

Report of:	Head of Economic Development
Contact Officer:	Mrs C Eggington
Telephone No:	01543 464326
Portfolio Leader:	Economic Development and Planning
Key Decision:	No
Report Track:	Cabinet: 14/12/17

CABINET
14 DECEMBER 2017
PROPOSED AMENDMENTS TO THE SCHEME OF DELEGATIONS FOR
NEIGHBOURHOOD PLANNING AND
SUPPLEMENTARY PLANNING DOCUMENTS

1 Purpose of Report

- 1.1 To consider amending the Council's Scheme of Delegations to delegate to the Head of Economic Development the taking of all steps in the preparation of a Neighbourhood Plan except for the final making (adoption) of a Neighbourhood Plan by the Council.
- 1.2 In addition, to consider amending the Scheme of Delegations to include reference to Supplementary Planning Documents.

2 Recommendations

That:

- 2.1 Cabinet delegates to the Head of Economic Development the taking of all steps in the preparation of a Neighbourhood Plan except for the final making (adoption) of a Neighbourhood Plan by the Council and that the Council's Scheme of Delegations be amended by the insertion of a new paragraph stating this.
- 2.2 The Scheme of Delegations paragraph 26.5.20 be amended to say 'To make non-substantive amendments to adopted Supplementary Planning Documents (SPDs) in consultation with the Economic Development and Planning Portfolio Leader.'

3 Key Issues and Reasons for Recommendation

- 3.1 Neighbourhood Planning is a way in which communities can shape the future of the places where they live and work. Neighbourhood Planning allows communities – should they wish to do so - to set planning policies through a Neighbourhood Plan or grant planning permission through a Neighbourhood Development Order or Community Right to Build Order. Neighbourhood Plans

cannot be used to prevent or stifle development and must meet a number of Basic Conditions¹ which include being in broad conformity with the Local Plan. They must be independently examined to ensure they conform to the relevant conditions and are then subject to referendum. Should the vote be in favour of the plan, then this can be made (adopted) by the Local Authority and it then becomes part of the Development Plan and thus a material consideration in decision making for planning applications.

- 3.2 The Council has a statutory duty to support Neighbourhood Plans. Their production involves a number of formal stages, some of which require formal action by the Council to some strict deadlines, many of which are not likely to be achievable taking into account committee cycles and lead-in times. Further detail is set out in Section 5 of this report, but in order to ensure that the Council fulfils its legal obligations it is considered necessary that responsibility for these key functions, with the exception of the final making (adoption) of the plan, is delegated to the Head of Economic Development in consultation with the Economic Development and Planning Portfolio Leader.
- 3.3 Cannock Chase District currently has two Neighbourhood Plans in preparation: Hednesford Neighbourhood Plan, which has reached the formal, statutory consultation stages, and Brereton and Ravenhill which is in the early stages of formulation.
- 3.4 In relation to Supplementary Planning Documents, section 26.5.20 of the current Scheme of Delegations refers very specifically to the delegated powers of the Head of Economic Development to make any further minor amendments to the Design SPD in consultation with the Economic Development and Planning Portfolio Leader. There are other SPDs produced by the Planning Policy service so for the purposes of consistency it would be pragmatic to update the wording to state 'to make non substantive amendments to adopted SPDs in consultation with the Economic Development and Planning Portfolio Leader.'

4 Relationship to Corporate Priorities

- 4.1 This report relates to the following Council Corporate Priorities:
 - **Better Jobs and Skills:** Economic Growth is at the heart of the national planning agenda and Local Plan Part 1 set the strategic context to enable more detailed local policy and site allocations to be developed through Local Plan Part 2, and the development of an Area Action Plan for Cannock Town Centre. This work can be complemented by Neighbourhood Plans and Supplementary Planning Documents where applicable.
 - **More and Better housing:** Neighbourhood Plans can enable sites to be allocated or appropriate growth supported to ensure that housing delivery

¹Must have regard to national policies and advice; must contribute to the achievement of sustainable development; must be in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area); must be compatible with, EU obligations; must meet prescribed conditions. For Orders only – must have special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses; must have special regard to the desirability of preserving or enhancing the character or appearance of any conservation area.

meets our local targets and complies with local policy to ensure local needs are met. Supplementary Planning Documents add further detail to policies and can help ensure good quality development supported by the right infrastructure.

- **Cleaner and Safer Environments:** environmental protection and enhancement, including crime reduction through safer design is a key aim of the Local Plan and other supporting planning policy including Neighbourhood Plans and Supplementary Planning Documents.
- **Better Health Outcomes:** planning policy, including that developed through Neighbourhood Plans and Supplementary Planning Documents enables decisions to be made which improve the health of local communities for example setting standards for access to – and type of – open space, sport and recreation, provision and protection of community services and facilities and supporting the retention and development of infrastructure (eg cycleways, public transport, health centres etc) which contribute to improved health and wellbeing.

5 Report Detail

Neighbourhood Plans

- 5.1 Neighbourhood Planning is one of the provisions of the 2011 Localism Act (as amended). The Council has a statutory duty to support Neighbourhood Plans pursuant to Section 61G(5) and the Town and Country Planning Act 1990 as applied to Neighbourhood Plans by Section 38A of the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning Regulations 2012 (as amended). This duty includes designating Neighbourhood Areas, publicising submitted plan proposals, arranging the independent examination, running the referendum and – should there be a majority (50%+1) ‘yes’ vote – making (adopting) the Neighbourhood Plan within 8 weeks of the date of the poll being announced to ensure it becomes part of the Development Plan for the District.
- 5.2 Neighbourhood Plan production is an optional choice for communities. In parished areas, they are produced by the Qualifying Body ie the Parish or Town Council. In non-parished areas the Regulations allow for the establishment of Neighbourhood Forums to enable such plans to be prepared. National Planning Practice Guidance sets out further information and an explanation of the key stages along with the relevant links to the legislation: <https://www.gov.uk/guidance/neighbourhood-planning--2>
- 5.3 The key stages of Neighbourhood Planning - and hence to which the Scheme of Delegations will apply - are set out below. The exception to this is the final making (adoption) of the plan which will remain a decision of Council and this stage is set out in **bold**):
- Designation of a Neighbourhood area: the Local Authority must do this within 8 weeks where the application is made by a Parish Council and follows those parish boundaries.

- Regulation 14 consultation: this six week consultation stage is run by the community preparing the plan (the Local Authority has a duty to advise and guide the community while the plan is being prepared in the run-up to this consultation stage, to help them ensure that it conforms to the Local Plan and complies with other statutory matters such as the requirement for Strategic Environmental Assessment for example). The Council is a consultee in this process and would submit its representations to the qualifying body (the organisation preparing the plan) as it would do to any other consultation.
- Regulation 16 Consultation. The community submits its draft plan to the Local Authority which needs to be satisfied that the plan complies with the relevant legislation. Provided this is the case, the Local Planning Authority must then consult 'as soon as possible' for a period of no less than six weeks and invite representations and notify the Consultation Bodies.
- The Local Authority must appoint an independent examiner (to be agreed with the Qualifying Body): the plan and accompanying documents and the representations must be submitted to the appointed examiner as soon as possible after the Regulation 16 consultation is complete. The examiner undertakes the examination and then issues a report to the Local Planning Authority and Qualifying Body.
- The Local Planning Authority publishes the report.
- The Local Planning Authority considers the report and reaches its own view². It has five weeks³ from the date the examiner's report is received to make a decision on whether to send the plan to referendum⁴
- On making its decision, the Council must then produce an Information Statement. It has 56 days to hold a referendum⁵ unless it agrees otherwise with the Qualifying Body or where it can be held on the same day as another poll (which extends the 56 day deadline to 65 days)⁶.
- Those eligible to vote have the opportunity to vote 'yes' or 'no' to the question 'Do you want Cannock Chase Council to use the Neighbourhood Plan for (insert name of Neighbourhood Area) to help it decide planning applications in the Neighbourhood Area?'
- **If the majority of the turnout votes in favour then Cannock Chase Council must make (adopt) the Neighbourhood Plan within eight weeks⁷ of the results of the poll being announced.**

² Except in the case of Community Right to Build orders where the report is binding

³ As required by the Neighbourhood Planning (General) and Development Management Procedures (Amendment) Regulations 2016.

⁴ There is some limited flexibility afforded by the legislation if agreement can be reached with the Town / Parish Council

⁵ In accordance with the Neighbourhood Planning (Referendum) Regulations 2012 (as amended).

⁶ Neighbourhood Planning (Referendums) Amendment Regulations 2016

<http://www.legislation.gov.uk/ukdsi/2016/9780111147757>

⁷ As required by the Neighbourhood Planning (General) and Development Management Procedures (Amendment) Regulations 2016.

- Subject to the decision to make (adopt) the Neighbourhood Plan, the District Council will need to publish the Decision Statement online and provide the decision statement to the Qualifying Body and anyone else who asked to be notified. The Neighbourhood Plan will be published online and prescribed persons notified accordingly.
- 5.4 The timescales set by the amended regulations are challenging and have been designed so in order to speed up the Neighbourhood Planning process across the country, hence the need to introduce Neighbourhood Planning into the Scheme of Delegations to ensure the Council is fulfilling its legal duties. However, by the time the decision to make (adopt) the plan is required, the Neighbourhood Plan will have been through several stages (including independent examination) to make sure it is legally compliant and meets the Basic Conditions, one of which is that it should be in broad conformity with the Local Plan.
- 5.5 For clarity it is considered that the definition of Neighbourhood Planning for the Scheme of Delegations should include all aspects of Neighbourhood Planning as set out in the Neighbourhood Planning (General) Regulations 2012 (as amended) which also includes Neighbourhood Development Orders and Community Right to Build Orders (should either be forthcoming in the District at some point in the future).

Supplementary Planning Documents

- 5.6 In terms of Supplementary Planning Documents, section 26.5.20 of the current Scheme of Delegations refers very specifically to the delegated powers of the Head of Economic Development to make any further minor amendments to the Design SPD in consultation with the Economic Development and Planning Portfolio Leader. There are other SPDs which have either been produced by the Planning Policy service (eg the Developer Contributions SPD) or which are in train (eg Rugeley Power Station SPD) so for the purposes of consistency it would be pragmatic to update the wording to state 'to make non substantive amendments to adopted SPDs in consultation with the Economic Development and Planning Portfolio Leader.'

6 Implications

6.1 Financial

Any costs associated with the proposed amendments to the Scheme of Delegations will be contained within existing approved budgets

Additionally, the government provides grants to support councils in meeting their statutory duties and £5,000 can be claimed per designated Neighbourhood Area, up to a maximum of five designations. A further £20,000 can be claimed after a successful referendum has been held (there is no limit on the number of Neighbourhood Plans this relates to).

6.2 Legal

Legal matters are set out throughout the report.

6.3 Human Resources

Neighbourhood Plans can be complex and time consuming. Work on these is currently absorbed by the Planning Policy team and without further dedicated human resources to Neighbourhood Planning being available other work programmes may need to be realigned to ensure that the Council is meeting its statutory duties as set out in the main body of this report. As the early stages of Neighbourhood Planning are driven by communities it can be difficult to plan for and predict likely timescales although there is more certainty once a plan reaches the Regulation 16 stage and beyond as these are the aspects of the process which are in the District Council's control (but still noting that the time a plan can be with an examiner can vary greatly depending on the issues the plan covers). The Local Authority has to be reactive to the timescales being set by others (ie the Qualifying Body in the early stages of plan making and the examiner in the later stages).

6.4 Section 17 (Crime Prevention)

There are no Crime Prevention implications specifically in the report.

6.5 Human Rights Act

The extensive consultation procedures provided for by the Planning & Compulsory Purchase Act 2004 cover human rights matters in terms of the Development Plan.

6.6 Data Protection

No issues arising directly as a result of this report although the Council has a duty to undertake specific duties in relation to Neighbourhood Planning, to which data protection legislation applies (e.g. consultation processes, referendum).

6.7 Risk Management

The timescales set by the amended regulations are challenging and have been designed so in order to speed up the Neighbourhood Planning process across the country, hence the need to introduce Neighbourhood Planning into the Scheme of Delegations to ensure the Council is fulfilling its legal duties. However, by the time the decision to make (adopt) the plan is required, the Neighbourhood Plan will have been through several stages (including independent examination) to make sure it is legally compliant and meets the Basic Conditions, one of which is that it should be in broad conformity with the Local Plan.

The National Planning Practice Guidance supports the use of delegated powers (Paragraph 023 Reference ID 41-023-20140306)

<https://www.gov.uk/guidance/neighbourhood-planning--2>

6.8 Equality & Diversity

No issues specifically arising from this report, however the Development Plan itself (and related documents) are subject to Equality Impact Assessment. Compliance with EU legislation (which includes equality and diversity) is a requirement of the Basic Conditions which a Neighbourhood Plan must meet.

6.9 Best Value

There are no Best Value implications arising directly as a consequence of this report.

7 Appendices to the Report

None

Previous Consideration

None

Background Papers

Legislation and National Planning Practice Guidance as referenced throughout the report

Local Plan Part 1 (adopted June 2014)

Design SPD (adopted April 2016)