Cabinet Report

South Oxfordshire District Council

Listening Learning Leading

Report of Head of Planning

Author: Ricardo Rios

Telephone: 01235 422600

Textphone: 18001 01235 422600

E-mail: ricardo.rios@southandvale.gov.uk

Wards affected: Sandford and the Wittenhams

Cabinet member responsible: Cllr. John Cotton

Tel: 01865 408105

E-mail: leader@southoxon.gov.uk

To: CABINET

Date: 05 October 2017

Making the Long Wittenham Neighbourhood Development Plan

That Cabinet recommends to Council:

1. To 'make' the Long Wittenham Neighbourhood Development Plan so that it continues to be part of the council's development plan.

2. to delegate to the Head of Planning, in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

Purpose of Report

1. To update the Cabinet on progress of the Long Wittenham Neighbourhood Development Plan and to present the relevant considerations in relation to whether the plan should be 'made' (formally adopted).

Corporate Objectives

2. Strongly supporting the development of neighbourhood plans for our towns and villages.

Background

3. Long Wittenham Parish Council successfully applied for Long Wittenham Parish to be designated as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations (2012).

4. The preparation of the Long Wittenham Neighbourhood Development Plan was led by Long Wittenham Parish Council ('the qualifying body') and a group of volunteers from the community.

5. Following the formal submission of the Long Wittenham Neighbourhood Development Plan to the council, the plan was publicised and comments were invited from the public and stakeholders. The publicity period closed on 28 April 2017.

6. South Oxfordshire District Council appointed an independent examiner, Andrew Ashcroft, to review whether the plan met the basic conditions required by legislation and whether it should proceed to referendum. The examiner's report concluded that the plan meets the basic conditions, and that subject to the modifications proposed in the report, the plan should proceed to referendum.

7. Having considered the examiner's recommendations and reasons for them, the Cabinet Member for Planning decided on 27 June 2017:

    1. To accept all modifications recommended by the examiner;

    2. To determine that the plan, as modified, meets the basic conditions, is compatible with the Convention rights (within the meaning of the Human Rights Act 1998), complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP;

    3. To take all appropriate actions to progress the plan to referendum on the 7 September 2017; and

    4. The referendum area should not extend beyond the neighbourhood area approved by the District Council on 26 September 2014.

8. The modifications were made and the referendum version of the plan was published on 28 July 2017 alongside the decision statement required under Regulation 18(2)(a) of the Neighbourhood Planning (General) Regulations (2012).

Options

9. The council's options are limited by statute. Paragraph 38A (4)(a) of the Planning and Compulsory Purchase Act 2004 sets out that the council must 'make' a neighbourhood plan if more than half of those voting at the referendum have voted in favour of the plan being used to help decide planning applications in the plan area.

10. The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

11. Section 3 of the Neighbourhood Planning Act 2017, which came into force on 19 July 2017, amends section 38 of the Planning and Compulsory Purchase Act 2004 to

ensure that neighbourhood plans have full legal effect once they have passed their local referendums. In the very limited circumstances that the council might decide not to make the neighbourhood development plan, it will cease to be part of the development plan for the area.

12. The council's decision on 27 June 2017 (referred to in paragraph 7) was published in the decision statement issued on 28 July 2017 (referred to in paragraph 8). It confirmed that the Long Wittenham Neighbourhood Development Plan, as modified by the Examiner's recommendations, would not breach, and be otherwise incompatible with EU obligations or human rights legislation. Therefore, if the majority of those voting have voted in favour of the Long Wittenham Neighbourhood Development Plan being used to help decide planning applications in the plan area, to not 'make' the plan would be in breach of these statutory provisions.

Referendum

13. A Referendum relating to the adoption of the Long Wittenham Neighbourhood Development Plan was held on Thursday 7 September 2017.

14. The question which was asked in the Referendum was: "*Do you want South Oxfordshire District Council to use the Neighbourhood Plan for Long Wittenham to help it decide planning applications in the neighbourhood area?"*

15. The result was as follows:

    a. Yes = 418 votes (92%)

    b. No = 30 votes (7%)

    c. Turnout = 452 votes (64.75%)

16. As the majority of local electors voted in favour of the plan, the Long Wittenham Neighbourhood Plan became part of the council's development plan.

17. As the plan was approved at the local referendum and the council is satisfied that the plan would not breach, and be otherwise incompatible with EU obligations or human rights legislation, the council is required 'make' the Long Wittenham Neighbourhood Development Plan so that it continues to be part of the council's development plan.

Financial Implications

18. There are no significant financial implications with this decision that cannot be accommodated within budget.

Legal Implications

19. The decision to 'make' the Long Wittenham Neighbourhood Development Plan is a legal requirement in the Planning and Compulsory Purchase Act 2004. The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). There is a requirement that the district council will publish a formal decision statement as required under the Neighbourhood Planning (General) Regulations 2012.

20. It is not considered that the neighbourhood plan would breach, or would otherwise be incompatible with, any such obligation or rights. Therefore, the council should now proceed to make the plan.

Risks

21. The council is required to comply with the statutory requirements (to consider whether the plan should be made following a successful referendum), which this recommendation seeks to achieve. In view of the considerations referred to elsewhere in this report, as the majority of those voting have voted in favour of the plan at the local referendum, a decision not to make the Plan would place the council at risk of a legal challenge.

Conclusion

22. On the 27 June 2017, the council decided:

    1. To accept all modifications recommended by the examiner;
    2. To determine that the plan, as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP; and
    3. To take all appropriate actions to progress the plan to referendum on the 7 September 2017
    4. The referendum area should not extend beyond the neighbourhood area approved by the District Council on 26 September 2014.

23. A referendum was held on 7 September 2017 to meet the requirements of The Localism Act 2011 and The Neighbourhood Planning (Referendums) Regulations 2012.

24. As the majority of those voting have voted in favour of the plan being used to help decide planning applications in the plan area, it is recommended that the Long Wittenham Neighbourhood Development Plan is ‘made’.

Background Papers

None