

CABINET

Agenda Item: 09

Wards: Rode and Norton St Philip

Portfolios: Neighbourhood and Community
Health Services

Report Cllr Nigel Taylor

Author(s): Cllr Nigel Woollcombe Adams

Meeting Date: 10th April 2017

SUBJECT: Frome Neighbourhood Plan – Advancement to
Referendum

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Report Sign off	Seen by:	Name	Date
	Chief		
	Executive/Deputy Chief	Tracy Aarons	17.3.17
	Executive(s)	Donna Nolan	17.3.17
	Legal	Martin Evans	17.3.17
	Finance	Duncan Moss	20.3.17
	Group Manager	Ian Bowen	16.3.17
	Portfolio Holders	Cllr Nigel Taylor Cllr Nigel Woollcombe Adams	17.3.17 20.3.17
Ward Member(s)	Cllr Linda Oliver	17.3.17	

<p>Summary:</p>	<p>Rode Parish Council have prepared and submitted a Neighbourhood Plan for Rode (the Plan) and in line with the Neighbourhood Planning (General) Regulations 2012, the District Council has arranged an independent examination of the Plan and is now in receipt of the Examiner’s Report.</p> <p>The Report concludes that the Plan, as modified in line with the Examiner’s recommendations, should proceed to referendum.</p> <p>The District Council must now decide what action to take in response to the recommendations and determine whether or not the Plan should proceed to referendum. It must also determine the extent of the referendum area.</p> <p>Officers are in agreement with the findings and proposed modifications of the Examiner and recommend that the Plan proceed to referendum as proposed. The Examiner also concludes that there is no reason to alter or extend the Referendum Area beyond the Neighbourhood Plan Area and, in light of this, it is proposed that the Referendum Area conform to the designated Neighbourhood Area. Rode Parish Council agree that the Plan should proceed to referendum.</p>
<p>Recommendations:</p>	<p>1) That the Rode Neighbourhood Plan, as modified by the Examiner, should proceed to referendum.</p> <p>2) That the Referendum Area correspond to the Designated Neighbourhood Plan Area for Rode.</p>
<p>Direct and/or indirect impact on service delivery to our customers and communities:</p>	<p>Neighbourhood Planning enables communities to have more influence in planning the development of their area.</p>

Legal Implications:	<p>The Council has a statutory duty to support Neighbourhood Plans pursuant to Section 61G(5) 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 the Neighbourhood Planning (General) Regulations 2012, as amended 2013, 2014, 2015, 2016. This includes making a decision on a Plan Proposal as outlined in Regulation 18. The Council could be challenged if a Plan is made that does not meet the requirements of the Act and the Regulations.</p> <p>The Plan, as modified by the Examiner, is considered to meet the Basic Conditions and all relevant legal and procedural requirements and this is supported in the Examiner's Report. Paragraph 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 requires the Council to make the Plan if more than half of those voting in the referendum vote in favour of the Plan being used to help decide planning applications in the area.</p>
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Financial Implications:	<p>In the financial year 2017/2018, local planning authorities (LPAs) will be able to claim £20,000 once the date for a referendum has been set. This and other payments are made in recognition of officer time supporting and advising the community in taking forward a neighbourhood plan, along with the actual costs of examination and referendum.</p> <p>The costs for a Referendum in Rode are estimated to be in the region of £2,700.</p>
Value for Money:	<p>N/a.</p>
Equalities Implications:	<p>Public participation must inform a Neighbourhood Plan production and consultation undertaken in line with the Regulations.</p>
Risk Assessment and Adverse Impact on Corporate Actions:	<p>Not taking a decision on the advancement of the Neighbourhood Plan Proposal would put the Council at risk of not adhering to the requirements of the Regulations pursuant to Section 61G(5) 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 the Neighbourhood Planning (General) Regulations 2012.</p>
Scrutiny Recommendation (if any)	<p>None.</p>

INTRODUCTION

The Council has a statutory duty to support neighbourhood plans pursuant to Section 61G(5) 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 the Neighbourhood Planning (General) Regulations 2012 as amended. This includes designating Neighbourhood Areas, publicising submitted Plan proposals along with arranging examination and public referendum.

The Council's duties are clearly outlined in the Regulations and on receipt of the Examiner's Report the Council must decide whether or not to take the Plan forward to referendum, as well as:

- what action to take in response to the recommendations of the Examiner
- what modifications to make to the Plan
- whether to extend the Referendum Area beyond the Neighbourhood Plan Area.

Whilst the Examiner's Report is not binding, it must be noted that a Local Planning Authority can **only** refuse or decline a Neighbourhood Plan Proposal in a very limited set of circumstances, i.e. when it doesn't meet the requirements of the Regulations and the set of criteria known as the "Basic Conditions" (Appendix 1). Likewise only modifications which ensure that the Plan meets these Basic Conditions and legal requirements can be made to a Neighbourhood Plan. The Independent Examiner advises whether the Plan meets the requirements of the Regulations and Basic Conditions and, if necessary, what modifications are needed for it to do so.

On receipt on the Examiner's Report the Council must take the decision to proceed to referendum as soon as possible and publish a decision statement detailing this decision and arrange the referendum where applicable.

BACKGROUND

The Rode Neighbourhood Plan has been prepared and submitted by Rode Parish Council. The Parish Council engaged the community in its preparation using a range of consultation methods.

Following the Plan's formal submission, it was published for consultation in accordance with the Regulations between Thursday 1st September and Friday 14th October 2016.

The Council appointed an independent, experienced and suitably qualified examiner, Ann Skippers to examine the Rode Neighbourhood Plan. All of the comments received at the Regulation 16 publication stage were passed on to the Examiner and considered a part of the examination.

The Examiner's Report concludes that the Plan, as modified in line with the Examiner's recommendations, should proceed to referendum. A summary of the Examiner's Report and recommended modifications can be found below.

The Examiner's Report, Rode Neighbourhood Plan and associated submission documents are too large to append in full, but are available on the Council's website:

<http://www.mendip.gov.uk/neighbourhoodplanning>. Copies are available for public inspection in the Council Access Point at Frome Library and Rode Post Office.

EXAMINER'S REPORT

The Examiner considers that the Neighbourhood Plan has a well-defined, simple, but appropriate vision and associated priorities for the Parish.

The examiner has recommended a number of modifications that are intended to ensure that the basic conditions are met and that the plan is clear, enabling it to provide a practical framework for decision making.

The modification are set out in Appendix 2 but the most notable of them include;

- A change to the wording of Policy 1 which covers housing sites, to make clear that the 2 sites put forward, which both already have planning permission are being allocated as sites, so that their status is clear should the planning permissions lapse.
- Replace reference to “the elderly” with “older people” throughout the document, to reflect the wording used in national policy.
- Change criterion 1 of policy 2, which covers housing for older people at Merfield House, to strengthen protection for the heritage value of the house and add supporting material to the text.
- Move reference to a management trust for Merfield House from the policy to the supporting text, as this is not concerning the development and use of land.
- Change criterion 3 of policy 2 to allow additional flexibility in the provision of a safe pedestrian route from Merfield House to the junction of Straight Lane and Crooked Lane.
- Remove the threshold of 6 dwellings from the third paragraph of policy 3, which puts forward design guidelines for housing for older people, as all development should be encouraged to follow the design criteria.
- Add a new criterion to policy 4, which covers design of buildings and public space to reduce the potential for conflict between uses due to sensitivity to light, noise, air/water pollution or amenity.
- Change the settlement boundary to re-instate a small area around the Millers House
- Change the wording of policy 6, which covers protection of local heritage, to ensure it meets the basic conditions.
- Change the title of policy 7 from “traffic calming” to “promoting sustainable and safe travel”, to ensure it’s significance is recognised.
- Correct map 5 to correctly show the recreation area to be constructed at Church Farm.

- Make changes to the wording of policy 13, open spaces to more closely reflect the NPPF and policy DP16 of the Part 1 local Plan. This would allow for the possibility that recreational land is surplus to requirements or that it could be replaced by alternative provision.

The examiner also suggests that the Habitats Regulations Assessment is reviewed once a decision has been made on what modification to make to the plan.

The Examiner's overall conclusion is that:

“I am satisfied that the Rode Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined...”

Having considered the Examiner's recommendations and reasons for them, Planning Policy Officers concur with the Examiner's view and recommend modifying the Neighbourhood Plan as advised in order to ensure that it meets legal requirements including the Basic Conditions set out in legislation. Planning Policy Officers are satisfied that the Neighbourhood Plan as modified complies with the legal requirements and can proceed to referendum. Rode Parish Council (the Qualifying Body) are in agreement that the plan should now proceed to referendum.

Planning Policy Officers also agree with the Examiner that there is no reason to extend the Neighbourhood Plan Area for the purpose of holding the referendum.

RECOMMENDATION

- 1) That the Rode Neighbourhood Plan as modified by the examiner, should proceed to referendum.
- 2) That the Referendum Area correspond to the Designated Neighbourhood Plan Area for Rode.

REASONS FOR RECOMMENDATION

To fulfil the authority's statutory duty in relation to supporting neighbourhood plans and ensure that the Plan meets the Basic Conditions and legal requirements of a neighbourhood plan.

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List of background Papers:

Appendix 1: Summary of the Basic Conditions

Appendix 2: Schedule of Proposed Modifications

Please note:

The Examiner's Report, Rode Neighbourhood Plan and associated submission documents are too large to append in full, but are available on the Council's website:

<http://www.mendip.gov.uk/neighbourhoodplanning>

Appendix 1: Summary of the Basic Conditions

Only a draft neighbourhood Plan or Order that meets each of a set of basic conditions can be put to a referendum and be “made”. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority; and
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.

Appendix 2: Schedule of Proposed Modifications

Modification Number	Policy number	Recommendation and changes	Report Page	Plan page	Reason for change
1.	Policy 1, Housing Sites	Replace the words “will provide” in the policy with “are expected and are allocated to provide”	14	12	To provide more certainty in the event that the planning permissions are allowed to lapse.
2	Policy 2, Housing for the Elderly at Merfield House	Change the reference in the policy’s title to “the elderly” to “older people”.	16	14	To reflect the terminology used in national policy and guidance
3	Policy 2, Housing for the Elderly at Merfield House	Change the reference in the policy to “the elderly” to “older people”.	16	14	To reflect the terminology used in national policy and guidance
4	Policy 2, Housing for the Elderly at Merfield House	Change criterion 1 to read “the status of Merfield House, <i>its curtilage and its setting</i> as a grade II* listed building shall be respected by any development proposals”	16	14	To ensure that the heritage assets is suitably conserved, including the setting of the listed building.
5	Policy 2, Housing for the Elderly at Merfield House	Delete Criterion 2 from the policy, but include it as supporting text.	16	14	This is not considered a development and use of land matter.
6	Policy 2, Housing for the Elderly at	Change criterion 3 to read “safe pedestrian egress is <i>encouraged</i> to be provided from the site to the junction of Straight Lane with Crooked Lane <i>subject to satisfactory</i>	16	14	To add flexibility to this criterion.

Modification Number	Policy number	Recommendation and changes	Report Page	Plan page	Reason for change
	Merfield House	<i>visual and highway safety impacts. Innovative solutions will be encouraged.</i>			
7	Policy 2, Housing for the Elderly at Merfield House	Add a new paragraph to the supporting text as paragraph 4.2.3 to read: <i>“As Merfield House is a Grade II* listed building, it will be important to ensure that any proposals are discussed at an early stage with the Parish Council, Mendip District Council and that the advice of Historic England is sought.”</i>	16	14	To ensure that the heritage asset is suitably conserved, including the setting of the listed building.
8.	Policy 2, Housing for the Elderly at Merfield House	Consequential renumbering of paragraphs will be needed.	16	14	To ensure consistency within the document
9	Policy 3, Housing for the Elderly	Change the reference in the policy’s title to “the elderly” to “older people”	17	15	To reflect the terminology used in national policy and guidance
10	Policy 3, Housing for the Elderly	Delete “...of six dwellings or more...” from the third paragraph of the policy; the supporting text should be revised to reflect this modification.	17	15	All development should be encouraged to follow the design criteria.
11	Policy 3, Housing for the Elderly	Change the reference in the policy to “the elderly” to “older people”	17	15	To reflect the terminology used in national policy and guidance
12	Policy 4, Design of Buildings and Public Space	Add a new criterion g. which reads: <i>“Does not introduce a sensitivity to light, noise, air/water pollution or amenity consistent with its use that would be in conflict with any reasonable expectation of impacts arising from existing permitted development, and”</i>	18	16	To ensure that new development is appropriate to its location in line with NPPF.
13	Policy 4, Design of	Renumber the subsequent criteria	18	16	To ensure consistency within the document

Modification Number	Policy number	Recommendation and changes	Report Page	Plan page	Reason for change
	Buildings and Public Space				
14	Policy 4, Design of Buildings and Public Space	Insert the word “ <i>Area</i> ” between “...the Rode Conservation...” and “...Appraisal...” in criterion a. of the policy	18	16	For accuracy and completeness
15	Policy 4, Design of Buildings and Public Space	Change criterion d. to read “Is sympathetic to the <i>significance of any heritage asset and its setting</i> and”	18	16	For accuracy and completeness
16	Policy 4, Design of Buildings and Public Space	Change criterion g. to read “respects and does not detract from <i>views of particular merit identified in the Rode Character Assessment at Figure 13</i> ; and”	18	16	For clarity
17	Policy 4, Design of Buildings and Public Space	Delete “...and on views into and out of the village” from criterion h.	18	17	For clarity
18	Policy 5, Settlement Boundary	Change the word “blue” in the policy to “red”	19	17	To correct a typo
19	Policy 5, Settlement Boundary	Add the small, separate area around The Miller’s House and environs and as shown on the adopted Proposals Map in LP1 to Map 1	19	13 MAP 1	To ensure consistency with Local Plan part 1
20	Policy 6, Protection of Local Heritage	Change the first sentence of the policy to read “ <i>The following heritage features, listed below, and shown on map 2, are of local historic importance. Any development proposed which may directly or indirectly affect the significance of these assets including their</i>	19/20	19	To reflect the NPPF’s differentiation between the significance of different types of heritage assets and to better reflect Local Plan Part 1 policy DP3

Modification Number	Policy number	Recommendation and changes	Report Page	Plan page	Reason for change
		<i>retention, will be required to have regard to the scale of any loss or harm caused and the significance of the heritage asset including to the local community.” (retain existing list of features)</i>			
21	Policy 7, Traffic Calming	Change the title of Policy 7 to “Promoting Sustainable and Safe Travel”	20	22	To better reflect the policy’s aims
22	Policy 10, Community Facilities and Assets of Community Value	Move paragraph two which begins “Proposals that sustain or extend the value of...” to the end of the policy.	21	24	To set the policy out in a more logical order thereby providing a more practical framework.
23	Policy 11, Site of Ecological Importance	Change the reference to “Policy 14” in paragraph 6.1.1 to “Policy 11”	22	25	To correct a typo
24	Policy 13, Open Spaces	Correct Map 5 to correctly show the Church Farm recreation area	25	30 Map 5	To correct an inaccuracy
25	Policy 13, Open Spaces	Change the first sentence of the policy to read “ <i>The following areas of land as shown on Map 5 have an open space function and value:</i> ” (retain bullet points)	25	29	To make it clear that policy 13 only applies to the areas shown on Map 5
26	Policy 13, Open Spaces	Add at the end of the last sentence of Policy 13; “...or unless it can be satisfactorily demonstrated that the open space is surplus to requirements or the development is for alternative sports or recreation provision, the needs for which clearly outweigh the loss.”	25	29	To fully reflect NPPF, Local Plan Part 1 policy DP16 and to help achieve sustainable development.
27	Policy 14, Allotments	Refer to the “ <i>Bristol Parks and Estates Allotments Strategy</i> ” instead of the “Bristol Allotments Strategy” in paragraph 6.2.9	25	31	For clarity

