

Agenda Item No: 8.4

Report Title: Adoption ('making') of the Ditchling, Streat & Westmeston 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 Chiltington & St John (Without) Ward
Ditchling & Westmeston Ward

Report By: Nazeya Hussain, Director of Regeneration and Planning

Contact Officer(s)-

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Purpose of Report:

The Localism Act 2011 introduced a right for communities to draw up neighbourhood plans. Ditchling, Streat and Westmeston Parish Councils, with support and advice from the District Council, have produced a neighbourhood plan which has subsequently undergone a successful examination and is due to go to referendum on Thursday 19th April 2018. This report considers whether the Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston 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
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Reasons for Recommendations

- 1** The Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston 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** A significant part of the neighbourhood area lies within the South Downs National Park, as does the largest settlement of Ditchling. In-line with an agreed approach that Lewes District Council and the South Downs National Park Authority have in place for such cases, the South Downs National Park Authority assumed the responsibility of the relevant planning authority for the Ditchling, Streat and Westmeston Neighbourhood Plan. However, it still falls within the remit of Lewes District Council to facilitate any related referendum.
- 3.4** An application was received from Ditchling, Streat and Westmeston Parish Council to designate the entire parish as a neighbourhood area and subsequently the neighbourhood area was designated by the South Downs National Park Authority on 16th January 2014 and by Lewes District Council on 28th January 2014.
- 3.5** Once designated, the Parish Councils 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 consultation with the local community, affected parties and statutory consultees.
- 3.6** The Parish Councils carried out a statutory consultation (Regulation 14) on their draft plan between March and April 2016 and again on a revised

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/>

plan and supporting documents between December 2016 and January 2017. A number of amendments were then made to the plan in order to respond to feedback received from the consultation.

- 3.7** The Parish Councils submitted the revised plan (Regulation 15), along with other statutory submission documents, to the South Downs National Park Authority and Lewes District Council in July 2017. A further statutory consultation (Regulation 16) took place between July and August 2017 by the South Downs National Park Authority where comments were invited on the submission documents.
- 3.8** Following the Regulation 16 consultation period the South Downs National Park Authority and Lewes District Council (with the approval of Ditchling, Streat and Westmeston Parish Councils) appointed a suitably qualified and experienced independent examiner to conduct the examination of the Ditchling, Streat and Westmeston Neighbourhood Plan which took place between October 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 Ditchling, Streat and Westmeston Neighbourhood Plan was amended in line with the examiner's recommended modifications and a Decision Statement (see paragraph 8.2) details 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 the parishes on Thursday 19th April 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 Ditchling, Streat and Westmeston Parishes 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 the South Downs National Park Authority and Lewes District Council to 'make' the neighbourhood plan so that it formally becomes part of the development plan for the South Downs National Park and Lewes District.
- 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

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.

requirement that neighbourhood plans successful at referendum are 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 Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston Parish Councils 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 Ditchling, Streat and Westmeston 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 (Ditchling) 07.02.18 007102-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 Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston 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 Ditchling, Streat and Westmeston Examiner's Report
<http://www.lewes-eastbourne.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=263456>
- 8.2 Ditchling, Streat and Westmeston Decision Statement
<http://www.lewes-eastbourne.gov.uk/planning-policy/neighbourhood-planning/>
- 8.3 Ditchling, Streat and Westmeston Equality and Fairness Analysis

Appendices

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- 9.1 Ditchling, Streat and Westmeston Neighbourhood Plan – Referendum Version
<http://www.lewes-eastbourne.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=265618>