
Report of Head of Policy and Plans

Report to Chief Planning Officer

Date: 23rd March 2018

Subject: The Making of Linton Neighbourhood Plan

Are specific electoral wards affected? If yes, name(s) of ward(s): Harewood	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. On 17th December 2015 a local referendum was held on the Linton Neighbourhood Plan (hereafter Linton NP). The Neighbourhood Plan can be viewed at <https://www.leeds.gov.uk/docs/LNP-Final-Hi-Res.pdf>. 95.97% of those who voted were in favour of the Plan being made.
2. Once made, the Linton NP will form part of the Council's Development Plan and will be used by the Council alongside other local planning documents to determine planning applications in the Linton area. The Plan sets out a locally distinctive vision for the neighbourhood area and is the result of local consultation and positive collaboration between the parish council and the Council.
3. Provision 3 of the Neighbourhood Planning Act 2017 (enacted) states that Plans are considered to be made and part of the Development Plan once they have received a 'yes' vote at referendum and that they should be given full weight in the determination of planning applications in the neighbourhood area. By way of background, the Council has been unable to make the Linton Neighbourhood Plan in accordance with The Neighbourhood Planning Act 2017 Regulations due to an application for judicial review lodged in December 2015. The application has been heard at the High Court and finally at the Court of Appeal, where final judgement was handed down on 14th March 2018 dismissing the appeal.

Recommendations

It is recommended that:

The Chief Planning Officer formally makes the Neighbourhood Plan for Linton.

1. Purpose of this report

- 1.1 This report recommends that the Chief Planning Officer makes the Linton NP following the result of the local referendum on Thursday 17th December 2015 where a majority of those voting (95.97%) voted in favour the Plan.

2. Background information

- 2.1 The Localism Act 2011 amended the Planning and Compulsory Purchase Act 2004 to introduce major reforms to the planning system that give local communities the 'right' to prepare a neighbourhood plan. A neighbourhood plan is a statutory planning document which can set out local planning policies for the development and use of land in a neighbourhood and is subject to public consultation, independent examination and a referendum.
- 2.2 A neighbourhood plan must meet the statutory 'basic conditions', the key 'conditions' being 'general conformity' with local strategic planning policies and regard to the national planning policies in the National Planning Policy Framework. These set the parameters for the plan and an independent examiner then assesses whether a plan meets the 'basic conditions' or not.
- 2.3 There are 35 groups in Leeds preparing neighbourhood plans. Of the 35, six have been formally made by the Council. Over the next 12 months it is expected that many more of the Plans will reach examination and referendum stage. Clifford was the first neighbourhood plan in Leeds to be formally made by the Council's Executive Board in March 2017. Executive Board also resolved that further plans in Leeds that come forward can be made by the Chief Planning Officer through delegated powers.

3. Main issues

Referendum

- 3.1 A referendum was held in the Linton Neighbourhood Area on Thursday 17th December 2015 and posed the question "Do you want Leeds City Council to use the Neighbourhood Plan for Linton to help it decide planning applications in the neighbourhood area?"
- 3.2 A substantial majority of those who voted were in favour of the Linton NP being used to help decide planning applications in the Plan area. The results of the referendum were:

Response	Votes
Yes	262 (95.97%)
No	11 (4.03%)
Turnout	48.66%

Delay in making the Plan

- 3.3 The City Council has been unable to make the Linton Neighbourhood Plan as it has been subject to an application for judicial review made by Kebbell Development Ltd, lodged in December 2015. The application has been heard at the High Court and Court of Appeal and on the 14th March 2018 the application was dismissed. Accordingly, the Court has found that the Council has complied with its legal duties under the Act and Regulations. There are no further rights of appeal. This now means that the Council should revert back to the intended next step before the legal challenge and now proceed under the Regulations in making the Plan.

Making the Plan

- 3.4 Provision 3 of the Neighbourhood Planning Act 2017 (enacted) states that:
“a neighbourhood plan which relates to that area also forms part of the development plan for that area if-
- (a) Section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but*
 - (b) The local planning authority to whom the proposal for making the plan has been made have not made the plan.”*

This means that once a neighbourhood plan has received an affirmative vote at referendum, a plan is considered made and part of the development plan for the area.

- 3.5 Regulation 18A(1) of The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 requires a Council to make a neighbourhood plan that has been supported at referendum within 8 weeks of the day after the referendum. However 18A(2) states that “Paragraph (1) does not apply where proceedings for questioning anything relating to an applicable referendum are brought in accordance with section 61N(3) of the 1990 Act (applied by section 38C(2)(d) of the 2004 Act) before the neighbourhood development plan is made.” The application for judicial review questioned the decision of the Council to let the Plan proceed to referendum therefore 18A(2) applies in this case and the 8 week deadline does not apply. With the failure of the application for judicial review, it is now considered appropriate for the Council to formally make the Linton NP.
- 3.6 The Council has no discretion in making the Plan unless it considers that making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 3.7 Officers are satisfied that the making of the Linton NP would not breach, nor would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

4. Corporate considerations

Once the Linton NP is made, it will be part of the Development Plan for Leeds.

4.1 Consultation and engagement

- 4.1.1 The Plan was prepared through ongoing community consultation and engagement as well as collaboration with the Council.
- 4.1.2 Ward Members and the relevant Executive Member have been kept informed of the Plan’s progress by both officers and Collingham with Linton Parish Council. Updates on progress have been given at the Outer North East Community Committee.

4.2 Equality and diversity / cohesion and integration

4.2.1 The Government has undertaken an Equalities Impact Assessment of the Localism Act in relation to neighbourhood planning (2011). The Council views the neighbourhood planning process as an opportunity to deliver equality, diversity, cohesion and integration objectives. Neighbourhood Plans by their very nature should be inclusive and be shaped by a range of people who live, work and carry out business in an area.

4.3 Council policies and best council plan

4.3.1 Neighbourhood planning links well to all three of the Council's corporate priorities set out in the Vision for Leeds:

- Leeds will be fair, open and welcoming (neighbourhood plans must not breach, and be otherwise compatible with, EU obligations and be compatible with human rights requirements);
- Leeds economy will be prosperous and sustainable (the making of the neighbourhood plan must contribute to the achievement of sustainable development);
- All Leeds communities will be successful (the making of the neighbourhood plan must be in general conformity with the strategic policies contained in the development plan for Leeds, a significant part of which is planning for growth).

4.4 Resources and value for money

4.4.1 The expenditure cost of neighbourhood plans to the Council varies, related to local issues and the local capacity to prepare a plan as well as the size of the referendum area. Linton Parish Council has had a high capacity to prepare the Plan. The cost to the Council of the Linton NP examination was £7733.70 and the referendum was £3,874.83.

4.4.2 Local Planning authorities are able to claim £20,000 from the Department of Communities and Local Government following the successful examination of a neighbourhood plan and the fixing of a date for the referendum. £20,000 has already been claimed for the Linton NP.

4.5 Legal implications, access to information, and call-in

4.5.1 As soon as possible after a neighbourhood plan is made, the Local Planning Authority must publish the Plan together with the 'decision statement'. This will set out the details of where and when the Plan can be viewed. The decision is exempt from call-in pursuant to Rule 5.1.3 of the Executive Decision making Procedure rules as it is considered urgent as any delay in making the decision will seriously prejudice the Council's interest, namely that it would not be possible to make the Plan in accordance with the statutory timeframe which requires that the Plan be made within 8 weeks from the day after the referendum is held. Whilst it is recognised that the timescales have been extended by way of the legal challenge, it has not been possible to make the Linton NP within this timeframe. However as the challenge has now concluded, it is appropriate and proportionate to proceed in making the Order within a reasonable timescale being 8 weeks from the date of Judgement.

4.6 Risk management

- 4.6.1 The Examination process tested the Linton NP against the 'Basic Conditions'. The modifications that were recommended by the Examiner have amended the Plan so that it fully meets the Basic Conditions. Whilst further minor modifications were made by the City Council which resulted in the application for judicial review and a delay of more than 2 years in making the Neighbourhood Plan, the resulting judgements have all shown the City Council acted lawfully. The Plan's compliance with the Basic Conditions has removed potential conflict between the Neighbourhood Plan and the adopted policies of the development plan. The process has resulted in clear, robust and deliverable policies for applicants and the Council as the Local Planning Authority.
- 4.6.2 Once a neighbourhood plan is made, its policies take precedence over existing non-strategic policies in the Local Plan for that neighbourhood area if there is conflict. However, with the collaboration between the Council and the Parish Council throughout the preparation of the Plan, no areas of conflict have been identified.

5. Conclusions

- 5.1 The Plan meets the statutory 'basic conditions.' The application for judicial review has been dismissed by the Court of Appeal and the Plan was supported at referendum, accordingly it must now be made by the Council.

6. Recommendations

- 6.1 It is recommended that:
The Chief Planning Officer formally makes the Neighbourhood Plan for Linton.

7. Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.