

Report To: Cabinet

Date of Meeting: 4th January 2022

Report Title: Neighbourhood Plan - Scheme of Delegation

Report By: Victoria Conheady

Key Decision: N/A

Classification: Open

Purpose of Report

To seek Cabinet agreement on a Scheme of Delegation for Neighbourhood Planning purposes.

Recommendation(s)

1. That the Cabinet agrees that all decisions and responses in respect of Neighbourhood Planning be delegated to the Assistant Director for Regeneration and Culture in consultation with the Lead Councillor for Forward Planning, excluding decisions to make (adopt) a Neighbourhood Development Plan.

Reasons for Recommendations

To ensure that the Council, as Local Planning Authority, can execute its statutory duty to assist in the production of Neighbourhood Plans in accordance with the Regulations in a timely and efficient manner. The making (adopting) of a Neighbourhood Development Plan is a Full Council decision.

Background

- 1.1. The ability for a Neighbourhood Forum to produce a Neighbourhood Development Plan is contained within the Localism Act 2011. The Town and Country Planning Act 1990 (“the Act”) and the Neighbourhood Planning (General) Regulations 2012 (as amended by the Neighbourhood Planning (General) (Amendment) Regulations 2015) (“the 2012 Regulations”), provide the statutory process as to how a Neighbourhood Development Plan will be developed and implemented. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, introduced statutory timescales by which decisions relating to Neighbourhood Planning have to be made.
- 1.2. Neighbourhood Development Plans give communities the opportunity to set planning policies as Neighbourhood Development Plans which will form part of the development plan of a Local Authority once implemented and will sit alongside their Local Plan. The Council's responsibility as Local Planning Authority is largely technical in nature, for example advising on conformity with the Development Plan and checking that Neighbourhood Development Plans have followed correct procedures. Once made (adopted), a Local Planning Authority must consider a Neighbourhood Development Plan when deciding applications for planning permission, along with any other material considerations.
- 1.3. Decisions relating to the making of Neighbourhood Development Plans are an executive function (Cabinet) as they are not defined as development plan documents and are not included in the list of plans and strategies listed in Column 1 of the table to Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which require Full Council approval.
- 1.4. The decisions involved in the process of making a Neighbourhood Development Plan are largely technical or administrative in nature, however certain decisions, for example, the decision to hold a referendum or ultimately the decision to make the Neighbourhood Development Plan and bring it into force could be key decisions and as such should include councillor involvement.
- 1.5. When exercising our responsibilities in relation to the Neighbourhood Planning process, the Council as LPA is required to make efforts to conclude each stage promptly as certain decisions must be made within prescribed time periods as set out in the relevant Regulations.

Proposal

- 1.6. The process of making a Neighbourhood Development Plan is essentially technical or administrative and could be delegated to Senior Officers with input from the relevant Lead Councillor where appropriate. Officers are recommending that the proposed Scheme of Delegation to seek to obtain approval for all decisions and responses in respect of Neighbourhood Planning to be delegated to the Assistant Director for Regeneration and Culture in consultation with the Lead Councillor for Forward Planning, excluding decisions to make (that is adopt) a Neighbourhood Development Plan. This would be set out as follows:

Designation of Neighbourhood Plan Areas and Neighbourhood Forums

- 1.7. On receipt of a Neighbourhood Area application or Neighbourhood Forum application, it is recommended that the Assistant Director for Regeneration and Culture in consultation with the Lead Councillor for Forward Planning be given delegated authority to determine

applications relating to the area to be covered by a proposed Neighbourhood Plan or the group undertaking the development of the Neighbourhood Plan.

Representations on Emerging Plans

- 1.8. The Local Planning Authority has a duty to provide advice and assistance to Neighbourhood Planning Groups and it is proposed that authority is delegated to the Assistant Director for Regeneration and Culture to provide technical support and advice on Emerging Neighbourhood Plans in line with the relevant legislation and practice guidance and submit representations on behalf of the Council at the Regulation 14 Consultation and Examination stage. Prior to this, advice and support is given by officers on an informal basis.

Submission and Examination

- 1.9. On receipt of a draft Neighbourhood Plan submitted to it for independent examination, a Local Planning Authority must satisfy itself that it complies with all the relevant statutory requirements (outlined in Regulation 15) before publicising the draft Neighbourhood Plan and arranging an Independent Examination (outlined in Regulations 16 and 17). It is proposed that the Assistant Director for Regeneration and Culture be given delegated authority to determine whether the appropriate legal requirements (outlined in Regulation 15) have been met in relation to submission.
- 1.10. It is also proposed that the Assistant Director for Regeneration and Culture be given delegated authority to identify and appoint an appropriate person to examine the Neighbourhood Plan and to submit the Neighbourhood Plan to the examiner. The appointment must be made in conjunction with the Qualifying Body who submitted the plan (pursuant to Paragraph 7 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act)).

Referendum

- 1.11. Following the Independent Examination of a Neighbourhood Plan, the Examiner will publish a report recommending that the Neighbourhood Plan go to referendum as is, or, that the Plan with proposed modifications go for referendum, or that the Plan proposal be rejected. If a referendum is recommended the Examiner will indicate the area within which the referendum may be held. The Local Planning Authority must publish the Examiner's Report (as per Regulation 18) and take the decision as to whether to send the Neighbourhood Plan to referendum. Regulation 18 also provides that the Local Planning Authority must consider what action to take in relation to the recommendations in the Examiner's report and whether any modifications to the Plan are required. The Local Planning Authority must publish a decision notice in respect of any decision taken under Regulation 18 of the 2012 Regulations. On receipt of an Examiner's Report it is recommended that the Assistant Director for Regeneration and Culture, in consultation with the Lead Councillor for Forward Planning be given delegated authority to publish the Examiner's report, determine whether the Neighbourhood Plan should go to public referendum, make any modifications to the draft Plan to go forward to referendum and publish a decision statement in accordance with Regulation 19 of the 2012 Regulations and establish the area(s) within which the referendum on a proposed Neighbourhood Plan should be held, taking into account the views of the Independent Examiner.
- 1.12. However, prior to the referendum, a report for information, will be brought to Cabinet.

Making a Neighbourhood Plan

- 1.13. Following a referendum, Cabinet will decide whether to make the Neighbourhood Plan or not. Subject to the outcome of the referendum being in support of the draft Neighbourhood Plan, a report would be prepared following the referendum recommending the making of the draft Neighbourhood Development Plan.

Summary

- 1.14. In the absence of any detail in the Standing Instructions to Authorised Officers in Part 8 of the Council's Constitution, officers advise that approval is sought from Cabinet for a Scheme of Delegations in respect of specified functions and decision making under the Neighbourhood Planning process to delegate certain administrative and technical tasks to Senior Officers in order to ensure compliance with the time limits. This report recommends that all decisions and processes in respect of the Neighbourhood Planning Process be delegated to the Assistant Director for Regeneration and Culture, in consultation with the Lead Councillor for Forward Planning except for the making of the Neighbourhood Development Plan.
- 1.15. There are financial implications associated with the submission, publication and examination of a proposed Neighbourhood Development Plan. The costs associated with submission and publication will consist primarily of printing and postage. The cost of appointing an independent examiner will also incur costs, as will holding a referendum. Financial support is provided from the Department for Levelling Up, Housing and Communities and the total funding for each completed Neighbourhood Plan is c.£25,000, for each of the first five Neighbourhood Plans in any Council area. This direct support is to ensure that Local Planning Authorities receive sufficient funding to enable them to meet their legislative duties in respect of neighbourhood planning

Public Exemption

1. None

Timetable of Next Steps

2. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Adopt scheme of delegation as proposed	Cabinet 6 th December 2021	6 th December 2021	Planning Policy & Legal

Wards Affected

(All Wards);

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	N
Crime and Fear of Crime (Section 17)	N
Risk Management	N
Environmental Issues & Climate Change	Y
Neighbourhood plans provide the opportunity to support further climate change mitigation and adaptation measures at the neighbourhood level to help support the council's net-zero targets	
Economic/Financial Implications	Y
Human Rights Act	N
Organisational Consequences	N
Local People's Views	N
Anti-Poverty	N
Legal	N

Additional Information

Background papers:

1. The Neighbourhood Planning (General) Regulations 2012 –

http://www.legislation.gov.uk/ukxi/2012/637/pdfs/ukxi_20120637_en.pdf

2, The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 –

http://www.legislation.gov.uk/ukxi/2016/873/pdfs/ukxi_20160873_en.pdf

Officer to Contact

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