

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: POLICY AND RESOURCES COMMITTEE

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BARROWFORD NEIGHBOURHOOD PLAN

PURPOSE OF REPORT

To inform Committee about the content of the submission draft Barrowford Neighbourhood Plan and to recommend changes that will allow the Plan to meet the basic conditions, one of which is to have had regard to national planning policy and advice issued by the Secretary of State.

RECOMMENDATIONS

- (1) That the comments on the submitted Barrowford Neighbourhood Plan (Appendix 1) are submitted as the Council's formal representation to the public consultation held in accordance with Regulation 16 of The Neighbourhood Planning (General) Regulations 2012, as amended.
- (2) That the Parish withdraw the Plan to make the necessary changes and then re-consult.

REASONS FOR RECOMMENDATIONS

- (1) In order for the Barrowford Neighbourhood Plan to meet the basic conditions and comply with the National Planning Policy Framework.
- (2) In order to produce a Plan that meets the basic conditions and allow the public to comment on the revise version.

ISSUE

- 1 In England the statutory Development Plan, against which all applications for planning permission are assessed, can include three types of plan. In Pendle, Lancashire County Council prepares the Minerals and Waste Local Plan and Pendle Council prepares the Local Plan, which sets out the strategic and non-strategic planning policies for the borough.
- 2 Complementing these, neighbourhood plans ("NPs"), which can be prepared by a Parish or Town Council, also become part of the development plan once adopted, and development

proposals within the neighbourhood area need to be determined in accordance with their policies unless material considerations indicate otherwise.

- 3 NPs are subject to the same policy requirements as Local Plans. They have to comply with national planning policy and are assessed against the content of the National Planning Policy Framework (“NPPF”). The Planning Acts also require that NPs meet what are termed the “Basic Conditions”. These are described in Schedule 4B of the Town & Country Planning Act 1990, but for the purposes of this report the three main conditions are that NPs must:
 - have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development; and
 - be in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- 4 It is important that NPs express the wishes of the local community and that they set out to achieve the legitimate planning aims of that community. They are not subject to the rigour of evidence that Local Plans are subject to, but they nevertheless have to be based on an appropriate evidence base.
- 5 Importantly NPs need to address planning issues and their policies need to reflect legitimate planning aims through their administration. They cannot, for example, alter the formal process of determining applications by requiring the Local Planning Authority to process applications in a different way than other applications. Their policies are also bound by other statute such as those relating to the imposition of section 106 agreements and conditions. For example Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission if i) it is necessary to make the development acceptable in planning terms; ii) the obligation is directly related to the development; and iii) the obligation is fairly and reasonably related in scale and kind to the development.

Development of the NP

- 6 As described in Chapter 4 the NP has been subject to community consultation, the first one of which was held in August – September 2015. In October 2015, the Parish of Barrowford was formally designated as a neighbourhood area, for the purposes of preparing a NP. Throughout the preparation of the plan, the NP Working Group has been advised by an external consultant, although it is not clear on the precise extent of that involvement. Officers of Pendle Council have also been involved at key stages.
- 7 The submission NP contains policies on the form of new housing (although it does not propose any allocations), infrastructure, Local Shopping Frontages, valued views and Local Green Spaces.
- 8 At an informal level officers have provided detailed comments on the previous drafts. In response to the informal consultation carried out by the Parish council in accordance with Regulation 14, these included a very clear indication that in our view the draft NP was not compliant with national planning policy and was not in general conformity with the strategic policies in the adopted Pendle Local Plan Part 1: Core Strategy (2015). As such the NP would not meet the basic conditions and could not be recommended for adoption.

Meeting the Basic Conditions

9 A full set of comments on the NP are contained in the Appendix to this report. The following outlines the major concerns we have on its content. It is recommended that Pendle Council objects to the NP in its current form, and requests that it is amended in order to meet the basic conditions.

i Status of Barrowford

The adopted Local Plan sets out spatial development principles in Policy SDP2. This is a strategic policy for the purposes of plan making. It establishes a four-tier spatial hierarchy to help guide new development to the most sustainable locations in the borough. Nelson (including Brierfield), Colne and Barnoldswick are designated as Key Service Centres and represent the first tier. The second tier of Local Service Centres includes the settlements of Barrowford and Earby.

Beneath the third tier (Rural Service Centres) sits a fourth tier of settlement: Rural Villages.

Village is a specific term used in a number of ways in national policy. In the NPPF it is used to describe a hierarchy in that it refers to villages and towns, which leads on to the level of development that can be accommodated. For example, there are different policies in the NPPF for villages and towns in relation to Green Belt.

Throughout the NP, Barrowford is referred to as a village, both in terms of the justification (supporting) text and policy. Altering the description of Barrowford to that contained in Policy SDP2 of the Local Plan implies that the spatial hierarchy set out in the Local Plan has been altered.

The policies in the NP need to be amended to reflect the correct spatial position that Barrowford occupies within the strategic policies of the adopted Local Plan.

ii Policy BNDP 01 – Housing

Detailed comments on the policy are included in the Appendix to this report. The requirement at 1 h) is that all development must incorporate green technology and have a low carbon footprint. No viability evidence has been produced to support this requirement. Paragraph 67 of the NPPF (2012) requires sites to be delivered that are viable. Paragraph 76 of the NPPF (2012) states that conditions should not be added that would threaten deliverability or viability. Without specifying what technology needs to be incorporated, or providing any assessment of what the financial implications are for requiring all development to use green technology, the policy does not comply with the policies in the NPPF.

iii Policy BNDP 02 – Infrastructure

Whilst the intention of the policy is laudable, it is not a planning policy that can be used in assessing a development proposal. It is a statement of intention on the part of the Parish Council to work with other Councils and stakeholders to improve infrastructure and that the Parish will input into development proposals in the Parish area.

More fundamentally the policy states that development will only be granted permission if it has provided, or can be provided with, the necessary infrastructure. The policy is therefore re-entering the question of the quantum of development that will be allowed in

the Parish. The level of development has already been tested as part of the examination for the Local Plan Part 1 and the NP cannot look behind the strategic policies as to where development will be delivered.

iv Policy BNDP 03 – Travel and Transport

The proposed policy indicates that development proposals will be considered, amongst other criteria, on the use of electric vehicles. No policy can require an assessment of what a potential occupier of premises may use in terms of transport.

The policy also requires that every development will have to demonstrate improvements to existing cycleway and footpaths. This in essence requires every development, whether it affects a footpath or cycleway, to propose improvements. Developments should only provide infrastructure that is necessary to make it acceptable. The policy has also not had any reference to development viability.

The policy should either be amended so that it relates more clearly to the specific circumstances where development may require improvements, or be removed.

v Policy BNDP 07 – Local Green Spaces

The allocation and protection of Local Green Spaces are proposed at paragraph 99 of the NPPF (2012). This indicates that three criteria need to be met in order to support their designation. These state that sites must be:

- a) in reasonably close proximity to the community it serves;
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) local in character and is not an extensive tract of land.

The NP proposes a number of Local Green Space designations including Barrowford Memorial Park, Bullholme Playing Fields, Victoria Park and Water Meetings and Utherstone Wood.

Full comments on each of the proposed designations are included in the Appendix to this report, but include areas that are very clearly extensive tracts of land; areas that may be considered to be remote from the community and areas where there is no supporting evidence that meets the test to demonstrate that they are demonstrably special to the local community. Being demonstrably special is not simply that an area has value to a community; that value has to be based on evidence of the special nature and characteristics of the land.

The evidence in the NP does not support the Local Green Space designation in many cases.

vi Policy Justification

The justification text supporting many of the policies fails to provide links to strategies they seek to support, or the evidence that has been used to help formulate the policy position and reflect local distinctiveness.

Meeting the Basic Conditions

- 10** In view of the above concerns that the NP does not meet the basic conditions and that several policies are not written precisely enough to be used by planning officers in the determination of planning applications, it is recommended that the Parish Council withdraw the NP to address these issues before resubmitting it for examination.

IMPLICATIONS

Policy:	None
Financial:	Pendle Council is required to pay for the independent examination of the plan and subsequent public referendum. Grant aid is available from central Government, but at a fixed amount of £20,000.
Legal:	None
Risk Management:	Submitting a Plan that does not meet the Basic Conditions and conform to national planning policy will add time, effort and costs to producing the Neighbourhood Plan.
Health and Safety:	None
Sustainability:	None
Community Safety:	None
Equality and Diversity:	None

APPENDIX

Comments on the Submission Draft Neighbourhood Plan (Regulation 16)