



# Stroud District Council

The Town & Country Planning Act, 1990 (As Amended); Planning & Compulsory Purchase Act, 2004; The Localism Act, 2011 and The Neighbourhood Planning (General) Regulations 2012 (As Amended) and other relevant legislation

## DECISION STATEMENT – BRINGING THE WHITESHILL & RUSCOMBE NEIGHBOURHOOD DEVELOPMENT PLAN INTO LEGAL FORCE.

### 1. INTRODUCTION

- 1.1. This document is the Decision Statement required to be prepared under Section 38A(9) of the Planning and Compulsory Purchase Act 2004 (as amended) and Regulation 19(a) of the Neighbourhood Planning (General) Regulations 2012 (as amended) (“the Regulations”)1. It sets out the Council’s considerations and formal decision in bringing the Whiteshill & Ruscombe Neighbourhood Plan into legal force following the successful local referendum held on 18<sup>th</sup> August 2016.

### 2. SUMMARY

- 2.1 Following an independent Examination and Referendum, Stroud District Council brought the Whiteshill & Ruscombe Neighbourhood Plan into legal force under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended) (“the 2004 Act”) on 27<sup>th</sup> October 2016.
- 2.2 The Whiteshill & Ruscombe Neighbourhood Plan now forms part of the statutory Development Plan for the District of Stroud.
- 2.3 In accordance with Regulation 19 of the Regulations, this Decision Statement can be viewed on the Council’s website: <http://www.stroud.gov.uk/wandrnpl/>
- 2.4 In accordance with Regulation 20 of the Regulations, the Whiteshill & Ruscombe Neighbourhood Plan can be viewed on the Council’s website: <https://www.stroud.gov.uk/environment/planning-and-building-control/planning-strategy/the-development-plan-for-stroud-district>
- 2.5 Hard copies of this Decision Statement and the Whiteshill & Ruscombe Neighbourhood Plan can be inspected at:

Reception <b>Stroud District Council</b> Ebley Mill Ebley Wharf Stroud GL5 4UB	9.00am – 5.00pm Monday – Thursday 9.00am – 4.30pm on Fridays
<b>The Village Shop</b> The Playing Field, Lower Street, Whiteshill, Stroud, GL6 6AP	Monday to Friday 9:00 to 17:00, Saturday 9:00 to 13:00 and Sunday 9:00 to 11:00).

### **3. BACKGROUND**

- 3.1 The Whiteshill & Ruscombe Neighbourhood Area was designated by resolution of the Council's Environment Committee on 12<sup>th</sup> September 2013.
- 3.2 A submission version of the Whiteshill & Ruscombe Neighbourhood Development Plan was accepted by the Council on 08<sup>th</sup> January 2016, under regulation 15 of the Regulations.
- 3.3 Following submission of the Whiteshill & Ruscombe Neighbourhood Plan to the local authority, Stroud District Council publicised the Plan and supporting documents and invited representations during the consultation period from 20<sup>th</sup> January to 02<sup>nd</sup> March 2016.
- 3.4 The Council appointed Mr Andrew Ashcroft BA (Hons) MA, DMS, MRTPI as independent examiner of the Whiteshill & Ruscombe Neighbourhood Plan. The examination concluded on 18<sup>th</sup> April 2016 with the submission of the Examiner's Report recommending that the Whiteshill & Ruscombe Neighbourhood Plan, once modified, should proceed to a referendum. The Examiner also recommended that the area for the referendum should not extend beyond the Neighbourhood Area to which the plan relates.
- 3.5 On 08<sup>th</sup> July 2016 the Council published a Decision Statement under Regulation 18(2) outlining all the Examiner's modifications and confirming the Council's Environment Committee's consideration and decision on them. The Decision Statement also outlined the Council's decision that 'the plan', as modified, meets the basic conditions, is compatible with the Convention rights, complies with the definition of a neighbourhood development plan and the provisions that can be made by a neighbourhood plan; and should proceed to a referendum. The Council confirmed that it did not consider necessary to extend the referendum area.
- 3.6 On 18<sup>th</sup> August 2016, the Whiteshill & Ruscombe Neighbourhood Plan successfully passed referendum with 88% voting in favour of the Whiteshill & Ruscombe Neighbourhood Plan being used to help to decide planning applications in the Whiteshill & Ruscombe Parish Neighbourhood Area.
- 3.7 On 27<sup>th</sup> October 2016, Stroud District Council resolved that the Whiteshill & Ruscombe Neighbourhood Plan (incorporating modifications set out in the Regulation 18(2) Decision Statement), be brought into legal force and become part of the statutory Development Plan for Stroud District Council. It will sit alongside the other adopted Local Plans that together form the Development Plan.

### **4. DECISION AND REASONS**

- 4.1 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. The Whiteshill & Ruscombe Neighbourhood Plan was endorsed by more than the required threshold in the referendum on 18<sup>th</sup> August 2016 where 88% of those voting have voted in favour of the plan being used.
- 4.2 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.

- 4.3 Section 6 of the Consultation Statement submitted in support of the Whiteshill & Ruscombe Neighbourhood Plan outlined the Qualifying Body's considerations as regards to the European Convention on Human Rights (ECHR), in particular their efforts to include 'hard to reach' groups. The Examiner concluded that the Whiteshill & Ruscombe Neighbourhood Plan and its preparation had regard to the fundamental rights and freedoms guaranteed under the European ECHR and that it complies with the Human Rights Act. 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. On this basis it is considered that the Whiteshill & Ruscombe Neighbourhood Plan does not breach, nor is in any way incompatible with the ECHR.
- 4.4 The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination in November 2015, which confirmed to Whiteshill & Ruscombe Parish Council that a SEA and a full HRA were not required on the Whiteshill & Ruscombe Neighbourhood Plan. The Examiner concluded in his April 2016 report that the Whiteshill & Ruscombe Neighbourhood Plan is compatible with the Convention rights; does not breach, and is otherwise compatible with, EU obligations; and is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects. The Council's Regulation 18(2) Decision Statement confirmed that the modifications accepted by the Council, both separately and combined, produce no likely significant environmental effects and are unlikely to have any significant effects on European Designated Sites. Therefore the Council does not consider that the Whiteshill & Ruscombe Neighbourhood Plan (incorporating modifications set out in the Regulation 18(2) Decision Statement) is in breach of the relevant legislation.
- 4.5 The Council considers that the Whiteshill & Ruscombe Neighbourhood Plan meets the basic conditions (set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 as amended), its preparation process was compliant with legal and procedural requirement, it does not breach the legislation (set out in Section 38A(6) of the 2004 Act) and confirms that more than half of those who voted in the referendum on 18<sup>th</sup> August 2016, voted in favour of making the Plan.
- 4.6 As a result of Stroud District Council's resolution of 27<sup>th</sup> October 2016, the Council has brought the Whiteshill & Ruscombe Neighbourhood Plan into legal force in accordance with Section 38A (4) of the 2004 Act. The Whiteshill & Ruscombe Neighbourhood Plan forms part of the statutory Development Plan for the District of Stroud and can be used in decision making on planning applications in Whiteshill & Ruscombe Parish Neighbourhood Area.

## **5. OTHER INFORMATION**

- 5.1 In accordance with Regulation 19(b) of the Regulations, a copy of this Decision Statement has been sent to:
- The qualifying body, namely Whiteshill & Ruscombe Parish Council
  - The persons who asked to be notified of the decision.
- 5.2 This Decision Statement, the Whiteshill & Ruscombe Neighbourhood Plan and relevant documents can be viewed as set out in paragraph's 2.3 to 2.5 of this Decision Statement.
- 5.3 Section 61N of Schedule 9 of the Town and Country Planning Act 1990 (as amended) states that any person who is aggrieved by the making of the Whiteshill & Ruscombe Neighbourhood Plan under Section 61E (4) or (8) may make an application to the High

Court under Section 113 of the Planning and Compulsory Purchase Act 2004 (as amended) on the grounds that:

- the document is not within the appropriate power;
- a procedural requirement has not been complied with.

5.4 Any such application must be made promptly and in any event no later than 6 weeks after the date of this Decision Statement, i.e. no later than Thursday 15<sup>th</sup> December 2016.



**Barry Wyatt**  
Strategic Head (Development Services)  
Duly Authorised in that behalf

Date: 03/11/2016