

**Agenda Item No:** 9.4 **Report No:** 148/16  
**Report Title:** Adoption 'Making' of the Wivelsfield Neighbourhood Plan  
**Report To:** Cabinet **Date:** 16 November 2016  
**Cabinet Member:** Cllr Tom Jones – Cabinet Member for Planning  
**Ward(s) Affected:** Wivelsfield  
**Report By:** Nazeya Hussain  
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### **Purpose of Report:**

The Localism Act 2011 introduced a right for communities to draw up neighbourhood plans. Wivelsfield 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 Wivelsfield Neighbourhood Plan should be adopted by the District Council as part of the statutory development plan.

### **Officers Recommendation(s):**

- 1 To recommend to Full Council that the Wivelsfield Neighbourhood Plan is formally adopted as part of the statutory development plan for the district.
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### **Reasons for Recommendations**

- 1 The Wivelsfield 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 Localism Act 2011 allows 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

(General) Regulations 2012. Neighbourhood planning has been enthusiastically taken up by the many of the towns and parishes in the district, with 11 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 Local Planning Authority. 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 Wivelsfield Neighbourhood Plan**

- 3.1** Local authorities have a legal duty to advise and assist groups preparing neighbourhood plans. As Wivelsfield parish lies wholly within Lewes District, Lewes District Council assumed this responsibility for the Wivelsfield Neighbourhood Plan.
- 3.2** An application was received from Wivelsfield Parish Council to designate the entire parish as a neighbourhood area and subsequently the neighbourhood area was designated by the District Council in July 2013<sup>1</sup>. Designating the neighbourhood area is the first formal stage that needs to be undertaken in preparing a neighbourhood plan.
- 3.3** 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.
- 3.4** The Parish Council carried out a statutory consultation (Regulation 14) on their draft neighbourhood plan between February 2015 and March 2015. A number of amendments were then made to the plan in order to respond to feedback received from the consultation.
- 3.5** The Parish Council submitted the revised plan (Regulation 15), along with other statutory submission documents, to the District Council in January 2016. A further 6 week statutory consultation (Regulation 16) took place between February and March 2016 by the District Council where comments were invited on the submission documents.

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<sup>1</sup> [http://www.lewes.gov.uk/Files/plan\\_wiv\\_notice.pdf](http://www.lewes.gov.uk/Files/plan_wiv_notice.pdf)

- 3.6** Following the Regulation 16 consultation period, the District Council appointed a suitably qualified and experienced independent examiner to conduct the examination of the Wivelsfield Neighbourhood Plan from April 2016. The examiner held a hearing on 9 May 2016 to further explore some of the issues raised during the Regulation 16 consultation.
- 3.7** The examiner determined that the neighbourhood plan met the basic conditions<sup>2</sup> 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 9.1) which was received from the examiner in August 2016 and published soon after (under Regulation 18).
- 3.8** The Wivelsfield Neighbourhood Plan was amended in line with the examiner’s recommended modifications and a Decision Statement (see paragraph 9.2) 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.
- 3.9** A referendum was held in Wivelsfield Parish on Thursday 27 October 2016 posing the following question to eligible voters:
- “Do you want Lewes District Council to use the Neighbourhood Plan for Wivelsfield Parish to help it decide planning applications in the neighbourhood area?”**
- 3.10** 34% of registered electors recorded votes, 555 votes of which were cast in favour of ‘yes’ against 23 in favour of ‘No’. It was declared that more than half of those voting had voted in favour of the Wivelsfield Neighbourhood Plan (see paragraph 9.3).
- 3.11** 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.
- 3.12** 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*

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<sup>2</sup> 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.

*(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 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 of the referendum, and in accordance with the aforementioned legislation, the Council is legally required to bring the plan into force and 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** Lewes District Council adopted its Community Infrastructure Levy (CIL) on 1 December 2015 and consequently the charges set out in the CIL Charging Schedule will be implemented for those areas that lie outside of the South Downs National Park from that date. Formally adopting the Wivelsfield Neighbourhood Plan will allow the Parish Council to benefit from a higher proportion of revenues arising from CIL 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 Wivelsfield Parish Council to spend on priority infrastructure required to support the development of the area.
- 5.2** 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**

- 6.1** The legislation governing Council's decision to adopt a Neighbourhood Plan proposal is contained within S. 38 Planning and Compulsory Purchase Act 2004 and Part 5 of the Neighbourhood Planning (General) Regulations 2012. As well as setting out the steps to be taken in connection with the earlier stages of the process, it also sets out what steps the local planning authority must take to publicise their decision on a proposal, and for publicising any neighbourhood development plan made by Full Council.

## **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** Once adopted, the Wivelsfield Neighbourhood Plan will become part of the development plan for Lewes District. The process of preparing plans and policies that form part of the district's development plan has been subject to a separate Equality Impact Analysis. This process has been followed where the District Council has been required to perform the duties and responsibilities required as part of the neighbourhood plan making process. No negative impacts were identified through this analysis and there is not considered to be a need to perform a further analysis that is specific to the adoption of the Wivelsfield Neighbourhood Plan.

## **Background Papers**

**9.1** Wivelsfield Examiner's Report

[http://www.lewes.gov.uk/Files/plan\\_Examination\\_Report\\_Wivelsfield\\_23.08.2016\\_FINAL.pdf](http://www.lewes.gov.uk/Files/plan_Examination_Report_Wivelsfield_23.08.2016_FINAL.pdf)

**9.2** Wivelsfield Decision Statements

[http://www.lewes.gov.uk/Files/plan\\_Wivelsfield\\_Neighbourhood\\_Plan\\_Decision\\_Statement\\_september\\_2016.pdf](http://www.lewes.gov.uk/Files/plan_Wivelsfield_Neighbourhood_Plan_Decision_Statement_september_2016.pdf)

**9.3** Wivelsfield Neighbourhood Planning Referendum – Declaration of Result of Poll

[http://www.lewes.gov.uk/Files/plan\\_WivelsfieldNPR\\_Declaration\\_of\\_Result\\_of\\_Poll.pdf](http://www.lewes.gov.uk/Files/plan_WivelsfieldNPR_Declaration_of_Result_of_Poll.pdf)

## **Appendices**

**10.1** Wivelsfield Neighbourhood Plan - Referendum Version

[http://www.lewes.gov.uk/Files/plan\\_Wivelsfield\\_Neighbourhood\\_Plan\\_Referendum\\_version.pdf](http://www.lewes.gov.uk/Files/plan_Wivelsfield_Neighbourhood_Plan_Referendum_version.pdf)