

**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER**

TO: POLICY AND RESOURCES COMMITTEE

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**KELBROOK AND SOUGH NEIGHBOURHOOD DEVELOPMENT PLAN
EXAMINERS REPORT AND REFERENDUM**

PURPOSE OF REPORT

To provide an update on the progress of the Kelbrook and Sough Neighbourhood Development Plan ["KSNDP"]. 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 Kelbrook and Sough Neighbourhood Development Plan, as set out in the Examiner's Report (Appendix 1).
- (2) To agree that the Kelbrook and Sough Neighbourhood Development Plan, as modified, meets the Basic Conditions and is compatible with EU obligations and human rights legislation.
- (3) To agree that the Kelbrook and Sough Neighbourhood Development Plan can proceed to referendum.

REASON FOR RECOMMENDATIONS

To comply with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012.

ISSUE

Introduction

The KSNDP has been prepared by Kelbrook and Sough Parish Council. Following the formal examination of the KSNDP by an independent examiner, and publication of the Examiner's Report,

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.

In June 2017, Kelbrook and Sough Parish Council ["the Parish Council"] submitted an application to designate the Parish of Kelbrook and Sough as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan. The area was formally designated by the Council on 24th August 2017.

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

1. The Parish Council carried out the pre-submission consultation on the draft plan in accordance with Regulation 14 between 13th September 2021 and 30th October 2021. Comments received in response to the consultation were considered by the Parish Council and where appropriate changes were made to the draft KSNBP.
2. Following submission of the final draft of the KSNBP, Pendle Council carried out a further public consultation in accordance with Regulation 16 between 4th March 2022 and 25th April 2022. Following this consultation the KSNBP; all supporting documents; and any valid representations received in response to the consultation were forwarded to the examiner appointed to conduct the independent 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 (Kelbrook and Sough Parish Council).

Mr Andrew Ashcroft BA (Hons) M.A. DMS MRTPI was appointed by Pendle Council to carry out the examination of the KSNBP. Pendle Council received the Examiner's Report on 11th July 2022 (Appendix 1) and this concluded the formal examination of the Plan.

The Examiner's Report recommends a number of modifications to the KSNBP. 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 KSNDP as modified by the Examiner, and consider that it meets the Basic Conditions. Officers also recommend that all of the Examiners recommendations are accepted.

The Regulations outline three possible options; for the Council:

1. Accept the Examiner's recommendations – enabling the Plan to meet the Basic Conditions and all legal requirements, and proceed to referendum.
2. Modify the Plan 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. Refuse 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 Members ratify Option 1 and allow the KSNDP, 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 working days of the day on which the decision to take the plan forward to a referendum is published. The referendum will be held on Thursday 27th October 2022.

The Examiner has concluded that the referendum area should be that of the Kelbrook and Sough Neighbourhood Area, as designated by the Council on 24th August 2017. All persons on the electoral register within the designated area will be eligible to vote in the referendum.

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 Kelbrook and Sough Neighbourhood Area. The plan will then be referred back to Council to be formally 'made' (adopted).

IMPLICATIONS

Policy: Following a successful referendum the KSNDP 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 up to £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 Kelbrook and Sough 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.
Kelbrook and Sough Neighbourhood Plan Submission version, 2022.