

DATE OF MEETING: 3 APRIL 2014
REPORT OF: CLERK
SUBJECT: NEIGHBOURHOOD PLANNING

1 REPORT SUMMARY

The report outlines the process for preparation of a Neighbourhood Plan and suggests Terms of Reference for the working group which was established on 6 February 2014.

2 BACKGROUND

At its meeting held on 6 February 2014, the Parish Council established a working group of five Members to develop a Neighbourhood Plan for the area. Subsequent to that, one additional councillor has been appointed to the Group. (Councillors S Clough, J Davenport, P Groves, J Hillman, M Malbon and M Theobald comprise the Group.)

This will be a Neighbourhood Plan rather than a Neighbourhood Planning Order. The Plan will, eventually, be adopted by the Borough Council.

At the time the working group was established, terms of reference were not considered. As the working group has no powers it appeared unnecessary; however, it might be helpful to agree Terms of Reference to bring clarity to the process and to ensure that the Parish Council is up-dated regularly.

Members of the Working Group will be familiar with the process for preparing a plan, but this report is intended to be of benefit to those Members who are not as familiar with the process. Councillor Theobald attended a Neighbourhood Planning Seminar on 19 March 2014 and the information gained will assist in informing the Terms of Reference. Councillor Clough was also nominated but was unable to attend owing to illness.

3 PREPARATION OF THE PLAN

There are three main groups which can prepare neighbourhood plans, viz: (1) Parish and town councils; (2) Neighbourhood forums (in non-parished areas); and (3) Other community organisations. The Parish Council is required to take the lead on this process. In areas which are parished, it is only the Parish Council which can take this forward.

Cheshire East Council (CEC) will make decisions at all key stages in the process and can provide advice or assistance to the Parish Council. Whilst CEC is required to make specific decisions, these are limited to deciding the appropriate extent of the neighbourhood area and to adopt the finalised Neighbourhood Plan; even then, if the Plan has successfully passed the examination and referendum, this stage is a formality and the Authority would be in no position to refuse to adopt. In terms of deciding what is included in the Plan, those decisions are entirely made by the Parish Council.

There are five key stages

1. Defining the neighbourhood

As the Parish Council is taking the lead, the neighbourhood might be the whole of the parish area, but this will be a matter for the group to decide. A neighbourhood area application to CEC is needed to define the neighbourhood formally and will be subject to approval by CEC.

2. Preparing the Plan

The Plan must –

- Conform to local and national planning policies
- Not conflict with other laws

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- Not be used to block building of new homes and businesses if the Borough Council has decided that the area must grow; however, the Plan can be used to influence the type, design, location and mix of new development
- Contribute to achieving sustainable development.

The finished Plan must comprise –

- The Plan itself
- A map of the area to which the Plan relates
- A Statement of Public Consultation
- A Statement of Conformity

The Plan will need to be strong enough to ensure that new development in the parish is determined against its policies and this means a strong evidence-base to support the aims and ambitions of the Plan. It will also be necessary for the Plan to be tested to make sure that it complies with existing local and national planning policy, human rights, environmental and European law.

3. Independent check

An appointed independent examiner will check that the Plan meets the basic standards (as identified above), i.e

- o “Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Development Plan;
- o The making of the Neighbourhood Development Plan contributes to the achievement of sustainable development;
- o The making of the Neighbourhood Development Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- o The making of the Neighbourhood Development Plan does not breach, and is otherwise compatible with, EU obligations; and
- o Prescribed conditions are met in relation to the Neighbourhood Development Plan and prescribed matters have been complied with in connection with the proposal for the Neighbourhood Development Plan.”

Having considered the basic conditions and other relevant legal requirements, the Examiner can recommend one of three options:

- (1) That the draft Neighbourhood Plan proceeds to a referendum as submitted;
- (2) That the draft Neighbourhood Plan be modified to meet basic conditions and the modified version proceeds to referendum;
- (3) That the draft Neighbourhood Plan does not proceed to referendum.

If either of the first two options is determined as appropriate, the Examiner will also consider whether the referendum area should be extended.

4. Community referendum

Following completion of the Plan (and approval by the Examiner) a referendum is arranged to ensure that the community supports whether the Plan should come into force. This referendum will be conducted by Cheshire East Council, in accordance with electoral regulations.

If more than 50% of those voting support the Plan, the local planning authority (i.e Cheshire East Council) must bring it into force.

5. Legal force

Once the Plan is in force following a successful referendum, it will be given the status of a planning document by virtue of its inclusion in the Local Plan

4 SUPPORT

There are various sources of advice, and the Borough Council, as the local planning authority, has a duty to support the process and is obliged, by law, to assist in the drawing up of the Plan. The requirements here are limited to advice/assistance and undertaking the formal aspects of the process; e.g. examination, referendum, adoption of the Plan. A written agreement can be made to clarify expectations on both sides. The level of assistance may depend upon the ambition of the Plan; for example, if the Parish Council could identify sites which would deliver more housing in the Borough, it would be in the interests of CEC to support this.

5 TERMS OF REFERENCE – WORKING GROUP (“the group”)

The working group has no delegated powers. Its role is advisory.

- (i) The principal role of the group is to draw up a draft Neighbourhood Plan for the area, taking into account national and local planning policies;
- (ii) Membership of the working group is currently six parish councillors, but this can be increased or decreased; *(There appears to be no legal bar to the involvement of representatives from local groups, or individuals who might have the appropriate credentials and can contribute to the quality of the Plan. Such individuals could be appointed to the working group; perhaps not at the initial stages but later in the process.)*
- (iii) The group will initially prepare a project plan and timeline, for submission for information to the Parish Council (“the Council”);
- (iv) The group will assess existing evidence about the needs and aspirations of the community;
- (v) The group may liaise with relevant organisations and stake-holders at key stages to secure their input in the process (for example, Stapeley Parish Action Group);
- (vi) The group shall have no power to exercise on behalf of the Parish Council any action which binds the Council; nor shall it incur any expenditure without prior authority of the Council;
- (vii) The group shall review and revise the Plan as and when appropriate as a result of on-going consultation;
- (viii) The Council shall amend these Terms of Reference as and when appropriate; and
- (ix) The group is asked to consider preparing notes of its meetings to facilitate reporting back to the Council on a frequent basis.

6 DECISION REQUIRED

The Parish Council is asked to consider adopting the Terms of Reference, subject to any amendments made at the meeting.

Carol Jones
Clerk
20 March 2014