

SEVENOAKS TOWN NEIGHBOURHOOD DEVELOPMENT PLAN

Full Council – 23 May 2023

Report of: Deputy Chief Executive, Chief Officer - Planning & Regulatory Services

Status: For Decision

Key Decision: No

Executive Summary: This report recommends that the Sevenoaks Town Neighbourhood Development Plan (STNDP) is 'made' (adopted) following a favourable local referendum result and is used to help determine planning applications in the town.

This report supports the Key Aim of:

Protecting the Green Belt

Supporting and developing the local economy

Supporting the wellbeing of residents, businesses and visitors

Ensuring that Sevenoaks remains a great place to live, work and visit

Contact Officer: Hannah Gooden, Ext. 7178

Recommendation to Full Council:

1. Following a favourable local Referendum result, the Sevenoaks Town Neighbourhood Development Plan 2020-2038, incorporating the Examiner's modifications, as presented to local Referendum, be "made" (adopted) with immediate effect and form part of the Council's Development Plan, to help determine planning applications in the Neighbourhood Area.
2. The STNDP Decision Statement (post-Referendum) shown at Appendix A be published.

Reason for recommendation: To 'make' (adopt) the Sevenoaks Town Neighbourhood Development Plan.

Introduction

- 1 The Sevenoaks Town Neighbourhood Development Plan (STNDP) has been successful at examination, with the independent examiner recommending that the STNDP should proceed to referendum, subject to a number of recommended modifications.
- 2 The Report presented to Cabinet on 9 February 2023 set out the independent examiner's recommendations and the proposed modifications to be made to the STNDP, which were made with the involvement of Sevenoaks Town Council following receipt and consideration of the examiner's report. The following documents referred to in this report can be accessed via:
https://www.sevenoaks.gov.uk/downloads/download/922/sevenoaks_town_neighbourhood_plan_examination_documents
 - The Examiner's Report
 - (pre-Referendum) Decision Statement
 - Referendum version of the STNDP (and summary)
- 3 It was agreed by Cabinet to note the examiner's report dated 21 December 2022, the recommended modifications and the (pre-Referendum) Decision Statement and progress the STNDP to referendum.
- 4 Cabinet also agreed that in the event the referendum result on the STNDP is positive (more than 50% of the vote) that the Council formally 'makes' (adopts) the STNDP, so that it has effect as part of the statutory Development Plan for the Neighbourhood Area and that this will be passed to Full Council.

Background

- 5 Sevenoaks Town Council, as the Qualifying Body, applied for Sevenoaks Parish to be designated a Neighbourhood Area under Part 2 of the Neighbourhood Planning (General) Regulations 2012. It was designated as a Neighbourhood Area in October 2013.
- 6 Following consultation on a draft (pre-submission) Plan, the STNDP was submitted to the District Council and in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, Sevenoaks District Council publicised the Plan from 4th August to 22nd September 2022.
- 7 The Plan was submitted for examination on 23 September 2022. Sevenoaks District Council appointed David Hogger BA MSc MRTPI MCIHT at Intelligent Plans and Examinations (IPE) to examine the Plan. He published his final report on 21 December 2022, concluding that the STNDP, subject to certain modifications proposed in his report, did meet the basic conditions as set out in legislation and is compatible with Schedule 4B of the Town and Country Planning Act 1990 and could therefore proceed to local referendum.
- 8 On 9 February 2023, Cabinet resolved that the Neighbourhood Plan (as amended in line with the Examiner's proposed modifications) should proceed

to local Referendum. This decision was published on the SDC website. The 'referendum area' was determined to be the Sevenoaks Town Council administrative boundary, to ensure the community has the final say on whether the neighbourhood plan comes into force or not.

The Referendum

9 A Referendum was held on 4 May 2023 in tandem with the local elections. The referendum question was 'Do you want Sevenoaks District Council to use the Neighbourhood Plan for Sevenoaks Town to help it decide planning applications in the Neighbourhood Area?' The designated neighbourhood area followed that of the Sevenoaks Town Council parish boundary.

10 The results of the referendum were:

Yes = 4294 (73%)

No = 1292 (22%)

Void/Rejected = 285 (5%)

Electorate: 15,185

Ballot Papers Issued: 5,871

Turnout: 38.66%

11 The outcome of the referendum for the STNDP is a positive one, it being endorsed to use the STNDP to decide planning applications within the Sevenoaks Town Council parish boundary.

12 Planning Practice Guidance (PPG)

<https://www.gov.uk/guidance/neighbourhood-planning--2#the-neighbourhood-planning-referendum>

sets out that if the majority of those who vote in a referendum are in favour of the draft neighbourhood plan, then the neighbourhood plan must be 'made' (adopted) by the local planning authority within 8 weeks of the referendum. A neighbourhood plan comes into force as part of the statutory development plan once it has been approved at referendum (that is, more than 50% of the votes cast being in favour of the draft neighbourhood plan).

13 It is the case that in these circumstances the neighbourhood plan must be made by the local planning authority (that is the neighbourhood plan is adopted). There are narrow circumstances where the local planning authority is not required to make the neighbourhood plan. These are where it considers that the making of the neighbourhood plan would breach, or otherwise be incompatible with, any EU or human rights obligations (see section 61E (8) of the Town and Country Planning Act 1990 Act as amended). Paragraph: 064 Reference ID: 41-064- 20170728 1.13

- 14 It is concluded that the Plan, including its preparation, does not breach and would not otherwise be incompatible with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). This includes compliance with the basic condition regarding compliance with the Habitat Regulations.
- 15 The Cabinet decision of 9 February 2023 included as part of resolution 5 that in the circumstances where the referendum result is positive, that the Sevenoaks Town Neighbourhood Development Plan can, post-referendum, go directly to be considered at Full Council, with a recommendation for it to be 'made' (adopted).

Conclusion

- 16 Paragraph 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 requires the Council to 'make' a Neighbourhood Plan if more than half of those voting in a referendum have voted in favour of the Plan being used to help to decide planning applications in the area. This needs to be achieved within eight weeks of the referendum result.
- 17 The Council has also assessed and concluded that the Plan, including its preparation, does not breach and would not otherwise be incompatible with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). This includes compliance with the basic condition regarding compliance with the Habitat Regulations.
- 18 Therefore, it is proposed that Full Council be recommended to formally 'make' the STNDP with immediate effect, as per the recommendations in this report.
- 19 The principal effect of this is that the STNDP is now part of the statutory 'development plan' for the area (Sevenoaks Town Council Parish boundary) after a positive referendum pursuant to s38 (3A) of the Planning and Compulsory Purchase Act 2004. This means it is now a material consideration in the determination of planning applications in Sevenoaks Town Council Parish area.
- 20 The post-referendum decision to make the STNDP will need to be publicised and notified to those who had asked to be advised (see Appendix A).

Other options Considered and/or rejected

Note the referendum result, but do not agree the Decision Statement to 'make' (adopt) the STNDP. As noted, there are narrow circumstances where the local planning authority is not required to make the neighbourhood plan. These are where it considers that the making of the neighbourhood plan would breach, or otherwise be incompatible with, any EU or human rights obligations. This is not the case and therefore it is considered that the STNDP should be made (adopted).

Key Implications

Financial

The Council has claimed £20,000 from central government (available when a pre-referendum decision statement is issued), largely to cover the cost of holding the referendum.

Legal Implications and Risk Assessment Statement.

Accepting the recommendations in this report will fulfil the Council's duties under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, the Housing and Planning Act 2016, and the Neighbourhood Planning Act 2017. The recommendations also comply with the Neighbourhood Planning (General) Regulations 2012 as amended.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users. Furthermore, the Public Sector Equality Duty applies to town councils: Sevenoaks Town Council is responsible for demonstrating due regard to this throughout the production of the Neighbourhood Development Plan.

Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment. Section 3.2 of the Basic Conditions Statement submitted with the STNDP provides information to demonstrate how the Plan is in Conformity with Sustainable Development.

Appendices

Appendix A - STNDP Decision Statement (post-Referendum)

Background Papers

All background documents are available on the STNDP examination page:

https://www.sevenoaks.gov.uk/info/20069153/sevenoaks_town_neighbourhood_plan

Richard Morris - Deputy Chief Executive and Chief Officer – Planning and Regulatory Services