

BOROUGH OF KETTERING

Committee	EXECUTIVE	Item 11a	Page 1 of 6
Report Originator	Head of Development Services	Fwd Plan Ref No: A18/003	
Wards Affected	Slade Ward	11 July 2018	
Title	BROUGHTON NEIGHBOURHOOD PLAN – DECISION ON EXAMINER’S REPORT		

Portfolio Holder: Cllr Ian Jelley

1. PURPOSE OF REPORT

To inform Members of the recommendations made in the Examiner’s Report on the Broughton Neighbourhood Plan; and to seek Members approval for the Neighbourhood Plan to proceed to referendum.

2. INFORMATION

2.1 Neighbourhood Planning is part of the Government’s initiative to empower local communities to take forward planning proposals at a local level. This is outlined in Section 116 of the Localism Act. Neighbourhood Plans, once made, will form part of the Development Plan.

2.2 Neighbourhood Planning is led by a town or parish council or neighbourhood forum, in this case the preparation of the Broughton Neighbourhood Plan has been led by Broughton Parish Council.

Neighbourhood Area Application

2.3 The first stage in the process is the designation of the Neighbourhood Area; the Broughton Neighbourhood Area was approved by this committee on 15th January 2014.

2.4 Since then Broughton Parish Council has been gathering evidence, and preparing and consulting upon the Neighbourhood Plan. The Pre-submission consultation on the Neighbourhood Plan took place from 1st December 2016 to 19th January 2017.

2.5 The plan was submitted to Kettering Borough Council on 29th September 2017. In accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended) the Neighbourhood Plan was made available for comment. This consultation took place from Wednesday 18th October 2017 to Wednesday 29th November 2017. A copy of the submission Neighbourhood Plan is attached at Appendix 1.

BOROUGH OF KETTERING

Committee	EXECUTIVE	Item 11a	Page 2 of 6
-----------	------------------	-------------	----------------

Independent Examination

- 2.6 Following the consultation, an independent examiner was appointed to carry out the examination of the Neighbourhood Plan. The Examiner examined the Plan by written representations, and undertook an unaccompanied site visit of the Neighbourhood Plan Area.
- 2.7 The role of the examiner was to assess whether the Neighbourhood Plan meets certain legal requirements, known as the 'Basic Conditions' and various other requirements. The Basic Conditions are:
- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan
 - The making of the neighbourhood plan contributes to the achievement of sustainable development
 - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
 - The making of the neighbourhood plan does not breach, and is otherwise compare with, European Union (EU) obligations
 - Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan
- 2.8 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations set out two additional conditions to be considered. Only one is applicable to neighbourhood plans and is:
- The making of the neighbourhood plan 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
- 2.9 The Examiner must also consider whether the draft neighbourhood plan is compatible with Convention Rights.
- 2.10 The Examiner has now issued her report, and there are a number of modifications which are necessary to ensure that the Broughton Neighbourhood Plan meets the basic conditions. A copy of the Examiners report is attached at Appendix 2.
- 2.11 The Examiner's conclusion is that, subject to the modifications recommended in the report, the Broughton Neighbourhood Plan meets the basic conditions and other statutory requirements outlined in the report. The examiner recommends

BOROUGH OF KETTERING

Committee	EXECUTIVE	Item 11a	Page 3 of 6
-----------	------------------	-------------	----------------

that, subject to the modifications proposed in the report, the Broughton Neighbourhood Plan can proceed to referendum.

The Local Planning Authority's Role

- 2.12 The local planning authority is responsible for determining whether the plan meets the basic conditions, with or without modifications, and on whether the neighbourhood plan should proceed to referendum. It must also decide on whether the referendum area should be extended beyond the neighbourhood area.
- 2.13 Once the Council received the Examiner's report it must decide what action to take. Regulation 18 of the Neighbourhood Plan (General) Regulations 2012 (as amended) states that the local planning authority must decide:
- (a) to decline to consider a plan proposal under paragraph 5 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act) or a modification proposal under paragraph 5 of schedule A2 to the 2004 Act;
 - (b) to refuse a plan proposal under paragraph 6 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act) or a modification proposal under paragraph 8 of schedule A2 to the 2004 Act;
 - (c) what action to take in response to the recommendation of an examiner made in a report under paragraph 10 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act) in relation to a neighbourhood plan or under paragraph 13 of Schedule A2 to the 2004 Act in relation to a proposed modification of a neighbourhood development plan;
 - (d) what modifications, if any, they are to make to the draft plan under paragraph 12 (6) of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act) or paragraph 14 (6) of Schedule A2 to the 2004 Act;
 - (e) whether to extend the area to which the referendum (or referendums are) to take place; or
 - (f) that they are not satisfied with the plan proposal under paragraph 12 (10) of Schedule 4B to the 1990 Act (as applied by section 38A if the 2004 Act) or the draft plan under paragraph 14 (4) of Schedule A2 to the 2004 Act.
- 2.14 There are no grounds to decline to consider the Neighbourhood Plan under part (a) as this relates to repeat proposals; or to refuse to proposal under part (b) as the requirements of this part have been met.
- 2.15 In relation to part (c), the examiner has made a series of recommendations; the local authority needs to consider what action to take in relation to these. The local authority must also consider, under part (d) whether there are any other modifications which are required to ensure the basic conditions are met; to

BOROUGH OF KETTERING

Committee	EXECUTIVE	Item 11a	Page 4 of 6
------------------	------------------	-------------	----------------

ensure the neighbourhood plan is compatible with the Convention rights, to ensure the requirements of legislation are met; and to correct errors.

- 2.16 If the local authority is not satisfied that the plan meets the basic conditions, is compatible with Convention rights or requirements of legislation are not met then they must refuse the Neighbourhood Plan under part (f).
- 2.17 The local authority must also consider whether to extend the area to which the referendum is held under part (e).
- 2.18 The Neighbourhood Plan (General) Regulations 2012 state that a Local Planning Authority must publish the actions which will be taken in response to the recommendations of the Examiner. This is known as a 'Decision Statement'.
- 2.19 If the authority proposed to make a decision which differs from that recommended by the examiner then relevant people must be notified and invited to make representations. A six week period must be given for people to make representations. If the local authority considers it appropriate then the issue can be referred to further examination. The 'Decision Statement' must then be issued.
- 2.20 Having considered each of the recommendations made in the Examiner's Report and the reasons for them, Officers recommend that the Council accept all of the Examiner's modifications to the draft Plan. The Examiner's modifications and officers recommendations for each of these are set out in Appendix 3.
- 2.21 Officers have considered whether any other modifications are required to ensure that the Neighbourhood Plan meets the required conditions. It is not considered that any additional modifications are required. However it is recommended that a number of minor modifications are made to reflect modifications made by the Examiner and to improve the clarity of the plan. These minor modifications are set out in table 2 of Appendix 3. As these are minor modification, which are not a different view to the Examiner's, it is not necessary for the Council to re-consult on these minor modifications.
- 2.22 Officers consider that, subject to the Examiner's modifications being made to the plan, the Broughton 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), is compatible with the Convention Rights and meets the requirements of paragraph 8(1) of Schedule 4B to the Town and Country Planning Act (as amended).
- 2.23 The Council will need to make the required modifications to the Broughton Neighbourhood Plan before it proceeds to referendum.
- 2.24 It is recommended that Members agree that the modifications to the plan are made and that the modified Neighbourhood Plan proceeds to referendum.

BOROUGH OF KETTERING

Committee	EXECUTIVE	Item 11a	Page 5 of 6
-----------	------------------	-------------	----------------

2.25 A draft Decision Notice is attached at Appendix 3. It is recommended that Members agree this decision notice and that the decision notice is published in accordance with Regulation 18 (2) of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Referendum

2.26 In relation to the referendum, the examiner concluded that there is no reason to alter or extend the Plan area for the purpose of holding a referendum. Officers agree with this recommendation and therefore, it is recommended that Members agree that the area for the referendum should be the Broughton Neighbourhood Plan area as approved by Kettering Borough Council on 15 January 2014.

2.27 The Neighbourhood Planning (Referendums) Regulations 2012 (as amended) require that the referendum is held within 56 days of the date on which the decision that the referendum must be held is made, unless the local authority and Parish Council agree that the referendum does not need to be held by that date. The Parish Council has expressed a preference for the referendum to be held in early September to avoid the referendum being held during the holiday period. A date has not yet been identified but it is anticipated the referendum would take place in early to mid-September.

2.28 Following referendum, if more than 50% of those voting vote yes then the Neighbourhood Plan must be 'made' within 8 weeks of the referendum.

3. CONSULTATION AND CUSTOMER IMPACT

3.1 The Neighbourhood Plan has been prepared in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended).

4. POLICY IMPLICATIONS

4.1 When 'made' the Broughton Neighbourhood Plan will form part of the Development Plan for Kettering Borough. The Neighbourhood Plan will be used to determine planning applications within the Broughton Neighbourhood Area.

5. USE OF RESOURCES

5.1 The cost of the referendum will be met by the Council. Upon agreeing a date for the referendum the Council will be able to make claims to cover the costs incurred.

BOROUGH OF KETTERING

Committee	EXECUTIVE	Item 11a	Page 6 of 6
-----------	------------------	-------------	----------------

6. RECOMMENDATION

That Members:

- Note the content of the examiner's report;
- Agree the Examiner's modifications and that subject to these modifications the Neighbourhood Plan meets the Basic Conditions and other legislative requirements;
- Agree that the Broughton Neighbourhood Plan as modified proceeds to a local referendum based on the geographical boundary of the Broughton Parish as recommended by the Examiner; and
- Approve the Decision Statement attached at Appendix 3 to be published on the Borough Council's website

Previous Reports/Minutes:

Ref: Broughton Neighbourhood Plan Area Designation

Date: 15th January 2018

Contact Officer: Julia Baish – Development Team Leader (Planning Policy)