

FAWKHAM NEIGHBOURHOOD PLAN - DECISION STATEMENT & NEXT STEPS

Development and Conservation Advisory Committee (5 December 2024)

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

Status: For Consideration

Also considered by:

- Cabinet – 12 December 2024

Key Decision: Yes

This report sets out the direction of travel regarding the Fawkham Neighbourhood Plan (FNP), which is currently undergoing Examination. The Examiner's final report was received by Sevenoaks District Council (SDC) and Fawkham Parish Council (FPC) on Thursday 24 October 2024. The report recommends that the FNP proceeds to referendum, subject to a number of main modifications.

Subject to recommendation by DCAC and approval by Cabinet, the next steps will be for the FNP to progress to referendum and, where the referendum outcome is positive, the FNP being 'made' as part of the Development Management Plan, by Full Council.

Portfolio Holder: Cllr. Julia Thornton

Contact Officer: Emma Coffin, Ext. 7315

Recommendation to Development and Conservation Advisory Committee:

- (a) That the Examiners Final Report on the Fawkham Neighbourhood Plan at Appendix A be noted.
- (b) That the draft Decision Statement at Appendix D, and proposal to progress to Referendum, be considered.

Recommendation to Cabinet:

- (a) That the independent examiners report at Appendix A is noted.
- (b) That the modified Fawkham Neighbourhood Plan, according to the Examiner's recommendations as well as any minor proposed modifications agreed with Fawkham Parish Council, be approved.
- (c) That the Decision Statement at Appendix D and the decision to progress the Fawkham Neighbourhood Plan to referendum be approved.
- (d) That the referendum takes place on a date to be arranged.

- (e) That, in the event the referendum result on the Fawkham Neighbourhood Plan is positive (more than 50% of the vote), the Council formally 'makes' (adopts) the final referendum version of the Fawkham Neighbourhood Plan, so that it has effect as part of the statutory Development Plan for the Fawkham Neighbourhood Area. This will be passed to Full Council.

Reason for recommendation: To progress the Fawkham Neighbourhood Plan.

Introduction and Background

- 1 The Fawkham Neighbourhood Plan originally commenced with the designation of the neighbourhood area in May 2021. The neighbourhood area comprises the whole of the parish area covered by Fawkham Parish Council (FPC) (the qualifying body).
- 2 Following engagement with local residents and businesses, FPC proceeded to the pre-submission consultation and publicity stage, as required under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as amended). This was undertaken between 3rd July 2023 and 15th August 2023. The Neighbourhood Plan was then submitted to SDC, under Regulation 15.
- 3 The Fawkham Neighbourhood Plan was submitted to SDC on 10 April 2024 by Fawkham Parish Council. Regulation 15 of the Regulations sets out what this must include, and the submission has been checked against these, and other, legal requirements. It has been concluded that the submission of Fawkham Neighbourhood Plan meets these requirements. The submitted documents comprise the following:
 - Fawkham Neighbourhood Plan 2023-2040 (Regulation 15 Version) including a map of the Neighbourhood Planning Area
 - Basic Conditions Statement (April 2024)
 - Consultation Statement
 - SEA Screening Assessment (June 2023)
 - Various supporting evidence base documents
- 4 In accordance with the above Regulations, SDC publicised the neighbourhood plan, under Regulation 16, over a 6 week period. This took place between Friday 7 June and Friday 19 July 2024. SDC formally responded to this consultation, with agreement from Members via the Committee and Cabinet process July.

The Fawkham Neighbourhood Plan

- 5 The Fawkham Neighbourhood Plan covers the Plan period 2023-2040 and sets out policies for the development and use of land within Fawkham Neighbourhood Area, which aligns with the parish boundary.

6 The Vision of the Fawkham Neighbourhood Plan reads:

Our vision is for Fawkham Parish to retain and enhance the distinctive rural character of the landscape (particularly its woodland, biodiversity and views), the separate, small scale scattered hamlet of Fawkham and the historic Baldwins Green Conservation Area and its setting whilst meeting the limited local housing need, sustaining the local economy and retaining and enhancing the open space and community facilities of the Parish.

7 The Neighbourhood Plan then sets out a range of objectives and policies to meet this vision, set around 5 key themes, which are set out below:

- Natural and Built Environment (8 policies)
- Housing
- Local Economy (1 policy)
- Leisure and Wellbeing (4 policies)
- Local Infrastructure (2 policies)

Examination

8 Following the consultation, the Fawkham Neighbourhood Plan was sent for examination by Derek Stebbing BA (Hons) DipEP MRTPI of Intelligent Plans and Examinations Ltd, whose appointment was mutually agreed with Fawkham Parish Council. It was received by IPE Ltd on 22 July 2024.

9 The role of the independent examiner is to assess whether the neighbourhood plan (NP) meets certain statutory requirements, 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);
- meet prescribed conditions and comply with prescribed matters; and
- not breach requirements of the Conservation of Habitats and Species Regulations.

10 On 30 July 2024, the Examiner sent a letter outlining procedural matters and a list of questions for SDC and FPC to respond to by 30 August 2024, with one question for SDC and the remainder for FPC to respond to. The letter, questions and responses are all available to view on our website.

11 On Thursday 10th October 2024, the Examiner sent SDC and FPC a 'fact-check' report. The Examiner requested responses to the 'fact-check' report by Thursday 24th October and this timescale was met by both SDC and FPC.

- 12 The independent examiner’s final report was received by SDC and FPC on Thursday 24 October 2024 and recommends that the Fawkham Neighbourhood Plan proceed to referendum on the basis that it has met all the relevant legal requirements including the basic conditions test, subject to 16 recommended modifications. These modifications can be summarised as follows:
- Minor text replacements and amendments such as replacing ‘permitted’ with ‘supported’, and correctly referencing ‘Biodiversity Net Gain’.
 - Updating a number of policies to incorporate specific wording amendments, based on FPCs response to the Examiners Initial Matters and Questions, in August 2024.
 - Provision of replacement policy text for Policy FNP6 – Surface Water Flooding.
 - Provision of text amendments in other policies relating to heritage, business development, public rights of way and infrastructure.
 - The removal of Policy FNP15 regarding car parking at Small Grains, including removal of the related map and text, and associated updates to Appendix 4 for clarification. This approach aligns with representations from SDC.
- 13 The report also sets out that “amendments to the text can be made consequential to the recommended modifications, alongside any other minor non-material changes”.
- 14 We now need to consider the report and reach our own view on it. We will also need to be mindful of the regulatory timescales in the Neighbourhood Planning process. Namely, SDC must issue a Decision Statement with our proposed action within 5 weeks of receipt of the report, starting the day after receipt of the report, unless a different date has been agreed with the qualifying body.
- 15 This decision statement will be considered at Cabinet on 12 December, representing 7 weeks since receipt of the report, and this extension to the regulatory timescales has been formally agreed with Fawkham Parish Council, as the qualifying body.
- 16 Based on the examiner’s recommendations in the final report, it is recommended that the Fawkham Neighbourhood Plan proceed to the next stage.

Referendum

- 17 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.
- 18 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.
- 19 The referendum would pose the question: "Do you want Sevenoaks District Council to use the Fawkham Neighbourhood Plan to help it decide planning applications in the Fawkham neighbourhood area?"
- 20 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 of the Cabinet decision.
- 21 Referendum dates are being explored and it is likely that we can proceed to referendum in late January/early February 2025. As is now required, the referendum will require Voter ID to be provided by people voting in polling stations.
- 22 In terms of funding, the Council can claim £20,000 from central government when a decision statement is issued, detailing the intention to send the plan to referendum (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012).
- 23 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).
- 24 This decision statement will be made publicly available, outlining the decision and the reasons for it and details of the referendum. The draft Decision Statement for approval is included at Appendix D.

Next steps

- 25 The examiner's recommended modifications are reflected in the proposed Referendum version of the FNP presented in Appendix B.
- 26 The Council must publish what action will be taken in response to the recommendations of an examiner, in the 'decision statement', a draft version of which is presented in Appendix D but which currently doesn't include a referendum date.

- 27 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 final referendum version of the FNP comes into force or not.
- 28 The principal effect of this is that, once ‘made’ (or adopted) the FNP 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.
- 29 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 (as amended)). Paragraph: 064 Reference ID: 41-064-20170728
- 30 It is therefore requested that where the referendum result is positive, then the FNP can, post-referendum, go directly to be considered at Full Council.

Other options Considered and/or rejected

- 31 To note the Examiners Report, but not agree the Decision Statement to proceed to Referendum. As noted, there are narrow circumstances where the local planning authority is not required to make a 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 FNP should proceed to referendum.

Key Implications

Resource (non-financial)

Resource implications relate primarily to officer time associated with working on the neighbourhood plan.

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: Fawkham Parish Council will be responsible for demonstrating due regard to this in the production of an NP.

Climate Change Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition with respect to climate change. 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.

Conclusions

The way forward will be based on the Examiner's final report and recommendations and whether we wish to proceed in accordance with those recommendations. We could choose not to issue a Decision Statement and not progress the SNP to referendum but there is nothing to support such an approach. As such, provided the Examiner's recommendations in his final report remain unchanged, officers are likely to recommend that the SNP proceeds to referendum.

Appendices

Appendix A – Examiners Final Report on the Fawkham Neighbourhood Plan

Appendix B – Fawkham Neighbourhood Plan – Referendum Version

Appendix C – Fawkham Neighbourhood Plan – Schedule of Amendments

Appendix D – Draft Decision Statement

Background Papers

All background documents are available on the Fawkham Neighbourhood Plan webpage.

www.sevenoaks.gov.uk/fawkhamnp.

Richard Morris

Deputy Chief Executive and Chief Officer - Planning and Regulatory Services