

ITEM NO. 5

REPORT TO THE EXECUTIVE MEETING OF 5TH December 2016

Meeting: Executive
Date: 5th December 2016
Subject: Foxton Neighbourhood Plan
Report of: Matthew Bills Neighbourhood and Green Spaces Officer
Portfolio Holder: Cllr Brodrick

Status:

Relevant Ward(s): Lubenham Ward

1 Purpose of the Report

1.1 The purpose of this report is to enable the Executive to consider the recommendations of the Examiner into the Foxton Neighbourhood Plan and supports the recommendation that the Plan proceed to public referendum

2 Recommendations:

2.1 That the Executive accepts the Independent Examiner's recommended changes to the Foxton Neighbourhood Plan in full as set out in the schedule at Appendix A and notes the recommendation that the amended Foxton Neighbourhood Plan should proceed to a Referendum of voters within the Parish of Foxton to establish whether the Plan should form part of the Development Plan for the Harborough District.

2.2 That the Executive approves the holding of a Referendum relating to the Foxton Neighbourhood Plan on 26th January 2017 that will include all of the registered electors in Foxton Parish.

3 Summary of Reasons for the Recommendations

3.1 The Examiner's report into the Foxton Neighbourhood Plan was received on 7th November 2016. 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 proceed to a Referendum.

- 3.4 The Neighbourhood Planning (General) Regulations 2012, (Regulation 18) sets out that the matters that the Council should consider at this stage in the Neighbourhood Plan making process. In short, the Council must consider each of the recommendations made by the Inspector in their report, including the reasons for them, and decide what action to take in response to each recommendation (see Appendix A).
- 3.5 It is considered that the recommended modifications should be incorporated into the Plan and noted by the Executive in order to ensure that the Plan is robust, sound, meets the Basic Conditions and comprises a user-friendly and efficient document. Liaison with Foxtton Parish confirms that they are happy to accept these recommendations. On this basis, the Plan should then proceed to a referendum in Foxtton Parish to determine if local people support it.

4 Impact on Communities

- 4.1 The Neighbourhood Plan has been prepared by Foxtton Neighbourhood Plan Group and Foxtton Parish Council.
- 4.2 The evidence provided to the Examiner indicates that an inclusive and comprehensive approach was made during the preparation of the Plan and this ensured that the input and opinions of a wide variety of stakeholders across the parish contributed to the preparation of the Plan. Comments were pro-actively sought and those received were duly considered by the Examiner. There is a written record of the ways that consultation has benefitted the Foxtton Neighbourhood Plan. The Examiner was accordingly satisfied that the consultation process has complied with the requirements of the Regulations.
- 4.3 In proceeding to a referendum with a Plan that meets the prescribed Basic Conditions, the whole community will be afforded the opportunity to vote on the future development of the village.

5 Key Facts

- 5.1 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 2016 as a way to deliver the priority 'to develop places in which to live and be happy'.
- 5.2 The Foxtton Neighbourhood Plan ('the Plan') has been produced by the Foxtton Neighbourhood Plan Group, led by the Parish Council as the Qualifying Body, in conjunction with the local community. The Plan provides for housing levels within the minimum requirement set out in the Harborough District Core Strategy, 2011 whilst also taking account of the emerging Harborough District Local Plan. The Plan also addresses issues relating to:
- the countryside,
 - renewable energy,
 - tranquillity,

- Foxton Green Zone,
- Area of Separation,
- Biodiversity,
- the canal and Foxton Locks,
- heritage,
- design,
- Local green Space,
- Trees,
- housing mix,
- affordable housing,
- retention of key services, and
- water management.

5.3 The Examination Version of the Foxton Neighbourhood Plan was submitted to the Council on 6th June 2016. Following initial verification checks, a six week period of public consultation on the Plan was held running from 4th July to 16th August 2016. A total of 12 responses were received, each making multiple representations on most aspects of the Plan.

5.4 The Council, with the agreement of Foxton Parish Council, appointed Andrew Matheson as the Independent Examiner in September 2016. 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 making the following comments:

‘Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Foxton Neighbourhood Plan could be examined without the need for a public hearing and I advised Harborough District Council accordingly’

5.5 The examination took place between 5th August and 7th November 2016. The role of the Examiner is to consider whether a neighbourhood plan meets the Basic Conditions. In order to do this the Plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area; and
- Be compatible with European Union obligations and, not breach, nor be in anyway incompatible with the European Convention on Human Rights

5.6 The Examiner’s Report into the Plan was sent to the Council on 7th November 2016 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 proceed to a Referendum.

5.6 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 text of the Plan. The Examiner has not recommended any policy deletions from the Plan, and the essence of what policies are trying to achieve has been retained. The main changes are as follows:

- Amendments for reasons of clarity and efficiency
- Appropriate regard for national Policy
- Ensure the Plan is precise in planning terms
- Ensure that the Plan policies are positively worded
- Ensure the plan meets the Basic Conditions

5.7 The Examiner's report acknowledges the amount of work that has gone into preparing the Plan, and that 'community involvement has been at the heart of the Plans production'. The Examiner comments further saying; 'From all the evidence provided to me for the examination, I can see that an inclusive and comprehensive approach has been made to obtaining the input and opinions of all concerned throughout the process. Comments were pro-actively sought and those received were duly considered. I can see that there has been a documented record of the ways that consultation has benefitted the Foxton Neighbourhood Plan. I am accordingly satisfied that the consultation process has complied with the requirements of the Regulations.'

5.8 The Examiner makes the following statement with regard to the number of modifications in the Plan:

'However, in the writing up of the work into the Plan document, it is often the case that the phraseology is imprecise, or it falls short in justifying the selected policy, and I have been obliged to recommend modifications so as to ensure both clarity and meeting of the 'basic conditions'. In particular, Plan policies as written may not meet the obligation to "provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency" (NPPF para 17). I bring this particular reference to the fore because it will be evident as I examine the policies individually and consider whether they meet or can be amended to meet the 'basic conditions'.'

5.9 The Examiner makes comment on the number of amendments that are proposed in his report stating:

'Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the basic conditions are met. Whilst I have proposed a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Body, the Parish Council. Where deletions have been recommended because of inappropriate repetition of Local Plan content, the policy requirements within the Harborough District Core Strategy will still be effective.'

- 5.10 Foxton Parish Council and Neighbourhood Plan Group have given the Report due consideration following a meeting on 14th November 2016 and resolved that it is in agreement with the recommended modifications to the Neighbourhood Plan by the Examiner.
- 5.11 Given that proposed modifications of the Examiner do not fundamentally alter the main aims of the Plan, Officers recommend acceptance of all the independent Examiner's recommendations, for the reasons expressed by the Examiner.
- 5.12 The Examiner was also tasked with considering whether the Referendum Area should be extended beyond the designated Neighbourhood Area (the Parish boundary). The Examiner concludes that a Referendum based on the Foxton Neighbourhood Area is appropriate. Officers agree with this recommendation.

6 Next Steps

- 6.1 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 Council's decision on the Foxton Neighbourhood Plan and the reasons for making that decision. It is normal practice for the date of the Referendum to also be specified. The suggested changes will then be made to the Plan ready for publication as one of the specified documents that must be in place in order to allow the Referendum to proceed.
- 6.2 The date for the Referendum is provisionally set for 26th January 2017. Therefore, the final version of the Plan and other relevant documents must be on Harborough District Council's website at least **28 working days** before that date. The Council will also need to ensure that the publication of 'notice of referendum' takes place at least **25 working days** before the Referendum. The detailed requirements in respect of the referendum process are set out in the [Neighbourhood Planning \(Referendums\) Regulations 2012](#).
- 6.3 The Referendum will follow a similar format to an election. All those registered to vote within the Neighbourhood Area will be given the opportunity to be involved in the Referendum. Local residents will receive a ballot paper with the question;

'Do you want Harborough District Council to use the neighbourhood plan for Foxton to help it decide planning applications in the neighbourhood area?'

Residents will be given the opportunity to vote 'yes' or 'no'. If more than 50% of those voting in the referendum vote 'yes' then the Local Planning Authority is required to 'make' the plan (adopt the Plan, with the Plan becoming the Development Plan for Foxton alongside the Core Strategy). Under the approved Neighbourhood Planning Scheme of Delegation 'making' the Plan will be done by Officers as soon as possible after a favourable Referendum

result. If the result of the Referendum is “no”, then nothing further happens. The Parish Council will then have to decide how it wishes to proceed.

7 Legal Issues

- 7.1 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(2) of Schedule 4B of the Town and Country Planning Act 1990) and this has been confirmed in the Examiner’s Report. The Plan is also considered to meet all the relevant legal and procedural requirements.
- 7.2 Should the 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. Necessary preparations for a referendum in accordance with the referendum regulations will then proceed.

8 Resource Issues

- 8.1 The Council has been able to claim total of £5,000 in direct financial support from the Department of Communities and Local Government (DCLG) in relation to supporting the preparation of the Foxton Neighbourhood Plan. An additional £20,000 can be claimed when the Referendum date is set. This grant will be claimed in the January window (1st January to 31st January 2017 as set out in the Chief Planning Officer letter of 9th March 2016) for Neighbourhood Planning Grants.
- 8.2 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; holding the examination; and making arrangements for the referendum.
- 8.3 The cost of organising and running the referendum is funded through the grant described in paragraph 8.1.

9 Equality Implications

- 9.1 In preparing the Plan, the Foxton Neighbourhood Plan Group 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 Examiners report.
- 9.2 Furthermore, in the report of the Examiner concludes that the Plan is compatible with EU obligations and does not breach the European Convention on Human Rights obligations as set out on page 26 of the Examiners report (see Appendix B).

10 Impact on the Organisation

10.1 The preparation of the Plan has, to date, been supported by the Strategic Planning team in terms of providing advice, assistance and attendance at meetings given to the Steering Group and ensuring the correct procedural steps are followed. The Elections Team will now be involved in ensuring a Referendum is held as soon as possible and as set out in the Regulations.

11 Community Safety Implications

11.1 There are not expected to be any Community Safety implications from this report.

12. Carbon Management Implications

12.1 There are no Carbon Management Implications arising from this report.

13. Risk Management Implications

13.1 The following risks have been identified:

- 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.

14 Consultation

14.1 In reaching this stage, the consultation requirements set out in the legislation and the regulations have been complied with as follows:

- Consultation on the Neighbourhood Plan Area 1/7/2012 to 15/8/2012;
- Pre-Submission Consultation (reg. 14) 2/2/2016 to 21/3/2016; and
- Submission Consultation (reg. 16) 4/7/2016 to 15/8/2016.

14.2 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.

15 Options Considered

15.1 To reject some or all of the Examiner's recommendations. 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.

15.2 To decide not to proceed to referendum on the Neighbourhood Plan. Given that the Plan has successfully passed through the examination process, there

is no reason why the Plan, including modifications, should not proceed to Referendum. In the light of this, this option is not considered appropriate.

16 Background Papers

16.1 [Foxton Neighbourhood Plan – Submission Draft](#)

Information Issued Under Sensitive Issue Procedure: Y/N

Ward Members Notified: Y

Appendices:

Appendix A: Examiners Recommendations

Appendix B: Examiners Report