

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

TO: POLICY AND RESOURCES COMMITTEE

DATE: 22nd SEPTEMBER, 2022

Report Author: Neil Watson
Tel. No: 01282 661706
E-mail: neil.watson@pendle.gov.uk

COLNE NEIGHBOURHOOD DEVELOPMENT PLAN SUBMISSION

PURPOSE OF REPORT

- (1) To inform Committee that the final draft of the Colne Neighbourhood Development Plan was submitted to Pendle Council on 8th August 2022.
- (2) To advise that the plan proposal, as submitted (i.e. the Neighbourhood Plan and supporting documents) has been made available for public consultation.
- (3) To request that Members approve the Council's formal response to the public consultation.

RECOMMENDATIONS

- (1) That Members note the submission of the Colne Neighbourhood Development Plan.
- (2) That Members note that the six week public consultation will close at 5:00pm on Monday 17 October 2022.
- (3) That Members agree the attached comments represent the Council's formal response to the public consultation.

REASONS FOR RECOMMENDATIONS

- (1) To comply with Regulation 15 Neighbourhood Planning General Regulations 2012, as amended.
- (2) To comply with paragraph 8(1)(a)(2) of Schedule 4B to the Town and Country Planning Act 1990 (as inserted by the Localism Act 2011) and Regulation 16 of The Neighbourhood Planning (General) Regulations 2012, as amended.
- (3) To ensure that the Examiner appointed to conduct the independent examination of the Colne Neighbourhood Development Plan is aware of the changes the Council considers necessary to ensure that it is in general conformity with the statutory Development Plan

Introduction

- 1 Neighbourhood Development Plans ["NDPs"] were introduced through the Localism Act 2011. They give local communities the opportunity to influence development in their area and can be prepared by a Parish or Town Council. NDPs must be in general conformity with the strategic planning policies set out in the Statutory Development Plan for the borough. As such they cannot propose less development than set out in the Pendle Local Plan.
- 2 Once they are formally 'made' (adopted) NDPs become part of the statutory Development Plan. Any proposals for development within the designated neighbourhood area must be determined in accordance with their policies, unless material considerations indicate otherwise.
- 3 Planning legislation requires NDPs to comply with a set of "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
- 4 NDPs must address planning issues and their policies need to reflect legitimate planning aims. They are not subject to the same level of scrutiny as Local Plans; but nevertheless, must be based on proportionate evidence and should express the wishes of the local community.
- 5 Pendle Council has submitted formal comments on previous iterations of the Colne Neighbourhood Development Plan ["CNDP"]. The submission version has not addressed all of the comments made. A number of issues need to be drawn to the attention of the Examiner in order ensure its compliance with national planning policy, local strategic planning policies and to allow for its effective implementation through decision making.

Development of the Colne Neighbourhood Plan

- 6 The neighbourhood area was formally designated by Pendle Council on 17 November 2016. Since then Colne Town Council (the qualifying body) has gathered evidence and consulted with the local community. Following a period of informal engagement the Pre-submission Draft of the CNDP was subject to a formal public consultation between October 2020 and January 2021. A further public consultation took place in early 2022 to consider the first draft of the Colne Design Code. The preparation of the CNDP has been transparent and given a clear steer on the vision, objectives and approach of the planning policies in the plan. The CNDP has a clear purpose and function, to secure positive change for the local community and its built and natural environment.
- 7 The dedication of the qualifying body and their active encouragement of local community participation in the plan-making process is to be commended.

Scope and Content of the Plan

- 8** The CNDP relates to the settlement of Colne and surrounding rural areas. Colne is one of the main settlements in Pendle and plays a significant role in the adopted spatial strategy for the delivery of housing and other development in the borough. The CNDP is of significance not only for Colne, but also neighbouring settlements and the wider borough.
- 9** The CNDP is a complex and detailed document. It contains a broad range of planning policies and site specific allocations for future development. These include, but are not limited to, matters of housing, retail, open space, transport and the environment. The CNDP also helps to implement the Colne Design Code, which has been prepared to accompany the CNDP. The policies in the CNDP will supplement the development management policies set out in the Pendle Replacement Local Plan (2006) and the Core Strategy (2015), which will continue to be applied until these are replaced by a new Pendle Local Plan.
- 10** The proposals of the CNDP sit within the scope of a Neighbourhood Plan. The CNDP does not attempt to introduce or alter strategic planning policy. The submission made by the Town Council accords with Regulation 15 Neighbourhood Planning General Regulations 2012, as amended.
- 11** Taking into account the content of the CNDP as drafted, together with wider considerations, it is agreed that the assessment made by the Town Council that the plan proposals do not warrant a Sustainability Appraisal (incorporating the requirement for Strategic Environmental Assessment) or Appropriate Assessment is correct.

Meeting the Basic Conditions

- 12** Full comments on the content of the CNDP and how its proposals respond to the Basic Conditions are set out in Appendix 2. For brevity, a summary of the key concerns highlighted are set out below.

Drafting of Policies

- 13** Paragraph 16 of the National Planning Policy Framework [“the NPPF”] requires plans to ‘contain policies which are clearly written and unambiguous, so that it is evident how a decision maker should react to development proposals’. To aid the effectiveness of the CNDP in meeting its vision and strategic objectives, and to avoid conflict with the policies of the NPPF and/or Pendle Local Plan, planning officers have recommended alternative wording to overcome any issues that have been identified.

Local Green Space

- 14** The main issue, as with the previous version, is the extent of Local Green Space [“LGS”] it is proposed to designate through the CNDP and the justification for their inclusion. A number of sites do not meet the specific criteria required for designation as LGS because they do not meet the definition of LGS; little or no evidence has been provided to justify their designation as LGS; or insufficient evidence of the additional benefits that the LGS designation would provide, above and beyond their current policy designation, has been given – for example several sites are already designated as Green Belt or open space.
- 15** Specifically the accompanying assessment of LGS sites does not address the following issues.

- 16** Firstly whether a site represents an extensive tract of land. LGS sites are normally expected to be “fairly self-contained with clearly defined edges”. Many of the proposed sites do not meet this criterion.
- 17** Secondly the assessment does not demonstrate, in sufficient detail, whether a site is “demonstrably special to the local community”. Evidence must be provided of the land’s value to, and use by, the local community to show that it holds a ‘particular local significance’ in terms of its beauty, historic significance, recreational value, tranquillity or richness of wildlife.
- 18** These are fundamental requirements of the NPPF. In addition, paragraph 015 of the accompanying Planning Practice Guidance makes clear that the “blanket designation of open countryside adjacent to settlements will not be appropriate”. Nor should “designation be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name.”
- 19** With circa 80 hectares proposed for designation as LGS, it is essential that the designation of sites is fully justified within the assessment, which it is not. In combination, the designation of LGS sites in the CNDP is, in effect, drawing a new area of Green Belt around parts of Colne. This is not the stated purpose of LGS, which is specifically to protect relatively small areas of land which are of specific importance to the local community and hold a unique value in terms of their individual quality.

Housing Allocations

- 20** The CNDP includes 15 housing site allocations, providing an indicative capacity of 177 new dwellings. All sites are located within the existing settlement boundary and provide a mixed portfolio of both Brownfield and Greenfield sites. It is recommended that four of the proposed sites are deleted from the CNDP.
- CNDP6/1 – Land east of Waterside Road (24 dwellings)
 - CNDP6/5 – Dam Side (23 dwellings)
 - CNDP6/6 – Shaw Street (18 dwellings)
 - CNDP6/8 – Primet Bridge (2 dwellings)
- 21** These sites occupy land designated as open space. The proposal to develop these sites for housing is contrary to Policy ENV1 of the Pendle Core Strategy and the NPPF, as there is no supporting assessment of why open space should be removed, nor is any compensatory provision made elsewhere. There are also concerns about the deliverability of several proposed sites due to insufficient evidence about their availability and/or viability. The eleven (11) remaining sites provide suitable locations for housing.
- 22** Notwithstanding the above comments, overall the CNDP is in general conformity with the adopted spatial strategy set out in the Pendle Local Plan, in relation to both the delivery and supply of housing. Taking into account housing completions in Colne since 2011/12 and the level of existing commitments (i.e. the capacity of sites currently benefitting from a valid planning permission)¹ the CNDP provides sufficient opportunity to meet the residual housing need figure, set through the Core Strategy, within the neighbourhood area. The CNDP is therefore compliant with Policies SDP2, SDP3 and LIV1 of the Core Strategy.

¹ Appendix 2 includes a table providing an up-to-date breakdown of this position.

Colne Design Code

- 23** The CNDP is supported by the Colne Design Code, which is one of the first of its kind in the country, placing Colne at the forefront of planning policy evolution nationally. The Design Code provides a contextual framework for design considerations and parameters to be applied by applicants and implemented through the decision making process. Its approach is consistent with the National Design Guide and Code. Its implementation will secure the delivery of high quality design in Colne which is suitable for its location.

Summary

- 24** As submitted the CNDP does not meet the basic conditions, but with relatively minor amendments can be modified to ensure that it does. These recommendations are set out in Appendix 2 for the Examiner to consider during the examination of the CNDP.

Next Steps

- 25** Following close of the public consultation, the Council will jointly appoint an independent Examiner to conduct the examination of the CNDP as submitted. The Examiner will determine whether the CNDP meets the basic conditions, or whether amendments are necessary. In exceptional circumstances the Examiner may recommend the withdrawal of the CNDP from examination. The format of the examination is at the discretion of the Examiner. Typically Neighbourhood Plan examinations are conducted by written representation, however the Examiner may choose to arrange in-person hearings.
- 26** The publication of the Examiner's final report represents the conclusion of the examination. The Council will then decide whether to accept the recommendations of the Examiner, before the CNDP is taken to public referendum. Only registered voters who live within the designated area will be able to take part in the referendum. A simple majority in favour of the CNDP is required if the neighbourhood plan is to proceed to adoption. The CNDP will be adopted (or 'made') at Full Council, following which the CNDP will form part of the statutory development plan and will be used to determine planning applications submitted in the designated area.

IMPLICATIONS

Policy:	None arising directly from this report. If adopted, at a later date, the policies in the Colne Neighbourhood Development Plan will be a material consideration in the determination of applications for planning permission within the designated neighbourhood area.
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 arising directly from this report
Risk Management:	The Examiner may choose not to accept the comments submitted by Pendle Council. It will then be necessary for the Council to determine whether the CNDP should proceed to referendum.
Health and Safety:	None arising directly from this report
Sustainability:	None arising directly from this report

Community Safety: None arising directly from this report

Equality and Diversity: None arising directly from this report

APPENDIX

1. Colne Neighbourhood Plan Submission Report (August 2022)
2. Comments on the Colne Neighbourhood Plan Submission Report (Regulation 16)