

Agenda Item No: 9.4 **Report No:** 83/15
Report Title: Adoption 'Making' of the Newick Neighbourhood Plan
Report To: Cabinet **Date:** 6 July 2015
Cabinet Member: Cllr Tom Jones – Lead Councillor for Planning
Ward(s) Affected: Newick
Report By: Nazeya Hussain - Director of Business Strategy and Development

**Contact
Officer(s)-**

Name(s): James Garside
Post Title(s): Neighbourhood Planning Officer
E-mail(s): James.garside@lewes.gov.uk
Tel No(s): 01273 484417

Purpose of Report:

The Localism Act 2011 introduced a right for communities to draw up neighbourhood plans. Newick Parish Council, with support and advice from the District Council, has produced a neighbourhood plan which has subsequently undergone a successful examination and referendum. This report considers whether the Newick Neighbourhood Plan ('Newick Now to 2030') should be adopted by the District Council as part of the statutory development plan.

Officers Recommendation(s):

- 1 To recommend to Council that the Newick Neighbourhood Plan is formally adopted as part of the statutory development plan for the district.
-

Reasons for Recommendations

- 1 The Newick Neighbourhood Plan has undergone a successful examination and received a majority vote in favour at a referendum.
- 2 To comply with the Localism Act which requires local planning authorities to 'make' a neighbourhood development plan as soon as reasonably practicable following a successful referendum.

Background

- 2.1 The 2011 Localism Act allowed for local communities to shape their areas by enabling town and parish councils to prepare neighbourhood development plans. A detailed legislative framework for undertaking

neighbourhood planning was set out in the Neighbourhood Planning Regulations 2012. Neighbourhood planning has been enthusiastically taken up by the many of the towns and parishes in the district, with 10 plans at various stages of preparation.

- 2.2** A neighbourhood plan, once adopted, forms part of the statutory development plan and sits alongside the Local Plan prepared by the District Council. Should planning permission be sought in areas covered by an adopted neighbourhood plan, the application must be determined in accordance with both the neighbourhood plan and the Local Plan.
- 2.3** There are a number of legally prescribed stages that need to be undertaken in preparing a neighbourhood plan. The plan needs to be subject to examination by an independent examiner. Subject to a positive outcome from such an examination the plan then proceeds to a referendum. Where a neighbourhood plan is subject to a successful referendum, and the local planning authority is satisfied that EU and human rights obligations have been met, it is a legal requirement to bring the plan into force as soon as reasonably practicable.

Progress of the Newick Neighbourhood Plan

- 3.1** An application was received from Newick Parish Council to designate the entire parish as a neighbourhood area in July 2012. The neighbourhood area was designated by the District Council in October 2012¹. Designating the neighbourhood area is the first formal stage that needs to be undertaken in preparing a neighbourhood plan.
- 3.2** Once designated, the Parish Council set about identifying the issues, vision and objectives to guide their plan. They also began gathering the evidence required to inform the policies, as well as undertaking extensive consultation with the local community, landowners, local groups and statutory consultees.
- 3.3** The Parish Council carried out a statutory 6 week consultation (Regulation 14) on their draft neighbourhood plan in April 2014. A number of amendments were then made to the plan in order to respond to feedback received from the consultation.
- 3.4** The Parish Council submitted the revised plan (Regulation 15), along with other statutory submission documents, to the District Council in August 2014. A further 6 week statutory consultation (Regulation 16) was carried out in September 2014 by the District Council where comments were invited on the submission documents.
- 3.5** Following the Regulation 16 consultation period, the District Council appointed a suitably qualified and experienced independent examiner to conduct the examination of the Newick Neighbourhood Plan in November and December 2014.

¹ http://www.lewes.gov.uk/Files/plan_Newick_Designation_Notice.pdf

3.6 The examiner determined that the neighbourhood plan met the basic conditions² against which a neighbourhood plan is examined, subject to modifications, and recommended that the plan proceed to a referendum. This outcome was set out in the Examiner's Report (see paragraph 8.2) which was received from the examiner in December 2014 and published soon after (under Regulation 18).

3.7 The Newick Neighbourhood Plan was amended in line with the examiner's recommended modifications and a Decision Statement (see paragraph 8.3) was published (Regulation 19) which set out the modifications made and confirmed that the District Council was satisfied that the plan met the basic conditions and could proceed to a referendum.

3.8 A referendum was held in Newick Parish on Thursday 26th February 2015 posing the following question to eligible voters:

“Do you want Lewes District Council to use the Neighbourhood Plan for Newick Parish to help decide planning applications in the neighbourhood area?”

3.9 49% of registered electors recorded votes, 846 votes of which were cast in favour of 'yes' against 102 in favour of 'No'. It was declared that more than half of those voting had voted in favour of the Newick Neighbourhood Plan (see paragraph 8.4).

3.10 In accordance with the Neighbourhood Planning Regulations, following the outcome of the referendum it is now for the District Council to 'make' the neighbourhood plan so that it formally becomes part of the development plan for Lewes District.

3.11 Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended) sets out the requirement for a local planning authority when it comes to adopting (the legislation refers to 'make') a neighbourhood plan. It is stated that,

“(4) A local planning authority to whom a proposal for the making of a neighbourhood development plan has been made-

(a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan, and

(b) if paragraph (a) applies, must make the plan as soon as reasonably practicable after the referendum is held.

(6) The authority are not to be subject to the duty under subsection (4)(a) if they consider that the making of the plan would breach, or would

² The basic conditions that a neighbourhood plan must meet are: appropriate regard to national policy; general conformity with strategic policies of the development plan for the local area; contribute to the achievement of sustainable development; and compatible with EU obligations.

otherwise be incompatible with, any EU obligation or any of the Convention of the rights (within the meaning of the Human Rights Act 1998)."

Recommendation

- 4.1** As a result of the outcome from the referendum and that in accordance with the aforementioned legislation the Council is legally required to bring the plan into force following the successful referendum, it is recommended that the plan is formally adopted (made) by the Council to become part of the development plan for the district and to help determine planning applications in the parish.

Financial Appraisal

- 5.1** Formally adopting the Newick Neighbourhood Plan will allow the Parish Council to benefit from a higher proportion of Community Infrastructure Levy (CIL) revenues arising from chargeable development that takes place in the parish. This will rise from a capped 15% of levy revenue to an uncapped 25% when the neighbourhood plan is made. Therefore, this will result in a transfer of levy revenue from LDC to Newick Parish Council to spend on priority infrastructure required to support the development of the area.
- 5.2** It is expected that this will result in £202,500 being claimed over the neighbourhood plan period (up to 2030) by the parish council. Without an adopted neighbourhood plan, it is expected that the parish council would claim a lower figure of £121,500. Therefore, at these expected rates, this would result in a transfer of £81,000 of levy revenue from LDC to Newick Parish Council.
- 5.3** Although there will be a financial implication from adopting the Neighbourhood Plan, in terms of the apportionment of CIL income, there will be no financial implications for the General Fund base budget.

Legal Implications

The Legal Services Department has made the following comments:

- 6.1** The Council's decision to put the plan to referendum is currently being challenged by a Judicial Review legal challenge. The legal challenge is in its early stages, in that the Court has not yet accepted that the Claimant has grounds to bring the proceedings against the Council. The Council has been advised by its external advisors to defend the challenge.
- 6.2** Given the current position it is unlikely that the challenge will be resolved with the next few months. The Council is under a legal duty to make the neighbourhood plan as soon as reasonably practicable after the referendum is held. The Council has been advised that these legal proceedings should not delay the Council in making the plan.

Risk Management Implications

- 7.1** I have completed a risk assessment. The following risks will arise if the recommendations are not implemented. The Council will be in breach of its statutory duty under the Town and County Planning Act 1990. As the legislation concerning the recommendation is quite explicit there is no way of mitigating this risk.
- 7.2** No new risks will arise if the recommendations are implemented

Equality Screening

- 8.1** I have undertaken an equality analysis which concluded that the adoption of the Newick Neighbourhood Plan would result in only positive or zero impacts on equality.

Background Papers

- 9.1** Newick Examiner's Report

http://www.lewes.gov.uk/Files/plan_Newick_Examiners_Report.pdf

- 9.2** Newick Decision Statement

http://www.lewes.gov.uk/Files/plan_Newick_Decision_Statement.pdf

- 9.3** Newick Neighbourhood Planning Referendum – Declaration of Result of Poll

http://www.lewes.gov.uk/Files/elect_newick_ref_results.pdf

Appendices

- 10.1** Equality Analysis Screening Report

- 10.2** Newick Neighbourhood Plan “Newick Now to 2030” - Referendum Version

http://www.lewes.gov.uk/Files/plan_postexamination_NewickNP.pdf