



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL



## Council

23 November 2023

Report of Councillor Phil Dilks –  
Cabinet Member for Housing and  
Planning

# Making of the Claypole Neighbourhood Plan

## Report Author

Jake Horton, Senior Planning Policy Officer

 [j.horton@southkesteven.gov.uk](mailto:j.horton@southkesteven.gov.uk)

## Purpose of Report

This report seeks Members' approval to formally 'make' the Claypole Neighbourhood Plan (NP) as part of the South Kesteven Development Plan. The report follows the NP's successful referendum which was held on 5 October 2023.

## Recommendations

### It is recommended Full Council:

- 1) Approves the Claypole Neighbourhood Plan (referendum version) to become part of South Kesteven District Council's 'Statutory Development Plan', and a material consideration for determining planning applications in the Claypole Neighbourhood Area.
- 2) Delegates authority to the Assistant Director of Planning to make minor 'nonmaterial' changes to the Claypole Neighbourhood Plan as necessary, and exercise all of the Council's functions and responsibilities in relation to making the Claypole Neighbourhood Plan.

## Decision Information

Does the report contain any exempt or confidential information not for publication?

No

What are the relevant corporate priorities?

Growth and our economy  
Housing that meets the needs of all residents  
Healthy and strong communities  
Clean and sustainable environment

Which wards are impacted?

Viking

## 1 Implications

### ***Finance and Procurement***

- 1.1 There are no direct financial implications arising from this report. In line with Government practice, the costs of supporting the Claypole Neighbourhood Plan through examination and referendum have been met from government funding.

Completed by Alison Hall-Wright, Deputy Director (Finance and ICT) and Deputy S151 Officer

### ***Legal and Governance***

- 1.2 Following a successful referendum, national planning legislation requires that the Council formally 'makes' the Neighbourhood Plan, unless the making of the Neighbourhood Plan would breach or is otherwise incompatible with EU or human rights obligations. National legislation provides for a six week period in which a legal challenge may be lodged, which begins the day after the 'making' (adoption) of the Neighbourhood Plan. A legal challenge may only be made on the basis of a procedural or other legal flaw in the plan making process.

Completed by: Mandy Braithwaite, Legal Executive

### ***Risk and Mitigation***

- 1.3 The amended Neighbourhood Plan General Regulations (2012) require a 'Qualifying body' either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required. In order to comply with this requirement, The Claypole Neighbourhood Plan Steering Group (on behalf of Claypole Parish Council as the Qualifying Body) undertook a screening exercise in May 2022 on the need or otherwise for a Strategic Environmental

Assessment to be prepared for the Neighbourhood Plan. It was concluded that the Claypole Neighbourhood Plan is not likely to have any significant effects on the environment and accordingly would not require a Strategic Environmental Assessment. The Neighbourhood Plan proposals have not significantly changed since that time. Section 7.8 of the background papers provides a link to the screening report for the Strategic Environmental Assessment.

### ***Diversity and Inclusion***

- 1.4 The Claypole Neighbourhood Plan has been prepared by the Claypole Neighbourhood Plan Steering Group (on behalf of Claypole Parish Council). Neighbourhood Plans must comply with Human Rights legislation. Their compliance is tested as part of the examinations process carried out by an Independent Examiner. This Neighbourhood Plan is also in 'general conformity' with the South Kesteven Local Plan (as required by the Town and Country Planning Act 1990), which has been subject to its own Equalities Impact Assessment, so its implementation and delivery will comply with the findings of that assessment to ensure equitability.

### ***Climate Change***

- 1.5 The Neighbourhood Plan should have regard for national and strategic planning policy by requiring developments to address climate change and flood risk issues. At the examination, the examiner was satisfied the Neighbourhood Plan had met this condition.
- 1.6 The Claypole Neighbourhood Plan has within it a community objective (***objective B***) which aims to conserve and enhance Claypole's natural environment by protecting local green spaces, improving access to open spaces, and encouraging the use of green infrastructure initiatives.
- 1.7 The Claypole Neighbourhood Plan also has within it several policies which aim to encompass the environmental requirements of sustainable development, as referenced within the Examination Report.

## **2 Background to the Report**

- 2.1 Localism Act (2011) introduced Neighbourhood Planning as a new way for communities to help shape future development within their locality. One of the types of Neighbourhood Planning introduced is 'Neighbourhood Development Plans' which are documents created by local people setting out policies for the development and use of land in their particular area.
- 2.2 South Kesteven District Council's Corporate Plan expressly references working hand-in-hand with public sector partners across Lincolnshire to collectively deliver for residents and businesses. The Council takes its spatial planning role seriously and is keen to see interaction between place and spaces and the communities that

use them and aims to balance the competing demands of the economy, environment and community.

- 2.3 If a Neighbourhood Development Plan has successfully passed all stages of preparation, including an examination and referendum, the relevant Local Planning Authority must formally 'make' it as part of the 'Statutory Development Plan' for the specified area. Once 'made', planning applications are assessed against the relevant policies in the Neighbourhood Plan.
- 2.4 Claypole Parish Council, as the Qualifying Body, received South Kesteven District Council approval on 20 March 2014 to prepare a Neighbourhood Plan. The Claypole Neighbourhood Plan Working Group (on behalf of Claypole Parish Council) have been preparing the Claypole Neighbourhood Development Plan over several years with input from local residents, local businesses, interested parties and other stakeholder organisations.

### **Decision and Reasoning**

- 2.5 The Claypole Neighbourhood Plan was submitted to South Kesteven District Council for examination on 27 May 2022 and comments were invited from the public and stakeholders between 7 December 2022 and 1 February 2023.
- 2.6 After the statutory consultation period ended, South Kesteven District Council (in consultation with Claypole Parish Council) appointed an Independent Examiner to conduct an inspection of the Claypole Neighbourhood Plan. All representations received during the statutory consultation period were forwarded to the Independent Examiner for consideration.
- 2.7 The appointed Independent Examiner, after reading the representations received on the Claypole Neighbourhood Plan, decided the issues raised in the representations did not require a public hearing and could be examined under written representations.
- 2.8 The examination report was received on 19 June 2023 and concluded that the Claypole Neighbourhood Plan met the basic conditions and, subject to the modifications proposed in the report, the Neighbourhood Plan should proceed to a referendum within the specified area (in this case, Claypole Parish).
- 2.9 On 24 July 2023, South Kesteven District Council, in consultation with the Claypole Neighbourhood Plan Steering Group (on behalf of Claypole Parish Council) considered and accepted the Independent Examiner's recommendations and issued a decision notice confirming that the amended Claypole Neighbourhood Plan should proceed to referendum.
- 2.10 The referendum version of the Claypole Neighbourhood Plan can be found at the following location:

<https://moderngov.southkesteven.gov.uk/documents/s39652/Claypole%20NP%20Referendum%20Version.pdf>

2.11 The referendum was held on 5 October 2023 and the following question was asked:

***“Do you want South Kesteven District Council to use the Neighbourhood Plan for Claypole to help it decide planning applications in the neighbourhood area?”***

2.12 33.49% of those on the Electoral Register for the Claypole Parish area turned out for the Referendum. Of the 365 votes cast, 350 were cast in favour of ‘yes’ and 15 were cast in favour of ‘no’. Zero ballot papers were rejected. This resulted in an **95.9% positive vote** for the Claypole Neighbourhood Plan.

2.13 In line with section 38A of the Planning and Compulsory Purchase Act (2004), the Local Planning Authority must, make a Neighbourhood Development Plan to which the proposal relates, if in each applicable referendum more than half (50%) of those voting have voted in favour of the Neighbourhood Development Plan. The only circumstance where the Local Planning authority should not make this decision is where the making of the Neighbourhood Development Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention Rights within the meaning of the Human Rights Act (1998).

2.14 South Kesteven District Council (as the Local Planning Authority), along with the appointed Independent Examiner, are satisfied that the Claypole Neighbourhood Plan does not breach, and would not otherwise be incompatible with, any EU obligation or any of the Convention Rights within the meaning of the Human Rights Act (1998). Therefore, the only available option open is to formally ‘make’ the Claypole Neighbourhood Plan part of the Statutory Development Plan for South Kesteven.

2.15 As set out in the amended Neighbourhood Planning General Regulations (2012), the decision statement to ‘make’ a Neighbourhood Development Plan under section 38A (4) of the 2004 planning and compulsory Purchase act must be done within eight weeks of a published successful referendum result. This statement has been appended to this report (**Appendix 1**).

2.16 As referenced in Article 4 of South Kesteven District Councils constitution, the ‘making’ of the Claypole Neighbourhood Plan must be a decision undertaken by Full Council, as it is a ‘Development Plan Document’ making up part of the wider Development Framework for South Kesteven District Council.

### **3 Key Considerations**

3.1 As a result of the successful referendum, South Kesteven District Council proceed to formally ‘make’ the Claypole Neighbourhood Plan as outlined above to become part of the Statutory Development Plan for South Kesteven and to give delegated authority to the Assistant Director for Planning, to make minor ‘non material’ amendments to the Neighbourhood Plan, as necessary.

### **4 Other Options Considered**

- 4.1 The Claypole Neighbourhood Plan is considered to have been prepared in accordance with EU obligations and Conventions by South Kesteven District Council and the appointed Independent Examiner.

## **5 Reasons for the Recommendations**

- 5.1 The Claypole Neighbourhood Plan has met each of the specified preparation criteria as set out in legislation, undertaken a statutory consultation and examination, and has had a positive referendum vote of over 50%. Therefore, it is recommended the Claypole Neighbourhood Plan should be formally 'made' as a South Kesteven Statutory Development Plan document.

## **6 Consultation**

- 6.1 Before formal submission of the Claypole Neighbourhood Plan to South Kesteven District Council, several draft consultation exercises were undertaken by the Claypole Neighbourhood Plan Steering Group (on behalf of Claypole Parish Council). Information around these draft consultations can be found within the Claypole Neighbourhood Plan statement of community consultation, which can be found in Section 7.5 of the background papers.

- 6.2 Upon receiving the submission version of the Claypole Neighbourhood Plan, South Kesteven District Council undertook a six-week formal consultation as required by legislation.

- The Claypole Neighbourhood Plan and all supporting documentation were made available to view and access from the Councils website.
- A general notification of the consultation was issued via email and a letter to those on the Council's neighbourhood plan consultation database, including nearby parish councils, statutory bodies, interested parties and Viking Ward Councillors.
- Hardcopy versions of the Claypole Neighbourhood Plan were available to view within the Claypole Parish area.

South Kesteven District Council received 11 comments from various consultees, including both statutory and non-statutory parties. All received comments were passed onto the Independent Examiner as part of the examination process and published on the South Kesteven District Council Claypole Neighbourhood Plan webpage.

## **7 Background Papers**

- 7.1 *Claypole Neighbourhood Plan Webpage*, available online at:  
<http://www.southkesteven.gov.uk/index.aspx?articleid=15975>

- 7.2 *Claypole Neighbourhood Plan - Designation Decision Statement* (20 March 2014), available online at:  
[https://www.southkesteven.gov.uk/sites/default/files/2023-11/Decision%20Notification\\_Redacted.pdf](https://www.southkesteven.gov.uk/sites/default/files/2023-11/Decision%20Notification_Redacted.pdf)
- 7.3 *Claypole Neighbourhood Plan – Neighbourhood Area Map* (May 2022), available online at:  
<https://www.southkesteven.gov.uk/CHttpHandler.ashx?id=28923>
- 7.4 *Claypole Neighbourhood Plan 2021-2036, an Examination Report to South Kesteven District* - (19 June 2023), available online at:  
<https://www.southkesteven.gov.uk/CHttpHandler.ashx?id=29413>
- 7.5 *Claypole Neighbourhood Plan – Consultation Statement* (May 2022), available online at:  
<https://www.southkesteven.gov.uk/CHttpHandler.ashx?id=28924>
- 7.6 *Claypole Neighbourhood Plan: Submission Publication, Officer Delegated Decision* - (24 July 2023), available online at:  
<https://moderngov.southkesteven.gov.uk/ieDecisionDetails.aspx?ID=1252>
- 7.7 *Claypole Neighbourhood Plan: Examination Modifications and Referendum Decision, Officer Delegated Decision* – (2 December 2022), available online at:  
<https://moderngov.southkesteven.gov.uk/ieDecisionDetails.aspx?ID=1319>
- 7.8 *Claypole Neighbourhood Plan: Examination Modifications and Referendum Decision, Officer Delegated Decision* – (2 December 2022), available online at:  
<https://moderngov.southkesteven.gov.uk/ieDecisionDetails.aspx?ID=1319>
- 7.9 *Strategic Environmental Assessment & Habitats Regulations Assessment Screening Report* (May 2022), available online at:  
<https://www.southkesteven.gov.uk/CHttpHandler.ashx?id=28921>
- 7.10 *Strategic Environmental Assessment & Habitats Regulations Assessment Screening Report* (May 2022), available online at:  
<https://www.southkesteven.gov.uk/CHttpHandler.ashx?id=28921>

### **Relevant Legislation**

- 7.11 *The Localism Act (2011)*, available online at:  
<https://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- 7.12 *The Neighbourhood Planning General Regulations (2012)*, available online at:  
<https://www.legislation.gov.uk/uksi/2012/637/contents/made>
- 7.13 *The Neighbourhood Planning Referendum Regulations (2012)*, available online at:  
<https://www.legislation.gov.uk/ukdsi/2012/9780111525050/contents>
- 7.14 *Planning and Compulsory Purchase Act 2004*, available online at:  
<https://www.legislation.gov.uk/ukpga/2004/5/contents>

## **8 Appendices**

- 8.1 Appendix 1 – Claypole Neighbourhood Plan – Adoption Decision Statement (November 2023)