



SHEFFIELD CITY COUNCIL Cabinet Report

Report of: Simon Green, Executive Director, Place

Date: 18th December 2013

Subject: Neighbourhood Planning Decisions

Author of Report: Debbie Merrill (273 4212)

Purpose of the Report:

To inform Cabinet about the general principles of neighbourhood planning under the Localism Act, explain the role and legal obligations on the Council, and seek Members' approval for delegated powers to be given to officers in consultation with the responsible Cabinet Member to allow the new arrangements to be administered.

Summary:

The Localism Act 2011 gives neighbourhoods the opportunity to develop their own Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders to shape development in their local area in accordance with the Neighbourhood Planning Regulations 2012. This is a new and different approach which seeks to devolve a degree of planning control to local communities in certain circumstances.

The Council has a duty to support the process of Neighbourhood Planning. This includes a number of legal requirements, as set out in the Regulations, to publish and consult at various stages of the neighbourhood planning process. The Council must also fund the appointment of an independent Examiner and hold the referendum required. Details of the process for Neighbourhood Plans is set out at Appendix 1.

Reasons for Recommendations:

To agree a formal procedure for the way the Council handles the various aspects of Neighbourhood Planning introduced by the Localism Act

Recommendations:

It is recommended that the following decisions in the Neighbourhood Planning process, as defined in the Neighbourhood Planning (General) Regulations 2012, be

delegated to the Head of Planning, or in his/her absence, to the Forward and Area Planning Team Manager, such delegated authority to be exercised in consultation with the relevant Cabinet Member responsible for Planning:

- a) whether to accept an application for and designate a neighbourhood area or business area;
- b) whether to designate an organisation or body as a designated neighbourhood forum;
- c) whether an application for a neighbourhood development plan or order is valid and should be accepted;
- d) whether to decline or accept a repeat proposal for a neighbourhood development plan or order,;
- e) to appoint an examiner for a Neighbourhood Development Plan or Order;

That the following neighbourhood planning decisions are to be made by Cabinet:

- f) decisions as to what actions to take in response to an examiner's report;
- g) whether to modify neighbourhood development plans or orders;
- h) to submit to Full Council to adopt or make a neighbourhood development plan or order following a successful referendum.
- i) a decision that would ordinarily be taken by an officer pursuant to the delegations recommended in this report but where:-
 - any stage of the neighbourhood plan process has resulted in significant public objection and/or it is publicly contentious; or
 - neighbourhood planning proposals are considered to be a Key Decision because they significantly affect two or more wards

That responsibility for any other aspects of the executive statutory function relating to Neighbourhood Planning be delegated to the Director of Regeneration and Development Services.

Background Papers:

Neighbourhood Planning (General) Regulations (SI 2012 No 637)

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications
YES/ Cleared by: Catherine Rodgers
Legal Implications
YES Cleared by: Paul Bellingham
Equality of Opportunity Implications
NO Cleared by: Ian Oldersahw
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
/NO
Human resources implications
NO
Property implications
NO
Area(s) affected
Stocksbridge and Dore but potentially all areas of the City.
Relevant Cabinet Portfolio Leader
Leigh Bramall
Relevant Scrutiny Committee if decision called in
Economic and Environmental Wellbeing
Is the item a matter which is reserved for approval by the City Council?
/NO
Press release
NO

18 DECEMBER 2013

NEIGHBOURHOOD PLANNING DECISIONS

1 SUMMARY

- 1.1 The report is to inform Cabinet about the general principles of neighbourhood planning under the Localism Act, explain the legal obligations and the role of the Council in the neighbourhood planning process, and seeks Members' approval for delegated powers to be given to officers in consultation with the responsible cabinet member to provide a robust, clear decision-making framework for neighbourhood planning activities introduced under the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012.

2 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE?

- 2.1 The Localism Act 2011 gives neighbourhoods the opportunity to develop planning policy and shape development in their local area.
- 2.2 Neighbourhood Planning contributes directly to delivering the outcomes of the Strategic Core Objective:
- Great Place to Live – This outcome relates to the activities and assets that make local neighbourhoods attractive, safe accessible and vibrant so that Sheffield people feel happy and content about where they live.

3 OUTCOME AND SUSTAINABILITY

- 3.1 To approve a decision making framework in order to provide certainty to the plan making and decision making processes and enable decisions on Neighbourhood Planning to be taken in a timely manner.

4 BACKGROUND

- 4.1 In 2011 the Localism Act¹ introduced neighbourhood planning as a new way for communities to shape the future of their own area. It is not compulsory for neighbourhoods to do a plan. It is for communities to decide if they wish to be involved in neighbourhood planning.
- 4.2 The Localism Act brings forward three types of neighbourhood planning:
- (a) Neighbourhood Development Plan (NDP)
 - (b) Neighbourhood Development Order (NDO)
 - (c) Community Right to Build Order (CRtB)

¹ Section 116, Localism Act 2011

- 4.3 **Neighbourhood Development Plans** set out policies for the development and use of land in a particular neighbourhood area or business area, and so far across the country are by far the most common form of neighbourhood planning. This report focuses on the production of neighbourhood plans as this is likely to be the more common and more resource intensive, however a similar process is applicable to Neighbourhood Development Orders and Community Right to Build Orders.
- 4.4 **Neighbourhood Development Orders** are prepared by a forum set up in the same way as for a Neighbourhood Plan. They are a tool that can allow certain types of development in certain locations, without the need to submit a planning application to the Council, and can apply to all or part of a Neighbourhood Plan Area, or to a particular site within the neighbourhood. They can also be prepared as an alternative to a Neighbourhood Plan.
- 4.5 Their purpose is to simplify the planning system in a specified area, for example, by allowing changes of use or allowing certain types of built development that would normally need permission. As this is a new concept it is difficult to brief Members in more detail on specific uses that may be covered by an NDO but there is a formal preparation procedure for their creation. They are also subject to an examination by an independent person prior to approval by the Council. As such, they will be carefully vetted to ensure that they are used in a responsible way. The establishment of the forum is governed by the same requirements as for Neighbourhood Plan forums.
- 4.6 **Community Right to Build Orders** are a mechanism for delivering the 'Community Right to Build' and are a specific type of Neighbourhood Development Order. They enable community organisations to bring forward small scale, site specific, community-led developments, without the need to apply for planning permission. This might include, for example, proposals for new homes, business premises, or community facilities.
- 4.7 A community organisation, and not just a parish or town council or a neighbourhood forum, is able to develop a Community Right to Build Order, including in parished areas. However, to be eligible, at least half of the community organisation's members must live in the neighbourhood area to which the Community Right to Build Order will apply. The organisation must also exist for the express purpose of furthering the social, economic, and environmental well-being of individuals living or wanting to live in a particular area. The process for preparing and adopting a Community Right to Build Order is broadly the same as that for a Neighbourhood Development Order.
- 4.8 As with an NDO these Orders are a new concept so there are no examples with which to brief members, but the likely scenario would be that they will relate to a specific small site where the Order permits a specific use. Development on the site that accords with that permitted by the Order will not need a planning application. Again, the Council is closely involved in the preparation process, and they are subject to independent examination, so this should ensure that they are delivered in a responsible way. The Council will also need to be rigorous to ensure that any Community Organisation submitting an Order meets the requirements of the Act.

- 4.9 The process of neighbourhood planning is instigated and led by the community. The Council has a 'duty to support' neighbourhood planning which is a formal part of the planning process and the regulations are quite specific. This includes a number of legal duties and requirements as set out in the regulations². An example of a legal compliance checklist for neighbourhood plans is included at Appendix 2³.
- 4.10 In summary these are to:
- (a) confirm the geographical area of the proposed Neighbourhood Plan, and consider whether an area should be a business area;
 - (b) confirm the status of a proposed Neighbourhood Forum;
 - (c) provide expertise, advice and support to Neighbourhood Forums or Parish/Town Councils;
 - (d) validate and check a plan prior to submission to the independent examination;
 - (e) pay for and appoint an independent examiner;
 - (f) pay for and hold referendums⁴;
 - (g) legally adopt a Neighbourhood Plan as part of the Sheffield Local Plan.
- 4.11 As it is a new element to planning we have no procedures in place that set out how we will handle the various stages that we are required to address. To deal with this a procedure for decision making is proposed in this report and this is subject to recommendations for Members' consideration at the end of this report.
- 4.12 Good practice recommends that Ward Councillors should be encouraged to take on an advisory role helping and supporting any forum or parish council wishing to prepare a Neighbourhood Plan in their ward. The Planning Advisory Service has produced a simple neighbourhood planning guide for ward councillors. This is available to download from the PAS [website](#)⁵.

5 DECISION MAKING FOR NEIGHBOURHOOD PLANNING

- 5.1 The Act and the subsequent Neighbourhood Planning (General) Regulations 2012 confers specific functions on local planning authorities in relation to neighbourhood planning and requires them to take certain decisions. Many of these decisions are taken against set criteria where the element of discretion is limited, meaning that the process is administrative in nature. As such it is recommended that the majority of these decisions could be delegated to the Head of Planning, or the Forward and Area Planning Team Manager.
- 5.2 Neighbourhood planning is one of the Council's executive functions. Accordingly, under the Leader's Scheme of Delegation for the discharging of executive functions, Cabinet has the power to take any decisions required in this area.

² Neighbourhood Planning (General) Regulations 2012

³ Taken from the Planning Advisory Service website, October 2013 version.

⁴ Neighbourhood Planning (Referendums) Regulations 2012

⁵ www.pas.gov.uk/councillors-page/-/journal_content/56/332612/15322/ARTICLE

However, Cabinet also has the power to delegate some or all of these decisions to an Officer. In doing so Cabinet would retain its own decision making capability and it would be open to an Officer with delegated authority to escalate a matter to Cabinet if s/he considered this appropriate.

6 DEFINING A NEIGHBOURHOOD AREA AND DEFINING A NEIGHBOURHOOD FORUM

- 6.1 The regulations require neighbourhood areas to be defined as the first part of the process, and the Council has specific roles to carry out when a body submits an application to us. The regulations also guide how an application for a neighbourhood forum should be dealt with. The two processes are very similar so the approach below applies to both, with the slight variations highlighted.
- 6.2 A Town or Parish Council is the only body that can produce a neighbourhood plan in a 'parished' area. They therefore qualify as the responsible plan making body, so a specific forum application is not required. Outside of town or parish council areas, a community group has to comply with the regulations and apply to the local planning authority for designation as a neighbourhood forum
- 6.3 Once an application (for area or forum) is submitted, officers must assess it against the regulations to determine if the application is acceptable. If unacceptable, officers will write to the applicants to set out what the issues are and how they could be addressed.
- 6.4 If the Council considers the area to be 'wholly or predominantly business in nature', it can designate a neighbourhood plan area as a 'business area'. This is important because for a business area there have to be two referenda, one for residents and one for businesses. Business areas could, for example, include areas designated in the Development Plan as predominantly a district centre or local shopping centre, or as an existing or proposed strategic employment area, a business park, or a primarily industrial area, and where the proposed Neighbourhood Plan is intending to focus on land uses in that identified business area.
- 6.5 In submitting an application to be designated as a neighbourhood area, the submission must include a map showing the proposed area boundary. In some cases an application may cross the administrative boundary between Sheffield City Council and neighbouring authorities. In these circumstances, where the proposed neighbourhood area includes land in more than one administrative area, all the relevant processes and approvals must be completed by both councils pursuant to constitutional requirements.
- 6.6 When designating a neighbourhood forum a local authority must be satisfied that it is properly constituted and meets the conditions set out in the regulations⁶. This includes attempting to secure the membership of one or more ward councillors⁷. Once approved the neighbourhood forum will exist for five years. They can apply

⁶ 61F, Neighbourhood Planning (General) Regulations 2012

⁷ 61F(7)(a)(i), Neighbourhood Planning (General) Regulations 2012

for an extension, and in some circumstances the Council can decide to de-designate a forum e.g. if no progress is made, or a forum is no longer fulfilling its function, or another group wishes to be designated.

- 6.7 The Council has a duty to publish and consult at various stages of the neighbourhood planning process. As a result, at various points in this process, the local planning authority is required to make decisions to enable the plan to progress to the next stage. It is therefore necessary that the Council has a framework in place for taking such decisions. The basic process for neighbourhood plans is shown in the diagram in Appendix 1.
- 6.8 When the required consultation at each stage is completed officers will assess the responses to see if there are any reasons that the application should not be approved. If there are issues they will be explained to the applicant via a 'decision document' (for Neighbourhood Area Applications) or by a 'refusal statement' (for Neighbourhood Forum Applications) and these will be publicised as directed by the regulations and outlined below. If the proposal is acceptable the Council can proceed to designate the neighbourhood area/ business area or the neighbourhood forum.
- 6.9 **Publicising an application:** If it meets the requirements of the regulations it is then publicised for 6 weeks. To meet our obligations it will be published on the Council's website, and in any other suitable way that will bring it to the attention of people who live, work, or have a business in the area. This may include, for example, a notice published in the local newsletter or local free paper or local notice board. We will display details in the closest Council office or library or other suitable premises. We will inform the relevant responsible Cabinet Member, Local Area Partnership Chair, and the local ward Members
- 6.10 There are currently no designated neighbourhood areas in Sheffield. Appendix 3. contains a brief description of current neighbourhood planning activity within Sheffield.

7 EXAMINATION, REFERENDUM AND ADOPTION

- 7.1 **Appointment of the independent examiner:** For all types of neighbourhood planning, once the consultation stage of the draft neighbourhood planning proposal is completed and it is formally submitted to the Council, the next stage is an examination by an independent examiner. It is the Council's role to appoint the examiner in agreement with the parish council/forum. The examiner does not have to be an Inspector from the Planning Inspectorate, but does need to be independent of the Council and the parish council/forum. It is proposed that the Head of Planning or Forward and Area Planning Team Manager makes the appointment on behalf of the Council. It should be noted that the Council is expected to fund the examiner's fee and any other costs associated with the examination, so there are cost implications for the Council, see Section 10 'Financial Implications'.
- 7.2 **The examiner's report:** The report on the neighbourhood planning proposal will follow the examination. In the case of Neighbourhood Plans it will contain one of three recommendations: proceed to referendum, proceed to referendum subject to

certain amendments, or not proceed. It is for the Council to assess the report and decide whether the recommendations should be followed. In the case of a Neighbourhood Development Order or a Community Right to Build Order the Council has to decide whether to accept the recommendations in the examiner's report.

- 7.3 Officers will make an assessment of the examiner's report at that stage and Cabinet will decide what actions to take. The Council is required to publish a 'decision statement', including its reasons for the decision, details of where the decision can be inspected, and a copy of the report made by the examiner. A copy of the statement is also sent to the parish council/forum.
- 7.4 **The referendum:** Once the examination report and the decision statement by the Council have been completed and publicised, in cases when the proposed content is acceptable, a referendum is carried out with the local community. The national guidance on this part of the neighbourhood planning process was published by the Government in August 2012. The Regulations are technical in nature, setting out the details of the referendum process and procedures that the Council would have to follow. It is the responsibility of the Council to organise and fund the referendum, and this has cost implications, see Section 10 'Financial Implications'.
- 7.5 The referendum requires a simple majority (over 50%) of those who voted to support the proposal. If the proposal is rejected the forum need to consider how to proceed, but if the referendum shows support for the proposal it can proceed to adoption (in the case of a Neighbourhood Plan and become part of the development plan) or in the case of a Neighbourhood Development Order or a Community Right to Build Order it can be 'made'.
- 7.6 In the case of a Neighbourhood Development Order or a Community Right to Build Order, although not part of the Development Plan, they supplement the provisions of the Development Plan in their specific areas.
- 7.7 **Adoption:** Once adopted the Council has to publicise this decision and the Neighbourhood Plan forms part of the authority's Development Plan and is a material consideration when considering development proposals. In terms of the planning policy hierarchy, an adopted Neighbourhood Plan carries more weight than a Supplementary Planning Document.

8 POLICY IMPLICATIONS

- 8.1 There are no policy implications arising from the approval of a decision making process for neighbourhood planning. However, it should be noted that there are implications that may arise from the plan making process itself.
- 8.2 Once a neighbourhood plan has successfully passed all of the stages of preparation, including examination and a referendum, it is 'adopted' by the local planning authority, forms part of the authority's Development Plan, and is a material consideration when determining planning applications.

- 8.3 The Government's stated premise for neighbourhood planning is that by being more involved, neighbourhoods will be willing to accept more development⁸. If neighbourhoods are not willing to accept more development, this could conflict with the city's strategic requirements and in particular the five year supply of housing land (this issue is reported on in more detail in the Sheffield Local Plan item at the same Cabinet meeting).
- 8.4 An additional incentive for neighbourhoods to accept more development is if they have a neighbourhood plan, they will decide how to spend 25% of Community Infrastructure Levy (CIL) revenue received for development that has taken place in their area⁹. It is anticipated that from January 2015 the Council will adopt a local CIL to help provide infrastructure that the council and neighbourhoods require to help accommodate new growth from development.
- 8.5 Ideally the preparation of the Local Plan and neighbourhood plans will be in parallel, the progress of each informing the other. Neighbourhood plans will also be encouraged to set out their priorities for spending their portion of any CIL.

9 RESOURCES AND RISK

- 9.1 This report deals with establishing a new statutory process required by the Government's introduction of neighbourhood planning. However, there is also a statutory duty for local authorities to advise and assist¹⁰ with preparation of neighbourhood plans. Whilst there is no legal requirement to give financial assistance, the duty to advise and assist may require a similar amount or more human resources than processing neighbourhood plans.
- 9.2 Support and assistance must be proportionate to the nature of the plans being prepared, the stage reached in plan making, and the impact on the wider community; how this is to be done has been left for each local authority to decide. This is a resource challenge and the Council has to be realistic about what it can do if applications are to be processed in a cost effective and timely manner. To this end officers are currently working to establish the Council's approach to neighbourhood planning and the scope for integration with the Local Area Partnerships.
- 9.3 In addition there are the decision-making processes set out in this report which will involve staff time and costs in publicising proposals; considering comments received; and assessing submitted neighbourhood plans against strategic policies, and in cases where applications cross administrative boundaries includes liaison and agreement with officers and Members in neighbouring authorities. The costs of arranging both the examination and the referendum also fall to the local authority.

⁸ [Better Planning: from Principle to Practice](#), The Rt Hon Greg Clark MP speech at Localis in London (18/11/10)

⁹ The Community Infrastructure Levy (Amendment) Regulations 2013, section 59a.

¹⁰ Section 61E, Localism Act 2011

- 9.4 Staff resources to support neighbourhood planning will come mainly from the existing staff within the Forward and Area Planning team, with support as needed and agreed as necessary from other parts of the planning service, and with support from Legal Services.
- 9.5 In addition, the staffing resource to support a referendum will need to be provided by Electoral Services. The workload involved in administering a referendum will impact on this service, and there may be competing priorities dependant on the time of year that any referendum(s) is called. The cost of administering a referendum is difficult to predict as the cost will be dependent upon the time of year, (whether the timing coincides with an election), the size of the electorate and the number of polling stations required, and the cost of room hire and staff.

10 FINANCIAL IMPLICATIONS

- 10.1 The Government's current financial support to local planning authorities for neighbourhood planning is four payments at different stages of each plan¹¹. The amounts and stage when these can be claimed are:
- (a) £5,000 after neighbourhood area designation;
 - (b) £5,000 after neighbourhood forum designation;
 - (c) £5,000 when the neighbourhood plan is publicised prior to examination; and
 - (d) £20,000 on successful completion of the examination.
- 10.2 As stated all payments are retrospective and must be funded upfront from the Council's existing resources. In general terms, the costs of the independent examination and referendum are estimated to require the majority of the maximum total grant currently available.
- 10.3 The on-going work on the Council's approach to neighbourhood planning is looking at the feasibility of neighbourhood plans being cost neutral for the Council i.e. each plan not costing more than the £35,000 that can currently be recouped from grants. In addition to examination and referendum costs the Council has statutory duties to resource relating to various parts of the neighbourhood planning process, as well as a duty to advise and assist with the content of the plan. This will have to be met from the Council's existing resources.
- 10.4 From May 2013, grants from the government's 'Supporting Communities in Neighbourhood Planning' programme, of up to £7000 and/or direct support from suitably qualified professionals, is available to groups developing neighbourhood plans. This programme is led by 'Locality' and overall this fund is worth £9.5m with an up to 2 year lifespan. The Council may be asked hold this money on behalf of groups.

11 LEGAL IMPLICATIONS

- 11.1 Neighbourhood planning is part of the Government's initiative to empower 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 2012

¹¹ Currently available to 31st March 2014.

Regulations confer specific functions on local planning authorities in relation to neighbourhood planning. The Council is required to adopt procedures to process neighbourhood plans.

11.2 Attention is drawn to paragraph 5.2 of this report.

12 EQUALITY OF OPPORTUNITY IMPLICATIONS

12.1 This report is about process and decision making. The process outlined will be applied consistently regardless of the context and proposed content of a neighbourhood planning project. It is therefore considered that there is little scope for equality of opportunity implications for this report.

13 HEALTH INEQUALITY IMPLICATIONS

13.1 There are no health inequality implications to this report.

14 HUMAN RIGHTS IMPLICATIONS

14.1 The process for consultation, representations, and adoption of the neighbourhood plans conforms to national law that takes due account of human rights. As a part of the statutory development plan, Neighbourhood Plans will need to respect Human Rights legislation.

15 ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

15.1 There are no direct environmental and sustainability implications to the approval of a decision making framework. However, in respect of the Neighbourhood Planning process emerging Neighbourhood Plan policies and proposals should be screened at an early stage to ensure they are compatible with the EU Strategic Environmental Assessment Directive¹². The Council may be asked to do this on their behalf, known as a screening opinion.

15.2 In preparing a Neighbourhood Plan, parish councils and forums are required to check out what the potential impacts of a planning policy will be on an area, and in turn these can be used to advise on potential options. They are required to include a statement with their submitted plan that sets out how environmental, economic, and social impacts have been taken into account during plan preparation.

16 ECONOMIC IMPACT

16.1 There are no economic impact implications for this report.

17 COMMUNITY SAFETY IMPLICATIONS

17.1 There are no community safety implications for this report.

¹² Directive 2001/42/EC

18 HUMAN RESOURCES IMPLICATIONS

- 18.1 There are no human resources implications for this report. Staffing is addressed at section 10 above.

19 PROPERTY IMPLICATIONS

- 19.1 There are no property implications for this report.

20 ALTERNATIVE OPTIONS

- 20.1 This report recommends delegation of all decision making on neighbourhood planning, up to the point of the examination of a neighbourhood plan, to the Head of Planning, or in his/her absence the Forward and Area Planning Team Manager. Each application and submission will be discussed with the relevant Cabinet portfolio holder and the views of Ward Members, and Local Area Partnership Chair will be taken on board; allowing for contentious applications or issues to be considered at a higher level should this be necessary.
- 20.2 Alternative approaches that could be considered are:
- (a) Cabinet to always be the decision making body for all decisions about neighbourhood planning: this would have a number of implications:
- Slower and less responsive timescales for decision making for sometimes relatively minor and uncontentious issues.
 - Increased volume of reports on Cabinet agendas as reports are needed for each of the stages of decision making on neighbourhood planning.
 - Increased costs in terms of officer and Member time in terms of meeting the requirements of the Cabinet process.
- (b) Requesting the Leader to delegate all decisions about neighbourhood planning to the appropriate Cabinet Member: the implications of this would be:
- Increased volume of reports requiring Cabinet Member decision, as reports are needed for each of the stages of decision making on neighbourhood planning.

21 REASONS FOR RECOMMENDATIONS

- 21.1 The recommendations are supported by the following reasons:
- (a) to enable the Council to meet its duties under the Localism Act 2011, and Neighbourhood Planning (General) Regulations 2012 with respect to Neighbourhood Planning.
- (b) to cover all of the procedural steps which are required to allow a Neighbourhood Plan, Neighbourhood Development Order, or Community Right To Build Order to progress to adoption by the Council.

22 RECOMMENDATIONS

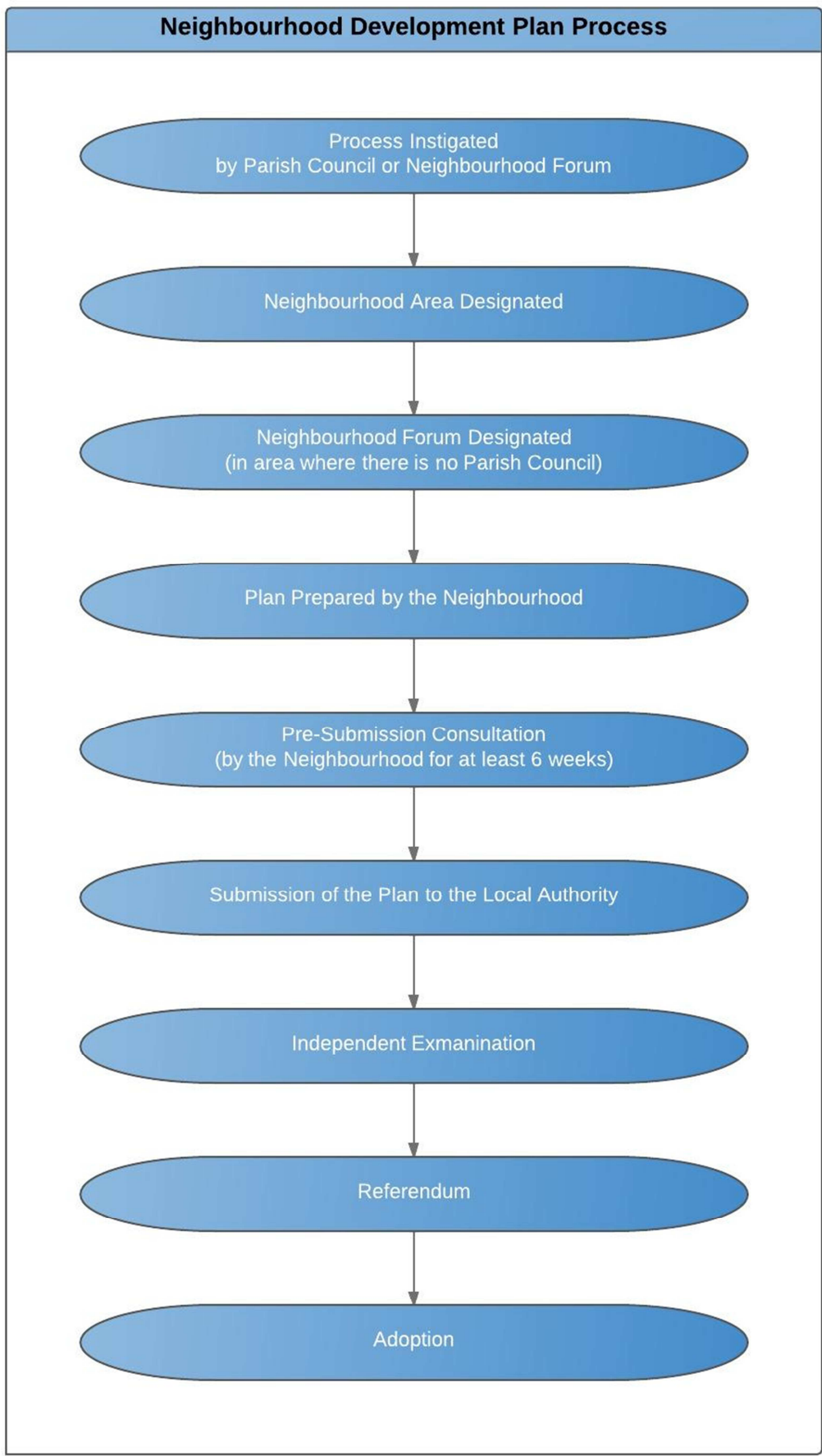
Cabinet is recommended to agree:-

- 22.1 That the following neighbourhood planning decisions, as defined in the Neighbourhood Planning (General) Regulations 2012, be delegated to the Head of Planning, or, in his/her absence, to the Forward and Area Planning Team Manager, such delegated authority to be exercised in consultation with the relevant Cabinet Member responsible for Planning (currently the Cabinet Member for Business, Skills and Development):
- a) whether to accept an application for and designate a neighbourhood area or business area;
 - b) whether to designate an organisation or body as a designated neighbourhood forum;
 - c) whether an application for a neighbourhood development plan or order is valid and should be accepted;
 - d) whether to decline or accept a repeat proposal for a neighbourhood development plan or order,
 - e) to appoint an examiner for a Neighbourhood Development Plan or Order;
- 22.2 That the following neighbourhood planning decisions are to be made by Cabinet:
- f) decisions as to what actions to take in response to an examiner's report;
 - g) whether to modify neighbourhood development plans or orders;
 - h) to submit to Full Council to adopt or make a neighbourhood development plan or order following a successful referendum;
 - i) a decision that would ordinarily be taken by an officer pursuant to the delegations recommended in this report but where:-
 - any stage of the neighbourhood plan process has resulted in significant public objection and/or it is publicly contentious; or
 - neighbourhood planning proposals are considered to be a Key Decision because they significantly affect two or more wards;
- 22.3 That responsibility for any other aspects of the executive statutory function relating to Neighbourhood Planning be delegated to the Director of Regeneration and Development Services.

Simon Green
Executive Director, Place

December 2013

APPENDIX 1: OUTLINE OF THE NEIGHBOURHOOD DEVELOPMENT PLAN PROCESS



APPENDIX 2: LEGAL COMPLIANCE CHECKLIST FOR LOCAL AUTHORITIES:

Meeting the requirements of the legal process for neighbourhood Development Plans

Taken from the Planning Advisory Service Website.

The following provides a simple checklist to the tasks which need to be completed by the local planning authority. Reference to regulations and schedules, unless otherwise stated, are to the Neighbourhood Planning (General) Regulations 2012. Where relevant, references are also included to the Town and Country Planning Act 1990 as amended.

Task	Complete (✓)	
1	designating the area of the NDP	
A	<p>When an application for the designation of a neighbourhood area is received, the LPA should check that the application contains the information listed in Regulation 5 namely:</p> <ol style="list-style-type: none"> 1. A map identifying the area 2. Statement explaining why it is considered an appropriate neighbourhood area 3. Statement that the organisation making the application is a relevant body. <p>If it doesn't, the application should be returned.</p>	
B	<p>The LPA should check the relevant body hasn't already submitted an area application that has not yet been determined. If it has, the LPA should consider whether the application should be declined</p>	
C	<p>If the area application is promoted by a Parish Council, the LPA should check that the area application either covers part of or the entire parish.</p> <p>If the area application is promoted by a potential neighbourhood forum, the LPA should check that the area does not cover all or part of a parished area.</p>	
D	<p>The LPA should publicise the application for area designation and invite representations for a period of not less than 6 weeks.</p> <p>The information to be publicised is:</p> <ol style="list-style-type: none"> 1. A copy of the area application 2. Details of how to make representations 3. Details of the deadline for representations (Regulation 6). <p>This should be publicised on the website and in such other manner as is considered likely to bring the area application to the attention of people who live, work or carry on business in the area to which the area application relates.</p>	
E	<p>In determining the application the following must be considered:</p> <ol style="list-style-type: none"> 1. how desirable it is to designate the whole of the parish area as a neighbourhood area, and 2. how desirable it is to maintain the existing boundaries of areas already designated as neighbourhood areas (as areas designated as neighbourhood areas must not overlap), as well as 3. whether the area should be designated as a business area in accordance with Section 61G and H of the TCPA 1990. 	
F	<p>The need to modify an existing neighbourhood area, should be checked in accordance with Section 61G and 61H of the TCPA 1990. In making a modification consideration should be given as to whether the area should be designated as a business area</p>	

G	<p>If the area application is approved the decision must be publicised on the website and the following details provided:</p> <ol style="list-style-type: none"> 1. the name of the neighbourhood area 2. a map identifying the area 3. the name of the parish council or neighbourhood forum who applied for the designation <p>(Regulation 7)</p>	
H	<p>If the application is refused the publicity on the website must include:</p> <ol style="list-style-type: none"> 1. the decision and statement of reasons (called a decision document) 2. the details of where and when the decision document can be inspected) <p>(Regulation 7).</p>	
I	<p>A map setting out all the current neighbourhood areas designated must be published on the website and the map should indicate those which are business areas</p>	
2	designating a neighbourhood forum (if relevant)	
A	<p>Arrangements must be made to make people aware of the right to make applications to be designated as a neighbourhood forum for a neighbourhood area (1990 Act 61F (5))</p>	
B	<p>When a neighbourhood forum application is submitted a check that the application contains the information listed in Regulation 8 must be made. If it contains the information then section 2C of this checklist is the next step. If the application does not contain all the information, the application should be returned.</p> <p>The application received should include:</p> <ol style="list-style-type: none"> 1. Name of the proposed neighbourhood forum 2. Copy of its written constitution 3. Name of the neighbourhood area to which application relates and a map which identifies the area. 4. Contact details of at least one member that can be made public 5. Statement explaining how the proposed forum meets the following conditions: <ol style="list-style-type: none"> a) Is established to promote or improve the social, economic and environmental well-being of an area that consists of or includes the neighbourhood area for the NDP (this can also relate to businesses) b) Has 21 individual members and membership is open to the following groups : <ul style="list-style-type: none"> • people living in the area • People who work there • County council, district or London borough councillors for the area c). Has a written constitution. 	
C	<p>The forum application must be publicised and representations invited for a period of not less than 6 weeks and include details of how to respond to the consultation, in accordance with Regulation 9.</p> <p>This should be publicised on the website and in such other manner as is considered likely to bring the area application to the attention of people who live, work or carry on business in the area to which the application relates.</p> <p>The publicity should also include a statement that if a designation is made no other organisation or body may be designated for that neighbourhood area until that designation expires or is withdrawn.</p>	

D	<p>In deciding whether to designate the proposed forum the LPA must be satisfied that the organisation or body meets the conditions set (see 2B above) and: it has taken reasonable steps to secure membership from each of the three groups identified from different places in the neighbourhood area concerned and from different sections of the community; and its purpose reflects the character of the area (Regulation 7).</p> <p>Only one organisation or body must be designated as a neighbourhood forum for a neighbourhood area and only where the area does not include a parish.</p>	
E	<p>When a decision has been made on designation, the decision should be publicised on the website in accordance with Regulation 10. This should include</p> <ol style="list-style-type: none"> 1. the name of the forum 2. a copy of the written constitution 3. the name of the area to which the designation relates 4. contact details of at least one member of the forum 	
F	<p>If it is decided to refuse to designate the forum, a refusal statement must be issued and included on the website setting out the reasons and details published of where and when the statement can be inspected (Regulation 10)</p>	
G	<p>A neighbourhood forum designation can be withdrawn when requested by that neighbourhood forum or if it is considered that the forum is no longer meeting the conditions of approval. If this happens a 'withdrawal statement' must be published and details of where and when it can be inspected. (Regulation 12 and 1990 Act 61F (9))</p>	
3	Preparation of the NDP	
A	<p>The LPA should provide advice or assistance in the preparation of the NDP.</p>	
4	Receipt and assessment of the draft NDP by the Council	
A	<p>The draft NDP should be checked to ensure it is not a 'repeat' proposal. If so, the LPA can decline to consider the plan (1990 Act Schedule 4B para 5 and regulation 18).</p>	
B	<p>The draft plan should be checked to ensure it meets the criteria in the Localism Act e.g. the body submitting it is authorised to act; and that the regulations have been complied with including the minimum 6 week pre-submission consultation and confirmation sought where necessary.</p> <p>It should be checked that the draft plan submitted (regulation 15) includes:</p> <ol style="list-style-type: none"> 1. a map or statement identifying the area to which the plan relates, 2. the consultation statement - which contains details of those consulted (how they were consulted, summarises the main issues and concerns raised and how these have been considered, and where relevant addressed in the proposed NDP) 3. the proposed NDP, 4. a statement explaining how the NDP meets the 'basic conditions' i.e. requirements of para 8 schedule 4B to the 1990 Act 5. Where appropriate - information to enable appropriate environmental assessments if required e.g. The information that will enable an assessment under the Conservation of Habitats and Species Regulations 2010 or the Environmental Assessment of Plans and Programmes Regulations 2004 	
C	<p>The LPA must notify the parish council or neighbourhood forum whether or not it is satisfied that the relevant documents have been submitted and that the requirements of the legislation and regulations have been met. If it is not satisfied then the LPA must give reasons and issue a decision statement, in accordance with Regulation 19 and also Schedule 4B, paragraph 6 (4) (b) and para 8 of the TCPA 1990.</p>	

D	If the LPA accepts the application then it must publicise the NDP in accordance with Regulation 16 for not less than 6 weeks and invite representations. It must also notify the bodies referred to in the submitted consultation statement	
5	Examination	
A	If satisfied that the plan meets the requirements of the 1990 Act, the LPA must appoint a suitable examiner and agree the appointment with the parish council or designated neighbourhood forum that submitted the plan.	
B	The LPA must submit the draft NDP, supporting documents and any representations to the Independent Examiner as soon as possible in accordance with Regulation 17 and Regulation 102A of the Conservation and Habitats and Species Regulations 2010.	
C	The LPA must coordinate the arrangements for the examination in consultation with the Examiner.	
D	When the Examiner's Report is received the LPA must arrange for publication as soon as possible.	
E	The LPA must consider each of the Examiner's recommendation and decide what action to take in response. (E.g. make modifications to make the plan meet the basic conditions, extend the area for the referendum, decide it is not satisfied with the plan). At this stage the LPA must be satisfied that the draft plan meets the basic conditions, is compatible with the Convention rights and complies with the definition of an NDP and the provisions that can be made by a NDP as set out in Regulation 15 and Schedule 2, and Section 4B (6) and 8 of the TCPA 1990. The basic conditions are: <ol style="list-style-type: none"> 1. Has regard to national policy and guidance from SoS 2. Contributes to sustainable development 3. Is in general conformity with the strategic policy of the development plan for the area or any part of that area 4. Doesn't breach or is otherwise compatible with EU obligations – this includes the SEA Directive of 2001/42/EC 5. The making of the NDP is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species regulations 2010(d) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats &c) regulations 2007 9(e) (either alone or in combination with other plans or projects)) 	
F	The LPA must consider if the decision proposed differs from the Examiner's recommendations. If so, it should be considered in accordance with Schedule 4B, paragraph 13 of the TCPA 1990.	
G	The LPA must publicise its decision in a decision statement (Regulations 18 and 19) and send a copy to the parish council or neighbourhood forum and anyone who asked to be notified.	
6	Referendums	
A	The LPA should liaise with electoral services in the relevant Council to coordinate the referendum arrangements.	
B	It is likely that the planning department will be asked by electoral services to contribute to the drafting of an information statement (Regulation 4 of the Neighbourhood Planning (Referendums) Regulations 2012. This must include a statement that sets out general information on town and country planning (and neighbourhood planning).	
C	If both a residential and a business referendum are required they must be held on the same day. In the case where a business referendum will be held not less than 56 days, and for residential referendum at least 28 days before the referendums electoral services in the relevant Council must publish the information statement and specified documents on the Council website and make it available for inspection at the main offices of the Council and at least one other premises open to the public (Regulation 4 of the Neighbourhood Planning (Referendums) Regulations 2012	

D	<p>If a residential referendum results in a 'yes' vote (i.e.50% plus 1), the decision on the NDP must be publicised and reasons for the decision – called a 'decision statement Regulation 18 and 19)). In a designated business area where two referendums are held, if in one but not the other more than half of those voting have voted in favour of the plan a decision must be made as to whether to accept the plan proposal. The decision statement setting out whether the plan proposal is accepted must be publicised (Regulation 18 and 19). If there is a 'No' vote and the plan proposal is declined the decision statement (Regulation 18) must be publicised on the website</p>	
E	<p>As soon as possible after deciding to make the NDP under Section 38A(4) of the 2004 Act the NDP and details of where and when the plan may be inspected must be published on the website (Regulation 20)</p>	

APPENDIX 3: SHEFFIELD ACTIVITY

- 1.1 To date there has been three applications for neighbourhood planning in the city, at **Stocksbridge**, **Dore Village** and **BBEST** (Broomhill, Broomfield, Endcliffe, Somerfield and Tapton).
- 1.2 Stocksbridge Town Council has submitted a neighbourhood area application. The proposed neighbourhood area covers the whole of Stocksbridge Town Council area in the Sheffield Planning Authority, but excludes the part in the Peak District National Park Authority (part of Bolsterstone village and land to the south east). As required we have publicised the application for six weeks. A draft delegation report for the approval of the Stocksbridge Neighbourhood Area is included at Appendix 3. as an example of the type of decision this report is seeking to delegate.
- 1.3 Five comments on the proposed Stocksbridge neighbourhood area were received, all supportive. This includes the Bolsterstone Community Group; they support the proposed boundary even though it excludes part of Bolsterstone. For the excluded part of the Stocksbridge Town Council area, they are satisfied by the existing protection provided by the National Park designation.
- 1.4 The Dore Village Society has also applied to designate a neighbourhood area and we have publicised this for a six week period. However, in response to comments received they have withdrawn their first application and submitted an amended boundary, and have already submitted a forum designation application. Their proposed boundary extends into the Peak District National Park Authority. This neighbourhood area and forum application is expected to be publicised by both planning authorities once outstanding legal issues have been addressed.
- 1.5 There has also been an expression of interest from **Ecclesfield** Parish Council in producing a neighbourhood plan..

APPENDIX 4: DELEGATION REPORT EXAMPLE - STOCKSBRIDGE NEIGHBOURHOOD AREA DESIGNATION

1. INTRODUCTION

- 1.1. Stocksbridge Town Council is working with the Stocksbridge Design Statement Group on a neighbourhood plan. They have submitted an application to Sheffield Planning Authority to designate a neighbourhood area, which is the first stage in the neighbourhood plan process.
- 1.2. The Stocksbridge Town Council application to designate a neighbourhood area is valid in terms of the information submitted¹³:
 - (a) a map identifying the proposed neighbourhood area;
 - (b) a statement explaining why the proposed neighbourhood area is considered appropriate;
 - (c) a statement that Stocksbridge Town Council is a relevant neighbourhood planning body.
- 1.3. All of the Stocksbridge Town Council area is in the boundary of Sheffield City Council. However, some of it (part of Bolsterstone village and land to the south east) is outside the Sheffield Planning Authority and is in the Peak District National Park Authority.
- 1.4. Including the whole of the Stocksbridge Town Council area in the neighbourhood area would require the involvement of both Sheffield Planning Authority and the Peak District National Park Authority in the neighbourhood planning process. It is possible to do this but is more complicated.
- 1.5. The proposed neighbourhood area covers the whole of Stocksbridge Town Council area in the Sheffield Planning Authority boundary, but excludes the part in the Peak District National Park Authority. This is illustrated by the map accompanying this report.

2. STOCKSBRIDGE NEIGHBOURHOOD AREA – CONSULTATION SUMMARY

- 2.1. Sheffield City Council consulted on the proposed Stocksbridge Neighbourhood Area from 11th March to 22nd April 2013.
- 2.2. The following steps were taken to publicise the neighbourhood area application¹⁴:
 - area application available from:
 - Council's website (www.sheffield.gov.uk/stocksbridge-plan)
 - Stocksbridge Library
 - Stocksbridge Town Hall in the Council Chamber
 - posters in Stocksbridge, Deepcar, Bolsterstone, Midhapestones and Green Moor
 - wrote to North Community Assembly and Sheffield Local Plan contacts

¹³ Paragraph 5, Part 2 Neighbourhood Areas, Neighbourhood Planning (General) Regulations 2012

¹⁴ Paragraph 6, Part 2 Neighbourhood Areas, Neighbourhood Planning (General) Regulations 2012

- notified Ward Councillors, Cabinet Lead and the Planning and Highways Committee chair
- wrote to planning authorities neighbouring the proposed area
- used the Council's email alert system (to those registered as interested in Planning)
- tweeted from @SCC_Planning_BC
- added to Sheffield Planning's "What's New" webpage

- 2.3. The neighbourhood area consultation is about the proposed boundary of the neighbourhood area. It is not about whether or not there should be a neighbourhood plan.
- 2.4. Six comments were received. One did not relate to the boundary being consulted on. The other five were all in favour of the proposed boundary. Three comments were received from Bolsterstone residents and Bolsterstone Community Group. The Don Valley Railway and English Heritage also commented.
- 2.5. Bolsterstone Community Group supported the proposed boundary even though it excludes the part of Bolsterstone that is in the Peak District National Park Authority. For the excluded part of the Stocksbridge Town Council area they are satisfied by the existing protection provided by the National Park designation.

3. STOCKSBRIDGE NEIGHBOURHOOD AREA – PLANNING ASSESSMENT

- 3.1. Sheffield Planning Authority must ask the following questions¹⁵ when deciding whether to designate a proposed neighbourhood area:

(a) *How desirable it is to designate the whole of the parish area as a neighbourhood area?*

All of the Stocksbridge Town Council area in the Sheffield Planning Authority boundary is in the proposed neighbourhood area. Stocksbridge Town Council has not applied to the Peak District National Park Authority, whose decision it would be, to designate the rest of the Stocksbridge Town Council Area as part of the neighbourhood area. Irrespective of this though, nobody has disagreed with the exclusion of the Peak District National Park Authority part of the Stocksbridge Town Council area.

(b) *How desirable it is to maintain the existing boundaries of areas already designated as neighbourhood areas (neighbourhood areas must not overlap)?*

There are no designated neighbourhood areas in Sheffield or nearby.

(c) *Should the area be designated as a business area?*

The area is not wholly or predominantly business in nature, so it should not be designated as a business area.

(d) *Are there any valid planning reasons to deviate from the boundary which has been submitted?*

No.

¹⁵ Section 61G and H of the TCPA 1990

4. CONCLUSION

- 4.1. Recommend that Sheffield City Council designate the Stocksbridge Neighbourhood Area as proposed by Stocksbridge Town Council.

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