

Report of the Strategic Director of Place to the meeting of Executive to be held on 1 March 2022

BI

Subject:

Ilkley Neighbourhood Development Plan

Summary statement:

This report concerns the Ilkley Neighbourhood Development Plan which has been prepared by the Town Council. The Plan has now been the subject of an independent examination by Andrew Freeman and his report confirms that the Plan, subject to the incorporation of a number of modifications meets the Basic Conditions outlined in legislation. He has recommended that the Plan proceeds to local referendum.

The report recommends that the Council agree to all of the proposed modifications and that the modified plan proceeds to referendum.

EQUALITY & DIVERSITY:

The Ilkley Neighbourhood Development Plan has been developed via extensive community engagement and consultation over a number of years, with local people, groups and others with an interest opportunity to contribute to it and its contents.

A key requirement is that the plan meets European Union obligations including the Convention on Human Rights (as well as the Human Rights Act 1998). Details of how it complies with them is set out the accompanying Basic Conditions statement. It concludes that, in general, the policies and proposals will not have a discriminatory impact on any particular group of individuals. The appointed independent Examiner did not disagree with this.

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Portfolio:

Regeneration, Planning and Transport

Overview & Scrutiny Area:

Regeneration and Economy

1. SUMMARY

- 1.1. This report concerns the Ilkley Neighbourhood Development Plan (the Plan), prepared by Ilkley Town Council (the Town Council).
- 1.2. The Plan has been developed over several years and has been subject to extensive community consultation and engagement. City of Bradford Metropolitan District Council (CBMDC) officers have provided assistance and input to the Plan.
- 1.3. In accordance with legislation, the Plan has been the subject of an independent examination by Andrew Freeman of Intelligent Plans and Examinations (IPE) Ltd, a suitably qualified and experienced examiner. His report confirms that the Plan has met all relevant legal requirements and that, subject to a number of modifications, meets the Basic Conditions for neighbourhood plans. These Basic Conditions are set out in legislation and summarised below at paragraph 2.21.
- 1.4. One of these conditions is that it should be in general conformity with the strategic policies set out in the development plan for Bradford district. The Examiner recommends the modified plan proceeds to a local referendum.
- 1.5. This report recommends that the Council agree to all of the proposed modifications and that the modified plan proceeds to a referendum in the Town Council area.
- 1.6. Should a simple majority in favour of the plan be achieved in the referendum, it would then be “made” (adopted) and become part of the statutory development plan for Bradford District. Currently, this consists of:
 - Core Strategy DPD (July 2017);
 - Bradford City Centre Area Action Plan (December 2017);
 - Shipley and Canal Road Area Action Plan (December 2017);
 - Waste Management DPD (October 2017);
 - Saved policies of the Replacement Unitary Development Plan (May 2005); and
 - Adopted Neighbourhood Development Plans – Addingham (January 2020); Burley in Wharfedale (May 2018); Haworth, Cross Roads and Stanbury (June 2021); Steeton with Eastburn and Silsden (June 2021).
- 1.7. The Plan would then be used by CBMDC officers and elected members in making decisions on planning applications within the Ilkley Town Council area.

2. BACKGROUND

- 2.1 The Localism Act 2011 (the 2011 Act) gives communities the opportunity to shape how their areas grow and develop through the use of a number of tools. One of these tools is the production of a neighbourhood plan, which when formally “made” will form part of the statutory development plan for the local authority area.

- 2.2 Neighbourhood plans cannot be used to stop development and should not promote less growth than the levels set out in the Local Plan or undermine its strategic policies. Plans also cannot deal with strategic planning matters or other excluded matters such as mineral extraction.
- 2.3 The scope and detailed content of plans is determined by the community. The plan can be a means of setting out more detailed policies for their community over and above the Local Plan, to start to shape the choices over the use of land and the designation of land for housing, employment or community uses. They should only cover land use planning issues.
- 2.4 Whilst Neighbourhood Plans are produced by relevant qualifying bodies, there is also a significant role for Local Planning Authorities. In addition to a general legal duty to support (usually by the provision of advice and feedback, sharing of information and evidence etc.), the Council is required to issue the draft plan for Regulation 16 consultation, organise and fund an independent examination of the plan, as well as, organise and fund a referendum (assuming the examination finds that the plan meets legal requirements and a number of Government defined 'basic conditions').
- 2.5 Under the 2011 Act, the Town Council is considered to be Qualifying Body for the purposes of neighbourhood planning. In line with the provisions of the 2011 Act and the Neighbourhood Planning (General) Regulations 2012 (as amended) (the 2012 Regulations), the Town Council have prepared a neighbourhood plan for their area.
- 2.6 The starting point for the Plan was the decision taken by the then Ilkley Parish Council in November 2012 to prepare it. An initial application to have their parish area formally designated as a "neighbourhood area" for the purposes of preparing a neighbourhood development plan was submitted to CBMDC on 18 June 2012. This was subject to a six-week public consultation exercise (16 July to 27 August 2012). The application was approved by CBMDC's Executive on 9 October 2012.
- 2.7 A minor error with approved neighbourhood area boundary came to light in April 2013. A revised formal application from Ilkley Parish Council clarifying the extent of the boundary was submitted to CBMDC on 15 May 2013. This revised application was subject to an eight-week public consultation (22 July to 16 September 2013). The revised application was approved by CBMDC's Executive on 29 October 2013.
- 2.8 The Plan has been prepared and developed between 2014 and 2020. This has involved a mixture of community and stakeholder engagement and evidence gathering during this period. The result of this work was the production of Preferred Options Draft of the Plan and then Draft Plan for consultation under Regulation 14 of the 2012 Regulations (see below).
- 2.9 Early informal consultation, engagement and awareness raising took place between November 2015 and March 2015. This led to the publication of Preferred Option Draft of the Plan, which was published for informal consultation in October 2017.
- 2.10 A Pre-Submission Draft Plan was then prepared and issued for formal consultation under Regulation 14 of the 2012 Regulations. This took place in two phases both of which ran for a six-week period. Phase 1 took place between 7 November and 19

December 2019, whilst Phase 2 took place between 18 February and 30 March 2020, and was led by the Town Council.

- 2.11 CBMDC officers, under the duty to support, have worked constructively with the Town Council. This has involved providing advice and support for the neighbourhood plan, including providing formal comments, where necessary. The Town Council have been supported by professional planning consultants in preparing the Plan. Details of the consultation process are included in the Consultation Statement submitted alongside the Plan.
- 2.12 Following the consultation under Regulation 14 (see paragraph 2.7), the plan was amended, where appropriate based on the responses received, with a final draft Plan being prepared. The final draft of the Plan, together with the required supporting documents (Basic Conditions Statement, Consultation Statement, Strategic Environmental Assessment/Habitat Regulations Assessment Screening Report and Habitat Regulations Assessment, as well as Local Green Space Assessment evidence base document) was submitted to CBMDC in May 2021. This was issued for a formal consultation (under Regulation 16) between 16 July and 15 September 2021. The submitted neighbourhood plan is included at Appendix 1 to this report.
- 2.13 The Plan sets out a vision for the future growth and development of the Ilkley area up to 2030 together with nine objectives to achieve this. The objectives are:
- Objective 1: Sustainable Residential Development;
 - Objective 2: Services and Facilities;
 - Objective 3: Cultural Landscape;
 - Objective 4: Biodiversity and Ecology;
 - Objective 5: Traffic and Transport;
 - Objective 6: Sustainable Access;
 - Objective 7: Leisure and Tourism;
 - Objective 8: Sustainable Economic Development; and
 - Objective 9: Social Inclusion.
- 2.14 It also contains twenty planning policies that seek to deliver the vision and objectives. They also seek to address a number of local issues identified through community engagement and evidence gathering as well as seeking to inform development proposals. There are also a number of community actions, which are non-land use planning related.
- 2.15 The planning policies cover:
- New Housing Development;
 - Protecting and Enhancing Community Facilities;
 - Protecting and Enhancing Recreation Facilities;
 - Allotments and Community Gardens;
 - Encouraging High Quality and Zero Carbon Design;
 - General Principles for New Development in Conservations Areas in Ilkley;
 - New Development in Ben Rhydding Conservation Area;
 - New Development in Ilkley Conservation Area;

- New Development in Middleton Conservation Area;
 - Local Green Spaces;
 - Green Corridors;
 - Protecting Ilkley's Landscape;
 - Ilkley Town Centre;
 - Public Realm;
 - Shopfronts;
 - Economy and Employment; and
 - Meeting the Needs of All.
- 2.16 The plan does not make allocations for housing. However, it does seek to safeguard several existing employment areas and community/recreation facilities as well as a number of key views. It also designates a number of Local Green Spaces (LGS).
- 2.17 As highlighted, above, CBMDC undertook a formal eight-week consultation on the Draft Plan. During the consultation, a total of 72 representations were received from 29 respondents, including statutory bodies, local residents and the development sector. CBMDC also submitted a number of formal comments (60 in total) as part of this process.
- 2.18 These representations were related to:
- Climate Change and achieving net zero;
 - Design and layout of new development;
 - Affordable housing provision;
 - Local infrastructure and ability to support growth;
 - Built heritage;
 - Consideration of biodiversity, and its protection/enhancement as well as biodiversity net gain;
 - Impact on wildlife;
 - Identification of Local Green Spaces;
 - Travel and modal shift;
 - Leisure and tourism; and
 - Provision of employment land.
- 2.19 A number of the representations received related to the emerging Bradford District Local Plan (2020 to 2038) and its proposals for the Ilkley area, which had published for public consultation in February/March 2021.
- 2.20 In line with legislation, the Plan must be the subject of an independent examination undertaken by a suitably qualified and experienced person, independent of the Council. Andrew Freeman of Intelligent Plans and Examinations (IPE) Ltd was appointed to this role. The examination took place between October and December 2021, with his final report being issued to CBMDC and the Town Council on 19 January 2022.

- 2.21 The Examiner's role is to ensure that the Plan has been prepared in line with, and complies with relevant legislation and meets the Basic Conditions¹. The Basic Conditions are:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;
 - the making of the plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area of the authority;
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the plan and the prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to neighbourhood plans:
 - Regulation 32 of the 2012 Regulations (as amended by the Conservation of Habitats and Species and Planning (various amendments) Regulations 2018) sets out a further basic condition in addition to those set out in the primary legislation: that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 2.22 The Examiner was provided with copies of the submission documents – Submission Draft Plan, Basic Conditions Statement, Strategic Environmental Assessment/Habitat Regulations Assessment Screening, Habitat Regulations Assessment and Consultation Statement – together with all representations (see paragraphs 2.17 and 2.18, above) received as part of the formal Regulation 16 consultation.
- 2.23 He gave full consideration to the contents of the submission draft plan, supporting documentation and the various issues raised by the representations received together with the responses provided by CBMDC and the Town Council in response to his questions. His assessment is set out in his report.
- 2.24 The Examiner concluded that, subject to a number of modifications to the Plan's policies and reasoned justification, the Plan meets the Basic Conditions (see paragraph 2.21) and that once modified should proceed to referendum. The Examiner's report is included at Appendix 2 and includes a schedule of proposed modifications.
- 2.25 The Council's officers have considered the Examiner's report and consider that it is a thorough and professional assessment of the Plan and the issues raised by respondents. The conclusions made are reasonable and justified and it is

¹ The Basic Conditions are set out in the Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)

considered that the proposed modifications to the Plan should be made. It is therefore proposed that the Neighbourhood Plan proceeds to referendum in line with the changes set out in the Examiner's Report.

- 2.26 The referendum would be organised by the Council's Elections Unit and would apply to the area covered by the Neighbourhood Plan which is the whole of the Ilkley Town Council area. The Examiner has confirmed and recommended that the referendum should cover this area and that there are no reasons to extend the referendum to areas beyond that covered by the Plan.
- 2.27 If members accept this recommendation a Decision Statement (as required under Regulation 18 of the 2012 Regulations) would be issued and published to that effect and preparations for the referendum would commence. The precise date will be determined in collaboration with the Council's Elections Unit.
- 2.28 Should the referendum result in a "yes" vote, the agreed Governance arrangements (agreed by Executive on 9 March 2012 and updated on 6 February 2018) would mean that the Assistant Director (Planning, Transportation & Highways) in consultation with the Portfolio Holder (Regeneration, Planning & Transport) would decide whether to "make" the Plan.
- 2.29 In the event of a "yes" vote the Council are required in law to make the Plan unless it considers that this would breach or be incompatible with any EU obligation or any Convention Rights. Therefore, subject to a simple majority in favour of the Plan, the Plan would become "made" which means it would become a part of the statutory development plan for the Neighbourhood Plan area.

3. OTHER CONSIDERATIONS

- 3.1 Once "made", the Plan will ensure planning decisions reflect the priorities and aspirations of the local community. It will contribute to the achievement of well-designed quality developments.
- 3.2 In line with Community Infrastructure Levy (CIL) Regulations 2010 (as amended), 15% of CIL income is passed directly to those parishes or towns where development has taken place (known as the neighbourhood proportion), subject to the cap set in national CIL regulations. This will increase to 25% in any areas with an adopted neighbourhood plan
- 3.3 Payment of the neighbourhood proportion takes place in October (for CIL monies received by the CIL charging authority between 1 April and 30 September in any financial year) and April (for monies received between 1 October and 31 March). The making of the Plan, should it be successful at referendum will allow the Village Council to secure 25% of any CIL payments for qualifying developments such as new homes and this money will be able to be spent on local priorities and infrastructure in line with the CIL Regulations. The Village Council will have responsibility for spending CIL monies and is therefore required to account for it. They are required to report this and publish the details.

3.4 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the relevant planning application.

4. FINANCIAL & RESOURCE APPRAISAL

4.1 The cost of preparing a neighbourhood plan will be partly met by the local planning authority and partly by the Qualifying Body (the Town/Parish Council or neighbourhood forum). The main financial and resource implications for the Council in discharging its statutory duties in relation to neighbourhood planning under the Localism Act are:

- Arranging and covering the costs of independent examinations (usually between £5,000 and £10,000);
- Arranging and holding the referendum; and
- Officer time in providing expertise and advice to Qualifying Bodies on neighbourhood plans.

4.2 The exact cost of each will vary depending on the complexity of the contents of the neighbourhood plan being developed, whether the examination is conducted via written representations or a public hearings and the area to be covered by the referendum. The cost of recent neighbourhood plan examinations in Bradford District have an average cost of around £6,600.

4.3 In order to assist Local Planning Authorities (LPAs) with neighbourhood planning, the Government has put in place a programme of financial support. As of April 2021, LPAs can claim:

- £5,000 for the first five neighbourhood areas designated; and
- £20,000 when the decision statement detailing their intent to send the neighbourhood plans for referendum (as set out under Regulation 18 of the 2012 Regulations). Previously this was done when the referendum date was set.

4.4 Accordingly, the Council will submit a claim for £20,000 to cover the costs of the examination and referendum later this year.

4.5 Qualifying bodies can apply for support in preparing neighbourhood plans via the Department for Levelling Up, Housing and Communities' (DLUHC) Supporting Communities in Neighbourhood Planning programme. This makes some grant funding available to neighbourhood plan groups to contribute to the costs incurred in preparing plan. This can be in the order of £10,000 per neighbourhood area, subject to meeting eligibility criteria. DLUHC also offer direct professional planning support to communities to assist them in preparing neighbourhood plans via Locality, who manage the programme on their behalf. This may take the form grant funding or technical support.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The report sets out the implications of the recommendations being approved including the associated costs of holding a referendum.
- 5.2 The main risks are that the Plan may not receive more than 50% yes votes in the referendum and that its adoption is subject to a legal challenge/review.
- 5.3 The Neighbourhood Plan has been prepared in line with the legal and regulatory framework as well as the governance arrangements agreed by Executive in October 2012 and subsequently revised in February 2018.

6. LEGAL APPRAISAL

- 6.1 The legal requirements associated with neighbourhood planning as they apply to the Local Planning Authority and the Qualifying Body are set out in the report above.
- 6.2 The Neighbourhood Plan has been prepared in line with Town and Country Planning Act 1990 (as amended by the Localism Act 2011), and the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 6.3 The Examiner concluded that, subject to a number of modifications to the plan's policies and reasoned justification, the Plan meets the Basic Conditions (see paragraph 2.21) and other legal requirements, and that once modified should proceed to referendum. The Examiner's report is included at Appendix 2 and includes a schedule of proposed modifications.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

As set out in the National Planning Policy Framework (2021), the purpose of the planning system is to contribute towards the achievement of sustainable development. This is reflected on one of the Basic Conditions (see paragraph 2.21) that it must comply with. A further Basic Condition is that the plan must comply with relevant European Union obligations including the Strategic Environmental Assessment (SEA) Directive. Both are discussed in the accompanying Basic Conditions Statement.

The Plan was subject to an SEA Screening Assessment, which concluded that a full SEA was not required. The Screening Assessment was published alongside the draft plan. The Examiner did not disagree with this assessment. In addition, it is required that the plan is in general conformity with the adopted Core Strategy DPD (which itself was subject to sustainability appraisal).

Achieving the Plan's vision can be viewed as helping to secure sustainable development within the Ilkley Town Council and Bradford District areas.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

The Plan acknowledges that amendments to the Climate Change Act that commits the UK to achieving “net zero greenhouse gases” by 2050. Objective 3 and Policy INDP5 seeks to ensure new development incorporates sustainable design measures (energy efficiency, including renewable/low carbon energy generation, good thermal performance, use of sustainable urban drainage systems), supporting the transition to zero carbon future. Policy INDP5 also includes guidance for the provision of low carbon and renewable energy.

The plan also (Objective 6 and policy INDP14) supports encouraging the use of/switching to low and zero emissions vehicles via the provision of appropriate charging infrastructure within new development. It also supports the development of sustainable multi-modal transport including walking, cycling and public transport as alternatives.

7.3 COMMUNITY SAFETY IMPLICATIONS

A number of the policies (Policies INDP15 and INDP21) within the Plan seek to ensure that new developments in particular routes through them are designed to in a way that they are safe, appropriately lit and minimise opportunities for crime, as well as welcoming and overlooked.

7.4 HUMAN RIGHTS ACT

One of the Basic Conditions (see paragraph 2.21, above) is that the neighbourhood plan must be compatible with European Union obligations including the European Convention on Human Rights (the Convention). The Basic Conditions Statement, prepared by the Qualifying Body and published as part of the formal consultation, sets out how the Plan is compatible with the Convention and the Human Rights Act 1998.

The Plan has been prepared and consulted upon in accordance with relevant planning legislation and Government regulations. The Plan has been subject to extensive consultation over an extended period and at multiple stages. Those who had concerns about the content of the Plan had the right to make representations and those were fully considered by the Examiner.

The Examiner has concluded that he had no reason to disagree with the contents of the Basic Conditions Statement in relation to this matter.

7.5 TRADE UNION

There are no trade union implications.

7.6 WARD IMPLICATIONS

The Neighbourhood Plan relates specifically to the Ilkley Town Council area, the boundary of which is co-terminus with the Ilkley electoral ward. The policies and proposals are described in this report (see above) and set out in the Plan (see Appendix 1)

Should the Plan be subject to a successful referendum, it will be formally made and used by CBMDC officers and elected members as part of determining planning applications within the Ilkley electoral ward.

7.7 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

Not applicable.

7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

There are no corporate parenting issues.

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

With regard to the public consultation the General Data Protection Regulation (GDPR) principles relating to individuals' data and rights under the Data Protection Act 2018 are being respected

8. NOT FOR PUBLICATION DOCUMENTS

8.1 None

9. OPTIONS

9.1 The Executive is request to consider the following options:

9.2 **Option 1 (Recommend)**: in accordance with the guidance set out in this report, endorse the modifications recommended by the Examiner and approve the amended plan to be subject of a local referendum in the Ilkley Town Council area (the neighbourhood area).

9.3 Selecting this option will ensure the timely progression of the Ilkley Neighbourhood Development Plan through its remaining statutory stages. This includes the local referendum and formal adoption as part of the statutory development plan for the District (in the event of a successful referendum). Once formally adopted, it will permit its use in determining planning applications within the neighbourhood area.

9.4 It would be consistent with discharging CBMDC's duty to support local communities with neighbourhood planning.

9.5 **Option 2**: do not endorse the modifications recommended by the Examiner and do not approve the amended plan to be subject of a local referendum in the Ilkley Town Council area (the neighbourhood area).

9.6 Selecting this option would delay or curtail the timely progression of the Ilkley Neighbourhood Development Plan through its remaining statutory stages. This includes the plan not being subject to a local referendum and formal adoption as part of the statutory development plan for the District.

9.7 It would not be consistent with discharging CBMDC's duty to support local communities with neighbourhood planning.

10. RECOMMENDATIONS

10.1 That the submitted Ilkley Neighbourhood Development Plan and accompanying Policies Map (Appendices 1a and 1b) is subject to the modifications (Proposed Modifications PM1 to PM13) as set out in the Examiner's Report (Appendix 2), together with any relevant factual changes to ensure the amended Plan is correct.

10.2 That the modified and amended Ilkley Neighbourhood Development Plan is subject to a local referendum in the designation neighbourhood area (the Ilkley Town Council area).

10.3 That should the Plan be successful at the local referendum, the Plan should be formally made via delegated decision by the Assistant Director (Planning, Transportation and Highways) in consultation with the Portfolio Holder (Regeneration, Planning and Transport) in line with the agreed governance arrangements and within the timescales required by legislation.

11. APPENDICES

- [Appendix 1a: Ilkley Neighbourhood Development Plan \(2020 to 2030\)](#)
- [Appendix 1b: Ilkley Neighbourhood Development Plan \(2020 to 2030\) – Policies Map](#)
- Appendix 2: Ilkley Neighbourhood Development Plan – Examiner's Report

12. BACKGROUND DOCUMENTS

12.1 A number of background documents have been used to inform this report. All are published and readily available to the public. These include:

- [Town and Country Planning Act 1990 \(as amended\)](#)
- [Localism Act 2011 \(as amended\)](#)
- [Neighbourhood Planning \(General\) Regulations 2012 \(as amended\)](#)
- [National Planning Policy Framework \(NPPF\) \(2021\)](#)
- [Ilkley Neighbourhood Development Plan \(2020 to 2030\)](#) and [Proposed Policies Map](#)
- [Ilkley Neighbourhood Development Plan – Basic Conditions Statement](#)
- [Ilkley Neighbourhood Development Plan – Strategic Environmental Assessment](#)

(SEA) and Habitat Regulations Assessment (HRA) Screening Report.