

13 SEPTEMBER 2018

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Report Title	DURSLEY NEIGHBOURHOOD DEVELOPMENT PLAN: PROGRESS TO REFERENDUM
Purpose of Report	To inform councillors of progress regarding the Dursley Neighbourhood Development Plan (DNDP)
Decision(s)	<p>The Committee RESOLVES:</p> <ol style="list-style-type: none"> 1. to accept all recommended modifications of the Examiner's Report (Appendix A); 2. that the Dursley Neighbourhood Development Plan, as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP; 3. to take all appropriate actions to progress the Dursley Neighbourhood Development Plan to referendum in early December 2018.
Consultation and Feedback	<p>The DNDP has been through two statutory consultations. Dursley Town Council undertook a pre-submission consultation (Regulation 14) from 24th November 2017 to 12th January 2018 and the Council undertook a post-submission consultation (Regulation 16) from 15th June to 27th July 2018. Both consultations lasted no less than the six weeks as required by the regulations.</p> <p>Dursley Town Council considered the comments received during the Regulation 14 consultation and made changes to the plan. The comments received during the Council's Regulation 16 consultation were provided to the examiner of the plan who considered them during the examination.</p>
Financial Implications and Risk Assessment	<p>The Government issued guidance in October 2014 indicating that funding of £12m was available to local planning authorities to help them meet the cost of their responsibilities around Neighbourhood Planning. A total of £20,000 can be claimed for each NP area. This single payment will be made once a date is set for a referendum, following a successful examination.</p> <p>If Committee resolves to accept the examiner's report and progress the plan to referendum, potential funding of £20,000 would be available. Any costs incurred in excess of this will have to be borne by the Council.</p> <p>David Stanley – Accountancy Manager Tel: 01453 754100 Email: david.stanley@stroud.gov.uk</p>

Legal Implications	<p>The report and recommendations outline the current legal position with regard to the next stage in the process. The Council's discretion with regard to proceeding to a referendum or otherwise is strictly limited by statute and in this case the requirements for proceeding to a referendum appear to have been met subject to the proposed modifications being included in the NDP.</p> <p>Alan Carr, Solicitor Tel: 01453754357 Email: alan.carr@stroud.gov.uk</p>
Report Author	<p>Simon Maher, Neighbourhood Planning Officer Tel: 01453 754339 Email: simon.maher@stroud.gov.uk</p>
Options	<p>Option 1 - Make modifications to the DNDP in accordance with the examiner's recommendations This is the option promoted by this report. It consists of accepting the recommendations made in the neighbourhood plan examination report, determining that the DNDP meets the basic conditions and all legal requirements and should therefore proceed to a referendum. This approach is considered to be the best option for progressing the plan prepared by the community without any unnecessary delay in the decision making process.</p> <p>Option 2 – Make a decision that differs from the examiner's recommendation If the Council were to propose a decision that differs from the examiner's recommendation, the Council is required to:</p> <ol style="list-style-type: none"> 1. notify all those identified on the consultation statement of the town council and invite representations, during a period of six weeks, 2. refer the issue to a further independent examination if appropriate. <p>Option 3 - Refuse the Plan The Council can decide that it is not satisfied with the plan proposal with respect to meeting basic conditions, compatibility with Convention rights, definition and provisions of the NDP even if modified. Without robust grounds, which are not considered to be present in this case, refusing to take the plan to a referendum could leave the Council vulnerable to a legal challenge.</p>
Performance Management Follow Up	<p>If a referendum is held and there is a vote in favour (50% plus 1) DNDP will automatically become part of the development plan for the District and will be used to determine planning applications within the Dursley Neighbourhood Area. It will also be referred to Council to be "made". If Council decides to not make it, the DNDP will cease to form part of the development plan.</p>

Background Papers/ Appendices	Background Papers <ul style="list-style-type: none"> • Dursley Neighbourhood Plan and submission documents • The basic conditions that neighbourhood Plans must meet and other basic conditions Appendices Appendix A – Examiner’s Report – To follow
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BACKGROUND

1. Neighbourhood planning was introduced through the Localism Act 2011. New powers allowed qualifying bodies (parish or town councils) to produce NDPs. NDPs allow communities to set planning policies for their area.
2. Once adopted, NDPs join the adopted Local Plan in the Council’s Development Plan. They must be considered when planning decisions are made, along with the Local Plan and national planning policy.
3. Producing a NDP allows parish and town councils to increase the amount of Community Infrastructure Levy (CIL) funds they receive from developments within their area from 15% to 25%.
4. NDPs must be examined by a suitably qualified independent person, appointed by the Council and agreed by the qualifying body (Town/Parish Council). Neighbourhood plans must also pass a referendum of local voters by a simple majority. If a plan passes referendum, the Council must make (adopt) it, unless it breaches EU obligations or human rights legislation.

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5. The Dursley Neighbourhood Area was designated by resolution of the Council’s Environment Committee on 4th February 2014.
6. The DNDP was led by a steering group subordinate to Dursley Town Council (‘the qualifying body’).
7. A submission version of the DNDP was accepted by the Council on 25th May 2018, under regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) (‘the regulations’). As prescribed by ‘the regulations’, the Council consulted on the plan for six weeks and arranged for the plan to be examined.

EXAMINATION

8. The Council appointed John Slater MRTPI as independent examiner of the DNDP.
9. The examination concludes once the Examiner’s Report is received by the Council. The Examiner’s Report contains a recommendation of whether the DNDP, with or without modifications, should proceed to a referendum.
10. The examiner’s findings, including recommendations and the reasons for them, are set out in the Examiner’s Report (Appendix A). The examiner only

makes recommendations necessary to make the Plan, meet the basic conditions and other legal requirements.

11. The recommended modifications to the DNDP are set out throughout the Examiner's Report (Appendix A).

CONSIDERATION

12. Following the completion of the examination, the Council is required to consider each of the examiner's recommendations and the reasons for them and decide what action to take in response to each. Officers have reviewed the Examiner's Report and agree with all the recommendations and the reasons for them.
13. The Council is required to consider whether the draft DNDP meets the basic conditions, is compatible with the Convention rights and complies with the definition of an NDP and the provisions that can be made by a NDP or can do so as modified.
14. Officer's have carefully considered the DNDP and the Examiner's report and consider that:
 - 1- The DNDP, as modified by the Examiner's recommendations, has had regard to national policies and advice contained in guidance issued by the Secretary of State. The DNDP has been assessed against the National Planning Policy Framework and national Planning Practice Guidance and modifications proposed to comply with national policy.
 - 2- The DNDP, as modified by the Examiner's recommendations, contributes to the achievement of sustainable development. The DNDP has been subject to sustainability assessment that identifies the plan will have an overall positive effect.
 - 3- The DNDP, as modified by the Examiner's recommendations, is in general conformity with the strategic policies contained in the development plan as a whole for the area. The DNDP has been assessed against the adopted Stroud District Local Plan and modifications proposed to ensure the DNDP does not become out-of-date in the context of a review of strategic policies in the Local Plan.
 - 4- The DNDP, as modified by the Examiner's recommendations, would not breach, and be otherwise incompatible with EU obligations. The Examiner's assessment has involved considering the following Directives: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); and the Water Framework Directive (2000/60/EC). In addition, no issue arises in respect of equality under general principles of EU law or any EU equality directive. The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination in November 2016, which confirmed to Dursley Town Council that a SEA and a full HRA were not required on the DNDP.
 - 5- The DNDP, as modified by the Examiner's recommendations, would not give rise to significant environmental effects on European sites and

European offshore marine sites. The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination in November 2016, which confirmed to Dursley Parish Council that a SEA and a full HRA were not required on the DNDP.

- 6- The DNDP, as modified by the Examiner's recommendations, is in all respects fully compatible with Convention rights contained in the Human Rights Act 1988. The Examiner considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. Nothing in his examination of the Draft DNDP indicated any breach of a Convention right. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.
 - 7- The DNDP, as modified by the Examiner's recommendations, complies with the definition of an NDP and the provisions that can be made by a NDP. The DNDP sets out policies in relation to the development and use of land in the whole of the neighbourhood area; it specifies the period for which it is to have effect; it does not include provision about development that is 'excluded development' and does not relate to more than one neighbourhood area or repeat an existing planning permission.
15. Subject to consideration at the meeting, members are asked to authorise officers to make the modifications specified in the Examiner's Report and progress the modified version of the plan to a referendum.
 16. The neighbourhood area matches the civic boundary of Dursley Parish; officers recommend that the referendum area should remain that of the Dursley Neighbourhood Area, as designated by the Council on 4th February 2014. However, the Council cannot make a decision that differs from the examiners' recommendations about the referendum area.

NEXT STEPS

17. The Council must publish a statement setting out its decision and the reason for making it. Officers will need to modify the plan and produce a final version for the referendum.
18. The Council must hold a referendum within 56 working days from the date that the decision to take the plan forward to a referendum is published. In consultation with the Council's returning officer and elections department, early December 2018 has been identified as the suitable date for holding a referendum.
19. If the plan passes referendum, the Council is required to make (adopt) it unless it breaches EU or Human Rights legislation. The Council's scheme of delegation does not delegate this decision to officers or the Environment Committee, so the decision to make the plan will be made by full Council. This decision is expected to take place in February 2018. The plan cannot be modified at that stage.