

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

REPORT OF THE EXECUTIVE DIRECTOR PLACE TO CABINET ON 12 DECEMBER 2018

Neighbourhood Planning – Scheme of Delegation

1. PURPOSE OF REPORT

- 1.1 To revise the established scheme of delegation for how the Council will make decisions at various stages in the Neighbourhood Planning process culminating in the making of a Neighbourhood Development Plan.

2. RECOMMENDATION

- 2.1 **That members agree the revised scheme of delegation for the formal decisions that have to be taken in relation to Neighbourhood Planning.**

3. INTRODUCTION

- 3.1 The 2011 Localism Act introduced new Neighbourhood Planning powers for communities. In 2013 the Council established a scheme of delegation for the formal decisions that have to be taken in relation to Neighbourhood Planning.
- 3.2 Since then, Oxspring Parish Council and Penistone Town Council have made significant progress. The Oxspring Neighbourhood Development Plan has recently been submitted to examination. The Penistone Neighbourhood Development Plan has recently completed its final consultation period and is expected to be submitted to examination shortly.
- 3.3 The Neighbourhood Development Plan must meet certain basic conditions, including requirements for it to have regard to national policy; to be in general conformity with the strategic policies of the development plan; and to be compatible with EU obligations (Neighbourhood Plans are screened for the requirement for a Strategic Environmental Assessment and Appropriate Assessment of significant environmental effects).
- 3.4 Crucially, because Neighbourhood Plans must be in general conformity with the strategic policies of the development plan, they cannot undermine or promote less development than set out in those strategic policies.
- 3.5 Neighbourhood Development Plans are subject to publicity, examination by an independent Inspector and referendum where, if a simple majority are in favour of the plan, the Council must 'make' (adopt) the Neighbourhood Development Plan.

- 3.6 The scheme of delegation for Neighbourhood Plan decisions delegates most decisions to the Head of Planning and Building Control. Significant decisions such as the decision to designate a neighbourhood area; to submit a plan to examination or to make comments on a submitted Plan must be taken in consultation with the Cabinet Spokesperson who can decide if the decision warrants referral to cabinet.
- 3.7 However the scheme of delegation indicates that Major Decisions must be made by Full Council, these include the decision to adopt the recommendations of the independent examiner; the decision to make the plan; and any other decision to revoke or modify the plan.
- 3.8 Since the delegation scheme was agreed, Neighbourhood Planning Regulations have been issued which prescribe time limits within which certain decisions must be made. Crucially, the decision to adopt the recommendations of the independent examiner must be made within five weeks of receiving the examiner's report. In addition the decision to make the plan must be made within eight weeks of the referendum.
- 3.9 The prescribed time limits make it quite impractical to refer such decisions to Full Council. It is clear that in setting such time limits, Government expected that such decisions are delegated. It is therefore suggested that all such 'significant' decisions are delegated to the Head of Planning and Building Control with a requirement to consult the Cabinet Spokesperson.

4. PROPOSAL AND JUSTIFICATION

- 4.1 The proposed revision to the scheme of delegation categorises the decisions into two main areas – technical decisions and significant decisions. There are no proposals to change the delegation scheme in relation to the purely technical decisions. The technical decision to hold a referendum would follow the significant decision to adopt the recommendations of the independent examiner. The proposed delegation scheme is:

- **Purely technical decisions and decisions with minor amounts of discretion or judgement** are delegated to the Head of Planning and Building Control
 - Appointment of the Independent Examiner
 - Decision to hold a referendum and the decision about what area the referendum should cover.
- **Other significant decisions that involve an element of discretion or judgement** are delegated to the Head of Planning and Building Control but with a requirement to consult the Cabinet Spokesperson who can decide if the decision warrants referral to cabinet, including:
 - The decision to designate, modify or amend a neighbourhood area
 - The decision to designate a neighbourhood forum
 - The decision to decline to consider an application for a neighbourhood development plan
 - The decision to submit a plan to independent examination
 - The decision to make comments, and the content of those comments, on a plan which has been submitted for examination
 - The decision to adopt the recommendations of the independent examiner
 - The decision to make the plan
 - Any other decision to revoke or modify the plan.

5. CONSIDERATION OF ALTERNATIVE APPROACHES

- 5.1 There are two alternative approaches. The first would be to not make changes to the existing Neighbourhood Planning delegation scheme. However, that would render the Council unable to comply with the relevant time limits in the absence of a Council meeting in the diary at the right time or in need of an urgent action decision. This option is not an appropriate approach given the obvious intention of regulations that the key Neighbourhood Planning decisions are delegated.
- 5.2 The second would be to not have a requirement to consult the cabinet member on significant decisions. This option has been discounted as it is considered appropriate to have councillor oversight of the significant decisions.

6. IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS

- 6.1 There are no direct impacts on local people arising from this report

7. FINANCIAL IMPLICATIONS

- 7.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).
- 7.2 The cost of the examination fees and other expenses associated with the 4 Neighbourhood Plans is estimated to be £20,000 over two financial years. Funding for this expenditure was previously received from the Ministry of Housing, Communities and Local Government (MHCLG) and has been earmarked within the Council's reserves.
- 7.3 In addition, the cost of holding the referenda is estimated to be £80,000 (£20,000 each). This expenditure will be financed from a grant from the MHCLG. It is currently forecast that 2 referenda will be held in 2019/20 with the remaining 2 to take place in 2020/21.
- 7.4 The financial implications to this report are summarized in the attached Appendix A.

8. EMPLOYEE IMPLICATIONS

- 8.1 There are no employee implications arising from this report.

9. COMMUNICATIONS IMPLICATIONS

- 9.1 There are no communications implications arising from this report

10. CONSULTATIONS

- 10.1 There have been no consultations on this report.

11. LIST OF APPENDICES

Appendix A: Financial Implications

Appendix B: The proposed scheme of delegation in relation to Neighbourhood Planning

12. BACKGROUND PAPERS

Localism Act 2011 and subsequent Regulations

Neighbourhood Planning Process Cabinet Report on 23 October 2013

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

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