

Cherwell District Council

Executive

5 September 2016

**Neighbourhood Planning: Decision on whether to proceed to a
Referendum for the Bloxham Neighbourhood Plan**

Report of Head of Strategic Planning and the Economy

This report is public

Purpose of Report

The Bloxham Neighbourhood Plan has been examined by an independent examiner. The examiner has produced an Examiner's report and the Council as the Local Planning Authority is required to consider the report recommendations and determine whether the draft Bloxham Neighbourhood Plan incorporating the modifications set out at Appendix 1 to this report should proceed to a referendum and confirm the area covered by the referendum.

1.0 Recommendations

The meeting is recommended:

- 1.1 To approve all of the Examiner's recommendations and modifications to enable the Plan to proceed to a referendum;
- 1.2 To approve the modifications to the Bloxham Neighbourhood Plan in accordance with the Examiner's recommendations, to authorise the issue of a decision statement to that effect, and to approve the making of any minor presentational changes necessary to ready the Plan for referendum;
- 1.3 To approve the area for the referendum as recommended by the examiner to be the administrative boundary of Bloxham Parish (which is the approved designated neighbourhood area) and to note that there will be no extension to the area.

2.0 Introduction

- 2.1 Cherwell District Council received an area application (dated 10 January 2013) from Bloxham Parish Council to designate a Neighbourhood Area. Under Section 61G of The Town and Country Planning Act 1990 (as amended) Bloxham Parish Council is a 'relevant body' for the purpose of making the application. On the 3 June 2013 the Council's Executive designated the area proposed in the application which covers the whole of the Bloxham Parish administrative area. The designation was been publicised on Cherwell District Council's website in accordance with the Neighbourhood Planning Regulations.
- 2.2 The Parish Council engaged with the local community in preparing its Plan and formal 'pre-submission' consultation took place between 10 January and 22 February 2015. Responses were received from some 140 individuals, organisations and other bodies.
- 2.3 In November 2015, the Parish Council submitted its Plan proposal to the Council. This was publicised from 27 November 2015 to Friday 22 January 2016 and representations invited. In February 2016 Council officers submitted the Neighbourhood Plan for independent examination supported by its associated evidence documents and the representations received.
- 2.4 The Council received the Examiner's report on 7 July 2016 which in summary recommends that the Neighbourhood Plan proceeds to referendum subject to modifications. The modifications recommended by the Examiner are incorporated into the draft Plan and shown in tracked changes at Appendix 1 to this report. The Examiner's report is at Appendix 2. Appendix 3 provides the Examiner's questions posed during the examination (which are also contained in the Examiner's Report) and the Council's responses to these questions. Also appended to this report are:
- The representations received to the Submission Plan (Appendix 4)
 - The Submission Plan Public Notice (Appendix 5)
 - The Submission Consultation Statement (Appendix 6)
 - The Submission Basic Conditions Statement (Appendix 7)
 - The Submission Sustainability Report (Appendix 8)
 - SEA Screening Statement (Appendix 9)
 - The Submission Bloxham Neighbourhood Plan 2015 – 2031 (Appendix 10)
- 2.5 Subject to the Executive's approval, the next main stage in producing the Neighbourhood Plan would be for it to be subject to a public referendum which would take place in the autumn of 2016 (date to be confirmed). Following the Executive meeting minor amendments would be made, including to page numbering and the contents page, to create a version of the Neighbourhood Plan for Referendum (with tracked changes accepted). If the Neighbourhood Plan is successful at referendum it can be then be 'made' (adopted) by this Council. When 'made' it will form part of the statutory Development Plan for the District.

3.0 Report Details

Submission

- 3.1 In February 2016 the Council sent the submitted Neighbourhood Plan and associated documents including the representations received to an appropriately qualified examiner appointed by the Council for examination.
- 3.2 The Submission documents and further information relating to the Neighbourhood Plan are available on the Cherwell District Council <http://www.cherwell.gov.uk/neighbourhoodplanning/index.cfm?articleid=10998> and Bloxham Neighbourhood Plan <http://bloxhamneighbourhoodplan.co.uk> websites.

Examination

- 3.3 Under the neighbourhood planning legislation introduced by the Localism Act 2011 the appointed examiner must:
 - be independent of the Parish Council and Local Planning Authority
 - have no interest in any land that may be affected by the draft plan
 - have appropriate qualifications and experience.
- 3.4 Ann Skippers BSC (Hons) Dip Mgmt (Open) PGC (TLHE) (Open) MRTPI FRSA AoU was appointed by Cherwell District Council, with the consent of Bloxham Parish Council, to carry out the independent examination, through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).
- 3.5 When examining a Neighbourhood Plan, the examiner is required to consider a number of matters, which are set out in the Examiners report, including whether the Neighbourhood Plan meets the basic conditions as set in the legislation (paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004). Only a draft neighbourhood plan that meets each of a set of basic conditions can be put to a referendum and be made.
- 3.6 The examination was conducted by consideration of written representations. The examiner did not consider that a public hearing was necessary for the Bloxham Neighbourhood Plan.
- 3.7 Under the legislation the examiner must make a report with recommendations, the reasons for them and a summary of findings. The report must recommend either:
 - a. the draft Plan is submitted to referendum,
 - b. modifications specified in the Examiner's report are made to the draft Plan and the draft Plan as modified is submitted to referendum, or
 - c. the draft Plan is refused.
- 3.8 If a recommendation to proceed to a referendum is made it must also be accompanied by a recommendation as to whether the area for the referendum should go beyond the neighbourhood, and if so what the extended area should be.

Examiner's Report

- 3.9 The examiner has recommended that the draft Bloxham Neighbourhood Plan, with modifications, should proceed to a referendum. The Examiner's findings are presented in her report (Appendix 2).
- 3.10 The examiner is satisfied that the draft Bloxham Neighbourhood Plan subject to the recommended modifications would meet the basic conditions and all other requirements, including:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan
 - the draft Plan contributes to the achievement of sustainable development
 - it is in general conformity with the strategic policies of the development plan for the area
 - it does not breach and is otherwise compatible with European Union obligations
 - the making of the Neighbourhood Plan is not likely to have a significant effect on a European Site
 - the draft Plan is compatible with Convention rights
- 3.11 The examiner has not recommended that the referendum area should be extended beyond the neighbourhood plan area.
- 3.12 In reaching her decision the examiner made a number of observations some of which include:
- The Plan is well presented with the vision right at the start of the Plan.
 - Although recognising the need for growth and development, the Plan seeks to ensure that future growth is managed so that the unique attributes of the Parish and its character are respected and that infrastructure is provided appropriately.
 - It is clear that various and numerous efforts have been made to engage the community and that these efforts have taken place over a long period of time.
 - The Basic Conditions Statement sets out how the Plan has responded to national policy and guidance, focusing on the core principles of the NPPF. The BCS encourages readers to read any references to the "Adopted Plan (1996)" as "the Past Plan (1996)". This is not correct as the saved and retained policies of the LP 1996 still form part of the development plan and references in the Plan should be changed.
 - The Basic Conditions Statement also includes a section detailing how the Plan contributes to sustainable development.
 - A Sustainability Report has been produced and rightly confirms on the front cover that it is not a Sustainability Appraisal (SA). It demonstrates that the Parish Council has kept sustainability issues in mind all the way through the evolution of the Plan.

- Cherwell District Council issued a screening opinion on 9 September 2015 which confirmed that the Plan is unlikely to result in significant environmental effects.
- There is nothing in the Plan that leads the examiner to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

Proposed Modifications

- 3.13 Modifications are proposed to a number of the policies in the Neighbourhood Plan. In broad terms these modifications are recommended to ensure the Plan meets the legal requirements, the NPPF requirements are followed, the Plan is clear, consistent and accurate. Recommended modifications are intended to ensure conformity with the strategic policies of the Cherwell Local Plan. Public involvement and representations have been considered. All proposed modifications are shown at Appendix 1.
- 3.14 Under the legislation in relation to the draft Bloxham Neighbourhood Plan the Planning Authority can decide:
- (a) to decline to consider a plan proposal under paragraph 5 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act);
 - (b) to refuse a plan proposal under paragraph 6 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act);
 - (c) what action to take in response to the recommendations of an examiner made in a report under paragraph 10 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act) in relation to a neighbourhood development plan;
 - (d) what modifications, if any, they are to make to the draft plan under paragraph 12(6) of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act);
 - (e) whether to extend the area to which the referendum is (or referendums are) to take place;
- or
- (f) that they are not satisfied with the plan proposal under paragraph 12(10) of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act).
- 3.15 The Council must consider the examiner's recommendations and the reasons and determine its response. The modifications that the authority may make include:
- (a) modifications that the authority consider need to be made to secure that the draft Plan meets the basic conditions
 - (b) modifications that the authority consider need to be made to secure that the draft Plan is compatible with the Convention rights
 - (c) modifications that the authority consider need to be made to comply with the definition of an NDP and the provisions that can be made by a NDP
 - (d) modifications for the purpose of correcting errors.
- 3.16 If the Council is satisfied that the draft Plan meets the basic conditions and other legislative requirements or would do so if modifications were made a referendum must be held. If the authority considers it appropriate to do so, they may extend the area in which the referendum is to take place to include other areas (whether or not those areas fall wholly or partly outside the authority's area).

- 3.17 It should be noted that under the legislation where a Local Planning Authority proposes to make a decision that differs from the Examiner's recommendation then there would need to be further public consultation and the issues can be referred to independent examination.
- 3.18 The Parish Council can withdraw the Neighbourhood Plan but have not indicated this. The Parish Council have been sent a copy of the examiner's report, have seen the modifications proposed to the Neighbourhood Plan at Appendix 1 to this report, and are aware of the Executive agenda and meeting.
- 3.19 Subject to endorsement of the recommendations by the Executive the next step is to produce a 'Regulation 18 decision statement' in accordance with the Regulations. This would be published along with the examiner's report on the District Council's website.

Referendum

- 3.20 The referendum must be undertaken in accordance with legislation. This stage requires a timetable to be drawn up for the referendum and the publication of an information statement with a requirement to publish and to give at least 28 days' notice of the Referendum. This information and documents will also need to be made available on the Council's website and at locations in Bloxham.
- 3.21 The information statement prepared by the Council must include the following information:
- a) that a referendum will be held
 - b) the date of the referendum
 - c) the question to be asked
 - d) a map of the referendum area, (which in Bloxham's case will be the neighbourhood plan area as designated and recommended by the examiner)
 - e) a description of those entitled to vote in each referendum
 - f) the referendum expenses limit applicable and the number of people identified as entitled to vote on which the limit was calculated
 - g) that the referendum will be conducted in accordance with procedures similar to those for local government elections, and
 - h) the address and times at which a copy of the specified documents can be inspected.
- 3.22 The referendum question, as set out in the Regulations, will be:
- 'Do you want Cherwell District Council to use the Neighbourhood Plan for Bloxham to help it decide planning applications in the neighbourhood area?'*
- 3.23 Should more than half of the people who vote in the referendum vote in support of the question then the Executive would need to ratify the Neighbourhood Plan before it is made and publish this on their website. Once the Plan is ratified by the LPA it would then form part of the Cherwell District Council's Development Plan.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The Bloxham Neighbourhood Plan as recommended for modification by the Examiner meets the necessary legal and procedural requirements. The Bloxham Neighbourhood plan as recommended for modification by the Examiner and shown at Appendix 1 to this report should therefore proceed to a referendum.

5.0 Consultation

- 5.1 Councillor Colin Clarke, Lead Member for Planning.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected. Reasons are set out below:

Option One - Not to approve some of the Examiner's recommendations and to proceed to a referendum. Where a LPA proposes to make a decision that differs from the Examiner's recommendation then there would need to be further consultation. This would take more time and would have cost implications.

Option Two - Not to accept the Examiner's recommendations and not to proceed to a referendum. This option can only be justified if the Examiner recommends that the Plan should not proceed to a referendum, or the Council is not satisfied that the plan has met the procedural and legal requirements.

Option Three - To extend the area in which the referendum is to take place. The Neighbourhood Plan has been produced with public involvement for the area designated.

7.0 Implications

Financial and Resource Implications

- 7.1 The costs of appointing the Examiner, undertaking the examination and the holding of the referendum are the responsibility of Cherwell District Council.
- 7.2 There have been costs associated with the preparation for and the undertaking of the examination mainly the examiner's fees and staff resources, which have been met from the CDC Planning Policy budget. The decision not to hold a hearing contributed to lower costs.
- 7.3 The preparation for and the undertaking of the referendum will require a significant amount of officer time from Planning Policy and the Democratic Elections team.
- 7.4 The elections team have estimated that the cost for the referendum will be approximately £3,000 in Bloxham. The team will have to create brand new templates for every document poll cards (ordinary, postal and proxy), envelopes, postal packs etc.
- 7.5 However, as the Plan has been successful at examination the Council qualifies to claim the third phased payment of £20,000 from the DCLG Neighbourhood Planning

Grant. This is to cover costs of the examination and any other further steps that may be needed for the neighbourhood plan to come into legal force, including the referendum.

Comments checked by:

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Legal Implications

- 7.6 When completed ('made') the Neighbourhood Plan will become part of the statutory Development Plan for Cherwell District Council.
- 7.7 The Bloxham Neighbourhood Plan has been prepared in accordance with the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004, and the Neighbourhood Planning Regulations 2012 (as amended).

Comments checked by:

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Risk Management

- 7.8 There is a risk that the Plan may fail to achieve the 50% support required at the referendum. However the Plan has had strong community support and this risk is considered to be relatively low.
- 7.9 There is a risk that the Plan will be subject to Legal Challenge meaning the referendum would need to be cancelled after notification has been provided that a Referendum will take place.

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8.0 Decision Information

Key decision - No

Financial Threshold Met - No

Community Impact Threshold Met - No

Wards Affected – Bloxham and Bodicote

Links to Corporate Plan and Policy Framework

- Accessible, Value for Money Council
- District of Opportunity

- Safe and Healthy
- Cleaner Greener

Lead Councillor
Councillor Colin Clarke - Lead Member for Planning

Document Information

Appendix No	Title
Appendix 1	Draft Neighbourhood Plan with modifications
Appendix 2	Examiners Report
Appendix 3	Examiners questions and Council's responses
Appendix 4	The representations received to the Submission Plan
Appendix 5	The Submission public notice
Appendix 6	The Submission Consultation Statement
Appendix 7	The Submission Basic Conditions Statement
Appendix 8	The Submission Sustainability Appraisal
Appendix 9	SEA Screening Statement
Appendix 10	Submission Neighbourhood Plan
Background Papers	
None	
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