

BRECKLAND COUNCIL
DELEGATED DECISION AUTHORISATION RECORD (Blue Form)

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| PORTFOLIO: | Growth and Commercialisation | | |
| REPORT TITLE: | Swanton Morley Neighbourhood Plan – decision on examiners recommendations | | |
| AUTHOR: | Phil Mileham – Strategic Planning Manager | | |
| 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 | Agree option 1 as follows: 1. To accept the 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 minor correcting errors except in those instances indicated at Appendix A. 2. To confirm that the authority notifies the prescribed persons of its decision to take a different decision from that recommended by the examiner and invites representations on these for a period of six weeks, and if necessary refer these matters for independent examination. | | |
| 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 Swanton Morley Neighbourhood Plan

- 1.1 In August 2017 Patrick Whitehead DipTP (Nott) MRTPI, was appointed to commence an independent examination of the Swanton Morley Neighbourhood Plan. This is based on the need to examine the plan against the “basic conditions” and legal requirements and to produce 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 The Examiners report was issued on the 19th January 2018 and concluded that all but one of the nineteen policy required a modifications to make the Swanton Morley Neighbourhood Plan meet the “basic conditions” (Section 8, schedule 4B, Town and Country Planning Act 1990) and proceed to a public referendum.
- 1.4 Of these recommendations; five policies were proposed to be deleted; eleven policies amended, including two being completely rewritten and two having parts deleted.
- 1.5 The Examiners overall approach has sought to rectify 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”

- 1.6 As required by legislation, Breckland Council has considered each of the examiners individual modifications and the reasons for them. It is considered that whilst many of his recommended changes are reasonable and proportionate, there are a number of instances where new facts or a difference of view taken on those facts has given rise to the Council’s view that the Council does not agree with a number of the recommendations.
- 1.7 The examiners recommended modifications are provided as an attachment to this record (Appendix A). Overall, a number are consistent with representations made by the Council at both the Regulation 14 and 16 public consultation stages or where the Examiners proposes rewording of some form to provide better clarity of policy in accordance with national guidance. Breckland Council are proposing a number of modifications which are identified in the appendix.
- 1.8 Subject to making the amendments shown at Appendix A, it is considered that the Swanton Morley Neighbourhood Plan meets the “basic conditions.
- 1.9 As required by the provisions of Schedule 10, paragraph 13 of the Localism Act (as amended), the Council has considered each recommendation in turn and proposes not to accept all of the examiners recommendations in full. This is detailed in Option 1 below. In accepting option 1, legislation requires that the prescribed persons must be notified of this proposed decision and those persons are invited to make any representations within 6 weeks. This process will be commenced as soon as is practicable once the decision on the examiners recommendations has been made.
- 1.10 Subject to confirming Option 1, Legislation reflects the potential that the authority may refer the matters to a further independent examination. This is not known at the time of producing this paper, and an assessment will be made as to whether the matters need to be referred to a further examination.
- 1.11 Once the matters at paras 1.9-1.10 above have been concluded, a further decision to proceed to referendum will be required.

2.0 OPTIONS

2.1 There are two options available:

- Option 1 – To accept the 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 minor correcting errors except in those instances indicated at Appendix A. 2. To confirm that the authority notifies the prescribed persons of its decision to take a different decision from that recommended by the examiner and invites representations on these for a period of six weeks, and if necessary refer these matters for independent examination.
- Option 2 - To consider the contents of this report and not accept the findings of the Examiner's report, and determine that the Swanton Morley Parish Council 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 1 is endorsed. As highlighted above, subject to those modifications being made the Swanton Morley Neighbourhood Plan is considered to comply with the relevant regulations, including the "Basic Conditions" and the legal requirements.
- 3.2 Should option 2 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.

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:

.....
Chairman of Overview & Scrutiny Commission

Dated:

Decision Record Ref No.:

Entry on Decision Record:

Confirmed:

Date of Entry:

For action on:

Passed to: