

**REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER**

**TO: POLICY AND RESOURCES COMMITTEE**

**DATE: 18<sup>th</sup> September 2018**

**Report Author: Jonathan Dicken**  
**Tel. No: 01282 661723**  
**E-mail: jonathan.dicken@pendle.gov.uk**

## **TRAWDEN FOREST NEIGHBOURHOOD PLAN**

### **PURPOSE OF REPORT**

To provide an update on the progress of the Trawden Forest Neighbourhood Plan ["TFNP"]. To highlight modifications proposed by the independent Examiner, which need to be made to the plan to ensure that it meets the Basic Conditions and can proceed to referendum.

### **RECOMMENDATIONS**

- (1) To accept the independent Examiner's recommended modifications to the TFNP, as set out in the Examiner's Report (Appendix 1).
- (2) To agree that the TFNP, as modified, meets the Basic Conditions and is compatible with EU obligations and human rights legislation.
- (3) To agree that the TFNP can proceed to referendum.

### **REASONS FOR RECOMMENDATIONS**

- (1) To comply with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012.
- (2) To comply with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 and Schedule 4B of the Town and Country Planning Act 1990 (as amended).
- (3) To comply with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012.

## **ISSUE**

### Introduction

The TFNP has been prepared by a Steering Group established by Trawden Forest Parish Council, with guidance from officers of Pendle Council, as requested. The hard work of the Steering Group in preparing the plan should be acknowledged.

Following the formal examination of the TFNP by an independent examiner, the Neighbourhood Planning (General) Regulations (2012) (as amended) [“The Regulations”] now require Pendle Council to:

- decide what action should be taken in response to the modifications to the plan as recommended by the independent examiner; and
- agree that the plan meets the Basic Conditions, is compatible with EU obligations and human rights legislation, and can proceed to referendum.

### Background

Neighbourhood planning was introduced by the Government through the Localism Act 2011. Its purpose is to give communities ownership of planning matters in their area, enable them to influence where development should go and how it might look.

On 11 July 2016, Trawden Forest Parish Council submitted an application to designate the Parish of Trawden Forest as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan. The area was formally designated by Pendle Council’s Executive committee on 25 August 2016.

The plan has been subject to two formal periods of public consultation in line with the Regulations:

1. Trawden Forest Parish Council carried out the pre-submission consultation on the draft plan in accordance with Regulation 14 between 27 November 2017 and 8 January 2018. Comments received in response to the consultation were considered by the Parish Council and where appropriate changes were made to the draft plan.
2. Pendle Council carried out the submission consultation in accordance with Regulation 16 between 23 February 2018 and 6 April 2018. Following this consultation the Neighbourhood Plan; supporting documents; and all valid representations received in response to the consultation were forwarded to the independent examiner appointed to conduct the examination of the plan.

### Examiner’s Report and Recommended Modifications

Neighbourhood Plans must be examined by a suitably qualified independent person, appointed by the Council and agreed by the qualifying body (Trawden Forest Parish Council).

Mr. David Proctor BSc, MTPL, MInstLM, MRTPI was appointed by Pendle Council to carry out the examination of the TFNP. Pendle Council received the Examiner’s Report on 16 August 2018 (Appendix 1) and this concluded the formal examination of the plan.

The Examiner’s Report recommends a number of modifications to the TFNP. These changes are necessary to ensure that the plan meets the Basic Conditions, as required by the Regulations.

To meet the Basic Conditions the plan needs to:

- Have had regard to national policies and advice contained in guidance issued by the Secretary of State.
- Contribute to the achievement of sustainable development and be subject to a level of sustainability assessment sufficient to demonstrate that it will have an overall positive effect.
- Be in general conformity with the strategic policies contained in the development plan for the area.
- Not breach, and otherwise be compatible with, obligations established by the European Union or the European Convention on Human Rights.

Regulation 18 requires the Council to consider each of the Examiner's recommendations, the reasons for them and decide what action to take in response to them. The Council must also determine whether the plan, as modified by the Examiner, meets the Basic Conditions as set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended).

Officers have assessed the TFNP as modified by the Examiner, and consider that it meets the Basic Conditions.

The Regulations outline three possible options; that the Council:

1. Accepts the Examiner's recommendations – enabling the TFNP to meet the Basic Conditions and all legal requirements, and proceed to referendum.
2. Modifies the TFNP in a way that differs from the Examiner's recommendations – if this option is chosen the Council must:
  - a) Notify all those identified in the Parish Council's consultation statement and invite representations, over a period of not less than six weeks.
  - b) Refer the plan to a further independent examination, if appropriate.
3. Refuses the plan – if the Council is not satisfied that the plan meets the Basic Conditions, or is compatible with EU obligations and human rights legislation, even if it is modified in line with the Examiner's recommendations, it should refuse to take the plan forward to referendum. However, the Council would need to robustly demonstrate the grounds for refusing the plan, as without such evidence it could be vulnerable to a legal challenge.

The recommendation is that the Council chooses Option 1 and allows the TFNP as modified, to proceed to a referendum. Regulation 18(2) requires the Council to publish its decision and the reasons for it in a Decision Statement (Appendix 2).

### Referendum

The Council must hold a referendum within 56 days of the day on which the decision to take the plan forward to a referendum is published. In consultation with the Council's returning officer and elections team, 8 November 2018 has been identified as the most suitable date for the referendum.

The Examiner has concluded that the referendum area should be that of the Trawden Forest Neighbourhood Area, as designated by the Council on 25 August 2016.

If the referendum returns a simple majority vote in favour of the plan (i.e. 50% plus 1), the plan will immediately become part of the statutory Development Plan and be used in the determination of planning applications within the Trawden Forest Neighbourhood Area. The plan will then be referred back to the Council to be formally 'made' (adopted).

## **IMPLICATIONS**

- Policy:** Following a successful referendum the TFNP will become part of the statutory Development Plan for Pendle and will be used by planning officers to help applications for planning permission that are located within the parish boundary.
- Financial:** The Government provides funding to local planning authorities to help them meet the cost of their responsibilities for neighbourhood planning. If Committee resolves to accept the recommendations in this report, the plan will progress to referendum and funding of £20,000 would be available. Any costs incurred in excess of this will have to be borne by the Council.
- Legal:** The report and recommendations outline the current legal position. The Council's discretion with regard to proceeding to a referendum, or otherwise, is strictly limited by statute. The Trawden Forest Neighbourhood Plan is considered to have met the requirements to proceed to referendum, subject to the proposed modifications being made.
- Risk Management:** None identified.
- Health and Safety:** None identified.
- Sustainability:** None identified.
- Community Safety:** None identified.
- Equality and Diversity:** None identified.

## **APPENDICES**

Appendix 1: Examiner's Report

Appendix 2: Draft Decision Statement

## **LIST OF BACKGROUND PAPERS**

The Neighbourhood Planning (General) Regulations 2012, as amended.

Trawden Forest Neighbourhood Plan Submission version, January 2018.