

## **Report to Portfolio Holder for Growth & Regeneration**

**Subject:** Designation of Linby Neighbourhood Area

**Date:** 25<sup>th</sup> April 2016

**Author:** Planning Policy Manager

### **Wards Affected**

Newstead

### **Purpose**

To formally designate the parish of Linby as a Neighbourhood Area for the purposes of Neighbourhood Planning.

### **Key Decision**

This is not a key decision.

### **Background**

#### Introduction

1. Neighbourhood Planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. Neighbourhood Planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.
2. Local communities can choose to:
  - Prepare a Neighbourhood Plan which will be used in the determination of planning applications; and/or
  - Grant planning permission through Neighbourhood Development Orders.
3. In order to undertake these activities the following process must be followed:
  1. Designation of the Neighbourhood Area
  2. Preparation of the Plan or Order

3. Pre-submission publicity and consultation
  4. Submission to the Local Planning Authority
  5. Independent Examination
  6. Referendum
  7. Adoption
4. Much of the work required on the content of the Plan or Order and the aims and objectives are matters for the local community. As the local planning authority, Gedling Borough Council will be involved at a number of stages through making formal decisions and through providing advice and information.
  5. Neighbourhood Plans will form part of the statutory development plan used to determine planning applications; it will have the same legal status as the Aligned Core Strategy and, once adopted, the Local Planning Document. A Neighbourhood Plan must support the strategic development needs set out in the Local Plan.
  6. Where Neighbourhood Plans are in place the Neighbourhood Forum will receive 25% of CIL revenue raised from within the area. In Parish Areas without a neighbourhood plan 15% of the CIL revenue raised up to a cap of £100 per council tax dwelling per annum is passed to the Parish Council. Where there is no Neighbourhood Plan and no Parish Council 15% of the CIL revenue raised is to be spent in the local area by the CIL collecting authority in consultation with the local community.
  7. A Neighbourhood Order can be used to grant planning permission for development including new buildings, alterations, change of use and engineering operations. They can apply to specific sites or wider geographic areas. The planning permission granted can be outright or subject to conditions.
  8. In order to progress towards a referendum Plans and Orders will be examined as to whether they meet the Basic Conditions. These are:
    - Having regard to national policies and advice contained in guidance issued by the Secretary of State;
    - Contributing to the achievement of sustainable development;
    - General conformity with the strategic policies contained in the development plan for the area;
    - Compatibility with EU obligations; and
    - Meeting other prescribed conditions.
  9. Plans and Orders cannot be used to thwart the delivery of the development needs identified in the Local Plan. This includes ensuring the delivery of strategic sites and ensuring that development is not subject to such a scale of obligations and policy burdens that it becomes unviable.

## Designation of the Neighbourhood Area

10. Designation is one of the stages where the local planning authority is required to make a formal decision. Those wishing to prepare Neighbourhood Plans or Orders are required to apply to the local planning authority to be designated as the Neighbourhood Forum for that area. Applications must be supported by a map and justification provided as to why the area identified is appropriate for designation. The local planning authority is then required to hold a six week consultation on the proposed designation. Where the area applied for relates to an entire Parish area a decision is required within eight weeks of the start of the consultation period; different time periods apply in other circumstances.
11. Government guidance is that the local planning authority should aim to designate the area applied for. However, as set out in Section 61G(5) of the 1990 Town and Country Planning Act (as amended by the Localism Act 2011) the local planning authority can refuse to designate the area applied for if it considers the area not appropriate. If doing so, the local planning authority must give reasons and must ensure that some of the area applied for forms part of one or more designated areas or areas to be designated.
12. This issue has been explored by the High Court ([2013] EWHC 513 (Admin)) and the Court of Appeal ([2014] EWCA Civ 228) through a case in Wycombe. These decisions identify that broad discretion is given to local planning authorities by S61G(5). Decisions should be based on the circumstances that exist at the time of designation.
13. It is our view that the following factors need to be considered:
  - The consultation responses received;
  - The character of the area and whether the area represents a single coherent area that is appropriate for planning;
  - The inclusion of sites of strategic importance including employment, housing and other uses;
  - The implications for the wider area such as on infrastructure; and
  - The desirability of designating the whole of the Parish as required by S61G(4) of the 1990 Town and Country Planning Act (as amended by the Localism Act 2011).

## Current Proposal

14. Linby Parish Council has applied for the whole of the Parish area (see Appendix 1) to be designated as a Neighbourhood Area. The Parish Council consider it is appropriate to designate the area because:
  - The area defined is covered in its entirety by Linby Parish Council with

- Linby village located centrally to the area. The Neighbourhood Area will sit comfortably with electorate reflecting the needs and future requirements of the entire Parish;
- There is a strong sense of community that exists in the Parish and can continue to be built upon as the Plan is developed with the Parish Council working actively with residents and stakeholders from all parts of the Parish;
  - Linby is a small conservation village located central to the Neighbourhood Plan area, within the boundary of Gedling Borough and bordering Ashfield District. Much of the Parish is made up of Green Belt and Safeguarded Land. Two sites have been allocated for development within the area; Land North of Papplewick Lane and Top Wighay Farm. The Neighbourhood Plan will provide an opportunity for the community of Linby to address the issues that will allow the village to grow coherently and sustainably.
  - Joint meetings have been undertaken with Papplewick Parish Council which intends to pursue their own Neighbourhood Plan which will include the whole of the Papplewick Parish and will have benefits in terms of coverage and consistency of approach.

### Consultation Responses

15. Consultation on the proposed designation began on 29<sup>th</sup> February 2016 and closed on 18<sup>th</sup> April 2016. In total 10 responses were received on the consultation; four agreeing with the Proposed Area, five disagreeing with the Proposed Area and one which did not clearly indicate.
16. Those not agreeing with the Proposed Area fell into two camps:
- Two who objected were of the view that the area to the west of the railway line should not be included within the Neighbourhood Area as this was not connected with the village itself;
  - Three who objected were of the view that additional areas within Ashfield District should be included.
17. Those supporting the proposal did not provide comments in support of their views. Nottinghamshire County Council drew attention to an existing building stone quarry within the area, known as Yellowstone Quarry. The presence of this should be considered as the Neighbourhood Plan is progressed; they also welcomed on-going engagement as the production of the Neighbourhood Plan progresses.

### The Character of the Area

18. The village of Linby is centrally located within the Proposed Area. The village is spread along Main Street with some development along Church Lane. To

the west of the village lies the Robin Hood Railway Line. To the north lies the village of Newstead and to the east the village of Papplewick. There is a limited gap with the sub-regional centre of Hucknall (located with Ashfield District) to the south of the village. The area is largely characterised by rolling agricultural fields.

### Strategic Sites

19. The Proposed Area includes two sites allocated by the Aligned Core Strategy:
- Top Wighay Farm (1000 homes and 8.5ha of employment land); and
  - North of Papplewick Lane (up to 300 homes).
20. Outline planning permission has been granted for 300 homes at North of Papplewick Lane (2013/1406). A Development Brief is being prepared for the Top Wighay Farm site and is proposed to be adopted as a Supplementary Planning Document (SPD); this preparation has included engagement with local residents, Linby Parish Council, Ashfield District Council and other stakeholders.
21. In addition a non-strategic site (Hayden Lane – 120 homes) is proposed through the emerging Local Planning Document to the west of the North of Papplewick Lane site; the Local Planning Document is currently at Publication Draft stage and will be issued for a period of representation in May and June 2016. It is also noted that a Site of Special Scientific Interest (Quarry Banks SSSI) is located in the north of the Proposed Area.

### Wider Implications

22. As identified in the application, the Proposed Area adjoins the sub-regional centre of Hucknall which is located in Ashfield District. Facilities and services in Hucknall will be the focus for the impact of the developments identified above. The impact on Linby, Papplewick and Newstead will relate more to the traffic/highway impacts and impact on local character. It is proposed in the emerging Local Planning Document that growth within in the village of Linby itself will be restricted to limited infill development only.

### Conclusion

23. The Proposed Area for designation is the entire area of Linby Parish Council. Section 61G (4) requires the planning authority to have regard to the desirability of designating the whole of the area of a parish council as a neighbourhood area. Taking into account the factors set out above and the representations from Linby Parish Council, Gedling Borough Council have had regard to the desirability of designating the whole of Linby Parish and have come to the following conclusions.

24. The starting point for this decision is that the whole Parish of Linby should be designated as the Neighbourhood Area. This would accord with Government guidance and Regulation S61G(4) of the 1990 Act. Consideration has been given as to whether it would be inappropriate for some or all of the identified development sites (Hayden Lane, North of Papplewick Lane and Top Wighay Farm) within Linby Parish to be included in the Neighbourhood Area. This was due to:

- The strategic nature of the Top Wighay Farm and North of Papplewick Lane sites meaning that it is inappropriate that a Neighbourhood Plan influence the development of the sites;
  - The advanced planning context of the North of Papplewick Lane site (outline permission has been granted) and the Top Wighay Farm site (allocated site and a well advanced SPD) meaning that the scope for the Neighbourhood Plan to influence the development of the sites is limited; and
- The wider than local impact of the sites including impact on Hucknall, Papplewick and Newstead

25. However, any Neighbourhood Plan would need to be in general conformity with the strategic policies of the Local Plan, which includes the policies allocating the sites, and contribute to achieving sustainable development. In addition, there is guidance that requires Neighbourhood Plans to ensure that the sites and the scale of development is not subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

26. While there is outline planning permission for the North of Papplewick Lane site and the SPD for Top Wighay Farm is well advanced there is still scope for a Neighbourhood Plan to influence matters related to the three development sites. This could include matters of design and layout.

27. S106 money will be used to ensure that the development of the three sites is acceptable in planning terms; this will include contributions, where necessary, to infrastructure in Papplewick, Newstead and Hucknall as well as Linby. The CIL community proportion is additional money available for the local community. If these areas were excluded from the Neighbourhood Area 15% of the CIL money generated (up to the cap of £100 per dwelling per year) would still be under the control of Linby Parish Council.

28. Overall the Proposed Area is generally suitable for the purposes of Neighbourhood Planning; the Proposed Area is the Parish Area and there are insufficient reasons not to designate the whole area.

## **Proposal**

29. It is proposed that the area of Linby Parish shown in Appendix 1 be designated as the Neighbourhood Area.

### **Alternative Options**

30. Non-designation is not an option. As required by Section 61G(5) of the 1990 Town and Country Planning Act, part of the Proposed Area must be designated.

31. The area designated could exclude certain areas. However, it is not considered appropriate to do so for the reasons set out above.

### **Financial Implications**

32. The proportion of CIL income that the Parish Council would be passed will increase from 15% (but capped at £100 per existing dwelling each year) to 25% (uncapped) once the Neighbourhood Plan is in place. Assuming that the average size of homes built in the area proposed to be designated for Linby (shown in Appendix 1) will be around 90sqm, it is estimated that this would increase the CIL receipt passed to Linby Parish Council from £11,200 (the most that could be passed in any one year at present due to the cap) to a potential £1,019,813. The exact amount would depend on the timing of the adoption of the Neighbourhood Plan and determination of planning applications for the Top Wighay Farm and Hayden Lane sites and the actual floor space of the development. This increase in money would otherwise have been used to fund the infrastructure on the Regulation 123 list.

33. The Borough Council will need to provide support and guidance to Linby Parish Council in the preparation of any Plans or Orders they wish to undertake. The Borough Council will also need to undertake work to fulfil its statutory duties related to the process of adoption of the Plans and Orders prepared and the referendum required. Both these will involve resources and Officer time. However, Government provide the following grants to local authorities to cover costs associated with the work:

- £5,000 on designation of a Neighbourhood Area;
- £5,000 on submission of a Plan or Order for examination; and
- £20,000 on successful examination of a Plan or Order.

### **Appendices**

34. Appendix 1 – Map of Proposed Area

### **Background Papers**

35. None

**Recommendation(s)**

**THAT :**

36. the area of Linby parish, as identified at Appendix 1 to this report be designated as the Neighbourhood Area for Linby.

**Reasons for Recommendations**

37. To fulfil the requirements of the 1990 Town and Country Planning Act (as amended by the Localism Act 2011) and enable Linby Parish Council to prepare Neighbourhood Plans and/or Orders.