

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: POLICY AND RESOURCES COMMITTEE

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BARROWFORD NEIGHBOURHOOD PLAN

PURPOSE OF REPORT

- (1) To inform Committee that the final version of the Barrowford Neighbourhood Plan was submitted to Pendle Council on 23rd January 2019 under Regulation 15 of the Neighbourhood Planning General Regulations 2012, as amended.
- (2) To request that Members approve the Council's formal response to the Regulation 16 public consultation.

RECOMMENDATIONS

- (1) That Members note the submission of the Barrowford Neighbourhood Plan.
- (2) That Members agree to submit a formal written representation in response to the Regulation 16 public consultation, setting out their concerns about the Barrowford Neighbourhood Plan in its current form.

REASONS FOR RECOMMENDATIONS

- (1) To comply with the Neighbourhood Planning General Regulations 2012, as amended.
- (2) To ensure that the Examiner is aware of the Council's concerns and to ensure that the Barrowford Neighbourhood Plan is in general conformity with the Local Plan and the National Planning Policy Framework.

Introduction

- 1 In England, the Statutory Development Plan, against which all applications for planning permission are assessed, can include three types of plan.

- 2 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.
- 3 The Localism Act 2011 introduced a third type of plan, giving local communities an opportunity to influence development in their area. Neighbourhood Plans (“NPs”) can be prepared by a Parish or Town Council. NPs must conform to strategic planning policies and cannot propose less development than set out in the Local Plan. Once completed and made, NPs become part of the Development Plan. Any proposals for development within the neighbourhood area will then need to be determined in accordance with policies in the NP and the Local Plan, unless material considerations indicate otherwise.
- 4 NPs are subject to the same requirements as Local Plans. NP’s have to comply with the national planning policy and are assessed against the content of the National Planning Policy Framework 2018 (“NPPF”). They also have to conform to the strategic policies of the Local Plan.
- 5 Planning legislation also requires that NPs comply with the “Basic Conditions”. These are described in Schedule 4B of the Town & Country Planning Act 1990. For clarity these are:
 - the plan has regard to national policies and advice contained in guidance issued by the Secretary of State,
 - the making of the plan contributes to the achievement of sustainable development,
 - the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority,
 - the making of the plan does not breach, and is otherwise compatible with, EU obligations
- 6 NPs should express the wishes of the local community. They are not subject to the same level of need for robust evidence that Local Plans are subject to; but nevertheless, must be based on an appropriate evidence base. Importantly, NPs need to address planning issues and their policies need to reflect legitimate planning aims.
- 7 NP’s cannot alter the process of determining planning applications or the formal planning process. As detailed in the suggested comments the NP has elements within it which seek to alter the statutory process such as for example policy BNDP 2 which seeks to allow the Parish to negotiate on Section 106 agreements.
- 8 We have made comments on several previous iterations of the NP. The publication version the Parish have submitted has unfortunately not addressed many of the comments made and regrettably there are a number of objections that need to be made to its content in order to make it a workable document.

Development of the Barrowford NP

9 Table of timeline for Barrowford Neighbourhood plan.

Date	Pre Regulation14 Stage
October 2015	Neighbourhood area designated
August / September 2015	Steering group appointed
Winter 2015	Parish Prepares Neighbourhood Plan
May 2016	Parish organises Community Consultation
June 2016	Parish requests Strategic Environment report / assessment
July / August 2016	Parish organises 6 Week informal consultation
Ongoing throughout the above process	1 st Regulation 14 submission

Date	Assistance provided thus far
19 th August 2016	Detailed written comments to Parish
6 th July 2017	Detailed written comments to Parish
5 th December 2017	Detailed written comments to Parish

Date	Regulation 15 and 16 Stage
6 th July 2018	1 st Regulation 15 and 16 submission
August 2018	1 st Regulation 15 and 16 Committee Report
August 2018	Further concerns regarding plan highlights by Pendle Borough Council officers
23 rd August 2018	1 st Regulation 15 and 16 Plan Withdrawn by Parish Council

Date	Further assistance provided
28 th August 2018	Detailed written comments to Parish
12 th September 2018	Detailed written comments to Parish

Date	2 nd Regulation 15 and 16 Stage
23 rd January 2019	2 nd Regulation 15 and 16 submission received

Content of the Plan

- 10 The submission NP contains policies relating to new housing; but does not allocate new housing sites. There are also policies on infrastructure, shopping frontages, valued views and Local Green Spaces.
- 11 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 nor was it 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 to proceed to submission.
- 12 The Barrowford Neighbourhood Plan was submitted to Pendle Council in accordance with Regulation 15 in July 2018 but was withdrawn in August 2018 due to concerns expressed about its conformity with the Local Plan and National Planning Policy.

Meeting the Basic Conditions

- 13** Full comments on the content of the NP, its conformity with the Strategic Polices of the Local Plan and national Planning Policy are contained in Appendix 2. The following outlines the key concerns.
- 14** The NP is poorly drafted. Several policies would be useable policies for planning officers in the determination of planning applications.

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. Villages have a specific status in Local Plan making and national policy and settlements which are referred to as villages need to reflect that status.

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 from that contained in Policy SDP2 of the Local Plan changes the spatial hierarchy set out in the Local Plan. The NP cannot alter this Strategic Policy and the NP therefore needs to be changed to reflect the settlement hierarchy in the Local Plan. An explanation is available in appendix 2.

ii Policy BNDP 01 – Housing

The Barrowford NP requires developments to incorporate green technology and a low carbon footprint into new development. No viability evidence has been produced to support this requirement, this conflicts with paragraph 153 (a) of NPPF. There are also no definitions upon which a developer can refer to explain what is meant by these terms or the standards of what is a “low carbon footprint”. Nor is there a methodology in there for decision makers to be able to assess these. The incorporation of technology beyond building regulation standards is not a policy requirement in the Framework. In order to justify it there needs to be some evidence that it is achievable in a way that does not compromise the viability of development. The NP does not consider these implications and thus is contrary to paragraph 34 of the Framework.

Policy BNDP 01 either needs to be amended to reflect the evidence that there is on design or there needs to be a proportionate evidence base provided to justify the policy.

iii Policy BNDP 02 – Infrastructure

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.

An example of this legislative hierarchy within the Barrowford NP is the matter relating to s106 agreements and requests for money towards specific projects. Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission if:

- it is necessary to make the development acceptable in planning terms;
- the obligation is directly related to the development; and
- the obligation is fairly and reasonably related in scale and kind to the development.

The intended Barrowford NP Policy BNDP 2 in relation to s106 agreements is not in conformity with higher tier planning policy or legislation.

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 consider this. Developments should only provide infrastructure that is necessary to make it acceptable. The policy also does not require provision only to demonstrate if improvements are needed. Even if there were evidence to support it the wording is imprecise.

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

v Policy BNDP 07 – Local Green Spaces

The allocation and protection of Local Green Spaces are proposed at paragraph 100 of the Framework. This requires that three criteria need to be met in order to support their designation. A Local Green Space designation should only be used where the green space is:

- in reasonably close proximity to the community it serves;
- 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
- local in character and is not an extensive tract of land.

The NP includes areas that are very clearly extensive tracts of land; areas that are too remote from the community to comply with the Framework and areas where there is no

supporting evidence that meets the test to demonstrate that they are demonstrably special to the local community. To pass the test of being demonstrably special, it is not simply a matter that an area has value to a community; a value has to be based on evidence of the special nature and characteristics of the land. Unfortunately, despite several attempts to elicit this assessment, the NP contains no evidence of the characteristics of the land that lead to it being valued by the community and the policy is therefore not compliant with the Framework.

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.

Summary

15 The Barrowford Neighbourhood Plan has been submitted and subsequently withdrawn in 2018. Some changes have been made to this revised version of the Plan, but overall it remains largely unchanged. In some areas, it does not comply with the strategic policies in the Local Plan. 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.

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 conform to national planning policy will add time, effort and costs to producing the NP.
Health and Safety:	None
Sustainability:	None
Community Safety:	None
Equality and Diversity:	None

APPENDIX

1. Barrowford Neighbourhood Plan Submission Report (January 2019)
2. Comments on the Barrowford Neighbourhood Plan Submission Report (Regulation 16)