

# CABINET

17 MARCH 2023

## REPORT OF THE PLANNING PORTFOLIO HOLDER

### A.1 – ARDLEIGH NEIGHBOURHOOD PLAN – PROPOSAL FOR PUBLIC CONSULTATION

(Report prepared by William Fuller)

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

To seek the Cabinet's agreement for Officers to carry out six week public consultation on Ardleigh Parish Council's new Neighbourhood Plan, as part of the statutory plan-making process.

##### EXECUTIVE SUMMARY

###### Key Points:

- Ardleigh Parish Council has submitted the final version of its Neighbourhood Plan Tending District Council. The Neighbourhood Plan has been prepared by the Parish Council having regard to technical evidence, feedback from community engagement activities and the ongoing advice of Tending District Council Officers.
- As part of the statutory plan-making process, the Neighbourhood Plan must be published for six-weeks formal consultation and thereafter undergo an independent examination and a local referendum before it can be formally adopted by the District Council.
- In adoption, the Neighbourhood Plan (with any changes required as a result of the consultation and examination process) will form part of the 'Development Plan' alongside the Tending District Local Plan and will be a material consideration in the determination of planning applications.
- The documents submitted by Ardleigh Parish Council include the Neighbourhood Plan itself, a consultation document, a 'Basic Condition Statement' and a number of other supporting documents including a Habitat Regulation Assessment (HRA) and a Strategic Environmental Assessment (SEA).
- Because of the timing of both District Council and Town/Parish Council elections on 4th May 2023 and restrictions on consultation activity in the pre-election period beginning 13<sup>th</sup> March 2023, the six-week consultation will have to take place following the elections.

The decisions involved in the process of making a Neighbourhood Development Plan are largely technical or administrative in nature, however certain decisions for example the decision to hold a referendum or ultimately the decision to make the Neighbourhood Plan and bring into force could be key decisions and as such should include member involvement.

## **RECOMMENDATION**

### **That Cabinet:**

- a) notes the contents of the submitted documentation at Appendix 1 (The Neighbourhood Development Plan), Appendix 2 (Ardleigh Consultation Statement) and Appendix 3 (Ardleigh Basic Condition Statement ); and**
- b) authorises the Director of Planning to carry out a six week public consultation on the Plan and other related documents, in accordance with Regulation 16 of the Neighbourhood Planning Regulations 2012, following the District and Town/Parish Council elections in May 2023.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

Neighbourhood Plans will support the Corporate Plan 2020-24 (aligned with the core themes of Tending4Growth 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

The progression of this Neighbourhood Plan will also contribute to the 2022/23 Highlight Priority Actions, in particular in delivering the north Essex Garden Community.

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 Neighbourhood Plan has been prepared by Ardleigh Parish Council. The responsibilities for resourcing this project have, to date, sat principally with the Parish Council as the 'qualifying body'. However, the District Council has statutory duties in regards to the preparation of

the Local Plan and Neighbourhood Plans and these will be discharged by the Planning Team and any additional expenses funded through the Local Plan 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 have worked constructively with the Parish Council in an advisory capacity in the preparation of its Neighbourhood Plan.

## **LEGAL**

The ability for a Town or Parish Council to produce a Neighbourhood Plan is contained within the Localism Act 2011. The Town and Country Planning Act 1990 ("the Act") and the Neighbourhood Planning (General) Regulations 2012 (as amended) provide the statutory process as to how a Neighbourhood Development Plan will be developed and implemented. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, contain statutory timescales by which decisions relating to Neighbourhood Planning have to be made.

Neighbourhood Plans give communities the opportunity to set planning policies as Neighbourhood Development Plans which will form part of the development plan of a local authority once implemented and will sit alongside the Local Plan. The District Council's responsibility as Local Planning Authority is largely technical in nature, for example advising on conformity with the Development Plan and checking that Plans have followed correct procedures. Once made, a Local Planning Authority must consider a Neighbourhood Development Plan when deciding applications for planning permission, along with any other material consideration.

Decisions in relation to the making of Neighbourhood Development Plans are an executive function, that is because Neighbourhood Development Plans are not Development Plan Documents as defined in regulation 5 of the Town and Country Planning (Local Planning) England Regulations 2012 and as such do not come within the list of plans and strategies listed in Column 1 of the table to Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, which would require Council approval or adoption.

Ardleigh Parish Council is at Regulation 15. This stage. This regulation states:

*15.—(1) Where a qualifying body submits a plan proposal to the local planning authority, it must include—*

- (a) a map or statement which identifies the area to which the proposed neighbourhood development plan relates;*
- (b) a consultation statement;*
- (c) the proposed neighbourhood development plan; and*

(d) a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act.

(2) In this regulation “consultation statement” means a document which—

- (a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) explains how they were consulted;
- (c) summarises the main issues and concerns raised by the persons consulted; and
- (d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

And then Regulation 16 states:

16. As soon as possible after receiving a plan proposal which includes each of the documents referred to in regulation 15(1), a local planning authority must—

(a) publicise the following on their website and in such other manner as they consider is likely to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area—

(i) details of the plan proposal;

(ii) details of where and when the plan proposal may be inspected;

(iii) details of how to make representations;

(iv) a statement that any representations may include a request to be notified of the local planning authority’s decision under regulation 19 in relation to the neighbourhood development plan; and

(v) the date by which those representations must be received, being not less than 6 weeks from the date on which the plan proposal is first publicised; and

(b) notify any consultation body which is referred to in the consultation statement submitted in accordance with regulation 15, that the plan proposal has been received.

## **OTHER IMPLICATIONS**

**Area or Ward affected:** Ardleigh Parishes

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

## **PART 3 – SUPPORTING INFORMATION**

### Ardleigh Neighbourhood Plan Submission Documentation

Ardleigh Parish Council is at an advanced stage of Neighbourhood Plan preparation. The Parish have completed the preparation stage of plan making and have submitted their Plan along with background evidence documentation to the District Council so that we may formally consult upon the Plan. This stage is akin to the ‘submission draft’ stage of Local Plan preparation.

Seven documents have been submitted to the Council, these are:

1. Ardleigh Neighbourhood Plan
2. Basic Condition Statement

3. Consultation Statement with a number of appendices
4. Ardleigh Village Design Statement
5. Ardleigh Community Engagement Report
6. Local Green Spaces Assessment
7. HRA and SEA Scoping Opinion Place Services

Out of these, it is only the Plan, the Consultation Statement and the Basic condition statement that are being consulted upon.

### The Neighbourhood Plan

The Plan itself (Appendix 1) has previously been the subject of public consultation hosted by the Parish Council. At that stage (Regulation 14) the District Council also made comments on the emerging Plan.

The District Council had a number of concerns at that stage around the draft Plan's compatibility with the Adopted Development Plan, in particular how Policies in the draft plan would relate to the Garden Community and emerging Development Plan Document.

As a result of the previous public consultation the Plan has had a number of amendments made to it. It was considered that these amendments address the District Council's previous comments.

The Forward to the Plan provides a succinct vision for the area when it states:

The Plan sets objectives on key identified themes such as transport, community, the built and historic environment, local green spaces, housing and the general approach to development, including landscape features and design quality of physical structures. It builds on current and future planned activity in the Local Plan and says what the Parish Council and its partners will work towards.

The overwhelming view of the community, who responded to public consultation, is that the Parish of Ardleigh should above all else retain its rural characteristics in relation to the visual quality of its buildings, open spaces, trees, hedges, footpaths and bridleways. The people of the Parish of Ardleigh also feel strongly that their sense of community should be protected and nurtured across the whole Parish, including the village centre, Ardleigh Heath, Burnt Heath, John de Bois Hill, Fox Street, Plains Farm, Crockleford Heath and other outlying areas.

The vision is for the people of Ardleigh to continue to develop its sense of community, retain its rural feel and to enjoy and protect the countryside around them: allowing for strictly controlled housing development and employment growth to maintain a vibrant community.

The Plan also contains six planning Policies, these are:

Policy GDP - General Approach to Development

Policy CFP - Community Facilities

Policy HP - Housing

Policy EP - Natural, Built & Historic Environment

Policy LGP - Local Green Spaces

Policy TP - Transport & Parking

### The Consultation Statement

This document provides details of who has been consulted at the previous stage, what they said and how the Plan has changed because of those comments.

### The Basic Condition Statement

Only a draft neighbourhood Plan or Order that meets each of a set of basic conditions can be put to a referendum and be made. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
- b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
- c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
- e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
- g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy

- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach (NPPG - Paragraph: 074 Reference ID: 41-074-20140306 Revision date: 06 03 2014).

The development plan for Tendring District Council is currently made up of:

- Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities' Shared Strategic Section 1;
- Tendring District Local Plan 2013-2033 and Beyond: Section 2;
- Essex Minerals Local Plan; and
- Essex and Southend-on-Sea Waste Local Plan. <sup>[1]</sup><sub>[SEP]</sub>

The most relevant of these Local Plan documents - Sections 1 and 2 of the Tendring District Local Plan - were only very recently adopted. Ardleigh's Neighbourhood Plan has been prepared paying close and considered regard to the strategic policies of these documents.

#### Other Consultation Material

As well as the above, Officers also intend on consulting on the associated Habitats Regulations Assessment and Strategic Environmental Assessment.

#### The Consultation

The regulations require that a consultation is held for no less than six weeks. Officers consider that a six week period would give interested parties enough time to digest the Plan.

It is of course worth noting that this will now take place after the elections in May as there was insufficient time before them to hold a full six week consultation before the Pre-Election Period started on 13 March 2023. In this way, it is likely that the public consultation for the Harden Community Development Plan Document will take place at broadly the same time of this Neighbourhood Plan.

### **APPENDICES**

- Appendix 1 – Ardleigh Reg 16 Neighbourhood Plan
- Appendix 2 – Ardleigh Consultation Statement
- Appendix 3 – Ardleigh Basic Condition Statement

### **BACKGROUND PAPERS**

None