

BABERGH DISTRICT COUNCIL

From: Assistant Director - Planning for Growth	Report Number: S21
To: Strategy Committee	Date of meeting: 9 June 2016

LAVENHAM NEIGHBOURHOOD PLAN

1. Purpose of Report

- 1.1 This report presents the findings of the Independent Examiner's Report on the content of the Lavenham Neighbourhood Plan Submission Draft.
- 1.2 Subject to the implementation of the detailed recommendations contained within the Examiner's Report, it is proposed that the Plan should proceed to a local referendum.

2. Recommendations

- 2.1 That Lavenham Parish Council be requested to make the necessary modifications to the plan in accordance with the Examiner's recommendations.
- 2.2 That subject to the satisfactory completion of the necessary modifications the plan be advanced to a local referendum covering the parish of Lavenham.

3. Key Information

- 3.1 The Localism Act, 2011 introduced the concept of neighbourhood plans. These are plans which are developed by local people for the community in which they live and work. Neighbourhood plans provide local people with an opportunity to prepare planning policies and allocate land to shape the future of their area. Each plan consequently has its own character.
- 3.2 In September 2013 the Lavenham neighbourhood planning area designation application was approved by the District Council. This enabled the parish council to prepare its plan. In July 2015 the parish council published the first draft of its neighbourhood plan. There then followed a six week consultation period and further revisions were made in response to the comments received.
- 3.3 In December 2015 the parish council formally submitted the plan to the District Council. The plan was checked for compliance with the relevant legal requirements and a further six week consultation was conducted between 4 January and 16 February 2016. During this period 12 representations were received.
- 3.4 In March 2016 the examination of the plan commenced. It was conducted by a 'suitably qualified and experienced' person who was independent of the plan making process via written representations. The Examiner was selected in consultation with the parish council through the Neighbourhood Plan Independent Referral Service (a national service run by a consortium of the relevant professional bodies and community organisations).

- 3.5 In April 2016 the Examiner's Report was published. Overall the Examiner considered the plan to be extremely well written, containing a clear explanation and logical justification for many of its policies. The Examiner did, however, make 17 recommendations on how the plan should be modified to make it acceptable. The Examiner does not consider it necessary to extend the local referendum area. A compendium of the necessary modifications has been attached to this Paper. Please see **Appendix 1**. The recommended modifications are however fully explained in the Examiner's Report. Please see **Appendix 2**.
- 3.6 The District Council must now consider each recommendation and the reasons for them, and decide what action to take in response to each one. It must also come to a formal view about whether the Plan meets the 'Basic Conditions'.
- 3.7 The 'Basic Conditions' are set out in Paragraph 8(2), Schedule 4B the Town and Country Planning Act, 1990. In order to satisfy them a Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - be in general conformity with the strategic policies contained in the Development Plan for the area;
 - contribute to the achievement of sustainable development; and
 - not breach, and be otherwise compatible with, EU obligations and human rights requirements.
- 3.8 The Examiner has concluded that, subject to the implementation of the suggested modifications, the Neighbourhood Plan meets the Basic Conditions and other statutory requirements and can proceed to a referendum. In the main the recommendations involve improving the wording of policies so that they are clear and unambiguous and can be used in a consistent manner by decision makers. The recommendations of note centre upon the following policies:
- **the housing technical standards should be deleted from Policies H1 and D2.** This recommendation has been made as it is no longer appropriate for neighbourhood plans to refer to them. Subject to the suggested modification the policies would meet the Basic Conditions and contribute towards the achievement of sustainable development.
 - **in order to provide a clearer identification of open spaces and recreation areas for safeguarding under Policy C2, Map 9.2 be modified.** This recommendation has been made to ensure that the Plan is consistent with the provisions of the National Planning Policy Framework which requires that policies are clear and unambiguous.
 - **the local connection criteria provided in Policy H4 would not provide a practical framework for decision making.** This recommendation has been made to ensure that the Plan is consistent with the provisions of the National Planning Policy Framework which requires that policies are clear and unambiguous.
 - **Policy D3 should be deleted.** This recommendation has been made because there is no robust evidence to support it and the requirement may be contrary to the presumption in favour of sustainable development.
 - **Policy C5 should be deleted.** This recommendation has been made as the policy is no longer relevant following the District Council's adoption of a Community Infrastructure Levy.

- **Project 13 should be deleted.** Even though this project is not a land use of development policy the Examiner has recommended that it should be deleted in order to ensure that the housing strategy in the neighbourhood plan can be achieved as well as compliance with the strategic local plan policies in relation to housing provision.

3.9 Officers have assessed the content of the Examiner's Report and each recommendation and concur with its findings. It is therefore recommend to the Strategy Committee that all the modifications proposed be made by the parish council to ensure that to the Lavenham Neighbourhood Plan complies with the Basic Conditions. If the Strategy Committee agrees with this recommendation the District Council will need to publicise its decision (a decision statement) and move to a local referendum.

3.10 The Housing and Planning Act, 2016 has made it clear that the only modifications that the District Council can make at this stage are those required to ensure that:

- the plan is compatible with EU obligations,
- the plan does not breach Convention Rights, or
- those required for the purpose of correcting minor errors.

The District Council is therefore only able to exercise limited discretion at this point.

3.11 The task of modifying the plan falls to the parish council with assistance from the District Council. While there are no prescribed periods for this process, a copy of the plan, as modified, along with other specified documents will be required before the date of the local referendum can be confirmed.

3.12 Lavenham Parish Council has amended the text to its neighbourhood plan in line with the Examiner's recommendations. At the time of writing this report some amendments to the maps are still required. A copy of the amended plan is attached to this report. Please see **Appendix 3**. The plan is therefore nearing the local referendum stage. It will not however be possible for other reasons to prepare for the local referendum until after the EU Referendum has been held.

3.13 The referendum process is governed by the Neighbourhood Planning (Referendum) Regulations, 2012 (as amended). The Regulations set out that not less than 28 working days' notice must be provided of the date of the local referendum. In order to avoid the holiday period the most appropriate date for the local referendum would appear to be 1 or 8 September 2016. At this stage 1 September is preferred by Lavenham Parish Council.

3.14 The parish council will be expected to promote the referendum but it should be noted that there are restrictions on the publication of promotional material, advertisements and expenses. The format of the Referendum question will be:

'Do you want Babergh District Council to use the neighbourhood plan for Lavenham to help it decide planning applications in the neighbourhood area?'

3.15 If the majority of those who vote in a referendum are in favour of the neighbourhood development plan then the plan must be brought into legal force and ‘made’ (adopted) by the District Council. A further Paper would be presented to Full Council to ratify the eventual outcome.

4. Financial Implications

4.1 The District Council receives £20,000 from the Department of Communities and Local Government for each neighbourhood plan once a referendum date has been set following a successful examination. This sum is paid to meet the District Council’s costs and will be sufficient in this case.

4.2 If the Lavenham Neighbourhood Plan is successfully ‘made’ (adopted) the parish council will be eligible to receive 25% of any Community Infrastructure Levy receipts from development in its area.

5. Legal Implications

5.1 The neighbourhood plan has been prepared in accordance with the provisions of the Town and Country Planning Act, 1990, the Planning and Compulsory Purchase Act, 2004 and the Neighbourhood Planning (General) Regulations, 2012 (as amended). It has also had regard to the Environmental Assessment of Plans and Programmes Regulations, 2004 and the Conservation of Habitats and Species Regulations, 2010.

5.2 If ‘made’ (adopted), the Lavenham Neighbourhood Plan will become part of the Development Plan and, where relevant, used to determine planning applications.

5.3 The Monitoring Officer has reviewed the governance arrangements surrounding the preparation of the plan and is satisfied with the actions taken by the parish council throughout the entire process.

6. Risk Management

6.1 The key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
The neighbourhood development plan fails to receive support at the referendum stage.	Unlikely	Bad	The Parish Council is responsible for promoting the referendum.
Legal challenge to the content of the neighbourhood development plan or order and/or judicial review of the District Council’s decisions.	Unlikely	Bad	Ensuring that the relevant Regulations are followed and that the decision-making processes are clear and transparent.

7. Consultations

- 7.1 The District Council undertook formal consultation on the content of the submission draft Lavenham Neighbourhood Plan from 4 January to 16 February 2016. Twelve representations were received and are summarised in tabular form in **Appendix 4**.

8. Equality Analysis

- 8.1 There are no equality and diversity implications arising directly from the content of this report.

9. Shared Service / Partnership Implications

- 9.1 This report relates to matters affecting Babergh only.

10. Links to Joint Strategic Plan

- 10.1 The successful making (adoption) of the neighbourhood plan will enable the District Council to fulfil its corporate priorities, in terms of housing delivery, business growth and community capacity building.

11. Appendices

- 11.1 Appendix 1 Summary of Recommendations Attached

- 11.2 Appendix 2 Examiner's Report

<http://www.babergh.gov.uk/assets/Uploads-BDC/Economy/Strategic-Planning-Policy/Neighbourhood-Planning/LavenhamNDPExaminerReport.pdf>

- 11.3 Appendix 3 Lavenham Neighbourhood Plan – Incorporating Examiner's Modifications

<http://www.babergh.gov.uk/assets/Uploads-BDC/Economy/Strategic-Planning-Policy/Neighbourhood-Planning/LavenhamNDPIncExamMods.pdf>

- 11.4 Appendix 4 Submission Draft Consultation Responses

<http://www.babergh.gov.uk/assets/Uploads-BDC/Economy/Strategic-Planning-Policy/Neighbourhood-Planning/LavenhamNDPSubReps2016.pdf>

12. Background Documents

- 12.1 Lavenham Neighbourhood Plan Submission Draft

<http://www.babergh.gov.uk/assets/Uploads-BDC/Economy/Strategic-Planning-Policy/Neighbourhood-Planning/LavenhamNDPSubmissionDec2015.pdf>

Authorship

N J Ward

Corporate Manager – Community Planning
and Heritage

Tel. No.: 01473 825851/01449 724935

Email: nick.ward@babberghmidsuffolk.gov.uk

LAVENHAM NEIGHBOURHOOD DEVELOPMENT PLAN

Summary of Recommendations: Janet L Cheesley (Independent Examiner)

Recommendation 1: Modify Map 4.2

in the interest of clarity, I recommend modification to Map 4.2 to remove the coloured areas.

Recommendation 2: Delete Project P13. Modify Map 7.4 and Policy H1

to meet the Basic Conditions, I recommend the deletion of Project P13. I recommend modification to Map 7.4 to clearly define the built up area boundary. I recommend modification to Policy H1 as follows:

The first sentence of the third paragraph to read: Where proposals are being put forward outside the existing built up area boundary of Lavenham, they will be permitted where they have regard to the findings and recommendations set out in the Lavenham Character Assessment.

The fourth paragraph to read: Where design and access statements are submitted alongside planning applications they shall include a Townscape Impact Assessment and a Built Heritage Statement where appropriate.

Recommendation 3: Modify Policy H2

to meet the Basic Conditions, I recommend modification to Policy H2 to read as follows:

Housing development must contribute to meeting the existing and future needs of the village. A mix in the size and type of housing will be required taking in to account the needs of young people looking for 2 and 3 bedroom properties as well as the needs of an ageing population looking to downsize into smaller homes.

Recommendation 4: Modify Policy H4

to meet the Basic Conditions I recommend modification to Policy H4 to read as follows:

All new affordable housing in Lavenham will normally be subject to a local connection, meaning that people with a strong local connection to the Parish and whose needs are not met by the open market will be first to be offered the tenancy or shared ownership of the home. In this context a strong local connection means an applicant(s) who satisfies the Babergh District Council's Local Connection Criteria for Local Housing Needs Schemes.

Recommendation 5: Modify Policy H6

to meet the Basic Conditions, I recommend that the title for Policy H6 is modified to read 'Housing for Elderly People'. I recommend modification to Policy H6 by the deletion of the last bullet point regarding layout and design. I recommend modification to paragraph 7.9.2 to refer to Policy H6.

Recommendation 6: Modify para 8.1.9

to meet the Basic Conditions, I recommend modification to the last sentence in paragraph 8.1.9 to read as follows:

In this respect a development brief is as defined in Core Strategy Policy CS15.

Recommendation 7: Modify Policy D2. Delete para 8.3

to meet the Basic Conditions, I recommend modification to Policy D2 by the deletion of the first and third bullet points for residential proposals regarding minimum space standards and demands for potable water. I recommend the deletion of paragraph 8.3.

Recommendation 8: Delete Policy D3

to meet the Basic Conditions, I recommend the deletion of Policy D3 and accompanying explanatory text.

Recommendation 9: Modify Map 9.2

in the interest of clarity and precision, to meet the Basic Conditions, I recommend modification to Map 9.2 to provide a clear identification, on an ordnance survey base, of the open spaces and recreation areas identified for safeguarding under Policy C2.

Recommendation 10: Modify Policy C3

to meet the Basic Conditions, I recommend modification to Policy C3 to read as follows:

The rural surroundings are an important leisure asset and any opportunities for walking, cycling, horse riding and other outdoor pursuits will be encouraged.

The existing network of footpaths and bridleways shown on Map C3 will be protected. In order to maintain Lavenham's close links to the countryside development proposals will be expected to utilise opportunities to link into the wider footpath and bridleway network where applicable.

Recommendation 11: Delete Policy C5

to meet the Basic Conditions, I recommend the deletion of Policy C5.

Recommendation 12: Modify Policy C6

to meet the Basic Conditions I recommend modification to Policy C6 to read as follows:

Development that will result in the loss of a health care facility would only be permitted where the facility is either replaced or re-located to a suitable location which is capable of being safely accessed by all users particularly pedestrians and cyclists and those using mobility scooters.

If it is the intention that the last sentence of the submitted Policy C6 supports the provision of buildings for institutional care for elderly people, then I recommend the following addition to Policy C6:

The Parish Council will support the provision of buildings for institutional care that meet the needs of the older generation, provided that the proposals are located within the built up area boundary and where the schemes can be clearly demonstrated to be well related to the existing pattern of development in Lavenham. Where permission is granted for such an institutional use (Class C2 of the Town and Country Planning (Use Classes) Order 1987 as amended) the permission will be restricted to the use permitted only.

Recommendation 13: Modify Policy C9

to meet the Basic Conditions, I recommend modification to Policy C9 to read as follows:

All new dwellings should incorporate ducting capable of accepting fibre to enable Superfast Broadband.

Recommendation 14: Modify Map 9.9 & Policy C10

to meet the Basic Conditions I recommend modification to Map 9.9 to define the retail core area rather than the retail trading area. I recommend modification to Policy C10 to read as follows:

The vitality and viability of Lavenham's Retail Core Area must be protected and enhanced. The Retail Core Area is shown on Map 9.9 and consists of:

- No. 1 High Street to 60c High Street [and properties on the east side of the High Street not listed here]
- Nos. 1 and 2 Church Street
- Nos. 71 to 76 Water Street, Nos. 8 and 14 Water Street and the Swan Hotel
- No. 10 Lady Street, The Tourist Information Centre, Swan Hotel and Guildhall
- The Market Place

Change of use of ground floor shops or services to residential within the Retail Core Area will only be considered favourably if the business has been marketed diligently at a fair market price and continuously for at least one year.

Proposals within the Retail Core Area that diversify and enhance the range of shops and services will be supported provided that proposals are of an appropriate size in keeping with the existing character of the Retail Core Area; will not lead to severe traffic congestion; adequate parking and servicing arrangements are available; proposals will not generate unacceptable noises, fumes, smells or other disturbance to neighbouring properties.

Recommendation 15: Modify Policy ENV1

to meet the Basic Conditions, I recommend:

the inclusion of additional valued view '12 River Brett' on the appropriate Map on either page 50 or 51.

I recommend modification to Policy ENV1 to read as follows:

Development proposals must respect views in and out of the village that contribute to the appreciation of the visual qualities of the historic core of the village and its valued surrounding landscape.

Development proposals must have regard to the findings of Lavenham's Landscape Character Assessment. They will not be supported if they adversely affect the key views into and out of the historic core. In addition, particular regard will be given to the additional valued views listed below. The defined views are shown on Maps [X and Y] and in detail in the visual illustrations in Appendix 3.

Key views into and out of the historic core:

5. Bolton Street
8. Prentice Street
6. The Common
9. Nether Hall Farm
10. Shilling Street
11. Church Street

Additional valued views:

1. Moneyhole corner
2. Brent Eleigh Road
3. Brights Lane
4. Bridge Street
7. The Lolls
- 12 River Brett

Development proposals in the Special Landscape Area to the east of Lavenham will only be permitted where they: maintain or enhance the special landscape qualities of the area identified in the Lavenham Landscape Character Assessment; and are designed and sited so as to harmonise with the landscape setting.

Recommendation 16: Modify Policy ENV3

to meet the Basic Conditions I recommend modification to Policy ENV3 to read as follows:

Development proposals which seek to enhance the amenity value of the Market Place by increasing its use for community and leisure purposes will be permitted provided that adequate alternative parking arrangements can be made and that they do not have an adverse impact on the character or appearance of the conservation area, including the setting of nearby listed buildings.

Recommendation 17: Modify para 10.4.1 and Policy ENV4

to meet the Basic Conditions, I recommend the deletion of reference to mineral extraction proposals in paragraph 10.4.1. I recommend modification to Policy ENV4 to read as follows:

Renewable energy projects will be supported where they are located to avoid any significant adverse effects on the defined views (see Policy ENV1) or the historic core of the village.