

## **Report to Cabinet**

8 June 2023

By the Cabinet Member for Planning and Infrastructure

### **DECISION REQUIRED**

Not Exempt



**Horsham  
District  
Council**

## **Neighbourhood Plan Support and Water Neutrality**

### **Executive Summary**

Pulborough Parish, Itchingfield Parish, Lower Beeding Parish and Cowfold Parish have produced Neighbourhood Plans which have been subject to successful Examinations but cannot proceed to Referendum because of the requirements in relation to Water Neutrality.

In order, to support the hard work of local communities, Planning Advice Notes have been prepared to provide interim guidance for applicants and decision makers on how the emerging Neighbourhood Plans for the parishes identified above should be taken into account when considering development proposals in accordance with the Horsham District Development Plan and the National Planning Policy Framework (NPPF). This report seeks endorsement of this approach.

### **Recommendation(s)**

It is recommended that the Cabinet:

- i) Formally endorses the Neighbourhood Planning Advice Notes for Cowfold, Itchingfield, Lower Beeding and Pulborough Parishes and agrees to the publication of the document for use as a non-statutory Planning Advice Note.
- ii) Grants the Cabinet Member for Planning and Infrastructure delegated authority to agree any necessary minor editorial changes to the documents referenced in i) above.

## **Reason for Recommendation**

To support Neighbourhood Planning groups affected by water neutrality, and to ensure compliance with the Duty to Support obligations placed upon Local Authorities to assist Neighbourhood Planning groups.

## **Background Papers**

[National Planning Policy Framework](#) (NPPF)

[Natural England Position Statement](#) (September 2021)

Appendix A: Advice Note: Cowfold Neighbourhood Plan and Water Neutrality

Appendix B: Advice Note: Itchingfield Neighbourhood Plan and Water Neutrality

Appendix C: Advice Note: Lower Beeding Neighbourhood Plan and Water Neutrality

Appendix D: Advice Note: Pulborough Neighbourhood Plan and Water Neutrality

## **Parishes affected:**

Cowfold Parish, Lower Beeding parish, Itchingfield Parish and Pulborough Parish

## **Contact:**

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## **Background Information**

### **1 Introduction and Background**

- 1.1 The Localism Act 2011 allows Parish/Town Councils and other forums to shape development in their areas by preparing a Neighbourhood Plan for their designated area. Cowfold Neighbourhood Plan; Lower Beeding Neighbourhood Plan; Itchingfield Neighbourhood Plan; and Pulborough Neighbourhood Plan (the affected parishes') have all prepared Neighbourhood Plans which have been successful at examination.
- 1.2 In September 2021, Natural England published a Position Statement which had the effect of requiring all development plans, (including Neighbourhood Plans) to demonstrate water neutrality. This has led to significant planning delays whilst a strategic solution to water neutrality is developed. It has prevented the four Neighbourhood Plans listed in para 1.1 from progressing to referendum and the final stages of 'Making' the plans.
- 1.3 Planning Applications continue to be submitted in the affected parishes. Whilst Neighbourhood Plans which have been successful at Examination have significant weight in planning terms, it is considered that in light of the delays to neighbourhood plan-making that have arisen as a consequence of water neutrality it would be beneficial to provide interim Planning Advice Notes endorsed by the Cabinet.

### **2 Relevant Council policy**

- 2.1 The Local Plan for Horsham District is currently the Horsham District Planning Framework (HDPF). This sets out the key planning policies against which development in the district is considered. It is a requirement that Neighbourhood Plans are prepared to be in 'general conformity' with this Plan as well as national policy. The examination of the affected Parishes Neighbourhood Plans (which collectively allocate land for some 400 dwellings) concluded this had taken place.

2.2 As outlined in para 1.2, the Natural England Position Statement is also a significant material consideration in Neighbourhood Plan Making and decision taking. It requires that the Council, as a Local Planning Authority must be certain that any new development (including sites allocated for development in Neighbourhood Plans), demonstrates that there is no adverse impact on the habitats in the Arun Valley in order to demonstrate (through a process known as Appropriate Assessment) that they are in conformity with the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). More detail is set out in the following paragraphs.

### **3.0 DETAILS**

#### **Water Neutrality and the impact on Neighbourhood Planning**

- 3.1 Following receipt of the Natural England Position Statement, Horsham District Council, together with Crawley Borough Council and Chichester Borough Council has produced a Water Neutrality Mitigation Strategy which outlines the approaches that can be taken to ensure that future development is water neutral. These approaches are now being developed into a Water Neutrality Implementation Scheme (known as the Sussex North Offsetting Water Scheme or SNOWS).
- 3.2 Until SNOWS is operational, any Appropriate Assessment conducted cannot show with sufficient certainty that the sites identified for development in the affected Neighbourhood Plans will have no adverse impact on the Arun Valley. This would therefore conflict with the requirements of the Habitat Regulations.
- 3.3 Horsham District Council, as a Local Planning Authority, still have a legal obligation (Duty to Support) to support neighbourhood planning and the Council remains positively committed to supporting our local neighbourhood plan groups. In agreement with the affected parishes, the Council has prepared Planning Advice Notes which provide advice on the likely compliance of the various neighbourhood plan policies with national policy. In addition to supporting parishes, this will also give Council officers, and site promoters advice when considering planning

proposals on the policy framework. The Guidance Notes are attached as Appendices 1- 4.

## **4.0 Next Steps**

- 4.1 Should the recommendation be agreed, the Planning Advice Note will be published on the Council's website and will be used to inform the consideration of planning applications and provide advice to prospective applicants.

## **5 Outcome of Consultations**

- 5.1 The Council has discussed the impacts of not being able to progress to referendum with the affected parishes, and the possible courses of action in the meantime. The content of the Advice Notes has also been shared with the affected parishes. Whilst the affected parishes and the Council would prefer to be in a position where the plans could progress to referendum, given plans cannot legally progress, there is agreement that this is a sensible approach in the meantime.

- 5.2 This report has been submitted to the Monitoring Officer and the Director of Resources for input and their comments have been incorporated into this report.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 The only other approach which could be taken is to wait for the strategic solution to Water Neutrality and not prepare any further Planning Advice Notes. This 'do nothing' option would be less supportive of our community groups who are volunteers undertaking a neighbourhood plan on behalf of their community. The Council also has a legal Duty to Support local communities undertaking Neighbourhood Planning. The Advice Notes will assist Development Management colleagues in dealing with planning applications in those neighbourhood plan areas identified in this report affected by Water Neutrality.

## **7 Resource Consequences**

- 7.1 It is not considered that there are any specific resource implications that arise from issuing the Advice Notes over and above staff time. Resources are set aside in the Council's budget to provide support to local communities in the preparation of their Neighbourhood Plans. Both the Director of Resources and the Monitoring Officer have been consulted on this report to ensure resource and legal probity has been met.

## **8 Legal Consequences**

- 8.1 The Council has taken regular legal advice on matters relating to water neutrality. As set out earlier in this report, this advice has confirmed that to proceed Neighbourhood Plans to Referendum at this stage would not be in accordance with the Habitat Regulations. To proceed would bring a risk of successful legal challenge and probable revocation of the affected Neighbourhood Plans. This has led to the approach recommended in this report.
- 8.2 There are no specific legal implications arising from the recommendation to endorse the Advice Notes. There is no statutory duty to prepare such advice documents. Nor are the Advice Notes statutory planning documents and they do not form part of the development plan.
- 8.3 The Advice Notes are not intended to introduce legal implications for the Council or developers, but instead provide guidance to assist with the determination of planning applications.

## **9 Risk Assessment**

- 9.1 The key legal risks and considerations are set out in section 8. Any other risks associated with this approach are considered to be small as the Advice Notes do not change the Council's Policy position. In addition, Neighbourhood Plans which

have been successful at Examination are already considered in general terms to have significant weight in planning decision making. It is however considered that there are benefits in highlighting the Council's continued support to the affected Parishes and to provide clarity to communities, planning officers, developers and other stakeholders.

## **10 Procurement implications**

- 10.1 No procurement implications arise from the recommendations contained in this report. The Advice Notes have been produced in-house by the Strategic Planning Team.

## **11 Equalities and Human Rights implications / Public Sector Equality Duty**

- 11.1 The preparation of the Advice Notes has taken account of any potential impacts on equalities and diversity and human rights when assessing the weight of any policies in line with this legislation. It is considered it there are no direct or indirect impacts on gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

## **12 Environmental Implications**

- 12.1 There are no direct or indirect environmental implications which arise from the preparation of these Guidance Notes in addition to those which have already been considered as part of the examination of the Neighbourhood Plans, or as part of water neutrality. The latter is being addressed through the implementation of the SNOWs scheme, or on a case-by-case basis through further Appropriate Assessment work undertaken for the planning applications affected by Water Neutrality.

## **13 Other Considerations**

- 13.1 It is not considered the Neighbourhood Plan Advice Notes will have any further additional impacts including those in relation to GDPR/Data Protection or Crime & Disorder.