



Committee and Date
20th July 2022

Item

Public

Recommendation for Broseley Neighbourhood Development Plan to Proceed to Referendum

**Responsible
Officer**

Mark Barrow, Executive Director - Place

e-mail: Mark.barrow@shropshire.gov.uk Tel: 01743 258919

1. Synopsis

This report seeks Cabinet approval to proceed to local referendum on the Broseley Neighbourhood Development Plan.

2. Executive Summary

- 2.1. This report seeks Cabinet approval for the Broseley Neighbourhood Development Plan (the Plan) to proceed to referendum to determine if the Plan should become part of the statutory Development Plan for the neighbourhood area, and therefore to be used in the determination of planning applications in the neighbourhood.
- 2.2. The Broseley Neighbourhood Development Plan (also referred to as the Neighbourhood Plan) has been produced in accordance with the Neighbourhood Planning (General) Regulations 2012 (referred to in this report as 'the regulations'). The Plan has been prepared by the Broseley Neighbourhood Plan Steering Group, with Broseley Town Council acting as the local 'Qualifying Body'. Work on the Plan began in 2018 and has included a number of consultation stages. Broseley Parish Council submitted the draft version of the plan to Shropshire Council in May 2021, after which Shropshire Council undertook further statutory consultation and appointed an independent person to conduct the examination into the plan.
- 2.3. The purpose of the independent examination process is to ensure Neighbourhood Development Plans meet a set of nationally prescribed 'Basic Conditions', and to recommend if the Plan should proceed to a local referendum. The examination into the Broseley Neighbourhood Plan concluded in March 2022. The Examiner's Report is attached to this Report as Appendix 1

- 2.4 The Examiner has recommended the Plan can proceed to local referendum, subject to a number of modifications being made. It is now Shropshire Council's role to consider the outcome of the Examiner's report, including the proposed modifications, and to agree if the plan can proceed to referendum.
- 2.5 The schedule of modifications is shown in Appendix 2. This schedule has followed consideration of the Examiner's conclusions and proposed modifications. Appendix 3 to this report sets out the proposed final 'referendum' version of the Broseley Neighbourhood Development Plan. It is therefore recommended that the 'referendum' version of the Plan proceed to referendum.
- 2.6 If agreed, the referendum will take place on a date to be agreed, but, must be between 1st September and 6th October 2022. Should the Plan gain public support at the referendum, Shropshire Council's Full Council will be asked to formally 'make' (adopt) the Broseley Neighbourhood Development Plan to form part of the Statutory Development Plan for Shropshire.

3. Recommendations

Cabinet agrees:

- 3.1. The Broseley Neighbourhood Development Plan meets the 'basic conditions' and all the other legal requirements as summarised in the Independent Examiner's Report, subject to the modifications proposed in the Schedule of Modifications (Appendix 2)
- 3.2. The required modifications be agreed, and that the final 'referendum' version of the Broseley Neighbourhood Development Plan (May 2022) (Appendix 3) proceed to local referendum.
- 3.3. The referendum area be that as defined as the designated area to which the Neighbourhood Development Plan relates, i.e. the Broseley parish boundary.
- 3.4. The Executive Director of Place be authorised to exercise all the relevant powers and duties and undertake necessary arrangements for the Broseley Neighbourhood Development Plan Referendum Version (May 2022) (Appendix 3) to now proceed to Referendum and for the Referendum to place asking the questions 'whether the voter wants Shropshire Council to use this neighbourhood plan for the Broseley Neighbourhood Plan area to help it decide planning applications in this neighbourhood area'.

REPORT

4. Risk Assessment and Opportunities Appraisal

- 4.1. Having received a draft Neighbourhood Plan from a qualifying body (normally a Parish or Town Council), it is the responsibility of the Local Planning Authority, under regulation 16 of the Neighbourhood Planning (General) Regulations 2012, to publicise and to seek representations on the Plan. It is also the responsibility of the Local Planning Authority under paragraph 7 of Schedule 4B to the Town and Country Planning Act 1990 (TCPA1990) to appoint an independent person to assess the Plan. In following these requirements Shropshire Council published and consulted on the submission version of the Broseley Development Plan for eight weeks between 23rd July and 17th September 2021 and appointed Tony Burton to examine the Plan in January 2022. As required Mr Burton's appointment was agreed by Broseley Parish Council.
- 4.2. Only a draft Neighbourhood Plan that meets the basic conditions can be put to a referendum and be 'made' (adopted) by the Local Authority. The basic conditions, as set out in paragraph 8(2) of Schedule 4B of the TCPA 1990 that apply to Neighbourhood Development Plans by the Planning and Compulsory Purchase order 2004, are:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the 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);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, retained EU obligations;
 - prescribed conditions are met (in relation to the neighbourhood plan) and prescribed matters have been completed with in connection with the proposal for the neighbourhood plan.
- 4.3 In assessing the Plan the examiner has three options:
- a) that the plan proceeds to referendum as submitted;
 - b) that the plan is modified by the LPA to meet 'basic conditions' and then the modified version proceeds to referendum; or
 - c) that the plan does not proceed to referendum

The neighbourhood development plan examination is therefore a particularly focussed process, unlike that of an examination applied to Local Plans prepared by Local Planning Authorities. This leaves little in the way of opportunity to actively make changes to improve the plan at this stage, unless these changes (or modifications) are to ensure the Plan meets one or more of the basic conditions.

- 4.4 The Examiner's Report is included as Appendix 1 to this report. It is the role of Shropshire Council to consider the overall conclusions and the proposed modifications in the Examiner's Report. Whilst the Examiner's Report is not binding on the authority, it is considered there is a risk of a legal challenge if the local authority's conclusions were to differ significantly from that of the Examiner's without appropriate rationale. However, it is considered there will be occasions where it may be necessary for the Local Authority to propose different modification to that proposed by the Examiner or indeed to disagree with the need for a modification.
- 4.5 In this instance, the Examiner's Report into the Broseley NDP has concluded that it be modified by the Local Planning Authority to meet the basic conditions. It should be this modified version of the Plan which should proceed to referendum. The Schedule of Modifications attached as Appendix 2 to this report show how the Local Planning Authority has considered each of the proposed modifications proposed by the Examiner.
- 4.6 Officers have considered in detail the recommendations of the Examiner, supported by further discussions with Broseley Town Council. In summary, it is proposed that all of the recommended changes to the Plan are incorporated into the final 'referendum' version. It is this version which is before Cabinet and included as Appendix 3. For clarity, it is considered these changes are necessary in order for the Plan to meet its 'basic conditions'. Whilst these changes do impact on a number of proposed policies, and in some cases include the removal of policies, it is not considered these changes taken as a whole fundamentally impact on the wider objectives of the Plan. It should be noted the proposal to incorporate site allocations for new housing and employment land are unchanged from the earlier version of the Plan developed by the Broseley Neighbourhood Plan Steering Group.
- 4.7 The Examiner's report also recommends the Referendum Area be restricted to the neighbourhood plan area, i.e. the Parish boundary, as the plan does not have a substantial, direct and demonstrable impact beyond the neighbourhood area. Assuming Cabinet approve the Plan to proceed to referendum, the Council's Electoral Services will administer this process in line with Neighbourhood Plan Regulations, which specifies that this should take place no more than 56 days from the publication of the decision statement. Taking

into account the necessary notice periods it is considered the referendum will take place between 1st September and 6th October 2022. It is considered there is little risk to the Council if this process follows the regulations closely.

5. Financial Implications

- 5.1. The Localism Act and Regulations provide that the following costs would fall to Shropshire Council: delivering a supporting role particularly in the latter stages of the Plan's development; appointing an Examiner for the Plan; and conducting an Examination and holding a Referendum. Current provisions allow an application for these additions cost to be met, and a reimbursement of costs will there be sought from Central Government. It is considered likely the robustness of the Neighbourhood Plan Policies will be tested over time by independent Planning Inspectors on Planning appeals made under Section 78 of the TCPA1990. Members are advised that the liability for the future appeal costs rests with Shropshire Council as Local Planning Authority and as such the usability of such plans and their impact on local decision making will need to be carefully monitored. However, it should be noted that in seeking approval to proceed to referendum on this Plan, there is agreement that the content of the Neighbourhood Development Plan is in broad conformity with the policies of Shropshire's adopted Local Plan. It is therefore considered there is very limited risk to Shropshire Council and additional financial liability as a result of this report and recommendations.

6. Climate Change Appraisal

- 6.1. **Energy and fuel consumption:** The recommendations propose that Cabinet agree to proceed to referendum with the Broseley Neighbourhood Development Plan. If successful at referendum, and the Plan is subsequently adopted by the Council, it will become part of the statutory Development Plan for the area and will be used in the determination of planning applications. Policy SD1 of the Plan includes a need for development proposals to be designed to be energy efficient and sustainable.
- 6.2. **Renewable energy generation:** Whilst not specifically identified in the Neighbourhood Development Plan, the Plan is in general conformity with the current Local Plan and the emerging Local plan Review, which include a positive policy framework for supporting appropriate renewable energy schemes
- 6.3 **Carbon offsetting or mitigation:** The proposed referendum version of the Plan includes the following objective – Achieving Sustainable Development and Responding to Climate Change

- 6.4 **Climate Change adaptation:** The proposed referendum version of the Plan includes the following objective: Achieving Sustainable Development and Responding to Climate Change

7. Background

- 7.1. Shropshire Council supports Neighbourhood Development Plans being brought forward under the Localism Act and the 2012 Neighbourhood Planning Regulations, indeed the Council is legally obliged to do so. The Government's National Planning Policy Framework (NPPF) supports the principle of Neighbourhood Plans and their status as part of the Development Plan. The NPPF states "Neighbourhood Plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies". It is also made clear that Neighbourhood Development Plans should not promote less development that set out in the strategic policies for the area or undermine those strategic policies.
- 7.2. Neighbourhood Development Plans must follow a defined regulatory process in both their preparation and adoption. This includes the formal designation of the area (Regulation 6 Stage), the consultation on a draft version of the Plan (Regulation 14 Stage), submission to the Local Planning Authority (Regulation 15 Stage), and consultation and examination on the Final Draft version of the Plan (Regulation 16 Stage).
- 7.3. Broseley Town Council formally requested that the parish of Broseley be designated as a Neighbourhood Area in April 2018 and, following a period of consultation this was formally agreed by Shropshire Council in September 2018. A Neighbourhood Plan Steering Group was established locally to undertake the preparation of the Plan. This group included representatives from the Town Council and other local volunteers. It is acknowledged that from an early point in this process the Steering Group provided positive opportunities for the local community to have their say in the vision and objectives of the Plan through a range of means, including public meetings, meetings with landowners and businesses, drop-in displays, information on the website and Community Questionnaires throughout the process.
- 7.4 Between September and October 2020 Broseley Town Council undertook a statutory six week consultation into the pre-submission version of the Neighbourhood Development Plan (Regulation 14 Stage). This draft version of the Plan responded to the survey evidence and contained a number of draft Development Management policies.

- 7.5 In May 2021 Broseley Town Council submitted the Neighbourhood Development Plan to Shropshire Council (Regulation 15 Stage), along with the required Consultation Statement and Basic Conditions Statements. In meeting our statutory requirement, Shropshire Council proceeded to carry out the Regulation 16 stage consultation between July and September 2021 with statutory consultees and other locally interested individuals and organisations and in January 2022 appointed Tony Burton to examine the Plan. As required by the Regulations, the appointment of Mr Burton was agreed by Broseley Town Council.
- 7.6 Mr Burton's examination of the Broseley Neighbourhood Development Plan was carried out by written representations only. As well as the Plan documents, Mr Burton also considered the representations made to the Regulation 16 stage consultation. The conclusions of this consultation were subsequently considered in the Examiner's final report.
- 7.7 If Cabinet agree for the Broseley Neighbourhood Development Plan to proceed to referendum, the question will be:
- Do you want Shropshire Council to use the Broseley Neighbourhood Development Plan to help decide planning applications in the neighbourhood area?*
- 7.8 The Plan will need to gain the support of over 50% of those who cast a vote to be able to move forward to be 'made' (adopted) by Shropshire Council. If this is the case the decision to 'make' the Plan will need to be taken to Full Council. A date for the referendum will be formalised after 20th July assuming the recommendations are agreed.

8. Additional Information

- 8.1. The appendices to this report provide information on the Examiner's report into the Neighbourhood Plan, the proposed modifications, and the final 'referendum' version of the Plan which incorporates all the required modifications.

9. Conclusions

- 9.1. Further to the outcomes of the Examiner's report into the Broseley Neighbourhood Development Plan, it is recommended that all the necessary modifications are agreed and that the final version of the Plan proceed to local referendum.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Report 17th September 2018 – application by Broseley Town Council to be considered as a Neighbourhood Plan Area

Cabinet Member (Portfolio Holder)

Cllr Ed Potter

Local Members

Cllr Caroline Bagnall, Cllr Dan Thomas

Appendices

1 Examiners Report

2 Schedule of Modifications

3 Final version of Broseley Neighbourhood Development Plan for Referendum