

BRECKLAND DISTRICT COUNCIL

Report of: Councillor Gordon Bambridge Executive Member for Growth

To: Council 2nd November 2017

(Author: Susan Heinrich, Neighbourhood Planning Co-Ordinator

Subject: Mattishall Neighbourhood Plan - Making (adoption) of the Mattishall Neighbourhood Plan

Purpose: To "make" the Mattishall Neighbourhood Plan as part of the statutory Development Plan for Breckland and update the district policies map with the relevant policies.

Recommendation(s):

Cabinet to recommend to Council:

- 1) To confirm that Mattishall Neighbourhood Plan, as written at the time of the referendum, is "made" as part of the statutory development plan for Breckland Council, as required by paragraph (4)(a) of section 38A of the Town and Country Planning Act (Option1)
- 2) To publish this decision as required by paragraph (9) of section 38A of the Town and Country Planning Act
- 3) To advise Mattishall Parish Council and any other prescribed persons about this, to meet the requirements of paragraph (10) of section 38A of the Town and Country Planning Act
- 4) To amend the Breckland district policies map, to meet the requirements of paragraph 9 Town and Country (Local Planning) (England) Regulations 2012

1.0 BACKGROUND

- 1.1 As previously advised, the Localism Act 2011 introduced the concept of Neighbourhood Planning. This includes the option for Town and Parish Council's to prepare statutory Neighbourhood Plan, which sets out a vision, objectives, policies and proposals to guide the future development of their local area. The Mattishall Neighbourhood Plan has been under preparation since early 2015, and has been subject to two rounds of formal public consultation, followed by an independent examination. The final stage in the process is to 'make' (adopt) the Plan to bring the document into effect. In addition to this, a limited number of minor amendments were made to aid the accuracy of the document.
- 1.2 The plan's preparation is subject to the Localism Act, which made amendments to the Town and Country Planning Act 1990, the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendum) Regulations 2012. As a result of the Neighbourhood Planning Act 2017, a post-examination neighbourhood plan will need to be taken into account when making decisions on planning applications in the local area.
- 1.3 The Mattishall Neighbourhood Plan is the second in Breckland to have reached this final

stage in the process, and would become one of only around 400 plans to be formally made nationally.

Referendum

- 1.4 The Mattishall Neighbourhood Plan was subject to an independent Examination between March and May 2017. The Examiner found that subject to most of the policies being modified, the plan met the 'basic conditions' and recommended that it proceed to a local referendum, and the decision to hold the referendum was agreed on 8th June. The referendum process for Neighbourhood Plans is set out in the Neighbourhood Planning (Referendum) Regulations 2012.
- 1.5 Paragraph 4 of the Neighbourhood Planning (Referendum) Regulations, outlines the requirements for the dates and documents needed. As required, the Information Statement and Specified Documents were published on the Council's Neighbourhood Planning website page on the 18th August and the Notice of Referendum was published on the Electoral Services website page on the 23rd August.
- 1.6 The Specified Documents include the following:
 - The Mattishall Neighbourhood Development Plan;
 - Report of the independent examiner;
 - A Summary of the representations submitted to the independent examiner;
 - A Statement by the Local Planning Authority that the draft plan meets the basic conditions and complies with the relevant legislation;
 - A statement that sets out general information about town and country planning including neighbourhood planning and the referendum.

Making the plan

- 1.7 Under paragraph (4)(a) of section 38A of the Town and Country Planning Act, when considering to "make" a neighbourhood plan, where "...*more than half of those voting to have voted in favour of the plan ...*", then it must be "made", or in other words there is a legal duty to bring the plan into force. Also as a result of the Neighbourhood Planning Act 2017, this is when the Neighbourhood Plan has the status of a 'Development Plan'.
- 1.8 However, this would not be the case if under paragraph (6) of the Act, the local planning authority considers that it would be incompatible with any European Union obligations or Human Rights conventions. These issues were considered to have been met by the independent examiner as part of their assessment of one of the 'basic conditions' which is not to breach any EU obligations or any Human Rights obligation.
- 1.9 The Neighbourhood Plan referendum was held on the 28th September. The turnout was 22.5%, of which 93% (464) voted in favour of using the Plan to help decide planning applications in the neighbourhood area and 7% (36) voted against.
- 1.10 There is also a requirement in the regulations under paragraphs 9 and 10, section 38A of the Town and Country Planning Act, to publicise and inform relevant persons about the decision that has been made. This is repeated under Regulation 19 of the Neighbourhood Planning (General) Regulations 2012.

Other actions

- 1.11 The Town and Country (Local Planning) (England) Regulations 2012 outlines what the adopted policies map must include and contain. Specially under 9 (c) there is a requirement to "... *illustrate geographically the application of the policies in the adopted*

development plan". As set out above, the Neighbourhood Plan reaching this point has the status of a "Development Plan". As such, the Council's Policies Map inset for Mattishall will be updated to show relevant policies with spatial extents.

2.0 OPTIONS

2.1 There are two options for members to consider:

- **Option 1** - Cabinet to recommend to Council to "make" the Mattishall Neighbourhood Plan and is "made" as part of the statutory development plan for Breckland Council, as required by paragraph (4)(a) of section 38A of the Town and Country Planning Act as "...*more than half of those voting to have voted in favour of the plan ...*", and to undertake the required publication, advise the Parish Council and other prescribed persons and subsequently update the district policies map.
- **Option 2** - Cabinet to recommend to Council to refuse to make the Mattishall Neighbourhood Plan where "...*it considers that the Plan would breach, or would otherwise be incompatible with any EU obligation or any of the Convention Rights (within the meaning of the Human Rights Act 1998).*"

3.0 REASONS FOR RECOMMENDATION(S)

3.1 It is recommended that members endorse Option 1 as there was a positive vote in favour for making the Mattishall Neighbourhood Plan through a referendum and there is considered to be compliance with, rather than being incompatible, with European obligations and Human Rights conventions.

4.0 EXPECTED BENEFITS

4.1 The main benefit to "making" or agreeing the Mattishall Neighbourhood Plan is that it is the last stage in the production of the plan and it will form part of the "development plan" for the Breckland District, allowing the policies to be used in the determination of planning applications in the Parish.

5.0 IMPLICATIONS

5.1 Carbon Footprint / Environmental Issues

5.1.1 It is the opinion of the Report Author that there are no implications.

5.2 Constitution & Legal

5.2.1 The Mattishall Neighbourhood Plan is "made", and this decision is published and relevant persons advised under the requirements (paragraph (4)(a); (9) and (10)) of section 38A of the Town and Country Planning Act. Also the district policies map is amended under paragraph of the 9 Town and Country (Local Planning) (England) Regulations 2012.

5.2.2 Once "made" the Mattishall Neighbourhood Plan will form part of the statutory "development plan" for the Breckland District. Under section 38(6) of the Planning and Compulsory Purchase Act 2004, this requires that "...*for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with*

the plan unless material considerations indicate otherwise.”

5.3 **Contracts**

5.1.2 It is the opinion of the Report Author that there are no implications.

5.4 **Corporate Priorities**

5.4.1 The Mattishall Neighbourhood Plan meets the following corporate priorities:

- Supporting Breckland to develop and thrive
- Developing the local economy to be vibrant with continued growth
- Enabling stronger, more independent communities.

5.5 **Crime and Disorder**

5.5.1 It is the opinion of the Report Author that there are no implications.

5.6 **Equality and Diversity / Human Rights**

5.6.1 It is the opinion of the Report Author that there are no implications.

5.7 **Financial**

5.7.1 The costs for the activities associated with making the plan are covered by the Local Plan production budget.

5.8 **Health & Wellbeing**

5.8.1 It is the opinion of the Report Author that there are no implications.

5.9 **Risk Management**

5.9.1 The risk of not approving this neighbourhood development plan would mean that the council would be in breach of their legal duty.

5.10 **Safeguarding**

5.10.1 It is the opinion of the Report Author that there are no implications.

5.11 **Staffing**

5.11.1 There are no direct implications arising from this report.

5.12 **Stakeholders / Consultation / Timescales**

5.12.1 It is the opinion of the Report Author that there are no implications in relation to this report. The Plan has been subject to a range of public consultation including two required consultation stages (Regulation 14 and 16) of the Neighbourhood Planning (General) Regulations 2012 (as amended).

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 Mattishall Ward (in respect of Mattishall Parish).

Background papers:- [See The Committee Report Guide](#)

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Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service

Appendices attached to this report:

Appendix A – Mattishall Neighbourhood Plan