

	<b>REPORT TO PLANNING &amp; DEVELOPMENT COMMITTEE TO BE HELD ON 21 JANUARY 2016 AND CABINET ON 19 JANUARY 2016</b>
	<b>Key Decision</b> <b>NO</b>  <b>Forward Plan Ref No</b> <b>SP&amp;T2</b>
<b>Corporate Priority ALL</b>	<b>Cabinet Portfolio</b> <b>Cllr J Plant</b> <b>Holder</b>

**REPORT OF THE DIRECTOR –16/012**

**WARDS AFFECTED:    EASTFIELD, WEAPONNESS, CAYTON,  
SEAMER**

**SUBJECT: TO CONSIDER THE DESIGNATION OF A  
NEIGHBOURHOOD DEVELOPMENT PLAN AREA IN RESPONSE  
TO THE REQUEST RECEIVED FROM EASTFIELD PARISH  
COUNCIL**

**RECOMMENDATION (S):**

- a) That Members approve the application submitted by Eastfield Parish Council for a neighbourhood development plan area covering Eastfield Parish.
- b) To amend the Scheme of Delegation to delegate authority to the Chair of P&D Committee and the Cabinet Portfolio Holder to designate neighbourhood development plan areas in certain circumstances (where the nationally prescribed deadline for decision does not accord with the committee timetable).

## **REASON FOR RECOMMENDATION (S):**

Eastfield Parish Council has applied to SBC for designation of Eastfield Parish as a Neighbourhood Area. This is the first step in the process of preparing a Neighbourhood Development Plan (NDP). The NDP would be prepared by the Parish Council and could, amongst other things, set out planning policies for Eastfield Parish.

Under the Neighbourhood Planning Regulations, the Local Planning Authority is obliged to publicise the application as soon as possible after receipt, to those living, working and doing business in the Parish. In this instance, this type of application needs to be determined within 8 weeks of being first publicised. This deadline was introduced in February 2015 (The Neighbourhood Planning (General) (Amendment) Regulations 2015).

Eastfield Parish Council's application was received on 12 October 2015 and was published on 13 October 2015. Under the Neighbourhood Planning Regulations, the deadline for the application was on Tuesday 8 December 2015. Agenda deadlines meant that the January Cabinet was the earliest practical meeting to receive this report.

In light of the new time limits for the determination of such applications depending on the complexity of the neighbourhood planning area, it is sought to amend the Scheme of Delegation to delegate authority to relevant Cabinet Portfolio Holder – in consultation with the Chair of Planning and Development Committee - to designate neighbourhood plan areas in certain circumstances in the future (where the nationally prescribed deadline for decision does not accord with committee timetable).

## **HIGHLIGHTED RISKS:**

Neighbourhood plans will become part of the development plan and therefore will have a significant influence on future planning decisions.

It would conflict with Government legislation and leave the Council open to legal challenge if the recommendation is rejected and the Local Planning Authority fails to identify an appropriate area to be designated as a Neighbourhood Area.

If delegated powers are not granted, as recommended, the Local Planning Authority may be unable to fulfil its obligation to meet the statutory timetable set out in the Neighbourhood Planning (General) Regulations 2012 (as amended). This would undermine the process and prejudice the establishment of a positive and constructive relationship with those bodies preparing the NDP.

## **1. INTRODUCTION**

1.1 Under the Localism Act 2011, the Government has introduced new legislation that gives greater weight to community-led planning, including the drawing up

of a neighbourhood plan which includes the future use and development of land at a local level. Local planning authorities have a statutory duty to advise or assist communities in the preparation of neighbourhood plans.

- 1.2 Neighbourhood plans are prepared by a 'qualifying body' (as defined by the Town and Country Planning Act 1990 (as amended)) which include parish and town councils, or a neighbourhood forum in areas that are not governed by parish and town councils. Neighbourhood forums are designated by the local authority.
- 1.3 Neighbourhood plans once made (adopted) will form part of the local development plan and therefore need to be in general conformity with the National Planning Policy Framework, the current Scarborough Borough Local Plan and any subsequent review. Neighbourhood plans also need to have to be compatible with relevant EU and human rights obligations.
- 1.4 Applying for designation as a neighbourhood area is the first step local communities are required to take before acquiring their new neighbourhood planning powers. The area indicated on the map in Appendix 1 is the geographical extent in which the Parish Council wishes to undertake neighbourhood planning. In this instance it is the entire Parish of Eastfield that is the subject of the application.
- 1.5 Neighbourhood planning provides an opportunity for local communities to be fully engaged in the future of their communities, and the local ownership that comes from neighbourhood planning is an opportunity to assist the Council in improving equality, diversity, cohesion and integration in our communities.
- 1.6 The Local Planning Authority has the primary responsibility for determining applications for neighbourhood areas and designating neighbourhood forums. This includes carrying out public consultations on any Neighbourhood Area Applications and on the final Neighbourhood Development Plan prior to an examination.

## **2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN**

### **2.1 ENVIRONMENT: A highly attractive area with housing that meets local need**

Preparation of a Neighbourhood Development Plan is one means through which the local community can take responsibility for developing plans for how land is used in their own neighbourhood. They set out local priorities to guide development and protect the natural and built environment, within the framework of national and local strategic policies.

### **2.2 PROSPERITY: A vibrant local economy with thriving towns and villages**

Where relevant, Neighbourhood Development Plans can include land use planning policies geared towards helping rural communities and businesses thrive.

### **2.3 COMMUNITY WELLBEING: Active communities and support for those who need it**

Neighbourhood Development Plans are developed by the local community. The process includes extensive community engagement and has the potential to foster community spirit through agreement of local land use planning priorities.

## **3. BACKGROUND AND ISSUES**

### Neighbourhood Development Plans

- 3.1 A Neighbourhood Development Plan (NDP) can set out planning policies for a specific Neighbourhood Area. It is normally prepared by the Parish Council in parished areas.
- 3.2 At present, only Eastfield Parish Council has chosen to prepare a NDP. Additional communities could choose to prepare a NDP at any time. The Council is obliged to be proactive and constructively engage with communities preparing, or considering preparing, a NDP and take key decisions in a timely manner.
- 3.3 Eastfield Parish Council has resolved to prepare a NDP. They have submitted their application for designation of Eastfield Parish as a Neighbourhood Area, which is the first step in the process.

### Designation of a Neighbourhood Area

- 3.4 The procedure for preparing a NDP is set out in the Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (as amended). The first stage is to apply to the Local Planning Authority (LPA) for designation of the Neighbourhood Area. This is the geographical area which will be covered by the NDP.
- 3.5 As soon as possible after an application is received, the LPA is obliged to publicise it on the Council's website and in such other manner as they consider is likely to bring the area application to the attention of people who live, work or carry on business in the area to which the application relates. Representations are invited. The application must be publicised for a period of at least four weeks in the case of a Parish Council application relating to the whole Parish.
- 3.6 Once the publication period is over, the LPA has to consider any representations received and decide whether to designate the Neighbourhood Area. The decision that has to be taken is whether the Parish boundary is the appropriate area for the NDP. The LPA can approve the boundary as proposed, seek modifications with the Parish Council's consent or refuse the application and seek to agree an alternative boundary.

## Application Timescales

- 3.7 Under amended Neighbourhood Planning Regulations published in February 2015, new statutory time limits were introduced for Neighbourhood Area applications.
- 3.8 Under these amended Neighbourhood Planning Regulations, the deadline for the application fell on Tuesday 8 December 2015. Agenda deadlines and the ongoing Local Plan consultation meant that the January Cabinet was the earliest practical meeting to receive this report.
- 3.9 With this in mind, delegated powers are also sought for the Cabinet Portfolio Holder in consultation with the Chair of Planning and Development Committee to designate neighbourhood plan areas in certain circumstances in the future.
- 3.10 This will enable the Local Planning Authority to fulfil its obligation to engage constructively with local communities in preparing NDPs and take this key decision in a timely manner.

## **4. CONSULTATION**

- 4.1 Following the submission of a nomination, the Local Planning Authority must put the details out to public consultation for a minimum of 4 weeks. This consultation, on the neighbourhood planning area, gives an opportunity for members of the public, businesses and other interested bodies to make representations relating to the appropriateness of the area to be designated. The Borough Council, as Local Planning Authority is required to consider the nomination and either designate the area, vary the extent of the nomination or refuse to designate the area. If the decision is to refuse or vary the designation, then reasons must be given.
- 4.2 The application for the proposed Eastfield Neighbourhood Area was advertised on the Borough Council website and through site notices displayed at various locations within the proposed Neighbourhood Area.
- 4.3 No formal comments were received through the public consultation.

## **5. ASSESSMENT**

- 5.1 In principle, the creation of neighbourhood areas is desirable as it enables the local community to have a greater say over future development affecting their area. A map of the proposed neighbourhood area is provided in Appendix 1.
- 5.2 A statement submitted by the applicant explaining why this area is considered appropriate to be designated as a neighbourhood area is attached as Appendix 2.
- 5.3 Officers have met with the Parish Council to provide some initial advice on the processes involved in NDP preparation. No formal comments were received

through public consultation on the proposed neighbourhood area, so the submitted approach remains unchallenged.

- 5.4 Members are required to consider whether this area is appropriate to be defined as a neighbourhood area. Members are able to amend the boundaries to include additional land or exclude certain areas if it considers it appropriate to do so.
- 5.5 As this is the first neighbourhood area within the borough, the boundaries of other neighbourhood areas do not need to be considered as there are none.
- 5.6 If the Local Planning Authority considers that a proposed neighbourhood area is wholly or predominantly business in nature it should be designated as a business area. This has the effect of allowing business people to vote in an additional referendum on whether to bring the neighbourhood plan into force. In this instance, whilst there are some businesses present within the proposed neighbourhood area, the majority of properties are residential in nature. As a result, this is not considered appropriate to designate the Eastfield Neighbourhood Area as a business area.
- 5.7 There is no further guidance on how local authorities should determine the acceptability of a proposed area. The application proposes to designate the whole of Eastfield parished area and there are no considerations that suggest a smaller or larger area would be more appropriate.
- 5.8 Upon consideration of the Act and the relevant planning regulations, it is recommended that the neighbourhood area application be approved.

#### Next Steps

- 5.9 If the proposed Neighbourhood Area is designated, details must be published, as soon as possible following the decision, on the Local Planning Authority's website and in such other manner that is likely to bring the decision to designate to the attention of people living, working and carrying on business in the Area as detailed in Part 2 Regulation 7 of the Neighbourhood Planning (General) Regulations 2012.
- 5.10 Should the decision be taken not to designate a Neighbourhood Area, the Council is required to publish a document setting out the decision and the reasons for making that decision on the Council's website and in such other manner that is likely to bring the decision to the attention of people living, working and carrying on business in the Area. This should be done as soon as possible following the decision, as set out in Part 2, Regulation 7.
- 5.11 If the application for a Neighbourhood Area is approved, Eastfield Parish Council will be able to produce a Neighbourhood Plan that can eventually be adopted as part of the statutory development plan for the designated Neighbourhood Area (Eastfield Parish).

- 5.12 To become part of the statutory development plan, a Neighbourhood Plan must receive a majority 'Yes' vote in a local referendum organised by the Local Planning Authority. To reach the referendum stage a Neighbourhood Plan needs to progress through several stages. Completed Neighbourhood Plans will be submitted to the Local Planning Authority who will need to be satisfied that the submitted plan complies with the strategic priorities of the local development plan (e.g. Local Plan). Following a period of public consultation, the submitted plan will be examined by an independent inspector who is required to ensure the plan meets a set of basic conditions and legal requirements. Following a successful examination, a submitted Neighbourhood Plan can continue to a Local Referendum (in this case within Eastfield) and, if successful, be adopted as part of the development plan.

## **6. IMPLICATIONS**

### **a) Policy**

- 6.1 Once adopted, the Eastfield Neighbourhood Plan will form part of the statutory Development Plan. It will need to be in conformity with strategic policies in the local development plan and have regard to the National Planning Policy Framework. It will also need to be compatible with relevant EU and human rights obligations.
- 6.2 It would then be used by the Local Planning Authority in making planning decisions within that area in addition to the Borough Local Plan and the NPPF.

### **b) Legal**

- 6.3 The Town and County Planning Act 1990 (as amended by the Localism Act 2011) and The Neighbourhood Planning (General) Regulations 2012 set out the requirements and procedures for the designation of Neighbourhood Areas. The 1990 Act places a duty on the Council to designate Neighbourhood Areas. Additionally the Council has a statutory duty to provide advice and assistance (not financial) as deemed appropriate to Parish Councils in the preparation of Neighbourhood Plans.

### **c) Financial**

- 6.4 No significant impacts at this stage, however, it should be noted that the costs of holding the Examination in Public and the subsequent referendum will have to be borne by the Council. A referendum could, however, be held at the same time as other election events if the timescales allowed.
- 6.5 The Department for Communities and Local Government has allocated funding to provide financial assistance to Local Planning Authorities dealing with Neighbourhood Plans. Support is made in recognition of the consultation and officer time that will be spent supporting and advising the community in taking forward a Neighbourhood Plan/Area. Providing DCLG funding

arrangements continue, the Council will be able to apply for payments to cover costs that will be incurred later in the process.

**d) Staffing**

6.6 Matters relating to Neighbourhood Planning are dealt with by Officers within the Forward Planning Section, with assistance from Legal Services. The time associated with assisting the preparation of the NDP will be met within existing staff resources. Given the commitments associated with the Council's own emerging Local Plan, which is likely to be the subject of an examination in public later this year, the onus will be on the Parish Council itself to drive forward the process.

**e) Planning**

6.7 As per a), neighbourhood plans once made (adopted) will form part of the local development plan and therefore need to be in general conformity with the strategic planning policies, the current Scarborough Borough Local Plan and any subsequent review. Neighbourhood development plans also need to have regard to national planning policy and be compatible with relevant EU and human rights obligations.

**f) Crime and Disorder**

6.8 I have considered whether the following implications arise from this report and am satisfied that there is no identified implication that will arise from this decision.

**g) Health and Safety**

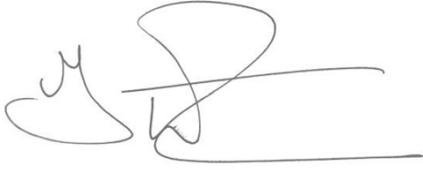
6.9 I have considered whether the following implications arise from this report and am satisfied that there is no identified implication that will arise from this decision.

**h) Environmental**

6.10 Neighbourhood Development Plans are required to conform to national and local policy which is supported by sustainability appraisals. However, depending on the nature of the Neighbourhood Development Plan, the Plan may need to be supported by its own Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA).

## **7. ACTION PLAN**

7.1 Agreement of the Neighbourhood Planning Area will be in January 2016, subject to Cabinet agreement. The timescale for the production of the plan itself is entirely in the hands of Eastfield Parish Council.



**Trevor Watson**  
**Director**

**Author:** Katja Harper, Assistant Planning Officer, Forward Planning  
Telephone No: 01723 232480  
E-mail address: [katja.harper@scarborough.gov.uk](mailto:katja.harper@scarborough.gov.uk)

**Background Papers:**

Please give details of all publicly accessible (non private) background papers applicable to the report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT KATJA HARPER ON 01723 232480 e-mail [katja.harper@scarborough.gov.uk](mailto:katja.harper@scarborough.gov.uk)

## RISK MATRIX

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/Responsible Officer	Action Plan
1	Jan 2016	Council does not make a decision on area designation	Council (Local Planning Authority) criticised for not enabling the Governments localism agenda and helping to bring forward Neighbourhood Development Plans.	Agree (or refuse) the proposed area	D2	B2	Mr D Walker / Mr S Wilson	None
2	Jan 2016	Council does not amend scheme of delegation to allow areas to be agreed by Portfolio Holder	Delays to the approval of Neighbourhood Plan areas and criticism of Council.	Amend the scheme of delegation	D2	B2	Mr D Walker / Mr S Wilson	None

