

# PLANNING POLICY AND LOCAL PLAN COMMITTEE

8 JUNE 2020

## REPORT OF THE CORPORATE DIRECTOR: PLACE AND ECONOMY

### A.3 UPDATE ON NEIGHBOURHOOD PLANS FOR ARDLEIGH AND ALRESFORD

(Report prepared by William Fuller)

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

To update the Planning Policy and Local Plan Committee on the progress of Ardleigh Parish Council and Alresford Parish Council in producing 'Neighbourhood Plans' for their respective areas and to advise on the next steps in the process.

##### EXECUTIVE SUMMARY

###### Key Points:

- Ardleigh Parish Council has begun the process of preparing a Neighbourhood Plan and is seeking the District Council's agreement to designating the whole of the Ardleigh Parish as the 'Neighbourhood Development Plan Area'. Officers recommend that the Planning Policy and Local Plan Committee agrees to this to allow the Parish Council to continue work on its plan.
- Alresford Parish Council is at a more advanced stage of preparing its Neighbourhood Plan, having prepared a draft and undertaken public consultation. The Parish Council now has to formally submit its final version to the District Council to initiate the next steps including final consultation, independent examination and local referendum.
- Neighbourhood Plans are designed to supplement the policies and proposals in the District Local Plan. Officers will work constructively to assist the Parish Councils in preparing their Neighbourhood Plans to ensure this, as well as compliance with the various legal and policy requirements.

Neighbourhood Plans can be prepared by either Town and Parish Councils or other recognised neighbourhood forums to set out specific planning policies and proposals for their local area. Neighbourhood Plans must support and not prejudice the delivery of strategic policies in the District Local Plan but they can add an additional level of guidance and can propose additional developments aimed at addressing locally identified needs and aspirations. Once formally adopted, a Neighbourhood Plan forms part of the Statutory 'Development Plan', alongside the District Local Plan and becomes a material consideration in the determination of planning applications.

There is a formal process for preparing a Neighbourhood Plan that includes the identification and confirmation of the 'Neighbourhood Plan Area'; public consultation; independent examination; a local referendum; and formal adoption by the District Council as the Local Planning Authority. To date, Ardleigh Parish Council and Alresford Parish Council are the only bodies in Tendring that are actively involved in preparing Neighbourhood Plans.

Ardleigh Parish Council is at the very beginning of the Neighbourhood Planning process having submitted an application to Tendring District Council to agree the proposed Neighbourhood Development Plan Area (NDPA). As is common with many Neighbourhood Plans, the Parish Council has applied for the whole of the Ardleigh Parish to be designated as the NDPA.

The proposed NDPA has to be formally approved for designation by the Local Planning Authority, although regulations and government guidance dictate that where a Parish or Town Council simply applies to designate its own administrative area, the Local Planning Authority is expected to agree. Furthermore, eight-week consultation on the proposed NDPA was carried out earlier this year and it attracted no objections. The Committee is therefore asked to agree to the designation of Ardleigh Parish as a Neighbourhood Development Plan Area, thus allowing Ardleigh Parish Council to progress within the preparation of its Neighbourhood Plan.

It should be noted that Neighbourhood Plans must compliment and not prejudice the policies and proposals in the District Local Plan. Therefore, Ardleigh Parish Council will need to ensure the policies and proposals in their Neighbourhood Plan do not prejudice the delivery of, amongst other schemes, the Tendring Colchester Borders Garden Community of which, pending the final outcome of the Section 1 Local Plan examination, a large proportion would be located in Ardleigh Parish.

Alresford Parish Council is at a more advanced stage in the process and has prepared a draft Neighbourhood Plan that has been the subject of a seven-week public consultation. Officers have been assisting the Parish Council with comments and advice and have commissioned a Strategic Environmental Assessment and Habitats Regulation Assessment required as part of the process.

Some of the key policies and proposals in the emerging Alresford Neighbourhood Plan include new open spaces, additional protection for existing open spaces, the identification of important non-designated heritage assets, encouragement of developments of new housing for older people; and additional policy requirements aimed at incorporating wildlife into new development.

The Parish Council is now considering the comments received as part of the consultation exercise to determine whether any further changes to the Neighbourhood Plan are required.

The next step for Alresford is for the Parish Council to formally submit the revised draft Neighbourhood Plan to the District Council so that we may check that it complies with all relevant legislation. If it does, the District Council will then hold a formal consultation exercise and appoint an independent inspector to undertake an examination.

## RECOMMENDATION

**That the Planning Policy and Local Plan Committee:**

- a) Notes the application from Ardleigh Parish Council to designate the whole of the Ardleigh Parish as a Neighbourhood Development Plan Area (NDPA) and agrees to that designation; and**
- b) Notes the progress of the Alresford Neighbourhood Development Plan.**

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

These Neighbourhood Plans will support the Corporate Plan 2020-24 (aligned with the core themes of Tendring4Growth and Community Leadership) through delivery of interventions aimed at:

- Delivering High Quality Services
- Community Leadership Through Partnerships
- Building Sustainable Communities for the Future
- Strong Finances and Governance
- A Growing and Inclusive Economy

Neighbourhood Plans should supplement and support the policies and proposals in the District Local Plan whilst enabling the communities to achieve their own objectives and aspirations.

### RESOURCES AND RISK

The Ardleigh and Alresford Neighbourhood Plans have been prepared by their respective Parish Councils. The responsibilities for resourcing these projects lie principally with the Parish Councils as the 'qualifying bodies'. However, this Council has statutory duties in regards to the preparation of the Local Plan and Neighbourhood Plans and these will be discharged by the Strategic Planning and Place Team and any additional expenses funded through the 'Local Development Framework Budget'.

A neighbourhood plan, once formally adopted, carries the same legal status as a District Local Plan (and other documents that form part of the statutory 'development plan') and therefore becomes a material consideration in the determination of planning applications. Applications for planning permission would therefore be determined in accordance with the development plan (including any Neighbourhood Plan), unless material considerations indicate otherwise

It is important that Neighbourhood Plans support and supplement the policies and proposals in the District Local Plan. To ensure this, Officers will work constructively with any Parish Council or other

recognised community forum in an advisory capacity in the preparation of their Neighbourhood Plans.

## **LEGAL**

Under the Town and Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004, Local Planning Authorities have a statutory duty to advise or assist communities in the preparation of Neighbourhood Development Plans (NDP).

The Localism Act 2011 (Part 6 chapter 3) sets out the LPA responsibilities. These include designating the area of the Neighbourhood Development Plan and designating a Neighbourhood Forum (where relevant). The Neighbourhood Planning (General) (Amendment) Regulations 2015 which came into force on 9 February 2015.

As well as being able to prepare Neighbourhood Plans for their areas, qualifying bodies are also able to designate 'Local Development Orders' which can exempt certain kinds of development from the need to obtain planning permission.

The stages of preparing a Neighbourhood are summarised as follows:

**Step 1: Designating neighbourhood area and if appropriate neighbourhood forum** (this is the stage that Ardeleigh Parish Council has reached)

The relevant body (parish/town council, prospective neighbourhood forum or community organisation) submits an application to the local planning authority to designate a neighbourhood area. The local planning authority then publicises and consults on the area application as appropriate. Following consultation and consideration of any comments, the local planning authority agrees the designation of the plan area.

**Step 2: Preparing a draft neighbourhood plan or Order**

The qualifying body develops proposals (advised or assisted by the local planning authority) and gathers baseline information and evidence. It engages and consults those living and working in the neighbourhood area and those with an interest in or affected by the proposals (e.g. service providers). It also talks to land owners and the development industry, identifies and assesses options and determines whether a plan or an Order is likely to have significant environmental effects. It will then start to prepare proposals and baseline evidence documents.

**Step 3: Pre-submission publicity and consultation (this is the stage that Alresford Parish Council are at)**

The qualifying body publicises the draft plan or Order and invites representations, consulting relevant consultation bodies as appropriate. It sends a copy of the draft plan or Order to the local planning authority. The qualifying body must comply with national and European legal requirements and other

relevant publicity and consultation requirements. It then considers consultation responses, amends plan/Order if appropriate and prepares a consultation statement and revised proposal documents.

#### **Step 4: Submission of a neighbourhood plan or Order proposal to the local planning authority**

Qualifying body submits the plan or Order proposal to the local planning authority which then checks that it complies with all relevant legislation. If the local planning authority finds that the plan or order meets the legal requirements it publicises the proposal for consultation, notifies consultation bodies referred to in the consultation statement and appoints an independent examiner (with the agreement of the qualifying body).

#### **Step 5: Independent Examination**

The local planning authority sends plan/Order proposal and representation to the appointed independent examiner who then undertakes an examination. The independent examiner issues a report to the local planning authority and qualifying body. The local planning authority then considers the report and reaches its own view as to the soundness of the plan and decides whether or not to proceed to a referendum.

#### **Steps 6 and 7: Referendum and bringing the neighbourhood plan or Order into force**

The Council publishes information statement and notice of referendum. Polling takes place and the results are declared. Should more than half of those voting vote in favour of the neighbourhood plan, the plan comes into force as part of the statutory development plan for the area.

#### **New Legislation:**

- October 2016: SI 2016 No. 873 - The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.
- October 2016: SI 2016 No. 934 - The Neighbourhood Planning (Referendums) (Amendment) Regulations 2016.

The above SI 2016 No. 873 and SI 2016 No. 934 are summarised and the sections relevant to the designation of a NPA are highlighted below.

#### **Amendments to "The Neighbourhood Planning (General) Regulations 2012" (01/10/2016):**

- SI 2016 No. 873 inserts a new regulation 5A into "the 2012 Regulations" to set out that, **for an application to designate a neighbourhood area, if a parish council applies for the whole of their area**, then the LPA **must** designate the whole of this area. However, there is an **exception** if any part of this area is already part of a neighbourhood area that extends outside the parish council's area.

- The above SI amends regulation 6A of "the 2012 Regulations" to set out that, **for an application to designate a neighbourhood area, if the LPA fails to determine the application within the statutory time period**, then the LPA **must** designate the whole of this area. However, there is an **exception** if some (or all) of this area either 1) has already been designated as a neighbourhood area or 2) is specified in another such application that hasn't been determined.

Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan.

Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging local plan and the adopted development plan with appropriate regard to national policy and guidance.

The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the statutory development plan.

## **OTHER IMPLICATIONS**

**Area or Ward affected:** Ardleigh and Alresford Parishes

**Consultation/Public Engagement:** See Supporting Information section below.

Both Parish Councils have submitted their Neighbourhood Plan area application to the Council who consulted on them for a period of 8 weeks (see above). Alresford Parish Council has also consulted the public, interested parties and the Council on its draft plan (see above).

## **PART 3 – SUPPORTING INFORMATION**

### Ardleigh Neighbourhood Plan

Ardleigh Parish Council wrote to Tendring District Council on 7 January 2020 to apply for the formal designation of the whole administrative Parish of Ardleigh as a 'Neighbourhood Development Plan Area' – the first stage in the process for preparing a Neighbourhood Plan.

National planning guidance states that where a Parish Council applies for the whole of the area of the parish to be designated as a neighbourhood development plan area, the local planning authority must designate the whole of the area applied for. This includes where a parish applies to extend its existing neighbourhood area to its parish boundary. Furthermore, under Regulation 5a (2016 amendment), the Local Planning Authority is required to designate a Neighbourhood Plan where it is the same as the parish council area.

In this instance therefore the Council must agree to designate the whole of the Ardleigh Parish Council Area as shown on the map at Appendix 1.

The Parish Council has also submitted documentation explaining why it considers the area to be acceptable and this is provided at Appendix 2. Officers consider this to be an acceptable justification for the area proposed for the Neighbourhood Plan. Officers consider that Ardleigh Parish Council has satisfied the relevant regulations.

The Neighbourhood Plan Area was subject to a public consultation exercise. This consultation was hosted by the Parish Council with the input of District Council Planning Officers. The Parish advertised the Plan Area application in its newsletter and in prominent locations around the village. Officers published the application online and had copies of the application available at the Council offices in Weeley and Clacton. The Council received three representations:

**Natural England** – In brief, Natural England had the following comments to make:

- Natural England did not wish to make specific comments on the Plan Area, rather they highlighted information for the Parish Council in preparing the neighbourhood Plan.
- Links between Neighbourhood, local and National planning advice are spelled out.
- Specific natural site designations are explained.
- Advice is given on protected species that may be affected by the proposed Neighbourhood Plan.

The entire representation from Natural England can be found at Appendix 3.

**Historic England** – Comments are also summarised below:

- Advice was given that the Council's own Conservation Officer would be the principle point of contact with regard to Neighbourhood Plans and heritage.
- Some useful links to national guidance were provided.
- Impacts on the historic environment should be considered at an early stage of Plan preparation and throughout its preparation.
- It was suggested that the Parish Council could contribute to a 'Local List' with locally important buildings and structures.
- Heritage assets at risk could be incorporated into the Plan with ideas of how to prevent further damage.

- The use of Strategic Environmental Assessments is also highlighted.

The entire representation from Historic England can be found at Appendix 4.

**Colchester Borough Council** – Our neighbouring Council simply wanted to be kept informed of the progress of the emerging Neighbourhood Plan as it adjoins their Council’s administrative area.

The next step the Parish Council is likely to undertake is surveying of all households in the Parish to identify the specific issues and opportunities that the preparation of a Neighbourhood Plan could address. Once these issues have been identified, the Parish will work with Officers to begin preparing the Plan itself.

### Alresford Neighbourhood Plan

Alresford Parish Council is at a more advanced stage in the Neighbourhood Planning process. Its Neighbourhood Plan area was agreed by the Local Plan Committee (as was) back in November 2016 and a first draft of a Neighbourhood Plan was sent to Officers for initial feedback and advice in Summer 2019. Having considered Officers’ advice and suggested amendments, Arlesford Parish Council updated their Neighbourhood Plan and it was published, by the Parish Council, for consultation.

Some of the key policies and proposals in the emerging Alresford Neighbourhood Plan include new open spaces, additional protection for existing open spaces, the identification of important non-designated heritage assets, encouragement of developments of new housing for older people; and additional policy requirements aimed at incorporating wildlife into new development.

The consultation ran from Monday 20th January - Monday 16th March 2020. The District Council were a consultee and Officers made positive comments on the draft (at Appendix 6) aimed at assisting the Parish Council in improving the document. The Council were generally supportive with a few points of clarification around the provision of housing for older people.

As part of Officer’s comments on the emerging Neighbourhood Plan, Essex Place Services were commissioned to undertake a joint Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (SEA) screening report.

The screening report is an assessment of whether or not the contents of the Alresford Neighbourhood Plan 2018-2033 requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/ EC and associated Environmental Assessment of Plans and Programmes Regulations. A SEA is required if the Neighbourhood Plan is deemed to have a likely significant effect on the environment.

The report also screened to determine whether the Neighbourhood Plan requires a Habitats Regulations Assessment (HRA) in accordance with Article 6(3) and (4) of the EU Habitats Directive and with Regulation 63 of the Conservation of Habitats and Species Regulations 2017. A HRA is



required when it is deemed that likely adverse significant effects may occur on protected European Sites (Natura 2000 sites or 'Habitats Sites') as a result of the implementation of a plan/project.

In conclusion, the report found that because the emerging Neighbourhood Plan did not allocate any sites for development, there was nothing that could give rise to an identified effect of the magnitude or 'significance' that would warrant the application of the SEA Directive. Further analysis of the environmental characteristics of the Plan area and the Plan's policies within the Screening Report has further indicated that there would be no significant effect on the environment. As such, the content of the emerging Alresford Neighbourhood Plan has therefore been screened out for its requirement of Strategic Environmental Assessment in line with the requirements of Directive 2001/42/EC.

Also, the Habitats Regulations Assessment (HRA) screening report indicated that the emerging Alresford Neighbourhood Plan was not predicted to have any likely significant effects on a Habitats site. The requirement for the Plan to undertake further assessment under the Habitats Regulations 2017 was therefore screened out.

The next step for Alresford is for the Parish Council to formally submit the draft Neighbourhood Plan to the Council so that we may check that it complies with all relevant legislation, if it does, the Council holds a formal consultation and appoints a planning inspector.

## **APPENDICES**

Appendix 1 – Map showing extent of Neighbourhood Plan Area for Ardleigh.

Appendix 2 – Letter of Ardleigh Parish Council justification.

Appendix 3 – Representation from Natural England.

Appendix 4 – Representation from Historic England

Appendix 5 – Draft of Alresford Parish Council's Neighbourhood Development Plan

Appendix 6 – Council's response to the Regulation 14 consultation of the Alresford Neighbourhood Plan.

## **BACKGROUND PAPERS**

None