



Stroud District Council

The Town & Country Planning Act, 1990 (As Amended); The Localism Act, 2011 and

The Neighbourhood Planning (General) Regulations 2012 (As Amended) and other relevant legislation

DECISION STATEMENT – BRINGING THE HARDWICKE NEIGHBOURHOOD 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 Hardwicke Neighbourhood Plan into legal force following the successful local referendum held on 10th August 2017

2. SUMMARY

2.1. Following an independent Examination and Referendum, Stroud District Council brought the Hardwicke Neighbourhood Plan into legal force under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended) (“the 2004 Act”) on 19th October 2017.

2.2. The Hardwicke 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:

<https://www.stroud.gov.uk/environment/planning-and-building-control/planning-strategy/neighbourhood-planning/emerging-neighbourhood-plans/hardwicke-parish-council-plan>

2.4. In accordance with Regulation 20 of the Regulations, the Hardwicke Neighbourhood Plan can be viewed on the Council’s website:

<https://www.stroud.gov.uk/environment/planning-and-building-control/planning-strategy/neighbourhood-planning/emerging-neighbourhood-plans/hardwicke-parish-council-plan/hardwicke-regulation-17-and-18>

2.5. Hard copies of this Decision Statement and the Hardwicke Neighbourhood Plan can be inspected at:

Reception Stroud District Council Ebley Mill Ebley Wharf	9.00am – 5.00pm Monday – Thursday 9.00am – 4.30pm on Fridays
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Stroud GL5 4UB		
Quedgley Library Bristol Road Quedgley Gloucester GL2 4PE	Monday	10:00 am - 01:00 pm 02:00 pm - 05:00 pm
	Tuesday	10:00 am - 01:00 pm 02:00 pm - 05:00 pm
	Wednesday	02:00 pm - 05:00 pm
	Thursday	10:00 am - 01:00 pm 02:00 pm - 07:00 pm
	Friday	10:00 am - 01:00 pm 02:00 pm - 05:00 pm
	Saturday	10:00 am - 04:00 pm

3. BACKGROUND

- 3.1. The Hardwicke Neighbourhood Area was designated by resolution of the Council's Environment Committee on 4th February 2014.
- 3.2. A submission version of the Hardwicke Neighbourhood Development Plan (HNDP) was accepted by the Council on 8th February 2017, under regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 3.3. Following submission of the HNDP to the local authority, Stroud District Council publicised the Plan and supporting documents and invited representations during the consultation period 1st March to 12th April 2017.
- 3.4. The Council appointed Mr Andrew Ashcroft MRTPI as independent examiner of the HNDP. The examination concluded on 9th June 2017 with the submission of the Examiner's Report recommending that the HNDP, 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 30th June 2017 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 it necessary to extend the referendum area.
- 3.6. On 10th August 2017, the Hardwicke Neighbourhood Plan successfully passed referendum with 87.2% voting in favour of the Hardwicke Neighbourhood Plan being used to help to decide planning applications in the Hardwicke Parish Neighbourhood Area.
- 3.7. On 19th October 2017, Stroud District Council brought the Hardwicke Neighbourhood Plan into legal force to 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. DECISIONS 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 Hardwicke

Neighbourhood Plan was endorsed by more than the required threshold in the referendum on 10th August 2017 where 87.2% 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 5 of the Basic Conditions Statement submitted in support of the Hardwick Neighbourhood Plan outlined the Qualifying Body's considerations to the European Convention on Human Rights (ECHR), in particular their regard to the fundamental rights and freedoms guaranteed under the ECHR and the Human Rights Act. The Examiner concluded that the Hardwicke 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. The Council agreed with the Examiner's conclusions that there had 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 Hardwicke Neighbourhood Plan does not breach, nor is in any way incompatible with the ECHR.
- 4.4. The Qualifying Body issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination in November 2015, which confirmed that a SEA and a full HRA were not required on the Hardwicke Neighbourhood Plan. The Examiner concluded in his June 2017 report that the Hardwicke 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 affects and are unlikely to have any significant effects on European Designated Sites. Therefore the Council does not consider that the Hardwicke 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 Hardwicke 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 10th August 2017, voted in favour of making the Plan.
- 4.6. As a result of the referendum held on 10th August 2017, the Council has brought the Hardwicke Neighbourhood Plan into legal force in accordance with Section 38A (4) of the 2004 Act. The Hardwicke 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 the Hardwicke Parish Neighbourhood Area.

5. OTHER INFORMATION

- 5.1. In accordance with Regulation 19(b) and Regulation 30 of the Regulations, a copy of this Decision Statement has been sent to:
 - 5.1.1. The qualifying body, namely Hardwicke Parish Council
 - 5.1.2. The person who asked to be notified of the decision
- 5.2. This Decision Statement and the Hardwicke Neighbourhood Plan 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 Hardwicke 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:

5.3.1. The document is not within the appropriate power;

5.3.2. 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 Monday 23rd October 2017.



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

Date: 23/10/2017