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| Report to | - | Cabinet |
| Date | - | 9 April 2018 |
| Report of the | - | Executive Director of Business Operations |
| Subject | - | Sedlescombe Neighbourhood Plan 2016-2028 |

Recommendation to COUNCIL: That the Sedlescombe Neighbourhood Development Plan 2016 - 2028 incorporating the Examiner's modifications, as presented to local Referendum, be 'made' with immediate effect and form part of the Council's Development Plan.

Service Manager: Tim Hickling
Lead Cabinet Member: Councillor G Johnson

Introduction

1. Following an affirmative local Referendum result in relation to the use of the Sedlescombe Neighbourhood Plan to help in the determination of planning applications in the Parish Neighbourhood Area, this report recommends that it be formally 'made' (adopted) and become part of the statutory Development Plan for the area.

Background

2. Sedlescombe Parish Council, as the qualifying body, applied for Sedlescombe Parish to be designated a Neighbourhood Area under Part 2 of the Neighbourhood Planning (General) Regulations 2012. The area was designated in July 2013.
3. Following withdrawal of an earlier Plan, the current Sedlescombe Neighbourhood Plan was submitted to the District Council in September 2016. The Plan and its supporting documents were publicised and representations invited. The period of formal consultation ran from 28 November 2016 to 23 January 2017. Independent examination followed and the Examiner, Mr Edward Cousins, published his report in November 2017, concluding that the Plan, subject to certain modifications proposed in his report, did meet 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.
4. On 18 December 2017, the District Council resolved that the Neighbourhood Plan – Submission Plan (as amended in line with the Examiner's proposed modifications) should proceed to local Referendum. This decision and a changed version of the Plan was published on the Council's website. The 'referendum area' was decided to be Sedlescombe Parish.

Referendum

5. A Referendum was held on 15 March 2018. The referendum question was

‘Do you want Rother District Council to use the Neighbourhood Plan for Sedlescombe to help it decide planning applications in the Neighbourhood Area?’

6. The results of the referendum were:

Yes = 476 (86.2%)

No = 76 (13.8%)

Number of Votes = 552

Turnout = 46.04%

Conclusion

7. 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 8 weeks of the referendum result.
8. 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 has included a further Habitats Regulations screening.
9. Therefore, it is proposed that full Council be recommended to formally ‘make’ the Sedlescombe Neighbourhood Plan with immediate effect. This will bring it into legal force. As there is not a full Council meeting within 8 weeks of the referendum date an extra-ordinary meeting of full Council will be called to take place on Monday 23 April 2018.
10. The principal effect of this is that it will become part of the statutory ‘development plan’ for the area. Hence, planning applications within Sedlescombe Parish will be determined against the Neighbourhood Plan, alongside relevant Local Plan policies, also having regard to the National Planning Policy Framework.
11. A specific consequence to draw attention to is the fact that the development boundary for Sedlescombe as defined in the 2006 Rother District Local Plan will be superseded by that in the Neighbourhood Plan.
12. The decision to make the Neighbourhood Plan will need to be publicised and notified to those who had asked to be advised. A statement setting out how environmental considerations have been integrated into the Plan also needs to be published and consultees informed.

Other matters

13. It will be apparent that, in this instance, the time limits set out in regulations for holding a Neighbourhood Plan referendum and for making the final decision on it have not dovetailed with the Committee/Council timetable of meetings. It has necessitated holding a special full Council meeting.
14. Approving or adopting the policy framework of the Council is a function of full Council and not one that can be lawfully delegated. The Council's Development Plan forms part of the policy framework. Therefore there is no scope to delegate the "making" of an approved Neighbourhood Plan to Cabinet. It is therefore possible that there will be a future need to call additional meetings of full Council on occasions when the scheduled timetable of meetings will not meet the prescribed 8 weeks.

Dr Anthony Leonard
Executive Director of Business Operations

Risk Assessment Statement

The making of a Neighbourhood Plan is a requirement, with very limited exemptions, once it has been supported by a local referendum. The Council needs to be satisfied that all the 'basic conditions' are met and that the Plan has been properly prepared.

There is an opportunity for legal challenge in the event of perceived failures in these respects, but the Council and the independent Examiner, as well as the Parish Council, has been careful to ensure due process has been followed.

There is a need to carefully programme the dates for the decision on the Examiner's Report, the referendum and the full Council's confirmation of making the NP to avoid a situation of needing a special Full Council again, although this may not always be possible.