

15. APPROVAL OF LEEKFRITH NEIGHBOURHOOD PLAN TO SUBMIT FOR REFERENDUM

1. Purpose of the report

To consider the recommendations set out in the report by the independent examiner of Leekfrith Neighbourhood Plan and decide how to proceed.

Key Issues

- **The Authority must consider each of the examiner's recommendations and the reasons for them and decide what action to take.**
- **If the Authority is satisfied that the draft plan:**
 - (i) meets basic conditions;**
 - (ii) is compatible with European Convention Rights;**
 - (iii) complies with the definition of a neighbourhood plan and the provisions that can be made by a neighbourhood plan, or can do so as modified;****a referendum must be held.**

2. Recommendations(s)

That members, in accordance with paragraph 12 of Schedule 4B of the 1990 Town and Country Planning Act:

- (i) consider and accept the Examiner's Report (Background Paper 1) and the recommendations in the report to make modifications to Leekfrith Neighbourhood Plan;**
- (ii) approve that Leekfrith Neighbourhood Plan (Background Paper 2) is modified in accordance with the Examiner's Report and as set out in the Schedule of Proposed Modifications (Background Paper 3);**
- (iii) determine that Leekfrith Neighbourhood Plan, as modified, would meet basic conditions, would be compatible with Convention Rights, and would comply with the definition of and the provisions that can be made by a neighbourhood plan;**
- (iv) determine that the modified plan go forward to referendum.**

How does this contribute to our policies and legal obligations?

- 3. This is a legal obligation for the Authority and for Staffordshire Moorlands District Council under the Town and Country Planning Act 1990 (as modified). Staffordshire Moorlands District Council determined to approve Leekfrith Neighbourhood Plan for referendum at Cabinet on 11th February 2020.¹
- 4. This proposal contributes to KPI 17 of the Corporate Strategy (number of communities shaping the place) and the 2024 target (20% of parishes have helped to shape their future.)

¹ <https://democracy.highpeak.gov.uk/documents/s16397/Leekfirth%20Neighbourhood%20Plan.pdf>

Background Information

5. The Localism Act 2011 enabled parish councils and neighbourhood forums to write neighbourhood plans for defined neighbourhood areas. Once 'made' (brought into force) neighbourhood plans become part of the statutory development plan for that neighbourhood area and are used to determine planning applications.
6. Leekfrith Parish Council submitted a neighbourhood plan and supporting documents to the Authority and Staffordshire Moorlands District Council on 28th February 2019. It was determined by the Authority (under delegated powers, see Appendix 4) and by Staffordshire Moorlands District Council (by Cabinet²) that this submission met statutory requirements and could therefore be subject to public consultation and examination. The statutory (Regulation 16) consultation took place between 2nd August and 23rd September 2019 and the subsequent Examiner's Report was submitted on 23rd December.
7. Table 1 below sets out the existing Neighbourhood Plan policies alongside the examiner's proposed modifications.

Table 1: Leekfrith Neighbourhood Plan – Proposed Modifications		
	Existing Policy	Proposed Modification
Recommended Modification 1	N/A	<ul style="list-style-type: none"> • in the Neighbourhood Plan Contents Page refer to the Policies using numbers, and replace "Development" with "Redevelopment" • add the Policy titles to the text boxes for Policies 2,3, and 4
Recommended Modification 2 Policy 1	<p>A. Redevelopment of the Upper Hulme Mill site broadly in line with the requirements set out below, and as indicated on the site plan (figure 2) is supported:</p> <p>(i) in the red hatched area, significant enhancement of the site and its surroundings is required by removal of non-traditional structures and buildings and the replacement with new build, traditionally designed dwellings with associated parking and garaging.</p> <p>(ii) in the blue hatched area all the existing traditional buildings should be retained. Conversion to new dwellings/apartments, holiday accommodation, and B1 business (small craft businesses with ancillary retail) may be suitable. (iii) in the green hatched area, general industrial use is the established use but other acceptable uses include affordable local needs housing and/or B1 light industrial units.</p> <p>B. The ratio of affordable to open market housing will depend on the prevailing</p>	<ul style="list-style-type: none"> • in Part A (i) replace "associated parking and garaging" with "sufficient vehicle parking facilities to ensure no additional on-road parking results" • in Part A (ii) replace "may be suitable" with "will be supported" • continue Part A (iii) with "subject to proposed uses being compatible with nearby uses" • delete Part B and transfer the text to Section 7.1 of the supporting text • insert replacement Part B "All development proposals must include a detailed site-specific flood risk assessment and demonstrate the suitability of the proposals taking into account any mitigation measures." • in Part C replace the text before "parking on" with "All development proposals must include sufficient vehicle parking provision to ensure no additional"; and replace "is completely discouraged" with "results"

² <https://democracy.staffs Moorlands.gov.uk/documents/g1376/Public%20reports%20pack%2018th-Jun-2019%2014.00%20Cabinet.pdf?T=10>

	<p>conditions at the time of application. The number of units will depend on the details of the development and how they are integrated within the site as a whole.</p> <p>C. Car parking requirements must be sufficient to ensure that parking on the main road through Upper Hulme is completely discouraged.</p> <p>D. Any application for development should be supported by a Preliminary Ecological Appraisal and a Habitat Regulations Assessment to determine if proposals would affect the South Pennine Moors Special Area of Conservation and Peak District Moors Special Protection Area.</p>	<ul style="list-style-type: none"> • add as Part E “All development proposals must include results of a contamination survey and demonstrate necessary mitigation appropriate to the use proposed.
<p>Recommended modification 3</p> <p>Policy 2</p>	<p>The renting of ancillary holiday accommodation, on the general rental housing market will be permitted provided</p>	<ul style="list-style-type: none"> • present points ii and iii as alternative circumstances and then present points i, iv and v to apply in every case
	<p>i. The ancillary holiday accommodation has adequate indoor and outdoor living space and is not so closely related to adjoining properties that permanent residence would cause unacceptable harm to their amenity and</p>	<ul style="list-style-type: none"> • replace “permitted” with “supported”
	<p>ii. The ancillary holiday accommodation has been made available for holiday use through recognised marketing channels for holiday accommodation for the whole of the two years prior to the application, at a competitive price for the size and standard of the accommodation offered, and such marketing shows a lack of demand that proves that holiday use of the accommodation is unviable; or</p> <p>iii. There is evidence provided that the ancillary holiday accommodation cannot be operated as ancillary holiday accommodation by the current owners for other non-financial reasons such as age or infirmity; and</p> <p>iv. The letting of the property for other than ancillary holiday use requires no additional infrastructure; and</p> <p>v. The ancillary holiday accommodation remains under the control of the owner of the main house to which the accommodation is ancillary.</p> <p>Where the above criteria are satisfied, permission will be granted on a temporary basis for 2 years.</p>	<ul style="list-style-type: none"> • replace “permission will be granted” with “proposals will be supported”
<p>Recommended modification 4</p>	<p>The majority of roads in the parish are narrow, and have soft verges. Any development proposal must provide a</p>	<p>replace the final sentence with “To be supported development proposals must demonstrate that</p>

Policy 3	transport statement that considers the parking implications of the proposal. The proposed development must demonstrate suitable parking arrangements that avoid unacceptable harm to the highways network.	they will not result in additional on-road vehicle parking.”
Recommended modification 5 Policy 4	This plan supports the alternative use of the land specified in Figure 3 for car parking for up to 28 days per calendar year.	Delete Policy 4 and transfer the policy text and supporting text to become a non-policy community aspiration in a new Part 8 of the Neighbourhood Plan
Recommended modification 6	N/A	Modify general text to achieve consistency with the modified policies, and to correct identified errors including those arising from updates.

Background Information: Legal checks that the Authority must now undertake

8. The Authority must ensure³ that Leekfrith Neighbourhood Plan meets, or would meet if modified according to the recommendations of the independent examiner:
 - the Basic Conditions⁴
 - Convention Rights⁵
 - provisions relating to the definition and content of a neighbourhood plan⁶.
9. Taking each of these in turn:
10. Basic Conditions are that a neighbourhood plan must:
 - have regard to national policy and guidance from the Secretary of State
 - contribute to sustainable development
 - be in general conformity with the strategic policy of the development plan for the area
 - not breach or otherwise be compatible with EU obligations
 - conform with chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017⁷
11. Convention Rights relate to the European Convention on Human Rights and EU Directive 2001/42 requiring the integration of environmental considerations into the preparation and adoption of plans and programmes.
12. Provisions relating to the definition and content of a neighbourhood plan specify:

³ Paragraph 12, Schedule 4B, Town and Country Planning Act 1990 (as amended)

⁴ Paragraph 8(2), Schedule 4B, Town and Country Planning Act 1990 (as amended)

⁵ European Convention on Human Rights, EU Directive 2001/42,

⁶ Neighbourhood Planning (General) Regulations (2012), Conservation of Habitats and Species Regulations (2017), paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990

⁷ This Basic Condition arises from the coming into force, on 28 December 2018, of the Conservation of Habitats and Species Regulations 2018

- What must be included in the submission and the rules of submission⁸
- That the proposal must not be a repeat proposal⁹
- That the qualifying body is authorised to act¹⁰
- That the proposals meet the definition and scope of a neighbourhood plan¹¹

13. In considering whether Leekfrith Neighbourhood Plan meets these requirements, the Authority should take into account the Plan as a whole, the supporting *Basic Conditions Statement* (Background Paper 5) and the Examiner's Report.

Consideration whether the Authority can be satisfied that Leekfrith Neighbourhood Plan has regard to national policies and advice contained in guidance issued by the Secretary of State.

14. Leekfrith Neighbourhood Plan has been prepared in accordance with the most up to date National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The *Basic Conditions Statement* at Table 1 lists sections of the NPPF that the Neighbourhood Plan has regard to and where relevant makes reference to policies of the Neighbourhood Plan. The Examiner makes one recommendation with regard to the referencing of policies in the Neighbourhood Plan, to ensure that it is 'clearly written and unambiguous' (as required by paragraph 16d of the NPPF), and states:

"I am satisfied that the Basic Conditions Statement . . . demonstrates that the Neighbourhood Plan has sufficient regard to relevant identified components of the Framework."

15. Planning Practice Guidance¹² explains the neighbourhood planning system, including key stages and considerations required. The Authority referred Leekfrith Parish Council to this Guidance throughout the Neighbourhood Plan's preparation. During examination the Authority undertook a review of the Guidance to ensure the neighbourhood plan was compliant with the most up-to-date version, and this was accepted by the examiner.

16. The report of the independent examiner states in paragraph 51 that

" . . . with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition 'having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.'"

Consideration whether the Authority can be satisfied that Leekfrith Neighbourhood Plan contributes to sustainable development

17. The NPPF requires a presumption in favour of sustainable development for plan-making¹³ and PPG¹⁴ requires a qualifying body (in this case Leekfrith Parish Council) to demonstrate how its plan will contribute to improvements in environmental, economic and social conditions.

⁸ Part 5 (15) of Neighbourhood Planning (General) Regulations (2012) as amended and S106 of the Conservation of Habitats and Species Regulations (2017)

⁹ Para 5 of Schedule 4B of the Town and Country Planning Act (1990)

¹⁰ Schedule 4B paragraph (6) (2) (a) (b) and Chapter 8 (Part 3) S 61F of the Town and Country Planning Act 1990

¹¹ Section 38 A (2) and 38 (B) of the Planning and Compulsory Purchase Act 2004.

¹² <https://www.gov.uk/guidance/neighbourhood-planning--2>

¹³ Paragraphs 10 and 11 National Planning Policy Framework 2019

¹⁴ Planning Practice Guidance paragraph 072

18. The Neighbourhood Plan includes a positive vision for Leekfrith developed at the beginning of the plan preparation process, that includes economic dimensions (“small businesses thriving”, “set up a range of businesses” and “employment opportunities for local people”) and social components (“housing suitable for all ages”, “places of focus”) while also referring to environmental considerations (“special character”, “beauty”).
19. The Basic Conditions Statement includes at Table 2 a demonstration of how the neighbourhood plan simultaneously contributes to the economic, social and environmental dimensions of sustainable development.
20. The Examiner’s Report states:

“I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development.”

Consideration whether the Authority can be satisfied that Leekfrith Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan

21. The NPPF states neighbourhood plans should ‘support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies¹⁵’. The relevant planning policies are those contained in the Core Strategy, which sets out strategic policies, and the Development Management Policies which supplement the Core Strategy with detailed operational policies.
22. Leekfrith Parish Council has provided its judgement with regard to conformity with strategic planning policies in Section 5 and Table 3 of the *Basic Conditions Statement*.
23. The Authority has given advice to Leekfrith Parish Council throughout the plan making process and at the statutory ‘Regulation 14 consultation’ which stated that the draft policies are in general conformity with strategic policies. (Staffordshire Moorlands District Council, in approving the Neighbourhood Plan for referendum, has also determined that the Plan is in general conformity with that Authority’s strategic planning policies.)
24. The Examiner’s Report states:

“Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan.”

Consideration whether the Authority can be satisfied that Leekfrith Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations (meets Convention Rights) and conforms with chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

25. *European Convention on Human Rights*

The Basic Conditions Statement (Background Paper 5) states “an equalities impact assessment has not been undertaken, as no longer required under the Equalities Act 2010, and it is not considered the Plan discriminates unfairly or in a manner which is contrary to the Human Rights Act 1998.” The Examiner’s Report states at paragraph 37 “I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the convention.”
26. *EU Directive 2001/42 regarding the Environmental Assessment of Plans and Programmes*

A Strategic Environmental Assessment Screening Statement prepared by the Authority

¹⁵ paragraph 13 NPPF 2019

concluded that “the implementation of Leekfrith Neighbourhood Plan is not likely to result in significant environmental effects. On this basis a full Strategic Environmental Assessment will not be required to be undertaken.” The Screening Statement was submitted to the statutory environmental bodies (Historic England, Natural England and the Environment Agency) who agreed with the conclusion. The Examiner’s Report at paragraph 40 states “I am satisfied the requirements regarding Strategic Environmental Assessment have been met.”

27. *European Sites (conservation of habitats and species)*

A Habitat Regulations Assessment (HRA) screening was undertaken by the Authority. The report states: “due to the limited scale of the development, its distance from the Special Area of Conservation/Special Protection Area and the even greater distance from the key bird species, its location in the valley below the Natura 2000 site and the likely negligible impacts compared to existing recreational pressure, it is concluded that the policies set out in Leekfrith Neighbourhood Plan are unlikely to have a significant effect on Natura 2000 sites.” The screening was submitted to Natural England who agreed with the conclusion. The Examiner’s Report states

“The Neighbourhood Plan is compatible with the Convention Rights and does not breach, and is otherwise compatible with, EU obligations. I also conclude that the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”

Consideration whether the Authority can be satisfied that Leekfrith Neighbourhood Plan satisfies the provisions relating to the definition and content of a neighbourhood plan

28. These issues were considered under delegated powers (see Background Paper 4). It was decided that “Leekfrith Neighbourhood Plan complies with statutory requirements.”

The examiner is also required to consider whether the Neighbourhood Plan complies with these provisions. Paragraph 15 of the Examiner’s Report states:

“I am satisfied that the Neighbourhood Plan has been prepared in accordance with the requirements of those sections (38A and 38B of the Planning and Compulsory Purchases Act 2004) in particular in respect to the Neighbourhood Planning (General) Regulations 2012.”

29. **The Authority can be satisfied that Leekfrith Neighbourhood Plan, as modified according to the examiner’s recommendations:**

(i) meets basic conditions;

(ii) is compatible with European convention rights;

(iii) complies with the definition of a neighbourhood plan and the provisions that can be made by a neighbourhood plan

30. The recommendation of the examiner with regard to Leekfrith Neighbourhood plan is as follows:

“I recommend to the Peak District National Park Authority and Staffordshire Moorlands District Council that the Leekfrith Neighbourhood Development Plan for the period up to 2033 should, subject to the modifications I have put forward, be submitted for referendum.”

Are there any corporate implications members should be concerned about?

Financial:

31. There are implications for staff time in making the modifications to the plan and publicising the decision statement. The Authority will work with Staffordshire Moorlands District Council to undertake the referendum. The Authority and Staffordshire Moorlands District Council will share the £20k 'extra burdens' payment that can be claimed once the Plan is approved for referendum and a date is set.

Risk Management:

32. The steps that the Authority is taking to respond to the submission of Leekfrith Neighbourhood Plan means that the risk of failure to meet government standards or legal obligations is low.

Sustainability:

33. Sustainability issues are fully considered in the neighbourhood planning process

Equality:

34. Equality issues are fully considered in the neighbourhood planning process

35. **Background papers (not previously published) – these can be viewed in the “Background Papers” Folder in the Library on the National Park Website**

Background paper 1 - Leekfrith Neighbourhood Plan Examiners Report

Background paper 2 - Leekfrith Neighbourhood Plan

Background paper 3 - Leekfrith Neighbourhood Plan Schedule of Modifications

Background paper 4 - Leekfrith Neighbourhood Plan Delegated Officer Decision 'Assessing Statutory Requirements'

Background paper 5 - Leekfrith Neighbourhood Plan Basic Conditions Statement

Background paper 6 - Leekfrith Neighbourhood Plan Strategic Environmental Assessment Screening Statement

Background paper 7 - Leekfrith Neighbourhood Plan Habitats Regulations Assessment Screening Statement

36. **Appendices**

NONE

Report Author, Job Title and Publication Date

Adele Metcalfe, Community Policy Planner, 27 February 2020