

**13. APPROVAL OF BRADWELL NEIGHBOURHOOD PLAN TO TAKE FORWARD TO REFERENDUM (AM)**

**Purpose of the report**

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

**Key issue**

2. 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:

- meets basic conditions;
- is compatible with European Convention rights;
- 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.

3. **Recommendation:**

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

**(i) Consider and accept the examiner's recommendations to make modifications to Bradwell Neighbourhood Plan (submission draft), as set out in the examiner's report (Appendix 1),**

**(ii) Determine that Bradwell Neighbourhood Plan, as modified, would meet the basic conditions, be compatible with Convention rights, and comply with the definition of, and the provisions that can be made by, a neighbourhood plan.**

**(iii) Approve that Bradwell Neighbourhood Plan (submission draft) is modified in accordance with the examiner's report and as set out in the Schedule of Proposed Modifications (Appendix 2).**

**(iv) Determine that the modified plan go forward to referendum.**

**How does this contribute to our policies and legal obligations?**

4. This is a legal obligation under the Localism Act 2011.

5. This proposal contributes to Corporate Objectives:

3. Provide a high quality planning service to the community of the National Park that achieves national park purposes and that is responsive to and contributes to the debate on planning reform nationally and locally.

5: Work with others in an integrated way to support local people to develop community facilities, local needs housing and services in ways that are sustainable and contribute to national park purposes.

## Background

6. On 16 January 2015 Planning Committee determined that Bradwell Neighbourhood Plan (submission draft) does comply with the legal criteria for a neighbourhood plan, and authorised that the plan be submitted for public consultation and independent examination. The statutory consultation was undertaken from 2 March 2015 to 30 April 2015. Sixteen responses were received. An independent examiner was appointed and in accordance with Regulations, the consultation responses were submitted for his consideration along with the draft plan and supporting documents.

The examiner determined that a public hearing was not necessary and undertook the examination by written representation. The examiner's report was formally submitted to the Authority and to Bradwell Parish Council on 8 July 2015.

## 7. Legal checks that the Authority must now undertake

Under Schedule 4B, para 12 of the 1990 Town and Country Planning Act, the Authority must ensure that Bradwell Neighbourhood Plan meets, or would meet if modified according to the recommendations of the independent examiner:

- i. the basic conditions
- ii. Convention Rights
- iii. provisions relating to the definition and content of neighbourhood plans.

Taking each of these in turn:

### (i) Basic conditions

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 be otherwise be compatible with EU obligations

The report of the independent examiner concludes:

*"I have recommended a number of modifications further to consideration of the Bradwell Neighbourhood Plan against the basic conditions. Subject to these modifications, the Bradwell Neighbourhood Plan*

- *Has regard to national policies and 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 of the development plan for the area;*
- *Does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.*

*Taking the above into account, I find that the Bradwell Neighbourhood Plan meets the Basic conditions."*

**The Authority can be satisfied that Bradwell Neighbourhood Plan, as modified according to the examiner's recommendations, does meet basic conditions.**

### (i) Convention Rights and European Union (EU) Obligations

The examiner's report states *"I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the European Convention on*

*Human Rights and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.”*

The examiner’s report also critically appraises the procedure undertaken by the Authority to ensure that Bradwell Neighbourhood Plan is compatible with EU obligations prescribed by the Act and Regulations, concluding “ . . . *in the absence of substantive evidence to the contrary, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.”*

**The Authority can be satisfied that Bradwell Neighbourhood Plan, as modified according to the examiner’s recommendations, is compatible with Convention Rights and other EU obligations.**

**(iii) provisions relating to the definition and content of neighbourhood plans**

These issues were considered by Planning Committee at the meeting on 16 Jan 2015 (Agenda Item 15, paragraphs 13-18). Members determined “that the draft (31.12.14) Bradwell Neighbourhood Plan (with supporting documents) does comply with the criteria for a neighbourhood plan”

Under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, the examiner is also obliged to undertake these checks. The examiner’s report outlines the checks necessary and concludes “subject to the contents of this Report, I am satisfied that all of the above points have been met.”

**The Authority can be satisfied that Bradwell Neighbourhood Plan, as modified according to the Examiner’s recommendations, satisfies provisions relating to the definition and content of a neighbourhood plan.**

**8. Procedure for taking the neighbourhood plan to referendum and adoption**

Authority approves plan	7 August 2015
Authority makes formal request to Derbyshire Dales District Council (DDDC) to undertake referendum	7 August 2015
Authority prepares and publicises referendum version of plan, ‘decision statement’ and other prescribed material, then works with DDDC to ensure that the relevant documents are available during the referendum period	August-Sept 2015
Referendum <i>(The question to be asked is “do you want the Peak District National Park Authority to use the neighbourhood plan for Bradwell to help it decide planning applications in the neighbourhood area?)</i>	Oct 2015
Referendum results <i>(If a referendum results in more than half of those voting (ie 50% +1) voting in favour of the proposal the Authority must ‘make’ the neighbourhood development plan as soon as reasonably practical.)</i>	Oct 2015
Authority publicises the ‘decision statement’ (based on referendum result) and plan	Oct 2015
Authority ‘makes’ the neighbourhood plan (it becomes part of the statutory development plan for the National Park.)	November 2015

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**Are there any corporate implications members should be concerned about?**

**Financial**

9. The main costs will result from:

1. Examination. At the time of writing the examiner's invoice has not been received. It is estimated at around £5-6k.
2. Staff time in managing the process leading to referendum.
3. Referendum. Derbyshire Dales District Council has advised that a stand-alone referendum would cost £1808.00

The Authority is now able to claim £20k from DCLG in the next funding window following successful completion of the examination.

**Risk Management:**

10. The steps that the Authority is taking, as described, to respond to the Localism Act, means that the risk around failing to meet government standards or legal obligations is low.

**Sustainability:**

11. Sustainability issues have been addressed in the report

**Background papers** (not previously published)

12. None.

**Appendices**

Appendix 1: Bradwell Neighbourhood Plan Examiner's Report  
Appendix 2: Scheduled of Proposed Modifications

**Report Author, Job Title and Publication Date**

Adele Metcalfe, Villages and Communities Officer, 30 July 2015