

Chichester District Council

CABINET

7 July 2020

Selsey Neighbourhood Plan 2014 - 2029

1. Contacts

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2. Recommendations

- 2.1. That the Decision Statement as set out in the appendix, along with the Final Environmental Report for Strategic Environmental Assessment (SEA) of the Selsey Neighbourhood Plan and Non-Technical Summary (October 2019), be published; and**
- 2.2. Following expiry of a six week period, and subject to no legal challenge being received, that the examiner's recommendation that the Neighbourhood Development Plan proceed to referendum, subject to modifications as set out in the amended Decision Statement, be approved.**

3. Background

- 3.1. The examination into the Selsey Neighbourhood Plan was completed and the [examiner's report](#) published. The examiner's summary and conclusion at the beginning of the report is of particular note as it clearly sets out the examiner's general findings. A copy of the draft submission [neighbourhood plan](#) is also available on the website.
- 3.2. The examiner carefully considered the contents of the Selsey Neighbourhood Plan in relation to the requirements of the Basic Conditions. In order to ensure the Neighbourhood Plan met these requirements the Examiner recommended a number of modifications that should be made to the Plan. Subject to the inclusion of these modifications (which relate principally to revisions to the wording and content of policies), he found that the Plan would meet the basic conditions.
- 3.3. On the basis that the Plan is amended to accommodate the identified modifications, the examiner then went on to recommend that the draft Plan as modified should proceed to referendum.

- 3.4. However, in the light of recent case law decisions and subsequent legal advice, further procedures relating to the Habitats Regulations Assessment and Strategic Environmental Assessment were identified as being required prior to the publication of the Decision Statement. As such, the Final Environmental Report for Strategic Environmental Assessment (SEA) of Selsey Neighbourhood Plan and Non –Technical Summary (October 2019) have now been completed and may be agreed for publication. In usual circumstances, the SEA would be provided to the examiner as part of the examination. However, as the change in case law occurred following the conclusion of the examination, the examiner was no longer engaged and able to receive and consider the SEA. The Neighbourhood Planning regulations do not cover this scenario.
- 3.5. In view of the fact that the conclusion of the SEA is that the policies in the plan will not result in a significant negative impact on the environment, officers are inclined to take the view that the Decision Statement should be published and the Plan should proceed to referendum. However, it should be recognised that as the examiner has not considered the SEA as part of his examination into the Neighbourhood Plan, the decision to publish the Decision Statement carries a low risk of being challenged in the High Court. There is a six week period, following the publication of the Decision Statement, within which applications may be made to the High Court, if anyone wishes to challenge its validity. The plan should not therefore proceed to a referendum until such period has passed (although in the light of present circumstances the referendum will not take place now until May 2021). The alternative would be to rerun the whole examination process.
- 3.6. The Decision Statement (attached as an Appendix to this report) sets out the examiner's recommended modifications along with the justification for each of them. It has been amended to reflect the up to date position relating to the conclusion of the Environmental Report. This amended Decision Statement has been produced jointly with Selsey Town Council.
- 3.7. It is also the examiner's role to consider the referendum area and whether or not it is appropriate if the Plan is to proceed to referendum. In this respect the examiner considered that the referendum area should extend to the Plan area, comprising the parish boundary in accordance with the designated area as confirmed on 4 December 2012.
- 3.8. Further government guidance has been published since the beginning of the Covid19 outbreak. Having confirmed the position with the Council's Principal Solicitor and Electoral Services Manager, the Council can proceed to issuing and publishing a decision statement in line with regulation 18 of the Neighbourhood Planning General Regulations 2012. However, the referendum will not be held until 6 May 2021 by virtue of regulation 13 of the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020). Once the Decision Statement is published, the guidance provides that the plan may carry significant weight where relevant to an application, even though it would not have been tested through referendum.

4. Outcomes to be achieved

- 4.1. Following the referendum, a community based statutory plan that can be used to identify local features of importance and to guide future development in the neighbourhood plan area.

5. Proposal

- 5.1. In light of the examiner's recommendations and taking account of the conclusion of the Environmental Report of the plan, it is proposed that the amended Decision Statement is agreed for publication. It is also proposed that the Final Environmental Report for Strategic Environmental Assessment (SEA) of Selsey Neighbourhood Plan and Non –Technical Summary (October 2019) be published at the same time. Following expiry of the six week period following publication of the Decision Statement, and subject to no legal challenge being received, it is proposed that the Selsey Neighbourhood Plan should be modified as set out in the Decision Statement and should then proceed to referendum. However, in the current circumstances the Decision Statement should note that the poll will not take place until 6 May 2021 due to Covid19.

6. Alternatives Considered

- 6.1. The Examiner has recommended amendments to the Neighbourhood Plan to meet the basic conditions. These amendments are acceptable and, therefore, with these in place the Neighbourhood Plan can move forward to referendum. The alternative is to make only some of the recommended changes or not to proceed to referendum. These alternatives could lead to legal challenge, reputational damage and damage to community relationships. The parish and community have invested considerable time and effort in producing the neighbourhood plan and therefore the plan should be supported and the alternative to not proceed to referendum is not recommended.

7. Resource and Legal implications

- 7.1. The referendum will in due course incur appropriate costs in line with the Council's duties and procedures. These costs will be met through existing budgets.

8. Consultation

- 8.1. Selsey Town Council and the local members have been involved in the completion of the amended Decision Statement and have agreed its contents.

9. Community Impact and Corporate Risks

- 9.1. The Selsey Neighbourhood Plan, subject to successful referendum, will, in all likelihood become a 'made' plan and form part of the development plan for the area. As a result it provides an important mechanism through which the community can influence the way in which the area is developed.

10. Other Implications

Are there any implications for the following?		
	Yes	No
Crime and Disorder		✓
Climate Change and Biodiversity		✓
Human Rights and Equality Impact		✓
Safeguarding and Early Help		✓
General Data Protection Regulations (GDPR)		✓
Health and Wellbeing		✓
Other		✓

11. Appendix

11.1 Selsey Neighbourhood Plan Decision Statement.

12. Background Papers

12.1. None