

Swindon Borough Council

Neighbourhood Planning Protocol

February 2013



Copies of this document can be obtained from;

Forward Planning
Swindon Borough Council
5th Floor
Wat Tyler House
Beckhampton Street
Swindon Borough Council
SN1 2JH

Telephone: 01793 466513

www.swindon.gov.uk/neighbourhoodplanning

Whilst every effort has been made to ensure the accuracy of the data, neither the Borough Council nor its officers can be held responsible for errors contained in the report. Nevertheless, any comments concerning errors or omissions will be welcome.

© Swindon Borough Council, 2013

All rights reserved. No part of this document may be produced or transmitted in any form or by any means including photocopying or electronic or other recording without the written permission of the copyright holder.

FOI - 3925/12

Contents

Introduction	4
Purpose of this Protocol	5
Neighbourhood Plans	5
The Borough Council's responsibility and role	8

Appendices

Appendix 1 - Code of Conduct for Parish/Town Council and Neighbourhood Forums	17
Appendix 2 - Sustainability Appraisals (SA) incorporating Strategic Environmental Assessment (SEA)	18
Appendix 3 - Specific Agencies and Bodies to contact for further assistance and advice.	19

Figures

Figure 1: The process of developing a Neighbourhood Plan	11
--	----

1. Introduction

- 1.1. The Localism Act 2011¹ enables new powers for communities to plan for their areas. The generic term for these new powers is 'neighbourhood planning'.
- 1.2. The National planning Policy Framework 2012 (NPPF)² allows a neighbourhood "direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need".
- 1.3. Through neighbourhood planning, the government says that communities will be able to:
 - choose where they want new homes, shops and offices to be built
 - have their say on what those new buildings should look like
 - grant planning permission for the new buildings they want to see go ahead.
- 1.4. Neighbourhood planning is not compulsory. It is for communities to decide if they wish to be involved in neighbourhood planning.
- 1.5. The Act makes provision for three types of neighbourhood planning:
 - **A Neighbourhood Development Plan** which can set out policies on the development and use of land in an identified Parish/Town Council or neighbourhood area. Once a plan is adopted it will become part of the Development Plan for Swindon Borough and, as such, a material consideration when making decisions on planning applications.
 - **A Neighbourhood Development Order (NDO)** which will allow planning permission for specified development in a Neighbourhood Area or for a particular type of development, for example, retail or housing. When there is a Neighbourhood Development Order in place, and a proposal is consistent with this order, there would be no need to apply to the Council for planning permission. This would work in the same way as a Local Development Order.
 - **A Community Right to Build Order** which is a specific type of NDO. This order will allow certain community organisations to bring forward smaller-scale development on a specific site, without the need for planning permission. This reform will give communities the opportunity to develop, for instance, small scale housing and other facilities for the community.

¹ Localism Act 2011: <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

² National Planning Policy Framework 2012: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2 . Purpose of this Protocol

- 2.1. Swindon Borough Council recognises the value of neighbourhood planning in identifying and articulating local community needs and priorities, improving service delivery and informing policy and strategy within Swindon.
- 2.2. The aim of this Protocol is to provide clear, concise guidance on how Swindon Borough Council will work with Neighbourhoods and Parish/Town Councils undertaking Neighbourhood Planning. This protocol will be reviewed on a regular basis to take account of changes in legislation and will be updated, when necessary, to ensure it is relevant to the community who will use it.
- 2.3. This protocol focuses on the production of Neighbourhood Plans as this is potentially the more resource intensive, however much of this protocol is applicable to Neighbourhood Development Orders and Community Right to Build Orders
- 2.4. The full legislations and regulations can be found within:
 - The Neighbourhood Planning (General) Regulations 2012
 - The Town and Country Planning Act 1990
 - The Localism Act 2011
 - The Neighbourhood Planning (Referendums) Regulations 2012

3. Neighbourhood Plans

Who can produce a Neighbourhood Plan?

- 3.1. Parish/Town Councils and Neighbourhood Forums (the latter to be formally approved by the Council) can produce Neighbourhood Plans. This protocol refers to these collectively as Neighbourhood Planning bodies.

The status of Neighbourhood Development Plans

- 3.2. Neighbourhood Development Plans will have the status of being part of the development plan for the Borough. Consequently they must be taken very seriously because of their significance in respect of the determination of planning applications in the Neighbourhood Area to which they relate.

The Relationship between a Neighbourhood Development Plan and a Local Development Plan

- 3.3. The Local Development Plan for Swindon sets out the statutory planning policies and proposals for the Borough. The Swindon Borough Local Plan sets out the strategic requirements in terms of land allocations as well as more

detailed development management policies. It is anticipated the Swindon Borough Local Plan 2026 will be adopted in 2014.

- 3.4. Neighbourhood Plans must be in general conformity with the Swindon Borough Local Plan policies. Having an up-to-date Local Plan in place is judged to be essential for successful local and neighbourhood planning as it sets the context for development in the area. Work on a Neighbourhood Development Plan can commence before the Local Plan is adopted; however it is much more beneficial to follow in the footsteps of the Local Plan to ensure that the Neighbourhood Development Plan is in conformity. For example, if a Neighbourhood Development Plan allocates less housing than identified in the Borough's Local Plan then that could result in the Neighbourhood Development Plan being found unsound at the examination stage therefore being withdrawn by the Examiner.

Requirements of A Neighbourhood Development Plan

- 3.5. A Neighbourhood Development Plan will have to be underpinned by robust evidence and should:
- be in accordance with the Neighbourhood Planning (General) Regulations 2012;
 - be demonstrably deliverable;
 - specify the period for which the Plan will have effect;
 - be supported by the Borough Council;
 - be in accordance with national policies
 - be in accordance with EU obligations and human rights requirements;
 - be accompanied by a Sustainability Appraisal and a Strategic Environmental Assessment (where required);
 - enable development, not prevent it;
 - be supported at a local referendum;
 - support the strategic development needs set out in the Borough's Local Plan, including policies for housing and economic development
 - support local development, shaping and directing development in the area that is outside the strategic elements of the Local Plan,
 - identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with their Neighbourhood Development Plan to proceed where appropriate³, and
 - support a prosperous rural economy (where appropriate)
- 3.6. When considering conformity of a Neighbourhood Development Plan with the Local Plan and the National Planning Policy Framework, material weight will be given to Neighbourhood Development plans that are conformity of Both of the Documents. "They should be consistent with principle and policies set out

³ National Planning Policy Framework (2012), criterion 16:
www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf

in this framework, including the presumption in favour of sustainable development”⁴

Is a Neighbourhood Development Plan appropriate?

- 3.7. Communities should not regard Neighbourhood Planning approach as the only option or planning tool open to them, there are many other forms of community planning and ways of delivering development locally that may be more appropriate.
- 3.8. The following points should be carefully considered before embarking on Neighbourhood Planning:
- **Are you clear on why you need a Neighbourhood Plan?** For example, can the outcomes sought be delivered through other planning mechanisms such as a Parish/Town or Community Plan, a Neighbourhood Development Order, a planning application or other routes?
 - **Have you considered the length of time the process may take?** It could take at least 2 years from start to finish, and probably longer.
 - **Have you considered the time and financial resource implications needed to produce a Neighbourhood Development Plan?** Communities and Local Government (CLG) stated that the average cost of a Neighbourhood Development Plan is between £17,000 and £63,000 and after ten years the cost of reviewing a Plan is around 70% of the initial cost.
 - **Are there the skills and enthusiasm within the community to undertake a Neighbourhood Plan, and are you confident this enthusiasm can be maintained through the process?**
 - **Are you prepared to engage with land owners and developers and to have constructive conversations with people who may hold opposing views from your own?**
- 3.9. There are a number of alternatives to Neighbourhood Development Plan that a community can undertake in their area and may be more appropriate. These include:
- **Parish/Town or Community Plans**, which provide an opportunity for the community to work together to decide on what they want to improve or achieve, in their area, at present or in the future. The final document is generally sets out how the community intend to make improvements

⁴ National Planning Policy framework section 151

to the local area, for example community led initiatives such as street cleaning, refuse and recycling collection or traffic calming measures.

- **Village & Urban Community Design Statements**, which is a document that describes the qualities and characteristics that the community value in their area. It sets out clear and simple guidance for the design of all future development in a village.

3.10. The advantages of these alternative methods are they are potentially cheaper, quicker than Neighbourhood Plans, and do not have to go through examination or be subject to a referendum.

- 3.11. The disadvantages of these alternative methods are that they
- cannot make specific land use proposals,
 - have limited input from developers and the Council,
 - can raise expectations unrealistically
 - do not have the material weight of a Neighbourhood Plan

4. The Borough Council's responsibility and role

4.1. The Borough Council has a duty to advise, help, manage and support the Neighbourhood Planning bodies with the process of developing Neighbourhood Plans.

4.2. The Council recognises that one of the main issues for Neighbourhood Planning bodies is the availability of funding to deliver a Plan. The Council has a 'duty to cooperate'; however, the extent to which the Council can commit officer time and resources to development of Neighbourhood Plans will be limited. The Council has a duty:

- to pay for the independent examination;
- pay for the referendum;⁵
- confirm the formal designation of a Neighbourhood Forum or Area for the purposes of Neighbourhood Planning;
- co-operate with Parish/Town Councils and/or Neighbourhood Forums and providing technical advice and support for the preparation of the Plan; and,
- Validate and check a plan prior to submission to the independent examination.

4.3. In addition, subject to available resource, the Council will endeavour to support communities in the Neighbourhood Planning process through:

⁵ The Neighbourhood Planning (Referendums) Regulations
<http://www.legislation.gov.uk/ukdsi/2012/9780111525050/contents>

- providing general guidance
- provide web links to the Neighbourhood Planning Regulations and on local case studies (as they emerge)
- delivering a Borough Council Neighbourhood Planning website with links to appropriate evidence base studies
- provide web links to funding opportunities related to neighbourhood planning
- to make base maps available on request (with a production cost)
- providing information on planning policy and planning designations on the website
- delivering guidance on designing community events through the Swindon Borough Locality Leads⁶
- provide web links (where appropriate) to relevant statutory bodies and contacts, for example, the Environment Agency, English Heritage and the Highways Agency (please refer to Appendix 3)
- advise and assist with negotiations with developers (amount of officer time and levels of support to be agreed upfront and in writing and dependant on Council resources that are available at that time)
- enable Councillors to help communities with their neighbourhood plans
- Publicise a map to illustrate all of the designated Neighbourhood areas and Forums

Officer time and budgets

- 4.4. The Council has to be realistic as to what it can do if Neighbourhood Planning applications are to be processed in a cost effective and speedy manner. **Support and assistance must be proportionate to the nature of the plans being prepared, the stage reached in plan making and the impact on the wider community.**
- 4.5. In order to enable the realistic and economic delivery of Neighbourhood Planning the following will be set out at the establishment of the Neighbourhood Area:
- A named Planning Officer to be the lead planning contact
 - Approximate timetable for meetings and SBC officer involvement, including purpose.
- 4.6. The following shall be adopted as standard practise:
- Enquiries will be responded to within 10 working days
 - Requests for information will be met within 20 working days, or if this is not possible a reply sent explaining the reason why.

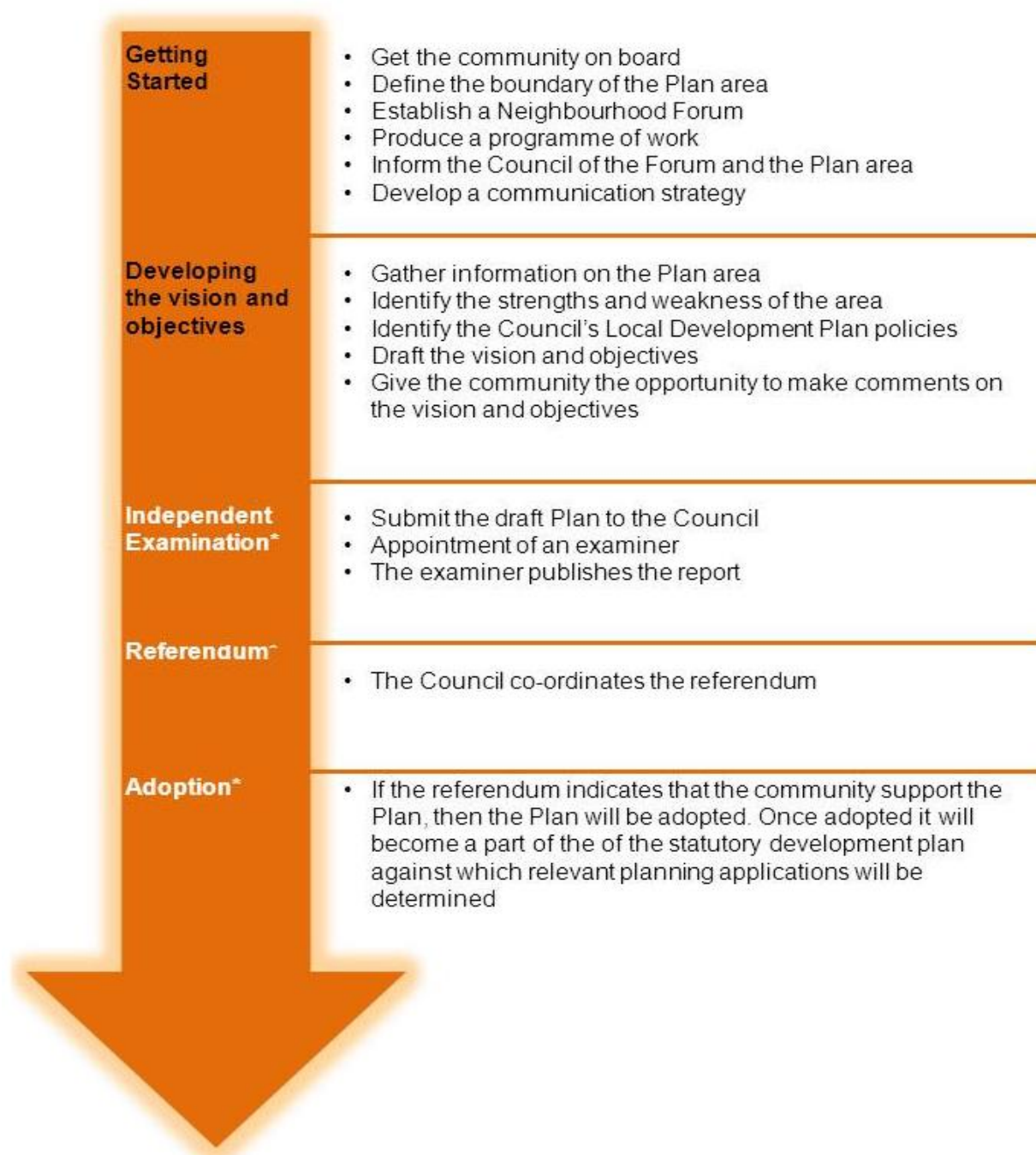
Other sources of support

⁶ For further information on the Swindon borough Council Locality Leads please view: www.swindonsp.org.uk/ssp-index/localityworking.htm

- 4.7. The Department of Communities and Local Government (CLG) has provided funding to four organisations, to provide assistance to Parish/Town Councils and Neighbourhood Forums. The organisations are as follows: :
- The Prince's Foundation
 - Locality
 - Planning Aid England
 - National Association of Local Councils in partnership with the Campaign to Protect Rural England
- 4.8. The organisations listed above are subject to change. For the most up-to-date information please refer to the Council's Neighbourhood Planning website or the CLG website.⁷

⁷ The CLG neighbourhood Planning website is available at:
www.communities.gov.uk/planningandbuilding/planningsystem/neighbourhoodplanningvanguards/

Figure 1: The process of developing a Neighbourhood Plan



*These are the statutory stages that Neighbourhood Planning has to be in accordance with to be adopted by the Borough Council.

Establishing a Neighbourhood Forum

- 4.9. The first stages of developing a Neighbourhood Development Plan are to establish the Neighbourhood Forum. In Parished areas, whether wholly or partly covered by a Parish or Town Council, the process will be led by the Parish- or Town Council and therefore a Forum does not need to be drawn up.
- 4.10. A community group or organisation can only be designated as a Neighbourhood Forum if the Council is satisfied that the following conditions have been met: (It should be noted that the designation will last for five years)
- the organisation is, established for the express purpose of furthering the social, economic and environmental well-being of individuals living, or wanting to live, in an area that consist of or includes the Neighbourhood Area concerned
 - the membership of the organisation is open to people living or wanting to live in the area concerned
 - there are at least 21 members of the organisation and they live, work or do business, or an elected member of the designated area, each of these criteria need to be full filled; and
 - the organisation has a written constitution
 - there can only be one Neighbourhood Forum per Neighbourhood Area

Source: 61(f) of the 2004 Planning and Compulsory Purchase Act

- 4.11. It will be important for the forum to consider skills, knowledge and experience that different people can bring. How the forum is formed and organised is likely to influence the support that Neighbourhood Planning receives from the community.

Designation of the Neighbourhood Forum

- 4.12. Once a Neighbourhood Forum has been established it will need to apply to the Council for formal designation. The Borough Council have produced an application form for a Neighbourhood Forum and Area Designation, this is specifically for the non Parish areas. To ensure that an application can be considered fully by the Council, the following must be submitted and included with the application::
- the name of the proposed neighbourhood forum;
 - a copy of the written constitution of the proposed neighbourhood forum;
 - the name of the Neighbourhood Area to which the application relates and a map which identifies the area;
 - the contact details of at least one member of the proposed Neighbourhood Forum to be made public
 - a statement which explains how the proposed Neighbourhood Forum meets the conditions contained in section 61F (5) of the 1990 Act.

4.13. To enable the Council to decide if a Neighbourhood Forum is representative of the community, the following will need to be provided with the application form:

- a plan should be submitted showing the proposed Neighbourhood Development Plan Area with a red line boundary on an OS base map, appropriate OS Copyright, a north arrow and at an appropriate scale,
- contact details for all named members of the Neighbourhood Forum (minimum of 21)
- information on the Forum's membership process and evidence that one organisation does not make up more than a third of the Forum's membership
- evidence that the forum is not dependant on any one single interest organisation for funding
- Code of conduct, a template is suggested in Appendix 1.

Designation of the Neighbourhood Area

4.14. A Parish/Town Council or a Neighbourhood Forum will have to apply for a 'Neighbourhood Area' to the Borough Council. The forum designation application and the Neighbourhood Area plan application can be submitted to the Council at the same time. A Neighbourhood Area can be defined as corresponding to an existing administrative areas, or alternatively by physical features such as rivers or roads. The Council will have a role in mediating to ensure there are no overlaps or conflict with boundaries within the Borough.

4.15. The following must be considered before applying for a 'Neighbourhood Area' designation:

- If an application for designation is made by a Parish or Town Council it must cover some or all of the area covered by the Parish or Town Council
- If an application for designation is made by a Neighbourhood Forum in a non-parished area it must not include part of or the whole of a Parish or Town Council area
- A Neighbourhood Area can cover more than 1 parish, but the reasons for this and the other parish's must be clearly stated.

4.16. The Neighbourhood Planning (England) Regulations 2012 state that a Parish/Town Council or a Neighbourhood Forum must submit the following with a Neighbourhood Area application, all of this is included within the Neighbourhood Area application that the Borough Council has prepared

- a map which identifies the area to which the area application relates;
- a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
- a statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the 1990 Act

- 4.17. The application also includes the questions on '*why neighbourhood planning is required*', this needs to be thought about when answering the question, here are some other questions that need to be considered when applying for a Neighbourhood Area application:
- What are the key issues in your area?
 - What are the aims and purpose of the Forum?
 - What are the aims and purpose of the Area?
 - Why a Neighbourhood Development Plan is more appropriate than a Parish/Community Plan?
- 4.18. All of the applications and the guidance can be found on the Council's neighbourhood planning web pages at www.swindon.gov.uk/neighbourhoodplanning
- 4.19. This information would help to ensure that the boundary of the Neighbourhood Development Plan Area is suitable as in some cases the issues may have a far wider geographical span than proposed.
- 4.20. The Borough Council may decline to consider an area application if a Parish/Town Council or Neighbourhood Forum has already made an area application for the same geographical area and a decision has not yet been made on that application.
- 4.21. As soon as reasonably practical after receiving an application the Council will publicise the following on the website and in any other way that it is appropriate:
- a copy of the application;
 - details of how to make representations; and
 - the date by which those representations must be received, being not less than 6 weeks from the date on which the area application is first publicised
- 4.22. To ensure that community groups and Parish/Town Council's submit all of the correct information to proceed to designation, the Borough Council have prepared application forms for the designation of a Neighbourhood Area and Forum. The completion of such forms facilitates the Council's consideration of area and forum applications. It ensures that all the information required is submitted for due consideration of such applications.
- 4.23. If there are objections it is recommended that the Parish/Town Council or Forum addresses these and re-submits the application.
- 4.24. The decision of Designation of a Neighbourhood Area and Neighbourhood Forum will be dealt under delegated powers (with exception).

What is to be included within a Neighbourhood Development Plan.

- 4.25. It may be appropriate for a Sustainability Appraisal (SA) incorporating Strategic Environment Assessment (SEA) to be undertaken as part of the neighbourhood planning process. Please refer to Appendix 2.
- 4.26. To ensure consistency with the Swindon Borough Council's Equality Duty neighbourhood planning bodies will be required to prepare a Diversity Impact Assessment as part of the neighbourhood planning process. This is required to demonstrate that the community have been fully considered.

Submission of plan proposal to examination

- 4.27. The Council will check the Neighbourhood Development Plan and supporting documents to ensure it is in line with the Neighbourhood Planning Regulations⁸ and the requirements within the Localism Act 2011.
- 4.28. An independent examiner will be appointed. They will be agreed upon by Swindon Borough Council and the Neighbourhood Forum or Parish/Town Council concerned. The Examiner will review the content of the Neighbourhood Development Plan and accompanying documents. The main function of the examination will be to check that the Neighbourhood Development Plan conforms with:
- the strategic policies in the Council's Development Plan
 - the National Planning Policy Framework
 - relevant European Directives
 - neighbouring Neighbourhood Development Plans

Examiner's Report

- 4.29. The result of the examination will be a report that will have one of the following recommendations:⁹
- The draft Neighbourhood Development Plan should proceed to a referendum
 - The draft Neighbourhood Development Plan should proceed to a referendum, subject to certain amendments
 - The draft Neighbourhood Development Plan should be refused
- 4.30. Where the examination shows that the Neighbourhood Development Plan is not compliant with the strategic policies in the development plan, legal requirements or national policy, then the Council will not be obliged to carry out a referendum or adopt the Plan.

⁸ The regulations are available at: www.legislation.gov.uk/ukxi/2012/637/regulation/20/made

⁹ The regulations are available at: www.legislation.gov.uk/ukxi/2012/637/regulation/20/made

Referendum

- 4.31. If the Independent Examiner recommends that the draft Neighbourhood Development Plan can proceed to the referendum.
- 4.32. The Council will pay for the proceeding, advertise the documents organise the referendum. The documents available at least 28 days before the start of the referendum, these documents include all of the information that has been submitted and the examiners outcomes. They will be made available on the Swindon Borough Council Neighbourhood Planning Web pages, the On-Stop-Shop in Wat Tyler West and, where appropriate, made available at accessible premises within the referendum area.

Adoption

- 4.33. If the results of the referendum are positive, the Council will adopt the Neighbourhood Development Plan as soon as reasonably practicable, bearing in mind the normal democratic process. Once the Neighbourhood Development Plan has been adopted, it will become part of the statutory development plan against which relevant planning applications will be determined.

Adopting a Neighbourhood Development Order

- 4.34. Neighbourhood Development Orders will need to meet a number of conditions before they can be legally come into force. These conditions will be used to ensure that plans are legally compliant and take account of wider policy considerations, for example, national planning policy.
- 4.35. An independent examination will be undertaken to ensure that the Order is in accordance with the conditions mentioned above. A local planning authority will have a legal duty to bring them into force after all the conditions have been met.
- 4.36. It should be noted that there will be a number of types of development that will be excluded from Neighbourhood Development Orders, for example, development over a certain threshold and development that would need an Environmental Impact Assessment.

Appendix 1 - Code of Conduct for Parish/Town Council and Neighbourhood Forums

1. All Neighbourhood Forums should hold an open Annual General Meeting
2. The Parish/Town Council or Neighbourhood Forum should provide the Council with a list of all members and means of contacting each member (address, telephone number, email)
3. Nominate one member of the Parish/Town Council or Forum to act as 'a point of contact' with the Council. The contact details of this member will be displayed on the Council's website (in accordance with the Data Protection Act 2010).
4. Any financial contributions to the Parish/Town Council or Forum from third parties must be declared to the Borough Council
5. Parish/Town Council and Forum members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability
6. All meetings must have agendas and minutes. These agendas and minutes will be made available on the Parish/Town Council website or Forum website for members of the public.
 - i. Agenda and supporting papers for meetings to be circulated 5 working days prior to the meeting
 - ii. Requests for information necessary for a meeting to be made 25 working days prior to meeting
 - iii. Draft notes of meetings to be circulated within 10 working days of the meeting being held
7. A webpage should be provided for members of the public with the following information:
 - i. Points of contact and ways to become a member
 - ii. The constitution
 - iii. The stage of the Plan preparation
 - iv. Details of future meetings including times and locations
8. The frequency of meetings of the Forum is to be determined by the Forum however the minimum should be three meetings a year.

Appendix 2 - Sustainability Appraisals (SA) incorporating Strategic Environmental Assessment (SEA)

The purpose of the SA is to appraise the social, environmental and economic effects of a Neighbourhood Development Plan from the start of evidence gathering to ensure that the document is 'sound'.

The SA report should:

- take a long term view of the expected social, economic and environmental effects of a Plan
- ensure that sustainability objectives are turned into sustainable planning policies
- reflect global, national, regional and local concerns

The SA is used to identify any adverse effects of the proposals as early as possible. These can then be addressed by modifying the proposals, through developing mitigation measures or by considering an entirely different option. It should be noted that the SA is not necessarily intended to be achievable, and may only be aspirational.

Strategic Environmental Assessment

A Strategic Environmental Assessment (SEA) is intended to increase the consideration of environmental issues during decision making related to strategic documents such as development plan documents. The SEA identifies the significant environmental effects that are likely to result from the implementation of the plan.

The findings of the assessment will be published in a report that is consulted upon. Any issues that are raised must be considered and resolved before planning permission will be granted.

Appendix 3 - Specific Agencies and Bodies to contact for further assistance and advice

This is not an exhaustive list and will depend upon the location and proposals detailed within a Neighbourhood Development Plan:

- The Environment Agency
- English Heritage
- Natural England
- Network Rail
- Highways Agency
- Area of Outstanding Natural Beauty Partnership
- Sport England
- Canal and River Trust
- Woodland Trust
- Wiltshire Wildlife Trust
- Thames Water

Whilst every effort has been made to ensure the accuracy of the data, neither the Borough Council nor its officers can be held responsible for errors contained in the report. Nevertheless, any comments concerning errors or omissions will be welcome.

© Swindon Borough Council, 2013

All rights reserved. No part of this document may be produced or transmitted in any form or by any means including photocopying or electronic or other recording without the written permission of the copyright holder.

FOI - 3925/12