

Neighbourhood Planning Cabinet

7th November

Neighbourhood Planning

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|----------------------------|-----------------|
| Relevant Portfolio Holder | Cllr Kit Taylor |
| Portfolio Holder Consulted | Yes |
| Relevant Head of Service | Ruth Bamford |
| Wards Affected | All |
| Ward Councillor Consulted | N/a |
| Key Decision | |

1. SUMMARY OF PROPOSALS

- 1.1 The Localism Act 2011 gave local communities new powers to plan for the future of their areas by introducing Neighbourhood Development Plans and Neighbourhood Development Orders. The report considers the first two applications for designation as a Neighbourhood Area, informs Cabinet about the general principles of neighbourhood planning under the Localism Act and seeks member approval for delegations to be given to officers to allow the new arrangements to be administered for the future stages of the first two applications and any subsequent applications.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 That the following applications for designation as a Neighbourhood Area be publicised by the Council for a consultation period of 6 weeks in accordance Regulation 6 of the Neighbourhood Planning (General) Regulations 2012:
- a) Alvechurch Parish Council
 - b) Barnt Green Parish Council
- 2.2 The following decisions (including determination and publication of applications) be delegated to the Head of Planning & Regeneration, in consultation with the ward member(s) for the area affected and the portfolio holder for Planning:-
- 2.2.1 decisions on whether to accept and designate a Neighbourhood Area;
 - 2.2.2 decisions on whether to designate a community organisation as a neighbourhood forum;
 - 2.2.3 decisions on the validity and acceptance of submissions for a Neighbourhood Development Plan or a Neighbourhood Development

Neighbourhood Planning Cabinet

7th November

Order, including assessing the compliance of the plan/order with other relevant policies and legislation;

2.2.4 decisions on whether to decline to accept repeat proposals for Neighbourhood Development Plans or Neighbourhood Development Order;

2.2.5 the appointment of an examiner for a Neighbourhood Development Plan or Order;

2.4 That the scheme of delegations be amended to reflect the new delegations for Neighbourhood Planning.

3. KEY ISSUES

Financial Implications

3.1 The District Council will be subject to additional costs to cover the new statutory requirements as the Act imposes on local planning authorities a duty to support Parish Councils in this process, as well as to arrange and pay for any necessary examination and referendum. Central government has agreed to make a fund of £10 million pounds available to cover these costs. In a letter sent to all authorities from the department for Communities and Local Government (CLG) in August 2012 the following funding was identified:

- For 2012/13, there will be an unringfenced payment of up to £30,000 per scheme, paid in two stages.
- The first payment of £5,000 will be made following designation of a neighbourhood area recognising the officer time supporting and advising the community in taking forward a neighbourhood plan. For authorities designating several neighbourhood areas, each local planning authority can claim up to a maximum of £20,000 for area designations, in 2012/13.
- The second payment of £25,000 will be made 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. However, the payment is not dependent on pursuing the referendum route if both parties agree on a different approach at that point (for example, if both parties agree, the neighbourhood plan could be taken forward as part of the local plan or as a supplementary planning document).

Neighbourhood Planning Cabinet

7th November

- 3.2 The financial cost of preparing a neighbourhood plan will vary depending on the scale and range of policies a neighbourhood wishes to include in their plan. As shown above funding is available from CLG, although it would appear that this is focussed more on covering the District Councils costs, rather than directly funding the Parish Councils. Subject to the above recommendations being approved it is envisaged that a claim for funding will be submitted to CLG for both neighbourhood plans in due course. Claims submitted for designations and successful independent examinations will need to be signed off by either the chief executive or chief finance officer of the local planning authority for assurance purposes.

Legal Implications

- 3.3 Neighbourhood planning is part of the government's initiative to give new powers to local communities to take forward planning proposals at a local level as outlined in Section 116 of the Localism Act 2011. The Act and the subsequent regulations (the Neighbourhood Planning (General) Regulations 2012) confer specific functions on the local planning authorities in relation to neighbourhood planning. In relation to any referendums that are required, the relevant regulations are set out in the Planning (Referendum) Regulations 2012.
- 3.4 Upon adoption a neighbourhood plan becomes part of the development plan and therefore will be a significant determining factor in planning applications for the area it covers. Upon adoption a neighbourhood development order removes the need for planning permission for the type of development specified in the order.
- 3.5 As set out in the main body of the report the local planning authority must follow a series of steps leading to the adoption of a Neighbourhood Plan. If at any stage in the process the Council decides not to grant a certain decision then full reasons must be given. The legal method to challenge any refusal would be for the aggrieved party to seek a judicial review of the Council's decision. The exception to this is that where a local community vote in favour of a neighbourhood plan at a referendum then the Council must adopt the neighbourhood plan.

Service / Operational Implications

- 3.6 The Localism Act 2011 gave local communities more power to plan for the future of their areas by introducing Neighbourhood Development Plans and Neighbourhood Development Orders. The Regulations for

Neighbourhood Planning Cabinet

7th November

Neighbourhood Planning were laid before parliament on 6th March 2012 and came into force on 6th April 2012. The Localism Act 2011, together with these regulations, place various duties and responsibilities upon the Council.

- 3.7 A **Neighbourhood Plan** is a new way of helping local communities influence the planning of the area they live and work in. If a plan is prepared and agreed by the community in a referendum it will become part of the development plan for the area and be used in the determination of planning applications.
- 3.8 A **Neighbourhood Development Order** can grant planning permission for certain types of development without the need to submit a planning application to the Council.
- 3.9 The process for preparing a Neighbourhood Plan and a Neighbourhood Development Order is very similar and is shown in the diagram in Appendix 1
- 3.10 The first formal step in the process of preparing a Neighbourhood Development Plan/Order is the designation of a Neighbourhood Area, this is the area which the plan /order is to relate.
- 3.11 Regulation 5 requires Parish Councils to apply to the District Council to designate the area that they wish the plan to cover as a Neighbourhood Area. Applications have been received by the District Council from Alvechurch Parish Council (Appendix 2) and Barnt Green Parish Council (Appendix 3). Regulation 6 requires the District Council to publish the application on its web-site a minimum period of six weeks to provide the opportunity for representations to be made in support of the designation or otherwise.
- 3.12 **Neighbourhood forums**
In areas where there are Parish Councils the Parish Councils are the relevant body for preparing plans. In non-parished areas such as Bromsgrove Town, community groups can form neighbourhood forums to prepare plans and any such body would need to apply to the Council to be designated as a Neighbourhood forum. This is a route that would be open to either existing community groups or newly formed groups. The body will need to submit an application to the District Council which must include: _
- the name of the proposed forum
 - a copy of the written constitution
 - the name and a map of the neighbourhood area

Neighbourhood Planning Cabinet

7th November

- the contact details of at least one member to be made public and a statement which explains how the forum meets the conditions of the Act.

In determining the application the Council must ensure that the group meets the conditions of the Act and that there is only one Forum for each area. The Forum must meet the following conditions:

- Be established for the express purpose of promoting or improving the social, economic and environmental well-being of the area
- Its membership is open to individuals who live or work in the area or are elected members of a County or District Council for the area
- Includes a minimum of 21 individuals each of whom live or work in the area or is an elected member
- Have a written constitution

Once granted a designation will last for five years and will allow the Neighbourhood forum to then proceed to the second stage of making an application for designation as a Neighbourhood Area.

3.13 Preparation of the Plan

If the District Council agree the designation of the Neighbourhood Area, it will be published on the District Council's website. The next step for the Parish Council (or Neighbourhood forum) would be to begin the formal preparation of their Neighbourhood Development Plan for submission to the District Council. Once submitted the local planning authority has to consider whether the draft Neighbourhood Development Plan or Neighbourhood Development Order meet certain basic requirements including general conformity with the development plan.

The recommended changes to the delegations above cover all of the procedural steps which are required to allow the neighbourhood plan/order to progress to a stage where they can be submitted to the Council. Decisions on whether to publish the plan for statutory consultation prior to examination, and then how to deal with any recommendations arising from the examination in public, are not delegated to officers and will be reported to members at that time.

3.14 The Examination

The Council is responsible for organising and paying for the examination. The Council must appoint an independent person to carry out the examination with the agreement of the body preparing the plan. After the appointment the Council must send them copies of all the

Neighbourhood Planning Cabinet

7th November

relevant documents and any representations received as part of the consultation. The person appointed to undertake the examination is responsible for how the examination will be carried out. It is expected that this will normally be through consideration of written responses, but the examiner could hold hearings if they felt this was necessary. The examiner will consider whether the plan meets the basic conditions set out in the Act and if this is the case recommend the plan proceeds to a referendum.

3.15 The Referendum

The referendum gives the Community the final say on whether a plan should come into force in their area. The Council must make all the necessary arrangements and pay for the referendum. Separate Regulations apply to referendums as set out in 3.3 above. If a majority vote in favour of the plan in the referendum then the Council must bring it in to force and it will become part of the formal development plan for the area.

3.16 Future developments

As this is a new legislative regime that has been introduced it is difficult to assess at this stage what the implications will be going forward and what the likely volume of applications to the District Council is going to be. It is anticipated that the process of approving a Neighbourhood Plan from start to finish could take up to 2 years. This report focuses on the preliminary stages of the process. Officers will keep the new arrangements under close review and intend to bring a report back to Members in due course to give an evaluation of how the new provisions have been working and if required make recommendations as to any additional procedures that should be established to deal with latter stages of the process.

Customer / Equalities and Diversity Implications

- 3.17 Officers will advise the bodies preparing the plans/orders on the responsibility for effective and inclusive plan making, including public consultation in line with the councils own adopted Statement of Community Involvement.

4. RISK MANAGEMENT

- 4.1 There are no significant risks with the neighbourhood planning process at this stage in their development, this report covers only the procedural aspects of the process, decisions on new local policies contained within the plans and the risks associated with them will be reported as neighbourhoods reach the latter stages of the process.

Neighbourhood Planning Cabinet

7th November

5. APPENDICES

Appendix 1- Neighbourhood Planning Process
Appendix 2 - Neighbourhood Area Application Alvechurch
Appendix 3 - Neighbourhood Area Application Barnt Green

6. BACKGROUND PAPERS

Localism Act 2011
Neighbourhood Planning (General) Regulations 2012
Planning (Referendum) Regulations 2012

7. KEY

N/A

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