



**COTSWOLD**  
DISTRICT COUNCIL

Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>CABINET MEMBER FOR PLANNING AND REGULATORY SERVICES DECISION MEETING – 17 JULY 2024</b>
Subject	<b>NEIGHBOURHOOD PLANNING: REGULATION 18 DECISION ON THE STOW-ON-THE-WOLD AND THE SWELLS NEIGHBOURHOOD DEVELOPMENT PLAN</b>
Wards affected	Stow
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Summary/Purpose	To consider whether the Stow-on-the-Wold and the Swells Neighbourhood Development Plan, as modified, meets the Basic Conditions required by the Localism Act, and therefore should proceed to referendum.
Annexes	Annex A: Examiner's Report Annex B: Table of Modifications
Recommendation(s)	That the Cabinet Member for Planning and Regulatory Services considers the recommendations of the examiner, and the proposed modifications, and agrees that the Plan meets the Basic Conditions.
Corporate priorities	Responding to the Climate Emergency Delivering Housing Supporting Communities Supporting the Economy  Neighbourhood Plans are prepared by or on behalf of parish councils, and express their priorities, albeit that they need to be in general conformity with the policies of the Local Plan. In this instance, the ambitions of the Plan, as modified, echo the Council's Corporate Priorities, supporting



	greener development.
Key Decision	NO
Exempt	NO
Consultees/ Consultation	The Plan has been consulted on by Stow Town Council, and subsequently by the District Council, in line with the statutory process for neighbourhood plans. Local residents, businesses and a range of statutory and non-statutory organisations have participated in these consultations.



## **1. EXECUTIVE SUMMARY**

- 1.1 This report updates on progress with the Stow-on-the-Wold and the Swells Neighbourhood Plan, and the outcome of the independent examination, which the Council is required in law to consider.

## **2. BACKGROUND**

- 2.1 Stow-on-the-Wold Town Council (STC) initially submitted a request for area designation to this Council in 2012, when their parish boundaries were designated as a Neighbourhood Area. In 2015, at the joint request of STC and Swell Parish Council (SPC), this designation was revoked, and a new area encompassing the full extent of both parishes was designated, Stow and the Swells (SSNP). The Neighbourhood Planning Regulations 2012 require that in a multi-parish area, one parish takes on the role of qualifying body, that is, the organisation legally capable of presenting a neighbourhood plan to the Local Planning Authority. STC took on this role. Since then, local residents, and more recently, professional planning consultancy support have been developing the evidence base and draft policies for this Neighbourhood Plan. The Plan was duly consulted upon in early 2023 – a consultation to which this Council responded – and representations were considered in preparing a submission draft. Following submission to the Council, ‘the Regulation 16’ consultation was launched on 14 November 2023, closing on 5 January 2024. The Independent Examination commenced immediately thereafter. On the 2 April 2024 the Independent Examiner issued his report, a decision on which is the subject of this report.

## **3. MAIN POINTS**

- 3.1 Following the prescribed process for neighbourhood plans, Cotswold District Council launched Regulation 16 consultation last year, closing on 5 January 2024. As the consultation ran over the Christmas period, the window for comments was extended beyond 6 calendar weeks to accommodate the non-working days. Over 300 representations were made, from statutory bodies, landowner/developer representatives and local residents.
- 3.2 CDC procured an independent examination of the SSNDP from an experienced examiner, Andrew Mead (‘the Examiner’). This examination process is typically carried out using written representations, so is effectively a desk-based exercise, supplemented with a visit to the neighbourhood area. The examiner issued his final report on 2 April 2024.
- 3.3 The examiner concluded that the NDP, as modified following his recommendations, meets the Basic Conditions laid out in law for neighbourhood plans, and should proceed to referendum, and that the referendum covers the area of the plan, that is, Stow-on-the-Wold and Swell civil parishes.
- 3.4 It is the role of this Council to make the changes recommended by the examiner, in consultation with the qualifying body. It should be noted that the examiner’s recommendations are exactly that, and are not binding, but any material variation from these modifications would require a further consultation period. These recommendations (contained in the examiner’s report at Annex A) and subsequent modifications are highlighted



in table form at Annex B. It should be noted that the examiner also noted a number of non-material changes could sensibly be made, to reflect: the modifications in the supporting text; changing circumstances, and; observations made in representations at the Regulation 16 stage.

- 3.5 The Council has received a letter from a firm of solicitors acting on behalf of a local land interest. This letter claims there are serious flaws with one of the policies, even after the examiner's modifications. The policy is 'Specialist Accommodation for Older People in Stow', numbered SSNDP5 in the submission draft, and SSNDP3 following the modifications recommended by the examiner.
- 3.6 Specifically, these alleged flaws include conflict with national policy, the potential for a proposed policy in the SSNP to undermine strategic policies in the development plan and further conflict with existing development plan policies on the provision of affordable housing and specialist accommodation for older people. The letter then seeks to substantiate this position, and suggests a course of action to the Council.
- 3.7 The task allotted to the Independent Examiner is fundamentally different to that of an Inspector of a Local Plan. The Examiner is not empowered to test the soundness of policies, nor to seek to improve the policies, but very simply to test against the Basic Conditions, and where applicable to recommend modifications to meet that standard. In this light, the issue which must be considered by the Examiner, and subsequently the Council, is not whether the policy is flawed, but whether it meets the minimum requirements of the Basic Conditions.
- 3.8 The Examiner's report includes, at paragraph 4.20, clear evidence that he has reviewed the Policy, and a categorical statement;

Subject to the recommended deletion of the cap of 40 units, and the inclusion of the definition of "local connection" to that recommended above in Policy SSNP4, the policy would have regard to national guidance, would generally conform with Policy H4 of the CDLP and meet the Basic Conditions.'

It is evident that the Examiner has considered the requirements, and reached a judgement. The Examiner is a suitably qualified independent person, appointed to provide an independent assessment of the neighbourhood plan. It is therefore reasonable for the Council to work on the presumption that he has understand the policy framework correctly unless there is clear evidence to the contrary. While the draft policy, as modified, is more restrictive than national policy and the Local Plan, that is the power given to neighbourhood plans through the deliberate wording of the Basic Conditions, to enable policy-making that is responsive to issues and public sentiment at the neighbourhood level.

- 3.9 In terms of the specific points raised, the strategic policies of the Local Plan will still apply. This includes Policy H4, which is a strategic policy, and will need to be read alongside the neighbourhood plan policy. The policy is critiqued in terms of its silence on issues of viability, but the NPPF enables viability to be read in (paragraph 58).
- 3.10 It should also be noted that the critique of the policy is directed at the policy itself, as stand-alone wording. However, the policy is part of larger neighbourhood plan, which itself would be part of the Local Development Framework – the effect and application of the policy should be judged in that context, rather than as a statutory or contractual provision that may be viewed in isolation. Moreover, the basic condition of general conformity in its strictest



application is for the Neighbourhood Plan as a whole, rather than line by line and policy by policy.

- 3.11 Subject to the decision on this report, the SSNDP as modified is expected to proceed to referendum in September 2024. This timeframe is within the usual window for a neighbourhood plan to proceed to referendum.

#### **4. ALTERNATIVE OPTIONS**

- 4.1 The Localism Act 2012, and subsequent regulations and guidance place a duty upon the Council to make a decision upon the Examiner's report. The Council is empowered not to agree with the Examiner's recommendations, which would trigger a further consultation stage of six weeks.
- 4.2 Ordinarily, this decision is expected to take place within 5 weeks. However, in this instance, given the significance of some of the modifications, STC requested that the Council gave them opportunity to consider whether they still wished to proceed with the NDP. STC formally agreed to proceed on 26 April 2024.

#### **5. CONCLUSIONS**

- 5.1 The Examiner's Report at Annex A provides the perspective of a suitably qualified independent person on the SSNDP. Agreeing to his recommendations will allow a modified draft of the SSNDP to progress to public referendum, and subject to public support, take on full weight in the planning system.

#### **6. FINANCIAL IMPLICATIONS**

- 6.1 In previous years, this decision point has enabled the Council to draw down grant from the Department of Levelling Up, Communities and Housing, issued under the 'New Burdens' doctrine. The continuation of grant support for 2024-25 has not been confirmed.

#### **7. LEGAL IMPLICATIONS**

- 7.1 Making a decision on this report is a statutory duty. While the Council is expected to take on board the examiner's findings, these are non-binding, and the decision is the Council's. This decision will give the plan significant weight in planning decisions, as noted above, but will still need to be subject to a referendum and a final, formal decision to make the plan.

#### **8. RISK ASSESSMENT**

- 8.1 This is part of a statutory process and a decision that must be made. To mitigate the risk that there is a challenge to the Council's decision, the Council has participated fully in this process to ensure that the presented plan and the preparatory process is technically and legally robust.



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**9. EQUALITIES IMPACT**

8.1 Not required for this decision, but it should be noted that the Examiner has considered Human Rights requirements in his report, and concluded that he is satisfied that the policies will not have a discriminatory impact on any particular group of individuals.

**9 CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS**

9.1 None directly for this decision. The policies of the SSNDP, notably SSNPI3 will play a role in the design and layout of any new development, helping to mitigate the environmental impact.

**10 BACKGROUND PAPERS**

10.1 None.

(END)