

# SWANLEY NEIGHBOURHOOD DEVELOPMENT PLAN

Full Council – 25 July 2024

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

**Status:** For Decision

**Key Decision:** No

**Executive Summary:** This report recommends that the Swanley Neighbourhood Development Plan (SNDP) is 'made' (adopted) following a favourable local referendum result and is used to help determine planning applications in the parish.

**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 District remains a great place to live, work and visit

**Portfolio Holder:** Cllr. Julia Thornton

**Contact Officer:** Vivienne Riddle, Ext. 7357

**Recommendation to Full Council:**

a) Following a favourable local Referendum result, the Swanley Neighbourhood Development Plan 2020-2040, incorporating the Examiner's modifications, as presented to local Referendum, be "made" (adopted) with immediate effect and form part of the Council's Development Plan, to help determine planning applications in the Neighbourhood Area.

b) The SNDP Decision Statement (post-referendum) shown at Appendix A be published.

**Reason for recommendation:** To 'make' (adopt) the Swanley Neighbourhood Development Plan.

## Introduction

1 The Swanley Neighbourhood Development Plan (SNDP) has been successful at examination, with the independent examiner recommending that the SNDP should proceed to referendum, subject to a number of recommended modifications.

2 The report presented to Cabinet on 18 April 2024 set out the independent examiner's recommendations, including the modifications. These and further minor modifications were made with the involvement of Swanley Town Council following consideration of the examiner's report. The following documents referred to in this report can be accessed via:

[https://www.sevenoaks.gov.uk/info/20069151/neighbourhood\\_planning/703/swanley\\_neighbourhood\\_plan](https://www.sevenoaks.gov.uk/info/20069151/neighbourhood_planning/703/swanley_neighbourhood_plan)

- The Examiner's Report
- (pre-referendum) Decision Statement
- Referendum version of the SNDP

3 Cabinet agreed to note the examiner's report dated 04 April 2024. It also resolved to approve: the recommended modifications, including any minor modifications to be agreed with Swanley Town Council; the (pre-referendum) Decision Statement and the decision to progress the SNDP to referendum. Noting that a referendum would take place on a date to be arranged.

4 Cabinet also noted that Full Council must formally 'make' (adopt) the SNDP within 8 weeks of a positive referendum result (more than 50%), so that it has effect as part of the statutory Development Plan for the Neighbourhood Area.

## Background

5 Swanley Town Council, as the Qualifying Body, applied for Swanley Parish to be designated a Neighbourhood Area under Part 2 of the Neighbourhood Planning (General) Regulations 2012. It was designated as a Neighbourhood Area in November 2014.

6 Following consultation on a draft (pre-submission) Plan, the SNDP was submitted to the District Council and in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, Sevenoaks District Council publicised the Plan from 30 November 2023 to 11 January 2024.

7 The Plan was subsequently submitted for examination at the end of January 2024, being received by the independent examiner on 30 January 2024. Sevenoaks District Council appointed David Hogger BA MSc MRTPI MCIHT at Intelligent Plans and Examinations (IPE) to examine the Plan. He issued his final report on 04 April 2024, concluding that the SNDP, subject to certain modifications proposed in his report, did meet the basic conditions as set out in legislation and is compatible with Schedule 4B of the Town and Country Planning Act 1990 and could therefore proceed to local referendum.

- 8 On 18 April 2024, Cabinet resolved that the Neighbourhood Plan (as amended in line with the Examiner's proposed modifications) should proceed to local Referendum. This decision was published on the SDC website. The 'referendum area' was determined to be the Swanley Town Council administrative boundary, to ensure the community had the final say on whether the neighbourhood plan comes into force or not.

### The Referendum

- 9 A referendum was held on 04 July 2024 in tandem with the general election. The referendum question was 'Do you want Sevenoaks District Council to use the Neighbourhood Plan for Swanley to help it decide planning applications in the Neighbourhood Area?' The designated neighbourhood area followed that of the Swanley Town Council parish boundary.

- 10 The results of the referendum were:

Yes = 5436 (80.8%)

No = 1137 (16.9%)

Void/Rejected = 157 (2.3%)

Electorate: 12954

Ballot Papers Issued: 6730

Turnout: 51.95%

- 11 The outcome of the referendum for the SNDP is a positive one, endorsing the use of the SNDP when deciding planning applications within the Swanley Town Council parish boundary.
- 12 Planning Practice Guidance (PPG) sets out that if the majority of those who vote in a referendum are in favour of the draft neighbourhood plan, then the neighbourhood plan must be 'made' (adopted) by the local planning authority within 8 weeks of the referendum. A neighbourhood plan comes into force as part of the statutory development plan once it has been approved at referendum (that is, more than 50% of the votes cast being in favour of the draft neighbourhood plan). <https://www.gov.uk/guidance/neighbourhood-planning--2#the-neighbourhood-planning-referendum>
- 13 It is the case that in these circumstances the neighbourhood plan must be made by the local planning authority (that is the neighbourhood plan is adopted). 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 1.13

- 14 It is concluded that the Plan, including its preparation, does not breach and would not otherwise be incompatible with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). This includes compliance with the basic condition regarding compliance with the Habitat Regulations.
- 15 The Cabinet decision of 18 April 2024 included resolution e, which was to note that Full Council must formally 'make' the Swanley Neighbourhood Plan within 8 weeks of a positive referendum result (more than 50%).

### **Conclusion**

- 16 Paragraph 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 requires the Council to 'make' a Neighbourhood Plan if more than half of those voting in a referendum have voted in favour of the Plan being used to help to decide planning applications in the area. This needs to be achieved within eight weeks of the referendum result.
- 17 The Council has also assessed and concluded that the Plan, including its preparation, does not breach and would not otherwise be incompatible with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). This includes compliance with the basic condition regarding compliance with the Habitat Regulations.
- 18 Therefore, it is proposed that Full Council be recommended to formally 'make' the SNDP with immediate effect, as per the recommendations in this report.
- 19 The principal effect of this is that the SNDP is now part of the statutory 'development plan' for the area (Swanley Town Council Parish boundary) after a positive referendum pursuant to s38 (3A) of the Planning and Compulsory Purchase Act 2004. This means it is now a material consideration in the determination of planning applications in the Swanley Town Council Parish area.
- 20 The post-referendum decision to make the SNDP will need to be publicised and notified to those who had asked to be advised (see Appendix A).

### **Other options Considered and/or rejected**

Note the referendum result, but do not agree the Decision Statement to 'make' (adopt) the SNDP. As noted, 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. This is not the case and therefore it is considered that the SNDP should be made (adopted).

## **Key Implications**

### Financial

The Council has claimed £20,000 from central government (available when a pre-referendum decision statement is issued), largely to 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: Swanley Town Council is responsible for demonstrating due regard to this throughout the production of the Neighbourhood Development Plan.

### Climate Change Implications

The decisions recommended through this paper have a remote or low relevance to our climate change ambition. 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. The Basic Conditions Statement submitted with the SNDP provides information to demonstrate how the Plan is in Conformity with Sustainable Development.

#### **Appendices**

Appendix A - SNDP Decision Statement (post-referendum)

#### **Background Papers**

All background documents are available on the Swanley Neighbourhood Plan webpage:

[https://www.sevenoaks.gov.uk/info/20069151/neighbourhood\\_planning/703/swanley\\_neighbourhood\\_plan](https://www.sevenoaks.gov.uk/info/20069151/neighbourhood_planning/703/swanley_neighbourhood_plan)

**Richard Morris - Deputy Chief Executive and Chief Officer - Planning and Regulatory Services**