

## BRECKLAND DISTRICT COUNCIL

**Report of:** Councillor Gordon Bambridge Executive Member for Growth

**To:** Council 24<sup>th</sup> January 2019

**Author:** Susan Heinrich, Neighbourhood Planning Co-Ordinator

**Subject:** Croxton, Brettenham & Kilverstone Joint Neighbourhood Plan - Making (adoption) of the Croxton, Brettenham & Kilverstone Joint Neighbourhood Plan

**Purpose:** To "make" the Croxton, Brettenham & Kilverstone Joint Neighbourhood Plan as part of the statutory Development Plan for Breckland and update the district policies map with the relevant policies.

### **Recommendation(s): That Full Council agrees:**

- 1) To confirm that Croxton, Brettenham & Kilverstone Joint 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 Croxton, Brettenham & Kilverstone Joint Parish Councils 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 The Localism Act 2011 introduced the concept of Neighbourhood Planning. This includes the option for Town and Parish Council's to prepare statutory Neighbourhood Plans which set out a vision, objectives, policies and proposals to guide the future development of their local area. The Croxton, Brettenham & Kilverstone Joint Neighbourhood Plan Area was designated in July 2014 and has been subsequently been subject to two rounds of formal public consultation, followed by an independent examination. Following the examination, a further public consultation was held on the Council's decision not to accept one of the Examiners recommendations. This resulted in an amendment to the south eastern section boundary of the Croxton Identified Protected Areas (IPA).
- 1.2 This report relates to the final stage in the process which is to 'make' (adopt) the Plan to bring the document into effect.

- 1.3 The plan's preparation has been guided by the provisions of the Localism Act 2011 (which amended the Town and Country Planning Act 1990), the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendum) Regulations 2012 (as amended).
- 1.4 Furthermore, 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.
- 1.5 The Croxton, Brettenham & Kilverstone Neighbourhood Plan is the fourth in Breckland to have reached this final stage in the process, and would become one of over 700 plans to be formally made nationally.

### **Examination and Referendum**

- 1.6 The Croxton, Brettenham & Kilverstone Neighbourhood Plan was subject to an Independent Examination held between April and July 2018. The Examiner found that subject to modifications being made to all the policies, the plan met the 'basic conditions' and recommended that it proceed to a local referendum.

Breckland Council considered all of the individual modifications and the reasons for them and supported all but one. This concerned the examiners modified boundary of the Croxton Identified Protected Areas (IPA). Further information was received from the Parish Council that indicated that the Examiner had not considered a defensible feature on the ground that the IPA boundary could have been logically drawn along. As such, the Council did not accept this particular examiners change and proposed a modification.

- 1.7 As required by regulations, this change was subject to a further modification consultation carried out between September and October 2018. No objections were received to it during this time. The decision to hold the referendum was confirmed on 6<sup>th</sup> November 2018 and arrangements made for the referendum process for Neighbourhood Plans to being as set out in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended).
- 1.8 Paragraph 4 of these Regulations prescribes the requirements for the dates and documents that need to be published to hold a referendum. As required, the Information Statement and Specified Documents were published on the Council's Neighbourhood Planning website page on the 27<sup>th</sup> November 2018 and the Notice of Referendum was published on the Electoral Services website page on the 30<sup>th</sup> November 2018.
- 1.9 The Specified Documents included the following:
  - The Croxton, Brettenham & Kilverstone 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

- 1.10 The Neighbourhood Plan referendum was held on the 10<sup>th</sup> January 2019. The turnout was 31%, of which 89.8% (194) voted in favour of using the Plan to help decide planning applications in the neighbourhood area and 10.2% (22) voted against.
- 1.11 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 is formally confirmed in status as part of the statutory ‘Development Plan’ for the area.
- 1.12 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 the ‘basic conditions’, one of which is that the plan may not breach any EU obligations or any Human Rights obligation.
- 1.13 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

- 1.14 The Town and Country (Local Planning) (England) Regulations 2012 outlines what the adopted policies map must include and contain. Especially 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 Croxton, Brettenham & Kilverstone 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** - Council agrees to “make” the Croxton, Brettenham & Kilverstone 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 Town Council and other prescribed persons and subsequently update the district policies map.
- **Option 2** - Council does not make the Croxton, Brettenham & Kilverstone 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 Croxton, Brettenham & Kilverstone 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 Croxton, Brettenham & Kilverstone Neighbourhood Plan is that it is the last stage in the production of the plan and it will enable the plan to form part of the statutory "Development Plan", thereby allowing the policies to be used in the determination of planning applications in the Neighbourhood Area.

### **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 Croxton, Brettenham & Kilverstone 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 Croxton, Brettenham & Kilverstone 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 Croxton, Brettenham & Kilverstone 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 its 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 The Neighbourhood Plan area falls within the Forest Ward.

### **Lead Contact Officer**

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**

**Appendices attached to this report:** *Appendix A – Croxton, Brettenham & Kilverstone Neighbourhood Plan*