

**MID SUFFOLK DISTRICT COUNCIL**

<b>TO:</b> Cabinet	<b>REPORT NUMBER:</b> <b>MCa/18/46</b>
<b>FROM:</b> Glen Horn - Cabinet Member for Planning	<b>DATE OF MEETING:</b> 10 December 2018
<b>OFFICER:</b> Robert Hobbs (Corporate Manager - Strategic Planning)	<b>KEY DECISION REF NO.</b> CAB87

**DEBENHAM NEIGHBOURHOOD PLAN**

**1. PURPOSE OF REPORT**

- 1.1 To presents the findings of the Independent Examiner's Report on the content of the Debenham Neighbourhood Plan Submission Draft document.
- 1.2 Subject to the implementation of the detailed recommendations contained within the Examiner's Report, it is proposed that Cabinet agree that the Debenham Neighbourhood Plan can proceed to a local referendum.

**2. OPTIONS CONSIDERED**

- 2.1 The local planning authority may propose to make a decision on a recommendation that differs from that set out in by the Examiner in their report. If so, it must give its reason why and undertake further consultation before issuing a final decision. As appropriate, this may require the matter to be re-examined. For the reasons set out in section 4 below, this option has been discarded.
- 2.2 The recommended option as set out below is that the local planning authority agree that the NP can proceed to a local referendum.

<p><b>3. RECOMMENDATIONS</b></p> <ul style="list-style-type: none"><li>3.1 That Debenham Parish Council be requested to make the necessary modifications to their Neighbourhood Plan in accordance with the Examiner's recommendations.</li><li>3.2 That, subject to the satisfactory completion of the above (to be agreed by the Corporate Manager for Strategic Planning); the Neighbourhood Plan be advanced to a local referendum covering the parish of Debenham.</li></ul>
<p><b>REASON FOR DECISION</b></p> <ul style="list-style-type: none"><li>3.3 To enable the Council to meets its statutory obligations under Section 17A of the Neighbourhood Planning (General) Regulations 2012 (as amended) and to allow the Debenham Neighbourhood Plan to proceed to a local referendum</li></ul>

## 4. KEY INFORMATION

- 4.1 The Localism Act 2011 introduced the concept of neighbourhood plans. These are plans developed by local communities covering the area in which they live and work, and provide them with an opportunity to prepare planning policies and allocate land to shape the future of their area. Consequently, each plan has its own character.
- 4.2 The Debenham Neighbourhood Plan has been prepared in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended). The key stages prior to the plan undergoing independent examination are set out below:
- Area Designation on 3 September 2014
  - Regulation 14 Pre-submission Consultation between 1 February and 16 March 2018 (carried out by the Parish Council).
  - Regulation 16 Submission Draft Consultation between 2 July and 24 August 2018 (carried out by the District Council). During this period, eight written representations were received.

The Consultation Statement provided by the Parish Council / Neighbourhood Plan Working Group sets out in more detail how they have gone about preparing the Plan. Officers at the District Council have also had regular engagement with the Parish Council during the Plan's preparation.

- 4.3 The independent examination of the Plan was carried out by Janet Cheesley BA (Hons) DipTP MRTPI, they being a suitably qualified and experienced person who was independent of the plan making process. The examination was conducted via written representation and through questions from the Examiner to which both the Parish and District Council responded. [NB: *The same person examined the Stradbroke Neighbourhood Plan.*]
- 4.4 On 29 October 2018 the Examiner issued their Final Report. It concluded that, "*subject to modification, the Debenham Neighbourhood Plan will provide a strong practical framework against which decisions on development can be made.*" The modifications and other recommendations of note are summarised in paragraph 4.7 below. The Examiner's full report can be accessed via the link at Appendix 1. The Examiner did not consider it necessary to extend the local referendum area.
- 4.5 The District Council must now consider each recommendation, the reasons for them, and decide what action to take in response to each one. It must also come to a formal view about whether the Plan meets the 'Basic Conditions'.
- 4.6 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act, 1990. In order to satisfy them a Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - be in general conformity with the strategic policies contained in the Development Plan for the area;
  - contribute to the achievement of sustainable development; and
  - not breach, and be otherwise compatible with, EU obligations and human rights requirements.

4.7 The Examiner concluded that, subject to the implementation of the modifications, the Neighbourhood Plan meets the Basic Conditions and other statutory requirements and can proceed to a referendum. In the main the recommendations involve improving the wording of policies so that they are clear and unambiguous and can be used in a consistent manner by decision makers.

The recommendations are:

- confirmation that policies DEB 8 (Housing Mix) and DEB 13 (Financial Sustainability) meet the Basic Conditions and require no modification. Also, that subject to minor change, so does policy DEB 16 (Retail Core);
- the deletion of policies DEB 6 (Consultation with Parish Council), DEB 7 (Sustainability) and DEB 10 (Lifetime Homes), and associated text, as these do not have regard to national policy / fail to meet one of the Basic Conditions;
- minor editing to introductory chapters, including the deletion of Map 8 and associated text as there is no robust evidence to support the open space designations shown, and because these do not correspond to designations made elsewhere in the plan;
- as there is no relevant policy, and to provide a practical framework for decision making, deletion of the first eight paragraphs of the Affordable Homes section on pages 45 – 47;
- in policy DEB 1 (Growth), and with reference to the three site allocation policies DEB 3 (Ipswich Road), DEB 4 (Low Road) and DEB 5 (Aspall Road), modifications to the text to refer to quoted dwelling numbers as 'estimates', the deletion of the reference to phasing, and the inclusion of a reference to detailed site assessments being based on relevant policies in the development plan;
- to address internal conflict within the plan, removal of criterion c) in policy DEB 2 (Appropriate Housing) which indicates a preference for small housing schemes;
- within site allocation policies DEB 3, DEB 4 & DEB 5 (and in addition to the recommendations noted above) a modification that acknowledges that these are areas of potential archaeological interest and that early evaluation offers best practice;
- removal of the proposed 'local parking standard' in policy DEB 9 (Residential Car Parking) on the grounds that there is no clear and compelling justification;
- in policy DEB 11 (Traffic Flows), revised wording to put the onus on development 'proposals' to ensure they do not create unacceptable highway dangers, and, with regards the need for developers to fund the provision of public parking, that this be done in a way that meets the tests set out in the CIL Regulations 2010;
- providing a clearer link between policy DEB 12 (Non-motorised Networks) and existing footpaths and bridleways shown on the Proposals Map;
- revised wording to two criteria in policy DEB 14 (Employment) to aid decision making;
- removal of explanatory text from the first part of policy DEB 15 (Broadband);
- deletion of criterion b) from policy DEB 17 (Landscaping) as buffer landscaping is already addressed in policy DEB 2;
- removal of the reference to 'utility infrastructure' in policy DEB 18 (Green Spaces) and a reminder that Local Green Spaces should be appropriately mapped;

- amendments to the explanatory text for policy DEB 19 (Gardens) as this goes beyond policy requirements;
- an amendment to policy DEB 20 (Public Realm) which retains the requirement for high quality design but also allows for the demolition of public realm buildings, and for development to come forward where it has no impact;
- a minor amendment to policy DEB 21 (Conservation) to ensure that this policy applies 'where appropriate';
- to remove internal confusion between policy DEB 22 (Views) and maps / images provided elsewhere, a series of modifications which confirm that only those 14 views shown in paragraph 5.7 are '*the most valued*';
- removal of the first sentence in policy DEB 23 (Nature Conservation) which seeks to retain features of high nature conservation or landscape to comply with national policy around adequate mitigation etc.;
- revised wording to policy DEB 24 (Financial Contributions) to clarify the situation with regards to CIL contributions; *and*
- removal of the requirement for all new developments of over 5 houses to provide significant indigenous planting schemes (Key Community Actions EV.1.) as there is no policy requirement for this within the Plan.

4.8 Officers have assessed the content of the Examiner's Report and each recommendation and concur with its findings. It is therefore recommended to the Cabinet that all the modifications proposed be made by the Parish Council to ensure that to the Debenham Neighbourhood Plan complies with the Basic Conditions. If the Cabinet agrees with this recommendation the District Council will need to publicise its decision (a 'Decision Statement') and move to a local referendum.

4.9 The Housing and Planning Act 2016 has made it clear that the only modifications that the District Council can make at this stage are those required to ensure that:

- the plan is compatible with EU obligations,
- the plan does not breach Convention Rights, or
- those required for the purpose of correcting minor errors.

The District Council is therefore only able to exercise limited discretion at this point.

4.10 The task of modifying the plan falls to the Parish Council with assistance from the District Council. While there are no prescribed periods for this process, a copy of the plan, as modified, along with other specified documents will be required before the date of the local referendum can be confirmed.

4.11 Debenham Parish Council are working proactively with officers at the District Council to prepare a final version of the neighbourhood plan that incorporates all of the Examiner's recommendations. The plan is therefore nearing the local referendum stage.

4.12 The referendum process is governed by the Neighbourhood Planning (Referendum) Regulations, 2012 (as amended). The regulations set out that not less than 28 working days' notice must be provided of the date of the local referendum. At this stage it is proposed that the referendum take place in late January / early February 2019, and on a suitably convenient date to be agreed by the Electoral Services Team.

- 4.13 The Parish Council will be expected to promote the referendum but it should be noted that there are restrictions on the publication of promotional material, advertisements and expenses. The format of the Referendum question will be:

*'Do you want Mid Suffolk District Council to use the neighbourhood plan for Debenham to help it decide planning applications in the neighbourhood area?'*

- 4.14 If more than 50% of those who vote in the referendum are in favour of the Neighbourhood Development Plan, then it must be brought into legal force and be 'made' (adopted) by the District Council. A further paper would be presented to Full Council to ratify the eventual outcome.

## **5. LINKS TO JOINT STRATEGIC PLAN**

- 5.1 The successful making (adoption) of the neighbourhood plan will enable the District Council to fulfil its corporate priorities, in terms of housing delivery, business growth and community capacity building.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 The District Council receives £20,000 from the Ministry of Housing, Communities and Local Government for each neighbourhood plan once a referendum date has been set following a successful examination. This sum is paid to meet the District Council's costs in helping to deliver this Plan and will be sufficient in this case.
- 6.2 If the Debenham Neighbourhood Plan is successfully 'made' (adopted) the Parish Council will be eligible to receive 25% of any Community Infrastructure Levy receipts from development in its area.

## **7. LEGAL IMPLICATIONS**

- 7.1 The Neighbourhood Plan has been prepared in accordance with the provisions of the Town and Country Planning Act, 1990, the Planning and Compulsory Purchase Act, 2004 and the Neighbourhood Planning (General) Regulations, 2012 (as amended). It has also had regard to the Environmental Assessment of Plans and Programmes Regulations, 2004 and the Conservation of Habitats and Species Regulations, 2010.
- 7.2 If 'made' (adopted), the Debenham Neighbourhood Plan will become part of the Development Plan and, where relevant, used to determine planning applications.

## **8. RISK MANAGEMENT**

- 8.1 This report is most closely linked with Significant Business Risk No. 3a - Enabling communities to become more sustainable. The key risks are set out below:

<b>Risk Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigation Measures</b>
The Neighbourhood Plan fails to receive support at the referendum stage.	Unlikely - 2	Bad - 3	The Parish Council is responsible for promoting the referendum.

Risk Description	Likelihood	Impact	Mitigation Measures
Legal challenge to the content of the Neighbourhood Plan and/or judicial review of the District Council's decisions.	Unlikely - 2	Bad - 3	Ensuring that the relevant Regulations are followed and that the decision making processes are clear and transparent.

## 9. CONSULTATIONS

- 9.1 The District Council undertook formal consultation on the content of the submission draft Debenham Neighbourhood Plan between 2 July and 24 August 2018. The written representations received can be accessed via the link at Appendix 2.
- 9.2 Guidance issued in early 2018 by the Independent Examiner Referral Service (NPIERS) now also affords the Parish Council / Neighbourhood Plan Group the opportunity to respond to the submitted representations before the examination commences. A link to the Parish Councils response is also provided at Appendix 2.

## 10. EQUALITY ANALYSIS

- 10.1 There are no equality or diversity implications arising directly from this report. An Equality Impact Assessment (EqIA) is not required.

## 11. ENVIRONMENTAL IMPLICATIONS

- 11.1 The consideration of environmental implications are an integral part of the Neighbourhood Plan preparation process. The Debenham Neighbourhood Plan has been subject to the appropriate Strategic Environmental and Habitats Regulations screening assessments.

## 12. APPENDICES

Title	Location
(1) Examiners Final Report'	<a href="https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Debenham-NP-Exam-Report.pdf">https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Debenham-NP-Exam-Report.pdf</a>
(2) Submission Draft Representations <i>and</i> Debenham PC response to above	<ul style="list-style-type: none"> <li>• <a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Debenham-NP-Reg16-Sub-Reps.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Debenham-NP-Reg16-Sub-Reps.pdf</a></li> <li>• <a href="https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Debenham-NP-Reg16-Reps-Response.pdf">https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Debenham-NP-Reg16-Reps-Response.pdf</a></li> </ul>

## 13. BACKGROUND DOCUMENTS

The submission version of the Debenham Neighbourhood Plan can be found at:

<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Debenham-NP-Sub-May18.pdf>