

Report to	-	Cabinet
Date	-	2 July 2018
Report of the	-	Executive Director
Subject	-	Salehurst and Robertsbridge Neighbourhood Development Plan 2016-2028

Recommendation to COUNCIL: That the Salehurst and Robertsbridge 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.

Head of Service: Tim Hickling
Lead Cabinet Member: Councillor G.P. Johnson

Introduction

1. Following an affirmative local Referendum result in relation to the use of the Salehurst and Robertsbridge Neighbourhood Plan (SRNP) 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. The SRNP is available to view online at the Rother District Council website ([under Planning Policy - Neighbourhood Plans](#)).

Background

2. Salehurst and Robertsbridge Parish Council, as the qualifying body, applied for Salehurst and Robertsbridge Parish to be designated a Neighbourhood Area under Part 2 of the Neighbourhood Planning (General) Regulations 2012. The area was designated in April 2015.
3. Following consultation on a draft (pre-submission) Plan, the Salehurst and Robertsbridge Neighbourhood Plan was submitted to the District Council in December 2016. The Plan and its supporting documents were publicised and representations invited. The period of formal consultation ran from 10 February to 24 March 2017. Independent Examination followed. The appointed Examiner, Mr John Slater, undertook a hearing, on September 27 2017 to explore issues, notably surrounding the allocation of the Mill; flooding mitigation of the Mill site; the robustness of the Strategic Environmental Assessment (SEA) and site assessments; Local Green Spaces; and the allocation of and access to the Vicarage Land.
4. At the hearing, access to the Mill Site was the main issue. Due to the site being within a Flood Zone, the Examiner was concerned about access to the site in times of a major flooding event. At the time of the hearing no mitigation was in place to ensure safe access and escape from the site in such an event. Developers for the site mooted an emergency access from the A21, which the

Examiner indicated was necessary and gave the developers two months to provide requisite certainty of this access for emergency vehicles in perpetuity to inform the report. This timescale was met by the developer.

5. The Examiner also expressed reservations with aspects of the SEA, in particular the regard to the sequential test requirements of the National Planning Policy Framework (NPPF) and the relative scoring of alternative sites. He similarly gave the Parish Council the opportunity to produce a revised version, which it did in October 2017. The Examiner then undertook a focused consultation on this revised SEA, which ran from 1 November to 28 November 2017.
6. Having assessed the outcomes of the Examination hearing and revised version of the SEA, Mr Slater concluded as follows: *"I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made."*
7. On 9 April 2018 a report to Cabinet outlined in detail the changes as required by the Examiner and confirmed that the amendments to the Salehurst and Robertsbridge Neighbourhood Plan had been agreed to by the Salehurst and Robertsbridge Parish Council.
8. Consequently on 18 April 2018, under the Executive Director's delegated authority, 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 Salehurst and Robertsbridge Parish as recommended by the Examiner.

Referendum

9. A Referendum was held on 31 May 2018. The referendum question was:
'Do you want Rother District Council to use the Neighbourhood Plan for Salehurst and Robertsbridge to help it decide planning applications in the Neighbourhood Area?'
10. The results of the referendum were:

Yes	760 (90.26%)
No	81 (9.61%)
Unmarked or void	1 (0.13%)
Number of Votes	842
Turnout	40.74%

Conclusion

11. 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.

12. 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. It is also noted that there have been changes to the presentation and areas of what were Biodiversity Action Plan (BAP) habitats, which are now set out by Natural England in the 'Priority Habitat Inventory'. These changes, which do not materially bear upon the application of policies in the Plan, are reflected in an updated/corrected Map 7. Of course, such information, while correct at the time of publication, may be subject to subsequent changes which would need to be reflected in planning decisions.
13. Therefore, it is proposed that full Council be recommended to formally 'make' the "Adoption version" of the Salehurst and Robertsbridge Neighbourhood Plan, as contained on the website, with immediate effect. This will bring it into legal force. The next Full Council meeting will take place on Monday 9 July 2018.
14. The principal effect of this is that it will become part of the statutory 'development plan' for the area. Hence, planning applications within Salehurst and Robertsbridge Parish will be determined against the Neighbourhood Plan, alongside relevant Local Plan policies, also having regard to the National Planning Policy Framework.
15. Attention is drawn to the fact that the development boundary for Salehurst and Robertsbridge, as well as the site allocations at Robertsbridge, as contained in the SRNP will supersede the development boundary and related site allocations in the 2006 Rother District Local Plan.
16. 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.

Dr Anthony Leonard
Executive Director

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.