

AGENDA ITEM

REPORT TO COUNCIL

6TH NOVEMBER 2013

REPORT OF CORPORATE MANAGEMENT TEAM

DESIGNATION OF NEIGHBOURHOOD AREAS FOR WYNYARD AND EGGLESCLIFFE AND EAGLESCLIFFE

SUMMARY

This report provides background to neighbourhood planning and seeks the designation of neighbourhood areas for Wynyard and Eggescliffe and Eaglescliffe. Members are also asked to consider delegating a number of functions relating to the neighbourhood planning process to the Head of Planning.

RECOMMENDATIONS

Members are recommended to:

1. Designate the proposed Eggescliffe and Eaglescliffe Neighbourhood Area
2. Designate the proposed Wynyard Neighbourhood Area with minor alterations as detailed in **Appendix 4** of the report
3. Approve the changes to the scheme of delegation as referred to in paragraphs 15 to 17 and detailed in **Appendix 1** of the report

DETAIL

Neighbourhood Planning

1. Neighbourhood planning is 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 are 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.
2. Whilst the Council has a duty to support communities who choose to undertake neighbourhood planning, it will not become involved leading, preparing or financing neighbourhood planning activity. If neighbourhood plans or orders require action other than the determination of planning permissions to deliver their aims and objectives, neighbourhoods will need to remain involved to drive these forward. Neighbourhood planning is a right rather than an obligation and the Council will continue to plan for all areas of the Borough through the Local Plan process.
3. There are 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 will be taken into account when the Council determines 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 are a special kind of Neighbourhood Development Order which can be made by the Parish/Town Council or a community organisation.
4. 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.
5. The content of neighbourhood plans and orders is 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 can 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.
6. At present, in Stockton-on-Tees, the Spatial Planning Team has received a number of enquiries from local communities about neighbourhood planning but only the two formal applications contained in this report have come forward.

Procedures and Support

7. 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 gives further guidance on the role of neighbourhood planning within the development plan system, whilst the Neighbourhood Planning (General) Regulations 2012 set out detailed requirements.
8. 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
9. The Council has 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

10. The Localism Act also places a legal duty on local planning authorities to give advice or assistance to parish councils or neighbourhood forums that want to undertake neighbourhood planning, however the nature and scope of this support is not defined. It is not intended that the Council will 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 will need to fit and helping communities communicate with local partners where this is required.

Decision Making

11. The Council's existing constitution states that the full Council must approve changes to the policy framework, which includes 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 comprise 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.
12. 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.
13. As any Neighbourhood Plans and Neighbourhood Development Orders that complete the process will become part of the development plan and be used in the determination of planning applications alongside the adopted Local Plan, the current scheme of delegation suggests that decisions relating to them should be considered by Local Plan Member Steering Group, Planning Committee, Cabinet and Council. This procedure has been followed for the two applications for Neighbourhood Area designations which were received in July and August 2013 and are discussed later in this report.
14. As neighbourhood planning is intended to give communities more of a say in the development of their local area, the Local Planning Authority's role in the process is largely administrative and supportive, rather than policy making. These decisions are often dictated by criteria set out in the relevant regulations with very limited scope for discretion. It is therefore recommended that a number of the decisions related to neighbourhood planning are 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.
15. The following decisions are 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
16. The proposed changes to the Council's scheme of delegation are set out in **Appendix 1**.

Funding for Neighbourhood Planning

17. 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 is 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.

18. Subject to various national and local criteria and caps, in 2013/2014 local authorities can 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.
19. Parish and Town Councils, and Neighbourhood Forums can also apply for funding from DCLG through the Supporting Communities in Neighbourhood Planning programme to support their neighbourhood planning activities. This includes startup costs, developing and analysing an evidence base, public consultations and training, as well as venue hire, printing and publicity. The programme will 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.
20. Communities can apply for this funding through the www.mycommunityrights.org.uk website, where they will need to supply details including the nature of the area they are planning for, the capacity of their group, the progress of the plan and the timetable for completing the plan.
21. Neighbourhood Planning also has implications for funds gathered through the Community Infrastructure Levy (CIL). Where CIL is adopted, neighbourhoods will receive a 'meaningful' proportion of the Community Infrastructure Levy collected in their area. In an area where a Neighbourhood Plan has been made and/or development has taken place by way of a Neighbourhood Development Order or Community Right to Build Order, the Council will pass 25% of the CIL revenue received by the Council from development in the area, directly to those Parish and Town Councils where development has taken place. In areas without a Parish or Town Council, the Council will earmark 25% of the Levy funds for community infrastructure use. This funding is not subject to the cap of £100 per dwelling per year which is applicable in areas which have not undergone neighbourhood planning.

Neighbourhood Area Applications

22. The Council has received applications for neighbourhood area designations from Grindon Parish Council and Eaglescliffe and Egglecliffe Parish Councils. This is the first formal stage in neighbourhood planning and defines the geographical area which will be planned for by the community. The applications are attached at **Appendix 2 and 3**.
23. 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.
24. 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
25. Following receipt of the application, the Council is 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 requires local authorities to exercise the power of designation where a valid application has been submitted to secure that some or all of the specified area is designated. This means 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.
26. Neighbourhood areas are largely defined by the communities who wish to plan for them. In parished areas, there is a presumption that the neighbourhood area will correlate with the Parish Boundary, however this does 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) will have to apply for the area they consider to be their neighbourhood to be designated. There can 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.
27. If a proposed neighbourhood area is wholly or predominantly business in nature, the local authority can decide to designate it as a business area. This has the effect of allowing business people to vote in an additional referendum on the final plan or order.
28. 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
29. The refusal or modification of a neighbourhood area application should be based on either planning reasons or the validity of the application.

Egglescliffe and Eaglescliffe Neighbourhood Area Application

30. Egglescliffe and Eaglescliffe Parish Council has submitted an application for the whole of their parish area to be designated as the Egglescliffe and Eaglescliffe Neighbourhood Area. The submission included a map showing the proposed neighbourhood area, a statement setting out why the proposed area was considered to be appropriate and that the Parish Council would be the relevant body for neighbourhood planning within the area. The application was therefore considered to be valid and is attached at Appendix 2.

31. The application has been publicised by Stockton Borough Council and Egglecliffe and Egglecliffe Parish Council and a six week consultation period took place between 12 August and 23 September 2013. During this period, a copy of the area application, details of the public consultation, and information on how to comment were made available on the Council's website. In addition:
32. 27 residents of the parish and who had registered their details on the Spatial Planning Team's consultation database were notified of the consultation by letter or email
 - The adjoining Parish/Town Councils of Aislaby and Newsham, Longnewton, Ingleby Barwick, Preston and Yarm were notified of the consultation by letter
 - Egglecliffe and Egglecliffe Parish Council made the application details available on their website and within their parish noticeboards
33. One response was received from a local resident, who expressed support for the application.
34. It is considered desirable to designate the whole of Egglecliffe and Egglecliffe Parish Council as a neighbourhood area. As this is the first neighbourhood area to be submitted within the vicinity, there are no existing neighbourhood boundaries to maintain and adjacent parish councils have not made comments on this issue. The Parish boundary does include a number of businesses, including Durham Lane Industrial Estate. However, there is a substantial residential population within the area and, in this case, it would not be appropriate to designate a business area.
35. It is therefore recommended that members designate Egglecliffe and Egglecliffe Parish as neighbourhood area as set out in the application.

Wynyard Neighbourhood Area Application

36. Grindon Parish Council has submitted an application for the Wynyard area to be designated as a Neighbourhood area. The submission included a map showing the proposed neighbourhood area, which crosses the administrative boundary between Stockton-on-Tees Borough Council and Hartlepool Borough Council and encompasses land within two parish councils, Grindon (Stockton-on-Tees) and Elwick (Hartlepool Borough). It also included a statement and explanatory map setting out why the proposed area was considered to be appropriate and that Grindon Parish Council would be the relevant body for neighbourhood planning within the area. A letter from Elwick Parish Council supporting the application was also received. The application was therefore considered to be valid.
37. It is understood that the driving force behind neighbourhood planning in the Wynyard area is the Wynyard Residents' Association (WRA), established in 2012, which intends to develop a neighbourhood plan for Wynyard village and the immediate surrounding area. Therefore, key milestones, like the submission of this application, will be undertaken by the Parish Councils, whilst key tasks required to progress the plan will be delegated to WRA. Further information about how the group intend to work is included in the neighbourhood area application attached to this report at **Appendix 3**.
38. As the neighbourhood area will include land in both Stockton-on-Tees and Hartlepool Boroughs, the relevant processes and neighbourhood area designation must be completed by both Borough councils. It is understood that the same application was also submitted to

Hartlepool on 29 August 2013 and will be determined through delegated powers at the end of an eight week consultation period.

39. In accordance with the regulations, the application has been publicised by Stockton Borough Council, Grindon Parish Council and WRA. A six week consultation period took place between 2 September and 14 October 2013. During this period, a copy of the area application, details of the public consultation, and information on how to comment were made available on the Council's website. In addition:
- Over 80 residents of the parish and who had registered their details on the Spatial Planning Team's consultation database were notified of the consultation by letter or email
 - The adjoining Parish/Town Councils of Billingham, Wolviston, Stillingotn and Witton, Carlton, Elwick and Sedgfield were notified of the consultation by letter
 - Grindon Parish Council made the application details available on their website and within their parish noticeboards
 - WRA have publicised the application on their website and through their local magazine
40. No responses to the consultation have been received.
41. The Council is required to consider the desirability of designating the whole of the Parish as a neighbourhood area. The designation of the neighbourhood area applied for would result in Grindon Parish being divided into two areas, focused on the villages of Thorpe Thewles and Wynyard respectively. As the Parish Council has not identified a similar appetite for neighbourhood planning in the Thorpe Thewles area, it is considered desirable to designate only part of the Parish as a neighbourhood area, as set out in the application.
42. In order to establish the appropriate boundary for the neighbourhood area, the WRA has engaged with Planning Officers from both Stockton-on-Tees and Hartlepool Borough Councils. In addition, direct support was accessed from DCLG through the Supporting Communities in Neighbourhood Planning programme. The boundary identified in the application is either coterminus with administrative boundaries or follows logical physical features on the ground, including the A19, Wynyard Road, areas of woodland, the Castle Eden Walkway and Close Beck (Hartlepool).
43. The Council is also required to consider the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas. The proposed Wynyard Neighbourhood Area is coterminous with the Hartlepool Rural Plan Neighbourhood Area in the north east and it is not considered desirable to alter either boundary. However to the west, the proposed Wynyard Neighbourhood Area abuts the Sedgfield Neighbourhood Area, designated by Durham County Council in September 2013. Due to minor mapping inaccuracies, the proposed Wynyard Neighbourhood area overlaps the Sedgfield Neighbourhood Area to a small extent in both Stockton-on-Tees and Hartlepool Local Authority Boundaries. As neighbourhood areas cannot overlap, it is considered desirable to alter the Wynyard Neighbourhood Area to follow the Local Authority boundaries between Stockton-on-Tees, Hartlepool and County Durham making the two neighbourhood area designations coterminous. The proposed neighbourhood area has also been extended slightly to the east to make it coterminous with boundary between Wolviston and Grindon Parishes. A map showing the modified neighbourhood area is attached at **Appendix 4** and has been agreed with Grindon Parish Council.
44. Finally, the Council is required to consider whether the neighbourhood area should be designated as a business area. Whilst the area has a significant business community within

the neighbourhood area at Wynyard Park, north of the A689, the legislation states that an area should only be designated as a business area if 'the area is wholly or predominantly business in nature'. It is the opinion of officers that the area is not wholly or predominantly business in nature.

45. It is therefore recommended that members designate the area at Wynyard shown in Appendix 4 as a neighbourhood area.

Next Steps

46. Following designation of the neighbourhood areas, the Council must comply with regulation 7 of the neighbourhood planning regulations. This requires publication of various details about the designation or refusal to designate on the Council website. The Council will 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 will also need to be designated by Hartlepool Borough Council and the relevant £5,000 payment will need to be shared with them.
47. The community proponents of neighbourhood planning take responsibility for writing their plans, including gathering evidence and undertaking public consultations. The Planning Service will 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 is understood that both groups have applied for grant funding for their activities through DCLG through the Supporting Communities in Neighbourhood Planning programme.
48. Future decisions regarding neighbourhood planning applications and progress will be made in accordance with the schedule attached at **Appendix 1**. The next decision to be made by members in relation to Wynyard and Egglecliffe and Eaglescliffe will be whether to approve or refuse the submitted neighbourhood plans' progress to independent examination, taking into account whether it meets the requirements of the relevant legislation and regulations. The timescale for reaching this stage is currently unknown.
49. Progress on neighbourhood plans will be reported on the Council's website and through the Authority Monitoring Report published each year.

FINANCIAL IMPLICATIONS

50. The financial implications of neighbourhood planning are set out in the report. It is anticipated that this will be limited to supporting neighbourhoods undertaking neighbourhood planning and that any costs will be met through existing budgets and the local authority funding arrangements for neighbourhood planning established by DCLG.

LEGAL IMPLICATIONS

51. The process and proposals in this report comply with the statutory requirements set out in 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.

RISK ASSESSMENT

52. Neighbourhood Planning is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

53. The designation of neighbourhood areas is the first stage in the neighbourhood planning process for local communities. Neighbourhood planning has the potential to have a positive impact on all of the Sustainable Community Strategy themes, particularly Stronger Communities, by enabling local people to have a greater say in the development of their local area. Neighbourhood plans must be in general conformity with the strategic policies in the Stockton-on-Tees Development Plan which takes into account the Sustainable Community Strategy themes.

EQUALITIES IMPACT ASSESSMENT

54. This report is not subject to an Equality Impact Assessment because it does not include new policy, strategy or change in the delivery of a service. Future decisions relating to Neighbourhood Planning will be subjected to Equalities Impact Assessment as appropriate.

CONSULTATION INCLUDING WARD COUNCILLORS

55. The consultation undertaken in relation to Neighbourhood Planning is detailed in the report.

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Education related?

No

Background Papers

Town and Country Planning Act (1990)

Planning and Compulsory Purchase Act (2004)

Localism Act (2011)

Neighbourhood Planning (General) Regulations 2012

Ward(s) and Ward Councillors:

Northern Parishes: Councillor Jonn Gardner

Eaglescliffe: Councillor Phillip Dennis, Councillor Alan Lewis and Councillor Mrs Maureen Rigg

Property

The report does not have any direct implications in relation to the Council's property.

Appendix 1 – Addendum to Scheme of Delegation in Relation to Neighbourhood Planning

Who is responsible	Membership	Functions	Delegation of functions	Checks and balances
Council	All 56 Members of the Authority	<p>Designation and refusal of neighbourhood area applications</p> <p>Designation and refusal of neighbourhood forum applications</p> <p>Withdrawal of neighbourhood forum approval</p> <p>On receipt of a draft neighbourhood plan or order, declining to consider it if the plan proposal is a 'repeat proposal'</p> <p>Appointment of an independent examiner to examine a neighbourhood plan or order</p> <p>Modification of an existing neighbourhood plan or order to correct errors</p>	Head of Planning	<p>In compliance with the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012</p> <p>With the agreement of the relevant Parish Council or Neighbourhood Forum (where required)</p>