

Rother District Council

Report to:	Cabinet
Date:	27 June 2022
Title:	Burwash Neighbourhood Development Plan 2019-2028
Report of:	Ben Hook, Director of Place and Climate Change
Cabinet Member:	Councillor Jonathan Vine-Hall
Ward(s):	Burwash and the Weald
Purpose of Report:	To confirm the result of the recent Neighbourhood Plan Referendum for the parish of Burwash.
Decision Type:	Non-Key
Officer	
Recommendation(s):	Recommendation to COUNCIL: That the Burwash Neighbourhood Development Plan 2020 - 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.
Reasons for Recommendations:	To enable Rother District Council to "make" the Plan so that it will become part of the statutory Development Plan for the area.

Introduction

1. Following a successful local Referendum result in relation to the use of the Burwash Neighbourhood Development Plan (BNDP) 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. Burwash Parish Council, as the Qualifying Body (QB), applied for Burwash Parish to be designated a Neighbourhood Area under Part 2 of the Neighbourhood Planning (General) Regulations 2012. The area was designated on 7 June 2016.
3. Following consultation on a draft (pre-submission) Plan, the BNDP was submitted to the District Council in August 2020. The BNDP and its supporting documents were publicised and representations invited. The period of formal consultation ran from 11 September – 6 November 2020. An independent examination followed and the Examiner, Mr Andrew Ashcroft, published his report in May 2021, concluding that that the BNDP, subject to certain modifications proposed in his report, meets the basic conditions as set

out in legislation, is compatible with Schedule 4B of the Town and Country Planning Act 1990 and could therefore proceed to local referendum.

4. On 9 July 2021, the District Council resolved that the Neighbourhood Development Plan – Submission Version (as amended in line with the Examiner’s proposed modifications) should proceed to local Referendum. This decision and a revised version of the BNDP, agreed by Burwash Parish Council, was published on Rother District Council’s website. The ‘referendum area’ was determined to be Burwash Parish, as recommended by the Examiner.
5. There has been a hiatus in the progress of the BNDP as the Council’s decision to go to Referendum was challenged in an application for a Judicial Review. The claim was reviewed by the High Court in January and February of this year and finally dismissed by Mrs Justice Lang on 9 March, allowing arrangements for the Referendum to continue.

Referendum

6. A Referendum was held on 16 June 2022. The referendum question was:

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

7. The results of the referendum were:

Yes = 755
No = 28
Unmarked or Void = 2

Number of Votes = 785
Turnout = 35%

Conclusion

8. 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.
9. 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 most recent basic condition regarding compliance with the Habitat Regulations.
10. Therefore, it is proposed that Full Council be recommended to formally ‘make’ the BNDP with immediate effect. This will bring it into legal force. A meeting of Full Council is scheduled for Monday 4 July and this matter will be dealt with at that meeting.
11. The principal effect of this is that it will become part of the statutory ‘development plan’ for the area. Hence, planning applications within Burwash

Parish will be determined against the BNDP, alongside relevant Local Plan policies, also having regard to the National Planning Policy Framework.

12. The decision to make the BNDP will be publicised and notified to those who had asked to be advised.

Environmental Implications

13. In accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 Regulation 16 (1), a statement setting out how environmental considerations have been integrated into the Plan needs to be published alongside the BNDP and consultees informed. This statement will explain that a Strategic Environmental Assessment was prepared by Burwash Parish Council as the Neighbourhood Plan progressed, informed by the Sustainability Appraisal of Rother District Council's Core Strategy and detailed evidence base documents. The Sustainability Environmental Assessment for the BNDP will also be adopted and will form part of the Local Development Plan for RDC.

Financial Implications

14. There are no financial implications for the proposals within this report.

Legal Implications

15. Compliance with relevant NDP legislation is detailed within the report.
16. 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 Town Council, has been careful to ensure due process has been followed.

Human Resources Implications

17. There are no Human Resource implications for the proposals within this report.

Risk Management

18. The making of a Neighbourhood Development 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.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	External Consultation	No
Environmental	Yes	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	None

Relevant Previous Minutes:	None
Background Papers:	None
Reference Documents:	None
