

<b>SUBJECT:</b>	Neighbourhood Areas, Plans and Development Orders – Scheme of Delegations
<b>REPORT OF:</b>	Sustainable Development Portfolio Holder - Cllr Nick Naylor
<b>RESPONSIBLE OFFICER</b>	Director of Services – Anita Cacchioli
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<b>WARD/S AFFECTED</b>	None

## 1. Purpose of Report

This report seeks approval to a scheme of delegations to deal with the Council's neighbourhood planning and development order functions. It also considers the level of publicity that should be given to such proposals.

The Leader has agreed to this report being considered as a matter of urgency as the Council is due to receive an application for designation of a neighbourhood area imminently and the process for dealing with such applications and subsequent neighbourhood plans, needs to be in place to meet the Council's statutory obligations.

### RECOMMENDATIONS

1. That Cabinet agrees a Scheme of Delegations for dealing with neighbourhood area applications, neighbourhood plans and neighbourhood development orders as set out in Appendix 1.
2. That to ensure the local community is fully aware of such applications/plan submissions, the level of publicity given exceeds the statutory minimum as described in paragraph 4.5 of this report

## 2. Executive Summary

- 2.1 The Localism Act 2011 introduced a new statutory regime for local communities to make neighbourhood plans and neighbourhood development orders. Regulations governing these processes are contained in the Neighbourhood Planning (General) Regulations 2012. Responsibility for the neighbourhood planning process is a cabinet function, with the decision to make a plan or order following a referendum, reserved to Full Council on the recommendation of the cabinet. In areas which are parished (as is the case for the whole of South Bucks District) neighbourhood plans and neighbourhood development orders can only be instigated by town or parish councils. To ensure the various procedural decisions required by the regulations are made as quickly and efficiently as possible and after appropriate member and local consultation, the scheme of delegations attached at Appendix 1 is recommended for approval.

- 2.2 The Regulations also make provision for publicity at various stages of the process, and it is recommended that this should go beyond the minimum required, which is publication on the District Council's website, to ensure that the local community is fully aware of any proposals.

### **3. Reasons for Recommendations**

This Council needs to arrange for the various procedural decisions on neighbourhood plans and development orders to be taken under the Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012, as quickly and efficiently as possible, after appropriate local consultation. The scheme of delegations proposed at Appendix 1 seeks to achieve this and provides for the making of plans/ orders following a referendum, to be approved by Full Council. To ensure that the local community is fully aware of any neighbourhood area application, draft submitted neighbourhood plan and/or neighbourhood development order proposals in their area, it is recommended that the level of publicity given to such proposals exceeds the statutory minimum required, which is publication on the District Council's website.

### **4. Content of Report**

- 4.1 Cabinet will be aware that the Localism Act 2011 introduced a new statutory regime for local communities to make neighbourhood plans or neighbourhood development orders. Neighbourhood Plans ("NPs") set out policies in relation to the development and use of land in a particular Neighbourhood Area. Neighbourhood Development Orders ("NDOs") grant permission for a specified type of development in relation to a particular neighbourhood area but cannot deal with County matters, nationally significant infrastructure and matters where there is a conflict with European legislation.
- 4.2 Regulations governing these processes are contained in the Neighbourhood Planning (General) Regulations 2012. In areas which are parished (as is the case for the whole of South Bucks District) NPs and NDOs can only be instigated by town or parish councils. Other elements of the 2012 Regulations govern what are largely administrative or technical decisions. Responsibility for the neighbourhood planning process is a cabinet function, with the decision to approve a Neighbourhood Areas or decisions related to a NP or NDO reserved to Full Council on the recommendation of the cabinet. To ensure the various procedural decisions required by the regulations are made as quickly and efficiently as possible, after appropriate local consultation, the scheme of delegations attached at Appendix 1 is recommended for approval. The regulations also make provision for publicity at various stages of the process, and it is recommended that this should go beyond the minimum required, which is publication on the District Council's website.

#### **Designating a Neighbourhood Area**

- 4.3 Before a NP or NDO can be submitted for consideration, a neighbourhood area needs to have been designated. Only a "relevant body" can apply for a neighbourhood area to be designated. A relevant body within South Bucks District is a town or parish council. Applications for the designation of a neighbourhood area must comply with criteria set out in the relevant regulations and include a map identifying the area of the application, an explanation of why this is considered an

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appropriate area for designation and confirmation that the body making the application is a “relevant body”. If a proposed neighbourhood area spans town or parish boundaries, the other Council’s consent must be obtained. Neighbourhood areas cannot overlap

- 4.4 The decision to designate a neighbourhood area is unlikely to be controversial and, in most cases will be based on parish boundaries. It is therefore recommended that the decision to accept an application and to designate a neighbourhood area is delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet Member for Sustainable Development.

#### **Publicity for the Neighbourhood Area and NP/NDO Process**

- 4.5 Applications for a neighbourhood area have to be publicised for public consultation and must be determined in 8 weeks. There are also various stages in the statutory process when public consultation must be carried out. This publicity/consultation should be consistent throughout the process. The only mandatory requirement is that the matter be publicised on the local planning authority’s (South Bucks) website. It is, however, considered that further publicity should be carried out to ensure the application is brought to the attention of local people. This would involve publicising the matter on the applicant’s website and/or in the town/parish newsletter (if there is one); posting a notice about the application, order or plan on the town/parish notice board (if there is one) or, in the absence of a community notice board, then in a prominent place in the town/parish. It is not considered this will be unduly onerous for the town/parish council, as the essence of neighbourhood planning is community engagement. It is therefore likely that any town or parish council embarking on a NP or NDO will want to advertise the process widely in their community anyway. However, a requirement to advertise in a local newspaper is considered too onerous and expensive, although, a press release could be issued, by the District Council. It is recommended that this level of publicity should be carried out at each stage in the neighbourhood planning process where regulations require publicity.

#### **Making a Neighbourhood Development Plan/Order**

- 4.6 The procedures for making NPs and NDOs are very similar. In each case specific pre-submission consultation and publicity must be carried out by the town/parish. Only one NP may be made for each neighbourhood area. Specific information must be submitted in each case before an application can be accepted. As the determination of whether a valid application has been received is an administrative matter, it is recommended that it be delegated to the Head of Sustainable Development to determine, following consultation with the relevant local member/s and the Cabinet member for Sustainable Development.
- 4.7 There is power to decline to consider a proposal for an NDO if it is a repeat proposal. That is, if during the last 2 years the Council as local planning authority has refused the same or a similar proposal, or in a referendum on the same or a similar proposal, less than half of those voting voted in favour of the proposal, and the authority consider there has been no significant change in relevant considerations (which are defined) since the refusal or the referendum. Publicity has to be given to this decision. The decision to decline must be made in accordance with set criteria and it is therefore recommended that this decision be delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet member Sustainable Development.

- 4.8 Once a valid application for a NP or a NDO has been received the authority must publicise the application. Following the publicity period the draft proposal must be submitted for independent examination, together with any representations received. The examination will usually be carried out by written representations. The examiner may be appointed by the authority, but only with the agreement of the town/parish council. The Secretary of State may appoint an examiner if expedient to do so.
- 4.9 The examiner will issue a report recommending either that
- the draft NP or NDO proposal be submitted to a referendum,
  - or that modifications (which are limited in scope) as specified in his report are made and the modified draft is submitted to referendum,
  - or that the proposal be refused.
- 4.10 If the examiner considers that the proposal does not meet the required conditions or the statutory requirements it cannot be submitted to a referendum.
- 4.11 The authority must consider each of the recommendations made by the examiner in their report and the reasons for them, and decide what action to take in response to each recommendation. Although a decision must be made in response to the recommendations by the examiner, this is constrained to a certain extent by the requirement to hold a referendum if the proposal complies with all the requirements. If the examiner's report contains no or only minor modifications it is recommended that the decision on these recommendations be delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet member for Sustainable Development.
- 4.12 If the examiner's proposed modifications are not minor it is recommended that the consideration of the recommendations and the decision on what action to take should be taken by the Cabinet. Whatever decision is taken following the consideration of the examiner's report, the reasons for that decision must be publicised.
- 4.13 If the authority decides to submit the proposal to a referendum either with or without modifications, it must make the NP or NDO if more than half of those voting, vote in favour of the proposal. As there is no discretion involved at this stage of the process any decision is effectively an administrative one. However, the NP or NDO then becomes a part of the development plan and will be used in planning decisions by the authority. Normally a policy document of this status would be considered by Cabinet and Council. It is therefore proposed that this decision will be taken by Cabinet and reported to Full Council.
- 4.14 The decision to make a NP or NDO and the making of that plan or order must both be publicised but this publicity can be combined and done at the same time.
- 4.15 There is also power to revoke or to modify a NP or NDO. It is recommended that the decision to make minor modifications to a plan or order should be delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet member for Sustainable Development. But changes that are more than minor and any revocation, should be a matter for the Cabinet to determine.

## 5. Options

- 5.1 The Council is required to deal with applications and make decisions on Neighbourhood Areas, NPs and NDOs in accordance with the relevant legislation and regulations. This function is the responsibility of the Cabinet to whom all decisions could be reserved. However, the decisions required are mainly administrative in nature and must be taken in accordance with prescribed criteria. They also need to be taken in accordance with set timescales. To avoid extra meetings of the Cabinet being called to take administrative decisions and deal with minor modifications/issues, a scheme of delegations to the Head of Service is proposed which includes consultation with local members and the relevant Cabinet Member. In any other case the matter would be reported to the Cabinet for determination. The decision to make a NP or NDO following a referendum, is also reserved to Full Council on the recommendation of Cabinet
- 5.2 The Council could only require the minimum level of publicity for proposals as set out in the Regulations, which is publicity on the local planning authority's (South Bucks) website. It is, however, recommended that further publicity should be carried out to ensure proposals are fully brought to the attention of local people, including publicity on the applicant council's website and/or newsletter (if there is one) and posting a notice on community notice boards or other prominent places in the town/parish. It is not considered this will be unduly onerous for applicants. The Council could also require proposals to be advertised in the local press but officers consider this would be too onerous and expensive.

## 6. Corporate Implications

### 6.1 Financial Implications

The financial implications of the processes set out in this report are in themselves minor. However, as the neighbourhood planning process as a whole is led by town and parish councils and involves the District Council in a duty to support them, as well as to arrange and pay for any necessary examination and referendum, the financial implications cannot be quantified at this stage and will be kept under review as formal decisions under the legislation are made.

### 6.2 Equalities Implications

It will be the role of the town and parish councils to carry out any necessary impact assessments of their neighbourhood planning proposals. The proposals for publicity contained within this report attempt to create awareness of neighbourhood planning proposals among the local community

### 6.3 Risk Implications

The major risks for the District Council are financial and resource based, as set out above. There are also risks associated with reputation if the District Council cannot, for technical reasons, accept a proposal put forward under neighbourhood planning provisions.

**7. Links to Council Policy Objectives**

This links to the objective of promoting local communities in the District through engagement with town and parish councils and local neighbourhoods.

**8. Next Steps**

An application is expected imminently from a parish council for designation of a neighbourhood area and this will need to be actioned.

<b>Background</b>	Localism Act 2011
<b>Papers:</b>	Planning and Compensation Act 2004 Town & Country Planning Act 1990 Neighbourhood Planning (General) Regulations 2012

Appendix 1

### **Recommended Neighbourhood Area, Neighbourhood Plan and Neighbourhood Development Orders Scheme of Delegation**

1. That the following actions in the neighbourhood planning process should be delegated to the Head of Sustainable Development, after consultation with the relevant local Member(s) and Cabinet Member for Sustainable Development:
  - a) Decisions on whether to accept and designate or modify a neighbourhood area under s61G of the Town and Country Planning Act 1990, as inserted by Schedule 9 of the Localism Act 2011;
  - b) Consultation responses to neighbourhood plans and neighbourhood development orders, before their formal submission as proposals to the Council;
  - c) Decisions on whether to decline to accept repeat proposals for neighbourhood plans or neighbourhood development orders under paragraph 5(1) of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;
  - d) Decisions on who to appoint as an examiner under paragraph 7(4) or 13(2) of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;
  - e) Decisions on recommendations in examiners' reports that propose no change or only minor changes to plans or orders pursuant to paragraph 12 of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;
  - f) Decisions on whether to modify neighbourhood plans and orders where the proposed modifications are only minor, whether or not recommended by the examiner.

2. Decisions on the validity and acceptance of applications for a neighbourhood plan or neighbourhood development order are delegated to the Head of Sustainable Development. The Head of Sustainable Development being required to inform relevant local ward member(s) within the relevant Neighbourhood Area and the Cabinet Member for Sustainable Development of decisions taken and where determined that a plan or development order is not found valid to provide reasons for the decision.
3. Decisions where the Council propose to disagree with an examiner's recommendation and the reasons for such a decision are delegated to the Head of Sustainable Development in consultation with the Cabinet Member for Sustainable Development, where the implications for the plan are minor. Authority is also delegated to the Head of Sustainable Development to undertake the necessary publicity and consultation to invite views on the Council's proposed decision(s).
4. Decisions to determine the referendum area are delegated to the Head of Sustainable Development taking into account the examiner's recommendation and the views of the Cabinet Member for Sustainable Development.
5. That the organisation of a Neighbourhood Plan and / or Neighbourhood Development Order referendum(s) be delegated to the Returning Officer.
6. That the decision whether or not to make a neighbourhood development plan or order shall be subject to the approval of Full Council at the recommendation of the Cabinet.