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| Report to: | EXECUTIVE CABINET |
| Date: | 24 August 2022 |
| Executive Member: | Cllr Jan Jackson – Executive Member (Planning, Transport and Connectivity) |
| Reporting Officer: | Nick Fenwick – Interim Director of Place |
| Subject: | MOSSLEY NEIGHBOURHOOD PLAN - AREA DESIGNATION |
| Report Summary: | <p>The opportunity for neighbourhoods to influence the future of their area is a principle established in statute and identified within the National Planning Policy Framework.</p> <p>The establishment of Neighbourhood areas is a positive step in engaging local areas to influence how development and growth can be accommodated.</p> <p>This report considers the designation of the Mossley Neighbourhood Area in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), following an application by Mossley Town (Parish) Council, as a relevant body for the purposes of section 61(G) of the Town and Country Planning Act 1990.</p> |
| Recommendations: | <p>That Executive Cabinet be recommended to:</p> <ul style="list-style-type: none"> (i) Note the contents of this report; (ii) Approve the application by Mossley Town (Parish) Council to designate the Mossley Neighbourhood Area as shown on the Maps at Appendix 1; (iii) Note the proposed publication of the fact of this decision, as soon as possible after it has been made, in accordance with the mechanisms at paragraph 5.1 and the Neighbourhood Planning (General) Regulations 2012 (as amended); and (iv) Note that the Council as Local Planning Authority will support the Town Council with Neighbourhood Planning activities in accordance with the 'Neighbourhood Planning Service Level Framework' as approved by Executive Cabinet (19 October 2016 item number 5 refers) and presented at Appendix 3. |
| Corporate Plan: | Neighbourhood Planning is a recognised model that supports the Corporate Plan by enabling shared decision making with communities and enabling them to reflect the corporate priorities within their policies as these are developed. |
| Policy Implications: | <p>The Council is required to consider the designation of proposed neighbourhood plan areas under its obligations prescribed in The Neighbourhood Planning (General) Regulations 2012. Designation of a neighbourhood plan area allows for the production of a neighbourhood plan for that area. A neighbourhood plan, once adopted following a referendum, is a formal development plan that sits alongside the Council's adopted Unitary Development Plan and must be taken into account when determining planning applications.</p> <p>A neighbourhood plan can only be developed, examined and</p> |

considered for adoption following the Council's initial determination of an application to establish a Neighbourhood Area.

The neighbourhood plan is not for the Council, but for the community to prepare which have applied for recognition as a relevant body and sought designation of a Neighbourhood Area.

Financial Implications:

(Authorised by the statutory Section 151 Officer & Chief Finance Officer)

The Department for Levelling Up Housing and Communities have recently announced (30 June 2022) that non recurrent funding is available to support the vital role of local authorities in the neighbourhood planning process.

A sum of £5,000 can be claimed to support the costs associated with the provision of advice or assistance by the local authority to qualifying bodies to facilitate proposals for neighbourhood development plan orders.

In addition a sum of £20,000 can be claimed by the local authority (for areas where a neighbourhood plan has not previously been made) to support costs associated with the issue of a decision statement detailing their intention to send the plan to referendum should this be necessary during the process.

These aforementioned funding levels are currently only applicable for the 2022/23 financial year. It should be noted that confirmation of funding allocations beyond this financial year are not currently known. Therefore at this stage the sum of £5,000 to support advice and assistance should be claimed as stated in the letter of 30 June 2022 previously referenced with further updates on the process provided to Members at a later date.

Legal Implications:

(Authorised by the Borough Solicitor)

The Council's obligations with regards to neighbourhood planning are set out in the Neighbourhood Planning (General) Regulations 2012 details of which are set out in the main body of the report. However, whilst we are required to do this it is highly unlikely the cost of doing so will be covered by any grant funding particularly given the cost of the referendum required. This needs to be addressed and considered in line with the Places for Everyone process.

Risk Management:

Failure to consider the designation of the proposed neighbourhood plan area would mean the Council is in breach of its obligations as prescribed in The Neighbourhood Planning (General) Regulations 2012. The Council is required to determine the application without pre-conception regarding the content of any future neighbourhood plan.

Background Information:

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| Appendix 1 | Application Area Map from Mossley Town (Parish) Council and Supplemental TMBC plan; |
| Appendix 2 | Application from Mossley Town (Parish) Council; |
| Appendix 3 | Service Level Framework |

The background papers relating to this report can be inspected by contacting Graham Holland:



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1. INTRODUCTION

- 1.1 Neighbourhood planning allows local residents and communities under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, to develop their own planning policies in a neighbourhood plan that reflect their priorities. Neighbourhood planning gives communities the power to develop a shared vision for their neighbourhood and shape the development and growth of their local area through the production of neighbourhood plans.
- 1.2 Decisions to undertake neighbourhood planning often arise from a community aspiration to prevent or control development. However, experience is clear that while a community may come together because of concerns over a particular or potentially imminent development proposal in their area, Neighbourhood Planning is not the correct mechanism to deal with that concern. Instead, once designated, relevant bodies such as Town/Parish Councils and Neighbourhood Forums are responsible for preparing their plan positively and should ensure they are forward looking.
- 1.3 A neighbourhood plan can, if taken forward successfully by a community, form part of the Borough's development plan alongside the Unitary Development Plan, GM Joint Waste Plan, and GM Joint Minerals Plan. Its policies would have weight in planning decisions.
- 1.4 A neighbourhood plan should support the delivery of strategic policies as set out in existing plans and shape and direct development, whilst conforming with the Council's priorities. The Localism Act 2011 details a number of 'basic conditions' that all neighbourhood plans are required to meet. These conditions require neighbourhood plans to:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area); and
 - not breach and be otherwise compatible with, EU obligations.

In addition a neighbourhood plan must be compatible with the Human Rights Act 1998.

- 1.5 The primary role of the local planning authority in neighbourhood planning is not to prepare the plan itself, or undertake this on behalf of or with the local community. Instead the Local Planning Authority is to take decisions at key stages in the process and within the time limits that apply, as well as to provide some advice or assistance to the body making the neighbourhood plan.
- 1.6 The plan, which is prepared by the community, will ultimately be subject to future independent examination following its submission to the Council as Local Planning Authority. Following examination, by an independent inspector, a referendum would then need to be held in the designated area which has to be organised by the Council and, subject to the results, the plan potentially brought into effect. The Department for Levelling Up, Housing and Communities has made available funding of £20,000 for local planning authorities to claim for areas where a neighbourhood plan has not previously been made. This funding can be claimed from when the LPA issues a decision statement detailing their intention to send the neighbourhood plan to referendum, rather than when a referendum date has been set. This funding has however only been confirmed for 2022/23, future funding beyond this is not currently known. The referendum costs which will need to be undertaken by democratic services are not accounted for within current budgets.

2. NEIGHBOURHOOD AREA APPLICATIONS

- 2.1 The legal requirements for establishing a Neighbourhood Area are set out in the Town

and Country Planning Act 1990 as amended by the Localism Act 2011. The 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 Upon receipt of a valid application for the designation of a Neighbourhood Area the local planning authority would normally need to publicise that application and then assess whether the application satisfies the regulations, and in light of any representations received, determine whether to designate the Area.

2.3 However, there are instances whereby an application, which is received is from a Town (Parish) Council, and the area sought to be designated is concurrent with the existing Town (Parish) Council area, no such publicity requirement exists, and therefore the Council, as Local Planning Authority, is able to determine the application as made.

2.4 At this stage the Council is only entitled to consider whether the application is valid and if the establishment of the Area proposed is appropriate. In considering the establishment of the area the Council must not pre-judge what the content of any future Neighbourhood Plan may be.

2.5 In terms of defining a 'neighbourhood area' the meaning is set out in section 61(G) of The Town and Country Planning Act 1990 which in summary states:

"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".

2.6 In other words, if a valid application is received to designate an area by a recognised or designated body, then the Council should approve it, unless there are overriding concerns that the area selected is inappropriate.

2.7 Regulation 5(1) of The Neighbourhood Planning (General) Regulations 2012 (as amended) sets out the information that must be included in an application for it to be valid. The application 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 61(G) of the Town and Country Planning Act 1990.

2.8 For the purposes of receiving such applications, the Council's Executive Cabinet¹ resolved to approve the use of an application form² to help guide the format of submitted information, as is provided on the Council's website. While in this instance Mossley Town (Parish) Council has not made use of that form, a statement against the above points has been provided for the application.

2.9 The Council is encouraged not to delay the determination of such applications if it is satisfied that the application meets the necessary requirements and publicise the outcome as soon as is possible.

¹ <https://tameside.moderngov.co.uk/documents/s10819/ITEM%20%20-%20Neighbourhood%20Planning%20-%20FINAL.pdf>

² <https://www.tameside.gov.uk/TamesideMBC/media/Planning/Model-Neighbourhood-Forum-Application-Form.pdf>

3. MOSSLEY NEIGHBOURHOOD AREA APPLICATION

- 3.1 An application to designate a Neighbourhood Area has been received by the Council as the Local Planning Authority from Mossley Town (Parish) Council.
- 3.2 The application was submitted following a meeting and resolution of the Town (Parish) Council on 16 June 2021. As the application has been made by a Town (Parish) Council and the area to which the application relates is the whole of the Town (Parish) Council area (as shown on the Maps at **Appendix 1**), no requirement exists to publicise it³, as would normally be required for applications submitted by Neighbourhood Forums.
- 3.3 While there is no prescription within the relevant regulations as to the timescales to determine the application before the Council, nor any implications for not doing, not determining the application would result in the Council failing to meet its statutory requirements.

4. DECISION

- 4.1 As established above, Mossley Town (Parish) Council has made an application requesting the designation of a Neighbourhood Area, known as the Mossley Neighbourhood Plan Area.
- 4.2 The application together with an area map has been submitted. The application and associated documents are attached as follows:
- **Appendix 1** - Application Area Map from Mossley Town (Parish) Council and Supplemental TMBC plan; and
 - **Appendix 2** - Application from Mossley Town (Parish) Council.
- 4.3 In accordance with the regulations, the application has not been advertised and therefore no consultation responses need to be considered.
- 4.4 In the first instance, it is considered that a valid application has been made and secondly that the Town (Parish) Council are a relevant body for the purposes of the Act.
- 4.5 Thirdly it is considered that to refuse the application or seek amendments to the boundary as proposed would require evidence that the Town Council were seeking to include an area that was inappropriate, as the area sought to be designated was beyond the normal influence of the local community that the Town Council represented. Additionally the Council is directed by national guidance to designate all of the area applied for in circumstances where a Town (Parish) Council applies for the whole of their parish to be designated.
- 4.6 In this instance as the application area replicates the boundary of the Town (Parish) Council, it is considered that practical alignment is shown to exist with the Town Council's current and functional community boundaries and therefore its area of influence and representation of the local community.

5. CONSIDERATION

- 5.1 It is considered that the proposed Mossley Neighbourhood Area application complies with the requirements of the appropriate legislation and regulations and should be designated accordingly and the decision be publicised via the mechanisms as set out below:

Post Decision Publication Mechanisms

³ Regulation 5A Town and Country Planning, England. The Neighbourhood Planning (General) Regulations 2012 (as amended) <https://www.legislation.gov.uk/ukxi/2012/637/data.pdf>

As soon as possible after the designation of the Neighbourhood Area, the Council as Local Planning Authority intend to publish the details of the decision, setting out:

- *the name of the neighbourhood area;*
- *a map of the area; and*
- *the name of the relevant body who applied for the designation.*

This information will be published:

- *on the Planning Policy section of the Council's website; and*
- *contact will be made with all members of the Council's Planning Policy database.*

5.2 The Council as Local Planning Authority will, as is required and detailed within the 'Neighbourhood Planning Service Level Framework' at **Appendix 3** (approved by Executive Cabinet 19 October 2016), liaise with the Town Council as their plan is developed. The principal activities of the Council as Local Planning Authority, following designation of the area, arise once a draft of the Neighbourhood Plan is submitted. While it is not for the Council to prepare the plan, there will be resourcing implications in supporting the statutory obligations as needed.

6. RECOMMENDATIONS

6.1 As set out at the front of the report.