

WAVERLEY BOROUGH COUNCIL

EXECUTIVE - 29 NOVEMBER 2016

Title:

UPDATING THE SCHEME OF DELEGATION FOR NEIGHBOURHOOD PLANNING

[Portfolio Holder: Cllr Brian Adams]

[Wards Affected: All]

Summary and purpose:

This report seeks approval for proposed changes to the Scheme of Delegation for Neighbourhood Planning, designed to add clarity and achieve the optimum level of efficiency and political involvement at each stage.

How this report relates to the Council's Corporate Priorities:

The changes proposed by this report contribute to meeting each of the Council's Corporate Priorities.

Customer Service: The changes contribute to customer service firstly by ensuring that our internal processes are clear, and ensure that the work of the Neighbourhood Plan groups is supported in a timely and resource efficient manner.

Community Wellbeing: By proactively supporting the Neighbourhood Planning agenda, we are aiding community wellbeing and the idea of a greater voice in decision-making on land use planning.

Environment: Many of the communities undertaking a Neighbourhood Plan are driven by land stewardship ideals. Through supporting Neighbourhood Plans to proceed through the legislative stages in a well-organised and efficient way, we are supporting their aspirations for development in Waverley's towns and villages.

Value for Money: Taking the decision to rationalise the approval process for Neighbourhood Plans or orders so that unnecessary work and bureaucracy is avoided is fully in line with our ambition of careful financial management.

Financial Implications:

The extension of delegated powers would achieve time savings by reducing the number of extraneous reports being prepared and considered. There are financial implications of our involvement in Neighbourhood Planning. Funding available from Central Government is reducing in absolute terms from £30,000 to £20,000 per plan (now that Waverley has passed a threshold of having five neighbourhood areas designated) and instead of funding being available at multiple stages in the process, the money is now paid once the examination has finished and the referendum date has been set.

Despite this, a long term surplus of about £66,000 is suggested, although there are likely to be times of deficit after we have paid for examinations but are awaiting receipt of the grant.

Legal Implications:

The legal team has been involved in the drafting of the changes and are supportive of the proposal to clarify the scheme of delegation.

Introduction

1. Introduced by the Localism Act in 2011, Neighbourhood Plans give local communities a way to decide the future of their places. To date, eleven neighbourhood areas have been designated in Waverley, of which the Farnham Neighbourhood Plan is most advanced with an examination hearing planned for 25 November 2016.
2. Nationally and locally, there is continued interest in Neighbourhood Planning and the Planning Service needs clear guidelines under which to operate. Time limits are increasingly being introduced by Government in a drive to progress Neighbourhood Plans more quickly and therefore Officers need additional delegated powers in order to comply with new regulations.
3. Currently, the Scheme of Delegation refers only to designating the Neighbourhood Area application that cover the whole of a Parish Council area (para 105 - see below) but there are other stages of the process that need clarity under the scheme. The proposed changes are based on whether the decision to be taken is a technical one, or if Council judgement is required.
4. It is requested that the Executive approves the proposals and recommends them to the Council for the scheme of delegation to be amended accordingly.

Proposed changes

5. It is proposed that the Scheme of Delegation be amended as follows:

Current

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|--|---|
| 105. Authority to consider and designate Neighbourhood Area applications | Head of Planning in consultation with the Portfolio Holder for Planning |
|--|---|

Proposed

- | | |
|--|---|
| 105a. Authority to consider and designate Neighbourhood Area applications that cover the whole of a Parish Council area | Head of Planning in consultation with the Portfolio Holder for Planning |
| 105b. Authority to publish the area designation/refusal to designate. | Head of Planning. |
| 105c. Authority to accept a submitted neighbourhood development plan or order for public consultation. | Head of Planning in consultation with the Borough Solicitor. |
| 105d. Authority to submit a plan or order to examination | Head of Planning. |
| 105e. Authority to proceed to referendum where the examiner's report recommends to do so, with only agreed | Head of Planning in consultation with the Portfolio Holder for Planning |

- minor modifications.
- | | | |
|-------|---|---|
| 105f. | Following a successful referendum, authority to make a neighbourhood development plan or order. | Head of Planning in consultation with the Portfolio Holder for Planning |
| 105g. | Authority to publish the made Neighbourhood Plan or order. | Head of Planning. |

Rationale

6. The three areas where there is no consultation with Members relate to technical procedures of publicising a previous decision by posting a notice on our website or a technical assessment of whether the submitted documents meet the legal requirements. Where the involvement of the Portfolio Holder or awareness amongst other Council Members is recommended, this is reflected in the proposals. There are three key stages for this:
- on initial receipt of the application to designate an area,
 - when the decision to designate or refuse an application is made,
 - and when the results of the examination are known and a decision to process to referendum is required.
7. In terms of public visibility of the process, it is important to remember that in addition to these three stages, there are two periods of public consultation and the Council's website is maintained to keep information up-to-date.

Detail

8. The detail relating to each proposed delegation is set out below:-

105a. New provisions as of 1st October 2016 mean that an LPA must designate a neighbourhood area if it receives a valid application and some or all of the area has not yet been designated (para 35 of NPPG). Ward Councillors are normally consulted at this stage which would allow the consideration of issues arising if the proposed neighbourhood areas were not contiguous with the parish boundary.

105b. Following the decision made to designate or not, under 105a, this action is merely to advertise that decision on our website.

105c. There has been a recent High Court judgement highlighting the risk to a Plan if the supporting documents are found deficient in quality. Local planning authorities have to check whether the submission documents meet a set of basic conditions, but there is no requirement to check the overall quality of the documents. That said, it is not desirable to be progressing Neighbourhood Plans where they may later be found deficient by an examiner or challenged in courts. It is proposed to delegate this decision to officers as whether the submission meets the basic conditions, irrespective of whether we judge them to be 'good' documents, is a technical issue and the involvement of the Borough Solicitor at this stage will be important to minimise the risk of challenge arising in Waverley. This stage encompasses the six week consultation under Regulation 16.

105d. Following the six week consultation under Regulation 16, examination is the next defined step in the process and is appropriate for officers to undertake the liaison with appointed examiner.

105e. Where the examiner recommends that the plan or order can move to referendum, and that any minor modifications have been made to form a 'referendum version', the proposal is to delegate this decision to the Head of Planning Service in consultation with the Portfolio Holder. Where the examiner does not recommend that the plan or order proceeds to referendum or if they recommend that modifications are major and/or cannot be agreed, the decision would rest with the Executive. Under new provisions brought in for the 1st October 2016, the referendum must be held within 56 working days of the decision to hold one*, which precludes the decision going to Full Council (*some exclusions apply).

105f. LPAs have eight weeks from the result of the referendum to make the plan. Where the referendum has a positive outcome, it is proposed that the authority for this stage is transferred to the Head of Planning Services, in consultation with the Portfolio Holder for Planning. Where the referendum has a negative outcome, it is proposed that authority is retained at Executive level.

105g. Following the referendum result and the decision to make the plan, officers will advertise that decision on our website.

Conclusion

9. The proposed changes to the Scheme of Delegation are intended to give clarity to officers in the Planning Service on how to progress a Neighbourhood Plan through the Council at each stage. In addition, the proposed changes allow the Council greater certainty in meeting the required deadlines prescribed by Government.

Recommendation

It is recommended that the Executive agrees the proposed changes set out in paragraph 5 and recommends to the Council that the Scheme of Delegation be amended accordingly.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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