

Report to Cabinet

Report reference: C-008-2016/17
Date of meeting: 21 July 2016



Portfolio: Planning Policy

Subject: Neighbourhood Plan Examination Outcome - Moreton,
Bobbingworth and the Lavers

Responsible Officer: Kassandra Polyzoides (01992 564119).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To note the Examiner's recommendation that the Moreton, Bobbingworth and the Lavers Neighbourhood Development Plan does not meet the basic conditions;**
- (2) To agree that the plan proposal should be refused and should not proceed to referendum;**
- (3) To note that this decision will be publicised as soon as possible; and**
- (4) To note that the Council will assist the Parish in the process of producing a revised proposal should it seek to do so.**

Executive Summary:

The Examiner of the Moreton Bobbingworth and the Lavers Neighbourhood Plan has concluded that the plan does not meet the basic conditions required of a Neighbourhood Plan and therefore cannot recommend that the plan should proceed to referendum. Having considered each of the Examiner's recommendations and reasons for them, Officers agree with the Examiners conclusions. Whilst the Council could make modifications to the plan to put it forward for referendum these would be critical to the plan purpose and are therefore considered to be the purview of the Parish Council. Therefore, the Council should now refuse the plan proposal. It should be noted that the Council will continue to advise and assist the Parish Council of Moreton, Bobbingworth and the Lavers in producing a revised plan should it seek to do so.

Reasons for Proposed Decision:

To comply with relevant regulations and in so doing make clear the Council's position. The Council considers that the plan does not meet the basic conditions. The magnitude of change to a key policy in the plan to enable it to meet the basic conditions is such that the Council considers the Parish Council should reconsider and re-consult on the proposals.

Other Options for Action:

Under the regulations the Council is able to make changes to the plan proposal, consult on these and put it forward for referendum or send it back for examination. It could therefore,

with the Parish's agreement, strike out the policies that are of concern to the Examiner and make the additional changes. However, given that the Council on the whole agrees with the conclusions of the Examiner and Policy MBL 1.1 is critical to the plan proposals, this is not a recommended course of action; it is considered that a revision of the plan by the Parish Council would be needed followed by all the relevant regulatory stages.

Report:

1. Moreton, Bobbingworth and the Lavers Parish Council submitted the Draft Neighbourhood Plan to Epping Forest District Council on 8 November 2015. Following discussions the plan consultation ran from 12 February to 29 March 2016. The draft plan is published as a background paper to this report.

2. The examination of a neighbourhood plan is very different from that of the District's Local Plan and whilst it involves the examination of some procedural matters it turns on whether the plan meets the basic conditions set out in Paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990. The plan meets the basic conditions if:

(a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the plan;

(b) the making of the plan contributes to sustainable development;

(c) the making of the 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); and

(d) the making of the plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.

3. Epping Forest District Council made representations on the plan with respect to proposed policy "MBL1.1 Type, size, scale and design of new-build homes" in that officers did not consider it was in conformity with the National Planning Policy Framework, the District Council's Affordable Housing Policy and Planning Policy Guidance. Officers also considered that there was insufficient local evidence underpinning the policy with regard to local affordable housing needs.

4. The Examiner provided his report by email on 18 May 2016. This is published as a background paper to this report. The District Council must now consider each of the Examiner's recommendations and decide what action is to be taken in response to each. It must also come to a formal view about whether the plan meets the basic conditions. If the District Council is not satisfied that the plan meets the basic conditions then it must refuse the plan proposal and publicise its decision. Within the scope of the legislation the Council could propose modifications to make the plan meet the basic conditions.

5. The Examiner found that the plan met the basic conditions in respect of its contribution to sustainable development, and it does not breach, and is otherwise compatible with EU obligations and human rights requirements. He made 21 recommendations - many of these were proposed amendments to the plan for the purposes of aiding the Parish Council should they seek to amend and resubmit the plan.

6. The Examiner found that the plan did not meet the basic conditions in respect of:

"Policies MBL 1.1 Type, size, scale and design of new-build homes" (refer Examiners Recommendation 9) and "MBL 1.3 Redundant Buildings" (refer Examiners Recommendation 13) and did not consider it possible to make modifications to enable

it to meet the basic conditions. The Examiner has therefore recommended that the plan does not proceed to referendum.

7. Officers agree with the conclusions of the Examiner with regard to Policy MBL 1.1 and whilst there is some debate regarding the Examiner's conclusions on Policy MBL 1.3, this is of little consequence given the importance of the conclusions on Policy MBL 1.1.

8. The scale of the changes to the plan required for it to meet the basic conditions are such that the Officers agree that they should be made by the Parish Council and consulted upon further. The Planning Policy Portfolio Holder has met with representatives from the Parish to discuss the outcome of the examination.

9. Officers therefore recommend that the Council does not proceed to referendum on the Plan, refuses to make the proposal for the Moreton, Bobbingworth and the Lavers Neighbourhood Plan and publicises this decision as soon as possible. The Parish Council can choose to take account of the Examiner's recommendations in producing a new draft plan and put this forward for consultation and examination. The Council will support this course of action and advise the Parish should that choice be made.

Resource Implications:

The fact that the Examiner could not recommend the plan goes forward to referendum means that the District Council cannot make a claim for financial support on this last stage of the plan.

Legal and Governance Implications:

Local planning authorities are required to consider the Examiner's recommendations and decide what action is to be taken in response to each. It must also come to a formal view about whether the plan meets the basic conditions. If the District Council is not satisfied that the plan meets the basic conditions then it must refuse the plan proposal and publicise its decision or make amendments and publicise these. Refer Town and Country Planning Act 1990 Schedule 4B Paragraph 12 and 61J and 61L.

Safer, Cleaner and Greener Implications:

No implications likely.

Consultation Undertaken:

None on the decision - this is a technical aspect of neighbourhood plan making.

Background Papers:

Our Neighbourhood Plan to shape the future of our parish 2015 to 2035 Moreton Bobbingworth and the Lavers Parish Council

Examiner's Report Moreton, Bobbingworth and the Lavers Neighbourhood Plan Robert Bryan BA MRTPI.

A Guide for Councils – Meeting your authority's legal requirements for Neighbourhood Development Plans (March 2015) Planning Advisory Service

Risk Management:

The risk in taking alternative action lies in the inclusion of unsatisfactory policy within the Local Development Plan should an amended plan go through a successful referendum.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The Neighbourhood Plan will affect all who live, work and visit the Neighbourhood Plan Area. As a document it will take into account the needs of the community and make provisions for their area up to 2035.

The Neighbourhood Plan was drafted taking into account the outcomes of public consultation undertaken by the Parish Council. The consultation statement provided by the Parish Council was submitted as part of the examination and no matters around equality impacts were raised by the examiner.

The examiner's report is clear that the draft affordable housing proposed by the MBL Neighbourhood Plan is not in accordance with national policy contained in the NPPF, and as such the report should not proceed to referendum. It could be argued that equality impacts arise from the reduction in potential to deliver affordable housing in the parish. However, an equality impact assessment was completed at national level to assess the likely impacts of this change to introducing a policy which determines that affordable housing cannot be sought on sites that deliver 10 units, and there is no reason to assume this impact assessment does not fully assess the possible impacts.