

CABINET – 9TH DECEMBER 2021

Report of the Head of Planning and Regeneration Services Lead Member: Councillor Bailey

Part A

ITEM 11 Make the Woodhouse Parish and Rearsby Neighbourhood Plans

Purpose of Report

This report seeks Cabinet approval for the Woodhouse Parish Neighbourhood Plan and the Rearsby Neighbourhood Plan be 'made' as part of the statutory development plan for their respective Neighbourhood Areas.

Recommendations

1. That the Woodhouse Parish Neighbourhood Plan is 'made' to confirm their status as 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.
2. That the Rearsby Neighbourhood Plan is 'made' to confirm their status as 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.
3. That any minor amendments to the Woodhouse Parish Neighbourhood Plan and the Rearsby Neighbourhood Plan can be made under delegated authority by the Head of Planning and Regeneration.

Reasons

1. To fulfil the legal duty to make the Woodhouse Parish Neighbourhood Plan part of the development plan for Charnwood.
2. To fulfil the legal duty to make the Rearsby Neighbourhood Plan part of the development plan for Charnwood.
3. To enable minor amendments such as typographical errors or factual corrections to be made efficiently.

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 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 Charnwood Statement of Community Involvement (2021) sets out the Council's commitment to neighbourhood planning. 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 PPG states that where a local planning authority has the responsibility for the neighbourhood planning process, it should make every effort to conclude each stage promptly. Timely decision taking is important particularly at the start and the end of the process and certain decisions must be taken within prescribed time periods as set out in the Neighbourhood Planning (General) (Amendment) Regulations 2015 and the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, which amend the Neighbourhood Planning (General) Regulations 2012. The time limits that apply include:

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

The Woodhouse Parish Neighbourhood Plan and the Rearsby Neighbourhood Plan, Referendums were held on Thursday 28th October 2021. In order to meet the timescale provided for by d) above, the Regulations state the Plan should be 'made' within 8 weeks of the referendum; in this case by the 23rd December 2021. Neighbourhood plans that have been approved by referendum form part of the development plan in accordance with the Neighbourhood Planning Act 2017. The 'making' process effectively confirms the Council's agreement with this status.

Report Implications

The following implications have been identified for this report.

Financial Implications

The cost of producing neighbourhood plans falls mainly upon the neighbourhood planning group preparing the plan. The Borough Council provides support and advice to the 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 Levelling Up, Housing and Communities (DLUHC) (Formerly Ministry of Housing, Communities and Local Government (MHCLG)).

Neighbourhood area designation grants totalling £25,000 have been received for the first five neighbourhood areas designated. DLUHC caps support at a maximum level

of five applications for designation thus the Council will not be able to receive any further funding for neighbourhood area designations. Additional funding of £20,000 is also available from DLUHC upon successful completion of each neighbourhood plan examination. This can be used to pay for the examination and referendum costs and funding applications will be made in relation to the Woodhouse Parish Neighbourhood Plan and the Rearsby Neighbourhood Plan.

Neighbourhood plan referendums have previously cost the Council approximately £6,000 each. The exact cost of both referendums has not yet been calculated, but cost savings will have been made by holding the referendums on the same date. The cost of the examinations was £3,750 for the Rearsby Neighbourhood Plan and £7,237.80 for the Woodhouse Parish Neighbourhood Plan. These costs will be met by the DLUHC Neighbourhood Plans Grant. Officer support costs are met from existing salary budgets. There are likely to be additional financial implications for the Council arising from publicity and making the plans available for use as part of the development plan. The total costs for officer support, the referendums, publicity and publication of the plans are expected to be consistent with and not exceed the £20,000 grant funding that will be claimed for each plan.

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	Overall Risk	Risk Management Actions Planned
The neighbourhood development plans are not 'made' part of the statutory development plan for Charnwood, resulting in a breach of the legal duty to progress in accordance with the regulatory framework; the respective community's objectives not being delivered; impact on the determination of planning applications; and, leading to reputational damage to the Council.	Unlikely (2)	Serious (3)	Moderate (6)	The process to 'make' the neighbourhood plans will have been closely followed and the neighbourhood plan will be in conformity with the vision, objectives and strategic policies of the Charnwood Local Plan Core Strategy.
The Council's decision to make the neighbourhood development plans (or not) may be subject to	Unlikely (2)	Serious (3)	Moderate (6)	The plans preparation processes followed statutory requirements. The respective independent

Risk Identified	Likelihood	Impact	Overall Risk	Risk Management Actions Planned
external, third party challenge by Judicial Review.				examiners identified the plans have been prepared in accordance with Sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning Regulations 2012 (as amended) and that, having regard to national policies and advice contained in guidance issued by the Secretary of State, it would be appropriate to make the Plans. Access to legal advice will be available throughout challenge period.

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 neighbourhood plans. The respective Examiner's Reports confirm the neighbourhood plans have 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 plans have been prepared in the context of achieving sustainable development as required by the National Planning Policy Framework. A Strategic Environmental Assessment/Habitats Regulation Assessment Screening Report has been undertaken for each and, having consulted with the three statutory consultees, has determined that it is unlikely that there will be any significant environmental effects arising from the respective Neighbourhood Plans.

Key Decision: Yes

Background Papers:

Woodhouse Parish Neighbourhood Plan Final Plan –

https://www.charnwood.gov.uk/files/documents/1_woodhouse_neighbourhood_plan_referendum_version/1.%20Woodhouse%20Neighbourhood%20Plan%20-%20Referendum%20Version.pdf

Woodhouse Parish Neighbourhood Plan Examiner Report –

https://www.charnwood.gov.uk/files/documents/2_examination_report_woodhouse_np/2.%20Examination%20Report%20-%20WoodhouseNP.pdf

https://www.charnwood.gov.uk/files/documents/declaration_of_results_woodhouse_parrish1/Declaration%20of%20results%20%28Woodhouse%20Parish%29.pdf

Rearsby Neighbourhood Plan Final Plan –

https://www.charnwood.gov.uk/files/documents/1_rearsby_neighbourhood_plan_referendum_version/1.%20Rearsby%20Neighbourhood%20Plan%20-%20Referendum%20Version.pdf

Rearsby Neighbourhood Plan Examiner Report –

https://www.charnwood.gov.uk/files/documents/2_examination_report_rearsby_np/2.%20Examination%20Report%20-%20Rearsby%20NP.pdf

https://www.charnwood.gov.uk/files/documents/declaration_of_results_rearsby1/Declaration%20of%20results%20%28Rearsby%29.pdf

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Part B

Context

1. The Localism Act (2011) has enabled local communities to shape their areas by allowing parish and town councils to prepare neighbourhood development plans. A detailed legislative framework for undertaking neighbourhood planning has been set out in the Neighbourhood Planning Regulations (2012) and subsequent amendments.
2. 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 which will take precedence over existing policies in the local plan, for example the introduction of specific design standards or protecting local green space. However, the neighbourhood plan cannot be used to prevent development included in the local plan or be in conflict with strategic policies in the local plan.
3. A neighbourhood plan, once approved by referendum, becomes part of the statutory development plan and will sit alongside the Charnwood Local Plan 2011 to 2028 Core Strategy and apply to the Neighbourhood Area it was prepared for. The final legislative procedure is for the local planning authority to “make” (adopt) a neighbourhood plan to effectively confirm its status. Applications for planning permission in areas with a neighbourhood plan will be determined in accordance with the whole development plan for Charnwood:
 - The saved policies of the Borough of Charnwood Local Plan (2004)
 - The Charnwood Core Strategy 2011-2028 (2015)
 - The Leicestershire Minerals and Waste Local Plan (2019) - prepared by the County Council
 - The Neighbourhood Plan for that area
4. 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.
5. There are a number of legally prescribed stages which need to be undertaken when preparing a neighbourhood plan, set out in the Town and Country Planning Act 1990 (as amended) and the Planning and Compulsory Purchase Act 2004 (as amended). The plan should then be subject to examination by an independent examiner before proceeding to referendum, if that is the recommendation following the examination. After a successful referendum, if the local planning authority is satisfied that EU and human rights obligations have been met, the plan must be “made” within 8 weeks.

The Woodhouse Parish Neighbourhood Plan

6. The Woodhouse Parish Neighbourhood Plan has been produced by Woodhouse Parish Council and prepared by the Neighbourhood Plan Advisory Group. The Advisory Group is comprised of members of the local community and Parish Councillors. The Neighbourhood Plan contains the following policies which have been subject to consultation, independent examination and a public referendum:
 - H1 – Residential Site Allocation
 - H3 – Limits to Development
 - H4 – Windfall Sites
 - H5 – Affordable Housing Provision
 - H6 – Design Standards
 - ENV1 – Protection of Local Green Spaces
 - ENV2 – Important Open Spaces
 - ENV3 – Protection of Sites of Natural Environmental Significance
 - ENV4 – Biodiversity, Woodland, Trees, Hedgerows and Habitat Connectivity
 - ENV5 – Protection of Sites of Historical Environmental Significance
 - ENV6 – Local Heritage Assets
 - ENV7 – Ridge and Furrow
 - ENV8 – Protection of Important Views
 - ENV9 – Flood Risk Resilience
 - ENV10 – Renewable Energy Generation Infrastructure
 - CF1 – Retention of Community Facilities and Amenities
 - CF2 – New and Improved Community Facilities
 - CF3 – Wellbeck Sixth Form College and Beaumanor Hall
 - BE1 – Support for Employment and Retail Use
 - BE2 – Support for New Businesses and Employment
 - BE3 – Shop Fronts and Signage
 - BE4 – Home Working
 - BE5 – Farm Diversification
 - BE6 – Tourism
 - BE7 – Broadband and Mobile Phone Infrastructure
 - T1 – Traffic Flow and Volume Management
 - T2 – Public Car Parking
 - T3 – Electric Vehicles
 - T4 – Footpaths, Bridleways and Cycle Routes

7. Key stages in the preparation of the Woodhouse Parish Neighbourhood Plan include:
 - Neighbourhood Area Designated on 3rd May 2018
 - The Parish Council prepared the plan and informed by informal public consultation
 - Parish Council (Regulation 14) formal public consultation undertaken on November/December 2020
 - Borough Council (Regulation 16) formal public consultation undertaken on March/April 2021.
 - Independent examination report published 5th August 2021.
 - Approved by Referendum on 28th October 2021.

8. The examiner, Dr Louise Brooke-Smith, was appointed with the agreement of the Parish Council. Their role was to ensure the neighbourhood plan met the legal 'basic conditions' and other legal requirements and to recommend whether

the plan proceeded to public referendum. The examiner recommended that the plan proceeded to public referendum, subject to specified modifications being made to the plan, which were made with the agreement of the Parish Council.

9. The referendum held on 28th October 2021 asked the question “*Do you want Charnwood Borough Council to use the Neighbourhood Plan for Woodhouse Parish to help it decide planning applications in the neighbourhood area?*” Neighbourhood plans are required to gain a majority of 50% plus one in favour at a local referendum in order to be made by the local planning authority. The result was that the plan be approved as set out below:

No	19
Yes	324
Rejected Ballot	0
Turnout	21.6%

10. In accordance with the relevant legislation, following approval at referendum the Woodhouse Parish Neighbourhood Plan forms part of the development plan for the neighbourhood area, that being Woodhouse Parish. Section 38A of the Planning and Compulsory Purchase Act 2004, as amended, requires local planning authorities to make a neighbourhood plan as soon as reasonably practicable after the referendum is held. A time limit of 8 weeks being introduced by the Neighbourhood Planning (General) Regulations 2012 (as amended).
11. Under delegated authority (recommendation 3 of this decision) it is intended to make minor updates to the Woodhouse Neighbourhood Plan solely to update National Planning Policy Framework paragraph referencing to reflect its 2021 update. This will have no impact on the implementation of the Neighbourhood Plan and has been agreed with the Parish Council.

The Rearsby Neighbourhood Plan

12. The Rearsby Neighbourhood Plan has been produced for Rearsby Parish Council and prepared by the Neighbourhood Plan Sub-Group. The Sub-Group is comprised of members of the local community and Parish Councillors. The Neighbourhood Plan contains the following policies which have been subject to consultation, independent examination and a public referendum:
- R1 – Design
 - R2 – Local Separation
 - R3 – Promoting Effective Use of Land – Limits to Development
 - R4A – Housing Mix
 - R4B – Delivering Sufficient Homes – Exception-Site Development
 - R5 – Employment Opportunities
 - R6A – Local Green Spaces
 - R6B – Important Open Spaces
 - R6C – Community Amenities
 - R7 – Conserving and Enhancing the Natural Environment
 - R8 – Conserving and Enhancing the Historic Environment
 - R9 – Promoting Sustainable Transport

13. Key stages in the preparation of the Rearsby Neighbourhood Plan include:
- Neighbourhood Area Designated on 25th August 2015
 - The Parish Council prepared the plan and informed by informal public consultation
 - Parish Council (Regulation 14) formal public consultation undertaken on January/ February 2019
 - Borough Council (Regulation 16) formal public consultation undertaken on March/April 2021.
 - Independent examination report published 10th August 2021.
 - Approved by Referendum on 28th October 2021.
4. The examiner, Mr Andrew Matheson, was appointed with the agreement of the Parish Council. Their role was to ensure the neighbourhood plan met the legal 'basic conditions' and other legal requirements and to recommend whether the plan proceeded to public referendum. The examiner recommended that the plan proceeded to public referendum, subject to specified modifications being made to the plan, which were made with the agreement of the Parish Council.
5. The referendum held on 28th October 2021 asked the question "*Do you want Charnwood Borough Council to use the Neighbourhood Plan for Rearsby to help it decide planning applications in the neighbourhood area?*" Neighbourhood plans are required to gain a majority of 50% plus one in favour at a local referendum in order to be made by the local planning authority. The result was that the plan be approved as set out below:

No	18
Yes	277
Rejected Ballot	0
Turnout	32.4%

14. In accordance with the relevant legislation, following approval at referendum the Rearsby Neighbourhood Plan forms part of the development plan for the neighbourhood area, that being Rearsby Parish. Section 38A of the Planning and Compulsory Purchase Act 2004, as amended, requires local planning authorities to make a neighbourhood plan as soon as reasonably practicable after the referendum is held. A time limit of 8 weeks being introduced by the Neighbourhood Planning (General) Regulations 2012 (as amended).

Making a Neighbourhood Plan

15. If Cabinet decides to make each neighbourhood plan, the Council must publicise its decision to make the neighbourhood plans, state the reasons for making this decision ("the decision statement), and provide details of when and where this statement and the neighbourhood plans may be inspected. The Borough Council is required to send a copy of the decisions to the relevant parish council and any persons making written representations on the proposal.
16. The decision to make the neighbourhood plans will effectively confirm their status as development plan documents, which is already the case after approval at referendum in accordance with the Neighbourhood Planning Act 2017.

17. Given that the Woodhouse Parish Neighbourhood Plan and the Rearsby Neighbourhood Plan have been approved by referendum, the legislation requires the Council to 'make' the neighbourhood plan unless it consider that making the plan would breach or be otherwise incompatible with any EU obligation to any of the Convention rights (within the meaning of the Human Rights Act).