

HARBOROUGH DISTRICT COUNCIL

REPORT TO THE CABINET MEETING OF 1 November 2021

PUBLIC REPORT: Y

EXEMPT REPORT: N

Report Title	Foxton Review Neighbourhood Plan
KEY DECISION	N
Report Author	Matthew Bills, Neighbourhood and Green Spaces Officer
Purpose of Report	The purpose of this report is to enable the Cabinet to consider the recommendations of the Examiner into the Foxton Review Neighbourhood Plan and support the recommendation that the Plan is 'made'.
Reason for Decision	<p>The final Examiner's report into the Foxton Review Neighbourhood Plan was received on 15 September 2021. The Examiner considered the Plan along with the representations received when the Plan was published by the Council. The report states that the changes to the Foxton Review Plan are sufficiently significant to require Examination but do not change the nature of the Plan hence a Referendum is not required. The report also recommends subject to the modifications proposed (see Appendix A), the Plan should be 'made' by Harborough District Council.</p> <p>The Neighbourhood Planning (General) Regulations 2012, (Regulation 18) sets out the matters that the District Council should consider at this stage in the Neighbourhood Plan making process. The District Council must consider each of the recommendations made by the Examiner in their report, including the reasons for them, and decide what action to take in response to each recommendation (see Appendix A).</p> <p>The Examiner considered that the Foxton Review Plan required Examination but not a Referendum, stating that the changes to the Plan, although significant, did not change the nature of the Plan. (paras 3.5 to 3.9 of Appendix B)</p> <p>It is considered that the recommended modifications should be incorporated into the review plan and noted by Cabinet in order to ensure that the plan is robust, sound, meets the Basic Conditions and comprises a user-friendly and efficient document. Liaison with Foxton Review Parish Council confirms that they are happy to</p>

	<p>accept these recommendations. On this basis, the Plan should then be 'made'.</p> <p>The Neighbourhood Plan has been prepared by Foxton Review Neighbourhood Plan Advisory Committee and Foxton Review Parish Council as the Qualifying Body.</p> <p>The evidence provided to the Examiner within the Consultation Statement gave assurance to him that the consultation process was robust. The Examiner was therefore satisfied that the Plan met the Basic Conditions with regard to consultation.</p> <p>Where the local planning authority issues a decision statement (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 as amended) detailing its intention to 'make' a review neighbourhood plan, that plan can be given significant weight in decision-making, so far as the plan is material to the application.</p>
Portfolio (holder)	Cllr Jonathan Bateman
Corporate Priorities	<p>The Council is committed to supporting the neighbourhood planning process across the Harborough District. Helping communities wishing to carry out neighbourhood plans is identified in the Corporate Plan 2018/19 to 2020/21 as a way to deliver the priority: <i>'The People: A Healthy, Inclusive and Engaged Community'</i>.</p>
Financial Implications	<p>The Local Planning Authority will be able to claim £10,000.00 in direct financial support from the Ministry of Housing, Communities and Local Government (MHCLG) in relation to supporting the costs of Examination once the Plan is 'made'. This grant will be claimed in the next window for claiming Neighbourhood Planning Grants and is part of the support for 'reviewed' plans.</p> <p>This direct financial support is to ensure that local planning authorities receive sufficient funding to enable them to meet their legislative duties in respect of neighbourhood planning. These duties include provision of advice and assistance and in this case holding the examination.</p>

<p>Risk Management Implications</p>	<p>The following risks have been identified:</p> <p>Not following the legislation and regulations correctly could leave the Council open to legal challenge. The circumstances where a legal challenge, through a claim for judicial review, can be raised are set out in the Town and Country Planning Act 1990, section 61N.</p> <p>The preparation of the Foxton Review Neighbourhood Plan has, to date, been supported by the Strategic Planning Team in terms of providing advice, assistance given to the Qualifying Body, attendance at meetings of the Qualifying Body and ensuring the correct procedural steps are followed.</p>
<p>Environmental Implications</p>	<p>None associated with this report. The Foxton Review Neighbourhood Plan contains policies relating to the environment and has been subject to a Strategic Environmental Assessment by the Council which has concluded there are no significant detrimental effects on the natural and historic environment, Natura 2000 sites, or Ramsar sites. This conclusion was supported by Natural England, Historic England and The Environment Agency. The Examiner is satisfied that the Plan meets all the legislative requirements with regard to the environment.</p>
<p>Legal Implications</p>	<p>The Neighbourhood Plan, as proposed to be amended, is considered to meet the Basic Conditions which were set out in law following the Localism Act (see paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended)) and this has been confirmed in the Examiner's Report. The Plan is also considered to meet all the relevant legal and procedural requirements.</p> <p>Should the District Council decide to accept the recommendations of this report; a Decision Statement will be prepared and published on the Harborough District Council website in accordance with the regulations.</p>
<p>Equality Implications</p>	<p>In preparing the Plan, the Foxton Review Neighbourhood Plan Advisory Committee has taken time to involve and inform as wide a range of individuals, households, businesses and interest/community groups as possible through a variety of means. This is set out in the Consultation Statement accompanying the Plan, which is referred to in the Examiner's report.</p> <p>Furthermore, in his report the Examiner concludes that the Plan is compatible with EU obligations and does not</p>

	<p>breach the European Convention on Human Rights obligations as set out in paras 6.14 to 6.19 of the Examiner’s report (see Appendix B).</p>
<p>Data Protection Implications</p>	<p>The Council collects information from communities in order to assist the delivery and provision of Neighbourhood Planning.</p> <p>The information supplied by communities and stakeholders is used for Neighbourhood Planning only.</p> <p>Respondents to the Regulation 16 consultation are informed that the information may be shared with other Council departments or partners such as Neighbourhood Plan Examiner.</p> <p>The information is held in accordance with the Council’s Document Retention and Disposal Policy and HDC only ask for as much information as is required to respond to enquiries or service need.</p> <p>The Council is obliged to collect this information under The Neighbourhood Planning (General) Regulations 2012, The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 and The Neighbourhood Planning (referendums) Regulations 2012.</p> <p>Stakeholders and communities are informed how information collected is used, how HDC maintain the security of the information, and of the respondent’s rights to access information HDC hold.</p>
<p>Consultation</p>	<p>In reaching this stage, the consultation requirements set out in the legislation and the regulations have been complied with as follows:</p> <ul style="list-style-type: none"> • Designation of the Neighbourhood Plan Area on 29 October 2012; • Pre-Submission Consultation for review plan (reg. 14) from 14 Sept 2020 to 2 Nov 2020; and • Submission Consultation (reg. 16) from 26 May 2021 to 7 July 2021. <p>The Neighbourhood Planning (General) Regulations (2012) require the Council’s ‘Decision Statement’, in relation to the Examiner’s recommendations, to be published on the Harborough District Council website along with the Examiner’s report.</p>

	Other specified documents and correspondence with the Examiner have been published on the Council website as required.
Options	<p><u>To reject some or all of the Examiner's recommendations.</u> This option is not considered appropriate as the proposed modifications will make the Plan more robust and enable it to meet the prescribed Basic Conditions.</p> <p><u>To decide not to 'make' the Neighbourhood Plan.</u> Given that the Plan has successfully passed through the examination process, there is no reason why the Plan, including modifications, should not be 'made'. In the light of this, this option is not considered appropriate.</p>
Background Papers	Foxton Review Neighbourhood Plan submission version.
Recommendation	1. That the Cabinet accepts the Independent Examiner's recommended changes to the Foxton Review Neighbourhood Plan in full as set out in the schedule at Appendix A and approves the recommendation that the amended Foxton Review Neighbourhood Plan should be 'made'.

1 Introduction

- 1.1 The final Examiner's report into the Foxton Review Neighbourhood Plan was received on 15 Sept 2021. The Examiner considered the Plan along with the representations received when the Plan was published by the Council. The report recommends to the Council that, subject to the modifications proposed (see **Appendix A**), the Plan should be 'made'.
- 1.2 The Council is committed to supporting the neighbourhood planning process across the Harborough District. Helping communities wishing to carry out neighbourhood plans is identified in the Corporate Plan 2019/20 to 2020/21 as a way to deliver the priority: *'The People: A Healthy, Inclusive and Engaged Community'*.
- 1.3 Harborough District currently has 25 Neighbourhood Plans that are 'made' and four Plans that have been successfully reviewed. The Foxton Review Neighbourhood Plan will supersede the adopted Foxton Neighbourhood Plan and become part of the Development Plan for the District if approved by Cabinet to be 'made'.

2 Key Facts

- 2.1 The Foxtton Review Neighbourhood Plan has been led by the Foxtton Parish Council, as the Qualifying Body, in conjunction with the local community. The Foxtton Review Neighbourhood Plan seeks to bring policies up to date with local changes of circumstance, and to take account of changes to the Local Plan and National Planning Policy. It does not seek to allocate a site for housing (Fishers Farm and Middle Street/Vicarage Drive having been delivered for housing) but has policies to allow development to come forward within the defined Limits to Development subject to certain criteria.
- 2.2 The Plan for Foxtton Review seeks to achieve the following:
- Revisions to Policies F1 (Countryside), F5 (Ecology and Biodiversity), F12 (Housing Provision), F13 (Windfall Housing), F15 (Housing Mix);
 - Deletion of Policies concerning the development of Fisher's Farm, North Lane and the development of land at Middle Street and Vicarage Drive, as both sites now have planning permission for development;
 - The deletion of the proposed allocation of some 0.08 hectares of land at the junction of Vicarage Drive and Hog Lane, for housing development for up to three dwellings. It was clear that this proposal no longer had community support in large part due to the scale of development that is already taking place in the village. Furthermore, it is not clear that the landowner wants to develop the site and therefore the site may not be available;
 - New policies concerning non-designated heritage assets of archaeological interest and car parking; and
 - Revised definition of affordable housing.
- 2.3 The examination version of the Foxtton Review Neighbourhood Plan was submitted to the Council on 24 March 2021. Following initial verification checks, a six-week period of public consultation on the Plan was held running from 26 May 2021. A total of 9 responses were received with each respondent made multiple representations on most aspects of the Plan.
- 2.4 The Council, with the agreement of Foxtton Parish Council, appointed Andrew Ashcroft as the Independent Examiner in July 2021. All the representations received on the Examination Version of the Plan were forwarded to the Examiner for consideration. The Examiner was satisfied that all the responses could be assessed without the need for a public hearing.
- 2.5 The Examination took place from 30 July 2021 to 15 September 2021. The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).
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 compatible 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.

2.6 As the Foxton Plan is a review Plan the Examiner must also decide on the nature of the modifications and whether the Plan requires just examination or examination and referendum.

2.7 There are three types of modification which can be made to a neighbourhood plan or order. The pathway of a Neighbourhood Plan review will depend on the degree of change which the modification involves and are as follows:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or
- material modifications which do not change the nature of the plan or order, and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

2.8 Both the Qualifying Body and Harborough District Council officers took the view that the changes were material modifications but did change the nature of the Plan and therefore did not require referendum. The Examiner agreed with this view.

2.9 Mr Ashcroft was therefore obliged to examine the Plan against Schedule A2 of the Planning and Compulsory Purchase Act 2004. The regulations identify that an examiner's report must recommend one of three outcomes:

- that the local planning authority should make the draft plan; or
- that the local planning authority should make the draft plan with the modifications specified in the report; or
- that the local planning authority should not make the draft plan.

2.10 In examining the Plan, the Examiner is also required to check whether:

- the policies relate to the development and use of land for a designated neighbourhood plan area; and
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
- the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

2.11 The final Examiner's Report into the Plan was received by the Council on 15 September 2021 and was made available to the public on the Council's website shortly after. A full copy is included in **Appendix B** of this report. The report recommends to the Council that, subject to the modifications proposed the Plan should be 'made'.

2.12 A schedule of the Examiner's recommendations is set out at **Appendix A**. The main changes recommended by the Examiner (in order to meet the 'Basic Conditions') are to make the Plan appropriate for use in determining planning applications and to ensure clarity in the policies.

2.13 Foxton Parish Council have given the Examiner's Report due consideration and resolved that it is in agreement with the recommended modifications of the Examiner to the Neighbourhood Plan. Officers are also in agreement with the recommendations of the Examiner.

2.14 The Examiner states in paragraph 8.4 of the report:

I recommend that HDC should make the draft plan subject to the modifications set out in this report.

2.15 The Neighbourhood Planning (General) Regulations 2012 set out that if the Council agrees to the recommendations of this report, it must publish a '**Decision Statement**' on the Plan. This must set out the District Council's decision on the Foxton Review Neighbourhood Plan and the reasons for making that decision.