

13. APPROVAL OF HOLME VALLEY NEIGHBOURHOOD PLAN TO SUBMIT FOR REFERENDUM (AM)

1. Purpose of the report

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

Key Issues

- 2.** The Authority has been working with Kirklees Council (KC) to support Holme Valley Parish Council to write a neighbourhood plan for Holme Valley Neighbourhood Area, which straddles the boundary of the 2 planning authorities. KC is the lead authority.

In accordance with Regulations an independent examination of the submission draft Holme Valley Neighbourhood Plan has taken place and an examiner's report has been submitted to KC and the Authority. This decision will ensure that the Authority meets its legal requirements under paragraph 12 of schedule 4b of the Town and Country Planning Act 1990, to consider the examiner's report and determine if Holme Valley Neighbourhood Plan should proceed to referendum. (At the time of writing the same decision was due to be considered by KC's Cabinet on 31st August. Officers will provide an oral update at the Planning Committee.)

Appendix 1 sets out all the examiner's proposed modifications, and an officer assessment and recommendation regarding whether to accept the proposed modification. For all proposed modifications this has been undertaken by KC as lead authority, and additionally for those policies that either apply to or could impact on, the National Park, by PDNPA officers.

Appendix 3 sets out the policies as submitted and as modified (only for those policies that in the submission version of the plan applied to, or could impact upon, that part of the neighbourhood area that is within the National Park.)

The referendum is scheduled to take place on 4 November 2021.

3. Recommendations(s)

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

- 1. Approve that following the inclusion of the Examiner's recommended modifications into the Plan (as set out in Appendix 1), the plan meets the basic conditions such that it can proceed to a referendum;**
- 2. Approve publication of a formal decision statement detailing the Authority's response to the Examiner's recommendations (Appendix 2);**
- 3. Determine that the referendum boundary will cover the designated Holme Valley Neighbourhood Area only.**

How does this contribute to our policies and legal obligations?

- 4.** This is a legal obligation for the Authority and for Kirklees Council under the Town and Country Planning Act 1990 (as modified). KC's Cabinet were due to make the same determination on 31 August 2021.

5. This proposal contributes to KPI 16 of the Corporate Strategy (number of communities shaping the place) and the 2024 target (20% of parishes have helped to shape their future.)

Background Information

Process to date

6. Holme Valley Neighbourhood Area was designated by the Peak District National Park Authority on 13 February 2015 and by KMBC on 27 January 2015 in accordance with Regulations. The draft plan and associated documents were submitted to KMBC and PDNPA on Monday 6 July 2020 and approved for Regulation 16 consultation and examination. The Regulation 16 consultation took place for a period of 8 weeks from 8 December 2020.
7. An independent examiner, Mr Peter Biggers BSc Hons MRTPI ('the examiner'), was appointed by KC in consultation with the PDNPA and Holme Valley Parish Council. Examination of the plan took place between March and June 2021 and was conducted by written representations. The examiner considered all the policies and the supporting text within the plan. The examiner's final report was received June 2021.
8. The role of the examiner is to assess whether a neighbourhood plan meets 'basic conditions' and other matters set out in Paragraph 8 of Schedule 4b of The Town And Country Planning Act 1990 (as applied to neighbourhood plans by section 38a of the Planning and Compulsory Purchase Act 2004) and to recommend whether the plan should (with or without modifications) proceed to a referendum. Only a plan that meets each of the basic conditions can be put to referendum and 'made'.
9. The 'basic conditions' for a neighbourhood plan are:
- having regard to national policy, it is appropriate to make the plan
 - the plan contributes to the achievement of sustainable development
 - the plan is in general conformity with the strategic policies contained in the development plan for the local area
 - the plan does not breach and is compatible with EU obligations
 - the plan meets human rights requirements.
10. The examiner must also consider whether the plan complies with provisions under sections 38a and 38b of the Planning and Compulsory Purchase Act 2004 (as amended). These are:
- it has been prepared and submitted for examination by a qualifying body
 - it has been prepared for an area that has been properly designated (under section 61g of the town and country planning act 1990 (as amended))
 - it sets out policies in relation to the development and use of land
 - it specifies the period during which it has effect
 - it does not include provisions and policies for 'excluded development'
 - it is the only neighbourhood plan for the area and does not relate to land outside

the designated neighbourhood area.

11. The examiner also considers whether the referendum boundary should be extended beyond the designated area should the plan proceed to referendum, and any other prescribed matters.
12. In the report the examiner must make one of the following recommendations :
 - the neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
 - the neighbourhood plan can proceed to a referendum subject to modifications
 - the neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

The role of the 2 planning authorities is then to decide what action to take in response to the examiner's report and recommendations, and to formalise this response by publishing a decision statement.

Consideration of the examiner's report and proposed modifications

13. The Examiner's Report sets out 22 main recommendations which are further subdivided to address issues in relation to the theme/policy being examined. The most significant of the recommendations is Recommendation 22 which states:

“I recommend to Kirklees Council that the Holme Valley Neighbourhood Development Plan, modified as specified, should proceed to a referendum based on the Holme Valley Neighbourhood Area as approved by Kirklees Council on 27 January 2015 and the Peak District National Park Authority on 13 February 2015.”

14. Appendix 3 sets out the policies as submitted and as modified (only for those policies that in the submission version of the plan applied to, or could impact upon, that part of the neighbourhood area that is within the National Park.) In summary, the focus of the Examiner's recommendations is to:
 - a) Provide modified policy wording/policy justification so that they are “clearly written and unambiguous so it is evident how a decision maker should react to development proposals” in accordance with National Planning Policy Framework and Planning Practice Guidance.
 - b) Improve the clarity of the Plan by making the policies clear, concise, and precise.
 - c) Ensure consistency with Kirklees Local Plan policies.
 - d) Address areas where the Holme Valley NDP repeated policy advice already contained in the Kirklees Local Plan or the Peak District National Park Authority Plan and/or where it was inconsistent.
 - e) Recommendations 5 to 8 in relation to Policy 1, Policy 2 and Policy 3 based on jointly produced policy wording and policy justification between officers and Holme Valley Parish Council Steering Group addresses the extensive representations made by the council on these policies.
 - f) Deletion of Policy 14 reflects the position that the council is not proceeding with Community Infrastructure Levy at the current time.

Decision Statement

15. Regulation 18(2) states that the Authority must publish the actions which will be taken in response to the recommendations of the examiner. This is known as a 'decision statement'. A draft decision statement is at Appendix 2. It is recommended that the decision statement is published on the Authority's website as soon as possible after this report is agreed and in such other manner as is likely to bring the plan to the attention of people who live, work or carry on business in the neighbourhood area in accordance with Regulation 18.

Referendum boundary

16. The referendum area must be, as a minimum, the Holme Valley Neighbourhood Area. If the planning authorities consider it appropriate, the area may be extended. In making a report the examiner is required to consider whether the referendum boundary should be extended, and the authorities must consider any examiner recommendation in making their decision.
17. The examiner makes his recommendation on the referendum boundary at paragraph 0.11 in his report. He recommends that the plan should proceed to a referendum based on the designated neighbourhood area.
18. For this reason, it is recommended that the boundary for the referendum should be the neighbourhood area boundary as formally designated in 2015.

Referendum

19. To meet the requirements of the Localism Act 2011, a referendum which poses the question "Do you want Kirklees Council and Peak District National Planning Authority to use the Neighbourhood Development Plan for Holme Valley to help it decide planning applications in the neighbourhood area?" must take place. It is anticipated that the referendum will take place on 4th November 2021.
20. Following the referendum, if more than 50% of those voting vote 'yes', then the plan must be 'made' within 8 weeks of the referendum. A further report to committee will be made at that stage.

Legal issues

21. The role of the Authority at this stage is to decide what action to take in response to the examiner's report and any other prescribed matters. It is guided by Regulation 18 of the Neighbourhood Plan (general) Regulations 2012 (as amended). This states that before publishing its decision statement the council must consider the following.

- 1) **Whether to decline to consider a plan proposal under Paragraph 5 of Schedule 4b to the 1990 Act.**

There are no grounds to decline to consider the plan under paragraph 5. There are no previous plan proposal submissions or repeat proposals for this neighbourhood area.

- 2) **Whether there are reasons to refuse a plan proposal under Paragraph 6 of Schedule 4b to the 1990 Act.** Paragraph 6 says the Authority must consider:

- whether the qualifying body (Holme Valley Parish Council) is authorised to act in relation to the neighbourhood area concerned as a result of section 61f of the

1990 Act.

Holme Valley Parish Council is the qualifying body for this neighbourhood area.

- **whether the proposal by Holme Valley Parish Council complies with provision made by or under that section, in this case the Planning and Compulsory Purchase Act 2004, Section 38b (1) , which says:**

A neighbourhood development plan must specify the period for which it is to have effect. *This is set out in the title of the plan. The period of the plan is 2019-2035.*

A neighbourhood development plan may not include provision about development that is excluded development.

The plan does not contain any policies relating to excluded development.

A neighbourhood development plan may not relate to more than one neighbourhood area.

The plan does not relate to more than one neighbourhood area and there is no other neighbourhood development plan in place within this neighbourhood area.

3) What action to take in response to the recommendation of an examiner made in a report under Paragraph 10 of Schedule 4b to the 1990 Act (considered above), and what modifications, if any, they are to make to the draft plan under paragraph 12(6) of schedule 4b to the 1990 Act. Paragraph 12(6) sets out the modifications that the examiner can recommend be made to a neighbourhood plan proposal. It also states that if the Authority can make modifications to a neighbourhood plan to enable that plan to meet the 'basic conditions' or for the purposes of correcting errors, then it must make those modifications rather than refuse a plan proposal. The Authority must consider, under part (d), whether there are any other modifications which are required to ensure the basic conditions are met, to ensure the plan is compatible with convention rights, to ensure the requirements of legislation are met, or to correct errors.

No other modifications, further to those recommended by the examiner, are necessary other than minor modifications that relate exclusively to factual updates or grammatical and formatting corrections.

4) Whether to extend the area to which the referendum (or referendums are) to take place.

See section above on the referendum boundary.

- 22.** If the local authority is not satisfied that the plan meets the basic conditions, and/or is not compatible with convention rights or any other requirements of legislation are not met then they must refuse the plan.

There are no reasons to refuse the plan.

Are there any corporate implications members should be concerned about?

Financial:

23. There are implications for PDNPA staff time in assisting with making the modifications to the plan and publicising the decision statement. Kirklees Metropolitan Borough Council will undertake the referendum and apply for the £20k 'extra burdens' payment once the plan is approved for referendum. This will be used to pay for the examination and referendum. If any of this funding remains unspent it will be split between the 2 planning authorities at a ratio to be agreed by the heads of planning.

Risk Management:

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

Sustainability:

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

Equality:

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

27. **Background papers (not previously published)**

[Examiner's Report](#)

[Draft Referendum Version Neighbourhood Plan](#)

28. **Appendices**

Appendix 1 - Schedule of Proposed Modifications

Appendix 2 - Decision Statement

Appendix 3 - Policies as submitted and as modified by the examiner.

Report Author, Job Title and Publication Date

Adele Metcalfe, Planning Policy Team Manager, 2nd September 2021

adele.metcalfe@peakdistrict.gov.uk