

‘A’ ITEM

	REPORT TO P&D ON 3 OCTOBER, CABINET ON 15 OCTOBER AND COUNCIL TO BE HELD ON 4 NOVEMBER 2019.				
	<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Key Decision</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Forward Plan Ref No</td> <td style="text-align: right;">ECC 6</td> </tr> </table>	Key Decision	YES	Forward Plan Ref No	ECC 6
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Corporate Aims People/Place/Prosperity/Council	<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Cabinet Portfolio Holder</td> <td style="text-align: right;">Cllr Liz Colling</td> </tr> </table>	Cabinet Portfolio Holder	Cllr Liz Colling		
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REPORT OF: Richard Bradley 19/167

WARDS AFFECTED: All Whitby

SUBJECT: Whitby Business Park Area Action Plan – Five Year Review

RECOMMENDATION (S):

That Members recommend that Council agree that the Whitby Business Park Area Action Plan (WBPAAP) continues to be fit for purpose and does not need to be formally reviewed at this time. The need to review the Plan will be considered within five years of the date of this decision (November 2024).

REASON FOR RECOMMENDATION (S):

Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires that Local Authorities review their local plans at least every 5 years from adoption to ensure policies remain relevant and effective. The WBPAAP was adopted in November 2014 and it is therefore necessary to review whether an update or changes are required to the document.

The Plan is considered to remain valid and fit for purpose in respect of considering planning applications on both the developed part of the Business Park and the areas allocated for further expansion.

Following careful consideration of the plan it is not considered necessary or appropriate to make any changes to the document at this stage.

HIGHLIGHTED RISKS:

The risk of not reviewing plans is that the Council will face criticism from Government in respect of not fulfilling their legal requirement under the aforementioned Regulations and risk intervention by the Government in planning matters. By reviewing the plan and deciding on a course of action this meets the said Regulations and satisfies the Government.

1. INTRODUCTION

- 1.1 Whitby Business Park encompasses an area that is situated across both the planning areas of Scarborough Borough Council and North York Moors National Park Authority (NYMPA). The decision was taken some years ago to produce a joint Area Action Plan between the two authorities. This was to provide a comprehensive strategy for the Business Park and to ensure that planning applications were determined in a consistent manner.
- 1.2 NYMNPA will be considering a similar report at their Planning Committee of 17 October 2019.

2. CORPORATE AIMS

- 2.1 The proposed decision supports the Aims of Place in respect of high quality planning and development and Prosperity on a number of the aims including developing skills, establishing the coast as a highly skilled coastal community and reducing unemployment.

3. BACKGROUND AND ISSUES

- 3.1 The issue to be considered within this report is whether the Area Action Plan remains valid and effective in respect of providing a framework for determining planning applications on Whitby Business Park. It should be noted that this report is also to be considered by the North York Moors National Park Authority, in recognition that the Area Action Plan is a joint document.

4. CONSULTATION

- 4.1 There is no requirement for consultation on this matter unless it is determined to formally review the Area Action Plan.

5. ASSESSMENT

- 5.1 The WBAAP contains eleven policies and a plan showing the proposed locations for development on allocations for both industrial and retail uses.

- 5.2 National Planning Practice Guidance (Paragraph: 068 Reference ID: 61-068-20190723) states that a Local Planning Authority may need to gather new evidence to inform their review and that “Proportionate, relevant and up-to-date evidence should be used to justify a decision not to update policies.” This includes the success of policies.
- 5.3 There is no new or updated needs-based evidence at this stage. Such documents will be produced as part of the Local Plan update which has recently commenced. If such evidence indicates a further review is required a review of the WBPAAP could be instigated at that time. Through the local plan update process consideration can also be given as to whether elements of the AAP could usefully be integrated into the Local Plan.
- 5.4 It is important to consider the contents of the Area Action Plan and specifically the policies contained within it. These policies are referred to below with a brief precis of what each sought to achieve and analysis as to whether there are any actions required in respect of updating the Plan or individual components within it.

Policy 1: Presumption in Favour of Sustainable Development

- 5.5 This policy remains valid. The NPPF as revised still enshrines sustainable development into the heart of planning. Consequently no revisions to this policy are required.

Policy 2: Allocation of Additional Employment Land (Use Classes B1, B2 and B8)

- 5.6 The proposals map highlights areas that are considered appropriate for the expansion of the Business Park. It allocates approximately 14 hectares of additional land for employment, retail and ancillary uses.
- 5.7 Whilst there have been a number of applications on the Business Park over recent years much of this has been on existing land within the Business Park. One application has been approved which would see the expansion of an existing business into Site 2 (an allocation in the National Park area of the Business Park). To date therefore only a small proportion of the newly allocated land has been used. There is on-going development of the Woodsmith Potash mine a few miles to the south-west of the Business Park, and there remains the prospect that development in support of that enterprise may be required. In light of this it is considered appropriate to retain allocations at the Business Park to cater for this and indeed other local needs. The Local Plan has identified sufficient land for other land uses (most particularly housing), and therefore there is not considered to be a need to allocate the land for any alternative use, and indeed certain uses not related to current activities at the Business Park could conflict in terms of amenity and on-going commercial operations. It should also be noted that Policy EG5 in

the Scarborough Borough Local Plan (adopted July 2017) adds further protection to employment sites and premises.

- 5.8 There therefore remains an appropriate amount allocated at Whitby Business Park for outward expansion and therefore it is considered that no alterations to the policy are required.

Policy 3: Retail Development

- 5.9 This policy allows, under certain circumstances, retail development within a designated area on the Business Park. This has been successful and has seen the delivery of a number of retail units for major national multiples to serve the town, whilst ensuring the remainder of the Business Park provides opportunities for other forms of commercial activity. Notwithstanding the allocation of this site any proposals must demonstrate that there are no sequentially preferable sites and that it will not have a significant adverse impact on the town centre in respect of vitality and viability.
- 5.10 There remains a vacant new unit for food retail adjacent to Aldi.
- 5.11 The site has been developed and there is no requirement to review the Plan in light of this policy. If further proposals come forward for retail development either on the designated site or elsewhere in the Business Park the policies in the Plan plus supporting policy in the respective Local Plans of the two authorities are sufficient to determine such applications in accordance with the sequential approach and the requirement to protect the vitality and viability of the town centre, in accordance with the provisions of national planning policy.

Policy 4: Public House and Hotel

- 5.12 This policy allocated a site for a public house and hotel. This site has been developed to provide those uses. There is no need to review the policy.

Policy 5: Design and Appearance

- 5.13 This policy seeks to ensure development is of a high design standard, that energy use is minimised and proposals take into account the setting of Whitby Abbey; a scheduled ancient monument.
- 5.14 This was subsequently amplified by the adopted Design Guide for the Business Park (adopted in November 2016).
- 5.15 The achievement of high quality design remains a high priority. Recent updates to the National Planning Policy Framework have further heightened the importance of high quality design and the achievement of 'beautiful places'. Both authorities will continue to negotiate for good quality development. The policy therefore remains valid and of great importance for the consideration of future proposals.

Policy 6: Biodiversity and Green Infrastructure

- 5.16 This policy seeks to aid in the greening of the Business Park and create green links through and around the site. Whilst these linkages have not yet been delivered they remain an appropriate commitment that will be supported in situations where planning applications provide an opportunity to facilitate their delivery as part of a wider scheme.
- 5.17 Furthermore the protection of species and habitats and appropriate mitigation remains an appropriate and important objective of the Area Action Plan. This policy therefore remains valid.

Policy 7: Highways Improvements

- 5.18 The policy seeks to support highways improvements to the Business Park and ensure that new development contributes to these improvements. The further commentary under the policy set out a number of improvements that would be sought. Some improvements have been realised including the improvements to the road alignment at Fairfield Way to enable safer maneuvering of vehicles.
- 5.19 The remainder of the improvements set out under the policy remain valid and an ambition of both Authorities in the medium to longer term, and therefore there is no need to amend this policy.

Policy 8: Sustainable Travel

- 5.20 The policy works hand in hand with the Policy 9 in seeking to reduce use of the car, and where car use is required, provide sufficient parking off-street wherever possible. New developments will be expected to encourage sustainable travel to and from the Business Park. This remains a priority and a valid policy.

Policy 9: Parking

- 5.21 This policy specifies that new developments will be expected to provide on-site parking for staff and visitors and that this should be minimised by encouraging sustainable travel options (policy 8 refers). In light of existing issues of on-street parking on the Business Park it is important that both this and the former policy remain to inform consideration in future planning applications.
- 5.22 North Yorkshire County Council Highways Service has confirmed that whilst some minor changes could be made to the policies (7 to 9) they are not immediately necessary and they are not considered significant. Their comments simply suggest that (Policy 8) developments should specifically look to improve off-site cycle and pedestrian facilities as well as incorporating them into the site and that (Policy 9) NYCC no longer operate parking standards for commercial developments. Proposals should therefore be able to demonstrate the likely requirements for staff and visitor vehicle parking, and deliveries, and provide them on site.

- 5.23 It would not be proportionate to instigate a review of the AAP on these matters that can be considered outwith the Plan and at individual planning application stage. They can also be picked up in respect of the Local Plan review if necessary.

Policy 10: Drainage

- 5.24 This policy sets out the need to ensure the submission of adequate drainage strategies with any proposed developments for new floorspace. This remains a valid policy.

Policy 11: Energy

- 5.25 There may be a slight inconsistency between this policy and NPPF para 150 (b), which states “...Any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards.” Given that the technical standards require local standards to be viability tested through the plan-making process, rather than at application stage, a case could be made that the policy is inconsistent. However, it is important to note that the NPPG says that, in terms of assessing the status of the Plan overall, “reviews should be proportionate to the issues in hand” (Paragraph: 062 Reference ID: 61-062-20190315) and it is considered that instigating an update because of a single relatively minor inconsistency with the NPPF would be disproportionate. This matter could therefore be addressed at the planning application stage in situations where the policy is applicable.
- 5.26 It should also be noted that energy efficiency and the related issue of sustainable construction will be factored into the review of the Scarborough Borough Local Plan which is underway.

Sustainability Appraisal

- 5.27 As a review is not recommended for the Area Action plan an updated Sustainability Appraisal is not required. Planning Practice Guidance (Sustainability environmental assessment and sustainability appraisal) (Para 021) gives related advice on plan production and states that “The sustainability appraisal report will not necessarily have to be amended if the plan is modified following responses to consultations. Modifications to the sustainability appraisal should be considered only where appropriate and proportionate to the level of change being made to the plan. A change is likely to be significant if it substantially alters the plan and/ or is likely to give rise to significant effects.....Changes to the plan that are not significant will not require further sustainability appraisal work..”
- 5.28 In this instance no changes are proposed to the Plan therefore no updates to the Sustainability Appraisal are considered necessary.

Conclusion

- 5.29 The Area Action Plan remains an appropriate document setting out the strategy and policies for Whitby Business Park. There remains sufficient land for development within the Business Park and on the allocated sites.
- 5.30 The review of the Scarborough Borough Local Plan may further consider issues within the Area Action Plan and it may roll certain policy matters into that document if that is considered appropriate and necessary.
- 5.31 It is therefore concluded that there is no need to review the Area Action Plan at the current time and that, subject to agreement by both Local Authorities, the Plan be rolled forward for continued use for at least the next five years. This meets the requirements of Government guidance on reviewing whether Plans do need to be updated or replaced at least every five years.

6. IMPLICATIONS

(a) Policy

- 6.1 The issues in this report provide a mechanism for reviewing and retaining Borough Council (and North York Moors National Park Authority) planning policies strategies and allocations.

(b) Financial

- 6.2 There are no financial implications as a consequence of this report. If at a future date it is decided to review the Area Action Plan there may be financial implications in respect of evidence preparation and holding an Examination in Public. This would be a shared responsibility between the Borough Council and the NYMNP Authority.

(c) Legal

- 6.3 The Town & Country Planning Act and the National Planning Policy Framework places a duty on local planning authorities to review Local Plan documents including Area Action Plans.

(d) Communication

- 6.4 There is no requirement for consultation, however, the updated information on the Area Action Plan will be publicised on both the Borough Council's and NYMNP Authorities website and through social media.

(e) Planning Implications

- 6.5 As per (a) this will, once agreed, allow the continued use of and substantial weight applied to, the Whitby Business Park Area Action Plan.

(f) Environmental Implications

6.6 The Area Action Plan when prepared and adopted was subject to sustainability appraisal and habitats regulation assessment.

(g) **Equalities and Diversity**

6.7 There are no implications in relation to this topic.

6.8 I have considered whether the following implications arise from this report and am satisfied that there is no identified implication that will arise from this decision relating to Staffing, Co-operation with Health Authorities, Crime and Disorder, Health and Safety implications or the Human Rights Act

7. ACTION PLAN

7.1 The following action plan is set out below:

- | | | |
|----|--|--------------|
| a) | Consideration by P&D, Cabinet and Full Council | Oct/Nov 2019 |
| b) | Consideration by NYMNP | Oct/Nov 2019 |
| c) | Consideration of whether review is required | by Nov 2024 |

Richard Bradley
Director

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Background Papers:

Please give details of all publicly accessible (non private) background papers applicable to the report.

Whitby Business Park Area Action Plan (November 2014)

Whitby Business Park - Design Brief (November 2016)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	August 2019	The need to review the Plan is not determined by SBC and NYMNP and subsequently a decision is not made whether to either review the Plan or carry it forward for a further 5 years.	The Government could criticise the authorities for not complying with Regulations and Guidance. The weight attributed to the Plan in the consideration of planning applications could be reduced.	Consider report and accept that the Plan remains fit for purpose for the next 5 years.	C2	B2	David Walker / Steve Wilson	Accept the recommendation of the report.
2								

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

Likelihood:

A = Very Low
 B = Not Likely
 C = Likely
 D = Very Likely
 E = Almost Certain

Impact

1 = Low
 2 = Minor
 3 = Medium
 4 = Major
 5 = Disaster