

**South Cambridgeshire District Council
Record of Chief Officer/Head of Service Decision**

This form should be used to record key and other decisions made by Chief Officers and Heads of Service. The contact officer will ensure that the signed and completed form is given to Democratic Services as soon as reasonably practicable after the decision has been taken.

A key decision shall not be taken unless notice of the item has been published at least 28 days before the decision is to be taken except where:

- a General Exception notice has been published under Rule 15 of the Access to Information Procedure Rules and the Chairman of Scrutiny and Overview Committee has been informed in writing; or
- where a Special Urgency notice has been published under Rule 16 of those Rules and the Chairman of Scrutiny and Overview Committee has agreed the decision is urgent.

Unless permission has been obtained from the Chairman of Council and the Chairman of the Scrutiny and Overview Committee that a key decision may be treated as a matter of urgency under Rule 12.19 of the Scrutiny and Overview Committee Procedure Rules, any key decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless called in under Rule 7 of the Budget and Policy Framework Procedure Rules or Rule 12 of the Scrutiny and Overview Committee Procedure Rules. Where consent has been obtained to exempt the decision from call-in, this will be specified below. Only key decisions of an officer are subject to call-in.

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| Decision Taker | Chief Executive |
| Subject Matter | Foxton Neighbourhood Plan - Making (adopting) the Neighbourhood Plan |
| Ward(s) Affected | Foxton |
| Date Taken | Thursday, 5 August 2021 |
| Contact Officer | Alison Talkington, Senior Planning Policy Officer 01954 713182/ 07414 926521 (alison.talkington@scambs.gov.uk) |
| Date Published | Thursday, 5 August 2021 |
| Call-In Expiry | N/A |
| Key Decision? | No |
| In Forward Plan? | No |
| Urgent? | No |

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| Purpose / Background |
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Purpose

1. The purpose of this report is to note the decision record by the Joint Director of Planning and Economic Development which set out the results of the referendum on the Foxton Neighbourhood Plan and under delegated powers to formally make the Foxton Neighbourhood Plan as it was a successful referendum.

Background

2. The Foxton Neighbourhood Area was designated on 17 November 2015.
3. Officers provided informal comments on earlier drafts of the Neighbourhood Plan ahead of the formal pre-submission consultation process and recognise the hard work that those on the steering group of the neighbourhood plan have put into preparing the Plan. This group has strived to ensure that the whole village had an opportunity to have an input into the final Plan.
4. A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening was undertaken on a draft version of the Neighbourhood Plan, and a screening determination was published in June 2019.
5. Pre-submission public consultation on the draft Neighbourhood Plan was undertaken by the Parish Council from 15 May to 26 June 2019. Officers provided a formal response to the consultation, providing constructive comments about the Neighbourhood Plan to assist the neighbourhood plan group with finalising the Neighbourhood Plan. Officers met with the steering group to discuss these comments and the submitted Plan took most of them into account.
6. On 10 February 2020, Foxton Parish Council submitted their Neighbourhood Plan to SCDC. Officers confirmed, as set out in the Legal Compliance Check for the Neighbourhood Plan that the submitted version of the Neighbourhood Plan and its accompanying supporting documents complied with all the relevant statutory requirements at this stage of plan making. Public consultation on the submitted Neighbourhood Plan was begun on 10 March 2020. However, this consultation had to be suspended due to the onset of the Covid-19 pandemic and the restrictions this imposed on how we could meet the national regulatory requirements regarding neighbourhood plan consultations.
7. As the impact of the Covid-19 pandemic continued into the autumn of 2020 we had to consider how we could adapt our public consultations on neighbourhood plans to ensure everyone's safety whilst still complying with then current national regulations. To ensure this we decided that anyone wishing to inspect a hard copy of neighbourhood plan documents out for consultation would be able to request a copy by contacting the Planning Policy Team. Our Statement of Community Involvement was updated to reflect this change in how we make documents available to the public for inspection. We therefore were able to resume the consultation on the Foxton Neighbourhood Plan from 12 January until 23 February 2021.
8. Officers, in conjunction with Foxton Parish Council, appointed an independent examiner to consider this Neighbourhood Plan. The examiner appointed to undertake the examination of a Neighbourhood Plan: must be independent of both the District Council and Parish Council; cannot be the same examiner that undertakes a health check of the Neighbourhood Plan; and must not have any interest in any land that may be affected by the Neighbourhood Plan. The examiner appointed was Andrew Freeman of Intelligent Plans and Examinations (IPe) On 24 February 2021 the Neighbourhood Plan , its accompanying supporting documents and all

comments submitted during the public consultation on the submission version of the Neighbourhood Plan were provided to the examiner with a request for him to carry out the examination on the Neighbourhood Plan. .

9. The examiner issued a clarification note on 2 March which both SCDC and the Parish Council responded to by 12 March 2021.
10. The Examiner's Report was received on 20 April 2021. The examiner in his report concluded that subject to a series of recommended modifications the Foxton Neighbourhood Plan met all the necessary legal requirements and should proceed to referendum. He also recommended that the referendum should be held within the neighbourhood area only.
11. Officers, in conjunction with Foxton Parish Council, reviewed the examiner's conclusions and recommended modifications, and agreed each of the recommended modifications considered necessary by the examiner for the Neighbourhood Plan to meet the Basic Conditions. Additional non-material modifications to the Neighbourhood Plan were also made by officers and agreed with Foxton Parish Council. A 'Referendum' version of the Foxton Neighbourhood Plan was prepared including these modifications.
12. The joint Director for Planning and Economic Development having consulted with the Planning Lead Member agreed in May 2021 the Referendum version of the Foxton Neighbourhood Plan and that this plan should proceed to a referendum.
13. A referendum date was set for 22 July 2021.
14. A referendum on the 'making' (adoption) of the Foxton Neighbourhood Plan was held on 22 July 2021. Voters were asked "Do you want South Cambridgeshire District Council to use the neighbourhood plan for Foxton to help it decide planning applications in the neighbourhood area?" The results were declared as follows:
 - Yes votes: 315 (96.33%)
 - No votes: 12 (3.67%)
 - Turnout: 31.62%

Considerations

15. If a Neighbourhood Plan is successful at referendum as a result of more people voting 'yes' than 'no', the Neighbourhood Plan becomes part of the development plan for the area (National Planning Practice Guidance, Paragraph: 064, Reference ID: 41-064-20170728), and all planning decisions in the neighbourhood area will be made in accordance with the development plan unless material considerations indicate otherwise. The formal 'making' (adoption) of the Neighbourhood Plan does not happen until SCDC's full Council are asked to do this at a meeting following the referendum.
16. Following a successful referendum, SCDC has limited options in how to respond. National planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations.

17. The Foxton Neighbourhood Plan was successful at its referendum as more than half of those that voted were in favour of SCDC using the Neighbourhood Plan to help it decide planning applications in the neighbourhood area. The Council is therefore required to 'make' the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations, which is one of the 'Basic Conditions' set out in national planning regulations that all Neighbourhood Plans must meet.
18. Officers have assessed whether the Foxton Neighbourhood Plan meets the 'Basic Condition' that the Neighbourhood Plan does not breach, and is otherwise compatible with, EU and human rights obligations at various stages during the preparation of the Neighbourhood Plan. Officers consider that the 'making' of the Foxton Neighbourhood Plan does not breach, and is otherwise compatible with, EU and human rights obligations (see Appendix 2). The Joint Director agrees with this view.
19. The Referendum version of the Foxton Neighbourhood Plan is included in Appendix 1 of this report. Officers will work with Foxton Parish Council to update this to become the 'made' Neighbourhood Plan once it is formally agreed by the Council to make the Foxton Neighbourhood Plan. This will involve minor (non-material) amendments to the Plan to reflect its new status. These amendments will be agreed by the Joint Director for Planning and Economic Development. Such amendments will not impact on the Basic Conditions nor materially impact the policies of the Plan.

Timescales and Next Steps

20. National planning regulations also set out that where a Neighbourhood Plan is successful at referendum it should be 'made' within 8 weeks. After the successful referendum for the Foxton Neighbourhood Plan the next SCDC's meeting of Council is on the 23rd September 2021. This is 9 weeks after the date of the referendum, and we must formally decide whether to make the plan within 8 weeks of the referendum. The Joint Director for Planning and Economic Development, in consultation with the Lead Cabinet Member for Planning, has considered how the Council should proceed following the referendum. Where a Neighbourhood Plan has been successful at referendum and should therefore proceed to being formally 'made' (adopted) by the Council, Cabinet agreed at its meeting on 26 July 2018 that the Joint Director for Planning and Economic Development has delegated authority to make the recommendation to Council, in consultation with the Lead Cabinet Member for Planning.
21. The Joint Director for Planning and Economic Development has recommended that the decision to make the Foxton Neighbourhood Plan should be taken. In the interests of making the Foxton Neighbourhood Plan at the earliest opportunity and in order to meet the requirement that the decision to make the Neighbourhood Plan take place within 8 weeks of the successful referendum, since it is impractical to hold a meeting of the Council within this time, the decision is to be taken by the Chief Executive under delegated powers. This delegated authority for the chief executive to make such a decision is in the Constitution under part 3, table 7, scheme of delegation, para 4.4. "The Chief Executive . . . may exercise any power or function, which is in law capable of delegation . . . where necessary in order for the Council to continue to carry out its functions". The decision of the Chief Executive will be reported to the Council at its next meeting in September

22. Once the Chief Executive has made (adopted) the Foxton Neighbourhood Plan under delegated powers, officers will publish the decision to 'make' (adopt) the Neighbourhood Plan and send notifications to the necessary people and organisations as required by national planning regulations. The decision of the Chief Executive will be reported to the Council at its next meeting.
23. Once formally 'made' (adopted) the Foxton Neighbourhood Plan will form part of the development plan for South Cambridgeshire, and all planning decisions in the neighbourhood area will need to be made in accordance with the Neighbourhood Plan unless material considerations indicate otherwise.

Implications

24. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered:
25. Financial: the costs of the examination and referendum have to be initially met by SCDC. However, the Council can claim a £20,000 government grant per Neighbourhood Plan once it has been successful through the examination and a referendum date set. Due to the coronavirus pandemic the government amended these rules to allow a council to submit their claim once a decision has been made that a plan can go forward to referendum. This must be claimed in the next set period within the financial year. The claim has not yet been made for the Foxton Neighbourhood Plan
26. Legal: where a Neighbourhood Plan has been successful at referendum and should therefore proceed to being formally 'made' (adopted) by the Council, the Joint Director for Planning and Economic Development has delegated authority to make the recommendation to Council, in consultation with the Lead Member for Planning (as agreed by Cabinet at its meeting on 26 July 2018). Following a successful referendum, national planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations.
27. National regulations also require the Council to decide whether to make a neighbourhood plan within 8 weeks of a successful referendum. There is a 9-week gap between the Foxton NP referendum and the next meeting of the Council in September. Advice from the legal team is that the decision may be made by the Chief Executive under delegated powers. This decision would then be reported to the next meeting of the Council which is in September.
28. Staffing: the responsibilities associated with delivering neighbourhood planning are being undertaken within the existing resources of the Planning Policy Team, drawing upon the expertise of other staff as required.
29. Equality and Diversity: these issues have been considered in the preparation of the Neighbourhood Plan, as to meet the Basic Conditions a Neighbourhood Plan must not breach, and is otherwise compatible with, EU obligations, including Human Rights. The Examiner in his report is satisfied that the submitted Plan has had regard to the

fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that it complies with the Human Rights Act. There is no evidence that has been submitted to suggest otherwise.

Declaration(s) of Interest

Record below any relevant interest declared by any executive Member consulted or by an officer present in relation to the decision.

None

Dispensation(s)

In respect of any conflict(s) of interest declared above, record below any dispensation(s) granted by the Council's Standards Committee.

None

Consultation

Record below all parties consulted in relation to the decision.

Other Options Considered and Reasons for Rejection

Where a Neighbourhood Plan is successful at its referendum, SCDC has limited options in how to respond. National planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations.

Officers have concluded that the Foxton Neighbourhood Plan would not breach or be otherwise incompatible with EU or human rights obligations, as set out in the Considerations section.

Officers have considered whether the decision to make the neighbourhood plan is delayed until the next meeting of the Council but this would not meet the national regulations which state that this decision must be made within 8 weeks of a successful referendum.

| Final decision | Reason(s) |
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| <p>That the Chief Executive</p> <ul style="list-style-type: none"> a) notes the Decision Record of the Joint Director of Planning and Economic Development which set out the results of the referendum on the Foxton Neighbourhood Plan and b) under delegated powers 'makes' (adopt) the Foxton Neighbourhood Plan. This decision will be reported to the next meeting of the council. c) Delegates to the Joint Director of Planning and Economic Development in liaison with the Lead Cabinet Member for Planning and the Parish Council Chair, the making of minor non material changes and updates to the Referendum version of the Neighbourhood Plan (Appendix 1) to enable preparation of a final made (adopted) Foxton | <p>Where a Neighbourhood Plan is successful at its referendum, national planning legislation requires that the Council 'makes' (adopts) the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations.</p> <p>Officers have concluded that the Foxton Neighbourhood Plan would not breach or be otherwise incompatible with EU or human rights obligations, as set out in the Considerations section.</p> <p>The national regulations also require a decision on whether to make a neighbourhood plan must done within 8 weeks of a successful referendum. As the next meeting of the Council is outside of this date the decision to make the plan has been delegated to the Chief</p> |

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| Neighbourhood Plan. | Executive and will be reported to the next meeting of the Council in September 2021. |
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| Signed | Name (CAPITALS) | Signature | Date |
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| Lead Cabinet Member (where required by the Constitution) | Signed copy available upon request from Democratic Services (democratic.services@scambs.gov.uk) | | |
| Chief Officer | | | |

| Further Information |
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| <p><i>Appendices</i></p> <p><i>Appendix 1: Referendum version of the Foxton Neighbourhood Plan</i> <i>Appendix 2: Basic Conditions Check of the Made Foxton Neighbourhood Plan</i></p> <p><i>Background Papers</i></p> <p><i>Foxton Neighbourhood Plan – earlier stages and supporting documents</i></p> <p><i>National Planning Practice Guidance – Neighbourhood Planning</i></p> <ul style="list-style-type: none"> • <i>Basic Conditions</i> • <i>Examination</i> • <i>Referendum</i> • <i>Updated guidance due to the Coronavirus pandemic</i> <p><i>Neighbourhood Planning Toolkit</i></p> <p><i>Planning Portfolio Holder Decision (November 2015) – Foxton Neighbourhood Area designation</i></p> <p><i>Lead Cabinet member for Planning (February 2021) – Council’s response on submission version of the Foxton Neighbourhood Plan</i></p> <p><i>SCDC’s decision statement on receipt of the Examiner’s Report and its decision to proceed to referendum (June 2021)</i></p> <p><i>Cabinet Meeting (July 2018) – Neighbourhood Planning decision making process</i></p> |