

# Cabinet Report

Report of Head of Planning

Author: Sam Townley

Telephone: 01235 422600

Textphone: 18001 01235 422600

E-mail: sam.townley@southandvale.gov.uk

To Cabinet - 5 October 2018

## Making the Radley Neighbourhood Development Plan

### That Cabinet recommends to Council:

1. To make the Radley Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To delegate to the Head of Planning, in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

### Purpose of Report

1. To update the Cabinet on progress of the Radley Neighbourhood Development Plan and to present the relevant considerations in relation to whether this plan should be made (formally adopted).

### Corporate Objectives

2. Strongly supporting the development of neighbourhood plans for our towns and villages.

### Background

3. Radley successfully applied for its parish area to be designated as Neighbourhood Area under the Neighbourhood Planning (General) Regulations (2012).
4. The preparation of the plan was led by the parish council (the qualifying body) and a group of volunteers from the local community.
5. Following the formal submission of the plan to the council, the plan was publicised and comments were invited from the public and stakeholders.

6. The council appointed Mr. Andrew Ashcroft to examine the Radley Neighbourhood Plan. Examiners are tasked with reviewing whether the plan meets the basic conditions required by legislation and whether it should proceed to referendum. The examiner's report for Radley concluded that the plan meets the basic conditions, and that subject to the modifications proposed in the report, the plan should proceed to referendum.
7. The examiner's modifications are largely minor in nature; re-wording and restructuring for clarity and to ensure the basic conditions are met. More significant modifications recommended by the examiner include:
  - (a) Deletion of Policy PP1, which supported development of the Old Coal Yard site to the west of Thrupp Lane. The examiner was not satisfied that the development of the site contributed towards the achievement of sustainable development in the neighbourhood area, or that it complied with paragraph 89 of the NPPF.
  - (b) Modifying the wording of Policy PP4 (Housing size and type at large-scale sites) to ensure the policy has the level of clarity required by the NPPF and that the supporting text is factually correct.
  - (c) Deletion of Policy PP9 (Primary Healthcare), replaced as a community action
8. Having considered the examiner's recommendations and reasons for them the Leader of the Council decided on 9 July 2018:
  1. To accept all modifications recommended by the examiner;
  2. To determine that the Radley Neighbourhood Development Plan, as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP;
  3. To take all appropriate actions to progress the Radley Neighbourhood Development Plan to referendum. A date for the referendum is set for 13 September 2018. The referendum area should not extend beyond the neighbourhood area as designated by the District Council on 17 June 2015.
9. The modifications to the plan were made and the referendum version of the Radley Neighbourhood Plan was published on 1 August 2018 alongside the decision statements required under Regulation 18(2)(a) of the Neighbourhood Planning (General) Regulations (2012).

## Options

10. The council's options are limited by statute. Paragraph 38A (4)(a) of the Planning and Compulsory Purchase Act 2004 sets out that the council must 'make' a neighbourhood plan if more than half of those voting at the referendum have voted in favour of the plan being used to help decide planning applications in the plan area.
11. The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
12. Section 3 of the Neighbourhood Planning Act 2017, which came into force on 19 July 2017, amends section 38 of the Planning and Compulsory Purchase Act 2004 to ensure that neighbourhood plans have full legal effect once they have passed their local referenda. In the very limited circumstances that the council might decide not to

make the neighbourhood development plan, it will cease to be part of the development plan for the area.

13. The council's decision on 9 July 2018 (referred to in paragraph 7), published in the decision statement issued on 1 August 2018 (referred to in paragraph 8), confirmed that the Radley Neighbourhood Development Plan, as modified by the Examiner's recommendations, would not breach, and be otherwise incompatible with EU obligations or human rights legislation.
14. As the majority of those voting have voted in favour of the Radley Neighbourhood Plan being used to help decide planning applications in the plan area, and the making of the plan would not breach, or would otherwise be incompatible with any EU obligation or any of the Convention rights, to not make the plan would be in breach of statutory provisions.

## Referendum

15. A referendum relating to the adoption of the Radley Neighbourhood Development Plan was held on Thursday 13 September 2018.
16. The question that was asked in the Referendum was: "*Do you want Vale of White Horse District Council to use the Neighbourhood Plan for Radley to help it decide planning applications in the neighbourhood area?*"
17. The result was as follows:
  - a. Yes = 455 votes (87%)
  - b. No = 68 votes (13%)
  - c. Turnout = 29.01%
18. The majority of local electors voted in favour of the plan; therefore, the Radley Neighbourhood Plan has become part of the council's development plan.
19. As the plan was approved at the local referendum and the council is satisfied it would not breach and be otherwise incompatible with EU obligations or human rights legislation, the council is required make the Radley Neighbourhood Development Plan so that it continues to be part of the council's development plan.

## Financial Implications

20. Any financial implications can be accommodated within the existing planning budget.

## Legal Implications

21. The decision to 'make' the Radley Neighbourhood Plan is a legal requirement in the Planning and Compulsory Purchase Act 2004. The only circumstance where the district council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998). There is a requirement that the district council will publish a formal decision statement as required under the Neighbourhood Planning (General) Regulations 2012.

22. It is not considered that the Radley Neighbourhood Development Plan would breach, or would otherwise be incompatible with, any such obligation or rights. Therefore, the council should now proceed to make these plans.

## **Risks**

23. The council is required to comply with the statutory requirements (to consider whether the Radley Neighbourhood Development Plan should be made following successful local referendum), which this recommendation seeks to achieve. In view of the considerations referred to elsewhere in this report, as the majority of those voting have voted in favour of the plan at its local referendum, a decision not to make the plan would place the council at risk of a legal challenge.

## **Conclusion**

24. On 9 July 2018, Council decided to:

1. To accept all modifications recommended by the examiner;
2. To determine that the Radley Neighbourhood Development Plan, as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan (NDP) and the provisions that can be made by a NDP;
3. To take all appropriate actions to progress the Radley Neighbourhood Development Plan to referendum. A date for the referendum is set for 13 September 2018. The referendum area should not extend beyond the neighbourhood area as designated by the District Council on 17 June 2015.

25. The local referendum was held on 13 September 2018 to meet the requirements of The Localism Act 2011 and The Neighbourhood Planning (Referendums) Regulations 2012.

26. As the plan was approved at the local referendum and the council is satisfied it would not breach and be otherwise incompatible with EU obligations or human rights legislation, it is recommended that the council make the Radley Neighbourhood Development Plan so that it continues to be part of the council's development plan.

## **Background Papers**

None