

NEIGHBOURHOOD PLANNING: ESTABLISHING GOVERNANCE ARRANGEMENTS

Committee: Full Council

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[P157]

1.0 ISSUE

1.1 To put in place robust and clear governance arrangements for dealing with Neighbourhood Planning matters.

2.0 RECOMMENDATION(S)

2.1 That Council:

- (i) Approves the Guidance Note and Service Standards in respect of Neighbourhood Planning, as attached at Appendix 1, and agree to place the Note on the Council's website and send a copy to each Parish Council.
- (ii) Approves the governance arrangements for dealing with all aspects of neighbourhood planning, as set out in Appendix 2.

3.0 BACKGROUND/OPTIONS

3.1 The Localism Act 2011 introduced the concept of 'neighbourhood planning' into the planning system, with the relevant legislation being brought into effect from 6 April 2012. From this date, and in simple terms, parish councils were given the power to prepare planning related plans and orders which would subsequently sit alongside those plans and orders prepared by the District Council. For a district which is entirely covered by parish councils, then only parish councils are granted such powers: non-parished areas have a complicated set of steps to set up alternative arrangements, but as this is not relevant to East Cambridgeshire, no further reference is made to those arrangements.

3.2 Of the various powers, the most commonly used one to date, nationally, has been the ability to prepare a 'Neighbourhood Plan', and the rest of this report is written based on that concept rather than the other powers. Nonetheless, what is written and recommended in this report could equally be applied to other powers, such as the ability to prepare a Neighbourhood Order (which, in simple terms, grants consent for development in an area without the need for planning permission. Nationally, this power has not been taken up by parish

councils, and there is no expectation it will in East Cambridgeshire, hence this report focuses on the Neighbourhood Plan powers).

- 3.3 Elsewhere on the agenda, Members will consider an application made by Sutton Parish Council to designate its parish as a 'Neighbourhood Area', which is the very first step in the process of preparing a Neighbourhood Plan. Sutton Parish Council is the first applicant to submit a formal proposal to East Cambridgeshire to designate a Neighbourhood Area. In being the first, this has triggered the recommendation that this District Council needs to establish clear governance arrangements for dealing with all aspects of Neighbourhood Planning. This will ensure all parties (the District Council, parish councils and members of the public) are clear who will do what, and when, in respect of any proposals which come forward.
- 3.4 At this point, it is worth emphasising that undertaking a Neighbourhood Plan is an entirely optional matter for a parish council. It is therefore difficult to predict what take up there will be, and whether Sutton will be the only one, or indeed whether Sutton will progress beyond this initial step. Nevertheless, despite this uncertainty as to take up, it is considered prudent for the District Council to establish clear arrangements for how we will deal with our statutory responsibilities should one or more parish councils take up the opportunity, and at the same time manage expectations (and be consistent) as to what support we will give to a parish council should one commence the process.
- 3.5 Attached, therefore, to this covering report are two appendices:
- Appendix 1 is intended to be a public-facing explanatory note which, if approved, will be placed on our website and circulated to all parish councils. It intends to set out clearly what the key stages are in neighbourhood planning and what assistance the District Council will give at the various stages.
 - Appendix 2 sets out, if approved, who or what has the authority to discharge the relevant statutory requirements the District Council is obliged to take under the relevant legislation.
- 3.6 As can be seen, Appendix 1 attempts to strike the balance between assisting parish councils undertaking neighbourhood planning, but equally managing expectations and making it clear that the District Council does not have an unlimited resource to assist in this process. A key benefit of the note is also to act consistently with all parish councils.
- 3.7 Appendix 2 has been drafted to, first, ensure we undertake all our statutory duties and, second, strike the balance between ensuring Members remain aware of the progress on the preparation of a Neighbourhood Plan, and take key decisions along the way, but equally delegating to officers where technical or uncontroversial elements need District Council sign-off. In many ways, it can be likened to planning applications, with Planning Committee dealing with certain matters, whereas minor or uncontroversial matters are delegated to officers for approval.

3.8 The alternative option to approving Appendix 1 and/or 2 would be to simply deal with proposals as and when they are received, with Full Council having to determine all matters where a statutory decision needs to be taken by the Council. This option is not recommended, as it is time consuming and places unnecessary burden on Full Council for what are often routine decisions or actions.

3.9 If Appendix 2 is agreed, the constitution will be updated as required.

4.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

4.1 The recommendations in this report have limited direct financial implications, though there are also a number of uncertain financial implications associated with neighbourhood planning.

- Directly, Appendix 1 (if approved) would commit the Council to go beyond its strictly required minimum obligations. However, the 'cost' of this additional service is unlikely to be significant, and in any event can be managed through existing budgets unless an exceptionally high demand arises (i.e. lots of parish councils embark on this process at the same time – something which is beyond the control of our Council). If this unlikely scenario occurs, it will be reported to Members for a way forward.
- Directly, and for the next 15 months at least, Government pay a grant to a District Council for discharging its neighbourhood planning functions based on each neighbourhood plan it deals with and to what stage such a plan reaches. A maximum £30,000 per Neighbourhood Plan can be claimed, this full amount being a plan which reaches the last stage (referendum) in the preparation process.

Whilst not directly related to the recommendations in this report, it is worth highlighting that due to the statutory duties placed on the Council associated with neighbourhood planning, there is a cost placed on the Council to discharge such duties. The main costs are officer time, the independent examination process and the referendum. In most instances, the £30,000 grant should cover such costs, though it should be highlighted that Government has not guaranteed this grant beyond March 2016.

4.2 Equality Impact Assessment (INRA) not required/~~completed~~

5.0 APPENDICES

5.1 Appendix 1 – Proposed guidance note and 'service standard' for Neighbourhood Planning in East Cambridgeshire.

Appendix 2 – Proposed Governance arrangements

Background Documents

None

Location

Room 12A
The Grange
Ely

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Appendix 1 Proposed guidance note and ‘service standard’ for Neighbourhood Planning in East Cambridgeshire

Neighbourhood Planning in East Cambridgeshire

1. Introduction

- 1.1 Neighbourhood Planning was introduced through the Localism Act in 2011. It enables parish councils to develop a planning strategy for their local area to be used in making decisions on relevant planning applications.
- 1.2 A neighbourhood plan can include policies on the development and use of land. Whilst they can promote growth, they cannot be used to propose a lower level of housing growth than that proposed within local authority planning policies.
- 1.3 Importantly neighbourhood plans are required to meet a number of ‘basic conditions’, which are that the plan must:
 - Have appropriate regard to national policy and advice contained in guidance issued by the Secretary of State;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies contained in the East Cambridgeshire Local Plan; and
 - Not breach, and be otherwise compatible with, EU and Human Rights obligations.
- 1.4 This guide has been produced to set out the key stages in undertaking a neighbourhood plan and to clarify what can be expected from the Council at each stage. For a detailed national guide on Neighbourhood Planning please visit <http://locality.org.uk/wp-content/uploads/Roadmap-worksheets-map-May-13.pdf>.

2. Before you get started

- 2.1 Before deciding to pursue a neighbourhood plan it is recommended that you consider what it is you would like to achieve through your plan. This is because a neighbourhood plan is one of a number of tools that can be used to benefit your community. Other options can include, but are not limited to, parish plans, community action plans, or a simple vision statement to set out what the priorities for the community are. You may also want to undertake some initial consultation in your local community to identify what the main issues are.
- 2.2 A neighbourhood plan may deal with a range of issues or can be based around one or two policies but should deal with issues relating to the use or development of land.

- 2.3 If you are considering whether or not to embark on a neighbourhood plan, we would recommend that you contact the Strategic Planning Team to discuss the options. This is useful to ensure that a neighbourhood plan is the correct tool to achieve your goals.

What you should do

Carefully consider what it is you are seeking to achieve with your plan, potentially undertaking some consultation to confirm this is supported by the community, and write to the Strategic Planning Team setting out your proposals and why you think a neighbourhood plan is right for you.

What you can expect from the District Council

A response within 10 working days advising whether a neighbourhood plan may be suitable or possible alternatives to consider, where appropriate. A meeting may be appropriate to discuss the options, subject to resources.

3. Formal stages of neighbourhood planning

- 3.1 If you decide that a neighbourhood plan is the right route for your community there are a number of formal stages that are required by legislation. These stages are set out below and indicate what you should do and what you can expect from the Council at each stage.

Stage 1: Neighbourhood Area Designation

- 3.2 In order to produce a neighbourhood plan, your 'neighbourhood area' must be formally designated. A neighbourhood area is the geographic area that your plan will cover.
- 3.3 In areas covered by parish or town councils (such as East Cambridgeshire), only the parish or town council can apply to undertake a neighbourhood plan, but this can be in partnership with the wider community. A neighbourhood area can also cover more than one parish area, but it must be supported by all parish councils. If more than one parish council is proposing a joint plan we would suggest making a joint application with one parish taking the lead as the 'qualifying body'.
- 3.4 An application for designation will need to confirm that the organisation making the application is the parish or town council, stating why the proposed area is appropriate, and must be accompanied by a map clearly showing the area being applied for. An application form is on the website [**[add link on publication](#)**]. We can also help provide you with a map, if needed.
- 3.5 When submitted, the Council will validate the application by checking that all of the necessary information is provided. If the application is not valid you will be contacted by a planning officer to discuss the reasons and to advise on the next steps.
- 3.6 Once validated, the Council will publicise the application for no less than six weeks, including details of how to make representations on the proposal and the date by which representations must be received.
- 3.7 Representations will be considered by the Council and a decision will be made on whether to approve the area.

What you should do

Submit your request for designation confirming that you are the parish or town council and why the area being applied for is appropriate, clearly showing the proposed neighbourhood area.

What you can expect from the District Council in Stage 1

Validate your application or notify you of any problems within 10 working days

Publish your application on the District Council's website and advertise as necessary (eg a notice on a parish noticeboard and the issuing of a press release) for the 6 week consultation period with details of how long the consultation will run and how to make representations

Make a decision on whether the area should be designated:-

- Within 10 working days of the close of the consultation where the area matches the parish boundary and no relevant objections are received;
- At the next available Planning Committee where the area does not match the parish boundary or where relevant objections are received.

Publicise the decision and notify the applicable parish council.

Stage 2: Produce your plan

- 3.8 There is no 'one size fits all' approach to producing a neighbourhood plan. Each plan will be produced according to the intended content and the nature of the area. It is important to be realistic about the amount of resources and time you can put into the plan.
- 3.9 Most neighbourhood plans undertake an extensive level of consultation to ensure that it will deliver on the desires of the community. This is particularly important as it is the community who will decide on whether the plan is used in the referendum (see Stage 6).
- 3.10 The District Council has a 'duty to support' neighbourhood plans, which could include:
- Advising on potential topics for your plan;
 - Making data available or advising where to find useful data to provide evidence for your plan;
 - Providing advice on the legal requirements for your plan;
 - Advising on organisations that may be able to help with the production of your plan;
 - Advising on ways to engage your community; or
 - Reviewing a draft of your plan and feeding back comments.

This list is not exhaustive, however assistance will be limited to resources available at a

given time, and so it is recommended that you should develop a clear project plan to plan for when you anticipate needing assistance from the Council. It is important to note that the District Council's duty to support does not extend to financial assistance i.e. the Council does not have any funds available to pass to the parish council in order for the parish council to do any of the work.

3.11 Your plan should be based on evidence, which can consist of data that is already available (such as the Census), evidence that is produced by the District Council or other body, findings from consultation exercises, and surveys or other investigation work that your group may produce.

3.12 When you are reasonably certain about the policies your plan will contain, the District Council will help you screen your plan for any environmental impacts. If your plan changes significantly between the screening and the formal submission, it may need to be screened again.

What you should do

Gather a team of people to produce the plan, not underestimating the amount of work needed, or overestimating the amount of time that each member of the team can offer.

Be realistic about what your plan can achieve with the resources you have.

Produce a project plan to provide a clear idea of how your plan will be produced, including key milestones you will seek to achieve.

Gather evidence that already exists and identify any areas that you think needs further review. The Strategic Planning Team will be able to help identify existing evidence.

Engage with the community as much as possible, consider using a range of consultation techniques to ensure that your plan will be supported and will deliver community benefits.

Keep the Strategic Planning Team up to date with your progress and make sure that your project plan will allow sufficient time for any assistance required.

Screen your plan for any environmental effects (the District Council will help you understand what the requirements are for this, and help provide information).

Fund the production of the plan. For information of national grants or assistance that may be available please contact the Strategic Planning Team.

What you can expect from the District Council in Stage 2

Advice on matters relating to the neighbourhood plan will be given upon request by the Strategic Planning Team. Timescales for a response will vary depending on the nature of the request, but every effort will be made to respond at the earliest opportunity.

Assistance with screening the plan for environmental effects will be offered when appropriate and upon request.

Provide an informal view of whether the plan is likely to meet the basic conditions within 20 working days of receiving a request. This will require a mature draft of the plan being

provided prior to the pre-submission consultation.

Stage 3: Pre-submission Consultation

3.13 Regulations require that your proposed plan undergoes a 6 week consultation prior to submitting it (see stage 4) to the District Council. This requirement includes:

- Publicising the plan so that it is brought to the attention of people who live, work, or own a business in the neighbourhood area;
- Notifying a number of bodies such as the Highways Agency, Natural England, English Heritage and the Environment Agency;
- Notifying service providers that operate in the area such as utility providers, a Primary Care Trust, and Network Rail;
- Notifying local organisations that represent racial, religious, national, business, and disability groups;
- Notifying voluntary bodies that operate in your neighbourhood area;
- Notifying parish councils within the neighbourhood area; and
- Sending your plan to the District Council.

Prior to publicising your plan, it is recommended that you contact the strategic planning team who will advise on who you should be notifying and can advise on how to publicise your plan in your neighbourhood area.

3.14 You will need to plan the consultation and make sure that your plan can be viewed by the community and other organisations, both in electronic format and in hard copy. You will also need to consider how you will bring the proposed plan to the attention of the community using means such as mail drops, posters, press adverts, etc.

3.15 Once the 6 week consultation period is complete you will need to review the comments and collate them into a consultation statement, including a response to the key issues being raised. This will demonstrate what changes, if any, will be made to the plan. You will then need to amend the plan to be ready to submit to the Council.

What you should do

Approach the Strategic Planning Team in advance of your consultation for assistance in identifying the necessary organisations that you will need to contact.

Publish the plan electronically and provide hard copies of your plan so that it is available to the residents and businesses in your neighbourhood area.

Publicise the plan as necessary to ensure that the community is aware of the proposed plan and the consultation.

Pay for the consultation.

What you can expect from the District Council in Stage 3

Assist with identifying the organisations that should be contacted as part of the pre-submission consultation and advise on how to publicise the proposed plan to the community. This will be provided within 10 working days of a request in the run up to the consultation.

Publish notice of your plan on the District Council website and place copies of the proposed plan at the Council office and other relevant locations in your area such as libraries for the public to view for the consultation period.

Provide a response to the proposed neighbourhood plan, including a view on whether it is considered to meet the basic conditions.

Stage 4: Submission and Publication of the Plan

- 3.16 When you have taken account of the comments made to the pre-submission consultation you will need to formally submit your plan to the District Council. At this point you cannot make any further changes to the plan and you hand over control of the plan to the District Council.
- 3.17 Your plan must be accompanied by a number of other documents, specifically:
- A map or statement clearly identifying the area to which the plan relates;
 - A consultation statement which clearly documents the pre-submission consultation, including who was consulted on the plan and how they were consulted, a summary of the main issues raised, and information on how the representations have informed the content of the plan. The consultation statement may also demonstrate what previous consultation has been undertaken throughout the production of the plan.
 - A basic conditions statement to demonstrate how the plan meets the basic conditions and how the plan has been produced in line with legislative requirements.
- 3.18 When your plan is submitted, the Strategic Planning Team will check your submission to ensure that it contains all of the necessary information to be published and will notify you of whether or not it is valid.
- 3.19 If the submission is valid, your plan and the accompanying documents will be published as soon as possible for 6 weeks (i.e. this is a second 6 week consultation, in addition to the 6 week consultation at Stage 3) on the District Council's website and in hard copy at appropriate Council locations. The District Council will also publicise the consultation as necessary, including information about where to view the plan, how to make comments on it and when comments will be received until.
- 3.20 Following the consultation, the Council will gather the representations made on the plan and send them, along with the neighbourhood plan and accompanying documents, for examination.

What you should do

Consider the responses received at the pre-submission stage and make any necessary amendments to the plan.

Produce the consultation statement and basic conditions statement to accompany your plan.

Submit your plan and accompanying documents and evidence to the Strategic Planning Team in electronic format that is appropriate to put on the website and can be printed.

What you can expect from the District Council in Stage 4

Confirmation of whether your submitted plan is valid within 10 working days of submission.

Publication of the plan on the District Council's website, hard copies placed at appropriate District and Parish Council locations, publicity of the consultation as necessary and notification of the consultation to bodies as required, including those who submitted comments at pre-submission stage. Commence consultation within one month of the application being validated.

Provide an updated formal response to the proposed plan, including a view on whether it is considered to meet the basic conditions

Pay for the publication of the plan.

Stage 5: Independent Examination

- 3.21 During the publication stage the District Council will appoint a suitably qualified individual to undertake the independent examination. This appointment will be made in conjunction with the Parish Council submitting the plan.
- 3.22 After the publication, the neighbourhood plan, accompanying documents and representations made on the published plan will be sent to the examiner. Examinations are normally conducted by written representations, but the examiner may decide to hold a public hearing to discuss any points as needed. The examiner will only consider whether the plan meets the basic conditions.
- 3.23 Following the examination, the examiner will provide a report that sets out a recommendation on the plan. The possible recommendations are:
- The plan meets the basic conditions and should proceed to referendum;
 - Modifications are needed for the plan to meet the basic conditions before the plan should proceed to referendum; or
 - The plan does not meet the basic conditions and no modifications can be made so that it will and it should therefore not proceed;

The examiner can also make recommendations as to any changes to the referendum area.

- 3.24 The District Council will make a decision on the plan based on the examiner's report and publish the Council's decision statement and the examiner's report.

What you should do

Liaise with the Strategic Planning Team to discuss the appointment of the examiner.

Be prepared to answer questions, possibly in a public hearing, if requested by the examiner.

What you can expect from the District Council in Stage 5

Appoint the examiner in consultation with the submitting Parish Council.

Manage and fund the process of the examination and act as key contact for the examiner.

Publish the examiner's report and the Council's decision on whether the plan will proceed to referendum.

Stage 6: Referendum and Adoption

- 3.25 Upon receiving the examiner's report approving the plan to proceed to referendum and the District Council's formal decision to proceed, the Council will arrange for a referendum to take place in the neighbourhood area.
- 3.26 The referendum will allow for the residents of the neighbourhood area to decide on whether or not the plan should be used in making planning decisions in the neighbourhood area with a simple 'yes' or 'no' vote. The District Council will arrange and pay for the referendum to be held.
- 3.27 If the plan gains more than 50% of votes for 'yes' then the Council will adopt the plan at the earliest possible opportunity, making the neighbourhood plan part of the development plan for the area. It will then be used in conjunction with the Local Plan in making decisions on planning applications.

What you should do

Make sure you are registered to vote and head to the polling station on the day of the referendum.

What you can expect from the District Council in Stage 6

Arrange and pay for the referendum. If a local or national election is coming up within three months after the Council makes a decision to proceed to a referendum, then the referendum will likely take place on the same day (this is to increase likely number of voters and save on polling day costs)

Publish the results of the referendum.

Adopt the plan at the next suitable Full Council meeting

Use the plan in making decisions on relevant planning applications in the neighbourhood area.

Appendix 2 – Governance arrangements for Neighbourhood Planning

The following note sets out the recommended approach for dealing with all the statutory duties which fall upon the District Council in respect of neighbourhood planning. This is likely to be entirely exclusively for neighbourhood plans, but is equally applicable to, and should be read to mean, neighbourhood orders should a parish council embark on a neighbourhood order.

Unless otherwise described, the full title of the Regulations referred to below is The Neighbourhood Planning (General) Regulations 2012. These regulations should also be read alongside, in particular, Schedule 9 (part 2) and 10 of the Localism Act 2011, which themselves introduce schedules into the Town and Country Planning Act 1990.

For any duty not listed below, the matter is delegated to the Strategic Planning Team (for minor, administrative matters) or the Corporate Unit Manager in consultation with, but only if necessary and the matter is of significance, the Chair of Planning Committee.

	Summary Description of Duty	Dealt with by:
1.	<p>Regulation 6 and 7 - Neighbourhood Area Designation:</p> <ul style="list-style-type: none"> (a) Receive and validate application (b) Advertise application for six weeks (c) Consider representations and make a recommendation (d) Determine application (e) Publish decision 	<ul style="list-style-type: none"> (a) Strategic Planning Team (b) Strategic Planning Team in liaison with Communications Team. Application advertised in local area (eg village noticeboard), on our website and via a press release. Relevant ward member plus member champion informed. (c) Strategic Planning Team (d) Corporate Unit Manager to approve application if (i) the Neighbourhood Area proposed matches the parish boundary and (ii) provided no relevant objections to the proposed boundary are received. If (i) and (ii) do not apply, Planning Committee to receive a report and determine the application. (e) Strategic Planning Team
2.	<p>Section 3, Schedule 4B of the Localism Act 2011. – Advice and assistance to Parish Council</p> <ul style="list-style-type: none"> (a) Advice and assistance to the Parish Council (note: this excludes any financial assistance) 	<ul style="list-style-type: none"> (a) Strategic Planning Team (in line with published service standards)

<p>3.</p>	<p>Regulation 14 – Initial Pre-submission six week consultation</p> <ul style="list-style-type: none"> (a) Supporting the parish council with their six week consultation on their draft Neighbourhood Plan (b) Making any formal representations on the draft Neighbourhood Plan during that six week window 	<ul style="list-style-type: none"> (a) Strategic Planning Team in liaison with Communications Team. Plan advertised in local area (eg village noticeboard), on our website and via a press release. Relevant ward member plus member champion informed. (b) Strategic Planning Team to coordinate the Council's response to the draft Neighbourhood Plan. Planning Committee to receive a report and agree final representation, unless, on an exceptional basis, the matter is urgent in which case delegation to agree the final representation sits with the Chair of Planning Committee.
<p>4.</p>	<p>Regulation 16 - Submission of Neighbourhood Plan to the Council, and its publication for a further six week consultation</p> <ul style="list-style-type: none"> (a) Validate the submission documents (b) Publication and arranging of six week consultation (c) Making EDCD representations on the Neighbourhood Plan (d) Collating and summarising the responses received and send to examiner 	<ul style="list-style-type: none"> (a) Strategic Planning Team (b) Strategic Planning Team in liaison with Communications Team. Plan advertised in local area (eg village noticeboard), on our website and via a press release. Relevant ward member plus member champion informed. (c) Strategic Planning Team to coordinate the Council's response to the Submission Neighbourhood Plan. Planning Committee to receive a report and agree final representation, unless, on an exceptional basis, the matter is urgent in which case delegation to agree the final representation sits with the Chair of Planning Committee. (d) Strategic Planning Team

5.	<p>Regulation 17 to 19 - examination</p> <ul style="list-style-type: none"> (a) Appointing an Inspector (b) Arranging examination / hearing (c) Appearing at hearing (d) Consider the examiners report (e) Deciding whether the neighbourhood plan should proceed to a referendum, having taken account of the examiners recommendations (f) Publicising the examiner's report and the decision. 	<ul style="list-style-type: none"> (a) Strategic Planning Team (in consultation and agreement with the applicable Parish Council) (b) Strategic Planning Team (c) Strategic Planning Team (d) Strategic Planning Team (e) (i) Corporate Unit Manager, if the examiners recommendations are accepted in full; or (ii) Planning Committee, if (other than minor non-consequential matters) the examiners recommendations are not accepted in full or if the Council is proposing further modifications (in addition to any modifications recommended by the examiner) (f) Strategic Planning Team
6.	<p>Neighbourhood Planning (Referendum) Regulations 2012 – referendum</p> <ul style="list-style-type: none"> (a) Arranging, advertising and all other aspects of managing the referendum process (b) Publicise the results of the referendum 	<ul style="list-style-type: none"> (a) Electoral Services (b) Communications Team
7.	<p>Regulation 20 – adopting a neighbourhood plan</p> <ul style="list-style-type: none"> (a) Decision as to whether to adopt the neighbourhood plan (b) Publicise decision 	<ul style="list-style-type: none"> (a) Full Council (b) Communications Team