

Taunton Deane Borough Council

Special Full Council - 23 April 2018

West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan to be made (formal adoption) as a Development Plan Document for Taunton Deane Borough Council

Report of the Policy Officer (Planning and Environment)

(This matter is the responsibility of Executive Councillor Roger Habgood (Planning and Transport Portfolio Holder))

1 Executive Summary / Purpose of the Report

- 1.1 West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan (WM&CF NDP) is a community led planning document which has been produced by West Monkton and Cheddon Fitzpaine Parish Councils. The document and its evidence base passed an Independent Examination and was put to a local referendum. If more than 50% of those voting, vote in support of the NDP it should be formally made (adopted) part of the Development Plan for the area to enable it to be used in planning application decisions in the West Monkton and Cheddon Fitzpaine Neighbourhood Plan Area.

2 Recommendations

- 2.1 That Full Council consider the West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan and that it be formally made as a Taunton Deane Borough Council (TDBC) Development Plan Document.

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
If there are no legal reasons not to formally have the WM&CF NDP made, to not do so risks Judicial Review	4 (Likely)	4 (Major)	16 (High)
If there are no legal reasons not to formally have the WM&CF NDP made, to not do adopt fails to implement Legislation	5 (Certain)	3 (Moderate)	15 (High)
If there are no reasons not to formally have the WM&CF NDP made, to not do so risks the credibility of TDBC with the Qualifying Body undertaking the Neighbourhood Plan, and the community supporting it.	5 (Certain)	4 (Moderate)	20 (Very High)

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

- 4.1 The Localism Act introduced Neighbourhood Development Plans to the planning system, giving communities direct power to develop a shared vision for their neighbourhood and shape a locally distinctive development plan which reflect the growth needs and priorities of their communities.
- 4.2 The Localism Act, the National Planning Policy Framework, Town and Country Planning Act 1990, Neighbourhood Planning Act 2017, Housing and Planning Act 2016 and various Neighbourhood Planning and Development Management Regulations provide the regulatory framework for neighbourhood planning.
- 4.3 From inception Neighbourhood Development Plans are community led development plan documents with the Local Planning Authority providing advice and assistance, and taking regulatory decisions at key legislative stages set out in the Act's and Regulations.
- 4.4 A Neighbourhood Development Plan must be predominantly land-use based (i.e. use of land, type and scale of development, allocate land for development). It cannot be contrary to National Planning Policy (i.e. National Planning Policy Framework) and be in broad conformity with Local Planning Policy (i.e. Taunton Deane Borough Council

Core Strategy), nor can it conflict with European Legislation (Equalities, Environmental and Ecological). A Neighbourhood Plan cannot restrict development but it can shape development that has been allocated through local Planning Policy and allocate land for development itself.

- 4.5 West Monkton and Cheddon Fitzpaine Parish Council began the process of developing a Neighbourhood Plan in 2014. An application was received from them in August 2014 to produce a neighbourhood plan and for the designation of the Neighbourhood Plan Area. The application was published for statutory consultation between Friday 18 September and 30 October 2015 in accordance with Regulation 6 of the Neighbourhood Plans (General) Regulations.
- 4.6 A Parish Council is authorised to act in relation to a neighbourhood area if that area consists of or includes the whole or any part of the area of the council. In accordance with Section 61F of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) West Monkton and Cheddon Fitzpaine Parish Councils are therefore a “relevant body” for the purpose of producing a neighbourhood development plan.
- 4.7 In accordance with Section 61G of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and taking account of Government guidance TDBC formally designated the West Monkton and Cheddon Fitzpaine Neighbourhood Area on the 24 November 2015 TDBC as the combined parish areas minus the area of the Staplegrove Urban Extension (less than 7% of the urban extension).
- 4.8 The West Monkton and Cheddon Fitzpaine Neighbourhood Plan and its supporting documents was submitted to TDBC in November 2016. In accordance with Regulation 16(v) of The Neighbourhood Planning (General) Regulations 2012 it was subject to regulatory consultation, which ran from 3 August to 15 September. 19 representations were received during the period of consultation which were submitted in their entirety to the independent examiner in accordance with Regulation 17(d).
- 4.9 In accordance with Town and Country Planning Act 1990 (as amended) and in the Neighbourhood Plans (General) Regulations 2012 an Independent Examiner, Ann Skippers, was jointly appointed by TDBC and West Monkton and Cheddon Fitzpaine Councils to carry out an independent examination of the West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan.
- 4.10 The examination was conducted by written representations. The Independent Examiners report was received by TDBC and the QB on 15 January 2018. The report concluded that:
 - West Monkton and Cheddon Fitzpaine Parish Councils, are qualifying bodies in their own right and have agreed to work together to produce a Plan;
 - The Plan relates to the designated neighbourhood plan area and does not relate to more than one neighbourhood area;
 - The Plan Period is clearly indicated in the document;
 - The Plan does not include policies that relate to categories of excluded development;

- The WM&CF NDP is compliant with European Convention of Human Rights;
- The WM&CF NDP is compatible with EU Environmental Obligations (Strategic Environmental and Habitats Assessment) and does not breach Convention Rights;
- The WM&CF NDP, subject to modifications, meets all the Basic Conditions:-
 - Has regard to national policies and to advice contained in guidance issued by the Secretary of State, including, inter alia, that:
 - The Plan provides a practical framework within which decisions on planning applications can be made predictably and efficiently;
 - Policy should be clear and unambiguous;
 - Evidence is proportionate and robust;
 - Contributes to the achievement of sustainable development;
 - Is in general conformity with the strategic policies contained in the development plan for the area [TDBC adopted Core Strategy];
 - Does not breach, and is otherwise compatible with, European Union (EU) obligations;
 - Is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects;
 - Ensure that 'prescribed conditions' are met and 'prescribed matters' [the correct processes and procedures] have been complied with in plan preparation and submission.

and that,

- As such the WM&CF NDP can progress to referendum and the referendum area should not extend beyond the Neighbourhood Area to which the Plan relates [the Parishes of West Monkton and Cheddon Fitzpaine with the exception of an area which falls within the Staplegrove Urban Extension].

Neighbourhood development plans are subject to similar legal tests as the Boroughs planning policy documents and in terms of evidence, viability, being positive and not restricting development. The recommendations made in the Examiner's report were to make the plan compliant with planning legislation, and thereby enable it to be effectively applied to development proposals in the Parishes of West Monkton and Cheddon Fitzpaine and reduce the risk of challenge.

4.11 Having considered each of the recommendations made in the Examiner's report, and the reasons for them, TDBC in consultation with West Monkton and Cheddon Fitzpaine Parish Council and the Local Development Framework Steering Group, decided through an Executive Decision of the Portfolio Holder for Planning and Transport to accept the IE's recommendations in full.

4.12 The West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan, post examination, contains 15 policies:

- Housing Suitable for Older Persons;
- External Materials for Residential Development;

- Refuse Bin Storage for Residential Development;
- Affordable Housing;
- Developing a Comprehensive and High Quality and Footpath Network;
- Starter Workshop Units;
- Sustainable Diversification of Rural Buildings for Other Employment Uses;
- Retain Existing Employment Land/Buildings for Employment Usage;
- Social Care Employment Opportunities;
- Wider Roll Out of Broadband Connectivity;
- Dark Skies;
- Green Space and Wildlife;
- Flood Attenuation;
- Recreation and Community Facilities;
- Local Green Spaces.

There is also one Community Action. Whilst as policies this did not meet the Basic Conditions legal tests required for Neighbourhood Development Plans they were seen as important to the parish and could be retained as Community Actions, aims for the Parish Council to promote and support.

- Developing High Quality Bus Infrastructure.

- 4.13 In accordance with the Localism Act 2011, Neighbourhood Planning (Referendum) Regulations and Neighbourhood Planning (Prescribed Dates) Regulations the WM&CF NDP was subject to a referendum, on 5 October 2017, which poses the question *Do you want Taunton Deane Borough Council to use the neighbourhood plan for West Monkton and Cheddon Fitzpaine to help it decide planning applications in the neighbourhood area?*.
- 4.14 Persons within the neighbourhood area were entitled to vote if they were on electoral register and were eligible to vote in a local election. There are 4,731 electorates in the West Monkton and Cheddon Fitzpaine Neighbourhood Plan Area.
- 4.15 1,086 persons voted and 94% of those eligible to vote voted in support of the neighbourhood plan, 5.8% voted against and two ballot papers were rejected.
- 4.16 The Planning Guidance states that following a referendum TDBC, as the local planning authority, must decide whether the Neighbourhood Plan should be made (brought into legal force). There are a narrow circumstances where the local planning authority is not required to make the neighbourhood plan. These are where it considers that the making of the neighbourhood plan would breach, or otherwise be incompatible with, any EU or human rights obligations.
- 4.17 The Portfolio Holder recommends to members of the Full Council that the WM&CF NDP be made. The Independent Examiner's report said that the WM&CF NDP was compliant and compatible, subject to changes, which the Portfolio Holder accepted and those recommendations were applied. The correct processes and procedures have been complied with in the preparation, submission, examination and referendum for the plan.

5 Links to Corporate Aims / Priorities

5.1 The decision of Member's relates to a statutory duty. In addition the WM&CF NDP relates to the following elements of the Corporate Strategy 2016 – 2020:-

Theme 1: People

- 1a: *Increase the availability and affordability of homes for local people – to both buy and to rent;*
- 1b: *Work with partners in both the private and public sector to develop a range of additional housing types suitable in particular for single person households, young people in rural communities and elderly people;*
- 1c: *Support the wellbeing of older people; and*
- 1d: *Facilitate the creation a broad range of high quality employment opportunities that recognises the different needs of rural and town communities in order to provide local people with more rewarding futures*

Theme 2: Business and Enterprise

- 2a: *Encourage inward investment and the promotion of the district as a place in which to visit and do business;*
- 2b: *develop the offering of the Deane in terms of social, leisure and culture in order to make the area an even more attractive proposition for investment;*
- 2e: *Identify suitable affordable employment sites, particularly in rural areas;*
- 2f: *Push for the rollout of fibre broadband and better mobile phone signal coverage across the Deane; and*
- 2g: *Continue to work with partners to remove barriers to jobs and housing growth by addressing infrastructure constraints and securing funding for that infrastructure.*

Theme 3: Our Place

- 3a: *Work with, lobby and influence others to further improve the Deane's transport links including additional cycle paths, measures that tackle congestion...;*
- 3e: *Ensuring our environment remains attractive; and*
- 3g: *Work with others to introduce measures that reduce the risk of flooding within our communities;*

6 Finance / Resource Implications

6.1 There are no known resource implications if the West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan is made (brought into legal force) through formal adoption by TDBC.

6.2 TDBC receives a DCLG grant to assist it in discharging its NDP duties. £20,000 will be received which will cover the cost incurred to date for the Examination and Referendum.

6.3 If the WM&CF NDP is not made TDBC would be open to Judicial Review, with its associated financial and recourse costs, because the Plan is deemed compliant and

compatible with The Localism Act, the National Planning Policy Framework, Town and Country Planning Act 1990 and the various Neighbourhood Planning Regulations.

7 Legal Implications

- 7.1 TDBC is required to have made a NDP if it has it meets the legal criteria. To not do so risks the intervention of the Secretary of State and any costs incurred by the Ministry for Housing, Communities and Local Government for that intervention are required to be met by TDBC.
- 7.2 If TDBC did not adopt the WM&CF NDP it may be open to Judicial Review, because the Plan is deemed compliant and compatible with The Localism Act, the National Planning Policy Framework, Town and Country Planning Act 1990, Neighbourhood Planning Act 2017, Housing and Planning Act 2016 and the various Neighbourhood Planning Regulations.
- 7.3 The WM&CF NDP would become a statutory TDBC Development Plan Document and therefore given material weight in the Development Management process. Applications for planning permission in the Neighbourhood Plan Area would be determined in accordance with it, unless (as any other development plan document) material considerations indicate otherwise.

8 Environmental Impact Implications

- 8.1 The WM&CF NDP was subject of a Strategic Environmental Assessment (SEA) screening, which included consultation with the three SEA statutory consultees (Environment Agency, Natural England and Historic England). The report was conducted by an independent environmental consultancy. There are no individual, or cumulative, adverse impacts on the environment as a result of the Plan.

9 Safeguarding and/or Community Safety Implications

- 9.1 No known implications

10 Equality and Diversity Implications

- 10.1 No known implications

11 Social Value Implications

- 11.1 Neighbourhood Development Plans give communities direct power to develop a shared vision for their neighbourhood, and shape a locally distinctive development plan which reflect the growth needs and priorities of their communities. West Monkton and Cheddon Fitzpaine parish council have invested a lot into producing a locally specific NDP for their area, which has included engagement with the people and businesses of the parish.

12 Partnership Implications

- 12.1 No known implications

13 Health and Wellbeing Implications

13.1 WM&CF NDP supports the Somerset Health & Wellbeing Strategy 2013-2018:

- Priority 1: People, families and communities take responsibility for their own health:

Action: Community Action;

Action: Healthy planning and policy.

- Priority 2: Families and communities are thriving and resilient:

Action: Well-connected, vibrant communities;

- Priority 3: Somerset people are able to live independently:

Action: Housing for independence.

14 Asset Management Implications

14.1 No known implications

15 Consultation Implications

15.1 Throughout the development of the West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan and after its submission to TDBC, consultation has been undertaken in accordance with the Town and Country Planning Act 1990 (as amended by the Localism Act), Neighbourhood Planning (General) Regulations and Neighbourhood Planning (Referendum) Regulations, and in the case of its accompanying SEA report the Environmental Assessment of Plans and Programmes Regulations 2004.

16 Democratic Path

16.1 The decision to have the NDP made is for Full Council, in accordance with the Local Authorities constitution. Previous regulatory decisions regarding the WM&CF NDP have been made by the Portfolio Holder upon advice from the Local Development Steering Group and Officers. Throughout the NDP process Elected Members have been notified of consultation opportunities, key decisions and regulatory stages.

Reporting Frequency: Once only

List of Appendices

Appendix A	West Monkton and Cheddon Fitzpaine Neighbourhood Development Plan can be found at: https://www.tauntondeane.gov.uk/media/2299/rf8-neighbourhood-development-plan.pdf
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