

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

This form should be used to record key and other decisions made by Chief Officers and Heads of Service. The contact officer will ensure that the signed and completed form is given to Democratic Services as soon as reasonably practicable after the decision has been taken.

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.

Decision Taker	Joint Director for Planning and Economic Development
Subject Matter	Fulbourn Neighbourhood Plan - Making (adopting) the Neighbourhood Plan
Ward(s) Affected	Fen Ditton & Fulbourn
Date Taken	Monday, 13 March 2023
Contact Officer	Jenny Nuttycombe, Principal Planning Policy Officer, Lizzie Wood, Senior Planning Policy Officer (jenny.nuttycombe@greatercambridgeplanning.org, lizzie.wood@greatercambridgeplanning.org)
Date Published	Monday, 13 March 2023
Call-In Expiry	
Key Decision?	No
In Forward Plan?	No
Urgent?	No

Purpose / Background

Purpose

1. The purpose of this report is to set out the results of the referendum on the Fulbourn Neighbourhood Plan and make a recommendation to Council on whether the Neighbourhood Plan should be formally made (adopted) by South Cambridgeshire District Council (SCDC).

Background

2. The Fulbourn Neighbourhood Area was designated on 13 August 2018. The neighbourhood area is for the whole parish of Fulbourn.
3. Officers 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.
4. 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 November 2020.
5. Pre-submission public consultation on the draft Neighbourhood Plan was undertaken by the Parish Council from 1 January 2021 until 28 February 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 met with the steering group to discuss these comments and the submission version of the plan took on board many of the suggested changes.
6. On 18 October 2021, Fulbourn Parish Council submitted their Neighbourhood Plan to SCDC. Officers confirmed by carrying out a 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 therefore were able to carry out a consultation on the Fulbourn Neighbourhood Plan from 8 November 2021 until 18 January 2022. This extended period of consultation was to take into account that the consultation period extended over the Christmas and New Year holiday period. We wished to ensure everyone had an opportunity to comment on the Plan.
7. Officers, in conjunction with Fulbourn 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 Ashcroft. On 24 January 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.
8. The examiner issued on 14 February 2022 a note which set out the arrangements for the examination and also a clarification note which included some questions for the Parish Council (PC). The PC responded to the questions set for them on 8 March 2022.
9. The examiner subsequently decided that in order to ensure an adequate examination of the Fulbourn Neighbourhood Plan it was necessary to hold a hearing on three policies. This hearing took place on 4 July 2022 at the Fulbourn Centre within the neighbourhood area. The

examiner issued a hearing note on 25 April 2022 setting out the issues to be discussed, the participants invited and the format and arrangements for the hearing.

10. The Examiner's Report was received on 12 September 2022. The examiner in his report concludes that subject to a series of recommended modifications the Fulbourn 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. Once the Examiner's Report was received, the Council was able 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 included considering whether the examiner's recommended modifications to the Neighbourhood Plan should be made, and whether the Council agreed that the Neighbourhood Plan met the Basic Conditions. The Council published its decision in a decision statement.
12. Officers, in conjunction with Fulbourn Parish Council, reviewed the examiner's conclusions and recommended modifications, and 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 were also prepared by officers and agreed with Fulbourn Parish Council. A 'Referendum' version of the Fulbourn Neighbourhood Plan was prepared including these modifications.
13. The joint Director for Planning and Economic Development, having consulted with the Lead Cabinet Member for Environmental Services and Licensing (in the absence of the Lead Cabinet Member for Planning), agreed on 14 December 2022 the Referendum version of the Fulbourn Neighbourhood Plan and that this plan should proceed to a referendum.
14. A referendum on the 'making' (adoption) of the Fulbourn Neighbourhood Plan was held on 9 February 2023. Voters were asked "Do you want South Cambridgeshire District Council to use the neighbourhood plan for Fulbourn to help it decide planning applications in the neighbourhood area?" The results were declared as follows:
 - Yes votes: 581 (91.93%)
 - No votes: 51 (8.07%)
 - Turnout: 17.17%

Considerations

15. If a Neighbourhood Plan is successful at referendum as a result of more people voting 'yes' than 'no', the Neighbourhood Plan becomes part of the development plan for the area (National Planning Practice Guidance, Paragraph: 064, Reference ID: 41-064-20170728), and all planning decisions in the neighbourhood area will be made in accordance with the development plan unless material considerations indicate otherwise. The formal 'making' (adoption) of the Neighbourhood Plan does not happen until SCDC's full Council are asked to do this at a meeting following the referendum.
16. Following a successful referendum, SCDC has limited options in how to respond. National planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations. National planning regulations also set out that where a Neighbourhood Plan is successful at referendum it should be 'made' within 8 weeks.

17. The Fulbourn Neighbourhood Plan was successful at its referendum as more than half of those that voted were in favour of SCDC using the Neighbourhood Plan to help it decide planning applications in the neighbourhood area. The Council is therefore required to 'make' the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations, which is one of the 'Basic Conditions' set out in national planning regulations that all Neighbourhood Plans must meet.
18. Officers have assessed whether the Fulbourn Neighbourhood Plan meets the 'Basic Condition' that the Neighbourhood Plan does not breach, and is otherwise compatible with, EU and human rights obligations at various stages during the preparation of the Neighbourhood Plan. Officers consider that the 'making' of the Fulbourn Neighbourhood Plan does not breach, and is otherwise compatible with, EU and human rights obligations (see Appendix 2).
19. The made version of the Fulbourn Neighbourhood Plan is included in Appendix 1 of this report. Officers have worked with Fulbourn Parish Council to agree minor (non-material) amendments to the referendum version of the Neighbourhood Plan to turn it into the made version of the Neighbourhood Plan. Minor (non-material) amendments can be made to a Neighbourhood Plan at any point (National Planning Practice Guidance, Paragraph: 106 Reference ID: 41-106-20190509 and Paragraph: 084a Reference ID: 41-084a-20180222). These amendments update the wording on the front cover, in the footer, and in chapter 1 (introduction) so that it is clear that the Neighbourhood Plan is made and forms part of the statutory development plan.

Timescales

20. SCDC's meeting of full Council on the 30 March 2023 will decide whether to formally make the Fulbourn Neighbourhood Plan. SCDC and Fulbourn Parish Council are keen to take the first opportunity to make the Fulbourn Neighbourhood Plan as it was a successful referendum vote.

Next Steps

21. Once this decision has been agreed and published, SCDC's full Council at their meeting on the 30 March 2023 will be asked to 'make' (adopt) the Fulbourn Neighbourhood Plan. Once the Neighbourhood Plan is formally 'made' (adopted) by full Council, officers will publish the decision to 'make' (adopt) the Neighbourhood Plan and send notifications to the necessary people and organisations as required by national planning regulations.
22. Once formally 'made' (adopted) the Fulbourn Neighbourhood Plan will form part of the development plan for South Cambridgeshire, and all planning decisions in the neighbourhood area will need to be made in accordance with the Neighbourhood Plan unless material considerations indicate otherwise.

Implications

23. 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:
24. 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

the plan has been through the examination and a referendum date has been set. Officers have already submitted the claim for this government grant.

25. Legal: where a Neighbourhood Plan has been successful at referendum and should therefore proceed to being formally 'made' (adopted) by the Council, the Joint Director for Planning and Economic Development has delegated authority to make the recommendation to Council, in consultation with the Lead Member for Planning (as agreed by Cabinet at its meeting on 26 July 2018). Following a successful referendum, national planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations. A legal challenge may only be made on the basis of a procedural or other legal flaw in the plan making process.
26. Staffing: the responsibilities associated with delivering neighbourhood planning are being undertaken within the existing resources of the Planning Policy, Strategy and Economy Team, drawing upon the expertise of other staff as required.
27. 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 breach, and is otherwise compatible with, EU obligations, including Human Rights. Included as part of the [Basic Conditions Statement](#) is an Equalities Impact Assessment undertaken by Fulbourn Parish Council to examine the impact of the Neighbourhood Plan in relation to the 'protected characteristics' as identified in the Equality Act 2010. The Equalities Impact Assessment concludes that: a number of policies in the Neighbourhood Plan will have positive benefits for specific protected characteristics; there are no negative equality impacts that arise from the policies or proposals contained within the Neighbourhood Plan; and the Neighbourhood Plan does not raise any issues in relation to any of the convention rights in the Human Rights Act 1998. The Examiner agreed with this assessment.

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.

Consultation with the Lead Cabinet Member for Planning:

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

Other Options Considered and Reasons for Rejection

Where a Neighbourhood Plan is successful at its referendum, SCDC has limited options in how to respond. National planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations.

Officers have concluded that the Fulbourn Neighbourhood Plan would not breach or be otherwise incompatible with EU or human rights obligations, as set out in the Considerations section.

Final decision	Reason(s)
<p>That the Joint Director for Planning and Economic Development, having consulted with the Lead Cabinet Member for Planning, recommends Council note the results of the referendum on the Fulbourn Neighbourhood Plan and 'make' (adopt) the Fulbourn Neighbourhood Plan.</p>	<p>Where a Neighbourhood Plan is successful at its referendum, national planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations.</p> <p>Officers have concluded that the Fulbourn Neighbourhood Plan would not breach or be otherwise incompatible with EU or human rights obligations, as set out in the Considerations section.</p>

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

Further Information
<p>Appendices Appendix 1: 'Made' version of the Fulbourn Neighbourhood Plan Appendix 2: Basic Conditions Check on 'Made' version of the Fulbourn Neighbourhood Plan</p> <p>Background documents Fulbourn Neighbourhood Plan – earlier stages and supporting documents National Planning Practice Guidance – Neighbourhood Planning</p> <ul style="list-style-type: none"> • Basic Conditions • Examination • Referendum • Updated guidance due to the Coronavirus pandemic <p>Neighbourhood Planning Toolkit Planning Portfolio Holder (13 August 2018) Fulbourn Neighbourhood Area Designation</p>