

North Somerset Council

Report to the Executive

Date of Meeting: 06/09/2023

Subject of Report: Wraxall and Failand Neighbourhood Plan submission- decision to pass the Neighbourhood Plan to examination and agree North Somerset Council response to the plan.

Town or Parish: Wraxall and Failand

Officer/Member Presenting: Cllr Mark Canniford Executive member for Spatial Planning, Placemaking and Economy

Key Decision: No

Reason: The decision to pass to examination will not incur expenditure or savings of more than £500,000 and the plan covers only one ward, that being the Parish ward of Wraxall and Failand.

Recommendations

(i) Executive resolve that the Wraxall and Failand Neighbourhood Plan meets the necessary conditions in accordance with Schedule 4B of the 1990 Town and Country Planning Act (as amended) and that it can proceed to examination following the requisite six-week period of public consultation.

(ii) That North Somerset Council's comments on the submitted Wraxall and Failand Neighbourhood Plan as set out in the appended table are submitted to the Neighbourhood Plan examiner; and

(ii) The Director of Place be given the authority to make any subsequent changes or alterations to the Council's comments which may arise from the consultation process.

1. Summary of Report

- 1.1 The Wraxall and Failand Neighbourhood Plan was submitted to North Somerset Council for Examination on 9 June 2023 by Polden Planning on behalf of Wraxall and Failand Parish Council who are the qualifying body.
- 1.2 The Wraxall and Failand Neighbourhood Plan meets the conditions necessary (under the criteria set out in Schedule 4B of the 1990 Town and Country Planning Act (as amended)) to go forward to examination. Officers can therefore arrange a period of consultation on the submitted plan and pass any resulting comments, including those of North Somerset Council to the examiner. The person undertaking the examination will be appointed by North Somerset Council with the agreement of the qualifying body.

2. Policy

- 2.1 A Neighbourhood Plan is prepared by the local community (with help and advice from North Somerset Council and other bodies as necessary). The Neighbourhood Plan group have been assisted in preparing the neighbourhood plan by planning consultants Polden Planning. This plan has been prepared within the context of the North Somerset Core Strategy which has a timespan until 2026 but will be superseded before then by the emerging Local Plan 2039. The Basic Conditions Statement submitted in support of the Plan sets out how the Wraxall and Failand Neighbourhood Plan policies are in line with the North Somerset Councils Core Strategy, as required. However, the Plan introduction states that the intention is that the Neighbourhood Plan is intended to span the period 2022-2038 (the emerging Local Plan timescale) and therefore beyond the current Core Strategy time-period. This is unusual and previous neighbourhood plan examiners in North Somerset have ensured that references within the neighbourhood plan align with the currently adopted development plan. The Wraxall and Failand Neighbourhood Plan once 'made' (adopted) will have the status of a development plan and the policies will sit under the strategic policies contained in the North Somerset Council Core Strategy. It will be possible to undertake a review of the Neighbourhood Plan once the Local Plan is adopted to bring it in line if necessary with the new strategic policies.
- 2.2 Policies in the Neighbourhood Plan once "made" will have the same status as other plans prepared by North Somerset Council such as the Development Management Policies Plan and the Site Allocations Plan. If there is a conflict with existing development plans, the Neighbourhood Plan once made will take precedence as it will be a more recent plan. Where the Neighbourhood Plan is silent on an issue however then North Somerset Council's planning policies will be used for making planning decisions.
- 2.3 Once the plan is 'made' then the local Parish Council (Wraxall and Failand Parish) is entitled to 25% of the CIL receipts from any qualifying development within the neighbourhood area. This is more than the usual 15% attributable to parish councils.

3. Details

Background to and content of the Wraxall and Failand Neighbourhood Plan

- 3.1 The Neighbourhood Area was approved by North Somerset Council in August 2021. The Neighbourhood Area is the area which will be covered by the Neighbourhood Plan and is the parish boundary of Wraxall and Failand.
- 3.2 A neighbourhood plan is the opportunity for local people to look in more detail at planning issues of concern to them than is possible in a local plan produced by North Somerset Council. So long as the policies are in general conformity with the strategic policies of North Somerset Council's development plan then there is much flexibility in terms of what the plan can cover.
- 3.3 Ultimately whether a neighbourhood plan becomes approved is decided by a local referendum within the area covered by the Plan (neighbourhood area). Before that can happen however the Plan needs to be assessed at examination. An independent examiner must assess the plan based on a number of fixed criteria – these are referred to as the 'basic conditions' which state that the plan must:

- be appropriate having regard to national policy
- contribute to the achievement of sustainable development
- be in general conformity with the strategic policies in the development plan for the area
- be compatible with human rights requirements
- be compatible with EU obligations in that it is not likely to have a significant effect on a European site (as defined by the Conservation of Habitat and Species regulation 2010 (d)). (this currently remains the case irrespective of Brexit)

A Basic Condition Statement (BCS) has been submitted along with the Plan (as stated in para 2.1 above) to demonstrate how these criteria have been met. This will be assessed by the examiner, not North Somerset Council.

3.4 Topics covered by the Plans policies are:-

- **Community facilities**-protection of certain facilities for community use and support for facilities for young people
- **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
- **Community cohesion**-evidence that any proposals for major development would be positively integrated into existing communities
- **Cycling, walking and wheeling**-support for proposals which would enhance and protect routes
- **Traffic and transport**-mitigation of transport impacts for major development proposals and proposals for new/altered roads have regard to capacity and road safety.
- **Rural diversification**-support for diversification for certain uses, with emphasis on re-use of existing buildings
- **Green infrastructure, biodiversity and food production**-protection and enhancement and sustainable drainage
- **Infrastructure (phasing and delivery)**-securing provision of associated services and infrastructure in a timely manner
- **Building design, efficiency and sustainability**-support for on-site renewables, net zero construction and sustainable design and construction techniques. Encouragement to demonstrate a higher standard of energy efficiency than current building regulations.

3.5 The Government encourages neighbourhood plans to allocate housing sites and to contain policies about design in order to boost housing supply. 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. Therefore no residential allocations are made within the Neighbourhood Plan.

Does the submitted Plan meet the necessary criteria to go forward to examination?

- 3.6 Before North Somerset Council can organise an examination it is necessary for Executive to decide whether the plan meets the following criteria:
- (i) Whether the Parish Council is authorised to act (ie is the parish council for that area)
 - (ii) Whether the proposal and accompanying documents:
 - a) are the correct documents under regulation 15 of the neighbourhood planning regulations 2012 (ie a plan of the neighbourhood area, basic condition statement, consultation statement, the proposed plan).
 - b) meets the definition of a neighbourhood development plan.
 - c) meets the scope of provisions (ie specifies the period for which it is to have effect, doesn't include excluded development, doesn't relate to more than one neighbourhood area).
 - (iii) Whether the Parish Council has undertaken the correct procedures in relation to consultation and publicity.
- 3.7 The Wraxall and Failand Neighbourhood Plan meets all of these obligations. With regards to the time period covered by the Plan section 3 states that it will mirror the emerging Local Plan timescale of 2022-2038 (the timescale for this is now 2024-2039). However the Plan will be examined against the existing adopted development plan which is the Core Strategy and associated documents and so it is considered the time scale should align with this, not the emerging Local Plan. This view is reflected in North Somersets comments in the appendix to this report. More detail on (iii) is set out below.

Consultation Statement

- 3.8 The Consultation Statement submitted with the Plan sets out how the community has been involved in the development of the plan from summer 2021 until spring 2023.
- 3.9 A formal period of consultation (known as Regulation 14 consultation) has to be undertaken by the Parish Council on the draft Plan before it can be submitted to North Somerset Council for examination. This took place between 5th December 2022 and 1st February 2023. The statement clearly sets out who was consulted, how they were consulted and how the feedback was addressed.
- 3.10 Although the Regulation 14 consultation version Neighbourhood Plan contained a number of Local Green Space designations there was no accompanying evidence base report which explained the basis on which each of the designations was being proposed. This omission was commented on by North Somerset Council and also another respondent. The final submitted Consultation Statement explains that no report was published at the time because responses to the Regulation 14 version of the Plan were intended to be used to inform the Local Green Space evidence report. The Consultation Statement and Local Green Space Assessment paper do reference that discussions have taken place with relevant landowners in accordance with government advice, however the omission is regrettable. Should Executive be minded to accept the recommendations of this report then the regulation require that a period of consultation must be undertaken by North Somerset Council prior to the Plan being submitted for examination. This will provide an opportunity for interested parties to respond to the additional evidence as necessary.

- 3.11 The Consultation Statement contains the necessary information to demonstrate that the consultation was carried out in accordance with the Regulation 14 requirements with regards to publicity and consultation.
- 3.12 As the Plan meets all the necessary criteria it can now proceed to a minimum six-week period for consultation and then to examination.

North Somerset Councils response to the Plan

- 3.13 North Somerset Council officers have provided advice and technical support during the plan's preparation. Comments were made to the draft Plan (Regulation 14 stage) following engagement with teams across North Somerset Council including ecology, heritage, housing and transport. Many suggestions have been incorporated into the submitted plan and there are therefore few remaining areas on which comment is needed. These are set out in appendix 1 to this report. It may be relevant to make additional comments as a result of consultation responses and these will also be forwarded to the examiner once appointed.
- 3.14 The Neighbourhood Plan must be examined on the basis of the existing development plan. This means that any differences between the Neighbourhood Plan policies and the strategic policies of the Core Strategy need to be supported by new evidence of either a change in national policy/guidance or evidence gathered by the neighbourhood planning group.

4. Consultation

- 4.1 A period of formal consultation was undertaken by the Parish Council from 5 December 2022 to 1 February 2023. The methods and timings of this are set out in the consultation statement which was submitted along with the neighbourhood plan. Despite the absence of the Local Green Space evidence paper during the consultation North Somerset Council is satisfied that consultation has been carried out in accordance with the regulations.
- 4.2 North Somerset will now undertake a formal six-week (minimum) period of consultation on the plan. This will involve statutory bodies, local and national organisations and the local community.

5. Financial Implications

- 5.1 A sum of £20k can be claimed by North Somerset Council under the Neighbourhood Planning Grant arrangements in retrospect once a Local Planning Authority have made the decision to hold a referendum on the Neighbourhood Plan. As the Plan has not reached this point nothing can be claimed at this stage.
- 5.3 Government provides this lump sum to Local Planning Authorities (LPAs) to 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.

Costs

- 5.4 The cost of the six-week formal consultation period, instructing an independent examiner and holding a referendum within Wraxall and Failand parish are incurred

initially by North Somerset Council, however in accordance with para 5.1 above £20k will be claimed and awarded retrospectively.

Funding

5.5 See above

6. Legal Powers and Implications

6.1 Wraxall and Failand Neighbourhood Plan is being prepared under the provisions of the Localism Act 2011 which were brought into effect in April 2012 by the Neighbourhood Planning (General) regulations.

6.2 North Somerset Council has a duty to consider whether (under the criteria set out in Schedule 4B of the 1990 Town and Country Planning Act (as amended)) the Neighbourhood Plan can go forward to examination.

7. Climate Change and Environmental Implications

7.1 The Neighbourhood Plan contains policies rural diversification, green infrastructure, biodiversity and food production including sustainable drainage, building design, efficiency and sustainability.

7.2 A Strategic Environmental Assessment screening exercise and Habitat Regulation Assessment screening (SEA/HRA screening) exercise was undertaken at Consultation draft stage and revisited upon submission with the conclusion that no full assessments were needed.

8. Risk Management

8.1 The Plan has been prepared by Place Studio consultants on behalf of Portishead Town Council. There is potential for the Plan to be unsuccessful at examination should the examiner consider that the plan is not capable of meeting the basic conditions even with specified modifications. In this case the Council would not be able to claim the £20k funding under the above act. In practice it is a very rare occurrence and officers consider that the Plan's preparation and content is sufficiently robust to pass examination (potentially with modifications). The lack of government funding has been identified as a low risk and would not affect the progression of the neighbourhood plan or whether or not it is approved at referendum.

9. Equality Implications

9.1 The Wraxall and Failand 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.

10. Corporate Implications

10.1 There are no direct implications in relation to highways/transport as the plan supports measures rather than proposing specific schemes. The Plan is not considered to have any specific implications for service delivery or costs to North Somerset Council.

11. Options Considered

- 11.1 As the submitted Plan is considered to meet the requirements to proceed to examination there is no option but to progress the Plan.

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Appendices:

Appendix 1 North Somerset Councils comments on the Wraxall and Failand Neighbourhood Plan

Background Papers:

[Wraxall and Failand Neighbourhood Plan Submission version](#)

Appendix 1 North Somerset Councils comments on the submitted Wraxall and Failand Neighbourhood Plan September 2023

Plan Paragraph/policy	North Somerset Councils Comments	Remedy
Consultation Statement para 1.10	Factual correction-there was no requirement for a six-week period of consultation on the neighbourhood area as regulations no longer required this. An Executive member decision was taken to designate the neighbourhood area.	Remove sentence to this effect if the opportunity arises.
Title page	Remove reference to 2022-2038. The NDP is aligned with the Core Strategy time period and this is misleading	Replace with 2026
Forward - para 3	Needs to be made clearer that the Neighbourhood Plan will sit alongside the existing development plan which includes the Core Strategy, Site Allocations Plan and Development Management plan. The Basic Condition Statement has been prepared in the context of the existing development plan framework and this should also be reflected in the neighbourhood plan text. The emerging Local Plan is at pre-regulation 19 stage and subject to change. The Wraxall and Failand Neighbourhood Plan once 'made' (adopted) will have the status of a development plan and the policies will sit under the strategic policies contained in the North Somerset Council Core Strategy. It will be possible to undertake a review of the Neighbourhood Plan once the emerging Local Plan is adopted to bring it in line with the new strategic policies.	Amend text "the Neighbourhood Plan will sit alongside, and have the same legal status as, the Local Plan and other existing Development Plan documents including the Core Strategy, Site Allocations Plan and Development Management Plan ".
Para 1.1, para 3.22 and 3.24	The Neighbourhood Plan should be aligned with strategic policies in the existing development plan and will be examined against these, not the emerging Local Plan. There is therefore a contradiction with para 1.3 which correctly states the development plan context. Para 3.22 and 3.24 should also be amended to refer to the existing development plan.	Amend NDP timescale to 2026 to correspond with the existing Development Plan
Figure 2.7	Map may become out of date prior to publication of the final version of the Wraxall and Failand Neighbourhood Plan.	Update with latest position at time of publication

2.31	Query why Failand Car Sales hasn't been included in the list of services/facilities?	Include Failand Car Sales? Also omitted from Map A3?
3.22	"...reflecting the plan period of the emerging Local Plan 2038 and the remainder of the existing Development Plan Framework". Unclear what is meant by the latter part of this sentence. Delete?	Delete last part of sentence
WF1 community facilities	Some explanation of what is meant by "amenity value" would help the effectiveness of this policy. Is it visual amenity? Function? Para 5.8 - unclear, does this mean within the curtilage of the building? Basic condition issue -the policy does not adhere to CS27 which allows for redevelopment where the facility is "surplus to requirements" which Development Management Policy DM68 expands upon.	Basic condition issue. Add explanation of amenity value in supporting text. Amend to bring in line with CS27.
WF2 Local Green Space	Amend wording of policy from "to be designated" to "are designated". Would be clearer to have a schedule within the Plan listing the LGS and reason for designation-avoids having to refer to a separate document which doesn't form part of the Plan.	Amend wording to "are designated" Consider including a schedule/appendix within the Plan which lists the reasons for each LGS designation.
Local Green Space Assessment paper	This paper was not available at Regulation 14 consultation stage, so it was not possible to see the basis on which the individual areas of proposed LGS were put forward. Amend title to refer to 2026 instead of 2022-2038. Para 1.9 For the examiners information LGS allocations have also been made in another adjacent Neighbourhood Plan (Abbots Leigh, Ham Green, Pill and Easton-in-Gordano NDP). The examiner for the Long Ashton NDP (Deborah McCann) cited a number of site specific reasons why it was considered appropriate to include the Ashton Court Estate as LGS:-	Amend wording "further inset"

	<p>“I have no comment to make other than in relation to the designation of the Ashton Court Estate. The size of the estate at 329 hectares could be described as “an extensive tract of land” and therefore its inclusion in this policy could be considered to be in conflict with National Policy. I do consider that the Ashton Court Estate and its relationship with Long Ashton Parish is exceptional and the designation is acceptable in this case and I therefore consider that it does meet the Basic Conditions. I consider the Ashton Court Estate to be exceptional for the following reasons:</p> <ul style="list-style-type: none"> • The close physical relationship between the Parish and the Ashton Court Estate. • The Estate is local in character, close to the community it serves • It is of particular local importance as a result of its historic significance, beauty and recreational value. • The designation comprises of a definable and recognisable area and on that basis It forms a cohesive whole and is not simply an “extensive tract of land” • There is no conflict with other designations, which already cover part or whole of the Estate.” <p>North Somerset Council consider that the local community are best placed to judge whether on area of Local Green Spaces is demonstrably special and so have chosen not to comment on the specific reasons for the proposed designations.</p> <p>Question “further inset”? It should just read “inset”.</p>	
<p>WF3 Community Cohesion</p>	<p>The application of this policy would depend on the location of any proposed development (none which is proposed in any adopted or emerging plan) and whether any functional geographic link to other</p>	<p>Amend policy to include reference to there being a logical functional/geographical link to a particular community within the neighbourhood area</p>

	parts of the neighbourhood area is logical. Given the hypothetical nature of the policy is it perhaps unjustified to take this approach.	which would prompt the application of the bullet points.
WF4 Wheeling and Walking networks and para's 5.19-5.25	Doesn't specify the scale of development that it relates to. Unreasonable for householder or small-scale applications to undertake transport assessments or deliver improvements to the wheeling or walking network. Thresholds for transport assessments within North Somerset Council are already set out in the North Somerset Highway Development Guide and will be applied across the District. The Plan does not justify a different approach.	Amend text " Where appropriate , development proposals must demonstrate..... Thresholds for Transport Assessments are set out in the North Somerset Highway Development Design Guide '
WF5 Traffic and Transport	'significant' does not automatically mean unacceptable. Better to use the term "unacceptable impacts".	Amend text. 'Major development proposals which create either individual or cumulative unacceptable impacts on the highway network will be...'
WF6 Rural Diversification	No comments	none
WF7 Planning for green infrastructure, biodiversity and food production	No comments.	none
WF8 Phasing of infrastructure within development	No comments.	None
WF9 Building design and sustainability	Building regulations now require all dwellings to be built to sustainable homes Level 4 with 19% of energy generated by renewables. A planning condition is used to enforce this.	Consider a definition for maximize energy efficiency to make the policy more effective and easier to apply.

	<p>“Maximise energy efficiency” is a bit loose and the default would be whether the proposals would meet minimum building reg requirements, unless there is evidence produced to demonstrate a different standard.</p>	
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