

## CABINET - 14TH DECEMBER 2017

### Report of the Head of Planning and Regeneration Lead Member: Councillor Vardy

#### Part A

#### ITEM 7 BARROW UPON SOAR NEIGHBOURHOOD PLAN

##### Purpose of Report

To consider the examiner's recommendations and the Strategic Environmental Assessment for the Barrow upon Soar Neighbourhood Plan and whether to hold a local referendum to determine whether there is support for the Neighbourhood Plan. In the event of the referendum outcome expressing support for the plan to consider giving delegated authority to the Head of Planning and Regeneration to make the plan in accordance under Section 38(A) (4) of the Planning and Compulsory Purchase Act 2004.

##### Recommendations

1. That the recommendations made within the examiner's report (and summarised in Appendix A of this report) be approved with the exception of policy BuS15.
2. That the following revised wording put forward by the Steering Group be used for policy BuS15:

*New housing development of more than ten dwellings will not be supported unless it can be demonstrated that the residual cumulative impact will not make existing traffic conditions worse.*

3. That the results of the Strategic Environmental Assessment (SEA) be noted.
4. That the decisions made under recommendations 1-3 be published and a referendum be held to determine whether there is local support for the neighbourhood plan.
5. That in the event of the referendum resulting in agreement for the neighbourhood plan to be made that authority be delegated to the Head of Planning and Regeneration to formally make the plan part of the statutory development plan for Charnwood, in accordance with the provisions of Section 38(A) (4) of the Planning and Compulsory Purchase Act 2004.

##### Reasons

1. To confirm the modifications to the plan following the report of the examiner under regulation 18 (1) (c) and (d) of The Neighbourhood Planning (General) Regulations 2012 (as amended).
2. To confirm a modification to the plan in respect of the Examiner's recommendation for policy BuS15 under regulation 18 (1) (b) (c) and (d) and 18 (2) (a) of The Neighbourhood Planning (General) Regulations 2012 (as

amended) in support of the appropriate body and the views they have on the content and nature of plan making for their parish.

3. To confirm that the Neighbourhood Plan complies with the Strategic Environmental Assessment and Sustainability Assessment requirements as prescribed by the European Directive 2001/42/EC which were introduced into the planning system by the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations).
4. To enable the appropriate consideration of the plan to be made in accordance with the requirements for a referendum under The Neighbourhood Planning (Referendums) Regulation 2012 (as amended).
5. To enable the Neighbourhood Plan to be used in determining planning applications as part of the Development Plan, and for this to be done in a timely manner under Regulation 20 (a) and (b) of The Neighbourhood Planning (General) Regulation 2012 (as amended).

### Policy Justification and Previous Decisions

The Localism Act (2011) introduced new provisions to allow local communities to prepare neighbourhood development plans and establish them as part of the statutory development plan alongside the relevant local plan and mineral and waste plan. Further direction has been provided by the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) with The Neighbourhood Planning (General) Regulations 2012 (as amended) and subsequent amendments giving details on how neighbourhood plans are to be brought into effect.

The support to be provided by Charnwood Borough Council for the delivery of neighbourhood plans was set out by a Cabinet resolution on 14th March 2013 (Minute 121/13). The adopted Charnwood Local Plan 2011 to 2028 Core Strategy identifies opportunities which are available for communities to prepare neighbourhood plans and shape the future of development within their area. For example, by addressing specific, identified local housing or employment needs or by identifying land as Local Green Space.

### Implementation Timetable including Future Decisions and Scrutiny

The Neighbourhood Planning (General) Regulations 2012 (as amended) prescribe time periods within which action must be taken, The time period relevant to this decision are:

- a) the decision whether to put a neighbourhood plan to referendum following receipt of the report of the independent examiner (5 weeks);
- b) the time period within which the referendum must be held, following the decision that the plan should be put to referendum (56 days); and
- c) the time period to bring a neighbourhood plan into force after it has been approved in a referendum (8 weeks).

An extension to the time period under a) above was formally agreed with the parish council due to the time limit being unachievable in the event that the Borough Council pursued an amendment that was different to that recommended by the Examiner.

The mechanism and content of the parish council's alternative amendment has been considered in consultation with relevant stakeholders and with legal advice and it is now possible to undertake step a) and for steps b) and c) to be met as prescribed by the regulations.

Taking into account the rules for when a referendum must be held along with the council's constitution, the referendum must be held on or before Thursday 15 February 2018. It follows from this that the plan must be brought into force on or before 12 April 2018.

### Report Implications

The following implications have been identified for this report.

#### *Financial Implications*

The cost of producing neighbourhood plans falls mainly upon the Steering Group preparing the plan. The Borough Council provides support and advice to Steering Groups through existing resources and the arrangements for the examination and referendum are made and facilitated by the Council with the direct costs being met through funding drawn down from the Department for Communities and Local Government (DCLG).

A neighbourhood area designation grant for £5,000 has been received for the Barrow upon Soar Neighbourhood Plan. The Council has received five designation grants but DCLG caps support at this stage at a maximum of five applications so the Council will not be able to receive any more funding for neighbourhood area designations in the future. Funding of £20,000 can be claimed on successful completion of a neighbourhood plan examination and can be used to pay for examination and referendum costs.

The cost of examination for this plan was £4,568 and has been met through the use of the DCLG Neighbourhood Plans grant.

The referendum is expected to cost approximately £3,000. Officer support costs have not been precisely calculated although nominally a figure of 20% of the Planning Policy team's time has been taken up by Neighbourhood Planning in recent months. There are additional financial implications for the Council arising from publicity and making the plan available for use as part of the development plan. The total costs for officer support, the referendum, publicity and publication of the plan are expected to be consistent with and not exceed the £20,000 funding that will be claimed in the event that the plan is made following a successful examination. In the event that the plan is not successful at referendum, note that these costs will still be incurred but the funding cannot be claimed. Should this be the case the costs will be met in this instance from the local plans budget for 2017/18.

### *Risk Management*

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Challenge due to deviating from the examiner's recommendations and the delay caused.	Unlikely	Moderate	Ensure all consultation and communication since receiving the examiner's report is available on our website to demonstrate an open and transparent process which explains reasons for deviation and process for arriving at modified policy wording.
Council fails to allow the plan to proceed to referendum and/or be made.	Unlikely	Major	Progress neighbourhood plan in accordance with the regulatory framework and with legal advice.

### *Equality and Diversity*

The extensive consultation procedures provided for by the Planning and Compulsory Purchase Act 2004 help ensure that all groups within the community have participated in the preparation of the plan. The Examiner's Report confirms the neighbourhood plan has had regard to fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary. There are no equality and human rights implications arising from the recommendations in this report.

### *Sustainability*

The plan has been prepared with a presumption in favour of sustainable development. A Strategic Environmental Assessment/Habitats Regulation Assessment Screening Report has been undertaken, and now requires formal determination. All statutory consultees have been consulted, and the examiner has not made any modifications in relation to this assessment. The SEA screening report concluded that there are unlikely to be any significant environmental effects arising from the Barrow upon Soar Neighbourhood Plan.

Key Decision: Yes

Background Papers:

[The Localism Act 2011](#)  
[Town and Country Planning, England \(Referendums\) Regulations 2012](#) (SI 2012 No. 2031)

[Town and Country Planning, England, The Neighbourhood Planning \(General\) Regulations 2012 \(SI 2012 No. 637\)](#)  
[Decision under Delegated Powers Barrow upon Soar Neighbourhood Area](#)  
[Barrow upon Soar Neighbourhood Plan examination documents \(including SEA Screening Report\)](#)  
[Examiner's Report \(June 2017\)](#)

Officer to contact: Richard Bennett  
Head of Planning and Regeneration  
(01509) 634763  
[richard.bennett@charnwood.gov.uk](mailto:richard.bennett@charnwood.gov.uk)

## Part B

### Context

1. A neighbourhood plan can decide where and what type of development should happen in the area; promote more development than is set out in the local plan; or include more detailed policies to supplement the local plan, for example the introduction of specific design standards. However, a neighbourhood plan cannot be used to prevent development included in the local plan or be in conflict with strategic policies in the local plan.
2. A neighbourhood plans' 'making' is subject to a referendum returning a majority view in the community for it to be 'made'. Once "made" (adopted) a neighbourhood plan becomes part of the statutory development plan for the designated area and together with the Charnwood Local Plan 2011 to 2028 Core Strategy and saved policies of the Borough of Charnwood Local Plan 2004 (and any relevant policies in the Minerals and Waste local plans) it will be used to determine applications for planning permission in Barrow upon Soar.
3. A neighbourhood plan must:
  - Support sustainable development;
  - Generally conform to the strategic policies in the local plan;
  - Have regard to national planning policies;
  - Comply with the relevant legislation; and
  - Specify the period it will cover.

### The Barrow upon Soar Neighbourhood Plan

4. The Barrow upon Soar Neighbourhood Plan has been produced by the Barrow upon Soar Neighbourhood Plan Steering Group comprising members of the local community and parish councillors in behalf of the Barrow upon Soar Parish Council. The Steering Group has been supported by officers from the Council throughout the preparation of the plan, although it should be expressly noted that the resultant plan has not been prepared by the Borough Council. The Neighbourhood Plan is considered to be based upon robust evidence including statistical information as well as community consultation and engagement.
5. The plan is considered to reflect local needs and priorities which have been identified through extensive consultation during the plan preparation process. Engagement activity undertaken by the Steering Group has included informal consultation events, household and business surveys, surveys with local school children, and a workshop with parish councillors and key stakeholders.
6. The neighbourhood plan is considered to provide a simple, clear vision for the future development of the parish. This vision is to be realised by policies and actions which cover a number of areas including ecology and biodiversity, local green space, community services and facilities, transport, housing and the economy.

## Key Stages in the Process

7. An application was received from Barrow upon Soar Parish Council to designate the entire parish as a neighbourhood area on 18<sup>th</sup> November 2013. Following a statutory consultation period, the neighbourhood area was designated on the 18<sup>th</sup> February 2014.
8. Once designated the Steering Group began to gather evidence and identify the issues, vision and objectives to inform the plan. Extensive consultation was also undertaken with the local community, landowners, local groups and statutory consultees. This enabled the creation of an initial draft plan in May 2016.
9. The Barrow upon Soar Pre-Submission Draft Neighbourhood Plan underwent a statutory 6 week consultation from the 13<sup>th</sup> June to the 25<sup>th</sup> July 2016. A number of amendments were then made to the plan by the Steering Group in response to the representations received during the consultation.
10. The revised plan, along with other statutory submission documents, was submitted to the Borough Council on the 20<sup>th</sup> February 2017. Following confirmation from the Borough Council that all the necessary material had been submitted the Borough Council undertook a further 6 week statutory consultation on the submission documents from the 10<sup>th</sup> March 2017 to 21<sup>st</sup> April 2017 in accordance with regulation 16 (a) and (b) of The Neighbourhood Planning (General) Regulations 2012 (as amended).
11. During this consultation period the Council appointed a suitably qualified and experienced independent examiner; Mr Richard High, to conduct the examination in accordance with regulation 17 of the Neighbourhood Planning (General) Regulations (as amended). This took place in June 2017 and sought to ensure that the neighbourhood plan met a number of basic conditions in that it:
  - Has appropriate regard to national policy;
  - Is in general conformity with the strategic policies of the development plan for Charnwood;
  - Contributes to the achievement of sustainable development; and
  - Is compatible with EU obligations.
12. The examiner's report was issued on the 29<sup>th</sup> June 2017. This determined that the Barrow upon Soar Neighbourhood Plan met the basic conditions against which it was examined, subject to a number of proposed modifications, and recommended that the plan should proceed to referendum. A summary of the examiner's recommendations can be found in Appendix A of this report.
13. The Steering Group signalled that it was content with the examiner's recommendations save for that in relation to Policy BuS15: Road Network. Following discussion between the Steering Group and officers from the Council, the parish council liaised with the highways authority and the following alternative modification was proposed (see table below):

Examiner's recommended BuS15:	Steering Group's recommended BuS15:
<p>Where necessary and appropriate, new developments of more than 10 dwellings will be required to contribute to off-site improvements to the highway network to mitigate the effects of new development. Development will not be supported if the residual or cumulative impact on congestion or highway safety is severe.</p>	<p>New housing development of more than ten dwellings will not be supported unless it can be demonstrated that the residual cumulative impact will not make existing traffic conditions worse.</p>

14. Officers have considered the legal implications of pursuing an amended wording that differs to that recommended by an examiner and it is considered to be appropriate under 12(6) Sch4B TCPA. It was considered incongruous to proceed with the examiner's recommendation when this was not supported by the plan makers themselves.
15. As the Council will effectively be making a decision which is different to the examiner's recommendation in respect of BuS15, informal consultation was undertaken with the highways authority and then further formal consultation with stakeholders was undertaken between the 5<sup>th</sup> October 2017 and 16<sup>th</sup> November 2017. The Council received 3 responses all of which confirmed that there were no concerns with the revised policy wording for BuS15 (Road Network).
16. Cabinet is invited to agree with the examiner's recommendations, save for that related to policy BuS15, and to agree with the revised wording proposed for policy BuS15 to allow the plan to proceed to referendum.
17. The Borough Council is required to send a copy of the decision on the examiner's recommendations to the parish council; any persons making written representations on the proposal; the Environment Agency; Natural England; and, Historic England.
18. In the event that the recommendations are agreed a referendum will be arranged and held within 56 days of the decision being made. The Neighbourhood Plan must be publicised on the Council's website with details provided of where and when it can be inspected.
19. In the event that the referendum votes in favour of making the neighbourhood plan it must be approved by Charnwood Borough Council within 8 weeks of that outcome being returned. Cabinet is invited to delegate authority to the Head of Planning and Regeneration to take that step in the event of a positive return to the referendum to allow for the efficient and effective making of the plan under the time periods prescribed by the Regulations. In the event of the referendum returning a negative response to the making of the Neighbourhood Plan, the Head of Planning and Regeneration would publicise that outcome and notify the Steering Group.

## The Strategic Environmental Assessment

20. The Barrow upon Soar Neighbourhood Plan has also been considered against the European requirements for both environmental and habitat assessments as was required by the relevant legislation. The Strategic Environmental Assessment screening determines whether there is likely (or not) to be any significant environmental effects arising from the Neighbourhood Plan (Pre-Submission Draft). The SEA screening assessment was the subject of consultation 10<sup>th</sup> March 2017 and 21<sup>st</sup> April 2017 (alongside the pre-examination neighbourhood plan). Under the regulations a formal decision to determine the SEA is required before the plan can proceed to referendum. As per the SEA compliance statement (see Appendix B of this report), officers have determined that the SEA is considered to comply with Paragraph 8(2) of Schedule 4B of the Planning Act 1990 and the Environmental Assessment of Plans regulations and as such can be determined to be acceptable. Cabinet is asked to note this determination.

Appendix A: Schedule of examiner recommendations

Appendix B: SEA compliance Statement

## Appendix A:

### Schedule of examiner recommendations

Issue / policy:	Examiner's recommendation:	Steering Group view:	Notes:
Maps	Ensure that hard copies of the Plan include maps with headings and keys	Agree	N/A
Policy BuS1: Countryside	Delete Policy BuS1	Agree	N/A
Policy BuS2: Ecology and Diversity	Reword the first two lines of Policy Bus2 to read "Development should not harm the network of local ecological features and habitats listed below and shown on the policies map, unless the need for and benefits of the development clearly outweigh the harm that would be done." In part 11 of the policy add after "... (PWC 031)" "subject to the essential maintenance of this vital link". In the first line of the final paragraph of Policy BuS2 after "and" insert "where possible". Ensure that all the sites listed are clearly shown on the Policies Map. In paragraph 40 after "'Parish' value" delete "(BWC)" and insert "(PWC)".	Agree	N/A
Policy BuS3: The Canal	Modify Policy BuS3 to read. "Development that will affect the Grand Union Canal and the land alongside it will be required to demonstrate how it conserve or enhance the canal as a heritage asset, a key strategic Green Infrastructure and wildlife corridor and a recreation and tourism resource.	Agree	N/A
Policy BuS4: Proctors Park	Delete Policy BuS4	Agree	N/A
Policy BuS5 Local Heritage Assets	Reword Policy BuS5 to read: "The determination of planning applications which would affect the following heritage assets and features of historic interest will balance the need for or public benefit of the proposed development against the significance of the asset and the extent to which it will be harmed: 1. Locally Listed buildings identified as on the Policies Map:	Agree	N/A

	<ul style="list-style-type: none"> <li>• LL1 No. 41 Cotes Road</li> <li>• LL2 Cemetery Chapels, Cotes Road</li> <li>• LL3 Paddy Farm, Horseshoe Cottage and Paudy Farmhouse, Melton Road</li> <li>• LL4 14 (Factory) South Street</li> <li>• LL5 The Hunting Lodge, South Street</li> <li>• LL6 Gates and Stables, the Hunting Lodge, South Street</li> </ul> <p>2. Buildings or features of local heritage interest identified on the Policies Map:</p> <ul style="list-style-type: none"> <li>• LH11 Millennium Sundial</li> <li>• LH2 The Mount, 2 High Street</li> <li>• LH3 The Mount Garage, 3a Melton Road</li> <li>• LH4 The Barrow Kipper</li> <li>• LH5 The Garden of Rest</li> <li>• LH6 William Lee’s gravestone</li> <li>• LH7 Industry Square</li> <li>• LH8 Barrow Deep Lock</li> <li>• LH9 Flour Mill</li> <li>• LH10 the path from the mill-site to the weir</li> <li>• LH11 Proctors Pleasure Park</li> <li>• LH12 The Riverside Inn</li> </ul> <p>3. The canal and canal architecture  4. Traditional stone walls  5. Jitties”</p> <p>Amend the notation on the policies map to reflect these modifications. Split the list in the evidence base into the two categories above and attach it to the plan as Appendix 2.</p>		
Policy BuS6: Design	Reword Policy BuS6 to read “New development will be required to reflect the guidance in the Barrow upon Soar Village Design Statement.”	Agree	N/A
Policy BuS7: Local Green Spaces	Reword Policy BuS7 to read: “The following areas, shown on the policies map are designated as Local Green Spaces and within these areas development that is not clearly related to the use of the areas as Local Green Spaces will not be supported other than in very special circumstances:	Agree	N/A

	<ul style="list-style-type: none"> <li>• GS01 King George V Recreation Ground</li> <li>• GS02 Mill Lane Recreation Ground</li> <li>• GS03 Pigs Close off Bridge Street/ Mill Lane</li> <li>• GS04 Willow Road Open Space</li> <li>• GS05 Willow Road Open Space 2</li> <li>• GS07 Millennium Park and picnic area</li> <li>• GS08 Melton Road Amenity Area</li> <li>• GS09 Branston Avenue Amenity Area / Fishpool Brook</li> <li>• GS10 Open space between Breachfield Road and Fishpool Brook</li> <li>• GS13 Bridge Street Amenity Area</li> <li>• GS14 Towpath</li> <li>• GS16 Barrow Town Cricket Club Field</li> <li>• GS17 Nottingham Road Allotments</li> <li>• GS20 Holy Trinity Church</li> <li>• GS22 Barrow upon Soar Cemetery, Cotes Road</li> <li>• GS23 War Memorial and Industry Square”26</li> </ul> <p>Amend the area of GS10 to include just the northern part of the site as shown on the drawing attached as Appendix 2.</p> <p>In the supporting text insert a new paragraph between paragraphs 71 and 72 to clarify that these sites have been evaluated against the criteria in the NPPF and to provide a cross reference to the sheets in the evidence base or to a new appendix which summarises the evidence base.</p> <p>Add a notation for GS20 on the Town Centre version of the Policies Map.</p>		
Policy BuS8: Community Services and Facilities	No recommendation.	N/A	N/A
Policy BuS9: Village Centre	In the third paragraph of Policy BuS9 delete “50sq.m.” and insert “200sq.m.” In the fifth paragraph at the beginning of the fifth paragraph add “Except where changes of use are allowed through allowed through permitted development...” and delete the full	Agree	N/A

	stop and insert “and” between the two sentences of the paragraph so that it is clear that the reference to permitted development applies to both parts of the paragraph. In the supporting text refer to the document in the evidence base and provide a fuller justification for the threshold chosen.		
Policy BuS10: Village Centre Car Parking	In the second part of Policy BuS10 add: “unless it can be demonstrated that it would not be practical and the development would not add significantly to the demand for parking space.”	Agree	N/A
Policy BuS11: Barrow Health Centre	No recommendation.	N/A	N/A
Policy BuS12: Primary School	No recommendation.	N/A	N/A
Policy BuS13: Community Centre	No recommendation.	N/A	N/A
Policy BuS14: Infrastructure	No recommendation.	N/A	N/A
Policy BuS15: Road Network	Reword Policy BuS15 to read: “Where necessary and appropriate, new developments of more than 10 dwellings will be required to contribute to off-site improvements to the highway network to mitigate the effects of new development. Development will not be supported if the residual or cumulative impact on congestion or highway safety is severe.”	Disagree	New wording has been proposed in consultation with the Highway Authority. The new policy wording will require further consultation prior to the council making its formal decision on the examiner’s recommendations.
Policy BuS16: Barrow upon Soar Railway Station	No recommendation.	N/A	N/A
Policy BuS17: Walking and	Move the last paragraph of the policy to the supporting text.	Agree	N/A

Cycling			
Policy BuS18: Housing Provision	No recommendation.	N/A	N/A
Policy BuS19: Meeting the Housing Needs of Older People	<p>In criterion 3 of Policy BuS19 delete “60” and insert “55”. Reword the 4th criterion to read “The development will be subject to a planning obligation which would require</p> <p>a) that social housing is let on a priority basis , first to people living in the parish, then to people with a connection to the parish, then to people living in Charnwood District;</p> <p>b) b) that market housing for sale or rent is not offered to the open market unless evidence is provided to demonstrate that it has been marketed for a period of 6 months at a fair market price to people living in the parish or with a local connection to it.”</p>	Agree	N/A
Policy BuS20: Sileby Road	In Policy BuS20 modify criterion 2 to read “A detailed landscaping scheme is submitted with the application which demonstrates that the development will contribute positively to biodiversity on the site and include the retention or replacement of the hedge along the boundaries of the site;”	Agree	N/A
Policy Bus21: Rural Economy	Reword the second part of the first paragraph of Policy BuS21 to read “...Policies Map) through the conversion of existing buildings, well-designed new buildings and sustainable tourism and leisure developments will be supported where the development:” In criterion 3 of Policy BuS21 delete “for all people” and insert “for all users of the site”.	Agree	N/A

## Appendix B

### Barrow upon Soar – Statement of Compliance

Charnwood Borough Council is satisfied that, as per the submitted documents for examination the Barrow upon Soar Neighbourhood Plan:

- (i) Meets the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990;
- (ii) Is not considered to breach or otherwise be incompatible with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998); and
- (iii) Complies with the provisions concerning neighbourhood development plans made by or under Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.



Richard Bennett  
Head of Planning and Regeneration  
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