

SEVENOAKS TOWN NEIGHBOURHOOD PLAN

Cabinet - 9 February 2023

Report of: Deputy Chief Executive, Chief Officer - Planning & Regulatory Services

Status: For Decision (Cabinet)

Key Decision: Yes

Executive Summary: This report provides an overview of the Sevenoaks Town Neighbourhood Plan (STNP) and recommends it proceeds to referendum.

This report supports the Key Aim of:

Protecting the Green Belt

Supporting and developing the local economy

Supporting the wellbeing of residents, businesses and visitors

Ensuring that Sevenoaks remains a great place to live, work and visit

Portfolio Holder: Cllr. Julia Thornton

Contact Officer: Hannah Gooden, Ext. 7178

Recommendation to Cabinet:

- a) That the independent examiner's Report at Appendix A be noted.
- b) That the STNP be modified, as set out in Appendix B, according to the examiner's recommendations, following discussion with STC, and be approved.
- c) That the Decision Statement at Appendix C and the decision to progress the STNP to referendum be approved.
- d) That a referendum will take place on 4 May 2023.
- e) That in the event the referendum result on the STNP is positive (more than 50% of the vote) the Council formally 'makes' (adopts) the STNP as set out in Appendix D, so that it has effect as part of the statutory Development Plan for the Neighbourhood Area. This will be passed to Full Council for adoption.

Reason for recommendation: To progress the Sevenoaks Town Neighbourhood Plan.

Introduction and Background

- 1 SDC is supporting a number of towns and parishes who are at various stages of developing neighbourhood plans. There are 13 ‘designated areas’, which is the first stage of producing a neighbourhood plan. The Sevenoaks Town Neighbourhood Plan, the focus of this report, is the most advanced, having recently been subject to examination.
- 2 For context, in Kent, there are just over 20 ‘made’ Neighbourhood Plans - Maidstone has 7, Tunbridge Wells and Ashford have 5 each, Dover has 2, Folkestone & Hythe, Thanet, Dartford and Swale have 1 each.
- 3 The ‘designated areas’ for neighbourhood plans in Sevenoaks District are: Sevenoaks town, Swanley, Edenbridge, Ash-cum-Ridley, Otford, Badgers Mount, Fawkham, Seal, Hextable, Halstead, Hartley Chevening and Shoreham

Overview

- 4 The Sevenoaks Town Neighbourhood Plan (STNP) has been successful at examination, with the independent examiner recommending that the STNP should proceed to referendum, subject to a number of recommended modifications.
- 5 The District Council, as the Local Planning Authority, is responsible for deciding what action to take in response to the examiner’s recommendations. This report sets out the recommendations and the proposed amendments to be made to the STNP, which have been made with the involvement of STC following receipt and consideration of the examiner’s report.
- 6 The examiner’s recommendations in respect of a neighbourhood plan (NP) are different to those made by inspectors when considering local plans. In the case of a NP instead of the requirement of meeting the test of ‘soundness’ a NP must meet a ‘Basic Conditions’ test, providing more scope for interpretation.
- 7 Neighbourhood plans, when finally approved (and then referred to as a ‘made’ neighbourhood plan), become part of the development plan for the area to which they geographically apply, which means that they are a key document in the determination of planning applications in that area.
- 8 The legal context for preparation of neighbourhood plans is provided by:
the Localism Act 2011
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5959/1896534.pdf,
the Neighbourhood Planning Regulations 2012 (as amended)
https://www.legislation.gov.uk/uksi/2012/637/pdfs/uksi_20120637_en.pdf,
and The Neighbourhood Planning Act 2017 (as amended)
<https://www.legislation.gov.uk/ukpga/2017/20/part/1/crossheading/neighbourhood-planning/enacted>.

- 9 Policies in neighbourhood plans need to be in general conformity with the strategic policies of the local plan, as well as having regard to the National Planning Policy Framework (NPPF) and any other relevant legislation.
- 10 The District Council has a statutory duty to assist communities during the preparation of NPs and to take these plans through a process of examination and referendum. SDC officers have worked closely and collaboratively with their STC counterparts for several years during the development of this Plan. This is the first NP within the District to reach examination.

The Sevenoaks Town Neighbourhood Plan - Background

- 11 The Sevenoaks Town Neighbourhood Plan sets out a Vision for the future of Sevenoaks Town and planning policies, which, once adopted, will be used to determine planning applications locally and will carry the same weight as Local Plan policies.
- 12 The Neighbourhood Plan includes the following documents:
 - A map identifying the area to which the proposed Neighbourhood Plan relates (the area was designated a Neighbourhood Area in October 2013)
 - Sevenoaks Town Neighbourhood Plan
 - Consultation Statement
 - Reg. 14 Consultation Comments and Responses
 - Basic Conditions Statement
 - Strategic Environmental Assessment - Environmental Report
 - Reg. 16 Consultation Comments and Responses
- 13 In accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended), Sevenoaks District Council publicised the Plan from 4th August to 22nd September 2022. SDC responded to this consultation (via Portfolio Holder Decision).

Examination

- 14 The Plan was submitted for examination on 23 September 2022. Sevenoaks District Council appointed David Hogger BA MSc MRTPI MCIHT at Intelligent Plans and Examinations (IPE) to examine the Plan.
- 15 The examiner was appointed to assess whether the STNP met certain statutory requirements for NPs, known as the 'Basic Conditions'. These state that NPs should:
 - have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies contained in the development plan for the area;
 - not breach, and is otherwise compatible with, EU obligations (including Human Rights Act); and
 - not breach requirements of the Conservation of Habitats and Species Regulations.

- 16 On 5 October 2022, the examiner provided a procedural letter, which included a list of questions in respect of the Sevenoaks Town Neighbourhood Plan. STC and SDC prepared a joint response which was submitted on 15 November 2022.
- 17 The examiner's report for the Sevenoaks Neighbourhood Plan was received on 21 December 2022:
https://www.sevenoaks.gov.uk/downloads/file/3659/report_on_sevenoaks_town_neighbourhood_development_plan_2020_to_2038
- 18 The examiner's report recommends that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements including the basic conditions test. The report sets out 17 proposed modifications to be incorporated into the Plan.
- 19 There are also a number of additional minor amendments to be incorporated into the Plan, which were raised by the examiner in the procedural letter and were agreed to by STC in the response letter dated 15 November 2022.
- 20 The table in Appendix B lists the modifications to the STNP. The majority of the recommended modifications relate to matters of clarity and precision and are designed to ensure that the Plan fully accords with national policy. They include differentiating between objectives, policies and aims, providing clarity on seeking Biodiversity Net Gain and adding a monitoring framework to monitor the effectiveness of policies.
- 21 The examiner also considered whether the referendum area should extend beyond the designated area to which the Plan relates and he concluded that it should not. Therefore the referendum area corresponds with the Sevenoaks Town Council administrative boundary.
- 22 The examination report also notes that '*it is clear to me that STC and SDC have worked closely in the preparation of the STNP*' and concludes:

It is evident that significant effort has been invested in the preparation of the STNP and the resultant document is well presented and clear. The identification of potential and allocated development sites and the identification of constraints and opportunities for those sites, will undoubtedly help in future decision making processes.

It is clear to me that the implementation of the policies in the STNP (as modified) will secure the realisation of the Town Council's Vision and that Sevenoaks will retain its attractive characteristics while at the same time ensuring that a sustainable future is achieved.

Referendum

- 23 The next stage is to arrange the referendum on the Neighbourhood Plan. This is a simple yes/no vote, where the plan is 'made' (approved) if more than 50% of voters support the Plan.
- 24 A person is entitled to vote if at the time of the referendum, they meet the eligibility criteria to vote in a local election for the area and if they live in the referendum area.

- 25 The referendum would pose the question, ‘Do you want Sevenoaks District Council to use the Sevenoaks Town Neighbourhood Plan to help it decide planning applications in the Sevenoaks Town neighbourhood area?’
- 26 An Information Statement must be published 28 working days prior to the referendum polling day. This is effectively the minimum period of time to prepare and run the referendum. The referendum must also be held within 56 working days of the date the Cabinet decision.
- 27 It is recommended that the referendum is held on **Thursday 4 May**, in tandem with the local elections. The referendum will also require Voter ID to be provided by people voting in polling stations as those requirements come in to effect from 4 May.
- 28 In terms of funding, the Council can claim £20,000 from central government when a decision statement (see section below) is issued, detailing the intention to send the plan to referendum (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012).
- 29 The Council is required to make a ‘Decision Statement’ available to outline what action it proposes to take in response to the recommendations of the examiner. The Neighbourhood Planning (General) Regulations 2012, Regulation 18 requires the local planning authority to outline what action to take in response to the recommendations of an examiner made in a report under paragraph 10 of Schedule 4a to the Town and Country Planning Act 1990 (as applied by Section 38A of the Planning and Compulsory Purchase Act 2004). This decision statement will be made available, outlining the decision and the reasons for it and details of the referendum.

Conclusion and next Steps

- 30 The recommended modifications are reflected in the amended final version of the STNP that will be subject to referendum, presented in Appendix D.
- 31 The Council must publish what action will be taken in response to the recommendations of an examiner, in the ‘Decision Statement’ which is presented in Appendix C.
- 32 Subject to the Cabinet decision on the recommendations in this report, the Council will arrange for a referendum to be held to ensure that the local community has the final say on whether the STNP comes into force or not.
- 33 The principal effect of this is that, once ‘made’ (or adopted) the STNP will become part of the statutory ‘development plan’ for the area after a positive referendum. The local planning authority (SDC) must formally make the neighbourhood plan within 8 weeks of the positive referendum outcome.
- 34 There are narrow circumstances where the local planning authority is not required to make the neighbourhood plan. These are where it considers that the making of the neighbourhood plan would breach, or otherwise be incompatible with, any EU or human rights obligations (see section 61E(8) of the Town and Country Planning Act 1990 Act as amended). Paragraph: 064
Reference ID: 41- 064-20170728

35 It is therefore requested that where the referendum result is positive, then the STNP can, post-referendum, go directly to be considered at Full Council.

Other options Considered and/or rejected

Note the examiner's report and the recommended amendments, but do not agree the Decision Statement and do not progress the STNP to referendum. As noted, the examiner's report is largely positive, and it is considered that the STNP should proceed to referendum.

Key Implications

Financial

The Council can claim £20,000 from central government when a decision statement is issued, detailing the intention to send the plan to referendum. This will largely cover the cost of holding the referendum.

Legal Implications and Risk Assessment Statement.

Accepting the recommendations in this report will fulfil the Council's duties under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, the Housing and Planning Act 2016, and the Neighbourhood Planning Act 2017. The recommendations also comply with the Neighbourhood Planning (General) Regulations 2012 as amended.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users. Furthermore, the Public Sector Equality Duty applies to town councils: Sevenoaks Town Council will be responsible for demonstrating due regard to this in the production of an NP.

Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment. Section 3.2 of the Basic Conditions Statement submitted with the STNP provides information to demonstrate how the Plan is in Conformity with Sustainable Development.

Appendices

Appendix A - STNP - Examiner's report

https://www.sevenoaks.gov.uk/downloads/file/3659/report_on_sevenoaks_town_neighbourhood_development_plan_2020_to_2038

Appendix B - Table of amendments to STNP (attached)

Appendix C - Draft Decision Statement (attached)

Appendix D - Draft Referendum Version of STNP (showing modifications)

Background Papers

All background documents are available on the STNP examination page:

https://www.sevenoaks.gov.uk/info/20069153/sevenoaks_town_neighbourhood_plan

Richard Morris

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