

BRECKLAND DISTRICT COUNCIL

Report of: Councillor Gordon Bambridge Executive Member for Growth

To: Cabinet 30th May 2017
Council 22nd June 2017

(Author: Susan Heinrich, Neighbourhood Planning Co-Ordinator

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

Purpose: To "make" the Yaxham 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 Yaxham Neighbourhood Plan 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
- 2) To publish this decision as required by paragraph (9) of section 38A of the Town and Country Planning Act
- 3) To advise Yaxham 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 Members will be aware, the Localism Act 2011 introduced the notion 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 Yaxham Neighbourhood Plan has been under preparation since late 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, a limited number of minor amendments have been made to aid the accuracy of the document.

1.2 When "made" (adopted) by Breckland Council, as the Local Planning Authority, the Neighbourhood Plan has the status of a "Development Plan", and therefore will need to be taken into account when making decisions on planning applications in the local area. Their 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.

1.3 The Yaxham Neighbourhood Plan is the first in Breckland to have reached this final stage in the process, and would become one of only around 300 plans to be formally made nationally.

Referendum

- 1.4 The Yaxham Neighbourhood Plan was subject to an independent Examination between January and March 2017, with an oral hearing session held on 17th February. The Examiner found that subject to a number of required modifications, 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 14th March. 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 22nd March and the Notice of Referendum was for published on the Electoral Services website page on the 27th March.
- 1.6 The Specified Documents include the following:
- The Yaxham 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.
- 1.8 The referendum was held on the 4th May with a turnout of 58%, of which 92.03% (358) voted in favour of using the Plan to help decide planning applications in the neighbourhood area and 7.97% (31) voted against.
- 1.9 Under paragraph (6) of the Act, the plan does not need to be "made" where it is considers that it would be incompatible with any European Union obligations or Human Rights conventions. However, these issues were considered to have been met by the independent examiner under their assessment of one of the 'basic conditions' which is not to breach any EU obligations or any Human Right obligations.
- 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 has the status of a "Development Plan". As such, the Council's Policies Map inset for Yaxham 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 Yaxham Neighbourhood Plan 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 Yaxham 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 Yaxham Neighbourhood Plan through a referendum and there is considered to be compliance with, rather than being incompatible, with the European obligations and Human Rights conventions.

4.0 EXPECTED BENEFITS

4.1 The main benefit to “making” or agreeing the Yaxham 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 Yaxham 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 Yaxham 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 Yaxham 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 Yaxham Parish).

Lead Contact Officer

Name and Post: Susan Heinrich, Neighbourhood Planning Co-Ordinator
Telephone Number: 01362 656841
Email: Susan.Heinrich@breckland.gov.uk

Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service

Appendices attached to this report:

Appendix A – Yaxham Neighbourhood Plan

Appendix B – Updated Policies Map inset - Yaxham