



Date of Meeting: 25 June 2019

Lead Member: Cllr David Walsh – Lead Member for Planning

Lead Officer: Frances Summers - Senior Planning Policy Officer

Executive Summary:

The purpose of the report is to seek approval to 'make' (adopt) the Bere Regis Neighbourhood Plan.

The Bere Regis Neighbourhood Plan was prepared by the Bere Regis Neighbourhood Plan Group (BRNPG) with support from Council officers. It involved several stages of consultation and an independent examination by a qualified examiner. On 19th March 2019 Purbeck District Council resolved that the plan should proceed to referendum.

The referendum was held on 2nd May 2019 and there was a 40.19% turnout. 447 (83%) voted in favour and 92 (17%) voted against. Legislation requires that more than 50% of the votes need to be in favour if a neighbourhood plan is to proceed any further.

Minor errors found in the referendum version need to be rectified and they are detailed within this report.

Following the positive referendum result, the final stage is for the Council to make (adopt) the plan within 8 weeks of the referendum. The circumstances where the Council is not required to make a neighbourhood plan are where it considers that making it would breach, or otherwise be incompatible with, any EU or human rights obligations. Officers do not believe that this would be the case as evidenced by the Equalities Impact Assessment discussed below and found in **Appendix 3**. The final version of the plan is attached to this report in **Appendix 2**.

Equalities Impact Assessment:

Officers prepared an Equalities Impact Assessment (EqIA) of the pre-referendum version of the plan in December 2018. Although changes have been made to the plan through the examination, they are not considered to affect the equalities impact assessment outcomes as of December 2018. This version of the EqIA is attached to this report as **Appendix 3**. The EqIA concludes that the plan will have no negative impacts on equality. It will sit alongside existing Purbeck Local Plan policies that apply to Bere Regis, which also has no negative impacts as shown in EqIAs completed at the time.

Budget:

Making the Neighbourhood Plan will require the notification of parties who have expressed an interest in the making of the plan. This can be accommodated within existing budgets.

Risk Assessment:

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: ~~HIGH/MEDIUM~~/LOW (Delete as appropriate)

Residual Risk ~~HIGH~~/MEDIUM/LOW (Delete as appropriate)

Other Implications:

Cabinet is the first meeting at which the plan could be made following the formation of Dorset Council. In order to adhere to legislation in the Neighbourhood Planning Act 2012 (As amended) **25A**. (1), the plan must be 'made' within 8 weeks of referendum. The plan's referendum was held on 2 May 2019, 8 weeks from this date is 27 June 2019.

As the Council is required to make the Bere Regis Neighbourhood Plan by 27 June 2019 (within 8 weeks of the referendum), this presented a conflict with the overview and scrutiny procedure rules which provide for a call-in period of five working days to pass following the publication of the decision of the Cabinet before it can be implemented, and any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. As such it has been necessary to consult with the Chairman of the Place Scrutiny Committee to seek an exemption from the call-in procedure on the basis of urgency. Cllr Daryl Turner as the Chairman of the Place Scrutiny Committee agreed to the request on Monday 10 June 2019 and this has been logged with Democratic Services. With this urgency exemption the Plan can therefore be made by the required date of 27 June 2019.

Recommendation:

That the Council agrees:

- (1) that the making of the neighbourhood plan would not breach and is compatible with EU and human rights obligations;
- (2) that the Bere Regis Neighbourhood Plan as submitted to and approved by referendum is made under section 38A(4) of the 2004 Act;
- (3) that with the agreement of Bere Regis Parish Council the Bere Regis Neighbourhood Plan as made is modified by:
 - o the replacement of the wording of Policy BR6 with that recommended by the examiner and approved by Purbeck District Council on 19 March 2019; and
 - o the deletion of the proposed SANG from Map 5, as recommended by the examiner and approved by Purbeck District Council on 19 March 2019 (the extent of the SANG is shown elsewhere in the plan);

on the basis that such modifications do not materially affect the policies in the plan or are correcting errors of a type contemplated by section 61M(4) of the Town and Country Planning Act 1990.

Reason for Recommendation:

National Planning Practice Guidance, Paragraph 64¹, states 'if the majority of those who vote in a referendum are in favour of the draft neighbourhood plan or Order (or, where there is also a business referendum, a majority vote in favour of both referendums), then the neighbourhood plan or Order must be made by the local planning authority within 8 weeks of the referendum'.

¹ Reference ID: 41-064-20170728

Appendices:

1. Errors found in referendum version of Bere Regis Neighbourhood Plan;
2. Bere Regis Neighbourhood Plan;
3. Equalities Impact Assessment; and
4. Decision statement.

Background Papers:

Please see the following webpage for background papers that were submitted as evidence supporting the plan: <https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck/neighbourhood-planning-purbeck/bere-regis-neighbourhood-plan.aspx>

Officer Contact

Name: Frances Summers

Tel: 01929 557384

Email: frances.summers@dorsetcouncil.gov.uk

Main report

- 1.1 Under the Localism Act 2011, town and parish councils can prepare neighbourhood plans. The plan forms part of the development plan which both shapes the area and helps inform decisions on individual planning applications. They are an opportunity for communities to set out their local vision for the growth they would like to see in their areas. On adoption of the neighbourhood plan, the amount of CIL that would go to the parish would increase from the standard 15% to 25%, as set out in regulations.
- 1.2 Bere Regis Neighbourhood Plan allocates land for 105 homes, Suitable Alternative Natural Greenspace (SANG) which mitigates impacts on designated heathland, and employment. It protects Local Green Spaces, community facilities and protects against flood risk. The plan articulates the community's vision for the area and provides a local steer on the Purbeck Local Plan Part 1 development management policies.
- 1.3 Work began on the Bere Regis Neighbourhood Plan in January 2013 and the final draft of the plan was submitted to the Council in October 2018. Neighbourhood plans are subject to several stages of consultation and they have to meet the 'basic conditions' tests, set in legislation. In order to check that neighbourhood plans meet the basic conditions and comply with all relevant legislation and procedures, they are required to be independently examined by a suitably qualified examiner. Officers and the Bere Regis Neighbourhood Plan Group (BRNPG) appointed an examiner, who provided a final report in March 2019. It is published online at <https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck/neighbourhood-planning-purbeck/bere-regis-neighbourhood-plan.aspx>.
- 1.4 The 19 March 2019 Purbeck District Council meeting considered each of the recommendations made in the report and the reasons for them. Council resolved that, "the Bere Regis Neighbourhood Plan proceed to referendum subject to modifications being made in line with the examiner's recommendations and subject to clarification of the settlement boundary shown in map 3 by the General Manager – Planning and Community Services in consultation with the local Ward Member". Following this, Map 3 was clarified.
- 1.5 The referendum was held on 2 May 2019 and from a turnout of 40.19%, 477 individuals (83%) voted in favour and 92 (17%) against. Legislation says that within 8 weeks of a positive vote, the plan needs to be made (adopted) by the Local Planning

Authority, unless it considers doing so would breach, or otherwise be incompatible with, any EU or human rights obligations. The examiner's report, which the Council has accepted, concluded on page 9 that the plan satisfies, 'the basic conditions regarding compliance with European legislation including the newly introduced basic condition regarding compliance with the Habitat Regulations' and that 'the plan has no conflict with the Human Rights Act'. Therefore, officers believe that the Council has already agreed that both obligations have been satisfied. As a result, officers consider that the Council has already made its position clear on both points.

- 1.6 Since referendum, it has been noted that the plan contains two minor errors. Please see **Appendix 1** for details. The errors were in the plan that went to Council in March 2019 and in the referendum version of the plan. To summarise, the errors were:
- wording in Policy BR6: Affordable Housing was not changed as per the examiner's report; and
 - the SANG was not removed from Map 5.
- 1.7 Section 61M4() of the 1990 Act allows the local planning authority to modify a neighbourhood plan they have made if they consider that the modification does not materially affect any of the policies in the plan. Both the qualifying body and officers believe the errors do not materially affect any of the policies in the plan. The Parish Council agree that the errors must be rectified to be consistent with the modifications suggested by the examiner.
- 1.8 Due to the errors, officers recommend the Council to agree to make the plan on the basis that;
- the current incorrect wording of Policy BR6 is replaced with that recommended by the examiner and approved by Purbeck District Council on 19 March 2019; and
 - the deletion of the proposed SANG from Map 5, as recommended by the examiner and approved by Purbeck District Council on 19 March 2019 (the extent of the SANG is shown elsewhere in the plan);
- on the basis that such modifications do not materially affect the policies in the plan or are correcting errors of a type contemplated by section 61M(4) of the Town and Country Planning Act 1990.
- 1.9 The Council is required to make the Bere Regis Neighbourhood Plan by 27 June 2019. This presents a conflict with the overview and scrutiny procedure rules for Cabinet which provide for a call-in period of five working days to pass following the publication of the decision of the Cabinet before it can be implemented. In this instance, any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. As such it has been necessary to consult with the Chairman of the Place Scrutiny Committee to seek an exemption from the call-in procedure on the basis of urgency. Cllr Daryl Turner as the Chairman of the Place Scrutiny Committee agreed to the request on Monday 10 June 2019 and this has been logged with Democratic Services. With this urgency exemption the Plan can therefore be made by the required date of 27 June 2019.
- 1.10 Should the Council decide to make the plan, the Council is required to produce a Regulation 19 Decision Statement as soon as possible. A copy of the statement is attached to this paper as **Appendix 4**.
- 1.11 Following this, officers will make the necessary arrangements, as prescribed in legislation, to:
- a) publish the plan and details of where it can be inspected on the relevant section of Dorset Council website; and

- b) notify anyone who previously asked to be notified of the making of the plan and where it can be inspected.
- 1.12 Having regard to a), legislation says that it is at the Council's discretion as to how to publish its decision in any manner it considers to be likely to bring it to the attention of people who live, work or carry on business in the plan area. Officers believe this can be achieved by notifying those on the Council's planning policy contacts' database in writing or by email. This comprises of local planning agents / developers and those who have specifically asked to be kept informed of neighbourhood planning. Officers will also ensure that the relevant parts of Dorset Council website are updated, to make clear to anyone thinking of submitting a planning application in Bere Regis that the neighbourhood plan is statutory for determining planning applications.
- 1.13 Should the Council decide to make the neighbourhood plan, there would follow a period of six weeks where applications could be made to the High Court for a judicial review.
- 1.14 The plan may be reviewed in whole or in part in the future.

Appendix 1

Error 1: Policy BR6: Affordable Housing

The examiner approved the plan subject to some modifications. One of the modifications was to change the wording in Policy BR6: Affordable Housing Tenures as shown below. Red, strikethrough text signifies a deletion, green underlined text indicates an insertion. For ease, the examiners approved version is shown as well as the version that was in the plan during the referendum.

Examiner's approved version

Policy BR6: Affordable Housing Tenures

All residential development sites will be expected to deliver 40% affordable housing on site, unless exempted by ~~national legislation~~; Purbeck's affordable housing policy, or is offset by the provision of affordable housing elsewhere in Bere Regis village, or; the allocation is offset by an equivalent financial contribution from the developer as agreed by Purbeck District Council. ~~Any proposals for the offset of affordable housing requirement will need to be dealt with by use of simultaneous planning applications. Offsets can only be provided within Bere Regis village and any such proposals will need to be agreed by Purbeck District Council.~~

Affordable Housing will be provided on residential development sites in the following ratios unless compelling evidence is available to support different ratios. ~~Housing for occupation by Key Workers will be encouraged.~~

- 70% affordable housing for rent
- 10% discounted market sales homes that must be purchased and re-sold at a set proportion of open market value and will, in the first instance, be available to local people;
- 10% shared ownership homes, i.e. where people own part of the dwelling and rent the remainder from a Registered Social Landlord (RSL); and
- 10% starter homes.

All the above tenure types are as defined in the definition of affordable housing set out in the Glossary of the NPPF 2019.

Referendum version

Policy BR6: Affordable Housing Tenures

All residential development sites will be expected to deliver 40% affordable housing on site unless exempted by national legislation; offset by development of affordable housing elsewhere, or; the allocation is offset by a financial contribution from the developer. Offsets can only be provided within Bere Regis village and any such proposals will need to be agreed by Purbeck District Council. Affordable Housing will be provided on residential development sites in the following ratios unless compelling evidence is available to support different ratios. Housing for occupation by Key Workers will be encouraged.

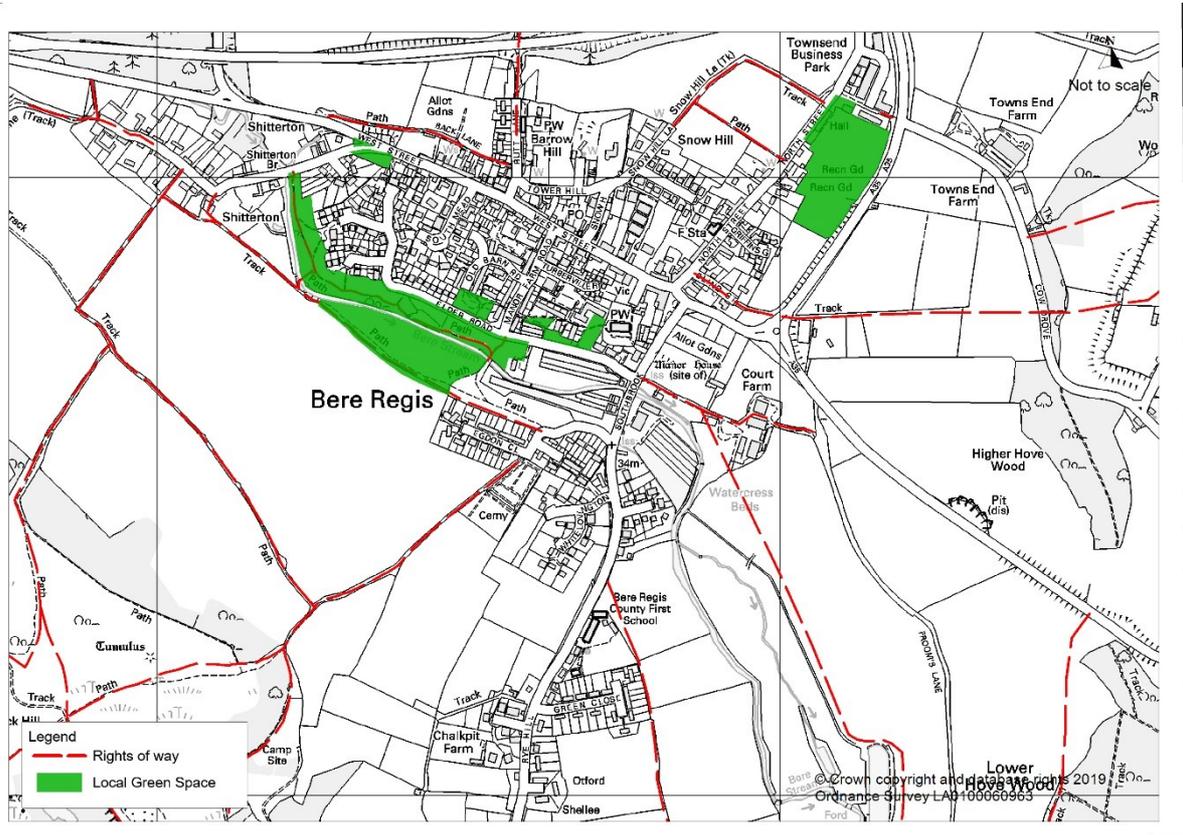
- 70% affordable housing for rent;
- 10% discounted market sales homes that must be purchased and re-sold at a set proportion of open market value and will, in the first instance, be available to local people;
- 10% shared ownership homes, i.e. where people own part of the dwelling and rent the remainder from a Registered Social Landlord (RSL); and
- 10% starter homes.

All the above tenure types are as defined in the definition of affordable housing set out in the Glossary of the NPPF 2019.

Errors 2: Map 5

The examiner recommended removing the SANG from Map 5 as shown in the map below.

Examiner's approved version



Referendum version

