

Report to Cabinet

Subject: Neighbourhood Planning – Scheme of Delegation

Date: 7th September 2017

Author: Service Manager – Planning Policy

Wards Affected

All

Purpose

To seek delegations from Cabinet to:

- A. authorise the Service Manager, Planning Policy to provide technical support and advice to neighbourhood planning groups, on emerging neighbourhood development plans in line with the relevant legislation and practice guidance.
- B. authorise the Service Manager, Planning Policy to determine whether the appropriate legal requirements outlined in Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 have been met in relation to a draft neighbourhood development plan and to publish the draft plan.
- C. authorise the Service Manager, Planning Policy to identify and appoint an appropriate person to examine a draft neighbourhood development plan and to submit the plan to the examiner.
- D. delegate all other decisions and processes in respect of the Neighbourhood Planning Process to the Chief Executive in consultation with the Portfolio Holder for Growth and Regeneration except for the making of the Neighbourhood Development Plan.

Key Decision

This is a key decision because it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough.

Background

- 1) The ability for a town or parish council to produce a Neighbourhood Development Plan is contained within the Localism Act 2011. The Town and Country Planning Act 1990 (“the Act”) and the Neighbourhood Planning (General) Regulations 2012 (as amended by the Neighbourhood Planning (General) (Amendment) Regulations 2015) (“the 2012 Regulations”), as listed as **Background Paper 1**, provide the statutory process as to how a Neighbourhood Development Plan will be developed and implemented. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, as listed as **Background Paper 2**, which came into force on October 1st 2016, introduced new statutory timescales by which decisions relating to Neighbourhood Planning have to be made.
- 2) Neighbourhood Development Plans give communities the opportunity to set planning policies as Neighbourhood Development Plans which will form part of the development plan of a local authority once implemented and will sit alongside the Local Plan. The Borough Council’s responsibility as Local Planning Authority is largely technical in nature, for example advising on conformity with the Development Plan and checking that Plans have followed correct procedures. Once made, a Local Planning Authority must consider a Neighbourhood Development Plan when deciding applications for planning permission, along with any other material consideration.
- 3) Decisions in relation to the making of Neighbourhood Development Plans are an executive function, that is because Neighbourhood Development Plans are not development plan documents as defined in regulation 5 of the Town and Country Planning (Local Planning) England Regulations 2012 and as such do not come within the list of plans and strategies listed in Column 1 of the table to Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, which would require Council approval or adoption.
- 4) The decisions involved in the process of making a neighbourhood Development Plan are largely technical or administrative in nature, however certain decisions for example the decision to hold a referendum or ultimately the decision to make the Neighbourhood Plan and bring into force could be key decisions and as such should include member involvement.
- 5) The Council are currently giving consideration to four emerging Neighbourhood Plans, namely Burton Joyce, Calverton, Linby and Papplewick. Currently it is unknown whether the remaining settlements in the Borough are considering the possibility of drafting a Neighbourhood

Development Plan for their areas.

- 6) The most advanced of these plans is the Calverton Neighbourhood Plan. The Council designated the Parish of Calverton as a neighbourhood area on 16th January 2013. Calverton Parish Council produced their Regulation 14 draft Neighbourhood Plan for consultation during July and September 2016 which was then submitted to the Council. The Council subsequently organised consultation and publicity in accordance with Regulation 16 of the 2012 Regulations for a six week period between January and March 2017. The Plan is currently subject to Examination and a hearing session was held on 11th July 2017. The Council is awaiting the Examiner's report and the Examiner has to decide whether or not the plan meets the "basic conditions" and make a report that recommends either:
 - the plan is submitted to referendum;
 - modifications specified in the report are made and the plan as modified is submitted to referendum; or
 - the plan is rejected.
- 7) The three Parishes of Burton Joyce, Linby and Papplewick are making good progress with their Neighbourhood Development Plans and are all at a similar stage with the preparation of their Regulation 14 plans for consultation and publicity.
- 8) The Council designated:
 - the Parish of Linby as a neighbourhood area on 25 April 2016;
 - the Parish of Burton Joyce as a neighbourhood area on 25 April 2016; and
 - the Parish of Papplewick as a neighbourhood area on 11 August 2016.
- 9) Under the new Regulations, The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 new statutory timescales by which decisions relating to Neighbourhood Planning have to be made have been introduced.

Proposal

- 10) In view of the new statutory timescales introduced by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, by which decisions relating to Neighbourhood Planning have to be made it is proposed to ask Cabinet to approve a scheme of delegation for functions/decision-making under the Neighbourhood Development Plan process to apply to neighbourhood plan proposals. It is important that Neighbourhood Development Plans are processed in a timely and efficient manner, in

line with statutory timescales and this proposal seeks to streamline the current approach by delegating certain administrative and technical tasks to Officers in consultation with the Portfolio Holder for Growth and Regeneration where appropriate, but reserving the decision to make the plan to Cabinet.

Designation of Neighbourhood Plan Areas

- 11) The Local Planning Authority must designate Neighbourhood Areas as soon as possible and the amendments to the Regulations state that this should take no longer than eight weeks where the application is made by a Parish Council and following parish council boundaries. On receipt of a Neighbourhood Area application it is recommended that the Chief Executive in consultation with the Portfolio Holder for Growth and Regeneration be given delegated authority to determine applications relating to the area to be covered by a proposed Neighbourhood Plan.

Representations on Emerging Plans

- 12) The Local Planning Authority has a duty to provide advice and assistance to Neighbourhood Planning Groups and it is proposed that authority is delegated to the Service Manager, Planning Policy to provide technical support and advice on emerging plans in line with the relevant legislation and practice guidance and submit representations on behalf of the Council at the Regulation 14 Consultation and examination stage. Prior to this, advice and support is given by officers on an informal basis.

Submission and Examination

- 13) On receipt of a draft Neighbourhood Plan submitted to it for independent examination, a Local Planning Authority must satisfy itself that it complies with all the relevant statutory requirements (outlined in Regulation 15) before publicising the draft plan and arranging an independent examination (outlined in Regulations 16 and 17). It is proposed that the Service Manager, Planning Policy be given delegated authority to determine whether the appropriate legal requirements (outlined in Regulation 15) have been met in relation to submission.
- 14) It is also proposed that the Service Manager Planning Policy be given delegated authority to identify and appoint an appropriate person to examine the Neighbourhood Plan and to submit the plan to the examiner. The appointment must be made in conjunction with the Qualifying Body who submitted the plan (pursuant to Paragraph 7 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act).

Referendum

- 15) Following the independent examination of a Neighbourhood Plan, the Examiner will publish a report recommending that the plan go to referendum as is, or, that the plan with proposed modifications go for

referendum, or that the plan proposal be rejected. If a referendum is recommended the Examiner will indicate the area within which the referendum may be held. The Local Planning Authority must publish the Examiner's Report (as per Regulation 18) and take the decision as to whether to send the Plan to referendum. Regulation 18 also provides that the Local Planning Authority must consider what action to take in relation to the recommendations in the Examiner's report and whether any modifications to the plan are required. The Local Planning Authority must publish a decision notice in respect of any decision taken under Regulation 18 of the 2012 Regulations. On receipt of an Examiner's Report it is recommended that the Chief Executive, in consultation with the Portfolio Holder for Growth and Regeneration be given delegated authority to publish the Examiner's report, determine whether the Plan should go to public referendum, make any modifications to the draft plan to go forward to referendum and publish a decision statement in accordance with Regulation 19 of the 2012 regulations and establish the area(s) within which the referendum on a proposed Neighbourhood Plan should be held, taking into account the views of the independent examiner.

Making a Neighbourhood Plan

- 16) Following a referendum, Cabinet will decide whether to make the Neighbourhood Plan or not. Subject to the outcome of the referendum being in support of the draft Neighbourhood Plan, a report would be prepared following referendum recommending the making of the draft Neighbourhood Development Plan provided it does not breach or is incompatible with any EU obligation or convention rights.

Alternative Options

- 17) The policies contained within Neighbourhood Development Plans will assist in delivering the Council's corporate priorities in supporting economic growth and ensuring a sustainable and thriving local economy and maintaining and enhancing residents' quality of life. One option would be not to agree to the delegation powers which would assist in progressing Neighbourhood Development Plans in line with statutory timescales, but if it is considered that the Neighbourhood Development Plan meets all the relevant legal and procedural requirements then the Council would run the risk of being open to legal challenge if statutory timescales were not met.

Financial Implications

- 18)** There are financial implications associated with the submission, publication and examination of a proposed Neighbourhood Development Plan. The costs associated with submission and publication will consist primarily of printing and postage. The cost of appointing an independent examiner will also incur costs as will the holding a referendum. Financial support is provided from the Department of Communities and Local Government and the total funding for each completed Neighbourhood Plan is £25,000, for each of the first five Neighbourhood Plans in any Council area. This direct support is to ensure that Local Planning Authorities receive sufficient funding to enable them to meet their legislative duties in respect of neighbourhood planning.

Background Papers

1. The Neighbourhood Planning (General) Regulations 2012 –
http://www.legislation.gov.uk/uksi/2012/637/pdfs/ukxi_20120637_en.pdf
2. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 –
http://www.legislation.gov.uk/uksi/2016/873/pdfs/ukxi_20160873_en.pdf

Recommendations

That Cabinet:

- 1) authorises the Service Manager, Planning Policy to provide technical support and advice to neighbourhood planning groups, on emerging neighbourhood development plans in line with the relevant legislation and practice guidance.
- 2) authorises the Service Manager, Planning Policy to determine whether the appropriate legal requirements outlined in Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 have been met in relation to a draft neighbourhood development plan and to publish the draft plan.
- 3) authorises the Service Manager, Planning Policy to identify and appoint an appropriate person to examine a draft neighbourhood development plan and to submit the plan to the examiner.
- 4) delegate all other decisions and processes in respect of the Neighbourhood Planning Process to the Chief Executive in consultation with the Portfolio Holder for Growth and Regeneration except for the making of the Neighbourhood Development Plan.

Reasons for Recommendations

To ensure that the Borough Council, as Local Planning Authority, can execute its statutory duty to assist in the production of Neighbourhood Plans in accordance with the 2012 Regulations in a timely and efficient manner.