

<b>Report To:</b>	<b>EXECUTIVE CABINET</b>
<b>Date:</b>	19 October 2016
<b>Executive Member/ Reporting Officer:</b>	Councillor John Taylor, Deputy Executive Leader  Damien Bourke, Assistant Executive Director – Development, Growth and Investment
<b>Subject:</b>	<b>NEIGHBOURHOOD PLANNING - POLICY AND PROCEDURES</b>
<b>Report Summary:</b>	<p>The opportunity for Neighbourhoods to influence the future of their area is a principle established in the National Planning Policy Framework (NPPF).</p> <p>It should be recognised that the establishment of neighbourhoods and areas is a positive step in engaging local areas to influence how development growth can be accommodated.</p> <p>This report explains the background to Neighbourhood Planning; outlines the responsibilities of the Council as Local Council; and recommends operational procedures for dealing with applications to establish Neighbourhood Forums, Neighbourhood Areas and then sets out the extent of involvement that the Council will have in the development of Neighbourhood Plans. Following on from this, and once a procedure has been established, the council will consider an application for a Neighbourhood Forum and Neighbourhood Area in Denton South.</p>
<b>Recommendations:</b>	<p>That Executive Cabinet:</p> <ul style="list-style-type: none"> <li>(i) Approve the operational procedures for meeting the Council's responsibilities in relation to Neighbourhood Planning as set out in Section 4.</li> <li>(ii) RECOMMEND TO Council that to approve that the designation of a Forum or Area should be delegated and determined by the Strategic Capital and Planning Panel following the publication of applications for Neighbourhood Forums and Areas undertaken by the Executive Director – Place in consultation with the Borough Solicitor.</li> <li>(iii) Approve the proposed outline Service Framework as the basis on which the Council will provide support to the development of Neighbourhood Plans following designation of Neighbourhood Forums and Areas noting that current resources are very limited.</li> </ul>
<b>Links to Community Strategy:</b>	Neighbourhood Planning is a recognised model that supports the Community Strategy by enabling people to get actively involved in the life of the community and contribute to a prosperous local economy.
<b>Policy Implications:</b>	Neighbourhood Planning introduces formal development plans at a community level which must be taken into account when making planning decisions. A neighbourhood plan can only be

developed, examined and considered for adoption following the Council's initial determination of an application to establish a neighbourhood forum and area.

**Financial Implications:  
(Authorised by the Section  
151)**

The cost of a referendum and examination will vary by area but need to be funded in advance and can only be recovered if a plan is ultimately adopted. The referendum costs which will need to be undertaken by Democratic Services are not accounted for in the budget.

In respect of an urban area such as Tameside the estimated cost of holding a referendum and examination is £25,000, budget provision will need to be identified.

**Legal Implications:  
(Authorised by the Borough  
Solicitor)**

Taking the recommended action will allow the Council to comply with its duties under the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012, as amended

**Risk Management:**

The Council is required to determine an application to establish a neighbourhood forum and area, without any pre-conception regarding the content of a future neighbourhood plan. By not considering the application to establish a neighbourhood forum and area the Council would be in breach of the Neighbourhood Planning Regulations.

**Access to Information:**

The background papers relating to this report can be inspected by contacting the report writer, Peter Taylor by:



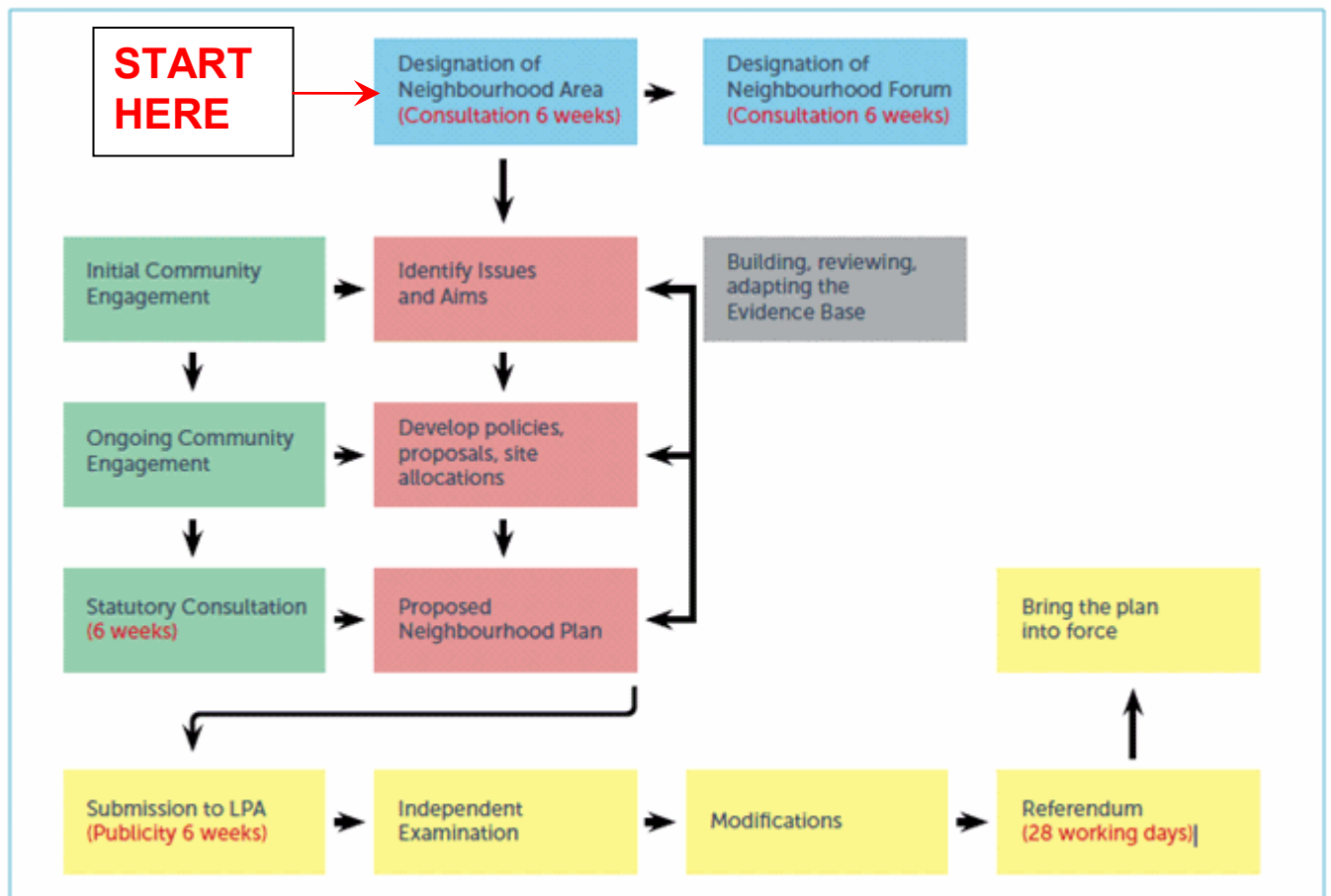
Telephone:0161 342 5242



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## 1. BACKGROUND

- 1.1 Under the Town and Country Planning Act 1990 (as amended), the Council as Local Planning Authority has a statutory duty to assist communities in the preparation of neighbourhood plans and to take plans through a process of examination and referendum. The Localism Act 2011 (Part 6 chapter 3) sets out the Council responsibilities as:
- Designating a forum
  - Designating the area that the forum covers
  - Advising or assisting communities in the preparation of a neighbourhood plan
  - Checking a submitted plan meets the legal requirements
  - Arranging for the independent examination of the plan
  - Determining whether the neighbourhood plan meets the basic conditions and other legal requirements
  - Subject to the results of the referendum in the designated area bringing the plan into force.
- 1.2 In overall terms, Neighbourhood Plans are one of a suite of documents that form part of the statutory planning framework for an area but conform with the councils own Local Plan. However, an Neighbourhood Plan allows local residents and businesses to have their own planning policies in a neighbourhood plan that reflect their priorities, deliver tangible local benefits and have real weight in planning decisions. Paragraph 184 of the National Planning Policy Framework (NPPF) makes it clear that a Neighbourhood Plan must be in general conformity with the strategic polices of the area and should positively support them. Neighbourhood Plan's should not promote less development than set out in a borough wide plan or undermine its strategic policies. The idea of Neighbourhood Forums and Plans often come about from a local Community desire to prevent or control development. Advice and experience is quite clear that whilst the Community may come together because of concerns over a particular, and potentially imminent, development proposal in their area, the Neighbourhood Plan is not the correct mechanism to deal with it. Plans look forward and take time to develop – any planning proposals or applications put forward in advance of a Neighbourhood Plan have to be dealt with through normal planning processes.
- 1.3 A Neighbourhood Plan is a community-led framework for guiding the future development and growth of an area. It may contain a vision, aims, planning policies, proposals for improving the area or providing new facilities, or allocation of key sites for specific kinds of development. Neighbourhood plans relate to the use and development of land and associated social, economic and environmental issues. It may deal with a wide range of issues (like housing, employment, heritage and transport) or it may focus on one or two issues that are of particular importance in a local area.
- 1.4 Neighbourhood Plans are subject to examination and referendum and then form part of the Council's own adopted Local Development Plan. This statutory status gives Neighbourhood Plans far more weight than some other local planning documents, such as Supplementary Planning Documents for example. Extensive guidance is available to both the Council and those groups and residents wishing to develop a plan at [www.mycommunity.org.uk](http://www.mycommunity.org.uk) and the general planning process for developing Neighbourhood Plans is shown below:



Source: *Locality Roadmap – Quick Guide*

## 2.0 ESTABLISHING NEIGHBOURHOOD FORUMS AND AREAS AND NEIGHBOURHOOD PLANS

2.1 The starting point for progressing with a Neighbourhood Plan is for community representatives to seek to establish a Neighbourhood Forum and Neighbourhood Area and the legal requirements for doing this are set out in the Town and Country Planning Act 1990 as amended by the Localism Act 2011. Procedures are set out in:

- The Neighbourhood Planning (General) Regulations 2012
- The Neighbourhood Planning (General) (Amendment) Regulations 2015 and;
- The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.

2.2 Once community representatives have sought to establish the forum, the first stage for the Council is to determine any application made to establish Neighbourhood Forums and Areas. This requires the Council to publicise the application and then assess whether the applications satisfy the Neighbourhood Planning Regulations, and, in light of any representations received following publicity, determine whether to designate the Forum and/or Area. At this stage the Council is only entitled to consider whether the establishment of the Forum and the area proposed are relevant and appropriate and that the proposed Forum meets the criteria set out in the Localism Act. **In considering the establishment of the Forum and Area the Council must not pre-judge what the content of a Neighbourhood Plan should be.**

- 2.2 Seeking to establish a Neighbourhood Forum should be seen as a positive step as both the Forum and any subsequent Neighbourhood Plan will need to be developed in the context of, and alongside, the emerging Greater Manchester Spatial Framework and Tameside Local Plan. In this respect any Neighbourhood Plans will need to deal with the future of an area and are not a tool to simply prevent development from happening.

### 3.0 NEIGHBOURHOOD FORUM AND AREA APPLICATIONS

- 3.1 Sections 61F(5) and 61G of the Localism Act set out definitions and requirements to be satisfied in order that either a Neighbourhood Forum or Area may be designated. They can be considered in either order, or simultaneously. The headline requirements and determining matters for designating a Neighbourhood Forum (where no Parish Council exists) under section 61F(5) are summarised below:

*A local planning authority may designate an organisation or body as a neighbourhood forum if the authority is satisfied that it meets the following conditions—*

- (a) it is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists of or includes the neighbourhood area....*
- (b) its membership is open to—*
  - (i) individuals who live in the neighbourhood area concerned,*
  - (ii) individuals who work there (whether for businesses carried on there or otherwise),*
  - and*
  - (iii) individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,*
- (c) its membership includes a minimum of 21 individuals each of whom satisfies (b) above,*
- (d) it has a written constitution, and*
- (e) such other conditions as may be prescribed.*

- 3.2 In determining whether to designate a Neighbourhood Forum the Local Planning Authority, which is the Council must have regard to the extent to which the group applying for designation have satisfied the membership criteria set out above. This includes ensuring that, in the interest of equality and balance, that membership is drawn from different places and different sections of that community in that area, and whose purpose reflects (in general terms) the character of that area. The Council may only designate one forum per area, can only designate the forum if an application has actually been made, and must give reasons if the designation is refused.

- 3.3 In terms of defining a “neighbourhood area ” the meaning is set out in section 61(G) which in summary states (excluding reference to Parish Councils) that a “*neighbourhood area*” means “*an area within the area of a local planning authority in England where a relevant body has applied to the authority for an area specified in the application to be designated by the authority as a neighbourhood area, and the authority are determining the application.*”

In other words if an application is received to designate an area by a recognised or designated body (such as a Neighbourhood Forum) then the Council should approve it unless there are overriding concerns that the area selected is inappropriate. Section 61(G) also defines a “relevant body” which, excluding Parish Councils, is effectively any organisation or body which is capable of being designated as a neighbourhood forum. In other words they are capable of meeting the requirements of section 61(5) set out in 3.1 above.

- 3.4 The Act also defines that an application made by any organisation must not be one that consists of or includes the whole or any part of the area of parish council. If a proposed area does not conflict with Parish Council boundaries then the Council will have limited grounds to justify objecting to the boundary.

### **The Application Process**

- 3.5 The 2012 Regulations as amended in 2015 and 2016 set out the procedures to be followed in determining an application for the designation of either a Neighbourhood Forum or Area. These now require an application to be designated as a Forum to include:
- (a) the name of the proposed neighbourhood forum;
  - (b) a copy of the written constitution of the proposed neighbourhood forum;
  - (c) the name of the neighbourhood area to which the application relates and a map which identifies the area;
  - (d) the contact details of at least one member of the proposed neighbourhood forum to be made public under regulations 9 and 10; and
  - (e) a statement which explains how the proposed neighbourhood forum meets the conditions contained in section 61F(5) of the 1990 Act. *(As set out in 3.1 above)*

An application to designate a neighbourhood area must include:

- (a) a map which identifies the area to which the area application relates;
  - (b) a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
  - (c) a statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the 1990 Act.
- 3.6 The Council is encouraged not to delay the determination of such applications. If the Council as the Local Planning Authority is satisfied that the application(s) meet the necessary requirements then it is required to publicise the applications on its website and by such other means considered likely to bring the application(s) to the attention of people who live, work or carry on business in the area to which the application(s) relate. The Council must also specify details of how to make representations to the Council regarding the application(s) and the date by which they should be received which must be not less than 6 weeks from when the application(s) are first publicised.
- 3.7 The 2015 and 2016 amendments to the regulations now prescribe dates for the determination of neighbourhood forum and area applications. Where the applications(s) fall within a single planning authority area and are not made by a Parish Council then the Council has 13 weeks from the date immediately following the date of publication of the application(s) in which to determine them. There is no indication or prescription within the regulations describing the implications of failing to determine the applications by the prescribed date, but this would result in the Council failing to meet statutory requirements.
- 3.8 As soon as possible following determination of the neighbourhood forum and/or area applications the Council is required to publicise the decision in a similar manner to which the applications(s) themselves were publicised. Should the decision be taken to refuse to designate a neighbourhood forum and/or area then the Council must similarly publicise that decision in the form of a "refusal statement" setting out the reasons for making that decisions and providing details of where and when the refusal statement may be inspected.
- 3.9 Having made a decision to designate a Neighbourhood Forum and Area the designation ceases to have effect at the end of a 5 year period from the day on which it is made. The Council may also withdraw the designation if it considers that the Forum is no longer meeting the basis on which the designation was approved. For example if there is evidence that the Forum is not operating within the terms of the approved constitution or is no longer meeting the requirements of the Localism Act or associated Regulations. This could potentially include situations where the Forum is not making decisions in accordance with the approved constitution or are purposefully seeking to prevent otherwise sustainable development from taking place without justified planning reasons. A change in membership alone is not the basis on which a designation would cease to have effect, as long as the overall number and composition of the membership satisfies the basis on which designation was made.

#### **4.0 PROPOSED OPERATIONAL PROCEDURES FOR DEALING WITH NEIGHBOURHOOD FORUM AND AREA APPLICATIONS**

4.1 In order that the Council may adequately and transparently deal with applications to establish Neighbourhood Forums and Areas it is recommended that Executive Cabinet set clear requirements and procedures for the submission and determination of applications. With regard to the format of applications submitted in accordance with 3.5 above the Council specifically requires:

- (i) A completed application form in the format attached at **Appendix 1**, or similar.
- (ii) The basic written constitution of the proposed neighbourhood forum to be in the format set out at **Appendix 2**, which is a model recommended by "Locality" (the leading nationwide network of settlements, development trusts, social action centres and community enterprises endorsed by DCLG).
- (iii) The written constitution to additionally include an Equalities Statement
- (iv) Any area Map produced on an Ordnance Survey base at an appropriate scale with the proposed area boundary clearly delineated in red and legible street names.

4.2 Following receipt of the appropriate application forms, statements, written constitution and area map officers will assess the submission for initial compliance with the Regulations and it is proposed that the decision to publicise the application for the prescribed period of not less than six weeks is undertaken by the Executive Director – Place in consultation with the Borough Solicitor. In order to satisfy the Regulations it is recommended that the application details are published, including details of how to make representations, for a period of six weeks :

- (i) On the Strategic Planning homepage of the Council's website
- (ii) By notice in the Local Newspaper
- (iii) By notice in Local Libraries/Community Centres within the area proposed to be covered by the Forum.

4.3 At the end of the publication period a report will be prepared to the next available Strategic Capital and Planning Panel by the Executive Director - Place setting out any representations received, assessing the impact of any representations on the application(s), and recommending whether the Forum and/or Area should be designated, amended or refused.

#### **5.0 THE DEVELOPMENT OF NEIGHBOURHOOD PLANS**

5.1 Once designated, Neighbourhood Forums are responsible for developing the Neighbourhood Plans themselves, with support from bodies such as Planning Aid England, and can apply for revenue support from CLG to develop their plans. Generally speaking a Plan can take around 18 months to 2 years from conception to adoption. The Neighbourhood Forum has to accept however that development proposals coming forward during that period cannot be put on hold simply pending the progression of the Neighbourhood Plan.

5.2 The Council is required to liaise with the Forum as their plan is developed, but otherwise the principal activities of the Council arise when a draft Neighbourhood Plan is submitted. The Draft Plan has to meet some basic conditions under the Town and Country Planning Act 1990 (inserted by the Localism Act). These are that the draft Plan:

- (i) Has regard to national policy and guidance
- (ii) Contributes to sustainable development
- (iii) Is in general conformity with the strategic policy of the development plan for the area
- (iv) Does not breach, or is otherwise compatible, with EU obligations including the Strategic Environmental Assessment (SEA) Directive

- 5.3 Having received the submitted draft plan the Council is required to:
- (i) Check that any submitted draft plan complies with all relevant statutory requirements
  - (ii) Take an initial view on whether the “basic conditions” are satisfied
  - (iii) Pay for and arrange the Independent Examination of the plan.
  - (iv) If the draft plan passes examination then pay for and arrange the referendum
  - (v) If ratified at the referendum, publicise the neighbourhood plan and bring it in to force.
- 5.4 The cost to the Council of arranging the examination and referendum activities can only be recovered from CLG if and when the Neighbourhood Plan is actually adopted. Indications are that, setting aside officer time, the referendum and examination for a Neighbourhood Plan within an urban area could be in the order of £25,000.
- 5.5 There are resource requirements to liaise and administer the development of a Neighbourhood Plan. Dealing with a single proposal could potentially be absorbed in terms of staff time but this would present challenges in terms of progressing the GMSF and the Tameside Local Plan and so additional resources are likely to be required. In terms of staff costs to undertake this work, there is potential to share staff resource with Neighbouring Authorities but this would take some time to put in place and would clearly impact on the staffing costs of the planning service, which is not currently factored into the establishment costs.
- 5.6 In terms of the costs of a referendum and examination, these will vary by area but would need to be funded in advance and can only be recovered if a plan is ultimately adopted. As a consequence there is a direct impact on both the planning services budget and democratic services who will need to run any referendum, which is not factored into the existing budgets and would be a significant budget pressure if a the Council was not able to recover the costs.
- 5.7 In order to provide some clarity and manage expectations of Neighbourhood Forums it is recommended that the Council identifies the basic level of resource that it will commit to developing a Neighbourhood Plan in the form of a Service Level Framework. A suggested draft Framework is attached at **Appendix 3** to ensure that the Councils resource commitment is understood from the outset.

#### **Other General Points relevant to the Neighbourhood Planning Process**

- 5.8 Once adopted any planning applications in the area need to be assessed against the policies and requirements of the Neighbourhood Plan. This can influence the type, layout and design of development as well as identifying how and where section 106 contributions, where justified and necessary to allow a development to proceed, should be prioritised. This could relate to local highways, health, education and parks/open space provision for example. This cannot be achieved however through an arbitrary contribution” or “development tax” but must specifically be required to mitigate otherwise adverse impacts of a development proposal. Neighbourhood Plans do provide local communities with much greater influence over the future of their area
- 5.9 Neighbourhood Plans have, to date, predominantly been developed by established bodies such as Parish Councils, and Forums in urban areas such as Tameside are still fairly unusual. Neighbourhood Forums (and the development of plans) often rely on a core group of committed individuals within the community to take them forward. Should these individuals lose their desire, or are simply unable to continue due to other pressures, there is a danger that the Forum may fold. Neighbourhood Plans and Forums are required to be reviewed every 5 years and there is no specific requirement to maintain a Neighbourhood Plan, or renew it, if it becomes out of date.



## **6.0 CONCLUSION**

- 6.1 Under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, the Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and to take plans through a process of examination and referendum.
- 6.2 In areas that are not covered by Parish or Town Councils, the Council as Local Planning Authority can designate bodies that apply to be established as Neighbourhood Forums subject to appropriate requirements of the Localism Act and the associated Neighbourhood Planning Regulations being met. Having received an application to establish a Neighbourhood Area and Forum it is important for the Council to establish appropriate internal policies and procedures in order to ensure that its responsibilities are met and that decision making is transparent.

## **7. RECOMMENDATIONS**

- 7.1 As set out on the front of the report.