

Taunton Deane Borough Council

Full Council – 11 July 2017

Trull and Staplehay Neighbourhood Development Plan formal adoption (“made”) as a Development Plan Document for TDBC

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 Trull & Staplehay Neighbourhood Development Plan is a community led planning document which has been produced by Trull Parish Council. The document and its evidence base passed an Independent Examination and was supported by 78.53% of those who voted in the referendum. The Trull & Staplehay Neighbourhood Development Plan should be formally adopted (made) to enable it to be used to help it decide planning applications in the Trull & Staplehay Neighbourhood Plan Area.

2 Recommendations

2.1 That Full Council is **recommended** to formally adopt the Trull and Staplehay Neighbourhood Development Plan as a Taunton Deane Borough Council Development Plan Document, and used in the planning application decision making process for the Trull 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 Trull & Staplehay 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 Trull & Staplehay 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 Trull & Staplehay 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, Neighbourhood Planning Act 2017, Housing and Planning Act 2016 and various Neighbourhood Planning 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 and Local Planning Policy (National Planning Policy Framework, TDBC Core Strategy, TDBC Site Allocations and Development Management 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 Trull Parish Council began the process of developing a Neighbourhood Plan in November 2011. An application was received from them in February 2012 to produce a neighbourhood plan and for the designation of the Parish of Trull as a Neighbourhood Plan Area. The application was published for statutory consultation between 3rd August and Friday 14 September 2012 (six weeks and one 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) Trull 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 Trull as the Neighbourhood Plan Area on 17 September 2012.
- 4.8 The Trull & Staplehay Neighbourhood Development Plan was developed through an iterative process over five and a half years using quantitative (e.g. factual studies and statistics) and qualitative (e.g. surveys, consultation and engagement) data. The Trull & Staplehay Neighbourhood Development Plan contains 15 policies:
 - S1: Sustainability Statement;
 - E1: Local Green Space;
 - E2: Woodland, Trees and Hedgerows;
 - F1: Reducing flood risk;
 - H1: Sustainable Housing;
 - H2: Housing ‘in keeping’;
 - H3: Affordable Housing;
 - H5: External Space;
 - H6: Development within Trull and Staplehay village;
 - H7: Development on Brownfield sites and selfbuild development;
 - EE1: Retaining and Developing Employment;
 - EE2: Homeworking and Live/Work Development;
 - EE3: Retail;
 - EE4: Residential Institutions;
 - EE5: Farm Businesses;

There are also two Community Actions. Whilst these matters did not meet the Basic Conditions legal tests required for Neighbourhood Development Plans they were important matters that could be retained as Community Actions, aims for the Parish Council to promote and support.

- CA1: Flood Performance;

- CA2: Internal Design;

A copy of the Trull & Staplehay Neighbourhood Plan is available for inspection in the Members' Room or from the Taunton Deane website.

- 4.9 The Trull & Staplehay Neighbourhood Plan and its supporting documents was submitted to TDBC on 9 September 2015. In accordance with Regulation 16(v) of The Neighbourhood Planning (General) Regulations it was subject to regulatory consultation, which ran from 1 October till 13 November 2015, (six weeks and one day). 13 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, Nigel McGurk, was jointly appointed by TDBC and Trull Parish Council to carry out an independent examination of the Trull & Staplehay Neighbourhood Development Plan.
- 4.11 The examination was conducted by written representations. The Independent Examiners report was received on 5 October 2015. The report concluded that:
- The T&SNDP is compliant with European Convention of Human Rights;
 - The T&SNDP is compatible with EU Environmental Obligations (Strategic Environmental and Habitats Assessment) and does not breach Convention Rights;
 - The T&SNDP, 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];
 - 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 T&SNDP can progress to referendum and the referendum area should not extend beyond the Neighbourhood Area to which the Plan relates [the Parish of Trull].

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 Parish of Trull and reduce the risk of challenge.

- 4.12 Having considered each of the recommendations made in the Examiner's report, and the reasons for them, TDBC 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 on 6 October 2015, 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 Trull & Staplehay Neighbourhood Development Plan was subject to a referendum, on 8 June 2016, which poses the question *Do you want Taunton Deane Borough Council to use the neighbourhood plan for Trull & Staplehay to help it decide planning applications in the neighbourhood area?*.
- 4.14 Persons on the electoral register in the referendum area who were eligible to vote in a local election for that area were entitled to vote. There are 1828 electorate in the Trull & Staplehay Neighbourhood Plan Area and 1486 persons, 81.29%, voted. The results of the referendum were:
- Yes 1167 78.53%;
 - No 282 18.98%;
 - Rejected ballot papers 37 2.49%.
- 4.15 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). This must within 8 weeks of the referendum. 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 Scrutiny that the Trull & Staplehay Neighbourhood Plan be made. The Independent Examiner's report said that the Trull & Staplehay Neighbourhood Plan was compliant and compatible, subject to changes, which the Portfolio Holder accepted and those recommendations were applied to the Plan. The correct processes and procedures have been complied with in the 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 Trull & Staplehay Neighbourhood Plan has policies on:
- S1: Sustainability Statement;

- F1: Reducing flood risk;
- CA1: Flood Performance;
- H3: Affordable Housing;
- CA2: Internal Design;
- H5: External Space;
- H6: Development within Trull and Staplehay village;
- H7: Development on Brownfield sites and selfbuild development;
- EE1: Retaining and Developing Employment;
- EE2: Homeworking and Live/Work Development;
- EE3: Retail;
- EE4: Residential Institutions;
- EE5: Farm Businesses;

and therefore links to the following TDBC 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 1d People - Facilitate the creation a broad range of high quality employment opportunities...to provide local people with more rewarding futures;
- Theme 2a Business and Enterprise - Encourage inward investment and the promotion of the district as a place in which to visit and do business;
- 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 3g Our Place - Work with others to introduce measures that reduce the risk of flooding within our communities.

6 Finance / Resource Implications

- 6.1 The Parish of Trull will receive 25% of Community Infrastructure Levy receipts if the Trull & Staplehay Neighbourhood Development Plan is made (brought into legal force) through formal adoption by TDBC. Areas without a neighbourhood plan receive 15%.
- 6.2 There are no known resource implications if the Trull & Staplehay Neighbourhood Development Plan is made (brought into legal force) through formal adoption by TDBC.
- 6.3 If TDBC do not adopt the Trull & Staplehay Neighbourhood Development 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 Trull & Staplehay Neighbourhood Development 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 TDBC did not adopt the Trull & Staplehay Neighbourhood Development 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, Neighbourhood Planning Act 2017, Housing and Planning Act 2016 and the various Neighbourhood Planning Regulations.

8 Environmental Impact Implications

- 8.1 The Trull & Staplehay Neighbourhood Development Plan was subject of a Strategic Environmental Assessment (SEA), 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 Trull & Staplehay Neighbourhood Development Plan supports the Health & Wellbeing Objectives through policies on
- S1: Sustainability Statement;
 - E1: Local Green Space;
 - E2: Woodland, Trees and Hedgerows;
 - H2: Housing 'in keeping';

- CA2: Internal Design;
- H5: External Space;
- EE4: Residential Institutions;

14 Asset Management Implications

14.1 No known implications

15 Consultation Implications

15.1 Throughout the development of the Trull & Staplehay Neighbourhood Development 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 report the Environmental Assessment of Plans and Programmes Regulations 2004.

16 Scrutiny Comments / Recommendation(s)

16.1 The Neighbourhood Development Plan was discussed at the meeting of the Community Scrutiny Committee on 27 June 2017 where it received unanimous support.

Democratic Path:

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

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

List of Appendices

Appendix A	Trull & Staplehay Neighbourhood Development Plan
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