

Calderdale MBC

Wards Affected: Ryburn

Cabinet



Sowerby Neighbourhood Plan – Adoption by the Council

Report of Director of Regeneration and Strategy

1. Purpose of Report

- 1.1 Sowerby Neighbourhood Forum has prepared a Neighbourhood Development Plan for Sowerby Neighbourhood Plan Area. This report requests that Council formally 'make' the Sowerby Neighbourhood Plan.
- 1.2 The Sowerby Neighbourhood Plan is the first Neighbourhood Plan in Calderdale to have been through the process of a referendum to become part of the Development Plan.
- 1.3 As one of the appendices to the Neighbourhood Plan, it also introduces the first 'Design Code' (Appendix 1 C) to be part of a development plan in Calderdale, providing applicants a clear idea as to the type of design that the Neighbourhood Plan, and by extension the Local planning authority expect. Such an emphasis on design contributes positively to the Green and Healthy Streets agenda.

2. Need for a decision

- 2.1 Paragraph 38A (4)(a) of the Planning and Compulsory Purchase Act 2004 sets out that the council must make a neighbourhood plan if more than half of those voting at the referendum have voted in favour of the plan being used to help decide planning applications in the plan area.
- 2.2 Under the Neighbourhood Planning Act 2017, a provision came into force on 19th July 2017. This resulted in changes to Section 38 of the Planning and Compulsory Purchase Act (2004). This means that once a Neighbourhood Development Plan has been successful at referendum, it will automatically form part of the development plan. That is unless the Council specifically makes a decision not to adopt it.
- 2.3 The only circumstance where the council should not make this decision is where the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

3. Recommendation

3.1 Council is asked to:

- To note the referendum result of 25th November 2021 where 85% of those voting voted in favour of the Sowerby Neighbourhood Plan, which is above the required 50%.

Reason: To allow the Neighbourhood plan to form part of the Development Plan for the Sowerby Neighbourhood Plan Area

- To formally 'make' the Sowerby Neighbourhood Plan presented at Appendix 1 to this report so that it continues to have effect as part of the statutory Development Plan for the District.

Reason: To allow the Neighbourhood plan to form part of the Development Plan for the Sowerby Neighbourhood Plan Area

- To authorise the Director – Regeneration and Strategy to issue and publicise a Decision Statement (Appendix 2)

Reason: To allow the Neighbourhood plan to form part of the Development Plan for the Sowerby Neighbourhood Plan Area

4. Background

4.1 The Localism Act 2011 introduced new powers for community groups to prepare neighbourhood plans for their local areas. The Council has a statutory duty to assist communities in the preparation of Neighbourhood Plans and to take plans through a process of Examination and Referendum. The local authority is required to take decisions at key stages in the process within time limits that apply, as set out in the Neighbourhood Planning (General) Regulations 2012 as amended in 2015 and 2016 ("the Regulations") and within new government guidance in relation to the Covid-19 pandemic.

4.2 The Sowerby Neighbourhood Plan has been prepared by Sowerby Neighbourhood Forum with on-going engagement with the local community and Calderdale Council. Prior to being presented to Council it has been through the following stages of preparation:

- Designation as a Neighbourhood Area (26th April 2017)
- Neighbourhood Forum Approved (26th April 2017)
- Consultation on Pre-Submission Version (15th December 2018 to 10th February 2019)
- Submission to Calderdale Council (2nd October 2019)
- Submission Consultation (6th December 2019 to 31st January 2020.)

- Examination (April and May 2021)
- Referendum (Thursday 25th November 2021)

5. Referendum

- 5.1 The Examiner's Report concluded that the Sowerby Neighbourhood Plan met the Basic Conditions required by legislation, and that subject to the modifications proposed in his report, the Neighbourhood Plan should proceed to a referendum to be held within the Neighbourhood Area. Officers considered all of the recommendations and the Examiner's reasons for them and recommended to cabinet that the plan proceed to referendum.
- 5.2 Cabinet subsequently recommended that a referendum be held on the Sowerby Neighbourhood Plan as amended in accordance with the Examiner's recommendations.
- 5.3 The referendum on the Sowerby Neighbourhood Plan was held on the 25th November 2021.
- 5.4 Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended) requires the Council to 'make' the Neighbourhood Plan if more than half of those voting in the applicable referendum have voted in favour of the Plan.
- 5.5 The Neighbourhood Plan and other required information was made available for public viewing on the Council's website, Sowerby Bridge Library and Halifax Central Library. The documents available were:
 - The referendum version of the Sowerby Neighbourhood Plan
 - The independent examiner's report on the draft Sowerby Neighbourhood Plan
 - A summary of the representations submitted to the independent examiner
 - An Information Statement
 - A Basic Conditions Statement
 - Decision Statement
- 5.6 Those eligible to vote were sent the requisite information to enable participation in the referendum.

- 5.7 The question posed at the referendum (as specified by the regulations) was 'Do you want Calderdale Council to use the Neighbourhood Plan for Sowerby to help it decide planning applications in the neighbourhood area?'
- 5.8 More than 50% of those who voted, voted 'Yes' in response to this question. The declaration of poll results is attached at Appendix 2 to this report. 255 people voted in favour of the Neighbourhood Plan with 46 against, providing a majority vote of 85%. The result of the referendum has been publicised on the Council's website and is attached as Appendix 3.

6. Next Steps

- 6.1 Under the Neighbourhood Planning Act 2017, a provision came into force on 19th July 2017. This resulted in changes to Section 38 of the Planning and Compulsory Purchase Act (2004). This means that once a Neighbourhood Development Plan has been successful at referendum, it will automatically form part of the development plan. That is unless the Council specifically makes a decision not to adopt it.
- 6.2 However, the Council is still required to formally 'make' the Neighbourhood Plan for it to continue to have effect
- 6.3 The Council is not subject to this duty if the making of the plan would breach, or would otherwise be incompatible with, any EU (NB this remains a requirement post Brexit) or human rights obligations. There is no known breach or incompatibility. Officers consider that the Sowerby Neighbourhood Plan can be formally 'made'. If the Council decided not to formally 'make' the Plan, it would cease to have effect as part of the Development Plan.
- 6.4 As soon as possible following the decision to make a Neighbourhood Plan, the Council must publish a decision statement stating that the Plan has been made and the reasons. A copy of the decision statement must be sent to the qualifying body (Sowerby Neighbourhood Plan Area Forum) and anyone who asked to be notified of the decision. The Council must publish where and when the decision statement can be inspected. A draft Decision Statement is attached at Appendix 2.
- 6.5 The Council is also required to publish the Sowerby Neighbourhood Plan on its website and notify any person who has asked to be notified of the making of the Plan that it has been made and where and when it may be inspected.

7. Options Considered

- 7.1 There is no known breach or incompatibility with any EU or human rights obligations. The Council has no options or alternatives to making the Plan.

8. Recommendation

- 8.1 Officers request that Members endorse the recommendations in paragraph 3.1 of this report and agree to formally make the Sowerby Neighbourhood plan and publish the associated Decision Statement.

9. Financial implications

- 9.1 The responsibility and therefore the costs of the Examination and Referendum stages of the Neighbourhood Plan production lie with Calderdale Council. Table 1 below sets out a breakdown of the non-staffing costs of producing the Sowerby Neighbourhood Plan to date and also sets out the approximate costs associated with the and Referendum.

Stage	Cost
Designation consultation	£1,568
Submission consultation	£1,044
Examination	£6,000
Referendum	£7,150
Total	£15,762

Table 1: Breakdown of costs associated with preparing Sowerby Neighbourhood Plan

- 9.2 There is also a significant level of officer costs required throughout the process to provide the required support to each of the Neighbourhood Planning Bodies. A significant level of officer input at an appropriate level is needed throughout the process to ensure legal conformity, appropriate plan content, technical advice, including provision of mapping and assistance with Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA).
- 9.3 Financial support from Central Government is available for Local Planning Authorities (LPAs) involved with Neighbourhood Plans. LPAs can claim £5,000 for the designation of neighbourhood areas and £5,000 for approving a Neighbourhood Forum. A maximum of 5 neighbourhood areas and 5 neighbourhood forums can be claimed for any one Local Authority. Local Planning Authorities can also claim £20,000 once a decision has been made to proceed to a referendum.
- 9.4 The Government Grant of £20,000 has been applied for in the latest grant application period and will be received shortly.

10. Legal Implications

- 10.1 The Legal implications are set out within the body of this report. The decision to formally make the Sowerby Neighbourhood Plan is, like all decisions of a public authority, open to challenge by Judicial Review. The risk of any legal challenge to the Neighbourhood Plan being successful has been minimised by the thorough and robust way in which it has been prepared and tested.

11. Human Resources and Organisation Development Implications

- 11.1 None

12. Consultation

- 12.1 As mentioned earlier in the report, the Sowerby Neighbourhood Plan has been through several stages of consultation. These are: consultation on designation as a Neighbourhood Area and Forum (2017), consultation on the Pre-Submission version of the Plan (15th December 2018 to 10th February 2019), consultation on a Submission version (6th December 2019 to 31st January 2020).
- 12.2 A Consultation Statement accompanied the submission version of the Neighbourhood Plan and sets out all the consultation undertaken. All the consultation undertaken by the Council has been carried out in accordance with the Council's Statement of Community Involvement.

13. Environment, Health and Economic Implications

- 13.1 The purpose of Neighbourhood Plans is for parish and town councils or neighbourhood forums to put in place strategy and policies for the future development of their areas. Plans can contain a vision, aims and planning policies and proposals for improving a wide range of social, economic and environmental issues. Sowerby's Neighbourhood Plan Vision is:

By 2034 Sowerby will be an inclusive community with housing that meets the needs of the local people both young and old. New development will be in line with community aspirations and Sowerby will have secured quality space for play, socialisation and recreation, to be enjoyed by all. Services and infrastructure will be in place to meet increased demand, contributing to a cohesive and sustainable community. The natural environment will continue to contribute to the physical, social and mental wellbeing of residents and visitors alike. The impacts of traffic and congestion will be eased and more sustainable methods of transport will be promoted.

14. Equality and Diversity

- 14.1 The Examiner confirmed the Sowerby Neighbourhood Plan met the Basic Conditions (subject to modifications). One of these conditions is that it must be compatible with human rights requirements. Council Officers agree that the version of the plan that was subject to the referendum meets the Basic Conditions.

15. Summary and Recommendations

- 15.1 The recommendation is to agree the following matters:

- To note the referendum result of 25th November 2021 (Appendix 3) where 85% of those voting voted in favour of the Sowerby Neighbourhood Plan, which is above the required 50%.

Reason: To allow the Neighbourhood plan to form part of the Development Plan for the Sowerby Neighbourhood Plan Area

- To formally 'make' the Sowerby Neighbourhood Plan presented at Appendix 1 to this report so that it continues to have effect as part of the statutory Development Plan for the District.

Reason: To allow the Neighbourhood plan to form part of the Development Plan for the Sowerby Neighbourhood Plan Area

- To authorise the Director – Regeneration and Strategy to issue and publicise a Decision Statement

Reason: To allow the Neighbourhood plan to form part of the Development Plan for the Sowerby Neighbourhood Plan Area

For further information on this report, contact:

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The documents used in the preparation of this report are:

1. **Sowerby Neighbourhood Plan and associated supporting documents – Referendum Version**
2. **Draft Decision Statement**
3. **Notice of Referendum Result**

The documents are available for inspection at:

Calderdale Council Neighbourhood Plans Web page

https://www.calderdale.gov.uk/v2/residents/environment-planning-and-building/planning/planning-policy/NDPs#sowerby
