

## BOROUGH OF KETTERING

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<b>Report Originator</b>	Head of Development Services	Fwd Plan Ref No: A18/003	
<b>Wards Affected</b>	Slade Ward	11 July 2018	
<b>Title</b>	<b>BROUGHTON NEIGHBOURHOOD DEVELOPMENT ORDER – DECISION ON EXAMINER'S REPORT</b>		

Portfolio Holder: Cllr Ian Jelley

### 1. PURPOSE OF REPORT

To inform Members of the recommendations made in the Examiner's Report on the Broughton Neighbourhood Development Order; and to seek Members approval for the Neighbourhood Development Order to proceed to referendum.

### 2. INFORMATION

- 2.1 Neighbourhood Planning is part of the Government's initiative to empower local communities to take forward planning proposals at a local level. This is outlined in Section 116 of the Localism Act.
- 2.2 A Neighbourhood Development Order is an order that grants planning permission in relation to a particular neighbourhood area specified in the order, for development specified in the order or for development of any class specified in the order.
- 2.3 Neighbourhood Planning is led by a town or parish council or neighbourhood forum, in this case the preparation of the Broughton Neighbourhood Development Order has been led by Broughton Parish Council.

#### **Neighbourhood Area Application**

- 2.4 The first stage in the process is the designation of the Neighbourhood Area; the Broughton Neighbourhood Area was approved by this committee on 15<sup>th</sup> January 2014.
- 2.5 Since then Broughton Parish Council has been gathering evidence, and preparing and consulting upon the Neighbourhood Development Order (NDO). The Pre-submission consultation on the Neighbourhood Development Order took place from 14<sup>th</sup> June 2017 to 26<sup>th</sup> July 2017.
- 2.6 The NDO was submitted to Kettering Borough Council on 29<sup>th</sup> September 2017. In accordance with Regulation 23 of the Neighbourhood Planning (General) Regulations 2012 (as amended) the NDO was made available for comment. This consultation took place from Wednesday 18<sup>th</sup> October 2017 to Wednesday 29<sup>th</sup> November 2017. A copy of the submission NDO is attached at Appendix 1.

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## Independent Examination

2.7 Following the consultation, an independent examiner was appointed to carry out the examination of the NDO. The Examiner examined the NDO by written representations, and undertook an unaccompanied site visit of the Neighbourhood Plan Area.

2.8 The role of the examiner was to assess whether the Neighbourhood Plan meets certain legal requirements, known as the 'Basic Conditions and various other requirements. The Basic Conditions are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order
- Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest it possesses it is appropriate to make the order
- Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order
- The making of the order contributes to the achievement of sustainable development
- The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)
- The making of the order does not breach, and is otherwise compatible with, EU obligations and
- Any other prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.

2.9 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations also set out two other conditions that need to be considered:

- A neighbourhood development order may not grant planning permission for development which-
  - a) Is likely to have a significant effect on a European Site or a European offshore marine site (either alone or in combination with other plans or projects); and
  - b) Is not directly connected with or necessary to the management of the site.
- Where the development described in an order proposal is Environmental Impact Assessment (EIA) development, the following basic condition is

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prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act – Having regard to all material considerations, it is appropriate that the neighbourhood development order is made.

2.10 The Examiner has now issued her report, which recommends a number of modifications, a copy of the Examiner's report is attached at Appendix 2.

2.11 The Examiner's recommendation is that the modifications specified in the Examiner's report are made to the draft order and that the draft order as modified is submitted to referendum.

### **The Local Planning Authority's Role**

2.12 The local planning authority is responsible for determining whether the NDO meets the basic conditions, with or without modifications, and on whether the NDO should proceed to referendum. It must also decide on whether the referendum area should be extended beyond the neighbourhood area.

2.13 Once the Council received the Examiner's report it must decide what action to take. Regulation 25 of the Neighbourhood Plan (General) Regulations 2012 (as amended) states that the local planning authority must decide:

- (a) To decline to consider an order proposal under paragraph 5 of schedule 4B to the 1990 act;
- (b) To refuse an order proposal under paragraph 6 of schedule 4B to the 1990 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 in relation to a neighbourhood development order or community right to build order (as modified in the case of community right to build orders by paragraphs 7 to 10 of Schedule 4C to the 1990 Act);
- (d) What modifications, if any, they are to make to the draft neighbourhood development order or community right to build order under paragraph 12 (6) of Schedule 4B to the 1990 Act (as modified in the case of community right to build orders by paragraph 7 to 10 of schedule 4C to the 1990 Act);
- (e) Whether to extend the area to which the referendum is (or referendums are) to take place;
- (f) That they are not satisfied with the proposed neighbourhood development order or community right to build order under paragraph 12 (10) of Schedule 4B to the 1990 Act (as modified in the case of community right to build order by paragraphs 7 to 10 of Schedule 4C to the 1990 Act.

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- 2.14 There are no grounds to decline to consider the NDO under part (a) as this relates to repeat proposals; or to refuse to proposal under part (b) as the requirements of this part have been met.
- 2.15 In relation to part (c), the examiner has made a series of recommendations; the local authority needs to consider what action to take in relation to these. The local authority must also consider, under part (d) whether there are any other modifications which are required to ensure the basic conditions are met; to ensure the neighbourhood plan is compatible with the Convention rights, to ensure the requirements of legislation are met; and to correct errors.
- 2.16 If the local authority is not satisfied that the plan meets the basic conditions, is compatible with Convention rights or requirements of legislation are not met then they must refuse the Neighbourhood Plan under part (f).
- 2.17 The local authority must also consider whether to extend the area to which the referendum is held under part (e).
- 2.18 The Neighbourhood Plan (General) Regulations 2012 state that a Local Planning Authority must publish the actions which will be taken in response to the recommendations of the Examiner. This is known as a 'Decision Statement'.
- 2.19 If the authority proposed to make a decision which differs from that recommended by the examiner then relevant people must be notified and invited to make representations. A six week period must be given for people to make representations. If the local authority considers it appropriate then the issue can be referred to further examination. The 'Decision Statement' must then be issued.
- 2.20 Having considered each of the recommendations made in the Examiner's Report and the reasons for them (part c), Officers recommend that the Council accept all of the Examiner's modifications to the draft NDO. The Examiner's modifications and officers recommendations for each of these are set out in table 1 of Appendix 3.
- 2.21 Officers have considered whether any other modifications are required (part d) to ensure that the NDO meets the required conditions. It is not considered that any additional modifications are required. However it is recommended, that a modification is made to add paragraph numbers to the NDO, the Parish Council has agreed to this amendment. This minor modification is set out in table 2 of Appendix 3. As this is a minor modification, which is not a different view to the Examiner's, it is not necessary for the Council to re-consult on this minor modification.
- 2.22 Officers consider that, subject to the Examiner's modifications being made to the plan, the Broughton NDO meets the basic conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended), is

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compatible with the Convention Rights and meets the requirements of paragraph 8(1) of Schedule 4B to the Town and Country Planning Act (as amended).

- 2.23 The Council will need to make the required modifications to the Broughton NDO before it proceeds to referendum.
- 2.24 It is recommended that Members agree that the modifications to the plan are made and that the modified NDO proceeds to referendum.
- 2.25 A draft Decision Notice is attached at Appendix 3. It is recommended that Members agree this decision notice and that the decision notice is published in accordance with Regulation 25 (2) of the Neighbourhood Planning (General) Regulations 2012 (as amended).

### **Referendum**

- 2.26 In relation to the referendum, the examiner concluded that the NDO does not have a significant impact on land or communities beyond the designated neighbourhood area. Therefore there is no need for the referendum boundary to extend beyond the designated neighbourhood area. Officers agree with this recommendation and therefore, it is recommended that Members agree that the area for the referendum should be the Broughton neighbourhood area as approved by Kettering Borough Council on 15 January 2014.
- 2.27 The Neighbourhood Planning (Referendums) Regulations 2012 (as amended) require that the referendum is held within 56 days of the date on which the decision that the referendum must be held is made, unless the local authority and Parish Council agree that the referendum does not need to be held by that date. The Parish Council has expressed a preference for the referendum to be held in early September to avoid the referendum being held during the holiday period. A date has not yet been identified but it is anticipated the referendum would take place in early to mid-September.
- 2.28 Following referendum, if more than 50% of those voting vote yes then the NDO must be 'made' within 8 weeks of the referendum.

### **3. CONSULTATION AND CUSTOMER IMPACT**

- 3.1 The Neighbourhood Plan has been prepared in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended).

### **4. POLICY IMPLICATIONS**

- 4.1 When 'made' the Broughton Neighbourhood Development Order will grant permission for the development specified in the order.

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### 5. USE OF RESOURCES

- 5.1 The cost of the referendum will be met by the Council. Upon agreeing a date for the referendum the Council will be able to make claims to cover the costs incurred.

### 6. RECOMMENDATION

That Members:

- Note the content of the examiner's report;
- Agree the Examiner's modifications and that subject to these modifications the NDO meets the Basic Conditions and other legislative requirements;
- Agree that the Broughton NDO as modified proceeds to a local referendum based on the geographical boundary of the Broughton Parish as recommended by the Examiner; and
- Approve the Decision Statement attached at Appendix 3 to be published on the Borough Council's website

#### Previous Reports/Minutes:

Ref: Broughton Neighbourhood Plan Area Designation  
Date: 15<sup>th</sup> January 2018

Contact Officer: Julia Baish – Development Team Leader (Planning Policy)