

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting31st October 2013

1. Title of Item/Report

Designation of Neighbourhood Areas in Grindon and Egglecliffe Parishes for purpose of preparing neighbourhood plans

2. Record of the Decision

Consideration was given to a report on the Designation of Neighbourhood Areas for Wynyard and Egglecliffe and Eaglescliffe.

The report provided background to neighbourhood planning and sought the designation of neighbourhood areas for Wynyard and Egglecliffe and Eaglescliffe. Members were also asked to consider delegating a number of functions relating to the neighbourhood planning process to the Head of Planning.

Neighbourhood planning was intended to give communities more of a say in the development of their local area by enabling them to contribute to the statutory development plan by producing neighbourhood plans and neighbourhood development orders. Once neighbourhood plans were adopted, they become part of the Development Plan and applications for planning permission must be determined in accordance with them unless material considerations indicate otherwise.

Whilst the Council had a duty to support communities who choose to undertake neighbourhood planning, it would not become involved leading, preparing or financing neighbourhood planning activity. If neighbourhood plans or orders required action other than the determination of planning permissions to deliver their aims and objectives, neighbourhoods would need to remain involved to drive these forward. Neighbourhood planning was a right rather than an obligation and the Council would continue to plan for all areas of the Borough through the Local Plan process.

There were three main neighbourhood planning tools: Neighbourhood Plans, Neighbourhood Orders and Community Right to Build Orders:-

- Neighbourhood Plans guide the future development, regeneration and conservation of an area and contain planning policies which would be

taken into account when the Council determined applications for planning permission.

- Neighbourhood Development Orders grant permission for particular types of development in a neighbourhood or other specified area.
- Community Right to Build Orders were a special kind of Neighbourhood Development Order which could be made by the Parish/Town Council or a community organisation.

In order to be adopted by the Council, neighbourhood plans and orders must meet the following criteria:-

- have appropriate regard to national policy
- contribute to the achievement of sustainable development
- be in general conformity with the strategic policies in the Stockton-on-Tees Development Plan
- be compatible with EU obligations (such as environmental matters and human rights)
- have regard to the protection and enhancement of listed buildings and conservation areas.

The content of neighbourhood plans and orders was largely a matter for each community, although to be part of the development plan they should focus on the development and use of land. For example, they could include policies supporting particular types of development across the neighbourhood, site allocations (for all types of development), protection and promotion of routes, improvements to community assets and requirements for infrastructure provision.

In Stockton-on-Tees, the Spatial Planning Team had received a number of enquiries from local communities about neighbourhood planning but only the two formal applications contained in the report had come forward.

The Localism Act (2011) amended the Town and Country Planning Act (1990) and the Planning and Compulsory Purchase Act (2004) to introduce a neighbourhood planning tier to the development plan system. The National Planning Policy Framework gave further guidance on the role of neighbourhood planning within the development plan system, whilst the Neighbourhood Planning (General) Regulations 2012 set out detailed requirements.

The legislation and regulations set out a number of stages that neighbourhood plans and orders must go through prior to being 'made' by the Council and being used to help determine planning applications:-

- Designation of a neighbourhood area
- Designation of a neighbourhood forum (in areas where there is no Parish or Town Council) or body corporate (for Community Right to Build Orders only)
- Writing the plan or order
- Formal consultation period (organised by the group producing the plan)
- Submission to the local authority
- Formal consultation period (by the local authority)
- Independent examination
- Referendum of local people
- Formal 'making' of the plan or order by the local authority

The Council had a statutory duty to assist communities in the preparation of neighbourhood development plans and orders and to take them through a process of examination and referendum. The Localism Act 2011 (Part 6 chapter 3) sets out the Council's responsibilities as:-

- Publicising, agreeing and designating the area of the neighbourhood plan or order
- Publicising agreeing and designating a neighbourhood forum (where relevant)
- Supporting the preparation of the plan
- Receiving and publicising the submission of the plan or order
- Appointing an examiner, arranging the examination and making any changes to the plan recommended by the examiner
- Arranging the referendum
- 'Making' the plan as part of the Development Plan

The Localism Act also placed a legal duty on local planning authorities to give advice or assistance to parish councils or neighbourhood forums that wanted to undertake neighbourhood planning, however the nature and scope of this support was not defined. It was not intended that the Council would provide leadership for neighbourhood planning groups, assist with writing the plan or order itself, or provide financial assistance. The advice and assistance that could be offered include sharing evidence and information on planning issues, helping with consultation events, providing advice on assessments and evidence, providing advice on national and local plan policies with which the neighbourhood plan or neighbourhood development order would need to fit and helping communities communicate with local partners where this was required.

The Council's existing constitution stated that the full Council must approve changes to the policy framework, which included the Local Development Framework (now known as the Local Plan). In turn, the Cabinet must make recommendations to Council on any potential changes or amendments. The Planning committee must consider and

provide views to the Cabinet and the Council on new or amended planning policy, the proposed plans and alterations which together comprised the Development Plan and on any revisions, modifications or variations thereto including proposals in connection with the preparation of an altered or replacement development plan, in line with the relevant regulations.

Local Plan Member Steering Group must also be consulted in respect of the plans and alterations which together comprise the Development Plan (or which relate to alterations to or the replacement of that Plan) or represent or relate to the Local Plan.

As any Neighbourhood Plans and Neighbourhood Development Orders that completed the process would become part of the development plan and be used in the determination of planning applications alongside the adopted Local Plan, the scheme of delegation suggested that decisions relating to them should be considered by Local Plan Member Steering Group, Planning Committee, Cabinet and Council. This procedure had been followed for the two applications for Neighbourhood Area designations which were received in July and August 2013 and were discussed later in the report.

As neighbourhood planning was intended to give communities more of a say in the development of their local area, the Local Planning Authority's role in the process was largely administrative and supportive, rather than policy making. These decisions were often dictated by criteria set out in the relevant regulations with very limited scope for discretion. It was therefore recommended that a number of the decisions related to neighbourhood planning were delegated to the Head of Planning as follows:-

- Designating or refusing a neighbourhood area application, including:-
 - whether to decline to consider an area application if the body has already made an area application and is awaiting a decision on it)
 - whether to maintain the boundaries of neighbourhood areas already designated (as neighbourhood areas cannot overlap)
 - designating the area as a business area.
 - designating a cross boundary neighbourhood area
 - ensuring that, if the application is refused due to being unsuitable, the application forms part of one or more areas designated or to be designated

- Designating or refusing a neighbourhood forum application, including cross boundary neighbourhood forums and declining to consider a forum application if a neighbourhood forum has previously been designated for the area and the designation has not expired or been withdrawn.
- Withdrawing a neighbourhood forum application, at the neighbourhood forum's request, or if the Council considers that the forum no longer meets the conditions of approval for designation.
- On receipt of a draft neighbourhood plan or order, declining to consider it if the plan proposal is a 'repeat proposal'
- Appointing an independent examiner to examine the plan or order with the agreement of the parish Council or designated neighbourhood forum
- Whether to modify an existing neighbourhood plan or order to correct errors, with the permission of the relevant Parish Council Neighbourhood Forum.

The following decisions were subject to a greater level of discretion and would continue to be taken by the Council following consideration by Local Plan Steering Group, Planning Committee and Cabinet:-

- Approving or refusing a submitted neighbourhood plan or order's progress to independent examination, taking into account whether it meets the requirements of the relevant legislation and regulations
- Whether to proceed to a referendum following the examination of the plan or order and the publication of the examiner's report including whether to:-
 - make modifications to correct errors or to make the plan or order comply with the basic conditions
 - extend the area within which the referendum/s are to take place
 - refuse the plan proposal as it does not meet the basic conditions
 - refer any unresolved issues to a further independent examination
- Whether to make a Neighbourhood Plan or Order following a referendum where more than half of those voting voted in favour of the proposal including:-
 - Whether making the plan would be incompatible with any EU obligation or breach the Convention on Human Rights

- Where, in a business area, two referenda have been held and where more than half of those voting voted in favour of the proposal in one but not the other

The proposed changes to the Council's scheme of delegation were attached to the report.

With regard to funding on the 18 December 2012, DCLG's Director of Planning wrote to all local planning authorities setting out the local authority funding arrangements for neighbourhood planning in 2013/14. This funding was designed to enable the Council meet its new legislative duties in relation to neighbourhood planning, specifically, to provide advice and assistance to neighbourhoods, to hold an examination and to make arrangements for a referendum.

Subject to various national and local criteria and caps, in 2013/2014 local authorities could claim:-

- An initial payment of £5,000 following the designation of a neighbourhood area recognising the officer time supporting and advising the community in taking forward a neighbourhood plan.
- A second payment of £5,000 when the local planning authority publicises the neighbourhood plan prior to examination. This will contribute towards the costs of the examination as well as other staff costs incurred at this stage.
- A third payment of £20,000 on successful completion of the neighbourhood planning examination. This is to cover costs for that examination and any other further steps that may be needed for the neighbourhood plan to come into legal force, including referendum.

Parish and Town Councils, and Neighbourhood Forums could also apply for funding from DCLG through the Supporting Communities in Neighbourhood Planning programme to support their neighbourhood planning activities. This included startup costs, developing and analysing an evidence base, public consultations and training, as well as venue hire, printing and publicity. The programme would support groups developing neighbourhood plans in two ways:-

- direct support – advice and support, with an average value of equivalent to £9,500, tailored to meet the needs of supported neighbourhoods
- grant payments – up to £7,000 per neighbourhood area, to contribute to costs incurred by the group preparing a neighbourhood plan or order.

Communities can apply for this funding through the www.mycommunityrights.org.uk website, where they would need to supply details including the nature of the area they were planning for, the capacity of their group, the progress of the plan and the timetable for completing the plan.

Neighbourhood Planning also had implications for funds gathered through the Community Infrastructure Levy (CIL). Where CIL was adopted, neighbourhoods would receive a 'meaningful' proportion of the Community Infrastructure Levy collected in their area. In an area where a Neighbourhood Plan had been made and/or development had taken place by way of a Neighbourhood Development Order or Community Right to Build Order, the Council would pass 25% of the CIL revenue received by the Council from development in the area, directly to those Parish and Town Councils where development had taken place. In areas without a Parish or Town Council, the Council would earmark 25% of the Levy funds for community infrastructure use. This funding was not subject to the cap of £100 per dwelling per year which was applicable in areas which had not undergone neighbourhood planning.

The Council had received applications for neighbourhood area designations from Grindon Parish Council and Eaglescliffe and Egglecliffe Parish Councils. This was the first formal stage in neighbourhood planning and defines the geographical area which would be planned for by the community. The applications were attached to the report.

In order to determine the submitted applications, the Council must have regard to sections 61G, 61H and 61I of the Town and Country Planning Act (1990) as amended by the Localism Act (2011) and the Neighbourhood Planning (General) Regulations 2012.

A valid neighbourhood area application must include:-

- A map identifying the area
- A statement explaining why the area selected is considered to be appropriate
- A statement that the organisation making the application is a relevant body

Following receipt of the application, the Council was required to publicise the application and invite representations on their website and in a manner that 'is likely to bring the area application to the attention of people who live, work or carry on business in an area to which the application relates, for a period of not less than 6 weeks. Following this consultation period, Section 61G subsections 4 and 5 of the 1990 act

required local authorities to exercise the power of designation where a valid application had been submitted to secure that some or all of the specified area was designated. This meant that:-

- If the neighbourhood area is acceptable it should be designated;
- If the proposed neighbourhood area requires modifications, they should be made by the local authority and the area should be designated. The authority is permitted to make modifications to existing neighbourhood areas, but only with the consent of the relevant parish council [section 61G (6)]; and
- If the neighbourhood area is refused because it is not considered an appropriate area, the local authority should identify an area that is appropriate and this should be designated. If the application is refused section 61 subsection 9 requires the authority to give reasons for refusing the application.

Neighbourhood areas were largely defined by the communities who wish to plan for them. In parished areas, there was a presumption that the neighbourhood area would correlate with the Parish Boundary, however this did not have to be the case. A smaller area may be chosen, or multiple organisations may come together for neighbourhood planning purposes. In non-parished areas, prospective neighbourhood forums (representative groups of at least 21 local people) would have to apply for the area they considered to be their neighbourhood to be designated. There could only be one neighbourhood area for each neighbourhood plan and only one neighbourhood plan for each neighbourhood area. There can be more than one neighbourhood development order for each area.

If a proposed neighbourhood area was wholly or predominantly business in nature, the local authority can decide to designate it as a business area. This had the effect of allowing business people to vote in an additional referendum on the final plan or order.

In determining the neighbourhood area application, the Council must consider:-

- How desirable it is to designate the whole of the area as a neighbourhood area,
- How desirable it is to maintain the existing boundaries of areas already designated as neighbourhood areas,
- Whether the area should be designated as a business area

The refusal or modification of a neighbourhood area application should be based on either planning reasons or the validity of the application.

The report detailed the applications for Neighbourhood Areas for Wynyard and Eggescliffe and Eaglescliffe.

With regard to the next steps following the designation of the neighbourhood areas, the Council must comply with regulation 7 of the neighbourhood planning regulations. This required publication of various details about the designation or refusal to designate on the Council website. The Council would also claim initial payments of £5,000 per neighbourhood area available from DCLG following the designation of a neighbourhood area to recognise the costs involved in supporting groups undertaking neighbourhood planning. As the Wynyard Neighbourhood Area crosses administrative boundaries, the Neighbourhood Area would also need to be designated by Hartlepool Borough Council and the relevant £5,000 payment will need to be shared with them.

The community proponents of neighbourhood planning take responsibility for writing their plans, including gathering evidence and undertaking public consultations. The Planning Service would continue to support the groups' neighbourhood planning activities to ensure the final plans meet the basic conditions and to encourage the development of sound planning policies at neighbourhood level. It was understood that both groups had applied for grant funding for their activities through DCLG through the Supporting Communities in Neighbourhood Planning programme.

Future decisions regarding neighbourhood planning applications and progress would be made in accordance with the schedule which was attached to the report. The next decision to be made by members in relation to Wynyard and Eggescliffe and Eaglescliffe would be whether to approve or refuse the submitted neighbourhood plans' progress to independent examination, taking into account whether it met the requirements of the relevant legislation and regulations. The timescale for reaching this stage was unknown.

Progress on neighbourhood plans would be reported on the Council's website and through the Authority Monitoring Report published each year.

RECOMMENDED to Council that:-

1. The proposed Eggescliffe and Eaglescliffe Neighbourhood Area be Designated.

2. The proposed Wynyard Neighbourhood Area be Designated with minor alterations as detailed in Appendix 4 of the report.

3. The changes to the scheme of delegation as referred to in paragraphs 14 to 16 and detailed in Appendix 1 of the report be approved.

3. Reasons for the Decision

To meet the requirements of the Town and Country Planning Act (1990) and the Planning and Compulsory Purchase Act (2004) as amended by Localism Act (2011), and the Neighbourhood Planning (General) Regulations 2012.

4. Alternative Options Considered and Rejected

None

5. Declared (Cabinet Member) Conflicts of Interest

None

6. Details of any Dispensations

N/A

7. Date and Time by which Call In must be executed

N/A

Proper Officer
04 May 2013