



Author/Lead Officer of Report:
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Report of: Executive Director, Place

Report to: Cabinet

Date of Decision: 15th March 2017

Subject: Neighbourhood Planning - Updated Decision Making Framework

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	

Which Cabinet Member Portfolio does this relate to? **Infrastructure and Transport**

Which Scrutiny and Policy Development Committee does this relate to?
Economic and Environmental Wellbeing Scrutiny and Policy Development Committee

Has an Equality Impact Assessment (EIA) been undertaken? Yes No

If YES, what EIA reference number has it been given? *(Insert reference number)*

Does the report contain confidential or exempt information? Yes No

If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-

“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”

Purpose of Report:

For Cabinet to consider and approve revised decision making arrangements for Neighbourhood Planning (originally approved 18th December 2013) to allow the Council to meet new statutory timescales for decision making.

Recommendations:

Cabinet is recommended to agree:

(i) That all decisions involving any aspect of the executive statutory function relating to Neighbourhood Planning be delegated to the Head of Planning, in consultation with the Director of Creative Sheffield. Such delegated authority to be exercised in consultation with the relevant Cabinet Member responsible for Planning (currently the Cabinet Member for Infrastructure and Transport) PROVIDED THAT any such decision where:

- that stage of the Neighbourhood Plan process has resulted in significant public objection and/or the decision is publicly contentious in the opinion of the Cabinet Member; or
- the decision is considered to be a Key Decision because it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more wards in the City;

then such decision shall be delegated to the Cabinet Member responsible for Planning.

(ii) That the same scheme of delegation as agreed under part (i) shall apply to decisions relating to the making of Neighbourhood Development Orders and Community Right to Build Orders as well as Neighbourhood Plans.

Background Papers:

Neighbourhood Planning (General) Regulations ([SI2012 No. 637](#))

Neighbourhood Planning (General) (Amendment) Regulations 2015 ([SI2015 No. 20](#))

Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 ([SI2016 No.873](#))

The Neighbourhood Planning (Referendums) (Amendment) Regulations 2016 ([SI2016 No.934](#))

Cabinet Report: Neighbourhood Planning Decision Making - [December 2013](#)

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Paul Foster
		Legal: Paul Bellingham
		Equalities: Beth Storm
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	Laraine Manley
3	Cabinet Member consulted:	Cllr. Mazher Iqbal
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Debbie Merrill	Job Title: Principal Planning Officer
	Date: 9/2/17	

1. PROPOSAL

- 1.1 Cabinet is asked to approve a revised decision making framework in respect of decisions related to the Council's Neighbourhood Planning function in order to provide certainty to the plan making and decision making processes and enable decisions on Neighbourhood Planning to be taken in line with new timescales set by the Government.
- 1.2 In December 2013 a report was presented to Cabinet which introduced the general principles of Neighbourhood Planning under the Localism Act 2011, and explained the legal obligations and the role of the Council in the Neighbourhood Planning process.
- 1.3 At that time Cabinet approved the following decisions (a-e), to be delegated to the Head of Planning, or in his/her absence, to the Forward and Area Planning Team Manager, this 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;
- 1.5 Cabinet also agreed that the following Neighbourhood Planning decisions (f-i) would be reserved to themselves:
- 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
- 1.6 Finally, it was agreed by Cabinet 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.

1.7 Since the decision of Cabinet in December 2013 the Government has continued to champion Neighbourhood Planning and the rights of communities to guide and shape development in their area. Government has now made a number of changes to the administration requirements which are designed to speed up and simplify the process in the expectation that this will continue to encourage communities to take up and exercise this right.

1.8 The Housing and Planning Act 2016¹ and other recent changes to Regulations made by Government in 2015 and 2016² brought forward statutory time limits for decision making on parts of the Neighbourhood Planning process. These changes and time limits have implications for the Council's administration of Neighbourhood Plans as agreed in December 2013.

1.9 The changes now contained within Regulations and relevant to this report are as follows:

a) Timeframes for designating neighbourhood areas and neighbourhood forums

A decision on an area designation application and/or neighbourhood forum application must be made within 13 weeks, or 20 weeks when the application area falls within the areas of two or more local planning authorities³, this includes a six week period of public consultation. Time limits do not apply where part of the area is already designated or more than one application has been made in the same or overlapping areas.

In certain circumstances the Local Planning Authority must designate all of the neighbourhood area applied for, as soon as possible, with no discretion to amend the boundary, provided that the application is valid and complete. These circumstances are:

- Where a parish council applies for all of a parish area to be designated, or to enlarge an existing designation to include all of the parish area
- Where a Local Planning Authority has not determined an application for designation of a neighbourhood area within the statutory time periods.

b) Consideration of the recommendations made by an independent examiner

¹ [Housing and Planning Act 2016](#) Part 6. Paragraph 139

² [Neighbourhood Planning \(General\) \(Amendment\) Regulations 2015 \(SI 2015/20\)](#) ; [The Neighbourhood Planning \(General\) Development Management Procedure \(Amendment\) Regulations 2016 \(SI2016 No.873\)](#), and [The Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2016 \(SI2016 No.934\)](#)

³ The Local Planning Authority must exercise their powers under section 61G of the 1990 Town & Country Planning Act

The Local Planning Authority must decide whether a referendum should be held within five weeks of the date it receives an examiner's report following examination of a draft plan, unless it proposes to make a decision which differs from the examiners recommendations (see point c below); or the Local Planning Authority and the neighbourhood planning body agree that more time is required.

c) Where the decision of the Local Planning Authority differs from that recommended by the examiner

The following groups need to be notified and consulted: the Neighbourhood Planning body; anyone who made representations during the period the plan was publicised by the local authority; and the statutory bodies (Natural England, Historic England and the Environment Agency). Further representations should be made within 6 weeks. The Local Planning Authority should then issue its final decision within 5 weeks of the end of that period (unless it refers the issue to independent examination).

d) Setting the referendum date

Further to point b) above, the Local Planning Authority must hold a referendum within 56 working days of the decision that a referendum should be held; or 84 working days where there is also a business referendum or, where the area falls within more than one Local Planning Authority. If there is opportunity to combine the referendum with another poll that is due to be held within three months of the end of the 56 or 84 working day period this period can be extended accordingly. These time limits will not apply where there are unresolved legal challenges on the decision to hold a referendum or the Local Planning Authority and the Neighbourhood Planning body agree an alternative time frame.

e) Bringing neighbourhood plans into force

The Local Planning Authority must 'make' (adopt) the Neighbourhood Plan within 8 weeks of the date of the referendum, unless there are unresolved legal challenges to the decision to hold a referendum or on the conduct of a referendum.

f) Requests for the Secretary of State to intervene

The Housing and Planning Act 2016 enables the Secretary of State to intervene at the request of a neighbourhood planning body when: (i) the Local Planning Authority has failed to take a decision on whether to proceed to referendum within the specified timeframes; or (ii) does not accept the examiner's recommendations or proposes to modify the plan in a way the examiner didn't recommend. The Neighbourhood Plan body must make their request for intervention in writing, and will have 6 weeks from the date the Local Planning Authority publish their decision, to submit their request.

1.10 In responding to the changes in the regulatory framework for

Neighbourhood Planning, which reduces the time allowed to determine most decisions relating to Neighbourhood Planning, including the making (adoption) of the plan, and in the interests of timely and efficient decision making, it is requested that all decisions involving any aspect of the executive statutory function relating to Neighbourhood Planning be delegated to the Head of Planning, in consultation with the Director of Creative Sheffield. Such delegated authority to be exercised in consultation with the relevant Cabinet Member responsible for Planning (currently the Cabinet Member for Infrastructure and Transport)

- 1.11 Decisions will in most cases be largely administrative and non-contentious. Each application and submission will be discussed and agreed with the relevant Cabinet portfolio holder. The proposal also allows for Key Decisions and circumstances where there could potentially be significant and/or contentious issues in the decision being taken to be decided by the Individual Cabinet Member.
- 1.12 It is therefore requested that those decisions which are considered to be contentious (for example because they are subject to significant public objection) or are considered to be Key Decisions (because they are likely to have a significant effect on communities living or working in an area comprising two or more Wards) are made by the Cabinet Member responsible for Planning.
- 1.13 It is also requested that the same scheme of delegation should apply to decisions relating to the making of Neighbourhood Development Orders and Community Right to Build Orders as to Neighbourhood Plans

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 Neighbourhood Planning contributes directly to delivering the outcomes of the Council's Strategic Priority for *Thriving Neighbourhoods and Communities* – 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.
- 2.2 The Localism Act 2011 gives neighbourhoods the opportunity to develop planning policy and shape development in their local area. This proposal is for a revised decision making framework in order to provide certainty to the plan making and decision making processes for those groups exercising their community right to undertake Neighbourhood Planning within the city; and will enable decisions on Neighbourhood Planning to be taken in line with timescales set by the Government.
- 2.3 There are no direct environmental and sustainability implications to the approval of a decision making framework.
- 2.4 There are no economic impact implications for this report.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 As this proposal is about process and responding to legislative changes, there has not been any consultation on this proposal.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

- 4.1 This report deals with establishing a revised statutory process required by the Government's introduction of further regulation of Neighbourhood Planning. All of these changes mean, in practice, that the Council may be at risk of not making timely decisions and not meeting the requirements of the Neighbourhood Planning legislation⁴ if changes are not made to the present framework approved by Cabinet in December 2013.
- 4.2 Furthermore the Housing and Planning Act 2016 will allow the Secretary of State to intervene if a Local Planning Authority is failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision, or adoption of a Neighbourhood Plan.
- 4.3 Equality of Opportunity Implications
There are no differential equality implications arising from the recommendations in this report. However, as decisions under this proposed framework are required, they will be subject to assessment for potential differential equality of opportunity implications on a case by case basis, and Equality Impact Assessments will be carried out as required.
- 4.4 Financial and Commercial Implications
The Government's current financial support to Local Planning Authorities (LPAs) for Neighbourhood Planning has been reviewed and updated since those reported in December 2013. From April 2016, LPAs will be able to claim as follows:

- (a) Area and Forum designation: LPAs can claim £5,000 for the first five neighbourhood areas and first five forums designated. The limit of five applies to the total number of areas and total number of forums designated (i.e. it includes those designated in previous years). Sheffield has, to date, designated three areas and two forums⁵.
- (b) For all areas: LPAs can claim £20,000 once they have set a date for a referendum following a successful examination.
- (c) Business areas: LPAs can claim a further £10,000 once they have set a date for a referendum following a successful examination.

⁴ Pursuant to Section 61G(5) of the Town and Country Planning Act 1990 as applied to Neighbourhood Plans by Section 38A of the Planning and Compulsory Purchase Act 2004) and the Neighbourhood Planning (General) Regulations 2012 (as amended)

⁵ See [Sheffield City Council - Neighbourhood planning](#) for an overview

- (d) Neighbourhood Development Orders and Community Right to Build Orders: LPAs can claim £20,000 in relation to NDO's and/or CRtBO's for each neighbourhood planning area per year. The claim can be made once the date for the referendum on the orders has been set.
- 4.5 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.
- 4.6 The Council's approach to neighbourhood planning is to aim for neighbourhood plans to be cost neutral for the Council i.e. each plan not costing more than what can currently be recouped from grants (see point 4.4). In reality, in addition to examination and referendum costs, the Council has statutory duties to resource the Neighbourhood Planning administrative 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.
- 4.7 Legal Implications
Neighbourhood Planning is part of Government policy 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 Regulations (as amended) confer specific functions on Local Planning Authorities in relation to Neighbourhood Planning. The Council is required to adopt procedures to process Neighbourhood Plans and has a statutory duty to make decisions within prescribed timeframes.
- 4.8 Neighbourhood Planning is one of the Council's executive functions and all decisions must be made 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. However, Cabinet also has the power to delegate some or all of these decisions to an Officer and /or to an Individual Cabinet Member.
- 4.10 Policy Implications
There are no policy implications arising from the approval of a revised decision making process for Neighbourhood Planning up to the making (adoption) of the plan. However, it should be noted that there are implications that arise from the plan making (adoption) process itself.
- 4.11 Once a Neighbourhood Plan has successfully passed all of the stages of preparation (including examination and a referendum) and a decision is made to adopt it by the Local Planning Authority, it forms part of the authority's Development Plan, and is a formal policy document relevant to the determination of planning applications.
- 4.12 Resource implications

There is a statutory duty for local authorities to advise and assist preparation of Neighbourhood Plans as well as administering the system⁶ In addition, Planning Practice Guidance states that Local Planning Authorities should fulfil their duties as soon as possible in order to speed up the delivery of Neighbourhood Plans, and a number of deadlines have been proposed to enforce this (see 1.9). The decision-making processes set out in this report 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.

4.13 It is therefore important that resources are available so that Neighbourhood Plans are processed in a timely and efficient manner. This proposal seeks to reduce the risk of non-compliance by streamlining the current decision making route by delegating decisions to Officers and the Cabinet Member.

4.14 Other Implications

There are no other implications relevant to this report.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 This report recommends revision only to those decisions that were reserved for Cabinet in December 2013 (see 1.3).

5.2 If Cabinet were to continue as the decision making body for some decisions as agreed in December 2013 this would:

- make it very difficult to meet tight statutory deadlines enforced by the updated Neighbourhood Planning legislation allowing for required consultation periods within parts of the process and turnaround time for writing and signing off reports before the decision is made.
- risk intervention by the Secretary of State in the neighbourhood planning process in Sheffield.

6. REASONS FOR RECOMMENDATIONS

6.1 The Housing and Planning Act 2016 and amendments to Regulations (set out in this report at section 1.8ff), reduce the time allowed to determine all decisions relating to Neighbourhood Planning. The proposed revisions to the framework agreed in December 2013 are the speediest routes by which decisions can be made, whilst still retaining Member involvement in the decision making process.

⁶ Section 61E, Town & Country Planning Act 1990