

Report subject	<b>Sandbanks Peninsula Neighbourhood Plan</b>
Meeting date	22 May 2024
Status	Public Report
Executive summary	<p>Neighbourhood Planning gives local people the opportunity to develop a shared vision for their neighbourhood and shape the development and growth of their local area. BCP Council as the Local Planning Authority has a legal duty to support and advise town/parish councils and neighbourhood forums through the process to prepare neighbourhood plans, following statutory legislation, regulations and procedure.</p> <p>The Sandbanks Neighbourhood Forum is preparing a Neighbourhood Plan, which is at an advanced stage having been through independent examination. The examiner's report (dated 15 December 2023) has concluded that subject to modifications, it meets basic conditions and legal requirements, and can now proceed to referendum.</p> <p>Cabinet is asked to accept the findings of the examiner including his recommended modifications; approve the Local Planning Authority's decision statement; and approve the modified Neighbourhood Plan for referendum on 18 July 2024.</p> <p>If at referendum there is a majority vote (50% plus 1) in favour of the neighbourhood plan, then the neighbourhood plan will come back to Council to become a 'Made' plan for the Sandbanks Peninsula Neighbourhood area and form part of the statutory development plan. It will be used alongside the Poole Local Plan to determine planning applications.</p>
Recommendations	<p><b>It is RECOMMENDED that Cabinet:</b></p> <ol style="list-style-type: none"> <li><b>1. Consider each of the recommendations of the examiner which relate to:</b> <ol style="list-style-type: none"> <li><b>a. a number of modifications to the Submission Version Plan (Appendix 1)</b></li> <li><b>b. that the referendum area should not be extended beyond the designated Neighbourhood Area (Appendix 2)</b></li> </ol> </li> <li><b>2. Agree with the recommendations by the examiner that the Sandbanks Peninsula Neighbourhood Plan (2023-2033) be modified as defined by the examiner (Appendix 3)</b></li> </ol>

	<p><b>3. If item 2 is agreed, agree that the modified Sandbanks Peninsula Neighbourhood Plan proceeds to referendum on 18 July 2024</b></p> <p><b>4. If item 2 is agreed, approve the Local Planning Authority's Decision Statement and list of modifications as tabled (Appendix 4).</b></p> <p><b>5. If item 2 is not agreed, amend the Local Planning Authority's Decision Statement and list of modifications as tabled (Appendix 4) to reflect Cabinet's decision</b></p>
Reason for recommendations	To meet the statutory obligations including provisions set out in the from the Localism Act 2011, the Town & Country Planning Act 1990, the Neighbourhood Planning Act 2017, and the Neighbourhood Planning Regulations 2012 (as amended).
Portfolio Holder(s):	Councillor Vikki Slade – Leader of the Council and Portfolio Holder for Dynamic Places
Corporate Director	Wendy Lane, Director for Planning and Transport
Report Authors	Caroline Peach, Head of Strategic Planning
Wards	Canford Cliffs
Classification	For Decision

## Background

1. Neighbourhood Planning gives communities direct power to develop a shared vision for their neighbourhood and shape development and growth of their local area. One of the key aspects of neighbourhood planning is that communities can develop their own planning policies for a defined area. When a neighbourhood plan is 'made' by the council, it becomes part of the statutory development plan and has full weight in decision making when determining planning applications within the neighbourhood area.
2. BCP Council as the local planning authority has a statutory duty in accordance with the Localism Act 2011, the Town and Country Planning Act 1990, the Neighbourhood Planning Act 2017 and the Neighbourhood Planning Regulations 2012 (as amended), to support neighbourhood groups when they become qualifying bodies for the purposes of producing their own neighbourhood plan.
3. There are six main stages in the neighbourhood planning process comprising:
  1. Designation of neighbourhood forum as qualifying body and designation of neighbourhood area.
  2. Preparation of a draft neighbourhood plan by qualifying body
  3. Publicity and consultation on the draft pre-submission plan by the qualifying body.

4. Submission of the plan to the local planning authority.
5. Independent examination.
6. Referendum and bringing the neighbourhood plan into force.

### **Stage 1 and 2 – Designation and plan preparation**

4. The Sandbanks Neighbourhood Forum is the qualifying body for the purposes of producing this neighbourhood plan.
5. The Sandbanks Neighbourhood Forum and Neighbourhood Plan Area was designated by the Council on 20 December 2019, for the purposes of developing a neighbourhood plan for the Sandbanks Peninsula.
6. Officers have been advising and assisting the Neighbourhood Forum at different stages of plan preparation, which has included making appropriate checks, responding to queries, publishing the neighbourhood plan for consultation, and making arrangements for the independent examination. Officers will continue to support the Neighbourhood Forum through the remaining stages of neighbourhood plan making, in accordance with its statutory duties.

### **Stage 3 – Publicity and consultation on the draft pre-submission plan by the Neighbourhood Forum**

7. Sandbanks Neighbourhood Forum published its draft pre-submission plan for consultation and invited comments from stakeholders, residents and interested parties in May and June 2022 (see Appendix 1). Following the consultation, the representations received were reviewed and summarised in a consultation statement which describes how they have been considered and, where they informed revisions to the draft Plan.

### **Stage 4 – Submission of the neighbourhood plan to the Local Planning Authority**

8. The Sandbanks Neighbourhood Forum formally submitted their draft neighbourhood plan and supporting documents to the local planning authority. This comprised of (i) the neighbourhood plan (ii) a map of the neighbourhood plan area (iii) consultation statement (iv) basic conditions statement (v) Strategic Environmental Assessment Report and supporting evidence. The Town & Country Planning Act 1990 requires the council as local planning authority (LPA) to check that a submission plan complies with the legislation and follows the procedure set out in the Neighbourhood Planning (General) Regulations 2012 (as amended). If the LPA finds that the plan meets the legal requirements, it must:
  - Publicise the proposal for a minimum period of 6 weeks and invite representations.
  - Notify consultation bodies referred to in the consultation statement
  - Appoint an independent examiner (with the agreement of the qualifying body) to undertake examination of the plan and representations received.
9. In accordance with the Regulations, the council published the submission documents for a statutory consultation period of eight weeks between 7 July and 1 September 2023 and arranged the appointment of an independent examiner.

## **The Independent Examination**

10. The Council appointed an independent examiner – Mr Christopher Collison BA (Hons) MBA MRTPI MIED IHBC to carry out the examination of the submission plan. All associated documents and representations received by the Council were passed directly to the examiner. The examination was then conducted by written representations. Further requests from and responses to the examiner were published on the BCP Council's website during the examination period (October-December 2023). The scope of the examination is set out in paragraph 8(1) & (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended). This requires the examiner to consider whether the neighbourhood plan meets the following 'basic conditions':
  - it has regard to national policies and advice contained in guidance issued by the Secretary of State;
  - it contributes to the achievement of sustainable development;
  - it is in general conformity with the strategic policies of the development plan for the area;
  - it is compatible with and does not breach European Union (EU) obligations (under retained EU law);
  - it meets prescribed conditions and complies with prescribed matters; and
  - the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
11. The examiner also considered whether the plan complies with the provisions of s38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended) as follows:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development'; and
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
12. The scope of the examination also considered whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum and other such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended). The designated neighbourhood plan area is wholly within and covers part of the Canford Cliffs ward. (See Appendix 2)

## **The Examination Report**

13. The examiner's report was received by BCP Council on 15 December 2023 and concluded that subject to his recommended modifications (to policies and supporting

text), the Sandbanks Peninsula Neighbourhood Plan would meet basic conditions and legal requirements and can proceed to referendum. (see Appendix 3)  
[Sandbanks NDP Report of Independent Examination 151223 \(bcpcouncil.gov.uk\)](https://www.bcp-council.gov.uk/151223)

14. The 11 proposed modifications (referred to as 'PM') have been set out in the appendix to his report. He also concluded that the referendum area should be the same as the boundary of the designated area to which the plan relates and not extend beyond it.
15. The examiner's recommended modifications to the following policies are summarised below. All include a number of text amendments to provide clarity and precision and so examples are given here in the summary:

Front cover and vision – state plan period to run to 2033

Policy SAND1- Landscape Character – in the second sentence after replace the text after “not have” with “a significant adverse impact on the following highly valued and important landscape characteristics of the area:”

Policy SAND2 – Views – delete references to viewpoints located outside the Neighbourhood Area and references to strategic views; refer to locally valued views.

Policy SAND3 – Trees and gardens – replace ‘will not be permitted’ with ‘where such damage or loss is avoidable will not be supported’.

Policy SAND4 – Biodiversity - replace “Developments on Sandbanks will be permitted where they conserve” with “Development proposals will be supported where they protect”

Policy SAND5 – Design - Modify the Sandbanks Design Guide to reflect the advice of BCP Council regarding sustainable drainage systems

Policy SAND6 – Beaches Open Spaces & Harbour - insert a new final paragraph “Development proposals, which may include replacement or renovation of dilapidated buildings, that provide well-designed facilities for water sports will be supported.”

Policy SAND7 – Public Realm - In the Table of contents on page 2 of the Neighbourhood Plan replace “Streets and Movement” with “Public Realm”

Policy SAND8 – Gateways - On Figure 11 Policies Map redraw the Gateway location symbols to only include land within the Neighbourhood Area.

Policy SAND9 – Services and Community Facilities - insert new footnote to the policy “Where the premises or site of a local service or community facility has been offered for lease and freehold sale at realistic rents and prices with a local property agent for at least 12 months without securing a new owner or tenant, it will be accepted that it has been demonstrated that it is not feasible to support the continued existence of the local service or community facility.”

Policy SAND10 – Existing hotels - replace the third sentence, and the fourth sentence before the colon, with “This policy seeks to guard against the unnecessary loss of the hotels or valued facilities and services within the hotels. Except for development proposals complying with strategic Local Plan Policy PP23 (2) (b) (ii), proposals resulting in the partial or complete loss, of a hotel or hotel accommodation, or services and facilities within a hotel serving the community, where such loss requires planning permission, will only be supported where it can be demonstrated that”

16. The Examiner also provided helpful clarity in his report on further minor amendments which can be made (consequential to the recommended modifications), such as updates/corrections/revised numbering to achieve consistency.

#### **LPA's decision on examiner's recommendations.**

17. Following receipt of the examiner's report (see Appendix 3), the Local Planning Authority is required to consider each of the recommendations made in the report and decide what action to take. The Local Planning Authority normally has 5 weeks to come to its own view on the examiner's report and issue its final decision on whether to send the plan for referendum. However due to the timing of the committee meeting dates, it was not possible to issue the final decision within 5 weeks and it was therefore agreed with the Sandbanks Neighbourhood Forum that this date could be extended to align with the 10 April Cabinet meeting. There has been a further delay to this item being considered by Cabinet and is noted in the legal section below.
18. Having considered each of the recommendations made by the examiner and the reasons for them as set out in the report, officers are satisfied that the draft neighbourhood plan, once modified in accordance with the Examiner's recommended modifications, would meet the basic conditions. This is set out in the Council's Decision Statement (see Appendix 4).

#### **Next step - Referendum**

19. The rules covering the organisation of the referendum are set out in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012. Should Committee approve the recommendations in this report and the decision notice (see Appendix 3) the referendum must be held within 56 working days from the date of decision notice. The proposed referendum date of 18 July 2024 meets this requirement. Electoral Services will manage the referendum arrangements.
20. At referendum, all residents on the council's electoral register within the referendum area will be entitled to vote yes or no in response to the following question: 'Do you want BCP Council to use the Neighbourhood Plan for Sandbanks Peninsula to help it decide planning applications in the neighbourhood area?' There is no minimum turnout for the referendum to be valid and the plan is required to obtain 50% plus 1 of those voting to vote 'yes'. If there is a majority 'no' or tied vote, then the neighbourhood plan will not be able to come into force. If the outcome of the referendum is one of support, a further report will come before Council to adopt the neighbourhood plan as part of its statutory development plan. However, no further material changes will be made to the plan following a positive referendum result. It is anticipated that the Neighbourhood Plan will be considered at the Council meeting on 23 July 2024, following a positive result. The Council's Monitoring Officer has confirmed the acceptability of proximity of the referendum to the Council meeting.

## **Summary of financial implications**

21. As part of its statutory duty to support neighbourhood planning groups, there are implications for officer time in the planning policy team to enable attendance at meetings, responding to emails and requests, making appropriate legal and planning issues checks, responding to consultations, publishing the neighbourhood plan for consultation, making arrangements for independent examination and referendum. Whilst the costs of officer time are included in existing budgets, the cost of the examination and referendum need to be met by the Council.
22. There is financial support available for Local Planning Authorities from the Department of Levelling Up, Housing & Communities (DLUHC) to meet the cost of the referendum. LPA's can claim £20,000 when they issue a decision statement detailing their intention to send the plan to referendum (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012).
23. When a Neighbourhood Plan is 'Made' (adopted by the Council), the Community Infrastructure Levy (CIL) Neighbourhood Portion rises from 15% to 25%. This means that the Neighbourhood Forum will receive a higher amount of neighbourhood CIL from future development in the neighbourhood plan area.

## **Summary of legal implications**

24. This Neighbourhood Plan was due to be considered by a meeting of Cabinet in April 2024, however the resignation of Cllr Haines on 15 March 2024, triggered a by-election for the Canford Cliffs Ward, a ward which is partially included in the Sandbanks Neighbourhood Plan. This restricted the Council's decision making during the pre election period in relation to issues which could have the potential of being part of a political campaign, as the law does not allow for council resources to be used for political gain.
25. On 3 April 2024, the Neighbourhood Forum requested intervention from the Secretary of State because of the delay.
26. In addition, the Council has received a representation challenging the examiner's recommendations on factual accuracy. Officers have considered the points made and feel that the examiner did consider the very different positions and views when making his recommendations.
27. Neighbourhood Planning (General) Regulations 2012 (as amended) set out the statutory requirements placed on Councils. Regulation 18 requires that the LPA must decide what action to take in response to the recommendations of an examiner made in a report under paragraph 10 of Schedule 4B to the Town and Country Planning Act 1990. To include what modifications are to be made to the draft plan and whether to extend the area to which the referendum is to take place. If the Council is satisfied with the plan proposal, it must publish a decision statement as soon as possible after making the decision to proceed to referendum. The Neighbourhood Planning (Referendum) Regulations 2012 (as amended) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012 set out the procedures for referendum. If at referendum there is a majority vote (50% plus 1) in favour of the neighbourhood plan, then the neighbourhood plan will become a 'made' plan and form part of the statutory development plan. If there is a majority 'no' or tied vote, then the neighbourhood plan will not be able to come into force.

### **Summary of human resources implications**

28. Work involved with supporting and advising neighbourhood planning groups is met by resource from planning policy officers and within existing budgets. Managing a referendum will also need additional resource from electoral services officers.

### **Summary of sustainability impact**

29. The sustainability impact has been considered by the examiner as part of the basic conditions which requires the plan to contribute to the achievement of sustainable development. The examiner concluded that, subject to modifications, he is satisfied that the policies meet the requirement in that they have had proper regard to national policy and guidance. He also agreed with the Screening Determination that the requirements of the Strategic Environment Assessment had been met in that and concluded that the plan would not be likely to result in a significant effect on any European Site either alone or in combination, and no further assessment under the Habitats Regulations is required. Officers will complete the Decision Impact Assessment (DIA) and present it alongside the proposed report to Council following a positive referendum result.

### **Summary of public health implications**

30. The Neighbourhood Plan will positively benefit public health by: recognising, valuing and enhancing open amenity space, promoting walking, cycling and bus travel. Looking after green spaces and having access to open space connects people with nature and improves physical and mental health, encouraging walking and cycling has implications for both increasing fitness and addressing obesity, helping towards better air quality and cheaper forms of travel, than by car. Improving community facilities improves health by bringing people together and creates better community cohesion and sense of belonging.

### **Summary of equality implications**

31. In paragraph 44 of the examiners report, he makes the following statement, "I am satisfied the Neighbourhood Plan has been prepared in accordance with the obligations for Neighbourhood Forums under the Public Sector Equality Duty (PSED) in the Equality Act 2010. Whilst an Equality Screening Assessment has not been prepared, from my own examination, the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics as identified in the Equality Act 2010".
32. The examiner also states that "I have considered each of the following documents in so far as they have assisted me in determining whether the Neighbourhood Plan meets the Basic Conditions and other requirements" (para 24). The Equality Act 2010 is listed under this paragraph.
33. Officers will complete an Equalities Impact Assessment (EqIA) and present it alongside the proposed report to Council following a positive referendum result.

### **Summary of risk assessment**

34. The recommendations in an examination report are not binding. However, if BCP Council does not accept the recommendations without a compelling justification, there is a risk of legal challenge. Should members not agree to accept any of the modifications, or come to a different view from the examiner, the Local Planning



Authority will need to run a further consultation for six weeks, inviting representations from the neighbourhood planning group and anyone whose representation was submitted to the examiner and any consultation body previously consulted. It may also refer the issue to independent examination and must then issue a final decision within five weeks of the close of consultation. The Secretary of State can intervene in the planning process under circumstances including where this is requested by the neighbourhood plan group. Note legal section above.

### **Background papers**

Full details relating to the Sandbanks Peninsula Neighbourhood Plan can be found on the Council's website at:

[Plans being prepared | BCP \(bpcouncil.gov.uk\)](https://www.bpcouncil.gov.uk/plans-being-prepared)

### **Appendices**

1. Submission version of the Sandbanks Peninsula Neighbourhood Plan (as submitted for examination):  
[Draft-Sandbanks-Peninsula-Neighbourhood-Plan-June-2023 \(bpcouncil.gov.uk\)](https://www.bpcouncil.gov.uk/draft-sandbanks-peninsula-neighbourhood-plan-june-2023)
2. Map of Sandbanks Peninsula Neighbourhood Plan Area:  
[Sandbanks-Peninsula-Map-Boundary \(bpcouncil.gov.uk\)](https://www.bpcouncil.gov.uk/sandbanks-peninsula-map-boundary)
3. Independent Examiner's Report dated 15 December 2023:  
[Sandbanks NDP Report of Independent Examination 151223 \(bpcouncil.gov.uk\)](https://www.bpcouncil.gov.uk/sandbanks-ndp-report-of-independent-examination-151223)
4. Local Planning Authority's Decision Statement with schedule of recommended modifications and schedule of consequential updates to the plan.