

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	4th November 2015	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2780
TITLE:	Freshford and Limpley Stoke Neighbourhood Development Plan	
WARD:	Bathavon South	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1: Draft Freshford and Limpley Stoke Neighbourhood Plan		

1 THE ISSUE

- 1.1 Following the successful examination and referendum, this report seeks to make and bring into force the Freshford and Limpley Stoke Neighbourhood Plan (Appendix 1), so that it will be used by the Local Planning Authority to help determine planning applications within the Neighbourhood Area.

2 RECOMMENDATION

Cabinet:

- 2.1 Makes and brings into force the Freshford and Limpley Stoke Neighbourhood Development Plan, as set out in Appendix 1, as part of the Development Plan for the Freshford and Limpley Stoke Neighbourhood Area, in accordance with Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act, 2011);

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The main costs of producing the Freshford and Limpley Stoke Neighbourhood Plan is related to in-kind technical support provided, plus the costs of the external examination, referendum and associated printing costs. These costs have been met through a £20,000 Government Neighbourhood Planning Grant (2014/2015) received by the Local Planning Authority.
- 3.2 Significant community resources have been input into the Freshford and Limpley Neighbourhood Plan preparation, including substantial volunteer time.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Localism Act 2011 has reformed the planning system to give local people new rights to shape the development of the communities in which they live.
- 4.2 The Act provides for a new type of community-led initiative known as a Neighbourhood Plan which sets out the policies on the development and use of land in a parish or 'Neighbourhood Area'.
- 4.3 The Council has a duty to assist communities in the preparation of a Neighbourhood Development Plan and orders and to take plan through a process of examination and referendum and to bring the Neighbourhood Plan into force. Once the Plan has been 'made' by the Council there is a six week period where legal challenges can be submitted. No legal challenges to the Plan are anticipated.
- 4.4 As this Plan falls partly within the local authority area of Bath & North East Somerset Council and partly within the area of Wiltshire Council, the decision to 'make' the Plan will be made by both Councils. In line with the Neighbourhood Planning Protocol (version dated 9th September 2015) for Bath and North East Somerset, the decision to make the Plan is for the Council's Cabinet. In respect of Wiltshire Council, the decision making power has been delegated to the Associate Director for Economic Development and Planning who will be making his decision on the same day of the meeting of this Cabinet.

5 THE REPORT

- 5.1 Freshford Parish Council and the neighbouring parish of Limpley Stoke in Wiltshire received national Neighbourhood Planning Front Runner funding for 2011 and were identified as one of the pilot areas to undertake neighbourhood planning. The Neighbourhood Area, the first formal stage in the process, was designated by the Council on 30th October 2013. The Plan was considered by an Independent Examiner in January 2015, who recommended that it should proceed, with modifications, to the final stage, the referendum.
- 5.2 In February 2015, it was agreed to modify the Freshford and Limpley Stoke NDP in line with the Examiner's recommendations, to publicise the decision and to undertake a referendum. The modified referendum version of the Freshford and Limpley Stoke NDP is included as Appendix 1

Freshford and Limpley Stoke Referendum

- 5.3 The referendum took place on the 10th September 2015. In accordance with the regulations, the question posed in the referendum was: *'Do you want Bath & North East Somerset Council and Wiltshire Council to use the neighbourhood plan for Freshford to help it decide planning applications in the neighbourhood area?'*
- 5.4 There was a 50.12% turnout of the overall Freshford and Limpley Stoke Neighbourhood Area electorate. A majority (74%) were in favour of using the Freshford and Limpley Stoke NDP to help decide planning applications in the Neighbourhood Area.
- 5.5 The majority figure of 74% is lower than in the other B&NES neighbourhood planning areas which have held referendums. This is because the Freshford and

Limpley Stoke Neighbourhood Plan includes a change in the existing housing development boundary in Freshford to allow for some affordable housing. This led to some parishioners in Freshford not supporting the Plan during the referendum.

Compatibility with EU Legal Obligations & Human Rights

- 5.6 The Council does not have to bring the Plan into force if it is considered that the making of the Plan would breach, or be incompatible, with any EU obligations or the European Convention on Human Rights (Section 38A (6) of the Planning & Compulsory Purchase Act 2004 Act).
- 5.7 The Independent Examiner considered this issue and concluded that, subject to the recommended modifications (all of which have been incorporated into the final draft of the Plan), the Plan would not breach or be incompatible with any EU laws or the European Convention on Human Rights. The Council's Legal Services have reviewed the Plan and concur with the examiner's view. As such, it is considered that the legal duty under s38A(4) PCPA 2004 (to make the plan as soon as is reasonably practicable after the referendum) applies in this case.

Making the Neighbourhood Plan and bringing it into force

- 5.8 In accordance with Section 38A(4) of the Planning and Compulsory Purchase Act 2004, as inserted by the Localism Act 2011, the Council has a duty to make the Freshford and Limpley Stoke Neighbourhood Plan part of the Development Plan. The Development Plan is the framework for determining planning applications in B&NES (which currently includes the adopted Core Strategy 2014, saved policies in the B&NES Local Plan 2007 and, when adopted, the Placemaking Plan). This will mean that the Freshford and Limpley Stoke Neighbourhood Plan will have weight in decision making and planning applications should be determined in accordance with the Neighbourhood Plan, alongside national planning policies, and other policies in the Development Plan, unless material considerations indicate otherwise.
- 5.9 It is recommended that the Council makes the Plan and brings them into force.
- 5.10 The Council must also publicise (on the web site or in any other manner to bring it to the attention to those who live, work or carry on business in the Neighbourhood Area) their decision on the Neighbourhood Plan and the reasons for that decision in a 'Decision Statement' (s38A (9) of The Planning & Compulsory Purchase Act 2004 & Regulation 19 of the Neighbourhood Planning (General) Regulations 2012). Decision Statement. The Council must also publish where and when the Decision Statement can be inspected and send a copy to Freshford and Limpley Stoke Parish Councils. The Decision Statement will be published on the B&NES website and will be made available for inspection in the following locations:
- One Stop Shop's Reception
 - Bath Central Library
 - The Galleries Shop, Freshford

Call In

- 5.11 The Council has a legal duty to make the Plan and bring it into force as soon as reasonably practicable after the referendum. It is therefore considered that this decision falls within the exceptions to call in contained in rule 5 of the Call In

Procedure Rules, namely, that the effect of call in would be to cause the Council to miss the statutory deadline.

6 OTHER OPTIONS CONSIDERED

- 6.1 No other options were considered given that the Council has a duty to make the Plan and bring it into force.

7 CONSULTATION

- 7.1 The Monitoring officer, Section 151 officer and Strategic Director Place have been given opportunity to review this report.
- 7.2 Considerable consultation has been undertaken alongside the preparation of the Plan:
- Representations were invited with regard to the designation of the neighbourhood area covering Freshford and Limpley Stoke Parish for a 6 week period between 7th January 2013 and 21st February 2013.
 - Representations were also invited with regard to the Draft Neighbourhood Plan for a six week period from 27th October -10th December 2014.
 - On 10th September 2015 the Neighbourhood Plan was subject of a community Referendum. Everyone who was registered to vote within the Parish was given the opportunity to vote on whether the Plan should be 'made' by the Council.
- 7.3 No additional consultation has taken place or is necessary with regard to the recommendation of this Report; at this stage the only publicity required is in line with paragraph 5.9 above.

8 RISK MANAGEMENT

- 8.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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Background papers	<p><i>My Neighbourhood: A Neighbourhood Planning Protocol for Bath & North East Somerset</i></p> <p>http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/npp_my_neighbourhood_adopted_2014.pdf</p> <p><i>Freshford and Limpley Stoke: Neighbourhood Plan Evidence Base and other Background documents:</i></p> <p>http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/flsnp_26.02.2015_version_for_referendum.pdf</p>
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