

**REPORT FROM:** ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL  
AND REGULATORY SERVICES

**TO:** EXECUTIVE

**DATE:** 25 MAY, 2023

**Report Author:** Neil Watson  
**Tel. No:** 01282 661706  
**E-mail:** [neil.watson@pendle.gov.uk](mailto:neil.watson@pendle.gov.uk)

**COLNE NEIGHBOURHOOD DEVELOPMENT PLAN  
EXAMINER'S REPORT & REFERENDUM**

**PURPOSE OF REPORT**

To provide an update on the progress of the Colne Neighbourhood Development Plan ["CNDP"].  
To highlight modifications proposed by the independent Examiner, which must 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 CNDP, as set out in the Examiner's Report (Appendix 1).
- (2) To agree that the CNDP, as modified, meets the Basic Conditions and is compatible with EU obligations and human rights legislation.
- (3) To agree that the CNDP 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 CNDP has been prepared by Colne Town Council. Following its formal examination 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 October 2016, Colne Town Council ["CTC"] submitted an application requesting that Pendle Council designate the area administered by the Town Council as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan. The area was formally designated on 17<sup>th</sup> November 2016.

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

1. CTC carried out the pre-submission consultation on the draft plan in accordance with Regulation 14 between 26<sup>th</sup> October 2020 and 8<sup>th</sup> January 2021. Comments received in response to the consultation were considered by the CTC and where appropriate changes were made to the draft CNDP.
2. Following submission of the final draft of the CNDP, Pendle Council carried out a further public consultation in accordance with Regulation 16 between 2<sup>nd</sup> September 2022 and 17<sup>th</sup> October 2022. Following this consultation, the CNDP; all supporting documents; and any 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 (CTC).

Mr Andrew Ashcroft BA (Hons) M.A. DMS MRTPI was appointed by Pendle Council to carry out the examination of the CNDP. Pendle Council received the Examiner's Report on 2<sup>nd</sup> May 2023 (Appendix 1), and this concluded the formal examination of the Plan.

The Examiner's Report recommends a number of modifications to the CNDP. 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).

The CNDP as modified by the Examiner meets the Basic Conditions. It is recommended that all the Examiner's 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 CTC'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 CNDP, 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 Examiner has concluded that the referendum area should be that of the Colne Neighbourhood Area, as designated by the Council on 17<sup>th</sup> November 2016. 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 Colne Neighbourhood Area. The plan will then be referred back to Council to be formally 'made' (adopted).

## **IMPLICATIONS**

**Policy:** Following a successful referendum the CNDP 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 Colne 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.  
Colne Neighbourhood Plan Submission version, 2022.