

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	9th September 2015	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2788
TITLE:	"Making" Neighbourhood Plans: amendment to Council's Neighbourhood Planning Protocol	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix 1: Amendments to <i>My Neighbourhood: A Neighbourhood Planning Protocol for Bath & North East Somerset</i></p>		

1 THE ISSUE

- 1.1 The *Neighbourhood Planning Protocol* (NPP) needs to be amended primarily with regard to the process of the Council making (bringing into force) Neighbourhood Plans once they have passed their referendum to make it clear that this is a Cabinet decision.

2 RECOMMENDATION

- 2.1 That Cabinet approves the amendments to *My Neighbourhood: A Neighbourhood Planning Protocol for Bath & North East Somerset* as set out in Appendix 1 to this Report to:
- a) clarify that the decision to make (bring into force) a Neighbourhood Plan once it has passed its referendum should be made by Cabinet;
 - b) clarify the process of issuing a Decision Statement following Independent Examination; and
 - c) delegate authority to the Divisional Director – Development to issue a Decision Statement once a Neighbourhood Plan has been made; and
 - d) clarify the process of approving Neighbourhood Area applications for Parish & Town Councils, where the boundary of the proposed Neighbourhood Area is different to the Parish/Town Council boundary; and
 - e) make minor factual alterations.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The proposed amendments to *My Neighbourhood: A Neighbourhood Planning Protocol for Bath & North East Somerset* has no financial costs to the Council. The funding of costs associated with preparing individual Neighbourhood Plans, taking them through examination and referendum will be reported at the time of decision to make and bring into force that Neighbourhood Plan.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Localism Act 2011 has reformed the planning system to give local people new rights to shape the development of the communities in which they live.
- 4.2 The Act provides for a new type of community-led initiative known as a Neighbourhood Development Plan which sets out the policies on the development and use of land in a parish or 'neighbourhood area'.
- 4.3 The Council has a duty to assist communities in the preparation of Neighbourhood Development Plans and Orders and to take plans through a process of examination and referendum and to then bring Neighbourhood Development Plans into force.
- 4.4 Implementation of the Council's duty to assist communities in preparing Neighbourhood Plans is set out in the NPP. The NPP outlines how the Council will support communities and also sets out the process of the Council making (bringing into force) the Neighbourhood Plan once it has passed its community referendum. The NPP currently states that this requires ratification by full Council, which was based on an early interpretation of the legislation.
- 4.5 Since the drafting of the NPP it has become clear that neighbourhood planning is a matter for the Council's Executive. This means that the making (bringing into force) of a Neighbourhood Plan should be a Cabinet decision and the NPP should be amended accordingly.
- 4.6 The decision making process relating to the issuing of a Decision Statement on a Draft Neighbourhood Plan following consideration of the Examiner's Report should be clarified so that it is clear that Cabinet has delegated this to the Divisional Director - Development.
- 4.7 In addition, it is recommended that authority is delegated to the Divisional Director- Development to issue a Decision Statement pursuant to section 38A (9) of The Planning & Compulsory Purchase Act 2004 ("the 2004 Act") (as amended by the Localism Act) and Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations") once a Neighbourhood Plan has been made.
- 4.8 There is also an opportunity to approve minor typographical and factual changes to the NPP and to clarify the process for designating a Neighbourhood Area, in Town/Parish Council areas, where the proposed boundary differs from the Town/Parish Council administrative boundary.

5 THE REPORT

- 5.1 It is recommended that changes to the NPP are made in order to clarify the decision making process in respect of designating a Neighbourhood Area, issuing a Decision Statement following Independent Examination; the making of a Neighbourhood Plan or Order, issuing a Decision Statement following a plan being made, as well as minor factual and typographical amendments as set out in Appendix 1

Designating a Neighbourhood Area

- 5.2 It is recommended that the NPP is amended in order to make it clear that in Neighbourhood Area applications where the boundary of a proposed Neighbourhood Area is different to the Parish/Town Council boundary in question, this decision will be taken by Cabinet.

Decision Statement following Independent Examination

- 5.3 Following Examination of a Draft Neighbourhood Plan by an independent examiner and receipt of the examiner's report, the Council is required to issue a Decision Statement confirming that the LPA is satisfied that the Neighbourhood Plan meets the statutory criteria, subject to any amendments recommended by the Examiner. It is proposed that the NPP be amended to make it clear that this is a Cabinet decision, delegated to the Divisional Director - Development. A minor wording change to the NPP to clarify this is set out in Appendix 1.

Making a Neighbourhood Plan or Order

- 5.4 The NPP is also recommended to be changed to make it clear that the making (bringing into force) of a Neighbourhood Plan or Order is a Cabinet decision, rather than requiring ratification by full Council.

Decision Statement following a Plan or Order being made

- 5.5 It is recommended that Cabinet delegate authority to the Divisional Director – Development to issue a Decision Statement pursuant to section 38A(9) of the 2004 Act and Regulation 19 of the 2012 Regulations once Cabinet has decided to make a plan. In addition, it is recommended that the NPP is clarified in relation to this part of the decision making process as set out in Appendix 1.

Minor typographical and factual changes

- 5.6 It is recommended that Cabinet approve these minor changes as set out in Appendix 1, although these amendments have already been agreed via a single member decision in September 2014, the opportunity has been taken to formally request that Cabinet agrees these amendments.

6 OTHER OPTIONS CONSIDERED

- 6.1 No other options were considered given the conclusion that neighbourhood planning is an Executive power.

CALL IN

- 6.2 The Stowey Sutton Neighbourhood Development Plan passed its referendum on 7th August 2015 and the Council has a legal duty to make the plan as soon as reasonably practicable after the referendum. This is the subject of a later report. The changes to the NPP with regard to the making of Neighbourhood Plans and issuing of a Decision Statement thereafter are required to take effect immediately so that the Council can comply with this statutory duty. It is therefore considered that this decision falls within the exceptions to call in contained in rule 5 of the Call in Procedure Rules, namely, that the effect of call in would be to cause the Council to miss a statutory deadline.
- 6.3 For clarity, it is considered that the other recommended changes to the NPP in this report (designating a Neighbourhood Area, the issuing of decision statements following an Examiners Report and minor factual changes) do not fall within rule 5.

7 CONSULTATION

- 7.1 The Monitoring officer, Section 151 officer and Strategic Director Place have been given the opportunity to review this report.
- 7.2 No additional consultation has taken place or is necessary with regard to the recommendations of this Report.

8 RISK MANAGEMENT

- 8.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Richard Daone 01225 477546</i>
Background papers	<i>My Neighbourhood: A Neighbourhood Planning Protocol for Bath & North East Somerset</i> http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/NPP/npp_my_neighbourhood_adopted_2014.pdf
Please contact the report author if you need to access this report in an alternative format	