetable below), there will not be a scheduled Cabinet meeting within 8 weeks of the referendum, and so a delegation is sought at paragraph 2.2 above to enable the Council to 'make' the Neighbourhood Plan within the 8 week limit if it passes the referendum.
- 5.5 An estimated timetable for the 'making' of the Burscough Parish Neighbourhood Plan is therefore as follows:

Regulation 16 Publicising a Neighbourhood Plan Proposal	actual 9/1/19 to 20/2/19
Regulation 17 Submission of Neighbourhood Plan for Examination	estimate 1 March 2019
Receipt of Examiner's Report	estimate mid/ late April 2019
Decision Statement (Council's response to the examiner's report)	estimate early May 2019
Referendum	estimate June 2019
Making (adopting) the Neighbourhood Plan	estimate July 2019

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 A Strategic Environmental Assessment has been undertaken on the Submission Neighbourhood Plan 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 Neighbourhood Plan 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 Neighbourhood Plan 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 after the Plan is 'made' must be passed to the Parish Council, as opposed to the current 15%.

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 There are minimal initial risks in relation to the request for delegated authority set out in section 2.1 and 2.2 of this report. There are however some risks to the Borough Council associated with the Neighbourhood Plan 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 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.
- 8.2 These risks have been minimised by the Borough Council commenting both formally and informally upon the content of the Neighbourhood Plan during its drafting and it is of note that the Parish Council have generally responded positively to those comments.

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### **Background Documents**

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 – Equality Impact Assessment