

Agenda Item No: 8.3
Report Title: Adoption ('making') of the Plumpton Neighbourhood Plan
Report To: Cabinet **Date:** 19 March 2018
Cabinet Member: Cllr Tom Jones – Cabinet Member for Planning
Ward(s) Affected: All, but with particular impact on:
Plumpton, Streat, East Chilmington & St John (Without) Ward
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Purpose of Report:

The Localism Act 2011 introduced a right for communities to draw up neighbourhood plans. Plumpton Parish Council, with support and advice from the District Council, has produced a neighbourhood plan which has subsequently undergone a successful examination and is due to go to referendum on Thursday 8th March 2018. This report considers whether the Plumpton 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 Plumpton Neighbourhood Plan is formally adopted as part of the statutory development plan for the district, subject to a majority 'yes' vote at referendum.
- 2** To recommend to Full Council that if the Plumpton Neighbourhood Plan does not receive a majority 'yes' vote at referendum, it is not formally adopted as part of the statutory development plan for the district

Reasons for Recommendations

- 1** The Plumpton Neighbourhood Plan has undergone a successful examination
- 2** To comply with the Localism Act and provisions of the Neighbourhood Planning (General) Regulations 2012 (as amended), which requires local planning authorities to 'make' a neighbourhood development plan within 8 weeks of the

day after a relevant successful referendum (unless otherwise agreed in writing with the Parish Council and South Downs National Park Authority).

Information

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- 3.1** 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 (within and outside the SDNP), with 12 plans at various stages of preparation – ranging from ‘made’ plans to those in the earliest stage of preparation.
- 3.2** 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 Plumpton Parish lies within the South Downs National Park¹). Planning applications submitted within an area covered by an adopted neighbourhood plan must be determined in accordance with both the neighbourhood plan and the Local Plan.
- 3.3** Part of Plumpton Parish lies within the South Downs National Park. However the village of Plumpton Green 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, Lewes District Council assumed the responsibility of the relevant planning authority for the Plumpton Neighbourhood Plan.
- 3.4** An application was received from Plumpton Parish Council to designate the entire parish as a neighbourhood area and subsequently the neighbourhood area was designated by Lewes District Council and the South Downs National Park Authority on 28th April 2014.
- 3.5** Once designated, the Parish Council identified 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.
- 3.6** The Parish Council carried out a statutory consultation (Regulation 14) on their draft plan between May and June 2016 and again on a revised plan and supporting documents between June and July 2017. A number

¹ 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/planning-policy/national-park-local-plan/>

of amendments were then made to the plan in order to respond to feedback received from the consultation.

- 3.7** The Parish Council submitted the revised plan (Regulation 15), along with other statutory submission documents, to Lewes District Council and the South Downs National Park Authority in September 2017. A further statutory consultation (Regulation 16) took place between October and November 2017 by the District Council where comments were invited on the submission documents.
- 3.8** Following the Regulation 16 consultation period, Lewes District Council and the South Downs National Park Authority (with the approval of Plumpton Parish Council) appointed a suitably qualified and experienced independent examiner to conduct the examination of the Plumpton Neighbourhood Plan which took place between December 2017 and January 2018.
- 3.9** 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 8.1) received in January 2018 and published by both authorities soon after (under Regulation 18).
- 3.10** The Plumpton Neighbourhood Plan was amended in line with the examiner's recommended modifications. Where this was not the case, the actions were taken to respond to the recommendations of the examiner are detailed in a Decision Statement (see paragraph 8.2) along with the modifications recommended by the examiner. This was published (Regulation 19), setting out the modifications made and confirmed that both authorities were satisfied that the plan met the basic conditions and could proceed to a referendum.
- 3.11** A referendum is due to be held in Plumpton Parish on Thursday 8th March 2018, 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 Plumpton Parish to help it decide planning applications in the neighbourhood area?”**
- 3.12** In accordance with the Neighbourhood Planning Regulations, following the outcome of the referendum it will be for Lewes District Council and the South Downs National Park Authority to 'make' the neighbourhood plan so that it formally becomes part of the development plan for Lewes District and the South Downs National Park.
- 3.13** Should the neighbourhood plan fail to secure a majority vote in favour of its adoption, the authorities are not obliged to 'make' it. It is a requirement that neighbourhood plans successful at referendum are

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.

made (unless the Local Planning Authorities consider that it breaches or is otherwise incompatible with any EU or human rights obligations).

Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended), states:

(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...

(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 rights (within the meaning of the Human Rights Act 1998).

3.14 For the avoidance of doubt and to make absolutely clear with respect to compliance with the Habitat Regulations (that transpose EU obligations into UK law), Lewes District Council is the competent authority in this respect and can only approve a plan or project if it is confident that there will be no likely significant adverse effects on the integrity of an EU protected site.

3.15 It is hereby confirmed unequivocally that the Plumpton Neighbourhood Plan has been determined not to have a likely significant adverse effect on any EU designated habitats, either within Lewes District or beyond, either alone or in combination with other plans or projects. This statement is made in light of the conclusions of a full and detailed, robust Habitat Regulations Assessment (HRA) that has been endorsed by the statutory consultee, Natural England. It is further clarified that the HRA was substantially updated following the 'Wealden Judgement' regarding the Joint Core Strategy and responds to all the criticisms outlined in that judgement and the endorsement from Natural England follows a full update of their own internal guidance on responding to the judgement. More information can be found on the Council's Habitat Regulations webpage at: www.lewes-eastbourne.gov.uk/planning-policy/habitats-regulations

Financial Appraisal

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4.1 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 Plumpton 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 Plumpton Parish Council to spend on priority infrastructure required to support the development of the area.

- 4.2** Although there will be a financial implication in 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

- 5** The legislation governing the 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.

Legal Implications Provided (Plumpton) 07.02.18 007103-LDC-JCS

Risk Management Implications

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- 6.1** I have completed a risk assessment. The following risks will arise if the recommendations are not implemented:
- (a)** If the Plumpton Neighbourhood Plan is successful at referendum (gaining a majority vote in favour of its adoption), the Council will be in breach of its statutory duty under the Town and County Planning Act 1990 if it does not bring it into force (i.e. 'make' it). As the legislation concerning the recommendation is quite explicit there is no way of mitigating this risk.
 - (b)** If the Plumpton Neighbourhood Plan fails at referendum, the Council would not be in breach of its duty not to 'make' it.
- 6.2** No new risks will arise if the recommendations are implemented

Equality Screening

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- 7.1 Once adopted, the Plumpton Neighbourhood Plan will become part of the development plan for Lewes District. An Equality and Fairness Analysis has been carried out.

Background Papers

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- 8.1 Plumpton Examiner's Report
<http://www.lewes-eastbourne.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=264677>
- 8.2 Plumpton Decision Statement
<http://www.lewes-eastbourne.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=264678>
- 8.3 Plumpton Neighbourhood Plan Equality and Fairness Analysis

Appendices

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- 9.1 Plumpton Neighbourhood Plan – Referendum Version
<http://www.lewes-eastbourne.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=264733>