

BABERGH DISTRICT COUNCIL

From: Cabinet Member for Planning	Report Number: BCa/17/18
To: BDC Cabinet	Date of meeting: 7 September 2017

LAWSHALL NEIGHBOURHOOD PLAN

1. Purpose of Report

- 1.1 This report presents the findings of the Independent Examiner's Report on the content of the Lawshall 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 the Neighbourhood Plan proceed to a local referendum.

2. Recommendations

- 2.1 That Lawshall Parish Council be requested to make the necessary modifications to the plan in accordance with the Examiner's recommendations.
- 2.2 That, subject to the satisfactory completion of the above, the Neighbourhood Plan be advanced to a local referendum covering the parish of Lawshall.

3. Key Information

- 3.1 The Localism Act, 2011 introduced the concept of neighbourhood plans. These are plans developed by local people for the community 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. Each plan consequently has its own character.
- 3.2 In December 2015 the application to designate the Lawshall Neighbourhood Plan Area was approved by the District Council. This enabled the parish council to prepare its plan. Following a series of community engagement events, the parish council published their 'pre-submission' draft plan for consultation in October 2016. The plan then underwent further revisions in response to comments received.
- 3.3 In January 2017 the parish council formally submitted their Neighbourhood Plan to the District Council. It was checked for compliance with the relevant legal requirements and a further six-week consultation was conducted between 13 February and 31 March 2017. During this period, seven consultees submitted representations on the plan.
- 3.4 In late April 2017 the examination of the plan commenced. This was conducted via written representations by a 'suitably qualified and experienced' person who was independent of the plan making process, and who had been appointed in consultation with the parish council.

- 3.5 During the examination process, questions were put by the Examiner to which both the parish and district council responded. Further discussions then took place with specific regards to undertaking a Habitats Regulation Assessment of the Plan which entailed two further rounds of public consultation. These took place between early June and early August.
- 3.6 On 23 August 2017 the Examiner's Final Report was issued. The plan is described as being "*well presented, distinct in style and general clearly written*". The Examiner goes on to say that the plan policies "*reveal a thoughtful approach to guiding the future sustainable development of the area.*" The Examiner did, however, make 17 recommendations on how the plan should be modified. The Examiner does not consider it necessary to extend the local referendum area. A compendium of the necessary modifications is appended this paper (Appendix 1). The recommended modifications are fully explained in the Examiner's Final Report at Appendix 2.
- 3.7 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'.
- 3.8 The 'Basic Conditions' are set out in Paragraph 8(2), 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.
- 3.9 The Examiner has concluded that, subject to the implementation of the suggested 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 of note centre upon the following:
- The inclusion of larger scale maps of the five identified clusters (Policy LAW1).
 - Providing a clearer linkage between Policy LAW4 and Policy LAW9 with regards to development proposals outside the existing Built-up Area Boundary
 - Amending the wording in Policy LAW6 to provide greater clarity in terms of reference to the ten areas identified as important recreation and green space
 - Amending the title of Policy LAW10 to roll forward an existing designation as an 'Area of Landscape Sensitivity'
 - Amending the wording in Policy LAW12 to ensure that it takes account of national policy and that it will achieve sustainable development.
 - Amending the text under the section entitled 'Business and Enterprise' to make it clear that this section does not constitute planning policy in this plan.
 - Updating elements of the Proposals Map

- 3.10 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 Lawshall 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.
- 3.11 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.

- 3.12 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.
- 3.13 Lawshall Parish Council has amended the text to its neighbourhood plan in line with the Examiner's recommendations. A 'track-change' copy of the plan is appended to this report (**Appendix 3**). The plan is therefore nearing the local referendum stage.
- 3.14 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 the most likely date for the referendum to take place is Thursday 19 October 2017.
- 3.15 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 Babergh District Council to use the neighbourhood plan for Lawshall to help it decide planning applications in the neighbourhood area?'

- 3.16 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.

4. Financial Implications

- 4.1 The District Council receives £20,000 from the Department of 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 and will be sufficient in this case.
- 4.2 If the Lawshall 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.

5. Legal Implications

- 5.1 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.
- 5.2 If 'made' (adopted), the Lawshall Neighbourhood Plan will become part of the Development Plan and, where relevant, used to determine planning applications.

6. Risk Management

- 6.1 This report most closely links with Significant Risk 3a - Failure to deliver Neighbourhood Plans. Further key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
The Neighbourhood Plan fails to receive support at the referendum stage.	Unlikely - 2	Bad - 3	The Parish Council is responsible for promoting the referendum.
Legal challenge to the content of the Neighbourhood Plan or Neighbourhood Development Order 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.

7. Consultations

- 7.1 The District Council undertook formal consultation on the content of the submission draft Lawshall Neighbourhood Plan between 13 February and 31 March 2017. Seven consultees submitted some 30 separate representations on the plan. These can be accessed via the link to **Appendix 4**.

8. Equality Analysis

- 8.1 There are no equality and diversity implications arising directly from the content of this report.

9. Shared Service / Partnership Implications

- 9.1 This report relates to matters affecting Babergh only.

10. Links to Joint Strategic Plan

- 10.1 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.

11. Appendices

11.1 Appendix 1 - Summary of Recommendations (Attached)

11.2 Appendix 2 - Link to ... Examiners Final Report

<http://www.babergh.gov.uk/assets/Neighbourhood-Planning/Lawshall-NP-Exam-Report.pdf>

11.3 Appendix 3 - Link to ... Lawshall Neighbourhood Plan (Incorporating Examiner's Modifications)

<http://www.babergh.gov.uk/assets/Neighbourhood-Planning/Lawshall-NP-TrackChanges.pdf>

11.4 Appendix 4 - Link to ... Submission Draft Consultation Responses

<http://www.babergh.gov.uk/assets/Neighbourhood-Planning/Lawshall-NP-Sub-Reps.pdf>

12. Background Documents

12.1 Link to ... Lawshall Neighbourhood Plan Submission Draft

<http://www.babergh.gov.uk/assets/Neighbourhood-Planning/Lawshall-NP-Sub-Jan17.pdf>

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LAWSHALL NEIGHBOURHOOD DEVELOPMENT PLAN

Summary of Recommendations: Ann Skippers MRTPI (Independent Examiner)

NB: Where modifications are recommended by the Examiner they appear in **bold text**. Where she has suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

Recommendations re Policy LAW1 [Settlement Planning Policy]

The policy meets the Basic Conditions and no modifications are recommended to the policy itself with one exception. In the interests of clarity it is also recommended that the Map on page 20 of the Plan be retitled:

- **Change the reference in the policy to “Policies Map” to “*Proposals Map*”**
- **Add a title “*Proposals Map for Policy LAW1*” to the map on page 20 of the Plan**
- **Include larger scale maps of each of the locations of each of the five clusters in the Plan**

Recommendation re Policy LAW3 [Housing Development Outside the BUAB]

Insert a reference to Policy LAW9 in Policy LAW3 in order to ensure the two policies are read together.

- **Reword the first bullet point under “Permission will not be granted where” to “*a proposal harms or undermines a Settlement Gap identified by Policy LAW9 or otherwise does not accord with that policy,*”**

Recommendation re Policy LAW4 [Housing Mix]

The policy refers to “the village”, but I consider that this should be the Parish so that local needs across the Plan area can be addressed.

- **Change the word “village” to “*Parish*” in the first sentence of the policy**

Recommendation re Policy LAW6 [Important Recreation and Green Space]

The policy is clear in its intent and the ten areas appropriately identified. The policy will in particular help to achieve sustainable development and subject to a modification to aid clarity, it meets the basic conditions.

- **Amend the last paragraph in the policy so that it reads: “Ancillary development relating to the primary use of the *areas identified above* will be supported provided that *the use and quality of the area is maintained or enhanced.*”**

Recommendations re Policy LAW9 [Settlement Gaps]

This clearly worded policy takes account of national policy and guidance in recognising the intrinsic character and beauty of the countryside and promoting and reinforcing local distinctiveness and will help achieve sustainable development. There are however two minor issues to address in respect of clarity and application of the Plan. To assist with clarity and to avoid doubt and argument at a later stage, I recommend ...

- **Replacing the words “significant views” in criterion iii. of the policy with “important views”**
- **Removing the arrow viewpoint to the north of Brands Lane from the Proposals Map**

Recommendations re Policy LAW10 [Special Landscape Area]

The policy is clearly worded and largely resembles [Babergh] Local Plan Policy CR04 with one subtle, but important difference that requires a modification to ensure the policy has sufficient flexibility and takes account of national policy.

- **Retitle the policy and change all references to “Special Landscape Area” within the policy, its supporting text, Proposals Map and anywhere else in the Plan to “Area of Local Landscape Sensitivity”**
- **Change the phrase “protect and enhance” in the first bullet point of the policy to “protect or enhance”**
- **Delete the following words from para’ 10.19 “...although we acknowledge the SLA designation ... Babergh Local Plan.” ending the sentence at “below”**

Recommendation re Policy LAW12 [Local Heritage Assets]

The last element of the policy requires modification to ensure that the policy takes account of national policy in the NPPF and that it will achieve sustainable development.

- **Change the last sentence of the policy to read: “Proposals for any works that would lead to *the loss of* or substantial harm to non-designated heritage assets should be supported by an *appropriate* analysis of the *significance of the heritage asset together with an explanation of the wider public benefits of the proposal.*”**

Recommendation re Policy LAW15 [Infrastructure]

To increase the flexibility within the policy to ensure that it does not introduce overly onerous requirements, a modification is recommended to ensure that it takes account of national policy.

- **Insert the words “*an appropriate and proportionate*” before “traffic impact assessment in the policy and delete the now redundant “a”**

Recommendations re Business and Enterprise chapter (para's 13.15 & 13.16)

These paragraphs could be interpreted as reading as a planning policy. To ensure that it is clear that they do not, two recommendations are recommended.

- **Add the words “*Whilst not subject to a policy in this Plan, proposals for:* [retain list i. to vi.] before “Thus proposals for :” and delete the then redundant “Thus” in paragraph 13.15**
- **Delete “However , large industrial units will not be welcomed.” from the end of paragraph 13.15**

Recommendations re the Proposals Map

A useful Proposals Map is included although the following changes are recommended:

- **Update the Folly Lane (south) map in the Character Assessment and update the Proposals Map so that both are the same to accurately reflect what is on the ground**
- **Include all three important views as indicated on the Bury Road map in the Character Assessment on the Proposals Map**

Ends