

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Councillor Liz Richardson - Cabinet Member for Homes and Planning	
MEETING/ DECISION DATE:	On or after 19 June 2017	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2952
TITLE:	Publow with Pensford Neighbourhood Development Plan	
WARD:	Publow and Whitchurch	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1: Publow with Pensford Neighbourhood Plan – available at: http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/publow_with_pensford_ndp_referendum_version.pdf		

1 THE ISSUE

- 1.1 Following the successful examination and referendum, this report seeks to make and bring into force the Publow with Pensford Neighbourhood Plan (Appendix 1), so that it will be used by the Local Planning Authority to help determine planning applications within the Neighbourhood Area.
- 1.2 Publow with Pensford Parish Council is the qualifying body authorised to act in relation to the Neighbourhood Plan.

2 RECOMMENDATION

The Cabinet Member for Homes and Planning is asked to agree to:

- 2.1 Make and bring into force the Publow with Pensford Neighbourhood Development Plan, as set out in Appendix 1, as part of the Development Plan for the Publow with Pensford 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 Publow with Pensford Neighbourhood Plan related to in-kind technical support provided, plus the costs of the external examination, referendum and associated printing costs. These costs will be funded through a £20,000 Government Neighbourhood Planning Grant, which will be received by the Council by the end of the calendar year (Neighbourhood Planning Grants are paid quarterly and the next payment is expected in July 2017).

- 3.2 All other minor costs associated with supporting the preparation of the Neighbourhood Development Plan have been covered within the existing LDF budget.
- 3.3 Significant community resources have been invested into the Publow with Pensford Neighbourhood Plan preparation, including substantial volunteer time.
- 3.4 Once the Neighbourhood Plan is made, Publow with Pensford Parish Council will receive 25% of CIL payments for development within their Neighbourhood Area, in line with the CIL Regulations (rather than the typical 15%).

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 Development 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 Neighbourhood Development Plans and orders and to take a Plan through a process of examination and referendum and to bring the Neighbourhood Plan into force.
- 4.4 In line with the Neighbourhood Planning Protocol (version dated 9th September 2015) the decision to make the Plan is for the Council's Cabinet.

5 THE REPORT

- 5.1 Publow with Pensford Parish Council indicated that they would like to undertake a Neighbourhood Development Plan (NDP) in Winter 2015 and the Neighbourhood Area, the first formal stage in the process, was designated by the Council on 11th February 2015. The Plan was considered by an Independent Examiner in January 2017, who recommended that it should proceed, with modifications, to the final stage, the referendum.

Publow with Pensford Referendum

- 5.2 The referendum took place on the 4th May 2017. In accordance with the regulations, the question posed in the referendum was: 'Do you want Bath & North East Somerset Council to use the neighbourhood plan for Publow with Pensford to help it decide planning applications in the neighbourhood area?'
- 5.3 There was a 42.1% turnout of the overall Neighbourhood Area electorate. A majority (67%) were in favour of using the Publow with Pensford NDP to help decide planning applications in the Neighbourhood Area.

Compatibility with EU Legal Obligations & Human Rights

- 5.4 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).
- 5.5 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.

Making the Neighbourhood Plan and bringing it into force

- 5.6 In accordance with Section 38A(4) of the Planning and Compulsory Purchase Act 2004 and regulation 18A of the Neighbourhood Planning (General) Regulations 2012, the Council has a duty to make the Publow with Pensford Neighbourhood Plan part of the Development Plan by “...*the date which is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held.*” This means that the plan must be made by 30th June 2017. 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 Publow with Pensford Neighbourhood Plan will have weight in decision making and planning applications should be determined in accordance with the Neighbourhood Plan and other policies in the Development Plan, unless material considerations indicate otherwise.
- 5.7 It is recommended that the Council makes the Plan and brings it into force. It should be noted that the document contains two types of policies: planning policies and Community Action Policies. It is only the planning policies which will become part of the Development Plan.
- 5.8 The Council must also publicise (on the web site or in any other manner to bring it to the attention of 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). Under delegated authority the Divisional Director – Development will issue a Decision Statement. The Council must also publish where and when the Decision Statement can be inspected and send a copy to Publow with Pensford Parish Council. 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
 - Publow with Pensford Village Hall
 - Publow with Pensford Village Shop

Call In

- 5.9 The Council has a legal duty to make the Plan and bring it into force within the above timescale. 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 the opportunity to review this report and have cleared it for publication.
- 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 Publow with Pensford for a 6 week period and the area was designated on 11th February 2015
- Representations were also invited with regard to the Draft Neighbourhood Plan for a six week period from 26th July -20th September 2016.
- On 4th May 2017 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 5.8 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.

Contact person	<i>Richard Daone 01225 477546</i>
Background papers	<p><i>My Neighbourhood: A Neighbourhood Planning Protocol for Bath & North East Somerset – available at:</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>Publow with Pensford:</i></p> <p><i>Neighbourhood Plan Evidence Base and other Background documents – available at:</i></p> <p>http://www.bathnes.gov.uk/services/planning-and-building-control/planning-policy/neighbourhood-planning-bnes/neighbourhood-1</p>
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