



CABINET

17TH NOVEMBER 2016

AGENDA ITEM (13)

MAKING THE LECHLADE-ON-THAMES NEIGHBOURHOOD DEVELOPMENT PLAN, AND A REVIEW OF NEIGHBOURHOOD PLAN AND COMMUNITY RIGHT TO BUILD PROCESSES

Accountable Member	Councillor NJW Parsons Deputy Leader of the Council and Cabinet Member for Forward Planning
Accountable Officer	Joseph Walker Community Partnerships Officer 01285 623146 joseph.walker@cotswold.gov.uk
Purpose of Report	To make the Lechlade-on-Thames Neighbourhood Development Plan; and to consider proposals to ensure the Council meets new statutory timeframes for the process to develop neighbourhood development plans.
Recommendation(s)	<p>(a) That the Lechlade-on-Thames Neighbourhood Development Plan be made;</p> <p>(b) that the new statutory timeframes for the Neighbourhood Plan processes be considered;</p> <p>(c) that the various delegations to the Deputy Leader and Cabinet Member for Forward Planning, identified within this report, to meet Neighbourhood Plan and Community Right to Build requirements, be approved.</p>
Reason(s) for Recommendation(s)	<p>The Lechlade-on-Thames Neighbourhood Plan has passed examination and local referendum, but has to be formally 'made' by the Local Planning Authority to have legal force.</p> <p>As of 1st October 2016, the Government introduced new timeframes for various stages in the development of a Neighbourhood Plan; and the Council's approach needs to reflect these. Officers have proposed an approach which would enable these timeframes to be met, whilst ensuring sufficient technical and democratic oversight of the process.</p>
Ward(s) Affected	<p>All: any Parish can seek to develop a Neighbourhood Plan.</p> <p>However, there is a direct effect on those Wards where Parishes are developing Neighbourhood Plans (the designated areas, all of which follow parish boundaries are shown in parentheses):</p> <p>Campden & Vale (Chipping Campden) Blockley (Ebrington) Stow (Stow, The Swells)</p>

	Northleach (Northleach with Eastington) Fairford North (Fairford) Lechlade, Kempsford and Fairford South (Fairford, Lechlade) Siddington and Cerney Rural (South Cerney) South Cerney Village (South Cerney) Kemble (Kemble and Ewen, Somerford Keynes) Tetbury Town (Tetbury, Tetbury Upton) Tetbury East and Rural (Tetbury, Tetbury Upton) Tetbury with Upton (Tetbury, Tetbury Upton)
Key Decision	No
Recommendation to Council	No

Financial Implications	None
Legal and Human Rights Implications	None
Environmental and Sustainability Implications	None
Human Resource Implications	Relevant Officers will be consulted as part of the Cabinet Member decision-making procedures.
Key Risks	If the Council fails in its duty to meet the new timeframes set by the Government, there are certain circumstances whereby the Secretary of State would have the right to intervene; which could present reputational risk. Delayed decision-making may also cause delays to the communities developing Neighbourhood Plans.
Equalities Analysis	No effect on protected groups identified

Related Decisions	Cabinet, 6 th September 2012 - Approval of Neighbourhood Areas Portfolio Holder for Communities and Health, 7 th October 2013 - Designation of Lechlade Neighbourhood Area Deputy Leader and Cabinet Member for Forward Planning, 5 th November 2015 - Decision that the Lechlade submission draft met the criteria laid out in law to proceed to Reg. 16 Consultation Deputy Leader and Cabinet Member for Forward Planning, 18 th August 2016 - Decision on the Examiner's recommendations
Background Documents	Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 Neighbourhood Planning (Referendums) (Amendment) Regulations 2016 Neighbourhood Planning Bill 2016 Housing and Planning Act 2016
Appendices	Appendix 'A' - Lechlade-on-Thames Neighbourhood Development Plan (N.B. separate document attached to agenda papers)

Performance Management Follow Up	Implement Cabinet decisions
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Options for Joint Working	While each individual Council has a legal duty to support Neighbourhood Plans, much of the work is carried out by shared Officers. This has enabled the development of more specialist knowledge, and the transfer of experience between Councils.
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Background Information

1. Lechlade-on Thames has prepared a Neighbourhood Development Plan (NDP) that passed examination in February 2016 and referendum on 13th October 2016. In order to come into force, it needs to be legally made by the Local Planning Authority (LPA).
2. New Neighbourhood Planning Regulations came into force on 1st October 2016, which introduced new timescales for a number of the processes required in the development of a Neighbourhood Plan. As a result, our current approaches have been reviewed, to ensure the Council can meet these timescales, and work with its neighbourhood areas efficiently and effectively.
3. Lechlade-on-Thames Neighbourhood Development Plan
 - 3.1 Lechlade-on-Thames Town Council, assisted by a Steering Group drawn from local residents, has been working on a NDP since 2013, following the introduction of this power in the Localism Act 2011.
 - 3.2 A number of public consultation events and meetings were held between 2013 and 2015. These included a workshop in September 2013, a public consultation weekend in March 2014, a display with opportunities for questions and feedback in September 2014, and a six-week formal pre-submission public consultation procedure between February and April 2015. The Plan was submitted to the Council in November 2015.
 - 3.3 The Council procured an independent examination of the Lechlade-on-Thames NDP from an experienced examiner, Graham Self ('the Examiner'). This examination process is typically carried out using written representations, so is effectively a desk-based exercise, usually supplemented with a visit to the neighbourhood area. Where there are concerns over whether interested parties have had sufficient opportunity to inform the process, a hearing may be held (at the Examiner's discretion). On this occasion, no hearing was considered necessary.
 - 3.4 The Examiner concluded that the NDP, as amended following his recommendations, met the Basic Conditions laid out in law for Neighbourhood Plans, and should proceed to referendum.
 - 3.5 The referendum was held on 13th October 2016. The question asked, in accordance with the Neighbourhood Planning (Referendums) Regulations 2012, was:-

Do you want Cotswold District Council to use the Neighbourhood Plan for Lechlade-on-Thames to help it decide planning applications in the neighbourhood area?
 - 3.6 676 people voted, of which 594 (87.9%) voted in favour.
 - 3.7 If a referendum results in more than 50% of the valid votes cast being in favour of the proposal, the LPA must make the NDP as soon as is reasonably practicable, unless it considers that this would breach, or be incompatible with, any EU obligation or any of the Convention Rights. In the case of Lechlade-on-Thames, there has been no suggestion of such a breach or incompatibility. For clarification, the term 'make' is the legal term introduced in the Localism Act 2011 for NDPs to enter into force, equivalent to the term 'adopt'.

3.8 When Neighbourhood Planning was first presented as a topic to the Cabinet in September 2012, Members were advised that a completed plan may need to be presented to the Council to be made, in the same fashion that Development Plan Documents such as the Local Plan need to be approved by the Council. Officers have since received clarification from the Department of Communities and Local Government (DCLG) that a NDP is not legally classed as a 'Development Plan Document', and that where an authority operates a Cabinet system, it is properly the function of the Cabinet to make the Plan.

3.9 In summary, the Lechlade-on-Thames NDP qualifies to be made by the Council as LPA, and there is a legal obligation to do this. Given the absence of local discretion in this matter, it is worth noting that the Neighbourhood Planning Bill proposes changing the process so that the Plan is 'made' upon success at referendum, rather than decision by the LPA.

4. Other Decision-Making Processes and Timescales

While neighbourhood planning was envisaged as a 'tool' for giving communities the power to plan for their own areas, there are a number of stages in a Plan's development that require action or decision from the LPA. The Government has introduced the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 and the Neighbourhood Planning (Referendums) (Amendment) Regulations 2016 ('the new regulations'), which came into force on 1st October 2016, and is pursuing the Neighbourhood Planning Bill 2016 to ensure that these stages are carried out in a timely fashion. The changes have also removed a degree of discretion from LPAs and, generally, have provided for a reduced decision-making role. Accordingly, Officers have reviewed the current processes to ensure that they remain fit-for-purpose and can accommodate the changed time constraints. Furthermore, as Officers have now had experience of supporting one Plan through the process, and are dealing with others moving through the stages, it is also a useful point to reflect on their own experience.

5. Neighbourhood Area Designation

5.1 Prior to developing a NDP, the area to be covered has to be designated as a 'neighbourhood area'. Such an approach can be made by a Parish Council or, in areas without a parish council, a neighbourhood forum - once the area is designated, the party developing the NDP is referred to as the Qualifying Body (QB). Until the introduction of the new regulations, every approach was subject to consultation, and subsequent decision by the LPA. The new regulations now hold that where a Parish Council seeks to designate its Parish boundaries, the designation should be made upon verification of a valid submission. In other circumstances, a decision still needs to be made, within defined time limits (thirteen weeks, unless the proposed areas crosses into a neighbouring LPA, when this is increased to twenty weeks). These time limits would still allow a decision to be taken by the relevant Cabinet Member to approve the neighbourhood area (as previously agreed by the Cabinet in September 2012). However, it is increasingly clear that the Council has limited discretion in making these decisions.

5.2 In the event that a Parish Meeting proposes a Neighbourhood Plan, the Localism Act 2011 requires that the Council would need to designate a neighbourhood forum to lead this work (within thirteen weeks). Officers suggest the same decision-making process should apply.

5.3 When the Council launches a consultation, the current process has been to notify Ward Members, County Councillors, adjacent Parishes and statutory consultees. Where a consultation is still required, such notifications will continue. Further, as the Council also has a duty to publish its decision, it is proposed to notify these parties of an automatic designation - while they will no longer have opportunity to comment on a designation, they will be made aware of a newly-designated area.

6. Response to the Pre-Submission Consultation

6.1 Once the draft NDP is prepared, the QB is legally obliged to consult on the proposals prior to submitting the plan to the LPA - this is referred to as a pre-submission consultation. It is the last stage where consultees, including the Council, can make representations direct to the QB, and is

therefore a critical point in influencing the direction and the phrasing of the Plan. QBs are obliged to consult for a period of six weeks. The Council has no control over the timing of this,

6.2 Currently, any representations made on NDPs that have reached this stage have been prepared by Officers and informally reviewed by the Deputy Leader and Cabinet Member for Forward Planning. However, to improve the robustness and transparency of this process, it is recommended that the Deputy Leader and Cabinet Member for Forward Planning be authorised to review and approve such responses - however, timing will be 'tight' as Officers will need to consider the Plan and formulate comments, before presenting them formally through the Member decision-making process.

7. Decision on Proceeding to Publication and Examination

Once the Council receives a proposed NDP, it is obliged to determine whether it meets the standards necessary to proceed to examination. This is not a check of conformity with policies, but a decision on whether the documents submitted meet the legal requirements, prior to publishing the document. This decision currently falls to the Deputy Leader and Cabinet Member for Forward Planning, and no change is proposed. The document is then published for six weeks, to enable interested parties, including this Council, to make representations which are considered by the Examiner.

8. Responding to the Submission Draft

As with the earlier pre-submission consultation stage, the Council has only six weeks to compile and agree its representations to the final draft Plan. Whilst timings are 'tight' (as with agreeing any comments as part of the pre-submission consultation - paragraph 6 above), it is recommended that the Deputy Leader and Cabinet Member for Forward Planning continues to be authorised to review and approve such responses.

9. Decision on the Examiner's Report and Proceeding to Referendum

Once the Council receives the Examiner's report, the new regulations state that the Council has five weeks to make a decision on the Examiner's recommendation, unless the qualifying body agrees to a delay. This is a critical decision point, as it also ties the Council into holding a referendum within thirteen weeks. It is recommended that the Deputy Leader and Cabinet Member for Forward Planning be given delegated power to:-

- authorise the holding of a such referendum;
- consider whether any modifications and changes recommended by the Examiner have been actioned;
- agree with the area covered by the referendum.

10. Making the Plan

As mentioned at paragraph 3.8 above, it is currently the role of the Cabinet to make a NDP. The new regulations require the Council to make the Plan within eight weeks of the referendum. Given the regularity of Cabinet Meetings, this should be achievable. However, as there is no discretion in the decision to make the Plan (as it enacts the referendum result), it is recommended that the Deputy Leader and Cabinet Member for Forward Planning be authorised to make any future Plans.

11. Community Right to Build

The Localism Act 2011 also introduced another power, the Community Right to Build, which follows a very similar path to a NDP. While no community in the Cotswold District is currently preparing a Community Right to Build Order, they do offer one solution to issues that have been raised by some of the District's neighbourhood areas. Should an Order come forward, it is proposed that the same delegations outlined above are used - i.e. decision-making by the Deputy Leader and Cabinet Member for Forward Planning, through formal Decision-Making Meetings.

(END)