

Report of the Strategic Director of Place to the meeting of Executive to be held on 4 April 2023

BL

Subject:

Harden Neighbourhood Development Plan 2021 to 2030

Summary statement:

This report concerns the Harden Neighbourhood Development Plan which has been prepared by the Harden Village 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 Harden 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.

Richard Hollinson
Assistant Director (Planning,
Transportation and Highways)

Report Contact: Andrew Marshall
Phone: (01274) 434050
E-mail: andrew.marshall@bradford.gov.uk

Portfolio:

Regeneration, Planning and Transport

Overview & Scrutiny Area:

Regeneration and Economy

1. SUMMARY

- 1.1. This report concerns the Harden Neighbourhood Development Plan (the Plan), prepared by Harden Village Council (the Village 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 2.18.
- 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); Ilkley (June 2022); Oxenhope (June 2022); 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 Harden Village Council area.

2. BACKGROUND

- 1.1 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.

- 1.2 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.
- 1.3 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.
- 1.4 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’).
- 1.5 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.
- 1.6 The starting point for the Plan was the decision taken by the then Harden Parish Council in June 2012 to prepare a neighbourhood plan for their area. 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 26 June 2017. This was subject to a four-week public consultation exercise (10 July to 7 August 2017). The application was approved by CBMDC’s on 30 August 2017.
- 1.7 The Plan has been prepared and developed between 2014 and 2021. This has involved a mixture of community and stakeholder engagement and evidence gathering during this period, including consultation on an initial draft plan in September 2019. The result of this work was the publication of a Draft Plan for consultation under Regulation 14 of the 2012 Regulations (see below).
- 1.8 A Pre-Submission Draft Plan was prepared and issued for a formal six-week consultation under Regulation 14 of the 2012 Regulations. This took place between 28 February and 11 April 2021, and was led by the Village Council.
- 1.9 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 Village 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.

- 1.10 Following the consultation under Regulation 14 (see paragraph 2.8), the plan was amended, where appropriate based on the responses received, with a final draft Plan being prepared.
- 1.11 The final draft of the Plan, Design Code and Policies Map together with the required supporting documents (Basic Conditions Statement, Consultation Statement and Strategic Environmental Assessment/Habitat Regulations Assessment Screening Report, as well as a Non-Designated Heritage Assets Assessment evidence base document) was submitted to CBMDC in February 2022. This was issued for a formal consultation (under Regulation 16) between 20 June and 15 August 2022. The submitted neighbourhood plan is included at Appendix 1a to this report.
- 1.12 The Plan sets out a vision for the future growth and development of the Harden area up to 2030 together with ten aim/objectives relating to a number of topic areas. It also contains twenty-two planning policies that seek to deliver the vision and aims/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.
- 1.13 The planning policies cover:
 - Housing
 - Transport and movement
 - Community facilities and services
 - Green spaces
 - Heritage; and
 - Business and employment
- 1.14 The plan does not make any allocations for housing. However, it does seek to safeguard/protect several community/recreation facilities as well as a number of key views. It also designates a number of Local Green Spaces (LGS).
- 1.15 As highlighted, above, CBMDC undertook a formal seven-week consultation on the Draft Plan and its associated documents. During the consultation, a total of 19 representations were received from 8 respondents, including statutory bodies, local residents and the development sector. CBMDC also submitted a number of formal comments (37 in total) as part of this process.
- 1.16 Many of the representations were general in nature and related to specific matters that neighbourhood plans should considered as well as offering guidance on the content of the plan itself. More specific representations were made in relation to

individual policies.

1.17 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 in January and February 2023, with his final report being issued to CBMDC and the Village Council on 22 February 2023.

1.18 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.

1.19 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 2.15 and 2.16, above) received as part of the formal Regulation 16 consultation.

1.20 He gave full consideration to the contents of the submission draft plan, supporting documentation and the various issues raised by the representations received

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)

together with the responses provided by CBMDC and the Village Council in response to his questions. His assessment is set out in his report.

- 1.21 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 2.18) and that once modified should proceed to referendum. The Examiner's report is included at Appendix 2 and includes a schedule of proposed modifications.
- 1.22 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 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.
- 1.23 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 Harden Village 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.
- 1.24 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.
- 1.25 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.
- 1.26 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

- 1.1 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.
- 1.2 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

- 1.3 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).
- 1.4 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.
- 1.5 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

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 Accordingly, the Council will submit a claim for £20,000 to cover the costs of the examination and referendum later this year.
 - 1.5 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.
 - 1.6 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

- 1.1 The report sets out the implications of the recommendations being approved including the associated costs of holding a referendum.
- 1.2 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.
- 1.3 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

- 1.1 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.
- 1.2 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).
- 1.3 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 2.18) 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 2.18) that it must comply with. A further Basic Condition is that the plan must comply with relevant European Union obligations (that have been retained as part of UK law) 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 Harden Village Council and Bradford District areas.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

The Plan notes that the Village Council had declared a climate emergency and had identified a number of commitments to take action to address it. The Plan includes a range of policies that seeks to improve Harden's resilience to the effects of climate change, reduce carbon emission and promote healthy and active communities.

Objective 1 seeks to improve resilience to the effects of, and take urgent action against, the climate emergency, working towards becoming a sustainable and low-carbon village.

Policy HNPD1 seeks to ensure that new development is of a high level of sustainable design and construction, as well as optimised for energy efficiency, target zero carbon emissions.

Policy HNPD8 promotes that the provision of electric vehicle charging points within new housing development. The plan notes that increasing the use of electric vehicles can help to reduce carbon emissions.

The Harden Design Code also requires developments to be built to maximise energy efficiency and sustainability, aiming for low, or zero carbon homes

7.3 COMMUNITY SAFETY IMPLICATIONS

The Harden Design Code seeks to ensure that new developments are designed to promote and enhance safe and convenient movement and accessibility that prioritises people, active travel and access to public transport. It includes specific

guidance on building orientation to ensure passive surveillance as well as streets that prioritise the movement of people including the provision of safe walking/cycle routes and active frontages

7.4 HUMAN RIGHTS ACT

One of the Basic Conditions (see paragraph 2.18, 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 Harden Village Council area, which forms part of the Bingley Rural 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 Harden Village Council area.

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.

7.10 EQUALITY ACT 2020, SECTION 149

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups.

8. NOT FOR PUBLICATION DOCUMENTS

1.1 None

9. OPTIONS

1.1 The Executive is request to consider the following options:

1.2 **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 Harden Village Council area (the neighbourhood area).

1.3 Selecting this option will ensure the timely progression of the Harden 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.

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

1.5 **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 Harden Village Council area (the neighbourhood area).

1.6 Selecting this option would delay or curtail the timely progression of the Harden 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.

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

10. RECOMMENDATIONS

1.1 **That the submitted Harden Neighbourhood Development Plan, Harden Design Code and accompanying Policies Map (Appendices 1a, 1b and 1c) is subject**

to the modifications (Proposed Modifications PM1 to PM12) as set out in the Examiner's Report (Appendix 2), together with any relevant factual changes to ensure the amended Plan is correct.

- 1.2 That the modified and amended Harden Neighbourhood Development Plan is subject to a local referendum in the designation neighbourhood area (the Harden Village Council area).
- 1.3 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: Harden Neighbourhood Development Plan \(2021 to 2030\)](#)
- [Appendix 1b: Harden Neighbourhood Development Plan \(2021 to 2030\) – Design Code](#)
- [Appendix 1c: Harden Neighbourhood Development Plan \(2021 to 2030\) – Policies Map](#)
- [Appendix 2: Harden Neighbourhood Development Plan – Examiner's Report](#)

12. BACKGROUND DOCUMENTS

- 1.1 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 \(NPPF\) \(2021\)](#)
 - [Harden Neighbourhood Development Plan \(2021 to 2030\), Design Code and Proposed Policies Map](#)
 - [Harden Neighbourhood Development Plan – Basic Conditions Statement](#)
 - [Harden Neighbourhood Development Plan – Strategic Environmental Assessment \(SEA\) and Habitat Regulations Assessment \(HRA\) Screening](#)

[Report.](#)

- [Harden Neighbourhood Development Plan – Statement of Community Consultation.](#)