

Taunton Deane Borough Council

Full Council – 12 July 2016

Bishops Lydeard and Cothelstone Neighbourhood Development Plan formal adoption (“made”) as a Development Plan Document for Taunton Deane Borough Council

This matter is the responsibility of Executive Councillor Roger Habgood

Report Author: Ann Rhodes (Planning Policy Officer)

1 Executive Summary / Purpose of the Report

- 1.1 Bishops Lydeard and Cothelstone Neighbourhood Plan is a community led planning document which has been produced by Bishops Lydeard and Cothelstone Parish Council. The document and its evidence base passed an Independent Examination and was supported by 79.54% of those who voted in the referendum. The Bishops Lydeard and Cothelstone Neighbourhood Plan should be formally adopted (made) to enable it to be used to help it decide planning applications in the Bishops Lydeard and Cothelstone neighbourhood area.

2 Recommendations

- 2.1 That the Bishops Lydeard and Cothelstone Neighbourhood Plan is formally adopted (“made”) as a TDBC Development Plan Document, and used in the planning application decision making process for the Bishops Lydeard and Cothelstone Parish area.

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
As there are no legal reasons not to formally adopt (“made”) the Bishops Lydeard and Cothelstone Neighbourhood Development Plan, to not adopt risks Judicial Review	4 (Likely)	4 (Major)	16 (High)
As there are no legal reasons not to formally adopt (“made”) the Bishops Lydeard and Cothelstone Neighbourhood Development Plan, to not do adopt fails to implement Legislation	5 (Certain)	3 (Moderate)	15 (High)
As there are no reasons not to formally adopt (“made”) the Bishops Lydeard and Cothelstone Neighbourhood Development Plan, therefore 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 and various Neighbourhood Planning Regulations provide the regulatory framework for neighbourhood planning.
- 4.3 From inception TDBC Neighbourhood 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 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 and Local Planning Policy (National Planning Policy Framework, Core Strategy, Site Allocations, Local Plan), 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.

- 4.5 Bishops Lydeard and Cothelstone Parish Council began the process of developing a Neighbourhood Plan in 2012. An application was received from them on 11 March 2013 to produce a neighbourhood plan and for the designation of the Parish of Bishops Lydeard & Cothelstone as a Neighbourhood Plan Area. The application was published for statutory consultation between 20 March and 3 May 2013 (six weeks and two days) in accordance with Regulation 6 of the Neighbourhood Plans (General) Regulations.
- 4.6 A parish council are 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) Bishops Lydeard and Cothelstone Parish Council 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 entirety of the Parish of Bishops Lydeard and Cothelstone as the Neighbourhood Planning Area on 30 May 2013.
- 4.8 The Bishops Lydeard and Cothelstone Neighbourhood Plan was developed through an iterative process over two and a half years using quantitative (e.g. factual studies and statistics) and qualitative (e.g. surveys, consultation and engagement) data. The Bishops Lydeard and Cothelstone Neighbourhood Plan contains nine policies:
- H1 Housing for Older People;
 - H2 Housing for Families;
 - H3 Housing Setting and Open Space;
 - H4 Separate Dwellings in Gardens;
 - H5 Housing Design and Density;
 - E1 Conversion of Existing Premises to Commercial Use;
 - E2 Change of Use of Public Houses;
 - TR1 Provision of Transport Infrastructure;
 - TR2 Foot and Cycle Paths.

The Neighbourhood Plan process was also used to establish Parish Priorities for Community Infrastructure Receipts. As this is not purely a land-use matter it cannot be a policy in the Neighbourhood Plan so it appears as an appendix in the document.

- 4.9 The Bishops Lydeard and Cothelstone Neighbourhood Plan and its supporting documents was submitted to Taunton Deane on 1 October 2015. In accordance with Regulation 16(v) of The Neighbourhood Planning (General) Regulations it was subject to regulatory consultation, which ran from 15 October till 27 November 2015, (six weeks and two days). 10 representations were received during the period of consultation which were submitted in their entirety to the independent examiner in accordance with Regulation 17(d).

- 4.10 In accordance with Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and in the Neighbourhood Plans (General) Regulations 2012 an Independent Examiner, John Mattocks, was jointly appointed by TDBC and Bishops Lydeard and Cothelstone Parish Council to carry out an independent examination of the Bishops Lydeard and Cothelstone Neighbourhood Plan.
- 4.11 The examination was conducted by written representations. The Independent Examiners report was received on 29th January 2016. The report concluded that:
- The BLCNDP is compliant with European Convention of Human Rights;
 - The BLCNDP is compatible with EU Environmental Obligations (Strategic Environmental and Habitats Assessment) and does not breach Convention Rights;
 - The BLCNDP, 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;
 - 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];
 - 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 BLCNDP can progress to referendum and the referendum area should not extend beyond the Neighbourhood Area to which the Plan relates [the Parish of Bishops Lydeard and Cothelstone].

- 4.12 Having considered each of the recommendations made in the Examiner's report, and the reasons for them, Taunton Deane decided accept the recommendations and make modifications to the draft plan to ensure that it meet the basic conditions set out in legislation. This decision was published in the Weekly Bulletin of 4 February 2016, Record of Decision taken by an Executive Councillor.
- 4.13 In accordance with the Localism Act 2011, Neighbourhood Planning (Referendum) Regulations and Neighbourhood Planning (Prescribed Dates) Regulations the Bishops Lydeard and Cothelstone Neighbourhood Plan was subject to a referendum, on 5 May 2016, which posed the question *Do you want Taunton Deane Borough Council to use the neighbourhood plan for Bishops Lydeard and Cothelstone to help it decide planning applications in the neighbourhood area?*.
- 4.14 Persons on the electoral register in the referendum area eligible to vote in a local election for their area were entitled to vote. There are 2336 electorate in the Bishops Lydeard and Cothelstone Neighbourhood Plan Area and 733 persons voted. The results of the referendum were:-

- Yes 583 79.54%;
- No 132 18%;
- Rejected ballot papers 18 2.46%.

4.15 The Planning Guidance states that as soon as is reasonably practice following a referendum, 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.

4.16 Officers recommend to members of Full Council that the Bishops Lydeard and Cothelstone Neighbourhood Plan be made. The Independent Examiner's report said that the Bishops Lydeard and Cothelstone Neighbourhood Plan was compliant and compatible, subject to minor changes, which the Portfolio Holder accepted and those recommendations were applied to the Plan. The correct processes and procedures have been complied with in plan preparation and submission.

5 Links to Corporate Aims / Priorities

5.1 The decision of Member's relates to a statutory duty. In addition to this, The Bishops Lydeard and Cothelstone Neighbourhood Plan has policies on:

- H1 Housing for Older People;
- H2 Housing for Families;
- H3 Housing Setting and Open Space;
- H5 Housing Design and Density;
- E1 Conversion of Existing Premises to Commercial Use;
- E2 Change of Use of Public Houses;
- TR1 Provision of Transport Infrastructure;
- TR2 Foot and Cycle Paths.

and therefore links to the following Corporate Strategy 2016-20 aims:-

- Theme 1b People - a range of additional housing types suitable in particular for single person households, young people in rural communities and elderly people;
- Theme 1c People - support the wellbeing of an older population and our most vulnerable residents;
- Theme 2b Business and Enterprise - Further 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;
- Theme 3a Our Place - Work with, lobby and influence others to further improve the Deane's transport links including additional cycle paths, measures that tackle congestion...;

- Theme 3g Our Place - 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 financial or resource implications if the Bishops Lydeard and Cothelstone Neighbourhood Plan is made (brought into legal force) through formal adoption by the Council.
- 6.2 If Taunton Deane do not adopt the Bishops Lydeard and Cothelstone Neighbourhood Plan the Council 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 The Bishops Lydeard and Cothelstone Neighbourhood Plan 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.
- 7.2 If Taunton Deane did not adopt the Bishops Lydeard and Cothelstone Neighbourhood Plan 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 and the various Neighbourhood Planning Regulations.

8 Environmental Impact Implications

- 8.1 The Bishops Lydeard and Cothelstone Neighbourhood Plan was subject of a Strategic Environmental Assessment (SEA) screening process, 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 No known implications.

12 Partnership Implications

12.1 No known implications.

13 Health and Wellbeing Implications

13.1 Bishops Lydeard & Cothelstone Neighbourhood Plan supports the Health & Wellbeing Objectives through policies on

- H1 Housing for Older People;
- H2 Housing for Families;
- H3 Housing Setting and Open Space;
- H5 Housing Design and Density;
- E1 Conversion of Existing Premises to Commercial Use;
- E2 Change of Use of Public Houses;
- TR2 Foot and Cycle Paths.

14 Asset Management Implications

14.1 No known implications

15 Consultation Implications

15.1 Throughout the development of the Bishops Lydeard and Cothelstone Neighbourhood Plan and after its submission to TDBC, the 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 screening report the Environmental Assessment of Plans and Programmes Regulations 2004.

16 Scrutiny Comments / Recommendation(s)

16.1 The Bishops Lydeard and Cothelstone Neighbourhood Plan went before Community Scrutiny on the 7 June 2016. Community Scrutiny resolved that:-

1. The report be noted; and

2. The Community Scrutiny recommended to Full Council to formally adopted (“made”) as a TDBC Development Plan Document, and used in the planning application decision making process for the Bishops Lydeard and Cothelstone Parish area.

Democratic Path:

- **Scrutiny – Yes**
- **Executive – No**
- **Full Council – Yes**

Reporting Frequency: **Once only** **Ad-hoc** **Quarterly**
 Twice-yearly **Annually**

List of Appendices

Appendix A	Bishops Lydeard & Cothelstone Neighbourhood Plan

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