



Report Reference Number: C/21/7

To: Full Council
Date: 28 September 2021
Status: Non-Key Decision
Ward(s) Affected: Church Fenton
Author: Clare Dickinson, Principal Planning Policy Officer
Lead Executive Member: Cllr Richard Musgrave, Lead Councillor for Place Shaping
Lead Officer: Dave Caulfield, Director of Regeneration and Place

Title: Church Fenton Neighbourhood Development Plan 2020-2027 (CFNDP)

Summary:

This report seeks Council approval that the Church Fenton Neighbourhood Development Plan should be made part of the Development Plan for Selby District following a positive outcome of the referendum held on 3rd August 2021. The referendum posed the following question: 'Do you want Selby District Council to use the Neighbourhood Plan for Church Fenton to help it decide planning applications in the neighbourhood area?' There was a 20% (211 ballot papers issued) turnout to the referendum with 88% (185 votes recorded) of the votes cast in favour of 'Yes'. 12% (26 votes recorded) of votes were cast in favour of 'No'.

Recommendations:

That Council formally makes the Church Fenton Neighbourhood Development Plan 2020-2027 part of the Development Plan for Selby District following the positive outcome of the referendum held on 3 August 2021.

Reasons for recommendation

Council is asked to agree the recommendation to enable the Church Fenton Neighbourhood Development Plan to be made part of the statutory Development Plan under the provisions of s38A of the Planning and Compulsory Purchase Act 2004 (as amended) which requires that the Council must adopt or 'make' the Neighbourhood Plan if more than half of those voting have voted in favour of the Plan.

1. Introduction and background

1.1 Through the Localism Act, Selby District Council (SDC) has a duty to support Parish and Town Councils who wish to prepare a Neighbourhood Plan.

- 1.2 There are a number of stages involved in producing a Neighbourhood Plan, broadly grouped into three areas. The first is for the Town / Parish Council wishing to prepare a Neighbourhood Plan to submit their proposed Neighbourhood Area to SDC for designation. The second stage is the preparation of the Plan to inform the development of the vision and the formulation of policy, proposals and site allocations. The third stage includes the submission of the proposed Plan to SDC for consultation, an independent examination of the plan and subsequent public referendum.
- 1.3 Church Fenton Parish Council, as the qualifying body, submitted an application to SDC for the whole Parish of Church Fenton to be formally designated as the Church Fenton Neighbourhood Area. In November 2016 the Council approved the application.
- 1.4 Church Fenton Parish Council developed a draft Neighbourhood Plan with input from the community and submitted it to SDC in October 2020. The submitted version of the Plan was publicised and comments invited from the public and stakeholders for an eight-week period with consultation closing on 12 February 2021.
- 1.5 Following consultation on the draft Plan SDC, in agreement with the qualifying body, appointed an Independent Examiner, Mr Andrew Ashworth, to review whether the Plan met the 'Basic Conditions' (and other legal requirements) and whether the Plan should proceed to referendum.
- 1.6 The Examiner's Report was published on the Council's website on 5 May 2021. The report concluded that, subject to making modifications recommended by the Examiner, the Plan met the Basic Conditions (and other legal requirements) and should proceed to referendum.
- 1.7 SDC considered each of the modifications recommended in line with regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and agreed to accept them. For the reasons given by the Examiner, SDC was satisfied that subject to the proposed modifications by the Examiner, the Plan met the Basic Conditions detailed in para 8(2) of Schedule 4B of the Town and Country Planning Act 1990.
- 1.8 Delegated approval to proceed to referendum was given on 2 June 2021 by the Director of Economic Regeneration and Place in consultation with the Lead Councillor for Place Shaping.

2. Making the Plan

- 2.1 A referendum relating to the Church Fenton Neighbourhood Development Plan was held on Tuesday 3 August 2021. The referendum area covered the civil parish of Church Fenton, in line with the approved Neighbourhood Area. The question which was asked at the referendum was 'Do you want Selby District Council to use the Neighbourhood Plan for Church Fenton to help it decide planning applications in the neighbourhood area?'

- 2.2 Following a 20% turnout, 88% of those voting were in favour of using the Neighbourhood Plan for Church Fenton to help SDC to determine planning applications in the Neighbourhood Area.
- 2.3 Once made, the Church Fenton Neighbourhood Development Plan 2020-2027 will become part of the statutory development plan for Selby District. Statute provides that planning applications should be determined in accordance with the provisions of the Plan's policies unless material considerations indicate otherwise. However, the weight attached to the Development Plan must still be balanced with other material considerations when considering planning applications.
- 2.4 In accordance with the 2012 Neighbourhood Planning Regulations (as amended) the prescribed date for making (adopting) a Neighbourhood Development Plan is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held. In this instance the deadline for making the Plan is 29 September 2021.

3. Legal / Financial Controls and other policy matters

Legal Issues

- 3.1 Under the provisions of the Planning and Compulsory Purchase Act 2004 and relevant regulations, the Council has no discretion in making the Plan unless it considers that making it 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). Officers are satisfied that making the plan would not breach or be incompatible with these requirements. In addition, under the provisions of the Neighbourhood Planning Act 2017 the Plan, as a post referendum plan, should be considered as part of the Development Plan from the point of approval at referendum even if the Council has not yet approved or 'made' the plan. It therefore carries full weight in decision making.

Financial Issues

- 3.2 There is a cost of administrating the latter stages of the Neighbourhood Plan process as well as the cost of the referendum. The costs of appointing the Examiner and holding the referendum fall initially to SDC but are reimbursed by the Government. The robustness of the Neighbourhood Plan policies will be tested over time by Independent Planning Inspectors on appeal. Liability for future appeal costs lie with SDC as the Local Planning Authority and as such the usability of the Plan and its impact on decision making will be monitored. With regard to the referendum expenses, the limit that will apply will be £2,423.71.
- 3.3 Further to the costs of developing a Neighbourhood Plan there are some implications to the funding for CIL. Regulations 59A and 59F of the CIL legislation requires that 15% of the CIL collected within a parish area is to be retained for spending on infrastructure within that area. However, where there is

an adopted Neighbourhood Plan in an area then the CIL collected for local infrastructure increases to 25%. The administration fee remains at 5% of the CIL collected and the wider infrastructure CIL collected reduces from 80% to 70% for those areas with a Neighbourhood Plan in place.

Impact Assessment

- 3.4 The Plan was screened for Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) by SDC, which found that it was unnecessary to undertake SEA or HRA, a conclusion supported by the statutory consultees and the Independent Examiner.

4. Conclusion

- 4.1 Paragraph 38A (4) (a) of the Planning and Compulsory Purchase Act 2004 as amended requires that the Council must adopt, or 'make' the Neighbourhood Plan if more than half of those voting have voted in favour of the Plan. In the case of Church Fenton, the referendum results indicated that of the 211 votes cast, 185 (88%) were in favour of using the Neighbourhood Plan for Church Fenton to help it decide planning applications in the Church Fenton Neighbourhood Area.

5. Background Documents

- 5.1 The Church Fenton Neighbourhood Plan, Independent Examiner's Report, referendum details and other relevant supporting documentation is available on the Council's website at: <http://www.selby.gov.uk/cfndp>

6. Appendices

Appendix A – Church Fenton Neighbourhood Development Plan 2020-27

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