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Report of: *Director of Policy, Performance and Communications*
Report to: *Cabinet*
Date of Decision: *18th November 2020*
Subject: *Boundary Review at Oughtibridge Mill*

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
- Expenditure and/or savings over £500,000	<input type="checkbox"/>		
- Affects 2 or more Wards	<input type="checkbox"/>		
Which Cabinet Member Portfolio does this relate to? <i>Finance, Resources and Governance</i>			
Which Scrutiny and Policy Development Committee does this relate to? <i>Overview and Scrutiny Management Committee</i>			
Has an Equality Impact Assessment (EIA) been undertaken?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? <i>789</i>			
Does the report contain confidential or exempt information?		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-			
<i>"The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended)."</i>			

Purpose of Report:

To set out issues caused by the local authority boundary alignment between Barnsley MBC and Sheffield City Council at Oughtibridge Mill, and to seek approval for a request to be made to the Local Government Boundary Commission for England to conduct a formal boundary review. The report also seeks approval for the development of interim arrangements for service delivery to the properties in the Oughtibridge Mill development for the period up to completion of that review.

Recommendations:

Cabinet are recommended to:

1. Delegate authority to the Director of Policy, Performance and Communications, in consultation with the Deputy Leader and the Director of Legal and Governance to request the Local Government Boundary Commission for England to conduct a review of the Sheffield and Barnsley boundary where it cuts through the residential development site at the former Oughtibridge Paper Mill;
2. Delegate authority to the Director of Policy, Performance and Communications, in consultation with the Director of Legal and Governance and Deputy Leader to conduct negotiations towards an appropriate temporary agreement with Barnsley Metropolitan Borough Council and Bradfield Parish Council about the delivery of local government services to properties on the Barnsley side of the development ahead of this review being completed and enacted, the outcome of negotiations to be the subject of a further report.

Background Papers:

A map of the local area is appended to this report.

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: <i>Kayleigh Inman</i>
	Legal: <i>Andrea Simpson</i>
	Equalities: <i>Adele Robinson</i>
<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: <i>James Henderson</i>
3	Cabinet Member consulted: <i>Cllr Terry Fox</i>
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: <i>Dan Spicer</i>
	Job Title: <i>Policy & Improvement Officer</i>
Date: <i>2nd November 2020</i>	

1. BACKGROUND

- 1.1 This report concerns the implications of a housing development on the site of the former Oughtibridge Paper Mill on Langsett Road North (see appendix for a map of the development site and surrounding area). The site spans the boundary between Sheffield and Barnsley, such that around 70% of the dwellings to be built will be within the Barnsley boundary under current arrangements. The development is a mix of 3- and 4-bed family housing, and can therefore be expected to result in properties that are in higher council tax bands.
- 1.2 The developer estimated in early March 2020 that the first properties on the development would be expected to be occupied during January 2021; further contact with the developer following the national lockdown has suggested that it is unclear at this stage whether this timeline will be affected by the ongoing pandemic.
- 1.3 Initial outline planning applications for the site were made to both Sheffield City Council (SCC) and Barnsley Metropolitan Borough Council (BMBC) in March 2016, as part of which it was agreed that BMBC would delegate decision making authority in relation to the site to SCC. Following approval of this application in October 2016, further applications have been made to SCC, culminating in a Reserved Matters application submitted in September 2019 and approved in December 2019, through which planning approvals have been granted for 284 dwellings.
- 1.4 Although the majority of the development is located within the Barnsley boundary, it has no road connection to the rest of Barnsley without a long detour through Sheffield, which results in a number of issues for service delivery. There are also issues raised by the development for democracy and representation at both local authority and parish council level. Officers have worked with BMBC and with services to investigate these issues.
- 1.5 This process has established the following as the key facts for consideration:
1. The site crosses the boundary between Sheffield and Barnsley, with a total of 284 dwellings proposed across the whole site, with a majority expected to be on the Barnsley side of the boundary;
 2. Development proposals are for all properties to be connected to the highway network through Sheffield, resulting in a journey of around 6 miles to the nearest Barnsley settlement of any size (Thurgoland);
 3. It is likely that residents will seek to access services in Sheffield;
 4. If residents of the new properties choose to access SCC services, they will not be contributing through Council Tax, nor have any democratic representation through the Council;
 5. The new properties will form part of the natural community around

Oughtibridge and Wharncliffe Side, which is covered by both SCC and Bradfield Parish Council;

6. The development also crosses the boundary between Bradfield and Wortley Civil Parishes, which is currently co-terminous with the LA boundaries and cannot by law be altered to cross the LA boundary;
7. Properties on the Barnsley/Wortley side of the boundary will not be subject to the Bradfield Parish precept, nor will residents be able to vote in Parish elections, but could be reasonably expected to access services provided by the Parish Council;
8. BMBC plan to carry out a review of the Wortley Parish boundary such that the development will be excluded, with this expected to be completed by early 2020 and with the result that the development is in neither local parish.

1.6 Beyond these facts, three other key points have emerged:

1.7 **Individual services are already putting responses in place**

Legal agreements are in place already for Sheffield to adopt the bridge being built to connect the proposed development to Langsett Road North, and for Sheffield to provide school places for the development should additional capacity be required, with capital contributions agreed with the developer to support this. This reflects an assumption that the impact of service demand will be felt in Sheffield, as acknowledged in Barnsley's Local Plan. Discussions are also ongoing as to whether Sheffield adopts the whole road network for the estate, given access to the development will only be through Sheffield.

1.8 **There is acknowledgement that for some services, service delivery will happen in, or is best undertaken in, Sheffield**

In addition to the two instances above, in the case of primary care services it is accepted by service commissioners and the local practice that residents of the proposed development are likely to want to register with Oughtibridge GP Surgery; SCC Library Services expect that demand for library services is likely to be felt in one of the several Sheffield libraries that are closer than the nearest BMBC library; and SCC officers responsible for waste collection have the view that this work will be logistically simpler for Sheffield, given it will have crews on the development.

1.9 **For other services entitlement is based on residency, so Barnsley would be required to provide these**

For example, statutory responsibility for homecare services is based on LA residency, and there are concerns within SCC about whether it would be practical to offer this to residents in the BMBC part of the development. On the Barnsley side there is a view that given demand for this service is expected to be low at least in the short- to medium-term, BMBC do not see any barriers to delivery.

2. LIKELY IMPLICATIONS

- 2.1 Were no action to be taken, the default position is that there would be a profusion of different arrangements for different services. This is likely to be confusing for residents in the development, be unnecessarily complicated to administer, require frequent review and, as a result, not be conducive to effective local government.

Beyond questions of service delivery, there are four other areas that are worth highlighting:

- Contributions to meeting national government housing targets
- New Homes Bonus (NHB)
- Council Tax Income
- Democracy & Representation

2.2 • **Contributions to meeting national government housing targets**

All planning authorities have a target for housing delivery, set through a national formula, with performance against this measured through a Housing Delivery Test. Local authorities who do not perform sufficiently well against this test risk losing local control over planning and development; consequently the question of where housing numbers are allocated is important, especially in the case of a development such as this that could make a significant contribution to delivery targets.

As noted above, BMBC have already agreed through their published Local Plan that because service demand from the development will be felt in Sheffield, the additional houses within the BMBC boundary will count towards Sheffield's housing target. This does not apply to NHB or to Council tax income, which are received by the host authority.

2.3 • **New Homes Bonus**

NHB is a government scheme aimed at incentivising "local authorities to encourage new homes locally by contributing to visible benefits for local communities and countering resistance to growth in housing"¹ by offering a direct payment in return for construction of new homes. Contrary to national housing targets, it is paid directly to the host authority for Council Tax purposes, meaning that, although it is accepted that the impact of the new housing will be in Sheffield, where houses are built on the BMBC side of the boundary, BMBC will receive the payment.

¹ https://www.nao.org.uk/wp-content/uploads/2013/03/10122-001-New-Homes-Bonus_HC-1047.pdf

2.4 • **Council Tax Income**

As noted above, demand for services is likely to be felt mostly in Sheffield, but where properties are constructed on the BMBC side of the boundary, Council Tax will understandably accrue to them, leaving SCC with a potential shortfall.

2.5 • **Democracy & Representation**

The new properties will form part of the natural community around Oughtibridge and Wharnccliffe Side, but under current boundary arrangements properties on the BMBC side of the boundary residents will be Barnsley electors. Their ability to influence decisions affecting their community, either through Ward elections or Parish elections, will therefore be extremely limited.

3. **PROPOSED RESPONSE**

3.1 In considering our response, the following points from the above are key in relation to current arrangements:

- A significant proportion of the service demand from houses in the development is likely to fall on either or both of SCC or Bradfield Parish Council;
- Revenue from the properties in the development will not reflect this, with the bulk of the New Homes Bonus and Council Tax receipts going to BMBC, and properties on the BMBC side of the boundary not being subject to the Bradfield Parish Council precept; and
- As things stand, residents in BMBC properties will be unable to participate in the democratic process through which services they access are governed, and as a result are likely to suffer from a democratic deficit.

3.2 There are a number of options available that could go some, or all, of the way to addressing these issues. For example, it may be possible to come to a long term contractual agreement with BMBC for SCC to deliver services to all properties in the development with appropriate financial compensation in return. However, this would not provide a solution to the democratic deficit challenge, not any of the issues that exist at a parish level.

3.3 Of the options available, the only one that addresses all issues is that of requesting a boundary review, with the intention of bringing the entirety of the development site within the Sheffield boundary. This would represent a permanent and easily understandable outcome for residents, would provide the most straightforward approach to service delivery as well as ensuring that SCC is appropriately recompensed for the additional demand expected from these dwellings, and would address the issues faced by the Parish Council.

3.4 For a boundary review to take place, the process is as follows:

- All principal Local Authorities affected must agree to request that one be conducted by the Local Government Boundary Commission for England (LGBCE), setting out the case for why a review, and the proposed approach, is beneficial. Under the LGBCE’s guidance, a review can be requested by an officer or elected member who has been appropriately authorised to do so. **Critically, if the request is not unanimous across all Local Authorities affected, a review cannot go ahead.**
- Local Authorities may be expected to have consulted with affected residents ahead of requesting the review, depending on the scale of the review (for smaller reviews this is done as part of the review). As noted in the consultation section below, consultation is challenging for this proposal as those directly affected do not as yet exist, but we have engaged with the Parish Council to discuss the local impact. It is also unclear how consultation will work in the current context.
- Formally requesting a review leads to a pre-review gateway stage, where the LGBCE engages with affected LAs to determine whether they agree that a review would be appropriate.
- This then leads into the formal review, through which the LGBCE would work with the LAs involved.
- The statutory criteria against which their decision will be taken are as follows:
 - The need to secure effective and convenient local government; and
 - The need to reflect the identities and interests of local communities.
- Beyond this, the Commission may also consider other matters, such as “the degree of local support for a boundary change and whether it will affect the capacity of the councils to give value for money in the provision of local government, to the extent that they are relevant to [their] statutory criteria.”²
- Following the review, the LGBCE send their recommendations to the Secretary of State for consideration; if the recommendation is for a change to the boundary and the Secretary of State agrees they will then make a statutory order putting the change into effect. Alongside the recommendation to change the principal authority boundaries, the LGBCE can also comment on consequential changes to parish boundaries that the Secretary of State can consider alongside the principal change.

3.5 The review process itself is expected to take **around 6 months**, but LGBCE advice given prior to the start of the pandemic lockdown is that with lead-in time and the time for the outcome to be formalised, **overall it could be expected to take around 15 months**. The LGBCE have now

² https://s3-eu-west-2.amazonaws.com/lgbce/___data/assets/pdf_file/0018/24930/PABR-Guidance-06052015.pdf

restarted review work following a period of inactivity during lockdown; officers have contacted them to try to understand how their timescales have been impacted without response at this stage. However it seems highly unlikely that the process will take less time. As a result, and given indications from the developer that the crisis has not necessarily lengthened their timescales, there is a need to progress this work with some urgency.

- 3.6 It is anticipated that the work required to support the review will not be significant, and can be absorbed into business as usual within services, with no specific additional project team required.
- 3.7 Informal discussions with BMBC around the potential for a boundary have been taking place for some time, culminating in an offer from BMBC that they would agree to request a review with the following conditions in place:
- That the review would only encompass the area of the Oughtibridge development and would not extend further, avoiding a wider review of ward boundaries.
 - That BMBC would retain NHB for the properties that would have been inside their boundary.
- 3.8 With regard to the extent of the review, informal discussions with the LGBCE indicate that a review is unlikely to extend beyond this development, and our intention is that the eventual request for a review to be conducted would be explicit in restricting that to the development site and no further.
- 3.9 With regard to BMBC retaining NHB for the properties, the following points are considered:
- from the SCC point of view if there is no boundary review, NHB for the properties on the BMBC side of the boundary would remain with BMBC;
 - Government have now announced that NHB will not be paid on new properties built after 2019, meaning these properties will not generate any funds from the scheme; and
 - a boundary review would bring new properties contributing Council Tax within the Sheffield boundary in perpetuity. A conservative estimate, assuming an average of Band C applying across the development, would indicate additional Council Tax of around £478,000 per year from the full development, compared to around £143,500 for the properties on the Sheffield side of the existing boundary.
- 3.10 As part of their review, the LGBCE can make a recommendation to the Secretary of State for Housing, Communities & Local Government that parish boundaries be changed to reflect the new outcome of the review, and through this mechanism a boundary review could resolve both the

local authority and parish council issues.

- 3.11 Failing this, following the successful completion of a principal boundary review in line with the approach set out in this report, SCC could then carry out a Community Governance Review (CGR) to align the Bradfield Parish Council boundary with the new local authority boundary. A CGR is a formal process that would be led by the City Council.
- 3.12 However it is important to note that because a boundary review may take some time, it is likely that properties on the development will be occupied before completion of any review. As noted above, a boundary review is likely to take at least 15 months to complete, while properties on the development are currently expected to start being occupied from January 2021 onwards.
- 3.13 With this in mind, to minimise disruption and ensure effective use of public funds, it is proposed that it would be appropriate to work with BMBC to agree interim arrangements to deliver services to the new properties, on the basis that these should seek to reflect as closely as possible the arrangements that will exist following a successful review of the boundary (i.e. that BMBC would make a financial transfer to SCC equivalent to the Council Tax collected from the properties and SCC would agree to assume responsibility for service delivery to the development).

4. HOW DOES THIS DECISION CONTRIBUTE ?

- 4.1 This decision will ensure democratic and service delivery arrangements reflect the natural community around Oughtibridge and Wharncliffe Side, and also ensure effective service delivery with best value for money to new housing in this area.

5. HAS THERE BEEN ANY CONSULTATION?

- 5.1 Consultation on this issue is challenging, as the dwellings that are directly affected (and therefore the residents) do not as yet exist. Council officers have consulted with Bradfield Parish Council to better understand the local context and implications of the development.
- 5.2 In making the request for a review we will be required to demonstrate consultation with those affected, and are engaging with the LGBCE to determine what that means in the current socially distanced context.

6. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

6.1 Equality of Opportunity Implications

- 6.1.1 We have considered the overall proposal in line with the aims of the

Public Sector Equality Duty (PSED), established through the Equality Act 2010, which requires the Council, in the exercise of its functions, to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.1.2 The PSED requires us to pay due regard when making decisions and as such we have undertaken an Equality Impact Assessment. The EIA notes that by aligning service delivery responsibilities and democratic arrangements with natural communities, this proposal will potentially encourage people from protected groups to participate in public life however that overall there is no expected disproportionate impact on people who share protected characteristics and those that don't.

6.2 Financial and Commercial Implications

6.2.1 The service anticipate that the work required to support the pre-review gateway stage and the formal review by the LGBCE will not be significant and can be absorbed into business as usual within services, with no specific additional project team required. A Policy and Improvement Officer, within the Strategy and Partnerships Team has been identified to support the review.

6.2.2 The latest guidance indicates NHB will not be payable for properties built after 2019 and so funding will not be received for any of the development.

6.2.3 The boundary review process is anticipated to take 15 months to complete, whilst occupancy of the new houses could start in January 2021. A formal agreement will need to be in place with Barnsley MBC to document interim arrangements for service provision, and the corresponding payments to be made to SCC by BMBC based on proportionate Council Tax arising from the development.

6.2.4 A successful boundary review would bring new properties contributing Council Tax within the Sheffield boundary in perpetuity. An estimate, assuming an average of Band C applying across the development, would indicate additional Council Tax of around £478,000 per year from the full development, compared to around £143,500 for the properties on the Sheffield side of the existing boundary. This would contribute to the cost of service provision for the new residents, who are expected to use SCC services for logistical reasons (access).

6.3 Legal Implications

- 6.3.1 The statutory process for a local authority boundary review, including the making of an Order by the Secretary of State to put it into effect and any incidental matters are set out in Part 1 of the Local Government and Public Involvement in Health Act 2007 at sections 8 – 16 and are described in the body of this report.
- 6.3.2 Interim arrangements for the delivery of services by SCC to the residents of the BMBC part of the development may be made under various statutory powers. For example, BMBC may arrange for the discharge of its functions in that locality by SCC, with those functions being treated as though they were the responsibility of SCC, using powers within the Local Government Act 2000 for executive functions or the Local Government Act 1972 for non-executive functions. Alternatively BMBC could retain responsibility but enter into an agreement with SCC for the delivery of services under the Local Authorities (Goods and Services) Act 1970. It may be necessary to make different arrangements for different functions. The legal implications of any arrangements proposed as a result of negotiations and of the agreements required to put them into effect will be considered in a further report seeking approval of those arrangements.

6.4 Other Implications

- 6.4.1 None noted.

7. **ALTERNATIVE OPTIONS CONSIDERED**

- 7.1 Broadly there are two alternative options available:
1. Agree that SCC and BMBC will continue to deliver services to residents within their respective boundaries, accepting this will present logistical challenges to BMBC and that residents may choose to access services in Sheffield. This option would avoid the need for a boundary review process, and responsibility for service delivery would on the face of it be clear. However, it is clear from the discussion above that it is likely that a combination of citizens “voting with their feet” and individual services addressing specific issues through ad hoc arrangements would ensue, leading to a complex patchwork of arrangements that could be confusing for residents, especially in comparison to arrangements in the rest of the local community. This in turn would then raise questions of representation and accountability through elected members, and also around the connection between taxation and service delivery.
 2. Reach a long-term contractual agreement for SCC to deliver some or all services to the development on BMBC’s behalf. As above, this would avoid the need for a boundary review, and would also enable a clearer relationship between residency and service delivery

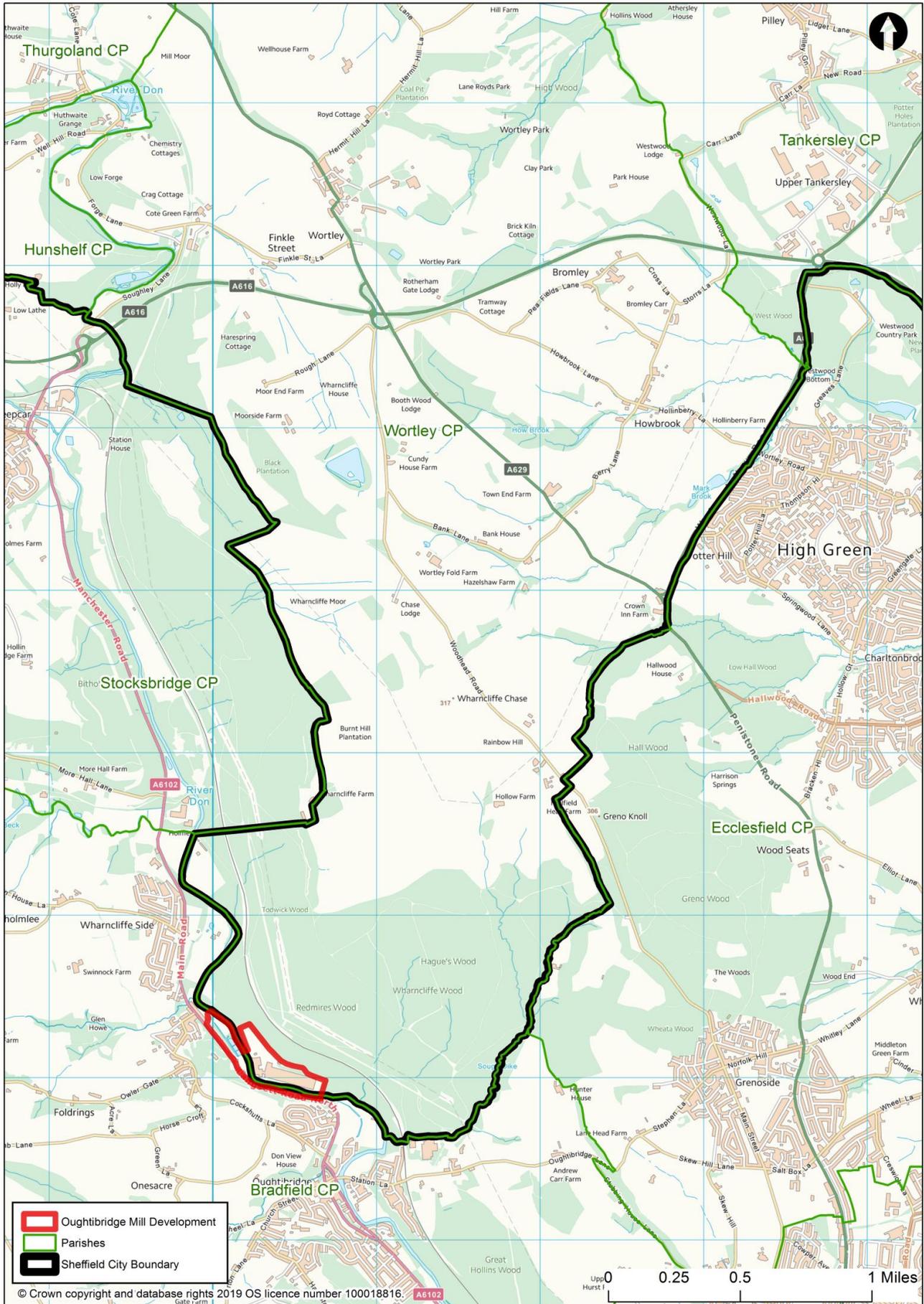
arrangements. However, it would also raise questions about representation, with residents on the BMBC side of the boundary unable to elect councillors to the authority that delivers services to them. It would also be an arrangement that required monitoring and review on a regular basis, imposing additional administration costs on services. Beyond this, council tax rates are set at different levels for SCC and BMBC, meaning that it is not necessarily clear that SCC could be appropriately compensated under this arrangement.

- 7.2 Beyond these points, it is critical to note that neither of these options addresses the issues faced by the Parish Council. These can only be addressed through a boundary review.

8. REASONS FOR RECOMMENDATIONS

- 8.1 A review of the local authority boundary at Oughtibridge Mill is the only approach that will solve questions around effective service delivery and democratic representation for both the local authorities and the parish council. The intended outcome is that the whole development is brought within the Sheffield boundary.

APPENDIX ONE



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