

**Agenda Item No:** 9.3 **Report No:** 97/16  
**Report Title:** Adoption 'Making' of the Hamsey Neighbourhood Plan  
**Report To:** Cabinet **Date:** 4 July 2016  
**Cabinet Member:** Cllr Tom Jones – Cabinet Member for Planning  
**Ward(s) Affected:** Hamsey  
**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. Hamsey 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 Hamsey 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 Hamsey Neighbourhood Plan is formally adopted as part of the statutory development plan for the district.
- 

**Reasons for Recommendations**

- 1 The Hamsey 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 (Part of Hamsey parish lies within the South Downs National Park<sup>1</sup>). 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 Hamsey Neighbourhood Plan**

- 3.1** Local authorities have a legal duty to advise and assist groups preparing neighbourhood plans. Part of Hamsey parish lies within the South Downs National Park. However the village of Cooksbridge lies entirely outside of the SDNP and so, in line with an agreed approach that Lewes District Council and the South Downs National Park Authority have in place for such cases<sup>2</sup>, Lewes District Council assumed the responsibility of the relevant planning authority for the Hamsey Neighbourhood Plan.
- 3.2** An application was received from Hamsey Parish Council to designate the entire parish as a neighbourhood area and subsequently the neighbourhood area was designated by the District Council in October 2012<sup>3</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 November 2014 and February

---

<sup>1</sup> The South Downs National Park Authority is preparing a Local Plan that covers the entire National Park. Once adopted, this local plan will replace the Lewes District Joint Core Strategy: Local Plan Part 1 in the areas within the National Park

<http://www.southdowns.gov.uk/planning-policy/national-park-local-plan/>

<sup>2</sup> <http://www.lewes.gov.uk/planning/19084.asp>

<sup>3</sup> [http://www.lewes.gov.uk/Files/plan\\_Hamsey\\_Decision\\_Notice.pdf](http://www.lewes.gov.uk/Files/plan_Hamsey_Decision_Notice.pdf)

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 September 2015. A further 6 week statutory consultation (Regulation 16) took place between September and November 2015 by the District Council where comments were invited on the submission documents.
- 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 Hamsey Neighbourhood Plan which took place between November 2015 and January 2016.
- 3.7** The examiner determined that the neighbourhood plan met the basic conditions<sup>4</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 January 2016 and published soon after (under Regulation 18).
- 3.8** The Hamsey 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 Hamsey Parish on Thursday 2 June 2016 posing the following question to eligible voters:
- “Do you want Lewes District Council and the South Downs National Park Authority to use the Neighbourhood Plan for Hamsey Parish to help it decide planning applications in the neighbourhood area?”**
- 3.10** 28% of registered electors recorded votes, 120 votes of which were cast in favour of 'yes' against 13 in favour of 'No'. It was declared that more than half of those voting had voted in favour of the Hamsey 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 (the South Downs National Park Authority will also formally adopt the neighbourhood plan).
- 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

---

<sup>4</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.

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 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 Hamsey 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 Hamsey 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 approximately £60,750 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 approximately £36,450. Therefore, at these expected rates, this would result in a transfer of an additional £24,300 of levy revenue from LDC to Hamsey 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**

6.1 The legal implications are contained within the body of this report

## **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 Hamsey 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 Hamsey Neighbourhood Plan.

## **Background Papers**

9.1 Hamsey Examiner's Report

[http://www.lewes.gov.uk/Files/plan\\_Hamsey\\_NP\\_Report\\_Final.pdf](http://www.lewes.gov.uk/Files/plan_Hamsey_NP_Report_Final.pdf)

9.2 Hamsey Decision Statement

[http://www.lewes.gov.uk/Files/plan\\_Hamsey\\_Decision\\_Statement.pdf](http://www.lewes.gov.uk/Files/plan_Hamsey_Decision_Statement.pdf)

9.3 Hamsey Neighbourhood Planning Referendum – Declaration of Result of Poll

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

## **Appendices**

10.1 Hamsey Neighbourhood Plan - Referendum Version

[http://www.lewes.gov.uk/Files/plan\\_5\\_Hamsey\\_Neighbourhood\\_Plan\\_Referendum\\_Version\\_reduced\\_size\\_version.pdf](http://www.lewes.gov.uk/Files/plan_5_Hamsey_Neighbourhood_Plan_Referendum_Version_reduced_size_version.pdf)