

Report to	-	Executive Director
Date	-	13 May 2019
Report of the	-	Head of Service – Strategy and Planning
Subject	-	Examiner’s Report into the Crowhurst Neighbourhood Plan 2018-2028

Recommendation: That: Under the Executive Director’s delegated authority, it be decided that the Crowhurst Neighbourhood Plan incorporating the Examiner’s modifications, as set out at Appendix 2, proceed to local Referendum, and that the Referendum Area be the Parish.

Introduction

1. The Examiner, Ms. Liz Beth, appointed with the agreement of Crowhurst Parish Council, to consider whether the Parish Council’s submitted Neighbourhood Development Plan meets the required ‘basic conditions’, issued her Report of March 2019 (received 4 April 2019). It is attached as Appendix 1. The analysis and assessments of the policies of the Crowhurst Neighbourhood Plan (CNP) are contained on pages 11 to 22 of her Report.
2. Attention is drawn to the earlier Cabinet report of 14 January 2019, which summarises the submitted Plan and its background, as well as this Council’s own representations.
3. This report focuses on the legal responsibilities of this Council, to consider the Examiner’s recommendations and to decide whether the Plan, with the Examiner’s modifications, meets the required ‘basic conditions’, such that it should proceed to referendum.

The Examination & Examiners recommendations

4. The Examiner undertook the Examination by means of a Written Representations meaning that no hearings were held as part of the process. The Examiner produced a Written Report which concluded as follows:-

The Parish Council and Steering Group have undertaken extensive consultation on this Plan, and it complies with legislative requirements. The Plan is well evidenced with a particularly useful ‘Crowhurst Landscape Character, Sensitivity and Capacity Study’ commissioned to inform policy and allocations. It sets out policies that are directly relevant to the strategic policy of the development plan and the location of much of the neighbourhood area within the High Weald AONB. The Rother Local Plan Core Strategy 2014 provides a comprehensive and strategic policy framework.

I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have to an extent informed some of the recommended modifications.

Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.

I recommend the referendum boundary is the designated neighbourhood plan area.

5. In terms of the recommended modifications the more noteworthy include:
 - A reference section added to CNP listing the evidence base for the Plan with electronic links to documents
 - Deletion of Important Open/Natural Space sites and CNDP Map 3 and modification of wording of Policy CE1 (Landscape Character of Crowhurst)
 - Renaming of Policy CF1 (Community and Recreational Facilities) and modification of wording
 - Renaming of Policy CF2 (Rights of Way and Recreation) and modification of wording
 - Policy CC2 (Infrastructure) - amend map 7 and proposals map wording to 'Proposed Footpath' and modification of wording
 - Modification of wording to Policy CE3 (Biodiversity), Policy CF3 (Local Green Space) and Policy CB1 (Design)
6. In relation to the Examiner's report discussions have taken place between RDC and Crowhurst Parish Council (the Qualifying Body) and the recommended modifications to the CNP have resulted in the rewording of various policies and text along with some amended mapping throughout the Plan

Consideration of the Examiner's report and proposed modifications

7. The Council must now consider each of the Examiner's recommendations. It is not obliged to accept them, but should be aware that the purpose of the examination is to provide independent scrutiny by a duly qualified person. The legislative position¹ is that the Authority can only make modifications post-examination if it considers them necessary to meet the 'basic conditions', be compatible with Convention rights, accord with relevant Regulations or to correct errors. Also, in this event, further consultation and potentially a further examination would be required.
8. For reference, the 'basic conditions' relate to the need to:
 - have regard to national policies and advice
 - contribute to sustainable development
 - be in general conformity with the development plan's strategic policies

¹ Paragraph 12(6) of the Schedule 4B of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, and the Planning and Compulsory Purchase Act 2004 (as amended).

- not breach or otherwise be incompatible with EU obligations
9. Overall, it is believed that the Examiner has undertaken a fair and robust examination of the submitted Neighbourhood Plan, properly considering all duly-made representations.
 10. It is noted that the Examiner has taken the view that, as modified, the RNP would meet basic conditions, particularly general conformity with the Core Strategy.

Parish Council Response and Referendum version of the Neighbourhood Plan

11. Crowhurst Parish Council has advised that it has agreed to accept all of the modifications recommended by the Independent Examiner. It has also worked closely with officers to make the necessary consequential amendments to the Neighbourhood Plan for it to progress to Referendum.
12. A full draft of the Crowhurst Neighbourhood Plan, incorporating all of the Examiner's modifications, consequential changes, and updating, as agreed with the Parish Council, has been collated and is contained in Appendix 2. A separate Schedule of changes has also been prepared set out at Appendix 3.

Conclusion, Implications and Referendum

13. In light of representations on the submitted CNP Development Plan, the Examiner, has carefully considered whether it meets the necessary 'basic conditions' and concluded that it does, subject to a number of modifications. Planning officers accept these conclusions, as does the Parish Council; hence, it is recommended to endorse the Examiner's recommendations (Appendix 1), including the proposed modifications as agreed by RDC & CTC (Appendix 3) and put the modified version of the Neighbourhood Plan, (Appendix 2), forward for Referendum to the residents of Crowhurst Parish.
14. If there is a majority support for the Neighbourhood Plan at Referendum, this Council will be obliged (subject to certain, limited exceptions) to formally make it part of the statutory development plan. At that point, the 'development boundary' for Crowhurst and the development allocations, as well as the Local Green Space designations will become the primary policy references for the purpose of determining most planning applications in the Parish.
15. Attention is drawn to the fact that, a consequence of the Neighbourhood Plan being made, the development boundary for Crowhurst together with the associated development allocations, as defined in the Rother District Local Plan 2006, will be superseded.
16. The other notable implication of making the Neighbourhood Plan is that the Parish Council will then receive 25%, rather than the current 15%, of Community Infrastructure Levy receipts from future developments in the Parish.

17. As regards the local Referendum, it is envisaged that it will be held around late June and assuming a favourable majority vote it will progress to Cabinet and Full Council in early July.

Tim Hickling
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