

## **SOUTH OXFORDSHIRE DISTRICT COUNCIL**

### **WARBOROUGH AND SHILLINGFORD NEIGHBOURHOOD DEVELOPMENT PLAN: FINAL DECISION STATEMENT**

**DATE OF PUBLICATION – 20 September 2019**

#### **1. Decision**

- 1.1. Following an Independent Examination and a positive referendum result South Oxfordshire District Council decided at the Council meeting on 11 October 2018:
1. To make the Warborough and Shillingford 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.

#### **2. Background**

- 2.1 The parish of Warborough was designated as a Neighbourhood Area on 1 March 2016.
- 2.2 Following the submission of the Warborough and Shillingford Neighbourhood Plan Examination Version ('the Plan') to the Council, the plan was publicised and comments were invited from the public and stakeholders.
- 2.3 South Oxfordshire District Council appointed an independent Examiner, Andrew Ashcroft, to review whether the plan met the basic conditions required by legislation and whether the plan should proceed to referendum.
- 2.4 The Examiner's Report concluded, subject to the modifications proposed in his report, that the plan meets the Basic Conditions. The council determined

on 15 August 2018 that the Plan, as modified by the Examiner's recommendations, should proceed to referendum.

- 2.5 A referendum was held on Thursday, 4 October 2018 and 90.4% of those who voted were in favour of the plan. The question asked was:

*Do you want South Oxfordshire District Council to use the Neighbourhood Plan for Warborough and Shillingford to help it decide planning applications in the neighbourhood area?*

### **3. Reason for Decision**

- 3.1 Section 38A(4)(a) of the 2004 Act requires the Council to make the neighbourhood plan if more than half of those voting in the referendum have voted in favour of the plan being used to help decide planning applications in the neighbourhood area. Section 38A (6) of the 2004 Act states that the Local Planning Authority is not subject to the duty if it considers that the making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights.
- 3.2 The council determined on 15 August 2018 that the Plan, as modified by the Examiner's recommendations, meets the basic conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990, is compatible with EU obligations and the Convention rights and complies with relevant provision made by or under Section 38A and B of the Planning and Compulsory Purchase Act 2004 as amended.
- 3.3 Table 2.2 and paragraph 5.5 of the Basic Conditions Statement submitted in support of the Plan outlined the Qualifying Body's considerations to the European Convention on Human Rights (ECHR), in particular their regard to the fundamental rights and freedoms guaranteed under the ECHR and the Human Rights Act. The council is satisfied that the preparation of the Plan had regard to the fundamental rights and freedoms guaranteed under the European ECHR and that it complies with the Human Rights Act. The Council is satisfied that there has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known.
- 3.4 The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination on 20 March 2017 which confirmed to the qualifying body that an Appropriate Assessment would not be required, but that further SEA work would be

required. In response to the council's screening opinion, Natural England confirmed on 9 March 2017 that the proposals in the plan will not have significant effects on sensitive sites that they have a statutory duty to protect. A recent judgment from the Court of Justice of the European Union 'People over Wind, Peter Sweetman v Coillte Teoranta (Case C-323/17)' ruled that Article 6(3) of the Habitats Directive should be interpreted as meaning that mitigation measures should be assessed as part of an Appropriate Assessment, and should not be taken into account at the screening stage. The council did not take mitigation into effect when considering whether the submitted Plan would have adverse effects on the integrity of European sites. In terms of potential incombination effects the assessment undertaken by the council relied on the Habitats Regulations Assessment (HRA) of the emerging Local Plan. Whilst that HRA considered mitigation during the screening phase, an Appropriate Assessment (AA) was prepared, and the conclusions of that AA informed the assessment of the submitted neighbourhood plan. In this context council concluded that the recent Sweetman judgement does not affect the integrity of the early Warborough and Shillingford HRA screening.

- 3.5 The Parish Council has prepared a Sustainability Appraisal Report. This report incorporates Strategic Environmental Assessment requirements. The Sustainability Appraisal sets out how it was developed in an iterative fashion with the wider preparation of the plan itself (Section 2). Section 3 sets out the policy and environmental context, Section 4 sets out a Sustainability Assessment, Section 5 covers an assessment of the policies in the plan, Section 6 sets out an assessment of reasonable policy alternatives, Section 7 sets out the current appraisal findings and Section 8 sets out the monitoring indicators.
- 3.6 Therefore, the Council is satisfied that the making of the Warborough and Shillingford Neighbourhood Development Plan, incorporating the modifications recommended by the Examiner and accepted by the council, would not breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights.
- 3.7 A referendum relating to the adoption of the Warborough and Shillingford Neighbourhood Development Plan was held on Thursday 4 October 2018.
- 3.8 The question which was asked in the Referendum was: "*Do you want South Oxfordshire District Council to use the Neighbourhood Plan for Warborough and Shillingford to help it decide planning applications in the neighbourhood area?*"
- 3.9 The result was as follows:

Response	Votes	Per cent of total
Yes	434	90.41%
No	46	9.59%
Turnout	480	63.2%

- 3.10 The majority of local electors voted in favour of the plan; therefore, the Warborough and Shillingford Neighbourhood Plan has become part of the council's development plan.
- 3.11 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 Warborough and Shillingford Neighbourhood Development Plan so that it continues to be part of the council's development plan.
- 3.12 The Council decided at the Council meeting on 11 October 2018 to make the Warborough and Shillingford Neighbourhood Plan part of the Development Plan for South Oxfordshire.

#### 4. Other Information

- 4.1 In accordance with Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012, this Decision Statement and the made Warborough and Shillingford Neighbourhood Plan can be viewed on the Council's website:

<http://www.southoxon.gov.uk/services-and-advice/planning-and-building/planning-policy/neighbourhood-plans/warborough-and-shillin>

- 4.2 Copies of this Decision Statement and the Warborough and Shillingford Neighbourhood Plan can be inspected at:

Reception <b>South Oxfordshire District Council</b> 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	Mon - Thurs, 8.30am - 5pm and Friday, 8.30am - 4.30pm
<b>St Laurence Church</b> Thame Road Warborough Oxfordshire OX10 7DR	Monday to Sunday: 8.30am to 5pm unless a service is being held

4.3 In accordance with Regulation 19(b) and Regulation 30 of the Neighbourhood Planning (General) Regulations 2012, a copy of this Decision Statement has been sent to:

- The qualifying body, namely Warborough Parish Council
- The persons who asked to be notified of the decision

Adrian Duffield

**Head of Planning**

Date: 20 September 2019