

OFFICER DECISION RECORD (ODR2)

This form records an officer decision and is published in accordance with the Openness of Local Government Bodies Regulations 2014

Date of Decision	20/12/2022
Decision Taker (including Job Title)	David Malcolm, Head of Planning
Specific Delegation	<p>Chapter 2 part 4, paragraph 2.3 (page 15) of the Cheshire East Constitution states that the Environment and Communities Committee is responsible for the development and delivery of the Council's Local Plan, including neighbourhood plans.</p> <p>Chapter 2, part 5, paragraph 53 (page 57) of the constitution also gives the Executive Director of Place delegated powers related to neighbourhood planning.</p> <p>To clarify responsibilities, on 7th July 2021 the Council's Environment and Communities Committee considered a report titled 'Delegation of Neighbourhood Planning Decisions' and confirmed that decisions to make neighbourhood plans are to be delegated to the Head of Planning in consultation with the Chair of the Environment and Communities Committee. (Agenda for Environment and Communities Committee on Wednesday, 7th July, 2021, 10.30 am Cheshire East Council)</p>
Brief Description of Decision	<p>It is recommended that the Head of Planning, in consultation with the Chair of the Environment and Communities Committee:</p> <p>Accept the examiner's recommendations to make modifications to the Sound & Broomhall Neighbourhood Development Plan, as set out in Sound and Broomhall Neighbourhood Plan examiner's report; and confirms that Sound and Broomhall Neighbourhood Development Plan is made and forms part of the Development Plan for Cheshire East..</p>
Reasons for the Decision and alternatives considered	<p>Sound and Broomhall Parish Council have prepared a neighbourhood plan, which has been subject to consultation, independent examination and referendum.</p> <p>On the 8th December 2022 the Sound and Broomhall Neighbourhood Plan was subject to a local referendum</p>

	<p>which returned a vote in favour of using the Sound and Broomhall Neighbourhood Development Plan to decide planning applications within the Sound and Broomhall Neighbourhood Area.</p> <p>The neighbourhood plan became part of the Development Plan for Cheshire East at declaration of a referendum result supporting the plan. This decision to make the neighbourhood plan confirms that status.</p> <p>The only circumstances under which the Council may decline to make the neighbourhood plan are where an error in the legal process of preparing the neighbourhood plan has come to light. This is not the case for the Sound and Broomhall Neighbourhood Plan.</p> <p>Copies of the relevant documents and this notice may be viewed on the Councils website, or by request at Council headquarters: Westfields, Middlewich Road, Sandbach CW11 1HZ</p>
Member consultation and interests declared	Councillor Mick Warren, Chair of E&CC, no objections and supports the proposal.
Significant Decision	NO
Legal Implications	<p>The Neighbourhood Plan meets the basic conditions tests and all relevant legal and procedural requirements, this is supported in the Examiner's Report. The referendum returned a majority vote in favour of implementing the neighbourhood plan which means that the plan now forms part of the Development Plan in accordance with which planning decisions should be made unless material considerations indicate otherwise. The Council is also required to 'make' the neighbourhood plan, confirming this position. Proposals that are contrary to a made neighbourhood plan should not normally be approved and although in the absence of a 5 year housing land supply, housing policies in the Development Plan may be considered out of date and adversely affect the weight that can be ascribed to them, the weight given to such policies is a matter for the decision maker.</p> <p>The Secretary of State has made the Neighbourhood Planning (General) Regulations 2012 under powers conferred by the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004, and these Regulations ("the Regulations"), which came into force on 6 April 2012.</p> <p>Section 38(3A) of the Planning and Compulsory Purchase Act 2004 sets out that a neighbourhood plan forms part of the development plan if it is approved at</p>

	<p>referendum but not yet made by the Local Planning Authority (LPA). The neighbourhood plan will remain part of the development plan until the LPA decide not to make the plan.</p> <p>S61M in Schedule 9 of the Localism Act 2011 makes provision for the Local Planning Authority to modify a neighbourhood development plan they have made for the purpose of correcting errors.</p> <p>The Sound and Broomhall neighbourhood plan has already been subject to examination and referendum and, through this decision is to be 'made', and form part of the Development Plan for Cheshire East.</p>
Financial Implications	The decision to confirm that the neighbourhood plan is made is, like all decisions of a public authority, is open to challenge by Judicial Review. The costs of defending any judicial review will be borne by the Council.
Confidential/Exempt Information	n/a
Background Papers	Sound and Broomhall Neighbourhood Plan Sound and Broomhall Neighbourhood Plan Examiners Report

Signed:



Dated :

20th December 2022