
NON-EXEMPT

EAST HAMPSHIRE DISTRICT COUNCIL

Council

10 JUNE 2021

Beech Neighbourhood Development Plan

FOR DECISION

Portfolio Holder: **Cllr Angela Glass**

Key Decision: No

Report Number: *EHDC/003/2021*

1. Purpose

- 1.1. This report was considered by the Planning Policy Committee on 02 June 2021 and the below recommendations agreed for onward submission to Full Council.
- 1.2. This report considers whether the Beech Neighbourhood Development Plan should be adopted as part of the statutory development plan, following its successful examination and referendum.

2. Recommendation

- 2.1. Members are invited to approve that the Beech Neighbourhood Development Plan 2019-2028 is adopted with immediate effect, so that it becomes part of the statutory development plan for the area.

3. Executive Summary

- 3.1. The Localism Act 2011 introduced a right for communities to draw up neighbourhood development plans. Beech Parish Council, with support and advice from the District Council (“the Council”), has produced a neighbourhood development plan which has successfully passed its examination in May 2020

and been supported at referendum in May 2021. A delay between the stages of examination and referendum has been unavoidable, due to legislation that was enacted in response to the coronavirus pandemic.

- 3.2. The result of the referendum was that 90% of voters (i.e. 293 of the 325 who voted) agreed that the Beech Neighbourhood Development Plan should be used to help East Hampshire District Council decide planning applications in Beech Parish. As such, the plan should be adopted or 'made', meaning that it should become part of the statutory development plan.
- 3.3. Legislation is clear that as local planning authority, the Council must make the neighbourhood development plan if more than half of those voting have voted in favour. Therefore, members are requested to support the recommendation of this report, so that the Beech Neighbourhood Development Plan is made.

4. Additional Budgetary Implications

- 4.1. None.

5. Background and relationship to Corporate Strategy and/or Business Plans

Background

- 5.1. The production of a neighbourhood development plan ("NDP") must follow a regulatory process laid out in the Town and Country Planning Act 1990, as amended by the Localism Act 2011, and by Neighbourhood Planning (General) Regulations 2012 and the Neighbourhood Planning (Referendums) Regulations 2012. The key stages in the preparation of NDPs are summarised below.
- a) Designation of a neighbourhood area: the area covered by the neighbourhood plan needs to be agreed by the Council.

- b) Preparation of a draft neighbourhood plan - The 'qualifying body' (e.g. a parish council), then prepares a draft NDP and evidence base.
- c) Pre-submission publicity and consultation – The draft NDP is published by the qualifying body for pre-submission consultation, for a minimum of 6 weeks.
- d) Submission of the draft plan - The qualifying body formally submits the draft NDP to the Local Planning Authority (LPA). The LPA checks whether the plan accords with the relevant legislation, publicises the NDP for 6 weeks and appoints an Independent Examiner.
- e) Independent Examination - The NDP is examined by an Independent Examiner to assess whether it meets the basic conditions that are established in legislation. The Examiner then issues a report and, if the report is positive and the Council agrees with it, the NP is then subject to referendum.
- f) Referendum - The Council organises a referendum on the NDP, asking voters whether it should be used for helping the Council (as local planning authority) to decide planning applications in the designated area, and then publishes the results.
- g) Adoption – if the NDP is successful at referendum, it is 'made' by the Council.

5.2. The entire parish of Beech was designated as the Beech Neighbourhood Plan Area, for the purpose of preparing a NDP, on 19 April 2017. Beech Parish Council, as the qualifying body, submitted a draft NDP and supporting documents to East Hampshire District Council on 12 June 2019. Consultation on the submission plan (stage d)) ran for 6 weeks ending on 2 September 2019.

5.3. Following the consultation and with the consent of Beech Parish Council, the Council appointed an independent examiner to review the NDP. At this point (stage e)), an earlier procedural irregularity at stage c) was detected in Beech Parish Council's treatment of a consultation response by Gladman Developments. This was resolved through a formal hearing process, where the independent examiner gave Gladman Developments a fair chance to put forward their case in

respect of the draft Beech NDP. A public hearing was therefore held at Beech Village Hall on 12 February 2020, as part of the independent examination process.

- 5.4. The independent examiner recommended that, subject to a number of proposed modifications which were required to ensure that the Beech NDP meets the basic conditions set out in legislation, the plan should proceed to referendum. The examiner's report was received by the Council in May 2020. Whilst the Council agreed with the examiner's recommendations, the provisions of The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 entailed that no referendum could be held until 6 May 2021. Consequently, a local referendum was held in Beech on 6 May 2021, approximately one year after the successful conclusion of the examination (stage e)).
- 5.5. The result of the referendum was that, of those who voted, 90% were in favour of the Beech NDP being used to help the Council to decide planning applications in Beech Parish. A total of 293 votes were recorded in favour, whereas 32 votes were not in favour of the NDP. The turnout of electors was 64% (325 out of an electorate of 505).
- 5.6. Section 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 requires the Council to 'make' a NDP if more than half of those voting in a referendum have voted in favour of it. The making of a NDP is therefore a legal requirement following a positive outcome to a referendum, except in circumstances whereby making the plan would breach, or otherwise be incompatible with, any retained EU or human rights obligations. The Council has considered the matter and concluded that the Beech NDP, including its preparation, does not breach, and would not otherwise be incompatible with, any retained EU obligation or any of the

Convention rights (within the meaning of the Human Rights Act 1998)¹. The Examiner's Report on the Beech NDP also concluded that there were no grounds for concluding that there was any breach or incompatibility with the European Convention on Human Rights. Therefore, the Beech NDP has now reached the final stage (stage g) of the neighbourhood planning process and the Council is now under a statutory duty to make the Beech NDP.

- 5.7. The effect of making the Beech NDP is that it becomes adopted as part of the statutory development plan, for purposes of deciding planning applications in Beech Parish.

Relationship to the Corporate Strategy and Directorate Business Plan

- 5.8. Once adopted, the Beech NDP forms part of the Council's statutory development plan and helps to meet the operational priorities identified in the Corporate Plan, such as guiding and shaping new development, jobs and infrastructure as well as meeting the corporate priority of assisting neighbourhood development plans as set out in the Business Plan.

6. Options considered

- 6.1. The making of the Beech NDP is a mandatory legal requirement following the positive outcome of the referendum (apart from in a narrow set of circumstances which are not relevant in this case). In its role as the local planning authority, the Council is therefore under a statutory duty to adopt and 'make' the Beech NDP. There are no other reasonable options.

7. Resource Implications

- 7.1. Financial Implications: there are no additional resourcing implications, with the costs incurred for publishing the NDP being met within the existing budget. NB: In

¹ Section 38A(6) of the Planning and Compulsory Purchase Act 2004, as amended

2020, funding was obtained from the Ministry of Housing, Communities and Local Government in the form of a Neighbourhood Planning Grant to offset the costs of the referendum process.

- 7.2. Once the Beech NDP is 'made', 25% of Community Infrastructure Levy receipts generated from development within Beech parish will be passed to the Parish Council.

Section 151 Officer comments

Date: 21/05/21

The proposals that are made within this document imply no additional costs beyond those budgeted for. Therefore, the proposals are supported from a financial point of view.

- 7.3. Human Resources Implications: There are no additional human resource implications. Staffing costs for publishing the Beech NDP can be met within existing resources.
- 7.4. Information Governance Implications: There are no implications in relation to Information Governance. The publishing of the Beech NDP will not involve the use of personal sensitive or confidential information.
- 7.5. Other resource implications: None.

8. Legal Implications

- 8.1. In accordance with Section 38(A) of the Planning & Compulsory Purchase Act 2004, the making of the Beech NDP is a mandatory legal requirement following the positive outcome of the referendum (apart from in a narrow set of circumstances which are not relevant in this case). The Council is therefore under a statutory duty to adopt and 'make' the Beech NDP.

- 8.2. Upon being 'made', the Beech NDP will be subject to a statutory period of time (six weeks) within which a legal challenge can be lodged.
- 8.3. The making of the Beech NDP will be published in accordance with the Neighbourhood Planning (General) Regulations 2012.

Monitoring Officer comments

Date: 25/05/2021

Legal implications are noted above. No further comments.

9. Risks

- 9.1. The Beech NDP has been produced following a statutory process by Beech Parish Council, with the assistance of officers from the Planning Policy team. Following consultation with Natural England, the Environment Agency and Historic England, it was determined that no Strategic Environmental Assessment was required for the Beech NDP, as the plan is unlikely to generate any significant environmental effects.
- 9.2. An earlier procedural deficiency in the Parish Council's handling of a representation to its draft NDP (see paragraph 5.3, above) has been rectified to the satisfaction of all parties, through the independent examination process. There are no significant residual risks that cannot be fully minimised by existing procedures.

10. Consultation

- 10.1. Beech Parish Council has carried out informal and formal consultation during the drafting of the Beech NDP with the local community, businesses, landowners and other statutory stakeholders. The Council has also carried out a consultation on the plan in accordance with statutory requirements.

11. Communication

- 11.1. Following a decision to adopt the Beech NDP, Beech Parish Council and others who asked to be informed will be notified by e-mail that the plan has been 'made'. The Beech NDP and supporting documents, including a decision statement, will be published on the Council's website and made available in line with the Neighbourhood Planning (General) Regulations and the Council's adopted Statement of Community Involvement (SCI). The use of hard copy documents and their location will be reconsidered during a review of the SCI, prior to the next Local Plan consultation.

12. Appendices

- 12.1. Appendix A: Beech Neighbourhood Development Plan

13. Background papers

- 13.1. Beech Neighbourhood Plan Examiner's Report

Agreed and signed off by:

Portfolio Holder: Cllr Angela Glass (Signed off 25 May 2021)

Director: Simon Jenkins (signed off 12 May 2021)

Monitoring Officer: Daniel Toohey (signed 25 May 2021)

Section 151 Officer: Lydia Morrison (signed off by Peter Lewis obo Lydia Morrison on 21 May 2021)

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