

TITLE	Shinfield Parish Neighbourhood Plan
FOR CONSIDERATION BY	The Executive on 26 January 2017
WARD	Shinfield South and Shinfield North
DIRECTOR	Josie Wragg, Interim Director of Environment
LEAD MEMBER	Mark Ashwell, Executive Member for Planning and Regeneration

OUTCOME / BENEFITS TO THE COMMUNITY

That the community's wishes as expressed in the Shinfield Parish Neighbourhood Plan become a key consideration in the determination of planning applications alongside planning policies set out in the council's adopted Core Strategy, Managing Development Delivery, and other Development Plan documents.

RECOMMENDATION

It is recommended that the following are agreed by the Executive:

- 1) that the Shinfield Parish Neighbourhood Plan be "made" (brought into legal force) to form part of the statutory Wokingham Borough Development Plan pursuant to Section 38A(4) of The Planning and Compulsory Purchase Act 2004; and
- 2) That the form, content and publication of the Decision Statement (set out in supporting document (Appendix A) pursuant to Regulation 19 of The Neighbourhood Planning (General) Regulations 2012 (as amended) ("the Regulations") is agreed to give effect to the above recommendation.

SUMMARY OF REPORT

A referendum on the Shinfield Parish Neighbourhood Plan was held on 8 December 2016. Of those who voted, 87% voted yes to the question of whether they wished the plan to be used to help determine planning applications within the Shinfield Parish area.

Under the Schedule 38A(4) of the Planning and Compulsory Purchase Act 2004 ("the PCPA"), the council is required to make a Neighbourhood Development Plan and bring it into legal force if more than half of those voting have voted in favour of making the Plan at referendum.

The regulations governing neighbourhood plan procedures requires this to be done within 8 weeks of the referendum, unless it believes this would breach, or otherwise be incompatible with, any EU obligation or any of the Convention rights. A statement setting out the decision and details of where and when the decision statement may be inspected is also required.

Communities with a made neighbourhood plan are able to claim 25% of receipts from the Community Infrastructure Levy (communities without a neighbourhood plan can claim up to 15%). This reduces receipts managed by the Council.

Background

The Shinfield Parish Neighbourhood Plan (the Plan) contains a range of policies designed to guide development within Shinfield Parish. The Plan contains background information and policies on housing, transport and access, the natural environment, community and recreation, and business and commercial development.

Previous Stages

The council has worked proactively and positively with the Parish to get to this point. It is considered that the Plan is in general conformity with the strategic policies in the council's Core Strategy, Managing Development Delivery and other Development Plan documents, and that the Plan has regard to national policies. The main stages that have been undertaken in the preparation of the Plan are set out in the table below:

Stage of the Plan	Date
Designation as Neighbourhood Area	22 November 2012
Consultation on pre-submission draft Plan	July – September 2015
Consultation on Submission Plan	4 April – 16 May 2016
Appointment of an Independent Examiner	19 May 2016
Examiner's Report Received recommending the Plan progress to Referendum	1 July 2016
Referendum	8 December 2016

Referendum arrangements

In accordance with paragraph 14(2) of Schedule 4B of the Town and Country Planning Act the Council duly made arrangements to hold a referendum on the making of the Plan on Thursday 8th December 2016. The referendum was held on the Plan which incorporated the agreed modifications set out in the schedule of the Post Examination Decision Statement.

A person was entitled to vote in the referendum if on the prescribed date of the referendum

- a) the person was entitled to vote in an election of any councillors of a relevant council any of whose area was in the referendum area, and
- b) the person's qualifying address for the election was in the referendum area.

The referendum area was the designated Shinfield Parish Neighbourhood Area.

Referendum results

The following question was asked to those entitled to vote in the referendum: "Do you want Wokingham Borough Council to use the Neighbourhood Plan for Shinfield Parish to help it decide planning applications in the neighbourhood area?"

At the referendum a total of 1108 ballots were cast. Of these:

- the number of votes in favour of a 'yes' was 967
- the number of votes in favour of a 'no' was 140
- 1 ballot was rejected, deemed 'want of an official mark'
- the turnout was 15 per cent of the registered electors.

The official result sheet is set out in Appendix B.

More than half of those that voted were in favour of the council using the Plan to help it decide planning applications.

Next Steps

As a result of the referendum outcome the Council is under a legal duty to 'make' the Plan (bring it into force). This needs to be done by 3 February 2017 (being 8 weeks after the referendum date).

As part of this process the Regulations also require the council to publish a statement setting out the decision, the reasons for making that decision, and details of where and when the decision statement may be inspected. This Decision Statement is appended to this report in Appendix B, and sets out that the council does not consider that the making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights. The decision made by Executive is subject to a 5 working day call-in period. As a result the Neighbourhood Plan will come into legal force on 3rd February 2016 and this is the date specified in the draft Decision Statement.

Once the Plan has been brought into legal force, the Regulations require the Council to publish the Plan and details of where and when it may be inspected. This must be on the council's website and advertised so that it is brought to the attention of people who live, work or carry on business in the Shinfield Parish Neighbourhood Area. A hard copy of the Plan will therefore be made available at Wokingham Borough Council at Shute End and at Shinfield Parish Hall. The Decision Statement will be likewise made available.

A notable consequence of making the Plan is that, this will alter the amount of Community Infrastructure Levy (CIL) receipts that are payable to Shinfield Parish Council. Shinfield Parish Council currently receives a neighbourhood funding element of CIL receipts of 15%; this is capped at £100 per dwelling. As a result of the Plan being 'made' and brought into legal force, this increases to 25% of Levy receipts and is uncapped. This will reduce the receipt managed by the council.

Regulation 59D of the Community Infrastructure Levy Regulations 2010 (as amended) Regulations specifies that the neighbourhood portion of levy receipts must be paid every six months, at the end of October and the end of April unless otherwise agreed.

The neighbourhood funding portion of the levy can be spent on a wider range of things than the rest of the levy, provided that it meets the requirement to 'support the development of the area' (in accordance with Regulation 59C of the CIL Regulations). The wider definition means that the neighbourhood funding portion can be spent on things other than infrastructure, such as affordable housing to address the demands

that development places on the area.

Legal Advice

The *Local Authorities (Functions and Responsibilities) (England) Regulations 2000* sets out, at Regulation 2 and Schedule 1, a list of Council functions which cannot be discharged by the Council's Executive. Schedule 3 lists functions which cannot be the sole responsibility of an Executive. This includes amongst its list of functions 'Development plan documents', as defined by 'Section 15 of the Planning and Compulsory Purchase Act 2004.

Section 9D(1) of the Local Government Act 2000, provides that all functions of an authority are to be the responsibility of the Executive unless specified in regulations made under that section or specified in any enactment passed or made after that Act was passed.

The Executive is advised that Neighbourhood Development Plans are not 'Development Plan Documents' pursuant to section 15 of the Planning and Compulsory Purchase Act 2004 and nor do they comprise the Development Plan under sections 27 or 54 of the Town and Country Planning Act 1990 until they are brought into legal force. Therefore, Neighbourhood Development Plans are not considered to be amongst the specified plans and strategies listed in Column 1 of the table at Schedule 3 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

Therefore, for the reasons set out above and in accordance with the Wokingham Borough Council Constitution 2016, paragraph 5.1.1 (The Executive Terms of Reference), it is considered that the recommendation falls within the reservation of the Executive.

Conclusion

Following a successful referendum, if the Shinfield Neighbourhood Plan is not brought into legal force, Wokingham Borough Council is at risk of non-compliance with Section 38A of the PCPA 2004 and the Regulations 2012. Therefore, this report recommends that the Shinfield Neighbourhood Plan be "made" (brought into legal force) to form part of the statutory Wokingham Borough Development Plan; and that the form, content and publication of the Decision Statement (set out in Appendix CHECK) pursuant to Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ("the Regulations") is agreed to give effect to the above Recommendation.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Circa £9,000 (Referendum)	Yes. The costs have been paid upfront but the council is able to retrieve this through grant funding which is expected in March 2017.	nil
Next Financial Year (Year 2)	nil	nil	Revenue
Following Financial Year (Year 3)	nil	nil	nil

Other financial information relevant to the Recommendation/Decision

None anticipated.

Cross-Council Implications

The Shinfield Parish Neighbourhood Plan, if adopted, will be used to help determine planning applications within Shinfield Parish. Services across the council inputted into the draft plan during its preparation. The Plan is considered to be in general conformity with the adopted Development Plan for Wokingham Borough.

List of Background Papers

Shinfield Parish Neighbourhood Plan – Referendum Version

Appendix 1 - Decision Statement

Appendix 2 - Referendum Results Sheet

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