

CHESHIRE EAST COUNCIL

Portfolio Holder

Date of Meeting:	05.05.15
Report of:	Caroline Simpson Director of Economic Growth and Prosperity
Subject/Title:	Brereton Parish Council Neighbourhood Plan Regulation 14 Consultation
Portfolio Holder:	Councillor Don Stockton

1.0 Report Summary

- 1.1 Brereton Parish Council (BPC) have produced a draft neighbourhood plan and are seeking representation on its content.
- 1.2 Draft neighbourhood plans must be subject to public consultation prior to submission to the Local Planning Authority (known as the Regulation 14 consultation). At this stage, the plan consulted upon must be the preferred option of the community producing the plan.
- 1.3 Consultation allows representations to be made and, where appropriate, for BPC to make amendments to its proposed plan, prior to submission to Cheshire East Council for consideration.
- 1.4 This report provides a consultation response to the draft BPC Neighbourhood Plan, and is appended to this report at Appendix 1.

2.0 Recommendations

- 2.1 That Brereton Parish Council consider the response to their proposals as outlined in Appendix 1.

3.0 Reasons for Recommendations

- 3.1 The reasons for each recommendation are outlined in the consultation response attached at Appendix 1. Neighbourhood plans must be produced to support sustainable development and meet the basic conditions as outlined at para. 8(2) of Schedule 4B to the Town and Country Planning Act 1990. They must be produced in conformity with the National Planning Policy Framework and the strategic policies of the adopted local plan. In Cheshire East the relevant adopted local plan consists of the saved policies held within the Congleton Borough Local Plan 2011.

4.0 Wards Affected

- 4.1 Brereton Rural

5.0 Local Ward Members

- 5.1 Councillor John Wray

6.0 Policy Implications

- 6.1 The Brereton Neighbourhood Plan will, once adopted by CEC, form part of the statutory development plan for CEC and be applied within the Brereton Neighbourhood Area.
- 6.2 To ensure CEC meets its responsibilities as the Local Planning Authority and to ensure co-ordination between the emerging Local Plan Strategy for CEC and locally produced neighbourhood plans, it is important for the Council to consider the implications of emerging neighbourhood plans and for the Council to make recommendations that would assist the delivery of positive and sustainable development in Cheshire East.
- 6.3 Brereton is identified within the category of Other Settlements and Rural Villages in the evidence base that supports the emerging Local Plan Strategy for CEC. The area should accommodate a proportion of the quantum of 2500 homes and 5ha of employment land to be distributed across the Other Settlements and Rural Villages. As part of the examination of the Local Plan Strategy (currently suspended at time of writing) these figures are currently under review and may change with implications for policies adopted as part of the neighbourhood plan.

7.0 Implications for Rural Communities

- 7.1 A neighbourhood plan enables rural communities in Brereton to participate in the plan making process and develop policies to address those planning matters that affect their interests and well being. The process allows greater engagement of rural communities and for such communities to take ownership of planning policy which directly affects their futures. The formal stages of consultation built into the neighbourhood plan process ensures such engagement is possible and the stages leading up to the production of a draft plan should also actively seek to enable all local residents and businesses in policy formation.

8.0 Financial Implications

- 8.1 The emerging neighbourhood plan for Brereton will incur direct costs to the Council to support an independent examination of the plan and, should the examination be successful, a local referendum. Such costs will be met through existing budgets and through grant funding from central government (£30,000 per neighbourhood plan is payable to the authority from central government to support this agenda).
- 8.2 As the proposed Brereton neighbourhood plan will form part of the Development Plan for Cheshire East Council, should the document be legally challenged, CEC will be responsible for meeting such costs.
- 8.3 The Community Infrastructure Levy (CIL) is a charge levied on new development. Where an adopted CIL is in place, 15% of all CIL payments must be allocated to the local council which hosts development. Where local councils have an adopted neighbourhood plan, this figure rises to 25% of CIL charges.

9.0 Legal Implications

- 9.1 Neighbourhood Development Plans and Orders, which may follow the making of a Neighbourhood Area, are prepared in accordance with the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) and the Neighbourhood Planning (General) Regulations 2012.
- 9.2 The Secretary of State has made the Neighbourhood Planning (General) Regulations 2012 under powers conferred by the 1990 and 2004 Acts, and these Regulations, which came into force on 6 April 2012, make further detailed provision on this subject.

- 9.3 Once adopted by the Local Planning Authority (made), the neighbourhood plan is brought into full effect as a statutory part of the Development Plan for Cheshire East Council

10.0 Risk Management

- 10.1 Neighbourhood plans will, once formally adopted ('made') by the CEC, form part of the Development Plan for Cheshire East. At the current stage, the plan submitted to consultation is the preferred option of BPC. The formal stages of consultation built into the neighbourhood plan process enable BPC to receive representations and to inform any refinement, alterations or improvements prior to formal submission of the plan to CEC.
- 10.2 The Council continues to prepare its Local Plan Strategy and whilst the LPS is not yet adopted, the examination of the plan is due to convene in Summer 2015; it is recommended that neighbourhood plans take this document, and it's evidence base, into consideration when proposing planning policy.
- 10.3 As any future neighbourhood plan will form part of the Development Plan for Cheshire East, if legally challenged it is the responsibility of Cheshire East Council to respond to such a challenge and meet any associated costs.
- 10.4 Cheshire East Council will seek to work with local councils to ensure that policies proposed in neighbourhood plans meet the requirements placed upon them y legislation.

11.0 Background and Options

- 11.1 The Localism Act 2011 introduced new legal rights that enable communities to prepare local development plans (neighbourhood plans) with equal weight to the Local Plan for decision making purposes on development proposals.
- 11.2 Brereton Parish Council have prepared a draft neighbourhood plan with specific policy content that will potentially affect planning decisions within the Brereton Neighbourhood Area.
- 11.3 From the day of publication, decision takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the Framework (NPPF para. 216).
- 11.4 The emerging Cheshire East Local Plan Strategy (LPS) is such an emerging plan and not yet formally adopted. The LPS was submitted to examination in September 2014 and whilst the Inspector recognised that the first test of local plan making had been passed (the Duty to Co-operate), the examination was suspended to allow the production of further supporting evidence to justify some positions reached within the LPS.
- 11.5 The LPS has been in production since 2010, has been tested through a series of public consultations and is the final stages of production. It is anticipated that the examination of the LPS will resume in summer 2015.
- 11.6 Accordingly this consultation response to the draft BPC Neighbourhood Plan takes into account the NPPF, the existing Congleton Borough Local Plan, the emerging CEC LPS and other relevant legislation including the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Appendix 1: Consultation Response to the draft Brereton Neighbourhood Plan.

The emerging Brereton Neighbourhood Plan (BNP) contains a series of policies that seek to deliver sustainable development and include positive approaches to planning across a range of issues from landscape and environment to housing, biodiversity and the local economy. There are areas that would benefit from further policy development and from the preparation of further evidence to support the position already preferred by the parish council.

The points raised below refer to key recommendations that Cheshire East Council feels are necessary to address to deliver a neighbourhood plan that is supported by evidence, complies with national planning policy and does not conflict with the strategic aims of the emerging Local Plan Strategy for Cheshire East. The recommendations outlined below are intended to assist the Parish Council toward submission of a neighbourhood plan that meets the Basic Conditions as outlined in the Neighbourhood Planning (General) Regulations 2012).

Key Issues:

- Definition of settlement boundaries
- Alterations to Affordable Housing criteria
- Clarification on the exceptions to self build schemes

Vision

No conflict with existing or emerging CEC Development Plan.

Objectives

No conflict with existing or emerging CEC Development Plan.

Policy HOU03

No conflict with existing or emerging CEC Development Plan.

Comment:

Should BPC seek to rely on the existing settlement boundary for settlements within Brereton Brereton as identified in the Congleton Local Plan (2006) (CLP) they should be aware that 1) these boundaries are likely to be subject to alteration via the local plan process and that 2) where a local planning authority cannot demonstrate a five supply of land for housing, those policies related to the restriction of housing supply (including settlement boundaries) cannot be afforded full weight for decision making purposes.

Therefore, the policy as proposed will be subject to change outside the remit of the neighbourhood plan. If the intention of the policy is to retain control over such changes at the neighbourhood plan level, further work is recommended to define the settlement boundaries referred to, at the neighbourhood plan level.

Recommendation:

Should BPC seek to rely on a defined settlement boundary for the purposes of neighbourhood plan policies, BPC should introduce an additional policy specifically relating to Settlement Boundaries and identifying the extent of the settlement boundary for the settlements within Brereton. This would remove any doubt over the relationship between BNP and the CLP (and any alterations that may be made to boundaries held within the CLP).

If such a policy is introduced, supporting evidence to justify the decisions reached on the extent and limits of such boundaries should be provided to support the policy position.

Policy HOU05

No conflict with existing or emerging CEC Development Plan.

Comment:

Reference is made here to 'confirmation of local connections within Brereton' as a factor in considering self build applications. If the intention of the policy is to limit self build on this basis the policy should explicitly state the criteria to be applied. The criteria, if made explicit, need to be carefully considered to avoid possible implications (for example in regard to equality legislation).

Recommendation:

Explicitly state the criteria that will apply to the granting of permission for self build ie – employed locally, resident in the parish for a certain amount of time, family resident in the parish etc.

Policy HOU12

Potential conflict with other legislation relating to the provision of Affordable Housing

Comment:

The allocation of affordable housing is a statutory responsibility of the Local Planning Authority under the Housing Act 1996 (amended by the Localism Act 2011). Housing authorities are required by s.166A(1) to have an allocation scheme for determining priorities, and for defining the procedures to be followed in allocating housing accommodation; and they must allocate in accordance with that scheme (s.166A(14)). All aspects of the allocation process must be covered in the scheme, including the people by whom decisions are taken. In the Secretary of State's view, qualification criteria form part of an allocation scheme.

All housing authorities must have an allocation scheme, regardless of whether they own housing stock and whether they contract out the delivery of any of their allocation functions (see further chapter 6). When framing or modifying their scheme, authorities must have regard to their current tenancy and homelessness strategies (s.166A(12)).

Policy H3 establishes criteria that seek to allocate affordable housing in Brereton. This must comply with the CEC Affordable housing allocations policy.

Recommendation:

Ensure that the policy is fully compliant with the Cheshire East Affordable Housing Allocations Policy and refer directly to this policy.

Policy HOU10

Comment:

See comments relating to HOU12

Recommendation:

See comments relating to HOU12