

**South Cambridgeshire District Council  
Record of Chief Officer/Head of Service Decision**

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A key decision shall not be taken unless notice of the item has been published at least 28 days before the decision is to be taken except where:

- a General Exception notice has been published under Rule 15 of the Access to Information Procedure Rules and the Chairman of Scrutiny and Overview Committee has been informed in writing; or
- where a Special Urgency notice has been published under Rule 16 of those Rules and the Chairman of Scrutiny and Overview Committee has agreed the decision is urgent.

Unless permission has been obtained from the Chairman of Council and the Chairman of the Scrutiny and Overview Committee that a key decision may be treated as a matter of urgency under Rule 12.19 of the Scrutiny and Overview Committee Procedure Rules, any key decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless called in under Rule 7 of the Budget and Policy Framework Procedure Rules or Rule 12 of the Scrutiny and Overview Committee Procedure Rules. Where consent has been obtained to exempt the decision from call-in, this will be specified below. Only key decisions of an officer are subject to call-in.

<b>Decision Taker</b>	Joint Director for Planning and Economic Development
<b>Subject Matter</b>	West Wickham Neighbourhood Plan - Receipt of Examiners Report and Decision to Proceed to Referendum
<b>Ward(s) Affected</b>	Balsham
<b>Date Taken</b>	Tuesday, 28 June 2022
<b>Contact Officer</b>	Alison Talkington, Senior Planning Policy Officer 01954 713182 / mobile 07514 926521 (alison.talkington@scambs.gov.uk)
<b>Date Published</b>	Tuesday, 28 June 2022
<b>Call-In Expiry</b>	N/A
<b>Key Decision?</b>	No
<b>In Forward Plan?</b>	No
<b>Urgent?</b>	No

<b>Purpose / Background</b>
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## **Purpose**

1. The purpose of this report is to consider the conclusions of the Examiner's Report on the West Wickham Neighbourhood Plan, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner's recommended modifications to the Neighbourhood Plan should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions.
2. Cabinet agreed at its meeting on 26 July 2018 that where the examiner has concluded that the Neighbourhood Plan is legally compliant, meets the Basic Conditions (with or without modifications), and should proceed to referendum, the Joint Director for Planning and Economic Development has delegated authority to make the decision on the way forward, in consultation with the Planning Lead Member.

## **Background**

3. The West Wickham Neighbourhood Area was designated on 17 November 2015. The neighbourhood area is for the whole parish of West Wickham.
4. Officers met with the steering group ahead of the submission consultation process and recognise the hard work that those on the steering group of the neighbourhood plan have put into preparing the Plan. This group has strived to ensure that the whole village had an opportunity to have an input into the final Plan.
5. A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening was undertaken on a draft version of the Neighbourhood Plan, and a screening determination was published in May 2021.
6. Pre-submission public consultation on the draft Neighbourhood Plan was undertaken by the Parish Council from 1 May until 30 June 2021. Officers provided a formal response to the consultation, providing constructive comments about the Neighbourhood Plan to assist the neighbourhood plan group with finalising the Neighbourhood Plan. Officers have met with the steering group to discuss these comments and the submission version of the plan has taken upon board many of the suggested changes.
7. On 3rd December 2021, West Wickham Parish Council submitted their Neighbourhood Plan to SCDC. Officers confirmed, as set out in the Legal Compliance Check for the Neighbourhood Plan that the submitted version of the Neighbourhood Plan and its accompanying supporting documents complied with all the relevant statutory requirements at this stage of plan making. We were able therefore to carry out a consultation on the West Wickham Neighbourhood Plan from 18 January 2022 until 15 March 2022.
8. Officers, in conjunction with West Wickham Parish Council, appointed an independent examiner to consider this Neighbourhood Plan. The examiner appointed to undertake the examination of a Neighbourhood Plan: must be independent of both the District Council and Parish Council; cannot be the same examiner that undertakes a health check of the Neighbourhood Plan; and must not have any interest in any land that may be affected by the Neighbourhood Plan. The examiner appointed was Andrew Freeman of Intelligent Plans and Examination (IPe). On 17 March 2022 the Neighbourhood Plan, its accompanying supporting documents and all comments submitted during the public consultation on the submission version of the Neighbourhood Plan were provided to the examiner with a request for him to

carry out the examination on the Neighbourhood Plan.

9. The examiner issued a procedural letter and questions on 4 April 2022 to SCDC. The Parish Council responded to the questions set for them on 11 May 2022.
10. The Examiner's Report was received on 31 May 2022 (see Appendix 1). The examiner in his report concludes that subject to a series of recommended modifications the West Wickham Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum. He also recommends that the referendum should be held within the neighbourhood area only.
11. Now that the Examiner's Report has been received, the Council is required to consider the conclusions of the Examiner's Report, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner's recommended modifications to the Neighbourhood Plan should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions. The Council must publish its decision in a decision statement.
12. It should be noted that the examiner in his report praised those involved in preparing the plan ( See paragraph 5.4 on page 15) –

*It is evident that a considerable amount of time and effort has been devoted to the development and production of this Plan and I congratulate those who have been involved. The Plan should prove to be a useful tool for planning and change in West Wickham over the coming years.*

### **Considerations**

13. Where an examiner has concluded that the Neighbourhood Plan meets the Basic Conditions (with or without modifications) and is legally compliant, and therefore that the Neighbourhood Plan should proceed to referendum, the Council has limited options in how to respond. The options are as follows:
  - Option 1: Act upon the conclusions in the Examiner's Report, including making any recommended modifications to the Neighbourhood Plan, and proceed to referendum, provided that the Council confirms that the Basic Conditions have been met.
  - Option 2: Take a decision substantially different from the Examiner's conclusions, wholly or partly as a result of new evidence or fact, or a different view is taken by the Council as to a particular fact, including that the Council is unable to confirm that the Basic Conditions have been met.
14. National regulations require the Council to make a decision on the Examiner's Report and whether the Neighbourhood Plan should proceed to referendum within 5 weeks of receipt of the report (unless an alternative longer timescale is agreed with the Parish Council). Officers have been working with the Parish Council and there is agreement between the two councils to all the proposed changes that are included in the referendum version of the plan.
15. Officers have concluded that Option 1 should be followed for the reasons set out in the following paragraphs of this decision statement. Officers agree with the examiner's

conclusions, including his recommended modifications to the Neighbourhood Plan, and agree that the Neighbourhood Plan should proceed to referendum.

#### **a. Meeting the Basic Conditions and Legal Requirements**

16. To successfully proceed through its examination to a referendum, a Neighbourhood Plan must meet a number of tests known as the 'Basic Conditions'. The Basic Conditions are set out in national planning regulations and are summarised as follows:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Neighbourhood Plan.
- the making of the Neighbourhood Plan contributes to the achievement of sustainable development.
- the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area.
- the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and
- prescribed conditions are met in relation to the Neighbourhood Plan, including that the making of the neighbourhood plan is not likely to have a significant effect on a European wildlife site or a European offshore marine site either alone or in combination with other plans or projects.

The Council's Neighbourhood Planning Toolkit includes Guidance Note 11 (What are the Basic Conditions and How to Meet Them), which sets out further details on each of the Basic Conditions.

17. To proceed to a referendum, a Neighbourhood Plan must also meet a number of legal requirements, such as whether the Neighbourhood Plan has been prepared by a qualifying body and meets the definition and scope of a Neighbourhood Plan.

18. The examiner concludes in the Executive Summary and overall conclusions (pages 14 of his report) that subject to a series of recommended modifications the West Wickham Neighbourhood Plan meets the Basic Conditions and all the necessary legal requirements. The issues he has considered in reaching his conclusions are set out in Chapter 4 of his report (pages 10-14) The proposed modifications are set out in an appendix to his report (page 16-17). The examiner's recommended modifications do not fundamentally change the role or purpose of the Neighbourhood Plan; they have been recommended by the examiner to provide clarity and precision.

19. Officers, in conjunction West Wickham Parish Council, have reviewed the examiner's conclusions and recommended modifications, and officers and the Parish Council have agreed each of the recommended modifications considered necessary by the examiner for the Neighbourhood Plan to meet the Basic Conditions. A 'Referendum' version of the West Wickham Neighbourhood Plan has been prepared including these modifications (see Appendix 2).

20. Additional non-material modifications to the Neighbourhood Plan have also been prepared by officers and agreed with West Wickham Parish Council, and these additional modifications are also included in the 'Referendum' version of the Neighbourhood Plan (see Appendix 2). These modifications have been made in accordance with guidance set out in national planning guidance<sup>1</sup> which states that

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<sup>1</sup> National Planning Practice Guidance, Paragraph 085, Reference ID: 41-085-20180222

minor (non-material) updates to a Neighbourhood Plan that would not materially affect the policies in the plan can be made by the District Council at any time, provided they have the consent of the Parish Council, and that these modifications can be made without the need for consultation or examination.

21. In summary, these additional non-material modifications include the following:

- Updates in the Foreword and Chapter 1 to reflect current stage of the Neighbourhood Plan
- Updates to Chapter 1 to reflect the current status of the emerging Greater Cambridge Local Plan
- Updates in Chapter 4 to mention the Environment Act 2021 and the recently adopted Biodiversity Supplementary Planning Document.
- Update the affordable housing entry in the glossary.

22. Officers have undertaken a Basic Conditions and Legal Compliance check of the 'Referendum' version of the Neighbourhood Plan (see Appendix 3) and consider that the Neighbourhood Plan meets all the requirements.

23. As the modifications made to the West Wickham Neighbourhood Plan do not change the essence of its planning policies, the SEA and HRA screening undertaken on a draft version of the Neighbourhood Plan, and the screening determination published in May 2021 remain valid.

#### **b. Referendum**

24. The examiner concludes in the Executive Summary, in Chapters 4 and 5 of his report that, subject to the incorporation of his proposed modifications, the Neighbourhood Plan should proceed to referendum. (See paragraph 5.2)

25. He also concludes that it is appropriate for the referendum area to be the neighbourhood area designated by SCDC in August 2015. (See paragraph 5.3).

26. In his concluding chapter he states the following- (See page 14 -paragraph 5.1-5.2 of his report)

*The West Wickham Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan and the evidence documents submitted with it.*

*All of the policies in the draft Plan have been considered in the above report. I have made recommendations to modify the policies and text to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.*

27. The examiner's conclusions on the referendum area are consistent with that proposed by the Council in its response on the submission version of the Neighbourhood Plan agreed by the Lead Cabinet Member for Planning in February 2022. Therefore, as it has been demonstrated by officers that the 'Referendum' version of the West Wickham Neighbourhood Plan meets all the legislative requirements, officers concur with the examiner that the Neighbourhood Plan should proceed to referendum and

that the referendum area should be the neighbourhood area.

### **Next Steps**

28. There were changes made to the national regulations about neighbourhood plans and referendums by the government due to the Covid19 pandemic which stated that referendums could not take place on a neighbourhood plan until 6 May 2021. As this date has now passed SCDC will be able to proceed to referendum with the West Wickham Neighbourhood Plan. The regulations state that a referendum should take place within 56 working days of the day after the publication of this decision statement. And therefore, SCDC will proceed to set a date for the referendum once this statement is published. Once the neighbourhood plan is allowed to proceed to referendum the national regulations revised due to Covid19 pandemic state that a plan can be given significant weight in determining planning applications in the area.
29. If a Neighbourhood Plan is successful at referendum, the Neighbourhood Plan becomes part of the development plan for the area<sup>2</sup>, although the formal 'making' of the Neighbourhood Plan will not happen until SCDC's full Council are asked to do this at their next meeting following the referendum.

### **Implications**

30. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered:
31. Financial: the costs of the examination and referendum have to be initially met by SCDC. However, the Council can claim a £20,000 government grant per Neighbourhood Plan once a plan has been successfully through the examination and the Council has set a date for the referendum.
32. Legal: where the examiner has concluded that the Neighbourhood Plan is legally compliant, meets the Basic Conditions (with or without modifications), and should proceed to referendum, the Joint Director for Planning and Economic Development has delegated authority to make the decision on the way forward, in consultation with the Planning Lead Member (as agreed by Cabinet at its meeting on 26 July 2018). National regulations and planning guidance for Neighbourhood Plans require that the Council considers the conclusions of the Examiner's Report, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner's recommended modifications to the Neighbourhood Plan should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions. The Council's decision must be published in a decision statement.
33. Staffing: the responsibilities associated with delivering neighbourhood planning are being undertaken within the existing resources of the Planning Policy Team, drawing upon the expertise of other staff as required.
34. Equality and Diversity: these issues have been considered in the preparation of the Neighbourhood Plan, as to meet the Basic Conditions a Neighbourhood Plan must not

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<sup>2</sup> National Planning Practice Guidance, Paragraph: 064, Reference ID: 41-064-20170728

breach, and is otherwise compatible with, EU obligations, including Human Rights. Included as part of the Basic Conditions Statement is an assessment undertaken by West Wickham Parish Council to examine the impact of the Neighbourhood Plan in relation to the 'protected characteristic' as identified in the Equality Act 2010 and concludes that the Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on human Rights (ECHR). See page 35 of the Basic Conditions Report paragraphs 6.8-6.13 and Table 6.1: Assessment of the NP against protected characteristics  
<https://www.scamb.gov.uk/media/19284/2-west-wickham-basic-conditions-statement.pdf>  
The examiner has agreed with this assessment (see paragraph 3.11 of his report page 9).

#### **Declaration(s) of Interest**

**Record below any relevant interest declared by any executive Member consulted or by an officer present in relation to the decision.**

None

#### **Dispensation(s)**

**In respect of any conflict(s) of interest declared above, record below any dispensation(s) granted by the Council's Standards Committee.**

None

#### **Consultation**

**Record below all parties consulted in relation to the decision.**

##### *a. Consultation with West Wickham Parish Council (the qualifying body)*

Officers, in conjunction with West Wickham Parish Council, have reviewed the examiner's conclusions and recommended modifications, and officers and the Parish Council have agreed each of the recommended modifications considered necessary by the examiner for the Neighbourhood Plan to meet the Basic Conditions. Additional non-material modifications to the Neighbourhood Plan have been agreed with West Wickham Parish Council.

This decision statement, the 'Referendum' version of the Neighbourhood Plan, and the Basic Conditions and Legal Compliance Check undertaken by officers have been shared with and agreed by West Wickham Parish Council.

##### *b. Consultation with the Planning Lead Member*

This decision statement, the 'Referendum' version of the Neighbourhood Plan, and the Basic Conditions and Legal Compliance Check undertaken by officers have been shared with and agreed by the Planning Lead Member.

#### **Other Options Considered and Reasons for Rejection**

Where an examiner has concluded that the Neighbourhood Plan meets the Basic Conditions (with or without modifications) and is legally compliant, and therefore that the Neighbourhood Plan should proceed to referendum, the Council has limited options in how to respond. The options are as follows:

Option 1: Act upon the conclusions in the Examiner's Report, including making any recommended modifications to the Neighbourhood Plan, and proceed to referendum, provided that the Council confirms that the Basic Conditions have been met.

Option 2: Take a decision substantially different from the Examiner's conclusions, wholly or partly as a result of new evidence or fact, or a different view is taken by the Council as to a particular fact, including that the Council is unable to confirm that the Basic Conditions have been met.

Officers have concluded that Option 1 should be followed for the reasons set out in this decision statement. Officers agree with the examiner's conclusions, including his recommended modifications to the Neighbourhood Plan, and agree that the Neighbourhood Plan should proceed to referendum. Officers have concluded that Option 2 should be rejected as there is no new evidence or fact, and officers are able to confirm that the Basic Conditions have been met (as set out in paragraph 21 in the Purpose / Background section of this decision statement).

Final decision	Reason(s)
<p>That the Joint Director for Planning and Economic Development, having consulted with the Planning Lead Member, agrees:</p> <ol style="list-style-type: none"> <li>a. that South Cambridgeshire District Council should act upon the conclusions in the Examiner's Report on the West Wickham Neighbourhood Plan (see Appendix 1) and that the Neighbourhood Plan should proceed to a referendum as set out by the national regulations.</li> <li>b. the 'referendum' version of the West Wickham Neighbourhood Plan (as set out in Appendix 2);</li> <li>c. the 'referendum' version of the West Wickham Plan be given significant weight in decision making and that the area for the referendum should be the Neighbourhood Area</li> </ol>	<p>The Examiner's Report on the West Wickham Neighbourhood Plan was received on 31 May 2022. The examiner concludes that subject to a series of recommended modifications the Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum. He also recommends that the referendum should be held within the neighbourhood area only.</p> <p>National regulations and planning guidance for Neighbourhood Plans require that the Council considers the conclusions of the Examiner's Report, and whether those conclusions should be acted upon and therefore that the Neighbourhood Plan should proceed to referendum. This includes considering whether the examiner's recommended modifications to the Neighbourhood Plan should be made, and whether the Council agrees that the Neighbourhood Plan meets the Basic Conditions. The Council's decision must be published in a decision statement. This report is the Council's decision statement for the purposes of those regulations.</p> <p>The Council will set a date for the referendum after the decision statement is published. Until the referendum takes place the Referendum version of the Plan will be given significant weight in decision making by the Council as stated by the government in their revised regulations.</p>

Signed	Name (CAPITALS)	Signature	Date
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Lead Cabinet Member (where required by the Constitution)	Signed copy available upon request from Democratic Services (democratic.services@scams.gov.uk)
Chief Officer	

<b>Further Information</b>
<p><b>Appendices</b></p> <p>Appendix 1: Examiner's Report on the West Wickham Neighbourhood Plan  Appendix 2: 'Referendum' version of the West Wickham Neighbourhood Plan  Appendix 3: Legal Compliance Check on 'Referendum' version of the West Wickham Neighbourhood Plan</p> <p><b>Background documents</b></p> <p><a href="#">West Wickham Neighbourhood Plan – earlier stages and supporting documents:</a>  <a href="#">National Planning Practice Guidance</a> – Neighbourhood Planning;</p> <ul style="list-style-type: none"> <li>• <a href="#">Basic Conditions:</a></li> <li>• <a href="#">Examination:</a></li> <li>• <a href="#">Referendum:</a></li> <li>• <a href="#">Updated guidance due to the Coronavirus pandemic -</a></li> </ul> <p><a href="#">Neighbourhood Planning Toolkit:</a></p> <p><a href="#">Planning Portfolio Holder (17 November 2015) West Wickham Neighbourhood Area Designation</a></p> <p><a href="#">Joint Director for Planning and Economic Development – (June 2021) Council's response on the pre-submission version of the West Wickham Neighbourhood Plan.</a></p> <p><a href="#">Lead Cabinet Member for Planning Decision Statement (28 February 2022)– Council's response on submission version of the West Wickham Neighbourhood Plan</a></p> <p><a href="#">Cabinet Meeting (July 2018) – Neighbourhood Planning decision making process:</a>  <a href="http://scams.moderngov.co.uk/ieListDocuments.aspx?CId=293&amp;MId=7343">http://scams.moderngov.co.uk/ieListDocuments.aspx?CId=293&amp;MId=7343</a></p>