

Subject: Neighbourhood Plans Decision Making

Report to: Economic Development Committee, 19 December 2016

Report by: John Clements, Principal Strategic Planner (Growth Group)

SUBJECT MATTER

A proposed scheme of delegation for the Council's future decisions in relation to neighbourhood development plans.

RECOMMENDATIONS

That the Economic Development Committee agrees that the following scheme of delegation for progressing neighbourhood plans be recommended to the Constitution Working Party and Council, including any necessary changes to the Council Constitution required to implement it:

- 1) the detailed scheme of delegation for neighbourhood plans matters set out at Section 7, and**
- 2) that the relevant Council Committee for neighbourhood development plan matters be the same as that for local plans.**

1. INTRODUCTION

1.1 There has been a recent local surge in interest in preparing neighbourhood development plans (NPs) among parish councils in the Borough, though none have yet been formally commenced. NPs were introduced by the 2011 Localism Act, but have recently been given renewed attention by Government. This has included new legislation in train affecting local planning authorities' statutory obligations in relation to NPs, and some signs of a move towards giving NPs a more central role in development planning.

1.2 While the NPs themselves are formally prepared by the parish council (or a neighbourhood forum in unparished areas), the Borough Council has a range of statutory and other obligations in relation to them. Experience elsewhere shows this has the potential to be very demanding of officer time. It also requires a sequence of Borough Council decisions of various types at successive stages in the progress of each Draft NP, some against specific deadlines. In order that these decisions can be efficiently and effectively made by the Council within the required timescales and at the most appropriate level, a scheme of delegation is proposed.

1.3 If agreed, this would require amendments to the Council's Constitution (which currently makes no explicit mention of NPs). The current review of the Constitution offers an opportunity for this to be achieved in advance of too many of these decisions

needing to be made.

2 NEIGHBOURHOOD PLANS BACKGROUND

2.1 NPs are usually prepared by parish councils. If there is no parish council in an area, other community groups can apply to be designated a 'neighbourhood forum' and prepare a NP. NPs differ significantly from parish plans and other types of community plan, in that once successfully completed they become part of the development plan for their area (alongside the Local Plan). The development plan is, by law, the starting point for any decisions on planning applications. In order to achieve that elevated status, NPs are required to meet a range of requirements in relation to both their content and the process by which they are prepared (though these are significantly less onerous than those for local plans). NP policies may, within certain constraints, vary from and supersede those in the adopted Local Plan.

2.2 The Borough Council, as local planning authority, has several distinct obligations in relation to NP preparation:

- administration of the NP process, including making a number of important quasi-judicial decisions;
- advising and assisting the parish council (or neighbourhood forum) preparing the NP; and
- protecting and promoting the wider planning interests of the Borough.

2.3 It is important to appreciate that the first two of these roles are explicit legal obligations, and that the decisions and actions to be taken on these are, in principle, regardless of whether the Borough Council agrees with the content of the proposals. It is in the last role above that the Borough Council's own views and judgements come to the fore.

2.4 If a NP area includes part of the designated Broads area (where the Broads Authority is the local planning authority) decisions on the NP will need to be coordinated between the two authorities. This is not anticipated to be generally problematic. Indeed, early combined engagement with Stokesby has proved satisfactory.

3 BOROUGH COUNCIL DECISION MAKING ON NEIGHBOURHOOD PLANS

3.1 The Borough Council has to make a series of decisions through the progress of NP preparation. Some of these are highly technical, some merely administrative, but a few others have the potential to be highly controversial. All are to some degree time limited, and current draft legislation intends prescribed time limits for some stages. It is therefore desirable for the Council to determine in advance the levels and procedures for decision making, so this can be done at the most appropriate level and in a timely fashion.

3.2 At present there is no explicit provision in the Constitution for decisions on neighbourhood planning. This Report is being brought to the Economic Development Committee now because NPs are development plans, like the Local Plans which this

Committee already handles.

3.3 The Constitution Working Party and the Council will, however, shortly be considering a proposal that in future development plan matters should be dealt with by the Policy and Resources Committee. (This on the basis that, important though development plans are for economic development, they are also critical for housing and neighbourhoods, the environment etc. and form a major component of the Council's policies for the Borough's future.) Hence what follows below does not identify the specific Committee involved, and this would be decided as part of the wider deliberations of the Council in its review of the Constitution. However, the Economic Development Committee is recommended to advise the Constitution Working Party and Council that, whichever Committee it is, the same Committee should handle all development plan matters, both local plans and NPs.

3.4 The following identifies the sequence of decisions the Borough Council must make in its various roles through the process, and the recommended level within the Council for that particular decision to be taken. The rationale for each of the recommended levels is discussed below, but the principle informing each is:

- Where the decision is predominantly technical or routine, Growth Group Manager (responsible for Strategic Planning and Planning Policy)
- Where the decisions are predominantly routine, but with some potential for sensitivity, Growth Group Manager in consultation with the Committee Chair (facilitating the transfer, if time permits, or reporting of the decision to Committee where appropriate);
- Where the decision has significant potential for controversy, and for bringing the Plan into force, to the Committee.

It is intended that key decisions made under delegated powers would subsequently be reported to Committee, in order to ensure Members are informed of the progress of NPs.

3.5 In the following schedule,

- Committee Chair means the Chairperson of the relevant Committee;
- Growth Group Manager, also includes any person to whom he or she further delegates the decision (usually the Principal Strategic Planner); and
- references to parish councils should be taken to include neighbourhood forums.

3.6 **Recommended Schedule of Delegation (in chronological order):**

3.5.1 Designation of a Neighbourhood Forum: Growth Group Manager, in consultation with the Committee Chair

Determining whether a community group applying for designation as a neighbourhood forum meets the specified requirements. (n.b. This decision is only required if there is no parish council for the area.) Normally routine, but could potentially be controversial if there were competing community groups seeking designation for the same area.

3.5.2 Designation of a Neighbourhood (Plan) Area: Growth Group Manager, in consultation with the Committee Chair

Deciding the area which the NP will cover, following consultation. In parished areas this will usually be the whole parish and uncontroversial. (Draft legislation would not permit any decision but approval in cases where a parish council is seeking whole parish designation).

3.5.3 Informal comments on emerging NPs: Growth Group Manager

Provision of informal guidance and comment on emerging proposals. This is usually an iterative process, and largely indivisible from the general 'advise and assist' role.

3.5.4 Strategic Environmental Assessment Determination (and similar Habitats Regulations Assessment advice, etc.): Growth Group Manager

Highly technical judgement, relating to complex and evolving legislation, as to whether the plan is likely to have significant effects on a range of specified matters (e.g. nature conservation, population, existing infrastructure, etc.), and thus whether a full assessment is legally required.

3.5.5 Formal response to pre-submission consultation: Growth Group Manager

Deciding what comments should be made on the draft NP to ensure the Borough's planning strategy and any other interests are clearly and firmly put forward, and any outstanding issues are addressed, if the parish council is willing, in advance of the examination.

3.5.6 Publication of a submitted NP: Growth Group Manager

Decide whether plan is complete and meets the procedural requirements. If so, deciding extent and timing of consultation in the light of statutory requirements, the precise nature of the NP, and the resources available and any other consultations in progress at the time.

3.5.7 Formal representations on submitted neighbourhood plan: Growth Group Manager, in consultation with the Committee Chair

This is a key stage at which the any outstanding concerns about the NP can be put forward (during the consultation outline above) for consideration in the examination.

3.5.8 Appointment of Examiner: Growth Group Manager

Selecting a 'suitably qualified and experienced' independent person to conduct the examination, gaining parish council's agreement to final choice, and commissioning that person to undertake the examination and make recommendations to the Borough Council.

3.5.9. Whether plan should proceed to referendum: Relevant Committee

A crucial and potentially controversial decision as to whether (in the light of the examiner's recommendations) the plan meets the legal tests, and whether the Borough Council will make any changes to the plan to allow it to go forward.

3.5.10 Bringing the plan into force: Growth Group Manager, in consultation with the Committee Chair

If the plan passes the referendum, then the Borough Council has no choice but to 'adopt' the plan.

The scheme of delegation proposed should save officer and member time.

5 RISK IMPLICATIONS

Reputational and cost risks are mitigated by the proposed scheme of delegation.

6 CONCLUSIONS

A scheme of delegation would help decisions required on NPs to be made in a timely and efficient fashion, and at the most appropriate level.

7 RECOMMENDATIONS

That the Economic Development Committee agrees that the following scheme of delegation for progressing neighbourhood plans be recommended to the Constitution Working Party and Council, including any necessary changes to the Council Constitution required to implement it:

1) **(a) Relevant Committee:**

- i. Whether, in light of the Examiner's recommendations, a Neighbourhood Plan should proceed to referendum, and if so whether any changes must first be made to it.

(b) Growth Group Manager (or such person s/he may delegate to), in consultation with the Chair of the relevant Committee;

- ii. Designation of a Neighbourhood Forum
- iii. Designation of a Neighbourhood Area
- iv. Formal response to submitted Neighbourhood Plan
- v. Bringing a neighbourhood plan into force following a successful referendum

(c) Growth Group Manager (or such person s/he may delegate to):

- vi. Informal comments on emerging neighbourhood plans
- vii. Strategic Environmental Assessment Screening (and similar) of Neighbourhood Plans
- viii. Formal Response to Pre-Submission Consultation on a Neighbourhood Plan
- ix. Publication of a submitted Neighbourhood Plan
- x. Appointment of independent examiner
- xi. Making such detailed changes to the Neighbourhood Plan as required by the Committee decision, together with any consequent adjustments and/or minor corrections or improvements required.

- 2) That the relevant Council Committee for neighbourhood development plan matters be the same as that for local plans.

8 BACKGROUND PAPERS

- Localism Act 2011
- Neighbourhood Planning Bill 2016-17

- Planning Practice Guidance: Neighbourhood Planning

9 ATTACHMENTS

None.

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated?

Area for consideration	Comment
Monitoring Officer Consultation:	N/A
Section 151 Officer Consultation:	EMT 3 rd November.
Existing Council Policies:	Great Yarmouth Local Plan
Financial Implications:	A suitable scheme of delegation will reduce costs.
Legal Implications (including human rights):	N/A
Risk Implications:	Reputational and cost risks mitigated by the proposed scheme of delegation.
Equality Issues/EQIA assessment:	N/A
Crime & Disorder:	N/A
Every Child Matters:	N/A