

Cheltenham Borough Council

Council 20th July 2015

Leckhampton and Warden Local Development Area Application

Accountable member	Councillor Jordan – Leader
Accountable officer	Tracey Crews – Head of Planning
Ward(s) affected	Potentially several
Executive summary	<p>The report is asking Council to publicise and publish the application for designation of a neighbourhood area for the parished area of Leckhampton with Warden Hill for a period of four weeks.</p> <p>The Town and Country Planning Neighbourhood Plan (General) Regulations 2012 (as amended) requires local authorities to publicise and publish a neighbourhood area application for public consultation, prior to formal designation. It is only following the successful completion of this stage that the parish council can formally progress with the preparation of their neighbourhood plan.</p> <p>The report sets out an outline of the required steps to designate a neighbourhood area and details the next stages in the process for the parish council.</p> <p>Given that the next meeting of Council is 19th October 2015, it also recommended that Council authorises Cabinet to determine the area application so as to comply with regulations that require Cheltenham Borough Council to determine the application within eight weeks of the application being publicised</p>
Recommendations	<ol style="list-style-type: none">1. That Council arranges for the commencement of the consultation process on the application for the neighbourhood area by immediate publication of the application on the website and other forms of communication deemed appropriate for the minimum period of four weeks.2. That Council authorises Cabinet to determine the area application and to determine all subsequent stages in the processing of the Leckhampton and Warden Local Development Plan.

Financial implications	<p>New neighbourhood planning funding was introduced by DCLG in May 2013 to support both local authorities and local communities in preparing a plan. This amounts to £30,000 per neighbourhood plan to the local authority to cover the cost of supporting the process, paying for the examination and referendum.</p> <p>At this point in time the council has not investigated what proportion, if any, of this funding is available to communities. Separate to this financial support, the Government is making available to communities preparing a neighbourhood plan a direct grant of £7,000 as well as practical support.</p> <p>On 26 February 2015 the Government announced the start of a £22.5 million programme up to 2018 of which neighbourhood planning groups can apply for funding.</p> <p>Staffing implications - The Localism Act 2011 places a duty to support the preparation of neighbourhood plans on local authorities through officer advice and guidance, making evidence available and organising/paying for the examination and referendum. It is considered that this process can be met within existing staffing resources and budgets.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
Legal implications	<p>It is a statutory requirement to support the preparation of neighbourhood plans and for the Council to adopt, or 'make them', if supported by the referendum. The Council must now observe strict time limits as set out in the recent amendments to the Regulations. The Regulations are contained in the Neighbourhood Planning (General) Regulations 2012 as amended by the Neighbourhood Planning (General) (Amendment) Regulations 2015. Failure to support the parish councils to prepare a neighbourhood plan could result in legal challenge with subsequent consequences for the council. This is a significant decision.</p> <p>Contact officer: Michael Jones, Michael.jones@teWKesbury.gov.uk, 01684 272013</p>
HR implications (including learning and organisational development)	<p>There are no staffing or Trade Union implications.</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 777249</p>
Key risks	<p>As a statutory process failure to publish and consult on the neighbourhood area application runs the risk of the parish councils being unable to proceed with the neighbourhood plans. It is possible for a local authority not to approve the neighbourhood area, but it must show why the proposed area does not support the aim and objectives of the any eventual neighbourhood plan.</p>

Environmental/Social/ Equality Implications	<p>There are no known implications at this stage; however a neighbourhood development plan may require a strategic environmental assessment (SEA) under the EU Regulations and/or a Habitat Regulations Assessment (HRA). This will depend on the content of the neighbourhood plan.</p> <p>The responsibility resides with the parish council however the Council may wish to support the Parish Council to undertake a SEA/HRA screening of draft plans to determine whether a SEA and/or HRA will be required.</p>
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1. Background

- 1.1** Neighbourhood planning is one of the central elements of the Localism process and the preparation and adoption of neighbourhood plans accords with the Council's 2015/16 Corporate Strategy, as adopted in March 2015. Neighbourhood plans can play a valuable role in helping to deliver outcomes identified in the environmental chapter of the corporate strategy.

2. Reasons for recommendations

- 2.1** The purpose of the report is to seek approval to publicise the neighbourhood area application for the minimum period of four weeks. This is to enable, if approved, Leckhampton with Warden Hill Parish Council to begin the process of undertaking neighbourhood planning, and in particular preparing a Neighbourhood Plan. This step must be undertaken prior to the Council determining the application within eight weeks of the date of publication. Publication must take place as soon as possible.
- 2.2** Council should note that statutory requirements placed on Cheltenham Borough Council require it to determine the area application within eight weeks of first being publicised. The next meeting of Council is 19th October 2015, this is approximately in 14 weeks.
- 2.3** This report is brought before Council to accord with the Council's existing constitutional framework. Statutory requirements do not prescribe how an area application should be determined by the local planning authority. Council could, if it chose to, delegate powers to Cabinet to determine the area application (the next stage). This approach could offset the problem of needing to determine the area application with the statutory eight week requirement.
- 2.4** This application is supported by earlier work undertaken by the Parish Council. The Parish Council submitted a local green space application and a neighbourhood plan concept plan to Cheltenham Borough Council in August 2013.
- 2.5** The application must comprise of three elements:
1. a map which identifies the area to which the area application relates, in this instance the whole parish council boundary;
 2. a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
 3. a statement that the organisation or body making the area application is a relevant body for the purposes of the related legislation¹.
- 2.6** Prior to the start of the consultation period relevant statutory consultees, neighbouring local authorities and parish/town councils, along with other interested parties will receive written notification via e-mail or letter during the period of the four week consultation. Copies of the documentation and details of how and by when to make representations will be made available on

¹ Section 61G of the Town and Country Act 1990

the neighbourhood planning pages of the council's website and hard copies of the same documentation placed in the deposit locations across the borough.

Next Stage: Designation of a Neighbourhood Area

- 2.7** The Act requires local authorities when determining applications "*to have regard to the desirability of designating the whole area of a parish council as a neighbourhood area*"². The presumption is that local authorities will designate neighbourhood areas on existing parish and town council boundaries unless there is a valid planning reason not to do so. In this respect it is for this Council to ensure that neighbourhood areas are coherent, consistent and appropriate. As well as taking on board any comments received during the four week consultation other factors for the Council to consider include:
- any natural or man-made features (e.g. rivers, roads, railways etc.);
 - catchment areas for current or planned infrastructure;
 - development proposals and allocations; and
 - environmental designations.

3. Alternative options Considered

- 3.1** Because the neighbourhood area application process is a statutory requirement, there is no suitable alternative to its production. Sign off would take place by recommendation of full Council. Council could choose to delegate powers to Cabinet to determine the area application (the next stage).

4. Consultation and feedback

- 4.1** Neighbourhood planning regulations³ require the Council to publish and publicise the application as soon as possible and cannot determine the application for a period '*not less than four weeks from the date on which the area application is first published*'.
- 4.2** The prescribed date for determining an area application is '*eight weeks from the date immediately following that on which the application is first publicised*'.

5. Performance management –monitoring and review

- 5.1** The main consideration for the Council is to ensure it carries out its duty to determine the application within eight weeks of the application first being publicised.

Report author	Contact officer: James Brain, Senior Planning Policy Officer james.brain@cheltenham.gov.uk, 01242 774988
Appendices	1. Risk Assessment 2. Application for designation of a Neighbourhood Area 3. National Planning Practice Guidance: Neighbourhood Planning

² Section 61(G)(4)).

³ The Neighbourhood Planning (General) Regulations 2012; and The Neighbourhood Planning (General) (Amendment) Regulations 2015

Background information	All background information regarding the application will be made available on the Council's website.
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Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	There are no equality impact risks related to the document										
	There are no environmental risks related to the document										
	There is a legal issue in that if the Neighbourhood area application is not published and publicised by the Council now that it has been received, the Council could be acting unlawfully There are potential legal risks including a possible legal challenge.	Tracey Crews	14.7.15	2	2	2	Accept	None	N/A	Tracey Crews	N/A
Explanatory notes Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical) Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability) Control - Either: Reduce / Accept / Transfer to 3rd party / Close											

The Parish Council of Leckhampton with Warden Hill

Cheltenham, Gloucestershire

Clerk: Mrs A.J.Winstone, 7, Aldershaw Close, Up Hatherley, Cheltenham, GL51 3TP
tel. 01242 518008 – email leckwardenhillpc@btinternet.com

Ms Tracey Crews
Planning Manager
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 9SA

11th June 2015

Dear Tracey,

Application for Designation of a Neighbourhood Area

Please find enclosed, as previously mentioned, the Council's application for Designation of a Neighbourhood Area, which you will see covers the entire parish area of Leckhampton with Warden Hill.

I look forward to hearing from you.

Yours sincerely,

Amanda Winstone
Clerk to the Council

NEIGHBOURHOOD PLANNING (GENERAL) REGULATIONS 2012
DESIGNATION OF **LECKHAMPTON WITH WARDEN HILL** AS A NEIGHBOURHOOD AREA

Application

This Application for Designation of a Neighbourhood Area is made under Section 61G of the Town and Country Planning Act 1990 and Regulation 5 (1), Part 2 SI. 2012 No. 637

Purpose

The purpose of the application is to enable Leckhampton with Warden Hill Parish Council to undertake neighbourhood planning, and in particular to prepare a Neighbourhood Plan further to the Local Green Space Application and Neighbourhood Plan Concept submitted to Cheltenham Borough Council in August 2013.

Area

The Neighbourhood Area defined by the Parish Council for the purposes of neighbourhood planning is the whole of the parish of Leckhampton with Warden Hill. The Neighbourhood Area will sit comfortably with the electorate

Shown on the **Designation Map** (NP1) - attached.

Statement of suitability of defined area

The entirety of the parish of Leckhampton with Warden Hill is the area most appropriate to be designated as a neighbourhood area for planning purposes, as it is a recognised and clearly defined area. The parish area has clear physical and social identity as well as community focus. It has residential areas, community facilities, open spaces, and abuts the Area of Outstanding Natural Beauty. The parish area includes, and is surrounded by, semi-rural countryside areas of open spaces and other areas including areas of special landscape value.

The area is consistent with the concept of a neighbourhood area as intended by the Act and all of the area can be included in the Neighbourhood Plan despite the inclusion of part of the area as a strategic allocation in the Cheltenham, Tewkesbury and Gloucester Joint Core Strategy Submission Document.

Statement of suitability of Leckhampton with Warden Hill Parish Council

Leckhampton with Warden Hill Parish Council is a 'relevant body' for the purposes of Section 61G of the 1990 Act, and is therefore qualified to undertake neighbourhood planning. It is a democratically elected body incorporated under statute and representing the whole community within Leckhampton with Warden Hill.

Leckhampton with Warden Hill Parish Council has long standing experience in working with and representing the local community including dealing with planning matters under the Town and Country Planning Act 1990 and has a well established relationship with the Local Planning Authority and indeed submitted a Local Green Space Application and Neighbourhood Plan Concept Plan to Cheltenham Borough Council in August 2013.

Leckhampton with Warden Hill Parish Council is committed to ensuring that future planning within this area reflects the community's wishes and as such wants to work co-operatively with Cheltenham Borough Council and other statutory bodies and to fully engage with other organisations and interests.

Annex. SI. 2012 No. 637 in force 6th April 2012. & Neighbourhood Planning (General) Regulations 2012
Extract. PART 2 Neighbourhood Areas

Application for designation of a neighbourhood area

5.(1) Where a relevant body(12) submits an area application to the local planning authority it must include—

- (a) a map which identifies the area to which the area application relates;
- (b) a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
- (c) a statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the 1990 Act.

(2) A local planning authority may decline to consider an area application if the relevant body has already made an area application and a decision has not yet been made on that application.

Publicising an area application

6. As soon as possible after receiving an area application from a relevant body, a local planning authority must publicise the following on their 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 area application relates—

- (a) a copy of the area application;
- (b) details of how to make representations; and
- (c) the date by which those representations must be received, being not less than 6 weeks from the date on which the area application is first publicised.

Publicising a designation of a neighbourhood area etc

7.—(1) As soon as possible after designating a neighbourhood area, a local planning authority must publish the following on their website and in such other manner as they consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area—

- (a) the name of the neighbourhood area;
- (b) a map which identifies the area; and
- (c) the name of the relevant body who applied for the designation.

(2) As soon as possible after deciding to refuse to designate a neighbourhood area, a local planning authority must publish the following on their website and in such other manner as they consider is likely to bring the refusal to the attention of people who live, work or carry on business in the neighbourhood area —

- (a) a document setting out the decision and a statement of their reasons for making that decision (“the decision document”); and
- (b) details of where and when the decision document may be inspected.

http://www.legislation.gov.uk/ukxi/2012/637/pdfs/ukxi_20120637_en.pdf ©Crown Copyright

Memorandum

THE NEIGHBOURHOOD PLANNING (GENERAL) REGULATIONS 2012 No. 637

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Regulations set out the procedure for the designation of neighbourhood areas and neighbourhood forums and for the preparation of neighbourhood development plans and neighbourhood development orders (including community right to build orders). A separate instrument will be brought forward in relation to neighbourhood planning referendums.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The Regulations are the first exercise of the powers in sections 61E to G, 61L and 61M of the Town and Country Planning Act 1990 ("the 1990 Act") and sections 38A and B of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act").

3.2 As the Regulations make amendments to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, we have taken this opportunity to correct a number of typographical errors in that instrument, including four points which the JCSI reported on in its 30th Report (2010-12 session).

4. Legislative Context

4.1 Chapter 3 of Part 6 of the Localism Act 2011 creates a new neighbourhood planning regime in England mainly by inserting new provisions into the 1990 Act and the 2004 Act (see Part 1 of Schedule 9, and Schedules 10 and 11, for the provisions inserted into the 1990 Act, and Part 2 of Schedule 9 for the provisions inserted into the 2004 Act).

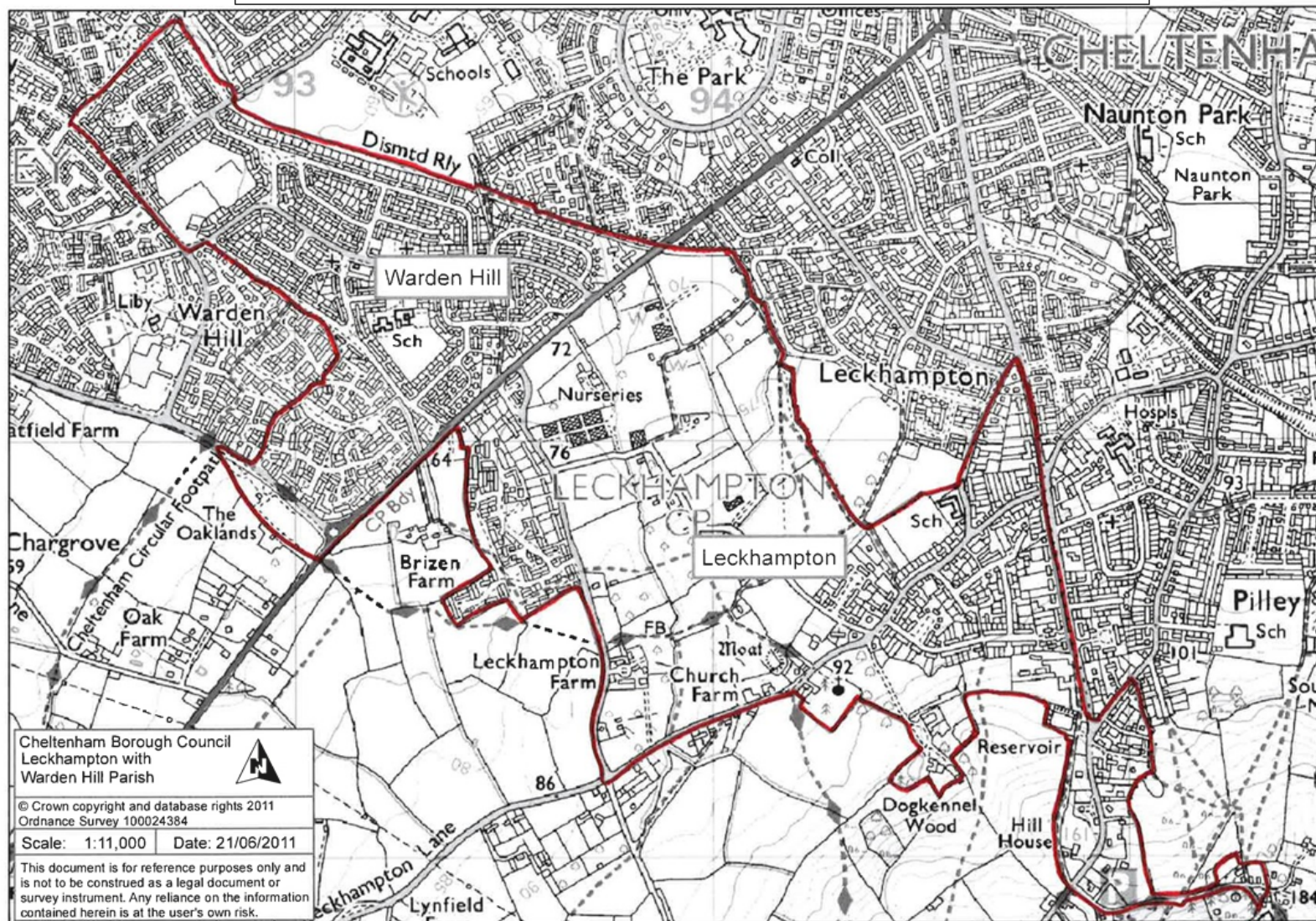
4.2 The 1990 Act provides that within a designated neighbourhood area a parish council or a designated neighbourhood forum may propose a neighbourhood development order and Schedule 4B (as read with the modifications in Schedule 4C for community right to build orders) sets out the framework for making such orders.

4.3 The 2004 Act provides that within a designated neighbourhood area a parish council or a designated neighbourhood forum may propose a neighbourhood development plan and Schedule 4B to the 1990 Act (as applied, with modifications, by section 38A of the 2004 Act) sets out the framework for making such plans.

4.4 The Regulations build on the statutory frameworks in the 1990 Act and the 2004 Act in relation to the process for designating neighbourhood areas and neighbourhood forums and the preparation of neighbourhood development plans and neighbourhood development orders.

http://www.legislation.gov.uk/ukxi/2012/637/pdfs/ukxiem_20120637_en.pdf ©Crown
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LECKHAMPTON WITH WARDEN HILL NEIGHBOURHOOD AREA APPLICATION FOR DESIGNATION PLAN NP1 - JUNE 2015



<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/?print=true>