

## **NORTH SOMERSET COUNCIL DECISION**



**DECISION OF:** COUNCILLOR MARK CANNIFORD. THE EXECUTIVE MEMBER FOR SPATIAL PLANNING, PLACEMAKING AND ECONOMY

**WITH ADVICE FROM:** THE DIRECTOR OF PLACE

**DECISION NO:** 24/25 DP 46

**SUBJECT:** WRAXALL AND FAILAND NEIGHBOURHOOD PLAN - EXAMINERS REPORT AND REFERENDUM

**KEY DECISION:** YES

**REASON:** It affects more than one ward in North Somerset

### **BACKGROUND:**

1. A neighbourhood plan is prepared by the local community (with help and advice from North Somerset Council and other bodies as necessary). If it secures a majority “yes” vote at the referendum (more than 50% of the votes) then North Somerset Council must subsequently “make” the plan. It will then have the status of a development plan document and will be used alongside the North Somerset Core Strategy, Site Allocations Plan and Development Management Plan. Where relevant policies exist in the Neighbourhood Plan they will take precedence over the North Somerset Development Management Plan policies within the area covered by the neighbourhood plan.
2. The Wraxall and Failand Neighbourhood Development Plan contains 9 policies, including 5 new Local Green Space designations. It does not include any housing allocations primarily because the whole of Wraxall and Failand parish is within the Green Belt (with the exception of the built-up area within Nailsea Settlement boundary known as The Elms). Under the provisions of the Core Strategy neither Wraxall or Failand village have a settlement boundary meaning that the allocation of sites for residential development would be contrary to the Core Strategy specifically policy CS33.
3. The area covered by the Plans policies are:
  - WF1: Community Facilities - protection of certain facilities for community use and support for facilities for young people
  - WF2: Local Green Space - designation of five additional areas (additional to those allocated in North Somerset Councils Site Allocations Plan) to be protected as Local Green Space
  - WF3: Community Cohesion - evidence that any proposals for major development would be positively integrated into existing communities
  - WF4: Cycling, Walking and Wheeling Networks - support for proposals which would enhance and protect routes

- WF5: Traffic and Transport - mitigation of transport impacts for major development proposals and proposals for new/altered roads have regard to capacity and road safety.
  - WF6: Rural Diversification - support for diversification for certain uses, with emphasis on re-use of existing buildings
  - WF7: Planning for Green infrastructure, Biodiversity and Food Production - protection and enhancement and sustainable drainage
  - WF8: Phasing of Infrastructure with Development - securing provision of associated services and infrastructure in a timely manner
  - WF9: Building Design and Sustainability – support for on-site renewables, net zero construction and sustainable design and construction techniques.
4. The time period of the Wraxall and Failand Neighbourhood Plan is 2022 – 2038. The examiner does not feel the neighbourhood plan period needs to reflect the councils adopted development plan and can reflect the emerging plan period. However, the examiner has suggested that the end date of the plan period could be amended to reflect the emerging Local Plan, although this is not essential.
5. Once the decision has been made (this decision) that the Plan meets the necessary conditions to go to referendum then it will have due weight in decision making on planning applications from that point. It does not formally become part of the North Somerset Development Plan however until it has passed the referendum and then subsequently been “made” by the Council.
6. Janet Cheesley was appointed as the independent examiner and issued the examiners report on 2 April 2024.
7. It is the role of the examiner to consider whether a neighbourhood plan meets the “basic conditions” as set out in law following the Localism Act 2011. In order to meet the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan for the area;
  - be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.
8. The examiner also must decide whether it meets other provisions under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990; this includes:
- confirming that the plan identifies a time period;
  - the Parish Council is the correct body to prepare the plan; and
  - it contains policies for the development and use of land and does not include excluded development.
9. During the examination, following the submission of the plan, the examiner felt that the Consultation Statement submitted with the plan did not include sufficient detail on how the local community was consulted on the pre-submission (Reg 14) plan. The examiner therefore requested that the Consultation Statement was amended and a six week consultation period was undertaken on the amended statement.

10. Additionally, as the Plan was prepared under the 2021 NPPF, the examiner asked for a further consultation period inviting comments on the effect of the revised Dec 2023 NPPF on how the Plan meets the Basic Conditions. The consultation on the implications of the revised NPPF and the amended Consultation Statement ran from 22 January until 4 March 2024. Full details of consultation on the plan are set out in the consultation section below.
11. The examiner has concluded that the Wraxall and Failand Neighbourhood Plan **with modifications** meets these provisions.
12. The examiner can make one of three recommendations:
  1. that the Neighbourhood Plan should proceed to Referendum as it is, on the basis that it meets all legal requirements;
  2. that the Neighbourhood Plan, with modifications, should proceed to Referendum;
  - or
  3. that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
13. Ms Cheesley has concluded in line with 2. above, namely that provided the recommended modifications are made the Plan will meet the basic conditions and can go forward to referendum. She has also stated that the referendum area should be the neighbourhood area covered by the Neighbourhood Plan (i.e. the Wraxall and Failand parish boundary).
14. The modifications recommended are to bring the Plan in line with the basic conditions, (particularly the strategic policies of the current development plan and national policies), for factual correctness, or to add clarity for decision makers. There are 9 policies in the plan and modifications to ensure the policies meet the basic conditions have been made to 8 of them. These can be viewed in Appendix 1. Other minor modifications are also suggested for clarity or factual updates.
15. North Somerset Council must now consider each of the examiners recommendations (and reasons) and decide whether to accept the modifications. The only modifications which the Council can make are:
  - a. to ensure the Plan meets the basic conditions
  - b. to make it compatible with EU Convention Rights
  - c. to comply with the definition of a neighbourhood development plan and the provisions that can be made by a neighbourhood development plan
  - d. to set a time period for the plan
  - e. to correct errors
16. If North Somerset Council is satisfied that the Wraxall and Failand NDP can meet these conditions and provisions if modified, then a referendum must be held. The referendum is arranged by North Somerset Council and must be held within 56 working days of the decision to hold the referendum unless the Parish Council agrees to a different date. The recommendations in the appended table are that each of the modifications should be accepted for the reasons stated.
17. Were the Council to decide not to accept an examiner's modification and come to a different conclusion because of new evidence, or because it takes a different view of a certain fact, then it is necessary to undertake a further period of consultation with the possibility of holding another examination. This course is therefore not to be undertaken

lightly. The table of modifications is appended to this report, with the recommendation that the Executive member agrees each of them.

## **DECISION:**

1. Accept the examiners modifications to the Wraxall and Failand Neighbourhood Plan as set out in the appendix to this report and resolve that with those modifications the Wraxall and Failand Neighbourhood Plan meets the basic conditions, is compatible with EU Convention Rights and complies with the definition of a neighbourhood development plan and should therefore proceed to referendum; the referendum area will be the neighbourhood plan area of Wraxall and Failand, and

2. The Director of Place be authorised to make the necessary arrangements for the Referendum which will be held within the Wraxall and Failand Neighbourhood Plan Area.

## **REASONS:**

18. The Wraxall and Failand Neighbourhood Development Plan (NDP) has been tested through independent examination. Following consideration of the examiner's report, North Somerset Council must come to a formal decision as to whether the Plan meets the necessary basic conditions and other provisions in order to go forward to referendum.
19. The examiner has concluded that a number of modifications are required in order that the Plan meets the necessary 'basic conditions'.
20. There is no reason not to accept any of the examiner's modifications, there is no reason to come to a different conclusion because of new evidence or need to take a different view of a certain fact.
21. It is recommended that the modifications are accepted for the reasons given in Appendix 1 and that the Executive member resolve that with the modifications set out in the Appendix 1 to this report the Plan meets the conditions and provisions in order for it to proceed to referendum. Once this decision has been made then a referendum must be held.

## **OPTIONS CONSIDERED:**

As the plan is considered to meet the necessary basic conditions and other provisions, the only option is for North Somerset Council to organise a referendum. The referendum must take place within 56 working days of the published decision, unless the Parish Council agrees to an alternative date.

## **FINANCIAL IMPLICATIONS:**

Government provides funding by way of a Neighbourhood Planning Grant to help Local Planning Authorities (LPAs) meet their legislative duties in relation to neighbourhood planning. Specifically, it covers the neighbourhood planning duties introduced by the Localism Act 2011 which are to provide advice or assistance; to hold an examination; and to make arrangements for a referendum. As such £20k can be claimed in retrospect once a Local Planning Authority have made the decision to hold a referendum on the Neighbourhood Plan. This is done through Neighbourhood Planning grant on the governments DELTA claims system. Payments will be made under S31 of the Local Government Act 2003 and can be applied for quarterly.

There are no ongoing financial implications. The Neighbourhood Development Plan does not commit council resources in order to implement the plan's provisions.

### **Costs**

See above.

### **Funding**

See above.

## **LEGAL POWERS AND IMPLICATIONS**

There is a duty on the Council to assist the Neighbourhood Plan making process and the procedure is set out in Schedule 4B of the 1990 Town and Country Planning Act (as amended) and Neighbourhood Planning (General) Regulations 2012, and Town and Country Planning (General) and Development Management Procedure (Amendment) Regulations 2016.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

The Neighbourhood Development Plan contains policies and community actions to help tackle climate change at the local Neighbourhood Development Plan area.

## **CONSULTATION**

The Neighbourhood Planning (General) Regulations 2012 require that a formal period of consultation is carried out by the parish council in the preparation of the NDP (known as Regulation 14 consultation). This was carried out between 5 December 2022 to 1 February 2023.

It is also a requirement under Regulation 16 of the same Regulations that North Somerset Council undertake a period of consultation on the submitted plan and accompanying documents. This was carried out from 6 October to 17 November 2023. All responses received were forwarded to the examiner for consideration as part of the examination.

Additionally, the examiner requested that a further six week consultation was undertaken inviting comments on the effect of the revised NPPF on how the Plan meets the Basic Conditions and an amended Consultation Statement. This took place between 22 January and 4 March 2024.

## **RISK MANAGEMENT**

The Plan with modifications is considered to meet the necessary basic conditions and therefore it must be passed to referendum. The only circumstance in which this would not take place were if the Parish Councils as Qualifying Body made a decision to withdraw the plan.

## **EQUALITY IMPLICATIONS**

Have you undertaken an Equality Impact Assessment? Yes / **No**

The Neighbourhood Plan is considered to have met the necessary Human Rights Articles and it is not considered that there are any equality impact considerations arising from the Plan.

### **CORPORATE IMPLICATIONS**

There are no direct corporate implications.

### **APPENDICES**

Appendix 1 List of examiners proposed modifications and Councils response

### **BACKGROUND PAPERS**

[Wraxall and Failand Neighbourhood Development Plan – as submitted for examination.](#)

[Wraxall and Failand Examiners Report \(April 2024\)](#)

SIGNATORIES:

DECISION MAKER(S):

Signed:  Executive Member for Spatial Planning,  
Placemaking and Economy.

Date: 6 June 2024

WITH ADVICE FROM:

Signed:  Director of Place

Date: 5 June 2024