

 <p>City of stoke-on-trent</p>	<p>Cabinet</p> <p>28 July 2015</p>
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<p>Neighbourhood Planning</p>

Report of	Executive Director - Place
Contact officer(s)	Joanne Tyzzer, Assistant Director (Regeneration, Planning and Transportation) Harmesh Jassal, Strategic Manager (Planning Services) Joanne Mayne, Principal Planning Policy Officer
Type of Decision	Executive Non Key Decision
Wards Affected	All Wards

What is the report about? How will it fit with the Council's priorities?	
1.1	Neighbourhood Planning was introduced under the Localism Act 2011 which amended existing planning legislation. It gives communities rights and responsibilities for making decisions that affect the future of their neighbourhoods.
1.2	The Localism Act 2011 amended the Town and Country Planning Act 1990 [the 1990 Act] and the Planning and Compulsory Purchase Act 2004 [the 2004 Act] thereby introducing the concept of Neighbourhood Planning into law. As part of this process significant responsibilities have been passed to the City Council as the local planning authority.
1.3	Since the changes in the law, the City Council's Planning Policy Team has been asked by a number of community and residents groups to be informed about the Neighbourhood Planning process. Consequently, a short presentation has been prepared to inform such groups which was also shared with Development Management Policy Group.
1.4	Following these initial approaches for information two groups have had follow up meetings with planning officers and are at the early stages of forming Neighbourhood Forums within the Stoke area. Both groups have now formally submitted applications to create a neighbourhood forum and designate an area.
1.5	The purpose of this report is to arrange for the discharge of the various executive functions in relation to Neighbourhood Planning to be carried out by the Executive Director of Place in consultation with the Cabinet Member for

	Greener City and Development. This will enable the City Council to carry out a more efficient and effective service to local communities in relation to this area. Further, this report seeks to agree the approach the Council will take in supporting local groups through the Neighbourhood Planning process and to ensure the Council fulfils its legal obligations.
1.6	<p>In summary the report aims to:</p> <ul style="list-style-type: none"> • provide members with an up to date position on neighbourhood planning within Stoke-on-Trent which was introduced by the Localism Act 2011; • to recommend that the executive powers and duties in connection with Neighbourhood Planning decisions are delegated to the Executive Director of Place in consultation with the Cabinet Member for Greener City and Development; • to advise members on, and to seek approval to drawdown, the government funding available to Local Authorities for the neighbourhood planning process; and • to outline the next steps with regard to the potential neighbourhood planning areas within the City and the Councils obligations; including the production of a Neighbourhood Planning protocol.

What are we recommending?

2.1	Subject to any decision not being a key decision, the following matters are delegated to the Executive Director of Place in consultation with the Cabinet Member for Greener City, Development and Leisure: all executive functions ([including powers, duties and decision making) relating to and in connection with Neighbourhood Planning as contained within the Part III and Schedule 4B and 4C of Town and Country Planning Act 1990; Part 3 of the Planning and Compulsory Purchase Act 2004; the Neighbourhood Planning (General) Regulations 2012 and the Neighbourhood Planning (Referendums) Regulations 2012 and any other executive function relating to Neighbourhood Planning.
2.2	In discharging the above functions/duties and powers, the Executive Director of Place shall consult with the Cabinet Member for Greener City, Development and Leisure.
2.3	That the Constitutional Working Group be requested to recommend to Full Council that Part 3b of the Constitution (Scheme of Delegation) be amended to reflect and incorporate the above delegation.
2.4	To agree that at any stage of the Neighbourhood Planning process, where appropriate, any executive decision can be made at a higher level and should be referred back to Cabinet.
2.5	At the discretion of the Executive Director and in consultation with the Cabinet

	Member for Greener City, Development and Leisure to submit reports to the Planning Committee - Policy Group (previously the Development Management Policy Group) for information purposes.
2.6	To note the list of executive functions contained within Appendix A which will need to be exercised by the Executive Director of Place (and Cabinet) in order to effectively manage the processes relating to Neighbourhood Planning.
2.7	To approve the drawdown of government funding by Planning Services to cover the City Council's costs in fulfilling its neighbourhood planning obligations for each neighbourhood forum area.

How much will it cost and how will it be paid for?

3.1	The cost of preparing the plan rests with the Neighbourhood Forum however Local Authorities are required to meet some of this cost as they are required to meet the costs of examination and referendum (included in overall cost) as well as officer time in providing advice on the proposed plans and administering the formal approval of the forum itself and the boundary of the Neighbourhood Plan.
3.2	There is currently no provision in the existing Place Directorate budget for Neighbourhood Planning. However, in order to support the vital role of local authorities in the neighbourhood planning process, The Department of Communities and Local Government (DCLG) have set up a funding stream for Local Authorities to claim back after various stages of the process have been fulfilled. This is set out within the Financial Section of the Technical Appendix Part 1 below.

When are we doing it?

4.1	Neighbourhood Planning Regulations are already in place and officers are already advising groups on the Neighbourhood Planning process, however decisions on the process cannot currently be made within the recommended timescales. These delegated powers need to come into force as soon as possible so the administrative tasks at the beginning of the Neighbourhood Planning process can be carried out.
4.2	As set out in the 2012 Regulations ¹ , the key mechanism for taking forward Neighbourhood Planning include: <ul style="list-style-type: none"> • Neighbourhood Forums – the body/organisation responsible for preparing Neighbourhood Plans or Orders; • Neighbourhood Areas – the area to which a Plan or Order relates; • Neighbourhood Development Plans – a plan which sets out how the communities want their neighbourhood to be, i.e., a vision for that area,

¹ The Neighbourhood Planning (General) Regulations 2012

	<p>and policies and proposals for the use and development of land (this needs to go through a rigorous designation process including a referendum prior to any adoption);</p> <ul style="list-style-type: none"> • Neighbourhood Development Orders – once established allows communities to approve a particular type of development without the need for planning permission (this needs to go through a rigorous designation process including a referendum prior to any adoption); and • Community Right to Build Orders – once established allows communities to bring forward a specific development on a specific site without the need for planning permission (this needs to go through a rigorous designation process including referendum prior to adoption).
4.3	All of the above, when they are being drawn up, must be in line with national planning policy.
4.4	<p>The processes concerning each of the above matters are contained within the 1990 Act, the 2004 Act and within the 2012 Regulations. In summary, each element requires a similar designation process involving:</p> <ul style="list-style-type: none"> • Approval of a Neighbourhood Area and Neighbourhood Forum (specific to un-parished areas), • submission of a formal application, information and validation • publishing of proposals • examination and consideration and publication of report • If appropriate the holding of a referendum in the relevant area.
4.5	Plans or orders can then be adopted by the Council as the local planning authority. Once adopted, the Plan or Order will form part of the planning policy framework and will carry statutory weight in planning decision-making.
4.6	The 2012 Neighbourhood Planning Regulations are deliberately 'light-touch', setting only minimum requirements and giving flexibility so that Neighbourhood Planning can be tailored to suit local circumstances.
4.7	Since the introduction of Neighbourhood Planning the government announced at the end of 2014, that it was seeking to develop regulations and guidance on setting time limits for Neighbourhood Planning decisions. This would seek requirements to be placed on authorities to approve the designations of a neighbourhood area within 13 weeks from publication of the neighbourhood area. These came into force on 9 th February 2015.

Everything else you need to know:

5.1	The Neighbourhood Planning process must be instigated by the communities. The Regulations do not say what a Neighbourhood Plan should look like or how it should be prepared (other than conformity with policy and legislation) – it will be down to the communities to decide what a Neighbourhood Plan will address and contain. This will depend on what issues are important and
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	relevant in that particular area i.e., a Neighbourhood Plan could be a high-level vision or masterplan, or a more detailed technical document.
5.2	Neighbourhood Planning is optional and not all communities will want to undertake Neighbourhood Planning, but where it does, the law places various statutory duties and responsibilities on the Council.
5.3	<p>These duties and responsibilities include:</p> <ul style="list-style-type: none"> • Determination of applications for Neighbourhood Forums and Neighbourhood Areas; • Supporting plan-preparation by providing technical advice and sharing of evidence/information; • Checking conformity of Plans or Orders with policy and legislation; • Arranging and funding the independent examination; and • Arranging and funding the referendum • Adopting the Neighbourhood Plan/Order if it is found acceptable through examination and agreed my majority vote at the referendum
5.4	The above responsibilities all carry financial and resource implications for the City Council.
5.5	In order to facilitate the process, it is proposed that executive decisions and actions relating to Neighbourhood Planning are delegated to the Executive Director of Place in consultation with the Cabinet Member for Greener City and Development. This will ensure the City Council is able to fulfil its statutory duties in a timely and consistent manner. The necessary steps and actions which will be required in order to enable the City Council to administer and implement actions arising from Neighbourhood Planning are contained within Appendix A attached to this report. However, it should be noted that this list is not intended to be an exclusive list of the delegated powers to be exercised. Further actions may be taken as required in accordance with the duties placed upon the Council regarding Neighbourhood Planning.
5.6	The attached Appendix A also indicates which stages in the process should be referred back to Cabinet. A right is reserved for matters to be referred back if it is a key decision or significant for other reasons.
5.7	Finally, any decision to adopt a plan or order should be carried out by Full Council (following a recommendation from Cabinet).
5.8	There is no direct requirement for consultation arising from this report. The 2012 Regulations require public consultation to take place throughout the Neighbourhood Planning process.
5.9	Part of the City Council's statutory duties includes ensuring the Neighbourhood Forum is representative of the area in which a referendum

	would take place and that the forum is made up of at least 21 members. The Council also has responsibility for publicising the proposals and to ensure consultation on the proposals takes place at the appropriate times.
5.10	Once funding and delegation arrangements set out within this report have been agreed by Cabinet, the Planning Policy Team will advise proposed Neighbourhood Planning Forums accordingly and will work to the arrangements set out.
5.11	It is proposed that a Neighbourhood Planning protocol will be prepared and published on the City Council's website in order to signpost organisations to the requirements of Neighbourhood Planning. It will be important to ensure that the protocol recognises and sets out the role of various council departments involved in the neighbourhood planning process in order to provide clear guidance to community groups.
5.12	Planning Services will also liaise with the City Council's finance teams to ensure the Council is in a position to draw down the available funding.
5.13	In addition, the City Council's Planning Policy Team will also monitor the amount of resource being directed towards the neighbourhood planning functions set out in this report to ensure that any money claimed is meeting the Council's cost and does not significantly affect delivery of the Joint Local Plan timetable. Should the Planning team experience a significant increase in the interest of Neighbourhood Planning, which affects other statutory duties, a further report will be brought back to Cabinet.

Appendix A – Neighbourhood Planning Requirements

Neighbourhood Area and Forum Applications

- To receive, validate and publicise Neighbourhood Area and Forum applications.
- To consider and determine applications for designation of a Neighbourhood Area (including whether to designate as a business area) and Neighbourhood Forum.

Neighbourhood Development Orders [including Community Right to Build Orders] and Neighbourhood Development Plans

- To publicise details of a proposed Order or Plan.
- To determine the validity and acceptance of applications for Orders and Plans.
- To determine whether the relevant requirements contained within Schedule 4B and 4C of the Town and Country Planning Act 1990 have been met in connection with the submission of Orders and Plans.
- To submit the Draft Order or Plan [and any other relevant accompanying documents to independent examination.
- To appoint a person [subject to the consent of the qualifying body] to carry out an examination.
- To make arrangements for the holding of an examination.

Stages which should be referred back to Cabinet

- To receive the examiner's report and to consider what actions to take as a result of that report.
- To publish the examiner's report and/or any decision statement.
- To consider whether to hold a referendum if the relevant statutory criteria are met.

Technical Appendix Part 1:

The following sources of information were used for this report:

Development Management Policy Group Report – Neighbourhood Planning

The following appendices are included as part of this report:

Appendix A – Neighbourhood Planning Requirements

Implications taken into consideration in this report:

Financial:

There is currently no provision in the existing Place Directorate budget for Neighbourhood Planning.

Estimated costs were included within the Localism Bill: Neighbourhood Plans and Community Right to Build Impact Assessment (January 2011, CLG).

The impact assessment estimated that the cost of preparing each Neighbourhood Plan would be between £17,000 and £63,000. The cost of preparing the plan rests with the Neighbourhood Forum however Local Authorities are required to meet some of this cost as they are required to meet the costs of examination and referendum (included in overall cost) as well as officer time in providing advice on the proposed plans and administering the formal approval of the forum itself and the boundary of the Neighbourhood Plan.

In order to support the vital role of local authorities in the neighbourhood planning process, The Department of Communities and Local Government (DCLG) have set up a funding stream for Local Authorities to claim after various stages of the process have been fulfilled. The annual funding per Neighbourhood Forum is:

Funding Available per Neighbourhood Forum	Income
	£,000
Stage 1	
Designation of a Neighbourhood Forum ¹	5,000
Designation of a Neighbourhood Area	5,000
Stage 2	
Publication of Neighbourhood Plan or Order prior to examination ²	5,000
Stage 3	
Successful completion of Neighbourhood Plan or Order examination ³	20,000 – 30,000
Total Income	35,000 – 45,000

Notes:

1. Non-Parished areas only and up to a max. of £100,000 (i.e. 20 areas)
2. No cap on claims at stage 2
3. In areas designated as Business areas to cover the cost of the additional referendum required, an additional £10,000 can be claimed

The funding is claimed retrospectively, upon successful completion of each stage.

As set out below one of the functions of the authority is to organise any required referendum. The cost of a referendum is difficult to quantify at this stage as it will depend on the size of the area / number of polling stations and staff required. However, as a benchmark a standard ward by-election would cost between £10,000 - £15,000. Similarly, costs for the examination and consultation would depend on the extent and nature of the proposals. A referendum is held within the forum area and if the majority of those who vote in a referendum are in favour of the draft neighbourhood plan or Order (or, where there is also a business referendum, a majority vote in favour of both referendums), then the neighbourhood plan or Order must be made (brought into legal force) by the local planning authority.

Given the above costs are amounts that can only be claimed back **after** each stage is completed there is a significant risk that the time and resources required to carry out the authority functions go beyond that which can be claimed back. This would put pressure on budgets, including the City Plan budget and might require a contribution from the City Council's reserves to make up any shortfall. Secondly, there is also a significant risk that the time spent by officers carrying out the statutory duties with regard to neighbourhood planning will have to be diverted away from other statutory functions including preparation of the Joint Local Plan. This risk is currently low, given the low level of interest in preparing a neighbourhood plan, but could increase if more interest is shown.

Legal:

The law relating to Neighbourhood Planning is complex and technical. Neighbourhood Planning is not defined in law but is a concept introduced by the Localism Act 2011 and encompasses the right of communities to make a neighbourhood development plans, neighbourhood development orders and to make a Community Right to Build order.

In order to fulfil and assist the process it is essential to ensure that an effective decision making process is in place. Most of the functions associated with Neighbourhood Planning are executive functions to be discharged by Cabinet. In order to enable these functions to be discharged in an efficient way under the Local Government Act 2000, the executive can arrange for the discharge of its functions by an officer of the authority. Consequently, the executive functions relating to Neighbourhood Planning can be delegated to the Executive Director of Place in consultation with the Cabinet Member for Greener City and Development.

Most of the provisions regarding Neighbourhood Planning are contained within the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, the Neighbourhood Planning (General) Regulations 2012 and the Neighbourhood Planning [Referendum] Act Regulations 2012.

The aforementioned Acts and Regulations place considerable new statutory duties and responsibilities on the Council which leaves it with no option in terms of delivery once certain applications are received.

Public Health, Human Resources and Public Services (Social Value) Act 2012:

The Local Planning Authority will be required to support the Neighbourhood Planning process, this will be primarily supported by the City Council's Planning Team with assistance where required from the Council's in-house Legal Services team. In

addition, City Council resources will be required to arrange and attend the examination and organise referendums. There will therefore also be HR implications for regeneration, policy and engagement, legal and the City Council's Election Team.

The overall concept of Neighbourhood Planning is intended to improve community cohesion. Neighbourhood Plans must ensure they are not discriminatory.

Neighbourhood Planning has the potential to benefit Public Health, by offering opportunities for community cohesion, and supporting the creation of healthy neighbourhoods which offer a range of community facilities and opportunities for physical activity.

Equality Impact or Environmental Impact Assessments:

Neighbourhood Planning is intended to meet locally set objectives for environmental improvements.

Existing Council Policies:

None

Key Risks:

Given the above costs are amounts that can only be claimed back **after** each stage is completed there is a significant risk that the time and resources required to carry out the authority functions go beyond that which can be claimed back. This would put pressure on budgets, including the City Plan budget and might require a contribution from the City Council's reserves to make up any shortfall. Secondly, there is also a significant risk that the time spent by officers carrying out the statutory duties with regard to neighbourhood planning will have to be diverted away from other statutory functions including preparation of the Joint Local Plan. This risk is currently low, given the low level of interest in preparing a neighbourhood plan, but could increase if more interest is shown. It would be prudent to consider funding a dedicated post for neighbourhood planning should the work increase and that money claimed as a result of the work done on neighbourhood planning is safeguarded for this additional staff cost.

Technical Appendix Part 2 - Executive Decisions*:

Options Considered:	
	<p>Neighbourhood Planning provides opportunities for local communities to shape and manage development in their neighbourhoods, through creation of their own plans and policies. The Localism Act 2011 provides the legislative framework and amended the principal Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 to allow for Neighbourhood Planning. The Neighbourhood Planning [General] Regulations 2012 provide the technical detail and procedure for Neighbourhood Planning. The Neighbourhood Planning [Referendum] Regulations 2012 make provision for the holding of referendums.</p> <p>The new provisions therefore place considerable statutory duties and responsibilities on the local authority. The options considered are therefore around fulfilling these duties in the most expedient and efficient way to ensure these obligations are met. Further details on these duties are provided within the main report. The main options considered are:</p>
1.	To require Cabinet to make all of the executive decisions on Neighbourhood Planning as the City Council's Executive Body.
2.	To amend the Scheme of Delegation to allow the Executive Director of Place in consultation with the Cabinet Member for Greener City and Development, to make executive decisions in relation to Neighbourhood Planning and to make provision for the administration of the same. However, it is acknowledged that certain functions within the Neighbourhood Planning framework are not executive functions and would initially rest with Full Council.
	<p>The City Council is required to carry out a number of steps in fulfilling its legal duty, these include verifying that the various applications² which can be made to the Council. If Cabinet were to decide on each step within the process this would significantly add to the time in which a plan/order could be produced. It is therefore considered to be more expedient to delegate the executive functions required in connection with Neighbourhood Planning to the Executive Director of Place in consultation with Cabinet Member for Greener City and Development. At any time when the Executive Director considers that any decision should be taken by the Cabinet then he may refer the matter to Cabinet to determine.</p> <p>Any executive decision in this matter taken by the Executive Director will comply with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. That said, later decisions which will be required in the process regarding the adoption phase of the plan/order process will be taken by Full Council. A list of the executive functions/ actions that will need to be taken by the Executive Director (Place) are attached hereto at Appendix A. The list also details matters which it is</p>

² Matters such as defining a Neighbourhood Area, Designating a Neighbourhood Forum, validating and publicising Neighbourhood Development Plans and Orders,

	proposed are referred back to Cabinet for a decision.
	This list is not intended to be an exhaustive list but, provides an illustration of the matters which need to be dealt with in order to establish a fit for purpose decision making framework for Neighbourhood Planning and associated activities.

Reason for Decision:	
This will enable the City Council to fulfil its legal duty under Neighbourhood Planning legislation in an efficient manner to meet the required regulatory timescales.	

- * In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012