



REPORT of CHIEF EXECUTIVE

**to
PLANNING AND LICENSING COMMITTEE
25 APRIL 2017**

BURNHAM-ON-CROUCH NEIGHBOURHOOD PLAN

1. PURPOSE OF THE REPORT

- 1.1 This report presents the findings of the Examiner's Report on the Burnham-on-Crouch Neighbourhood Plan, which have been received. The Examiner recommends proceeding to Referendum within the Neighbourhood Area if recommended modifications are made to the Plan. This requires approval by the Council.

2. RECOMMENDATIONS

To the Council

- (i) That the proposed changes to the Burnham-on-Crouch Neighbourhood Plan as set out in the Examiner's Report and **APPENDIX A** to this report are endorsed for approval by the Council;
- (ii) That the Burnham-on-Crouch Neighbourhood Plan as modified goes forward to Referendum within the Neighbourhood Area.

3. SUMMARY OF KEY ISSUES

3.1 Consultation on the submitted Plan

- 3.1.1 The Burnham-on-Crouch Neighbourhood Plan was submitted for examination on 18 October 2016, following which Maldon District Council held a six week public consultation on the Plan. (the original submitted Neighbourhood Plan is available at: https://www.maldon.gov.uk/info/20048/planning_policy/8112/community_led_planning_and_neighbourhood_plans/5)
- 3.1.2 The Plan and its supporting documents were made available to the public and consultation bodies via:
- Maldon District Council website;
 - Maldon District Council offices;
 - Burnham-on-Crouch Town Council offices and website;
 - Burnham-on-Crouch Library.

- 3.1.3 All of those consultation bodies listed within Burnham-on-Crouch Town Council's Consultation Statement (a supporting document to the Neighbourhood Plan) were notified of the publication, as were residents who had responded to the consultation on the draft Plan. In addition, a public notice was placed in the Maldon and Burnham Standard and posted on local notice boards and on the Burnham-on-Crouch Town Council website.
- 3.1.4 During the six week consultation period, 21 individuals and organisations made representations on the Plan. These representations were collated for submission, along with the Neighbourhood Plan and supporting information, to an Independent Examiner for the purposes of an Examination to consider the suitability of the Plan.

3.2 The Examination

- 3.2.1 In choosing an Independent Examiner, a local planning authority must appoint someone who:
- is independent of the parish / town council;
 - has no interest in any land that may be affected by the draft plan; and
 - has appropriate qualifications and experience.
- 3.2.2 The Examiner, Mr Andrew Ashcroft, appointed by Maldon District Council, in liaison with Burnham-on-Crouch Town Council, was sent a copy of the published Neighbourhood Plan and supporting documents, as well as copies of each of the representations received.
- 3.2.3 Legislation directs that an Examiner must only consider:
- (a) whether the draft plan meets the 'basic conditions' of a Neighbourhood Development Plan;
 - (b) whether the draft plan complies with the definition of a Neighbourhood Development Plan and the provisions that can be made by such a plan;
 - (c) whether the area for referendum should extend beyond the neighbourhood area; and
 - (d) whether the draft plan is compatible with the Convention rights.
- 3.2.4 The Examination was conducted via written representations. The Examiner decides whether a public hearing is held for a Neighbourhood Plan Examinations. In this case, the Examiner decided that a public hearing would not be required, in part due to the detailed representations made during the consultation.
- 3.2.5 Throughout the Examination, the Examiner kept both Councils informed of his approach to Examining the Plan. For example, he provided draft copies of a small number of policies that he was proposing to amend significantly, to enable both Councils to review and comment on the proposed changes. The Examiner's Report, detailing recommendations was received on 22 March 2017.

3.3 The Examiner's recommendations

- 3.3.1 The Examiner has recommended that, subject to modifications, the Neighbourhood Plan meets the basic conditions and other statutory requirements, and that it can proceed to a Referendum within the Neighbourhood Area.
- 3.3.2 The Examiner has made changes to ensure that the Plan meets the basic conditions, which are:
- The Plan has regard to national planning policies and guidance,
 - The Plan contributes to sustainable development,
 - The Plan is in general conformity with the development plan, and
 - The Plan is compatible with European Convention on Human Rights (ECHR) obligations.
- 3.3.3 The Examiner's Report is written very positively, even though it recommends a large number of changes to the Plan. Some of these recommendations involve simple additions or minor amendments to the general wording within the Neighbourhood Plan document. However, there are a number of recommended modifications to policies that are quite extensive, including the amalgamation and deletion of some policies. In most cases, where a policy has been deleted or substantially amended, the original wording has been incorporated into the supporting text. Where policies were not land-use policies, these have been retained in the Plan but will be presented in a different colour to differentiate them from the main policies in the Referendum version of the Plan.
- 3.3.4 The recommended modifications and Maldon District Council's Officers' responses are set out in **APPENDIX A** 'Summary of Recommendations'.

3.4 Basic Conditions

- 3.4.1 In considering the Examiner's recommendations, the Council needs to decide whether or not the Plan, as modified, meets the Basic Conditions (listed in paragraph 3.3.2 above) and ensure it is compatible with Convention Rights. Officers are satisfied that the Neighbourhood Plan, as modified, does comply with the legal requirements and can, therefore, proceed to Referendum.

3.5 Burnham-on-Crouch Town Council's comments on the Examiner's Recommendations

- 3.5.1 A meeting to discuss the Examiner's recommendations was arranged for 6 April, between Ward Members, Officers and the Town Council.
- 3.5.2 Burnham-on-Crouch Town Council will formally consider the Examiner's recommendations on 12 April 2017. As the agenda for the Planning and Licensing Committee is being published before Easter, the views of the Town Council will not be known until after the agenda is published. The Town Council's views will be circulated as a supplementary document to this report and will be reported orally to the Planning and Licensing Committee.

3.6 Proposed Action

- 3.6.1 Planning legislation states that once a local planning authority has been issued with an Examiner's report, then it must consider the recommendations. If the authority is satisfied with the Examiner's recommendations then the specified modifications should be made before the Plan proceeds to Referendum. The Council may also decide to extend the area in which the Referendum is to take place, should it wish.
- 3.6.2 The Council could decide that it is not satisfied with the Plan proposal, with respect to meeting the basic conditions, compatibility with Convention Rights and the definition and provisions of the Neighbourhood Plan, even if modified. If so, then it must refuse the Plan proposal and publicise its decision and reasons. If the Council does not support the Plan to Referendum then the Council must have sound reasons for doing so.
- 3.6.3 If the Council is satisfied that the Plan meets the basic conditions, then it will need to publicise its decision (a Decision Statement) and move to a Referendum as soon as possible.
- 3.6.4 It is not within the remit of the Planning and Licensing Committee to approve the Neighbourhood Plan, but to recommend to full Council that the Examiner's report is accepted, subject to the minor amendments set out in **APPENDIX A** of this report. This will allow the Burnham-on-Crouch Neighbourhood Plan to proceed to Referendum within the defined Neighbourhood Area.
- 3.6.5 At this stage, the modifications the Council can make are limited to:
- Ensuring the Plan meets the basic conditions;
 - To make the Plan compatible with Convention Rights;
 - To correct errors.
- 3.6.6 In the Summary of Recommendations (at **APPENDIX A**) Officers propose a small number of minor modifications to correct errors.
- 3.6.7 However, should the Council propose to make a decision that differs from the Examiner's recommendations (if the reason for the difference is wholly or partly as a result of new evidence, or a new fact, or a different view taken by the authority about a particular fact) then the Council:
- is required to notify all those identified in the consultation statement about this position and invite representations (a 6 week consultation period);
 - may refer the issue to an Independent Examination if they think it appropriate.
- 3.6.8 In this instance, and after consideration of the Examiner's conclusions and a review of the options, it is recommended that subject to the minor modifications to correct errors, all the Examiner's recommended modifications are accepted.
- 3.6.9 Should the Examiner's recommendations be met with approval by Council, a Decision Statement will be published on the Council's website. The Decision Statement details:

- what action the Council will take in response to the Examiner's recommendations;
 - what modifications, if any, the Council will make to the draft plan;
 - Whether to extend the area to which the Referendum is to take place;
 - The reasons for these decisions.
- 3.7 The Council will then prepare and publish the statutory Information Statement and the Referendum version of the Neighbourhood Plan, giving at least 28 working days' notice of the Referendum. Following which the statutory processes for the Referendum will be actioned.
- 3.8 It is anticipated that a Referendum could be held on 13 July 2017.
- 3.9 If more than half of the people who vote in the Referendum vote in favour of the Neighbourhood Plan then the Neighbourhood Plan must be 'made' by Maldon District Council within eight weeks of the Referendum. The Neighbourhood Plan then becomes part of the Council's development plan. This could occur at the Council meeting on 7 August 2017.

4. CONCLUSION

- 4.1 The Burnham-on-Crouch Neighbourhood Plan has been in gestation for four years. Its preparation has taken considerable dedication and perseverance from the local community. This was recognised by the Examiner, who commented that the Plan *'is thorough and distinctive to the Plan area. The wider community and the Town Council have spent considerable time and energy in identifying the issues and objectives that they wish to be included in their Plan'*.
- 4.2 The Plan has now been successfully Examined. The Examiner's report is both thorough and comprehensive. Although he recommends a number of changes, his aim has been to retain *'its focus is on promoting sustainable growth, safeguarding its distinctiveness and extending its promotion of the town as a visitor and tourist centre based on its position on the River Crouch'*. He concludes that the Plan meets the Basic Conditions, subject to the recommended modifications being made.
- 4.3 If the Council agrees with the Examiner's recommendations, the Plan can proceed to Referendum.

5. IMPACT ON CORPORATE GOALS

- 5.1 Neighbourhood planning has the potential to support the following corporate goals which underpin the Council's vision for the District:
- Strengthening communities to be safe, active and healthy;
 - Protecting and shaping the District;
 - Creating opportunities for economic growth and prosperity

6. IMPLICATIONS

- (i) **Impact on Customers** – Neighbourhood Planning gives communities the opportunity to directly plan the future of their area.
- (ii) **Impact on Equalities** – Neighbourhood Planning has the potential to identify and manage local equalities issues and must be prepared taking into account relevant equalities legislation.
- (iii) **Impact on Risk** – Neighbourhood Plans can reduce risk in the development management process by providing support for the Council in determining planning applications and defending planning appeals.
- (iv) **Impact on Resources (financial)** – Actions required to ensure that the timescales prescribed by Regulation are met could impact on existing Council resources, and could potentially divert resources away from other tasks and responsibilities. Once the date of the referendum is set, the Council can apply for a grant from the Department for Communities and Local Government (DCLG) which will help to defray the costs of the Examination and Referendum.
- (v) **Impact on Resources (human)** – Neighbourhood Plans provide opportunities for greater local involvement of residents in the planning of their area. They provide development opportunities for staff to foster partnerships between the Council and those local communities.
- (vi) **Impact on the Environment** – Neighbourhood Plans have the potential to improve the local environment where plans are being produced.

Background Papers:

1. Burnham-on-Crouch Neighbourhood Plan Examiners Report
2. Burnham-on-Crouch Neighbourhood Plan Equality Analysis

Both are available at:

https://www.maldon.gov.uk/info/20048/planning_policy/8112/community_led_planning_and_neighbourhood_plans

Enquiries to: Leonie Alpin, Planning Policy Officer, (Tel: 01621 875278).