



Committee report

Committee	CABINET
Date	11 JANUARY 2018
Title	DRAFT FRESHWATER NEIGHBOURHOOD PLAN
Report to	CABINET MEMBER FOR PLANNING AND HOUSING

EXECUTIVE SUMMARY

1. The purpose of this report is to consider modifications to the proposed Freshwater Neighbourhood Development Plan (see Appendix 1), to agree to proceed to a referendum and to make (bring into force) the plan subject to the outcome of the referendum.

BACKGROUND

2. The Localism Act 2011 introduced a mechanism for local communities to produce neighbourhood plans, that once adopted are used alongside the National Planning Policy Framework (NPPF) and the Local Plan (the Island Plan Core Strategy) to determine planning applications.
3. The Freshwater Neighbourhood Development Plan (FNDP) has been through independent examination, and the independent examiner's report was received on 7 December 2017. It recommended that the FNDP proceeds to a referendum subject to a number of modifications being made.
4. As set out in the national Planning Practice Guidance (PPG) once the local authority has received the examiner's report, the local authority reaches its own view and, through its Cabinet, takes the decision on whether the plan proceeds to referendum.
5. Representatives of the parish council have also received the examiner's report. Both officers and the parish council have accepted the recommended modifications.
6. The final decision on whether the neighbourhood plan meets the basic conditions and can then proceed to a referendum lies with the council. The local authority is responsible for administering the referendum.
7. If the decision is made to proceed with referendum, the anticipated date of the referendum would be Thursday 8 March 2018. This date has been identified as being the most suitable, taking into account best practice of avoiding school holidays and to allow for the necessary notices to be issued after the Cabinet decision.

8. For a neighbourhood plan to pass the referendum, it requires the majority of the votes received to be in favour. If the majority of the votes are in favour the council is required to make the neighbourhood plan as soon as possible. Therefore this report also seeks agreement to make the FNDP, if it is supported through the referendum.

Modifications to the FNDP following examination

9. Representatives of the parish council's FNDP steering group and Planning Services officers have liaised regarding the examiner's report and how to deal with all the recommended modifications and other changes.
10. The parish council has agreed the recommended modifications, and notified officers. While the parish council's agreement to the recommended modifications is not a requirement, it is considered appropriate for such agreement to be in place.
11. It is for the council to make the final determination on whether the neighbourhood development plan proceeds to a referendum. Officers are satisfied that the proposed plan, as set out in Appendix 1, meets the basic conditions.

STRATEGIC CONTEXT

12. The making of the FNDP will underline the council's commitment to working with the community and town and parish councils, as set out in the Isle of Wight Council's Corporate Plan 2017-2020, particularly leader and strategic partnerships key activities.

CONSULTATION

13. A Consultation Statement (and accompanying appendices) demonstrates the consultation carried out by the parish council during the preparation of the FNDP.
14. A six week statutory consultation was undertaken by the council from Friday 13 January 2017 to Monday 27 February 2017. Representations were received from nine respondents, and these were forwarded to the examiner.
15. Following correspondence from the examiner (letter dated 19 June 2017), a further consultation for statutory consultees (the Environment Agency, Historic England and Natural England) on the sustainability appraisal report and non-technical summary was held from Monday 10 July until Tuesday 15 August. The comments received did not identify significant issues and have informed the final plan and sustainability appraisal report.
16. A further period of public consultation was then carried out from Friday 22 September 2017 to Monday 6 November 2017. Representations were received from four respondents, and these were forwarded to the examiner.

FINANCIAL / BUDGET IMPLICATIONS

17. It is a legal requirement that the council covers the costs of the formal stages of a neighbourhood plan and the referendum. So far this has been through officer time (which is covered within the day to day departmental budget). It will also include the cost of the

examination and referendum, which based on previous costs is likely to be approximately £8,500.

18. The council is able to claim up to £20,000 grant to cover these costs. It is not anticipated that there will be a budgetary shortfall, but if there is it will be covered from money within the current Planning Services budget.
19. Once the FNDP has been made there will be no further financial implications for the council.

LEGAL IMPLICATIONS

20. The rules governing the process for making of neighbourhood development orders can be found in schedule 4B of the Town and Country Planning Act 1990 (the act), by virtue of Section 38A of the Planning and Compulsory Purchase Act 2004 and those covering all aspects of organising and conducting the polls can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012. The supporting information includes a final environmental assessment.
21. Based on the information provided, and the work undertaken by officers, it is considered that the proper process including consultation as required under the legislation and guidance has been followed.
22. If the council is satisfied:
 - (a) that the draft order meets the basic conditions mentioned in paragraph 8(2) of schedule 4B of the act, is compatible with the convention rights and complies with the provision made by or under sections 61E(2), 61J and 61L of the act; or
 - (b) that the draft order would meet those conditions, be compatible with those rights and comply with that provision if modifications were made to the draft order (whether or not recommended by the examiner),a referendum must be held by the council. In any other case the proposal must be refused.
23. Once the FNDP has been made it will form part of the development plan, alongside the NPPF and the Island Plan Core Strategy, and together these documents will be used to determine planning applications within the parish of Freshwater.

EQUALITY AND DIVERSITY

24. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

25. A full equality impact assessment (EIA) on the FNDP was undertaken, which identified that the plan is unlikely to have a negative impact on any of the protected characteristics and could facilitate positive impacts.
26. Furthermore, the FNDP is required to be in general conformity with the strategic policies of the core strategy which, as a higher level policy document, has already been subject to its own EIA. When determining planning applications relevant national guidance, policy and legislation are required to be considered, which would take account of our legal duties under equality legislation. The EIA was finalised following consideration of the consultation responses and the examiner's report.

OPTIONS

27. The options are set out as follows:
 - a) To agree that the proposed Freshwater Neighbourhood Development Plan, as attached, meets the requirements of paragraph 12(4) of schedule 4B to the Town and Country Planning Act 1990, as amended by part 3 of the Planning and Compulsory Purchase Act 2004 and therefore proceeds to a referendum covering the designated neighbourhood plan area of the parish of Freshwater.
 - b) If there is a positive referendum vote in favour of the proposed Freshwater Neighbourhood Development Plan, that the plan be made (brought into force) as soon as possible and forms part of the statutory development plan.
 - c) Not to agree that the proposed Freshwater Neighbourhood Development Plan, as attached, proceeds to a referendum.
 - d) To authorise the head of place to make editorial amendments to the proposed Freshwater Neighbourhood Development Plan, in consultation with the Cabinet member for planning and housing services. These changes will not alter the meaning of the document and will be restricted to correcting factual, grammatical and typographical errors and improving clarity.

RISK MANAGEMENT

28. The council needs to be satisfied that the FNDP meets the requirements of paragraph 12(4) of Schedule 4B to the Town and Country Planning Act 1990, as amended by part 3 of the Planning and Compulsory Purchase Act 2004. In doing so the council must then refer the proposal to a referendum. Officers are satisfied that with the modifications identified, the FNDP meets the requirements. Without the changes being made it is considered that the FNDP would not meet the basic conditions and should therefore not proceed to referendum.
29. Should there be a positive referendum and the council does not then make the FNDP, it will not be meeting its legal responsibilities.
30. This would lead to uncertainty for any development proposals within the parish of Freshwater, and would have serious implications for the relationship between the council and the parish council. It may also result in other neighbourhood plan areas not wanting to engage in the neighbourhood plan process due to the uncertainty.

EVALUATION

31. Officers consider that the proposed FNDP, incorporating the recommended modifications, meets the national requirements to proceed to the next stage of preparation (a referendum).
32. It is considered that there is no procedural reason why the proposed plan should not proceed, and that there would be reputational damage to the council along with a harmful impact on the council's relationship with the parish council if the decision was taken not to proceed.
33. If, at the referendum, there is a majority vote supporting the plan, the council is required by legislation to 'make' the plan. If the majority vote does not support the proposed neighbourhood development plan, the council will not bring it into force. In this scenario Freshwater Parish Council will then need to consider whether it takes no further action, or takes a revised version of the plan through the required consultation processes.

RECOMMENDATION

34. To agree, as per paragraph 26(a), that the proposed Freshwater Neighbourhood Development Plan, as attached, meets the requirements of paragraph 12(4) of schedule 4B to the Town and Country Planning Act 1990, as amended by part 3 of the Planning and Compulsory Purchase Act 2004 and therefore proceeds to a referendum covering the designated neighbourhood plan area of the parish of Freshwater.
35. As per paragraph 26(b) if there is a positive referendum vote in favour of the proposed Freshwater Neighbourhood Development Plan, that the plan be made (brought into force) as soon as possible and forms part of the statutory development plan.
36. To authorise, as per paragraph 26(c), the head of place to make editorial amendments to the proposed Freshwater Neighbourhood Development Plan, in consultation with the Cabinet member for planning and housing. These changes will not alter the meaning of the document and will be restricted to correcting factual, grammatical and typographical errors and improving clarity.

APPENDICES ATTACHED

[Appendix 1](#) – Draft Freshwater Neighbourhood Development Plan

BACKGROUND PAPERS

- National Planning Policy Framework
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
- Island Plan Core Strategy
<http://www.iwight.com/azservices/documents/1321-Core%20Strategy%20-%20Adopted%20Mar%202012.pdf>

- Examiner's report,
<https://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning-Policy-new/Neighbourhood-Planning/Freshwater-Neighbourhood-Plan>
- Planning Practice Guidance,
<http://planningguidance.planningportal.gov.uk/>
- Consultation Statement and appendices,
<https://www.iwight.com/azservices/documents/2879-FNP-Consulation-Statement-Making-of-the-Plan.pdf>
<https://www.iwight.com/azservices/documents/2879-FNP-Consultation-responses-and-considerations-to-draft-document.pdf>
- representations,
<https://www.iwight.com/azservices/documents/2879-Responses-in-accordance-with-Regulation-16.pdf>
- examiner's correspondence,
<https://www.iwight.com/azservices/documents/2879-FNP-ExaminerCorrespondence.pdf>
- further representations,
<https://www.iwight.com/azservices/documents/2879-Responses-in-accordance-with-Regulation-16.pdf>
- final environmental assessment,
<https://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning-Policy-new/Neighbourhood-Planning/Freshwater-Neighbourhood-Plan>
- schedule of proposed modifications,
<https://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning-Policy-new/Neighbourhood-Planning/Freshwater-Neighbourhood-Plan>

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