

Bolsover District Council

Executive

6th November 2017

Neighbourhood Planning Protocol - Update

Report of the Deputy Leader and Portfolio Holder – People and Places

This report is public

Purpose of the Report

- To update members on recent legislative changes¹ and their impact on the Council's Neighbourhood Planning Protocol, and Statement of Community Involvement.
- To seek approval for an updated Neighbourhood Planning Protocol.

1 Report Details

- 1.1 Members may recall that the Council approved the Neighbourhood Planning Protocol at the meeting of the Executive on the 5th January 2015. The Protocol outlines the level of support Parish and Town Councils can expect from the District Council in the preparation of neighbourhood planning initiatives.
- 1.2 Neighbourhood planning seeks to provide local communities with three tools they can use to shape the growth in their local area. Summaries of each of them are set out below.

Neighbourhood Plans.

- 1.3 This is usually carried out at a parish level (although parishes can collaborate on a neighbourhood plan to cover more than one area), prepared by a parish or town council. It sets out the type and location of development within the neighbourhood area, and policies to achieve these. A Neighbourhood Plan has to be generally in line with national and local policies, and local plans. The Plan is subject to examination by an independent inspector, and a local referendum before it can be adopted. The neighbourhood plan is adopted if 50% of local residents voting vote in favour of the proposed Plan. Once adopted, it forms part of the development plan for the district, sitting alongside the Council's Local Plan.

¹ ¹ The Neighbourhood Planning (General) (Amendment) Regulations 2015; The Housing and Planning Act 2016; The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016; The Neighbourhood Planning Act 2017; and the Planning and Compulsory Purchase Act 2004 (as amended).

Neighbourhood Development Orders (NDO).

- 1.4 These orders grant planning permission for development. They are usually prepared by a parish or town council. They can grant permission on a specific site for development, or for a particular type of development (for example retail or housing). Neighbourhood Development Orders have similar requirements to neighbourhood plans in terms of process, including the need to comply with national and local plans, and policies, and the need for a local referendum.

Community Right to Build Orders (CRTBO)

- 1.5 This order allows town and parish councils, and certain community organisations to bring forward small scale sites for development without the need for further planning permission. Any benefit from this type of development can stay within the community to be used for community benefit, for example to maintain affordable housing stock or to provide and maintain local facilities such as playgrounds and village halls. The orders have similar requirements to other neighbouring planning tools in terms of process, including the need for a local referendum.
- 1.6 Local Authorities are expected to take a proactive and positive approach to the preparation of Neighbourhood Plans and Orders. This includes working collaboratively with town and parish council's, and in particular sharing evidence to help ensure that a draft Plan or Order has the greatest chance of success at independent examination.
- 1.7 Local authorities are also charged with taking decisions in relation to the process of making Neighbourhood Plans or Orders within the statutory time limits.

THE CHANGES

- 1.8 In a new requirement, Local Authorities are now required to set out in their Statements of Community Involvement (SCI) their policies for giving advice or assistance in relation to neighbourhood planning initiatives.
- 1.9 The latest government guidance is that within a local authority the Council's Executive takes decisions on Neighbourhood Planning. However, it is open to the Executive to delegate this authority to a committee or officer of the Council. It is intended that once the updated protocol attached at Appendix A is approved, it will form part of a necessary refresh of the Council's Statement of Community Involvement to reflect a number of recent legislative changes.
- 1.10 Notwithstanding the need to set out policies in relation to neighbourhood planning in the Councils Statement of Community Involvement, it is considered a standalone protocol setting out a timetable and responsibilities of the Council and parish/town councils would be helpful to local communities in developing neighbourhood planning initiatives. Because the Regulations set out the processes for making Neighbourhood Plans, and Orders separately the updated protocol also sets out the

steps for each type of neighbourhood planning initiative separately, In addition the updated protocol sets out the steps in relation to modifying existing plans and orders.

- 1.11 At the present time only one parish council in the district (Tibshelf) is developing a neighbourhood plan, as far as we are aware.

ISSUES FOR CONSIDERATION

- 1.12 Key changes to the system for developing neighbourhood planning documents are:
- a) **Timeframes on designating neighbourhood areas.** Before work on a Neighbourhood Plan can start, the town or parish council needs to have the area of the proposed Plan designated as a neighbourhood area by the Council. Where the area is the whole of the Parish and, if any part of the area is part of a neighbourhood area, none of the neighbourhood area extends beyond the Parish Council's area, the Local Planning Authority must exercise its powers under the act to designate the specified area as a neighbourhood area.
 - b) **Decision on the independent examiners recommendations.** Authorities must now decide whether a referendum should be held within five weeks of the date it receives the examiner's report.
 - c) **Bringing Neighbourhood Plans or Orders into force.** There is now a prescribed time frame for Councils to adopt Neighbourhood Plans or make an Order following the referendum (except in certain cases where there are unresolved legal challenges).
 - d) **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 group in certain circumstances, for example where a council has failed to take a decision on whether to hold a referendum within the specified timeframe.
- 1.13 In short, the changes in the regulatory framework for neighbourhood planning increases the need to formalise the level of advice and assistance offered, and reduces the time allowed to determine some key decisions relating to neighbourhood planning initiatives.

2 Conclusions and Reasons for Recommendation

Based on the changes in recent legislation, the Planning Protocol for neighbourhood planning initiatives has been updated and expanded. It is considered that a protocol is a useful tool to set out the advice and assistance the Council will give in relation to neighbourhood planning initiatives in the district.

- 2.1 The revised Protocol is set out at Appendix A with the new time periods.

3 Consultation and Equality Impact

- 3.1 An Equality Impact Assessment will be required in advance of publishing a Neighbourhood Plan.

4 Alternative Options and Reasons for Rejection

- 4.1 The proposals relate to amendments to the adopted Neighbourhood Planning Protocol to bring it in line with recent legislation. There is no realistic alternative.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 None arising from the proposed amendments set out in this report

5.2 Legal Implications including Data Protection

- 5.2.1 The District Council has a statutory duty to support and enable the processes of preparing and modifying, Neighbourhood Development Plans (or Neighbourhood Plans), Neighbourhood Development Orders and Community Right to Build Orders; in its role as the Local Planning Authority.

5.3 Human Resources Implications

- 5.3.1 Work to support Parish and Town Councils in the preparation of Neighbourhood Development Plans (or Neighbourhood Plans), Neighbourhood Development Orders and Community Right to Build Orders has the potential to divert resources away from the preparation of the District Council's own Local Plan. On the basis of current expressions of interest it is expected that the additional work can be accommodated within the current staff resource. However, if further Parish and Town Councils decide to pursue neighbourhood plans; or if the level of officer input required exceeds that set out in the protocol it may be necessary to secure additional resources.

6 Recommendations

- 6.1 That Executive:

- 1) Notes the detailed issues set out in the report;
- 2) Approves the updated Neighbourhood Planning Protocol Service Level Agreement (attached as Appendix A to this report).

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	<p>No financial impact due to this decision.</p> <p>Whilst the protocol sets a Framework for Neighbourhood Planning issues, it does not in its own right affect any of the wards.</p>
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	<p>No</p>
<p>District Wards Affected</p>	<p>All insofar as the protocol applies</p>
<p>Links to Corporate Plan priorities or Policy Framework</p>	<p>The District Council's Local Plan will set out the vision, key principles and policies that will underpin the sustainable development of the district. Neighbourhood Plans would need to be in accordance with the Local Plan and so will link to Corporate Plan priorities.</p>

8 Document Information

Appendix No	Title
Appendix A	Neighbourhood Planning Protocol Service Level Agreement
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p> <p>Background papers as set out below. All are published documents</p>	
<p>Localism Act 2011</p> <p>The Neighbourhood Planning (General) Regulations 2012</p> <p>The Neighbourhood Planning (General) (Amendment) Regulations 2015</p>	

<p>The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016</p> <p>The Housing and Planning Act 2016</p> <p>The Neighbourhood Planning Act 2017.</p> <p>Planning and Compulsory Purchase Act 2004 (as amended)</p>	
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Report Reference –