

REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER

TO: POLICY AND RESOURCES COMMITTEE

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KELBROOK AND SOUGH NEIGHBOURHOOD PLAN

PURPOSE OF REPORT

- (1) To inform Members of the Regulation 14 draft of the Kelbrook and Sough Neighbourhood Plan, which is currently being consulted on by Kelbrook and Sough Parish Council.
- (2) To request that Members approve the Council's formal response to the Regulation 14 public consultation.

RECOMMENDATIONS

- (1) That Members note that the Regulation 14 public consultation for the Kelbrook and Sough Neighbourhood Development Plan is taking place.
- (2) That Members agree the formal written representation in response to the Regulation 14 public consultation as set out at Appendix 1.

REASONS FOR RECOMMENDATIONS

- (1) To comply with the Neighbourhood Planning General Regulations 2012, as amended.
- (2) To make Kelbrook and Sough Parish Council aware of the Council's concerns about elements of the Kelbrook and Sough Neighbourhood Development Plan not being in general conformity with the Pendle Local Plan and the National Planning Policy Framework and to comply with the requirements of Schedule 4B of the Town & Country Planning Act 1990.

Introduction

- 1 The Localism Act 2011 allows local communities to prepare a Neighbourhood Development Plan (NDP) to direct, shape and influence future development in their area.

- 2 NDPs are prepared by a designated body, in this case Kelbrook and Sough Parish Council. After independent examination, and if approved at a local referendum, NDP's are 'made' (adopted) by the local planning authority (Pendle Council). The NDP then becomes part of the statutory Development Plan for the Borough and any proposals for development within the designated neighbourhood area must be determined in accordance with policies in the NDP and the wider development plan, unless material considerations indicate otherwise.
- 3 To be adopted the NDP must meet the Basic Conditions. These are set out in Schedule 4B of the Town & Country Planning Act 1990, and include:
 - the plan has regard to national policies and advice contained in guidance issued by the Secretary of State These are mainly in the national Planning Policy Framework ("NPPF"),
 - 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
- 4 NDPs cannot propose less development than set out in adopted strategic policy, but can allocate or designate land based upon proportionate evidence.
- 5 The Parish Council has issued the first draft of the Kelbrook and Sough Neighbourhood Development Plan (KNDP) for public consultation under Regulation 14 of the Neighbourhood Planning General Regulations 2012. It contains policies addressing housing, the historic environment, local green spaces, and transport.
- 6 Pendle Borough Council received formal notification of the start the Regulation 14 process and printed copies were made available to the Council. The Parish Council published details of the consultation on their website.

Meeting the Basic Conditions

- 7 Detailed comments on the Regulation 14 draft version of the KNDP are set out in Appendix 1. The following comments deal specifically with the overall Plan meeting the Basic Conditions. If it does not then the Plan cannot be subsequently adopted:

- **KS HOU 1, 2 and 3 – Housing**

The housing allocations contain specific policy objectives for each site to be allocated or safeguarded. Housing allocations included in the NDP should be deliverable and developable, to conform with the NPPF 2021, and should meet housing needs as set out in strategic policy. The draft KNDP outlines that the Council does not require sites in the designated area through the emerging Pendle Council Local Plan Part 2. This is not correct and should be deleted. The relevant policy for determining housing need for the KNDP until such time it is replaced is Policy LIV1 of the Pendle Core Strategy. The housing allocation in the NP must reflect adopted policy and allocate sufficient land to meet the full needs of the parish which is 73 units. The release mechanism in policy KSHOU3 effectively means that the site is not an allocation and hence the policy is not in accordance with the strategic policies in the Local Plan. This means the NP would not meet the basic conditions.

A lower allocation would only be justified should the Local Plan be at a stage where a lower figure has been through an examination and will be adopted.

- **KS INFRA 1 – Flood Risk**

This policy seeks to introduce the need for ‘local knowledge’ in the assessment of Flood Risk and drainage requirements. This does not comply with national policy, and moreover could conflict with the advice of statutory bodies. Any flood risk assessments for potential housing sites need to be determined by a Strategic Flood Risk Assessment and appropriate evidence. Whilst Pendle Council acknowledges the importance of flood risk in the neighbourhood plan designated area, any flood risk assessment needs to be considered on documented evidence. As such it is recommended that this policy is deleted, and site specific reference to this requirement removed.

- **KS ENV 1 – Green Infrastructure**

The NDP confuses green space with green infrastructure. The NDP proposes to designate a number of areas as Local Green Space. This is within the scope of an NDP, but must be undertaken in accordance with national policy (NPPF) and planning practice guidance (PPG), as summarised below:

- 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 justification provided, for designation of some of the sites is not considered to be sufficient to meet these criteria. Additionally, the plan does not provide adequate information with regard green spaces to be used by planning officers in the determination of planning applications.

Broader Comments

- 8 Whilst not mandatory at the Regulation 14 stage a Strategic Environment Assessment is a requirement of the European Union Directive 2001/42/EC (Strategic Environmental Assessment (SEA) Directive) and will be required. A Basic Conditions Statement, showing how the KNDP meets the Basic Conditions; and a Consultation Statement, showing how the public and other interested parties have been engaged in the plan making process, are also required. The character assessment requires further justification in some areas and should reflect balanced judgement as per national policy. A policies map is required to show geographically how and where the policies of the KNDP will be implemented.

Summary

- 9 The Kelbrook Neighbourhood Development Plan in its current form, is not considered to meet the Basic Conditions.
- 10 It is recommended that the comments set out in Appendix 1 are submitted to Kelbrook Town Council (the designated body), to outline how the KNDP could be amended so that it meets the Basic Conditions when it is submitted for independent Examination, in accordance with Regulations 16 and 17.

IMPLICATIONS

Policy:	The policies in the Neighbourhood Plan will form part of the statutory Development Plan for Pendle, once adopted.
Financial:	None
Legal:	Preparation of a NDP is governed by The Neighbourhood Planning (General) Regulations 2012, as amended.
Risk Management:	None
Health and Safety:	None
Sustainability:	The KNDP seeks to promote and deliver sustainable development in Kelbrook and Sough.
Community Safety:	None
Equality and Diversity:	None

APPENDIX 1

Pendle Borough Council Comments on Regulation 14 Kelbrook and Sough Neighbourhood Development Plan.

Background Documents

<https://www.kelbrookandsoughparishcouncil.org.uk/neighbourhood-plan-pre-submission.php>