

BRECKLAND COUNCIL
DELEGATED DECISION AUTHORISATION RECORD (Blue Form)

PORTFOLIO:	Growth		
REPORT TITLE:	Croxtan, Brettenham & Kilverston Joint Neighbourhood Plan Draft Plan – examination decision and next steps		
AUTHOR:	Susan Heinrich – Neighbourhood Planning Coordinator		
URGENCY - Delete as appropriate:	None – 5-day Scrutiny Delay		URGENT – sign form overleaf
	CHECKLIST – Please Tick		KEY DECISION – Tick as appropriate
1.	Financial Report Considered and/or Proforma B included		This IS NOT a Key Decision
2.	VAT Implications have been considered		This IS a Key Decision already included in Forward Plan
3.	Legal Advice included		This IS a Key Decision NOT in Forward Plan, BUT PUBLICISED FIVE DAYS PREVIOUSLY or agreed by Chairman of Overview & Scrutiny Commission – Form over
4.	Within Policy Framework		
5.	Risk Assessment statement included.		
6.	Crime & Disorder, Equalities, Human Rights, S40 Environment and other assessments are addressed in the report		Delegation under:
CONFIDENTIALITY: Delete as appropriate	No confidential or exempt information to be excluded from the Press and Public		
Decision: Wording For Decision Record			
ACTION AGREED	<p>Agree option 2 as follows:</p> <p>1) To confirm that Breckland Council has considered each of the recommendations made by the examiner and the reasons for them, as required by the 1990 Town and Country Planning Act schedule 4B, section 12, para (2)(a) and that in deciding what action to take in relation to each recommendation, that all proposed by the independent examiner in his report are accepted (under section 12, para (2)(b)), except one.</p> <p>2) That in relation to the boundary of the south eastern section of the Croxtan IPA, Breckland Council has taken a different decision from the examiner which is to extend the boundary one field eastward of Croxtan Road and north of the A11 bypass, as this is considered a more appropriate boundary (section 13, para (1). This modification is to be subject to 6 weeks consultation as required by Reg.17A (3) of the Neighbourhood Planning Regulations 2012 (as amended).</p> <p>3) That the change may also be referred to re-examination (section 13, para (2) subject to an assessment of the nature of any representations received.</p>		
REASON(S)	To meet the requirements of the above legislation.		
Signatures: Authority for Action			

Chief Officer Comments:	Recommendation: Signature and date
1.	I agree the above decision as a matter falling within my delegated powers. Executive Member: Date:
2.	Does this have political sensitivity or strategic importance? NO If Yes: Leader (Please delete * as appropriate): *I agree above decision/*Refer to Cabinet Signed: Date:

Additional Options Considered and/or Reasons for Decision

Independent Examination of Croxton, Brettenham & Kilverston Joint Neighbourhood Plan

- 1.1 In April 2018 Breckland Council appointed Andrew Ashcroft BA MA Dip MS MRTPI, with the agreement of Croxton, Brettenham & Kilverston Parish Councils, to commence an independent examination of the Croxton, Brettenham & Kilverston Joint Neighbourhood Plan. This needed to consider the “basic conditions” and legal requirements in relation to the Neighbourhood plan by producing a report on their findings.
- 1.2 The “basic conditions” concern; the need to consider national policies and advice in guidance issued by the Secretary of State; whether the Neighbourhood Plan contributes to sustainable development and is “general conformity with the strategic policies contained in the development plan for the area of the authority”, and does not breach EU obligations.
- 1.3 To assist the Examiner, he issued a four page clarification note, which included a number of questions on most of the policies primarily for the Croxton, Brettenham & Kilverston Parish Councils to address.
- 1.4 His report on the examination was issued on the 24th July 2018 and concluded that all of the sixteen policies require some form of modification to make the Croxton, Brettenham & Kilverston Joint Neighbourhood Plan meet the “basic conditions” (Section 8, schedule 4B, Town and Country Planning Act 1990) and proceed to a public referendum.
- 1.5 Of these recommendations; one policy was proposed to be deleted and fifteen policies amended in some way. Of these, four were proposed to have paragraphs deleted, five to have paragraphs being replaced, two having paragraphs being both deleted and others replaced, and two being completely rewritten.
- 1.6 With regard to the deleted policy (Policy JNP10), this was recommended because it was considered to repeat national and local policy and it would have applied to all development proposals, which was felt to be disproportionate. Also there was no evidence to enable any local thresholds modification to be considered.
- 1.7 The Examiner made amendments to the boundaries of the Identified Protected Areas (Policy JNP11: Avoiding the coalescence of settlements). These were made to provide clear justification for the boundaries of these areas using recognisable features such as field or other natural boundaries rather than cutting across them as occurred originally (see Appendix A).
- 1.8 In relation to the other amended policies, this was due to a number of issues including policies being considered to be a statement or process rather than policy, repeating local and/or national policy or not being consistent with such, as well as the need for further clarity.
- 1.9 The Examiners overall approach has been to modify the plan to enable it to meet the “basic conditions”, rather than reject it, which was an option open to him.

Consideration of modifications and whether the Neighbourhood Plan meets the “basic conditions”

- 1.10 Breckland Council has considered each of the individual modifications and the reasons for them; a number of which are consistent with representations made by the Council at the Regulation 16 public consultation stage. It is considered that the majority of them are reasonable and proportionate. A summary of the modifications and what action is to be taken for each one is provided as an attachment to this record (Appendix B).
- 1.11 With regard to Identified Protected Areas (IPA), the Parish Councils have requested a revised modification to the boundary of the south eastern section of the Croxton IPA to include the field immediately east of Croxton Road and north of the A11 bypass where there is a clear north south boundary on the ground made up of a tree belt. This will extend this boundary (see

Appendix C) further towards the east to reduce a 'gap' that was created by the examiners modification (see Appendix A).

- 1.12 The reason for this modification relates to two of the Environmental Objectives of the plan; namely to *"To protect and enhance the important Brecks landscape and maintain the important undeveloped landscape break between Croxton village and the A11"* and *"To prevent the coalescence of settlements"*.
- 1.13 The Parishes consider the pressure for development during the latter stages of the Neighbourhood Plan period is more likely to come from the direction of expanding Thetford northwards (from the Sustainable Urban Extension) rather than Croxton to the south and therefore the inclusion of this field is vital to the fulfilment of the plan objectives, the implementation of the policy and the rationale behind the plan itself.
- 1.14 The Parishes also highlight the fact that there has been three rounds of public consultation on the neighbourhood plan involving in a total of 18 weeks of public consultation and that no objections were received to the principle of the designation or that specific boundary.
- 1.15 Under section 13(1) of the 1990 Act, Breckland Council do not have to accept all the modifications. However, in the circumstances where this is the case, the reason for a different modification needs to be clarified, which can be due to new evidence, a different fact or different view being taken by the local authority.
- 1.16 A different view is being taken by Breckland Council regarding the examiners modification concerning south eastern section of the Croxton IPA. This is due to the particular fact that it is considered that there is a more appropriate boundary to define this area. A north south boundary being made up of a tree belt boundary within this area (see Appendix C) rather than the examiners north south boundary immediately east of Croxton Road. This will result in the Croxton IPA area being more similar in size and that location of the boundary to that originally consulted on.
- 1.17 Although this revised modification will need to be subject to a further six weeks consultation, it is not currently considered significant enough for a further examination due to the minor nature of the revision, but ultimately this will be dependent on the representations received on the additional consultation.
- 1.18 There are also three minor errors in the plan which require amending and are identified in Appendix B. These concern the Consultation Statement indicating that changes would be made as a result of our Reg.14 representations, but not actually being included in the Neighbourhood Plan itself.
- 1.19 It is appropriate to make all of these modifications to the plan, with the exception of the different one regarding the Croxton IPA, as well as a number of other minor correcting errors, as permitted by the 1990 Town and Country Planning Act schedule 4B, section 12, para (6)(e).
- 1.20 In accepting these amendments, it is considered that the Croxton, Brettenham & Kilverston Joint Neighbourhood Plan meets the "basic conditions" as outlined by the Examiner (para 69 – 169) and required by the Regulations.

2.0 OPTIONS

2.1 There are three options available:

- Option 1 - To accept the all modifications proposed by the independent examiner in his report, as required by the 1990 Town and Country Planning Act schedule 4B, section 12, paragraph (2), as well as correcting a number of minor errors. Subject to these changes, the Council determine that the Croxton, Brettenham & Kilverston Joint Neighbourhood Plan proceeds to a referendum as it meets the requirements (the basic conditions) of the 1990 Town and Country Planning Act schedule 4B, section 12, para (4). To delegate to Officers to start all necessary arrangements for the holding of the referendum and publicising the decision.

- Option 2 - To accept the all modifications proposed by the independent examiner in his report, except that relating to the south eastern section of the Croxton IPA. Breckland Council takes a different decision from the examiner on this (section 13, para (1), which is to extend the boundary (see Appendix C) one field eastward of Croxton Road and north of the A11 bypass, as this is considered a more appropriate boundary as it is made up of a tree belt rather than a road. As a result of the change to the Croxton, Brettenham & Kilverstone Joint Neighbourhood Plan, as well as correcting a number of minor errors, it is to be referred for a period of 6 weeks consultation, as required by Regulation Reg.17A (3) of the Neighbourhood Planning Regulations 2012 (as amended). Subject to an assessment of the representations received the matter may also be referred to a re-examination.
- Option 3 - To consider the contents of this report and not accept the findings of the Examiner's report, and determine that the Croxton, Brettenham & Kilverstone Joint Parish Councils has not met the requirements of the 1990 Town and Country Planning Act schedule 4B, section 12 paragraph (4).

3.0 REASONS FOR RECOMMENDATION(S)

- 3.1 It is recommended that Option 2 is endorsed. As highlighted above, the Croxton, Brettenham & Kilverston Joint Neighbourhood Plan is considered to comply with the relevant regulations, including the "Basic Conditions" and the legal requirements, therefore there are no reasons for the plan not to proceed to the next statutory stage. A subsequent decision will need to be made about whether the whole plan meets the requirements (the basic conditions) of the 1990 Town and Country Planning Act schedule 4B, section 12, para (4) and proceeds to a referendum, but this will need to be taken subject to considering any representations being received.
- 3.2 Should option 1 be taken, the plan could still proceed to the next statutory stage, but it would not address the concerns highlighted by the Parish's and it is considered that there is a more appropriate boundary option for the reasons addressed above.
- 3.3 Should option 3 be taken, the Council would be unable to conclude the plan has met the basic conditions and as a result the plan would not proceed to a referendum.

Exceptional Urgency

I certify that this matter is so urgent that the normal five-day scrutiny delay on action should not apply.

..... Chief Officer	Dated:
..... Executive Member	Dated:
..... Leader	Dated:

KEY DECISION not on the Forward Plan or publicised.	TO BE COMPLETED BY COMMITTEE STAFF:
I agree to the Decision proceeding:	Decision Record Ref No.:
.....	Entry on Decision Record:
Chairman of Overview & Scrutiny Commission	Confirmed:
Dated:	Date of Entry:
	For action on:
	Passed to: