

Report to Council

21 June 2017

By the Cabinet Member for Planning and Development

KEY DECISION



**Horsham
District
Council**

Not Exempt

Woodmancote Neighbourhood Plan and Wineham & Shermanbury Neighbourhood Plan

Executive Summary

Following extensive preparations and Examination both the Wineham and Shermanbury Neighbourhood Plan (WASP), and Woodmancote Neighbourhood Plan (WNP) were subject to a Referendum on 4 May 2017, where the majority of those who voted were in favour of their respective plans. (Wineham and Shermanbury 71%, and Woodmancote 93% respectively). The purpose of this report is to seek Council's formal approval to "make" both the Wineham and Shermanbury, and Woodmancote Neighbourhood Plans part of the statutory Development Plan as required by the Town and Country Planning Act 1990 and the Localism Act 2011. This will mean that both plans will be used to determine planning applications in their respective parishes in addition to the Horsham District Planning Framework.

Recommendations

Council is recommended:

- i) To formally "make" both the Wineham and Shermanbury Neighbourhood Plan, and the Woodmancote Neighbourhood Plan as part of the statutory Development Plan, following the Referendum held on 4 May 2017.

Reasons for Recommendations

- i) The preparation of both Neighbourhood Plans to 2031 has followed the statutory procedures set out in The Neighbourhood Planning (General) Regulations 2012 (as amended). Both plans have successfully undergone Examination and have satisfied the basic conditions and the plans are in conformity with the Horsham District Planning Framework (HDPF).
- ii) Where a Referendum results in a majority 'yes' vote, the Local Planning Authority is required to "make" the Neighbourhood Plan within 8 weeks of the Referendum decision in accordance with the Regulations. This will enable the District Council to use the both the Wineham and Shermanbury Neighbourhood Plan and the Woodmancote Neighbourhood Plan to determine planning applications in their respective parishes.

Background Papers

- i) The Localism Act 2011
- ii) The Neighbourhood Planning (General) Regulations 2012 (as amended)
- iii) Woodmancote Neighbourhood Plan
- iv) Wineham and Shermanbury Neighbourhood Plan
- v) Examiner's Report & HDC Decision Statement for both Neighbourhood Plans

Parishes affected: Shermanbury and Woodmancote respectively

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Background Information

1 Introduction and Background

- 1.1 The Localism Act, which received Royal Assent on 15 November 2011, introduced new rights and powers to allow local communities to shape development in their areas by coming together to prepare neighbourhood plans. The Act allows Parish/Town Councils and other forums to prepare a Neighbourhood Plan for their designated area.
- 1.2 Preparation of a Neighbourhood Plan is subject to several key stages set out in The Neighbourhood Planning (General) Regulations 2012 (as amended) which include:
 1. Designation of the neighbourhood plan area;
 2. Pre-submission publicity and consultation;
 3. Submission of the plan to the Local Planning Authority;
 4. Independent Examination;
 5. Referendum; and
 6. Making the Neighbourhood Plan (i.e. bringing it into force).
- 1.3 The Wineham and Shermanbury and Woodmancote Neighbourhood Plan steering groups have undertaken the preparation of a Neighbourhood Plan for their respective Parishes, and both plans went through a Referendum on 4 May 2017 to seek the support of the community for the plans. The result of the Referendums was a majority 'yes' vote in favour of both plans with 71% of the turnout voting in favour of the Wineham and Shermanbury Plan and 93% majority voting in favour of the Woodmancote Plan.

2 Relevant Council policy

- 2.1 The Local Plan for Horsham District, (the Horsham District Planning Framework or HDPF), sets out the key planning policies against which development in the District is considered. It is a requirement that Neighbourhood Plans contain policies which are broadly in accordance with the Local Plan. This includes a requirement that Neighbourhood Plans allocate a proportion of the 1,500 homes that the Local Plan identifies to be delivered through neighbourhood planning.

3.0 DETAILS

Preparation of the Wineman and Shermanbury Neighbourhood Plan

- 3.1 Shermanbury Parish Council, as the qualifying body, successfully applied to Horsham District Council to be designated as a Neighbourhood Area under Regulation 5 of The Neighbourhood Planning (General) Regulations 2012. The Neighbourhood Plan Area for Shermanbury covers the whole of the Parish of Shermanbury and was designated as a Neighbourhood Plan Area on the 19 December 2013.
- 3.2 Shermanbury Parish Council completed a number of tasks that are required to prepare a Neighbourhood Plan. These included the preparation and gathering of

evidence and undertaking various consultation exercises before drawing up a draft of the plan (known as the Pre-submissionPlan). The Pre-Submission Plan then underwent consultation under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012, from **7 December 2015 to 25 January 2016**.

- 3.3 The Pre-Submission Plan was subsequently amended in response to the comments made during the consultation and the “Submission Plan” was then formally submitted to the District Council. The Council, in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, undertook a further consultation of the Submission Plan. Representations were invited between **11 March 2016 and 22 April 2016**. Following further communication with the Examiner the Submission Plan went out to re-consultation again on **21 October 2016 to 2 December 2016** seeking further comment on policy 13 alone in order to be procedurally compliant with the Neighbourhood Plan Regulations.
- 3.4 In agreement with the Parish Council, Horsham District Council appointed Mr John Mattocks on to carry out an independent Examination of the Neighbourhood Plan. The purpose of the Examination was to determine whether the Plan met the Basic Conditions together with other legislative requirements and therefore whether the Plan should proceed to Referendum. The Examiner’s Report was formally completed and sent to Horsham District Council on the 9 January 2017. The Examiner concluded that with a number of modifications the Submission WASP Neighbourhood Plan would meet the Basic Conditions and could proceed to Referendum on that basis.
- 3.5 On 20 March 2017, Horsham District Council resolved that the Wineham and Shermanbury Submission Plan (incorporating the Examiner’s modifications and recommendations as set out in the Horsham District Council ‘Decision Statement’) should proceed to Referendum.
- 3.6 On 4 May 2017, the Wineham and Shermanbury Neighbourhood Development Plan to 2031 successfully passed referendum with 71% of the votes cast agreeing that the Wineham and Shermanbury Neighbourhood Development Plan be used by Horsham District Council to help in the determination of planning applications in the Parish of Shermanbury (turnout at the Referendum was 51.79%).

Preparation of the Woodmancote Neighbourhood Plan

- 3.7 The Woodmancote Neighbourhood Plan (“WNP”) relates to the area that was designated by the Council as a neighbourhood area on **25 Feb 2014** and the South Downs National Park Authority (SDNPA) on **17 Feb 2014**. This area is coterminous with the parish council boundary that lies within the Horsham District Council and South Downs National Park Local Planning Authority Area.
- 3.8 The Pre Submission Plan underwent consultation under Regulation 14 from **22 Feb 2016 to 3 April 2016**.
- 3.9 Woodmancote Parish Council (“WPC”) then submitted the Pre Submission Plan to the Council and the SDNPA. The Plan was publicised and representations were invited between **9 September 2016 and the 26 October 2016**.

- 3.10 John Slater (“the Examiner”) was appointed by the Council with the consent of WPC, to carry out an independent Examination of the Neighbourhood Plan and to prepare a report of the independent Examination. The Examiner returned his report on the 30 January 2017. The Examiner’s Report concluded that the Plan met the Basic Conditions set out in the Legislation, subject to a number of recommended changes and should proceed to Referendum.
- 3.11 On 4 May 2017, the Woodmancote Neighbourhood Development Plan to 2031 successfully passed referendum with 93% of the votes cast agreeing that the Woodmancote Neighbourhood Development Plan be used by Horsham District Council and South Downs National Park Authority to help in the determination of planning applications in the Parish of Woodmancote. (turnout at the Referendum was 46.05%).

Strategic Environmental Assessment (SEA)

- 3.12 Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 requires the Council as local planning authority to outline what action to take in response to the recommendations of the Examiner made his report under paragraph 10 of Schedule 4A to the 1990 Act (as applied by Section 38A of the 2004 Act). The Council has given further consideration to the commentary made by the Examiner, including having regard to the adequacy of the plan in meeting EU legislation.
- 3.13 Taking into account the National Planning Policy Guidance (‘the NPPG’) which states: “*(The SEA) should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan.*” the Council is in agreement with the Examiner of the Wineham and Shermanbury Plan that the SEAs has considered an appropriate range of alternatives, and in addition makes reference to cumulative impacts of the Plan. On this basis the Council agrees with the Examiners’ view that the SEA of both Plans met the regulatory requirements. The Woodmancote Neighbourhood Plan was screened by the Council and the statutory consultees as not requiring a Strategic Environmental Assessment, and was not subject to this process.

4 Next Steps

- 4.1 As a result of their respective Referendums, the Council is required, in accordance with Legislation to formally ‘make’ both the Wineham and Shermanbury Neighbourhood Plan, and the Woodmancote Neighbourhood Plan as over 50% of those who voted in each Referendum were in favour of the Plans. Making the Plans will allow the Plans to be given full weight in determining planning applications within both parishes. Horsham District Council is required to ‘make’ the Plans within 8 weeks of the Referendums in accordance with the Regulation 18A of the Neighbourhood Planning (General) Regulations 2012 (as amended).

5 Outcome of Consultations

- 5.1 The preparation of both Neighbourhood Plans has been undertaken in consultation with stakeholders and the community. These consultations have been

carried out by both the Parish and District Council in accordance with The Neighbourhood Planning (General) Regulations 2012 (as amended).

6 Other Courses of Action Considered but Rejected

- 6.1 The Council could reject Wineham and Shermanbury Neighbourhood Plan and Woodmancote Neighbourhood Plan should it be considered that it the Plans are in breach of any EU or other legal obligations, convention or rights. Taking into account the views of the Examiner, as set out in section three of this report, it is not considered that this is the case. The Council is therefore required to make the Plans in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended).

7 Resource Consequences

- 7.1 Failure to adopt either Neighbourhood Plan could result in the Council being open to High Court challenge on the ground that it has acted in breach of the Town and Country Planning Act 1990 as amended by the Localism Act 2011. This would incur significant costs in terms of Officer's time and costs associated with legal challenges and appeals.
- 7.2 There are no other staffing or financial consequences resulting from this decision.

8 Legal Consequences

- 8.1 The Section 38A (3) the Act/regulations apply to neighbourhood plans and orders Section 38A (4) (b) Subsection 4 (b) states that: LPA must make the plan as soon as reasonably practicable after the referendum is held.
- 8.2 Furthermore, the Neighbourhood Planning (General) Regulations 2012 (as amended) stipulate under Regulation 18a the following: "Prescribed date for making a neighbourhood development plan 18A.—(1) The date prescribed for the purposes of section 38A(4)(b) of the 2004 Act is the date which is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held. It follows if the plan is not made within the 8 weeks, it will not be in accordance with the regulations.
- 8.3 Under Section 113 of the Planning and Compulsory Purchase Act 2004 (as amended) (3) a person aggrieved may make an application to the High Court on the ground that a procedural requirement has not been complied with. The application must be made within 6 weeks. A procedural requirement is a requirement made by regulations or an order which relates to the adoption publication or approval of a plan/document. Therefore if either Neighbourhood Plans are not adopted by the Council within 8 weeks of the Referendums, they could be challenged by way of a Judicial Review which can result in the Plan/Plans being quashed.

9 Risk Assessment

- 9.1 Following the adoption of the Wineham and Shermanbury Neighbourhood Plan and the Woodmancote Neighbourhood Plan there is a six week period when the

decision to adopt the Plans can be judicially reviewed. The Council has sought to minimise the likelihood of a successful challenge.

10 Other Considerations

- 10.1 There are no Crime & Disorder; Human Rights; Equality & Diversity or Sustainability consequences resulting from this decision.