

## Modification of the Otley Neighbourhood Plan

Date: 16<sup>th</sup> November 2021

Report of: Head of Policy and Plans

Report to: Chief Planning Officer

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

### What is this report about?

#### Including how it contributes to the city's and council's ambitions

- The Otley Neighbourhood Development Plan (ONP) was made by Leeds City Council on 21<sup>st</sup> May 2020. On 8<sup>th</sup> June 2021, Otley Town Council, the Qualifying Body for the ONP, wrote to Leeds City Council to set out 3 proposed minor (non-material) modifications to the Plan. This report confirms that Leeds City Council is making the modifications to the ONP.
- The Council has the power to make minor (non-material) amendments to a made neighbourhood plan at any time, with the consent of the Qualifying Body, in this case Otley Town Council. In accordance with Regulation 30 of The Neighbourhood Planning (General) Regulations 2012 (as amended) and Section 61M (4a) of the Town and Country Planning Act 1990 (as amended), Leeds City Council must publish a modification document to confirm the modifications made to the neighbourhood plan. The Council must also notify those people who expressed their wish to be notified of the making of the ONP following the referendum.
- Part of the Otley Neighbourhood Area (the area to which the ONP relates) falls within the jurisdiction of Harrogate Borough Council. As such, Harrogate Borough Council must also make the decision in tandem with Leeds City Council to modify the ONP as per the Modification Document. Harrogate Borough Council's Cabinet Member for Planning is anticipated to make this decision on 16 November 2021.
- Neighbourhood planning helps to deliver on the ambitions of the Best Council Plan by enabling local communities to have a voice in shaping the future growth of their areas. It provides the opportunity to identify and plan for the future sustainability of an area by preparing locally-distinctive planning policies which will be used by the Council to help determine planning applications in a given area and by setting out projects and local aspirations.

### Recommendations

The Chief Planning Officer is recommended to:

- a) Make the modifications to the Otley Neighbourhood Plan as set out in the Otley Neighbourhood Plan – Regulation 30 Modification Document (Appendix 1);

- b) Note the intended decision of Harrogate Borough Council to make the same modifications to the Otley Neighbourhood Plan on 16<sup>th</sup> November 2021; and
- c) Agree the publication of the Modified Otley Neighbourhood Plan (Appendix 2).

## Why is the proposal being put forward?

- 1 This report sets out the proposed modifications to be made to the Otley Neighbourhood Plan (ONP) and seeks the Chief Planning Officer's agreement to modify the ONP as set out in Appendix 1: Otley Neighbourhood Plan - Regulation 30 Modification Statement.
- 2 The ONP, prepared by Otley Town Council, was subject to a local referendum on 20<sup>th</sup> February 2021, which received a 89.9% vote in favour of the plan being made by Leeds City Council. The ONP was duly made by Leeds City Council on 21<sup>st</sup> May 2020.<sup>1</sup>
- 3 During the referendum period, Leeds City Council were contacted by a local resident who had identified 3 factual inaccuracies relating to the way that the proposed Extended Leeds Habitat Network (ELHN) was displayed on Map 5 and described within Appendix 2 of the draft ONP. The inaccuracies identified were not within any of the policies of the draft ONP, rather they concerned the way that information relating to the ELHN (such as areas that were included and those areas that were not included but shown for informational purposes only) was presented on Map 5 and in Appendix 2. The corrections to be made to the ONP have no material impact on the plan or any of the policies contained therein.
- 4 During the referendum period and in advance of the referendum date, Leeds City Council, with the agreement of Otley Town Council, published a factual statement with regards to the draft ONP, noting that should the plan succeed at referendum and progress to being made part of the development plan for Leeds, that the necessary corrections would be made by Leeds City Council.
- 5 On 8<sup>th</sup> June 2021, Otley Town Council wrote to Leeds City Council confirming that the Town Council, through the meeting of the Policy & Resources Committee of 7<sup>th</sup> June 2021, accepted the proposed modifications to be made to the ONP.
- 6 Planning Practice Guidance gives guidance on updating a neighbourhood plan, and sets out 3 categories of modifications:
  - Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
  - Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.
  - Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.<sup>2</sup>
- 7 It is considered that the proposed modifications to the ONP fall within the "minor (non-material) modifications" category as they do not materially affect any policies in the plan and serve to correct errors. Section 61M of the Town and Country Planning Act 1990 (as amended) and Planning Practice Guidance clarify that Local Planning Authorities may make factual corrections to a neighbourhood plan, so long as the Qualifying Body gives

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<sup>1</sup> Decision of Leeds City Council to make the Otley Neighbourhood Plan, 21 May 2020:

<https://democracy.leeds.gov.uk/ieDecisionDetails.aspx?ID=50916>

<sup>2</sup> Planning Practice Guidance, Paragraph 106 Reference ID: 41-106-20190509: <https://www.gov.uk/guidance/neighbourhood-planning--2#updating-neighbourhood-plan>

consent.<sup>3</sup> The letter from Otley Town Council dated 8<sup>th</sup> July 2021 provides written consent for the modifications to be made to the ONP.

- 8 Regulation 30 of the Neighbourhood Planning (General) Regulations 2012 (as amended) states that as soon as possible after modifying a neighbourhood plan, a local authority must:

(a)publish on their website and in such other manner as they consider is likely to bring the order to the attention of people who live, work or carry on business in the neighbourhood area—

(i)a document setting out details of the modification (“the modification document”);  
and

(ii)details of where and when the modification document may be inspected; and

(b)give notice of the modification to the following—

(i)the qualifying body or community organisation, as the case may be; and

(ii)any person the authority previously notified of the making of the order or plan.<sup>4</sup>

- 9 A modification document has been prepared (Appendix 1: Otley Neighbourhood Plan – Regulation 30 Modification Document). Once the Chief Planning Officer has made the decision to modify the Otley Neighbourhood Plan, the modification document will be published on the Council’s website, the Council must also notify Otley Town Council as the Qualifying Body, and notify those persons that were previously notified of the making of the ONP.
- 10 Part of the Otley Neighbourhood Area (the area to which the ONP relates) falls within the boundary of Harrogate Borough Council. Officers have liaised with counterparts at Harrogate Borough Council and note that the Borough Council, through the Cabinet Member for Planning, intends on making the modifications to the ONP in tandem with the decision by Leeds City Council on 16<sup>th</sup> November 2021.
- 11 A copy of the modified Otley Neighbourhood Plan is provided at Appendix 2.

### What impact will this proposal have?

**Wards Affected: Otley and Yeadon**

Have ward members been consulted?

Yes

No

- 12 The modification of the ONP will serve to correct minor inaccuracies within the made neighbourhood plan. The modifications fall within the “minor (non-material) modifications” category of neighbourhood plan modifications and will not have any material impact on the policies within the ONP. The corrections serve to clarify the extent of the ELHN within Otley and clarify those areas shown for informational purposes only on Map 5 within the ONP.

<sup>3</sup> Town and Country Planning Act 1990 (as amended) Section 61M: <https://www.legislation.gov.uk/ukpga/1990/8/section/61M>; Planning Practice Guidance Paragraph 84a Reference ID: 41-084a-20180222: <https://www.gov.uk/guidance/neighbourhood-planning--2#updating-neighbourhood-plan>

<sup>4</sup> The Neighbourhood Planning (General) Regulations 2012 (as amended) Regulation 30: <https://www.legislation.gov.uk/uksi/2012/637/regulation/30/made>

### **What consultation and engagement has taken place?**

- 13 Otley Town Council have been consulted on the proposal to modify the ONP and have provided their consent.
- 14 Otley and Yeadon Ward Members have been consulted on the proposal to modify the ONP.
- 15 The Executive Member for Infrastructure and Climate has been consulted on the proposal to modify the ONP and has expressed support.
- 16 Owing to the minor nature of the modifications, there are no specific consultation requirements for the proposal to modify the ONP.

### **What are the resource implications?**

- 17 There are no specific resource implications arising from this decision.

### **What are the legal implications?**

- 18 The process for the modification of made neighbourhood plans is set out through Planning Practice Guidance, The Town and Country Planning Act 1990, and The Neighbourhood Planning (General) Regulations 2012 (as amended).
- 19 Otley Town Council has provided their consent for the modification of the ONP, and the Modification Document sets out what modifications are to be made to the plan, in line with legislative requirements.
- 20 There are not considered to be any further legal implications.

### **What are the key risks and how are they being managed?**

- 21 There is a risk that the neighbourhood plan may be subject to legal challenge or judicial review. Given that the process for making modifications to neighbourhood plans has been followed, this risk is considered to be minimal.

### **Does this proposal support the council's 3 Key Pillars?**

Inclusive Growth                       Health and Wellbeing                       Climate Emergency

- 22 Neighbourhood planning relates well to all three of the Councils Key Pillars. It promotes opportunities for communities to get involved in and shape the development of their areas over the long term. Through the process, communities can influence and encourage the development of healthy places, in accordance with locally-set priorities. Neighbourhood plans are also required, through the Basic Conditions, to contribute to the achievement of sustainable development, as understood in social, environmental and economic terms.

### **Options, timescales and measuring success**

#### **a) What other options were considered?**

- 23 The Council, along with Otley Town Council, made a commitment during the referendum period for the ONP that the identified corrections would be made to the plan should the plan succeed at referendum. This decision and the accompanying documentation fulfils that commitment.
- 24 Planning Practice Guidance sets out 3 categories of modifications to neighbourhood plans and the process to be followed for each, depending on the significance and likely impact of the modifications. The modifications set out in the Otley Neighbourhood Plan – Regulation

30 Modification Document are considered to fall within the first category of “minor (non-material) modifications”. As such no other options were considered.

**b) How will success be measured?**

25 Not applicable.

**c) What is the timetable for implementation?**

26 The modifications will be effective from the date of Leeds City Council’s decision.

27 Once the Council has made the decision to modify the ONP, the modification document must be publicised, and the Council must notify Otley Town Council and those persons that were previously notified of the making of the ONP. This will happen as soon as possible.

**Appendices**

28 Appendix 1 provides the Otley Neighbourhood Plan – Regulation 30 Modification Document.

29 Appendix 2 provides a copy of the modified Otley Neighbourhood Plan.

**Background papers**

30 None.