

<b>Bath &amp; North East Somerset Council</b>	
MEETING:	Planning , Transport & Environment Policy Scrutiny Committee
MEETING DATE:	13 <sup>th</sup> March 2012
TITLE:	The Localism Act: A Neighbourhood Planning Protocol for Bath & North East Somerset
WARD:	ALL
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> Appendix 1: My Neighbourhood: A Neighbourhood Planning Protocol for B&NES (Consultation Draft, March 2012)	

## **1 THE ISSUE**

- 1.1 The Localism Act was enacted in November 2011 and enables community-led planning in the form of Neighbourhood Plans, Neighbourhood Development Orders and the Community Right to Build. It also introduces new planning duties on Bath & North East Somerset to support this new tier of Neighbourhood Planning which comes into effect in April 2012. In order to respond to this new agenda, a protocol entitled *My Neighbourhood: A Neighbourhood Planning Protocol for B&NES* has been prepared for public consultation. This has been informed by community engagement and the draft Neighbourhood Planning regulations. The final regulations are due to be published in April 2012 when this part of the Act comes into force. The B&NES protocol will be amended to take account of the final regulations and the results of the public consultation.
- 1.2 This document will supersede the current Statement of Community Involvement (SCI) for Planning, adopted in 2007. As such also includes information on the ways in which the community can get involved in the planning processes. The final version of the NPP will also need to incorporate the West of England Planning Toolkit (see elsewhere on this agenda).
- 1.3 Cabinet are due to consider the item on 14<sup>th</sup> March and it is proposed that a public consultation will be held on the draft document. The views of the PTE Policy Scrutiny Committee will be taken on board alongside the consultation comments before the document is finalised.

## **2 RECOMMENDATION**

The PTE Scrutiny Committee is asked to give their view on the draft Neighbourhood Planning Protocol and on the recommendations to Cabinet replicated below.

### 3 CABINET RECOMMENDATION

#### 3.1 The Cabinet agrees that:

- (i) The *My Neighbourhood: A Neighbourhood Planning Protocol for B&NES* (**Appendix 1**) is agreed for public consultation;
- (ii) Responsibility is delegated to the Divisional Director of Planning & Transport, in conjunction with the Cabinet Member for Planning and Housing, to make graphic and minor textual amendments prior to publication of the NPP for public consultation, and
- (iii) The protocol for neighbourhood planning is kept under review so that opportunities to link this process with other community engagement are fully considered.

### 4 FINANCIAL IMPLICATIONS

- 4.1 The preparation of the *My Neighbourhood: A Neighbourhood Planning Protocol for B&NES* document is being met within the LDF budget.
- 4.2 Financial implications arising to the Council from the new duties introduced in the Localism Act will depend on community take-up of Neighbourhood Planning. The costs to the Council per Plan have been approximated in **Table 1** below. Officer time to support Neighbourhood Planning will be required from both Planning Services and other service areas (see Table 1 below).
- 4.3 The costs for 2012/3 will be met from existing Service budgets. In the case of examinations (if any are requested in 2012/13) this will be met from the Local Development Framework Budget. The costs for referenda will be met from the Democratic Services budget. The Council will only be able to support a limited number of requests for assistance with Neighbourhood Plans during 2012/13.
- 4.4 Beyond 2012/3, the Council will decide what budgetary provision it wishes to make to support Neighbourhood Planning.

*Table 1: Summary of Costs to the Council for a typical Neighbourhood Plan (including a Neighbourhood Development Order)*

Duty	Direct cost to Council per Plan	Likely B&NES Officer time per Proposal	Funding source
Designation of Neighbourhood Forums (Bath only)	-	5-10 days	Staff time*
Council Support for preparation of Neighbourhood Plans	-	15-20 days	Staff time*
Validation of Neighbourhood Plans	-	2 days	Staff time*
Examination of Neighbourhood Plans by an Independent Inspector	£5,000	7 days	LDF Budget
Referenda	£7,000	5 days	Electoral Services
Adoption of Neighbourhood Plans	-	5 days	Staff time*

*\* Staff primarily planning services but also other service areas as relevant to the issues in the Neighbourhood Plan e.g. Policy & Partnerships, Democratic Services, Development & Regeneration, Transport etc. CLG (2011) cost estimates from the Localism Bill: Neighbourhood Plans and Community Right to Build Impact Assessment have been used to estimate costs.*

*Table 2: Summary of Costs to the Council of a typical Right to Build Scheme*

Support in scheme development	£5,000	5 days	Existing staff time*
Referenda	£7,000	5 days	Electoral Services

- 4.5 The majority of the costs of preparing Neighbourhood Plans will need to be borne by local communities wishing to take advantage of these new opportunities. Some Government funding is likely to be able to be bid for by Parish/Town Councils or Neighbourhood Forums in the form of grants or in-kind support.

## **5 CORPORATE PRIORITIES**

- 5.1 The Localism agenda in Planning links well to all three of the Council's new corporate priorities.

*\* Promoting independence and positive lives for everyone*

*\* Creating neighbourhoods where people are proud to live*

*\* Building a stronger economy*

- 5.2 Neighbourhood Planning has been designed to be pro-development and therefore should have a positive economic outcome, while it also seeks to encourage community and neighbourhood action.
- 5.3 There may be opportunities to link neighbourhood planning with other forms of local community engagement, including through other initiatives arising from the Localism Act. These opportunities are presently being explored as there is presently a relatively complex pattern of community engagement potentially made more complex by the Localism Act.

## **6 THE REPORT**

### *Legislative Background*

- 6.1 The Localism Act seeks the transfer of power from Central Government to Local Authorities and local communities. It has implications for Service Delivery and Council functions and particularly for Planning Services. It introduces three neighbourhood level planning powers, which will come into force in April 2012 (see **table 3**).
- 6.2 These new tools are permissive, pro-development tools so they allow communities to shape and influence development locally or encourage more development of a certain type or kind. The proposals must be in general conformity with national policy and the Development Plan (i.e. the B&NES Local Plan/Core Strategy).

Table 3: The three neighbourhood planning powers introduced by the Localism Act

Item	Definition
<b>Neighbourhood Plan</b>	Communities are able to establish general planning policies for the development and use of land in a neighbourhood through a Neighbourhood Plan. They could influence where additional new homes and offices should be built and what they should look like. It can be detailed, or general, depending on what local people want. They must be less restrictive than the local authority policies and should be pro-development.
<b>Neighbourhood Development Orders (NDO)</b>	The community can extend permitted development rights in their area for development they want to see go ahead. Examples might include extensions to community buildings, affordable housing or local scale renewable energy installations. All other consent regimes will still apply e.g. Building Regulations or Listed Building consent.
<b>Community Right to Build</b>	Is a type of NDO for a particular scheme. It will be for community and voluntary groups only (as defined in the regulations) to identify suitable land, sources of finance and secure support for their proposals. It requires agreement through a 'community referendum', and must. Such schemes will not need to go through the normal planning application process.

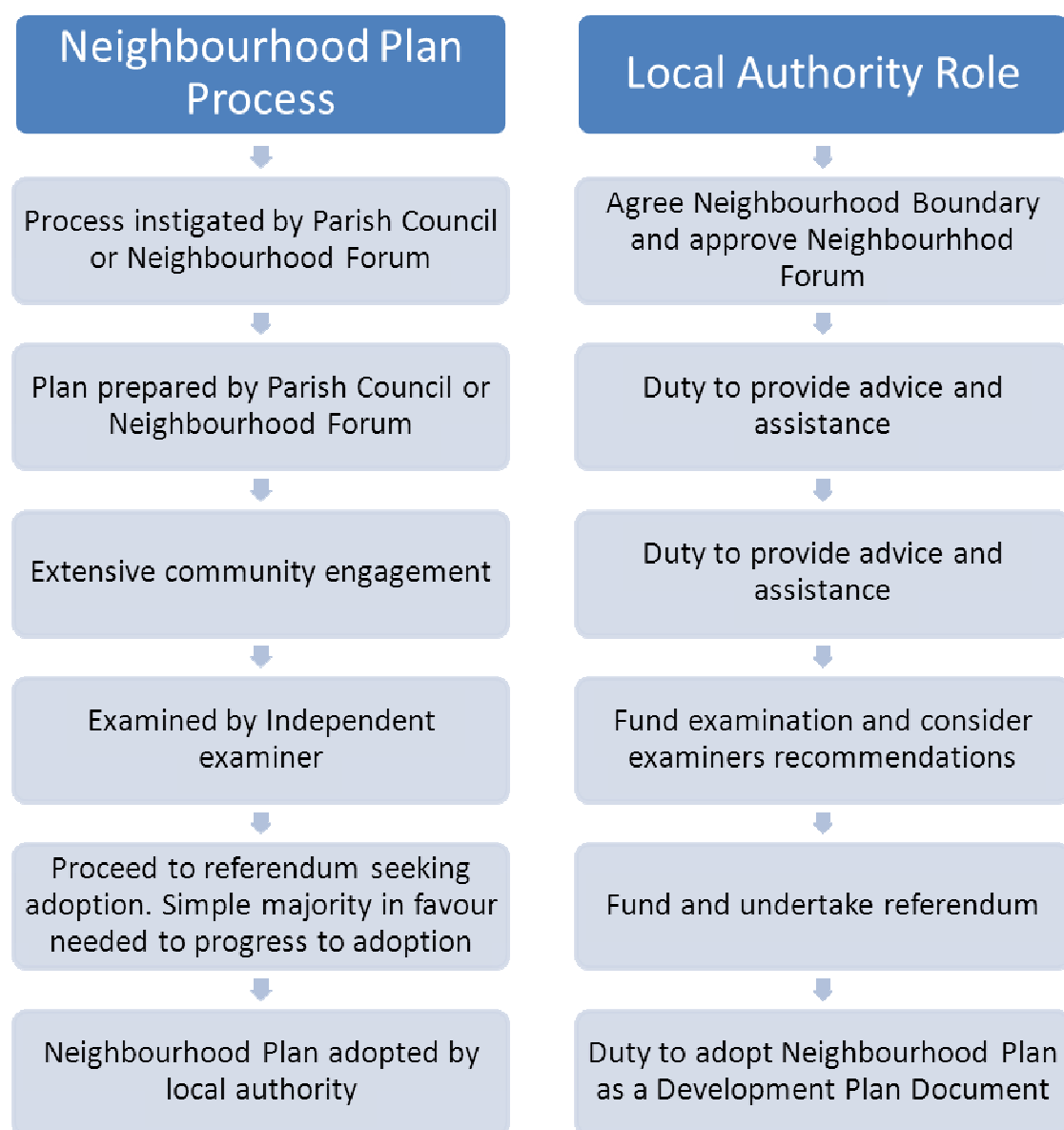
## Neighbourhood Plans

6.3 The Neighbourhood Plan process is summarised in **Diagram 1** below. A Neighbourhood Development Order would need to follow a very similar process and is likely to be generated through a Neighbourhood Plan process. There are some elements of this process where there is local discretion so the *My Neighbourhood: A Neighbourhood Planning Protocol for B&NES* document will outline the Council's role in these cases and give an overview of the process.

## Neighbourhood Forum Approval

6.4 Only a Parish/Town Council or a properly constituted Neighbourhood Forum, designated by the Local Planning Authority, has the power to prepare Neighbourhood Plans or Neighbourhood Development Orders for a specified area. The Council could pre-designate these Forums, however, this could be complex and does not respond to the way in which local communities define themselves. They should however, link into any future proposals for Neighbourhood structures that the Council is considering in future.

Diagram 1: Neighbourhood Plan process



6.5 While both the Localism Act and the accompanying draft Regulations set out basic criteria, the Council has the opportunity to set up a more detailed local process. Neighbourhood Forum can either be community or business led. The basic criteria in the Act are as follows:

- consist of at least 21 people who live or work in the area,
- include an elected member,
- have a written constitution,
- not overlap geographically, and
- must be set up for the express purpose of promoting and improving the social, economic and environmental well-being of the neighbourhood area.

6.6 More detailed eligibility criteria are set out in the *My Neighbourhood: A Neighbourhood Planning Protocol for B&NES* document, including criteria against which an application will be considered and the outline of a code of

practice. Decisions on Neighbourhood Forum Designation in Bath will then need to be made at by Council based on the national and local criteria.

- 6.7 It is estimated that for each Neighbourhood Forum application officer time of approx. 5-10 days will be required from Planning Services and Policy, Development & Major Projects and Policy Partnerships teams).
- 6.8 It should be noted that CIL regulations allow for devolution of funds to Parish and Town Councils but not Neighbourhood Forums.

*Duty to Provide Support for Neighbourhood Planning*

- 6.9 The Council has a duty under the Act to support Neighbourhood Planning. Specifically the cost of referenda and examinations are to be met by the local authority and the approval of Neighbourhood Forums is also a requirement. In addition to this, the Local Planning Authority can clarify what support it can offer to the community. Discussions with community focus groups suggest that there is likely to be a peak in the need for this support 2012-2014. If demand outweighs resources, this will effectively operate as a break on community aspirations.
- 6.10 Services within the Council will work together to identify which local initiatives require a full Neighbourhood Plan-based approach and which can be addressed in other ways, eg through traditional "community plans". The "Community Planning Toolkit" will be reviewed to reflect the Localism Act and re-issued in order to explain the options available to local communities in addressing their local priorities later in 2012.
- 6.11 There is also scope to encourage local communities to work with the Council on the Placemaking Plan or in other existing projects or initiatives as many of their aspirations can be more easily and quickly achieved in this way. The involvement of the community in formulating detailed site allocations, development management policies and local designations will be critical to the success of the Placemaking Plan in making better places that reflect the aspirations of local residents.
- 6.12 Staff time to support preparation of Neighbourhood Plans will need to be funded by re-prioritisation of the preparation of other policy documents. Officer Time is likely to be 10-20 days per Neighbourhood Plan. The NPP does not propose dedicated planning policy officer for Neighbourhood Plans as it is difficult to predict the likely requests for support.
- 6.13 Specific support is also required in relation to:

<b>Validation of Neighbourhood Plans</b>	This entails checking for policy conformity and checking against EU and other regulations. This will need to be undertaken by Planning Services and is estimated to be 2 days per request.
<b>Examinations of Neighbour-hood Plans</b>	<p>The Council's responsibility will be to organise and fund the 'light touch' examinations required for Neighbourhood Plans.</p> <p>CLG estimates that examination minimum costs per plan will be around £5,000 with no extra central funding currently allocated. Officer Time is</p>

	likely to be 7 days per examination. There is scope to encourage local communities to establish their own arrangements to undertake this function or agree procedures across the West of England.
<b>Referenda</b>	<p>Once a Plan is approved by the Council, a local, public referendum must be held, covering (as a minimum) the neighbourhood area.</p> <p>The referendum must be organised and funded by the Local Authority. This will be undertaken by Electoral Services.</p> <p>CLG estimates that the minimum examination costs per plan will be around £7,000 with no extra central funding allocated. This is in addition to staff time to arrange the referenda of around 5 days per referendum</p>
<b>Adoption</b>	<p>It is proposed that the Neighbourhood Plan could be adopted by the Cabinet or Council. The Local Authority will then be required to make planning decisions in accordance with the Neighbourhood Plan.</p> <p>Planning Officer time in report writing and Democratic Services officer time in including Neighbourhood Plans etc in democratic process. Staff time around 5 days.</p>

### ***Community Right to Build***

- 6.14 There is little local discretion about how proposals coming forward under the community right to build will be dealt with. Proposals for the Community Right to Build can be lodged by community groups other than the Parish/Town Council or Neighbourhood Forum. However, they will need to be from a community group such as a community interest company or community land trust etc. (further details in government regulations) and will need to be developments that would not trigger EIA requirements. However, the Council will have a role in potentially supporting scheme development and in funding and holding the local referendum.

### ***Statement of Community Involvement Refresh***

- 6.15 Also contained in the *My Neighbourhood* document is a review of the existing processes in the Statement of Community Involvement. This review process has been light touch and has focused on local changes to process since 2007 and national policy changes. Key additions are as follows:
- (i) Chapter 2 “Have your say on planning applications”: This includes a new section on pre-application to reflect the new requirements in the Localism Act for very large developments to undertake community consultation. It also includes new detail on expectations for developers of “large and sensitive” sites to undertake consultation at Masterplan or Design stage and formally introduces the expectation that they will enter into a Planning Performance Agreement with the Council which will include details of community engagement. This has been added to link into the work on the MOD sites in Bath and the concept statements that are under development.

- (ii) New Chapter 5 on “How to Protect your Trees”: This gives information on tree preservation orders and how applications are considered and advertised. This is provided after requests from the general public.
- (iii) New chapter 6 on “Other tips and tools for communities”: This outlines other useful web resources or tools that can be used. This has been added after feedback from focus groups.
- (iv) The final version of the NPP will also need to incorporate the West of England Planning Toolkit (see elsewhere on this agenda).

## **7 RISK MANAGEMENT**

- 7.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.
- 7.2 There is a risk that neighbourhood planning will not join up with other forms of community engagement especially in unparished areas. To help avoid this the neighbourhood planning protocol/SCI will be kept under review to see what links should be made to existing, or new, community partnership meetings and other forms of engagement. The important role that parishes play is recognised.

## **8 EQUALITIES**

- 8.1 The Government has undertaken an Equalities Impact Assessment of the Localism Act in relation to Neighbourhood Planning (2011). This has been used to inform the Equalities Impact Assessment of this policy approach.
- 8.2 Key issues raised in the Equalities Impact Assessment:
  - The need to engage equalities groups in the consultation on the draft Neighbourhood Planning Protocol
  - This document will help identify target equality groups that extra effort is needed to engage in planning processes

## **9 RATIONALE**

- 9.1 The Council needs to be ready to implement the new duties on enactment of the Localism Bill.

## **10 OTHER OPTIONS CONSIDERED**

- 10.1 The Council is not obliged to prepare a NPP and instead can respond to request on an ad hoc, piecemeal basis. This option has been rejected because this would lead to considerable confusion and lack of clarity for local communities and lack of co-ordination within the Council.
- 10.2 The Council could pursue a more pro-active approach to designating forums in Bath such as using Wards, PACT areas, post code sectors or follow the Bristol



Neighbourhood Partnership approach. This would be more time-consuming, costly and may pre-empt local aspirations contrary to the spirit of the Localism Act.

## 11 CONSULTATION

- 10.1 *Ward Councillor; Cabinet members; Parish Council; Town Council; Overview & Scrutiny Panel; Staff; Other B&NES Services; Local Residents; Community Interest Groups; Charter Trustees of Bath; Section 151 Finance Officer; Chief Executive; Monitoring Officer*
- 10.2 Significant informal engagement has been undertaken with Parish & Town Councils and local groups in Bath to assist in identifying appropriate options and their implications. This has included series of three focus groups and a number of briefing sessions. The NPP will be subject to a public consultation, the results of which will be reported to cabinet before the NPP is finalised and adopted.

## 11 ISSUES TO CONSIDER IN REACHING THE DECISION

- 11.1 *Social Inclusion; Customer Focus; Sustainability; Other Legal Considerations*

## 12 ADVICE SOUGHT

- 12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	David Trigwell Divisional Director - Planning and Transport, Planning and Transport Development  Simon de Beer – Planning Policy & Environment Manager
<b>Sponsoring Cabinet Member</b>	Councillor Tim Ball
<b>Background papers</b>	Localism Act 2011 <a href="http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted">http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted</a>  Consultation Draft Neighbourhood Planning Regulations (2011) <a href="http://www.communities.gov.uk/documents/planningandbuilding/pdf/1985878.pdf">http://www.communities.gov.uk/documents/planningandbuilding/pdf/1985878.pdf</a>  CLG (2011) Localism Bill: neighbourhood plans and community right to build Impact assessment <a href="http://www.communities.gov.uk/publications/localgovernment/localismneighbourhoodplans">http://www.communities.gov.uk/publications/localgovernment/localismneighbourhoodplans</a>  CLG (2011) Localism Bill: Neighbourhood plans - Equality Impact Assessment <a href="http://www.communities.gov.uk/publications/localgovernment/localismneighbourhoodplans">http://www.communities.gov.uk/publications/localgovernment/localismneighbourhoodplans</a>
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