

## Bath & North East Somerset Council

MEETING/ DECISION MAKER:	<b>Cabinet</b>	
MEETING/ DECISION DATE:	<b>31<sup>st</sup> October 2018</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 3084</b>
TITLE:	<b>Westfield Neighbourhood Development Plan</b>	
WARD:	<b>Westfield</b>	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Appendix 1: Draft Westfield Neighbourhood Plan		
<b>NOTE:</b> Due to its volume the Appendix is only available on Council's website by following this link:		
<a href="http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/westfield_ndp_referendum_version.pdf">http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/westfield_ndp_referendum_version.pdf</a>		

### 1 THE ISSUE

- 1.1 Following the successful examination and referendum, this report seeks to make and bring into force the Westfield 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 Westfield Parish Council is the qualifying body authorised to act in relation to the Neighbourhood Plan.

### 2 RECOMMENDATION

Cabinet is asked to agree to:

- 2.1 Make and bring into force the Westfield Neighbourhood Development Plan, as set out in Appendix 1, as part of the Development Plan for the Westfield Neighbourhood Area, in accordance with Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011 and the Housing and Planning Act 2016).

### 3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The main costs of producing the Westfield 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 this financial year (Neighbourhood Planning Grants are paid quarterly and the next payment is expected in February 2019).

- 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 Westfield Neighbourhood Plan preparation, including substantial volunteer time.
- 3.4 Once the Neighbourhood Plan is made, Westfield 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. This duty includes making the plan as soon as is reasonably practicable but in any event within 8 weeks after the referendum approving the plan has taken place.
- 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 Westfield Parish Council indicated that they would like to undertake a Neighbourhood Development Plan (NDP) and the Neighbourhood Area, the first formal stage in the process, was designated by the Council on 3<sup>rd</sup> April 2015. The Plan was considered by an Independent Examiner in May 2018, who recommended that it should proceed, with modifications, to the final stage, the referendum.

### **Westfield NDP Referendum**

- 5.2 The referendum took place on the 6<sup>th</sup> September 2018. 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 Westfield to help it decide planning applications in the neighbourhood area?'
- 5.3 There was a 11.45% turnout of the overall Neighbourhood Area electorate. A majority (82.5%) were in favour of using the Westfield 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. As such, it is considered that the legal duty under Section 38A(4) Planning and Compulsory Purchase Act 2004 (to make the plan as soon as is reasonably practicable but in any event within 8 weeks after the referendum approving the plan) applies in this case.

### **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, as inserted by the Localism Act 2011 and amended by the Housing Act 2016, the Council has a duty to make the Westfield Neighbourhood Plan part of the Development Plan. The Development Plan is the framework for determining planning applications in B&NES (and currently comprises the Core Strategy (2014); Placemaking Plan (2017); Saved Policy from the 2007 B&NES Local plan; the Joint Waste Core Strategy; and already made Neighbourhood Plans). This will mean that the Westfield Neighbourhood Plan will have full statutory 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.

5.7 It is recommended that the Council makes the Plan and brings it into force.

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' (Section 38A(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 Westfield Parish Council. The Decision Statement will be published on the B&NES website and will be made available for inspection in the following locations:

- Bath One Stop Shop's Reception
- Bath Central Library
- Westfield Parish Council, The Oval Office, Cobblers Way, Westfield

### **Call In**

5.9 The Council has a legal duty to make the Plan and bring it into force within 8 weeks once it has been approved at 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 Corporate Director 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 Westfield for a 6 week period and the area was designated on 23<sup>rd</sup> April 2015.

- Representations were also invited with regard to the Draft Neighbourhood Plan for a six week period from 3<sup>rd</sup> April 2018 to the 15<sup>th</sup> May 2018.
  - On 6<sup>th</sup> September 2018 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.

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<b>Background papers</b>	<p><i>My Neighbourhood: A Neighbourhood Planning Protocol for Bath &amp; North East Somerset</i></p> <p><a href="http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/npp_my_neighbourhood_adopted_2014.pdf">http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/npp_my_neighbourhood_adopted_2014.pdf</a></p> <p><i>Westfield Neighbourhood Plan Area:</i></p> <p><i>Neighbourhood Plan Evidence Base and other Background documents:</i></p> <p><a href="http://www.bathnes.gov.uk/services/planning-and-building-control/planning-policy/neighbourhood-planning-bnes/neighbourhood">http://www.bathnes.gov.uk/services/planning-and-building-control/planning-policy/neighbourhood-planning-bnes/neighbourhood</a></p>
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