

Cheltenham Borough Council

Council 14th December 2015

Cheltenham Borough Council Neighbourhood Planning Protocol

Accountable member	Councillor Jordan – Leader
Accountable officer	Tracey Crews – Director of Planning
Ward(s) affected	Potentially several
Executive summary	<p>The report is asking Council to approve and publish a protocol that will provide :</p> <ul style="list-style-type: none">a) A general overview and advice to parishes and interested local community groups on the neighbourhood planning process;b) Guidance on how the Council will support and process neighbourhood plans and orders; andc) A coordinated approach within the Council in relation to neighbourhood planning.
Recommendations	<ol style="list-style-type: none">1. That the Council approves the Cheltenham Borough Council Neighbourhood Planning Protocol and publish on the Council's website.

Financial implications

The Department for Communities and Local Government (DCLG) have provided a breakdown of cost to the parish council or neighbourhood forum and local planning authority (see link) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6041/1829678.pdf. Based on this guidance the direct costs to Cheltenham Borough Council is estimated to be:

- Arranging and covering costs of independent examinations £5,000 to £10,000;
- Holding the referendum £1,800 to £30,000;
- Officer time requirements in providing expertise and advice to local councils on Neighbourhood Plans;
- Administrative costs and legal fees for processing the statutory elements of a Neighbourhood Plan; and
- Loss of income from planning application fees for development covered by a neighbourhood development order.

DCLG do not provide a specific financial cost in terms of officer, administrative and legal time and resources. These costs are likely to vary based on the complexity of the issues the neighbourhood plan or order is seeking to address and the expertise/technical resources available to the parish council or neighbourhood forum.

The resource implications to the Council are corporate-wide including Environment and Regulatory Services, Commissioning, Financial Services, Democratic Services and One Legal. Chiefly, resources will be focussed on advising communities in the preparation of a neighbourhood plan/order; checking a submitted Plan meets legal requirements, arranging for the independent examination of the Plan; determining whether the neighbourhood plan/order meets the basic conditions and other legal requirements, arranging a referendum, and, subject to the results of the referendum, bringing the plan/order into force.

Financial contributions are available from DCLG to support Neighbourhood Planning. This is in recognition of the legal obligations placed upon the Council to provide advice and support to those seeking to introduce neighbourhood development plans (NDP). This advice and support also includes arranging for the examination of the NDP and the referendum on the NDP. The Council may submit claims to the DCLG to cover the expenditure within the set limits. **At present a local authority may submit claims of up to £30,000 for each completed NDP** for consideration by the DCLG. The financial support is subject to general limits whereby a Council may only claim up to £100,000 per annum for up to 20 area designations and up to £25,000 per annum for up to 5 forum designations.

There is no Council budget to administer neighbourhood planning. Appropriate claims to the DCLG will need to be made to ensure the additional cost burden to the Council is mitigated. It is clear from DCLG evidence that government financial contributions might not cover the local planning authority's costs on every plan that it supports. Where this is the case the Council will need to make up the short fall from its own reserves and resources. As a Neighbourhood Plan comes forward budgetary provision will need to be made available taking into account available grant funding from DCLG. The total budget for each Neighbourhood Plan will need to be approved in line with the Council's financial rules considering the net impact on the Council's finances in each instance given the £30k cap on DCLG contributions and the range of potential costs outlined above.

It should be noted that those promoting an NDP may also apply for funding of up to £7,000 for the costs of preparing an NDP.

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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 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 and neighbourhood forums to prepare neighbourhood plan or orders could result in legal challenge with subsequent consequences for the council.</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 adhere to Neighbourhood Planning Regulations runs the risk of the parish councils and Neighbourhood Forums being unable to proceed with the neighbourhood plans.</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>Preparation of Neighbourhood Development Plans could have implications for biodiversity, habitats, energy usage, waste and recycling and/or protected species. These would need to be considered by the body preparing the Plan as appropriate.</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>

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 Council recently approved the Leckhampton with Warden Hill Neighbourhood Area and it became immediately apparent that the Council would benefit from establishing a set of guidelines on how it will process future neighbourhood planning applications, plans and orders.
- 2.2 The protocol provides a general overview and advice to interested local community groups on the Neighbourhood Planning process. Critically it sets out how the Council will determine, validate and approve key stages of the neighbourhood planning process (a summary table is provided below). The protocol also helps to establish a framework that supports a more coordinated approach within the Council.
- 2.3 The protocol also helps to explain:
- a) the Council's role as the local planning authority;

- b) the role of the community
- c) how to establish a Neighbourhood Forum in Cheltenham Borough
- d) What communities need to consider when preparing a Plan or Order; and
- e) What resources the Council can offer.

STAGE	COUNCIL ROLE
Publicising Neighbourhood Area / Forum Applications	Cabinet, the Planning and Liaison Member working group and local ward members for the areas concerned are to be notified.
Designating Neighbourhood Areas	Cabinet to decide on whether to designate Neighbourhood Area.
Designating Neighbourhood Forums	Cabinet to decide on whether to designate Neighbourhood Forum.
Pre-submission consultation and publicity	Officers to provide comments. Consideration of the plan/order will also be made via the Planning and Liaison Member Working Group.
Submission of Neighbourhood Development Plan Examination	Council to decide whether the Neighbourhood Plan and Order should be submitted for examination.
Referendum	Cheltenham Borough Council will publish the examiner's report and Council to decide whether to approve the plan for referendum.
Adoption	The council will run the referendum on behalf of the parish council/forum.
	The decisions to adopt a Neighbourhood Development Plan and a Neighbourhood Development Order are made by Cabinet .

- 2.4 Officers with the support of the Planning and Liaison Member Working Group have identified which committees are considered appropriate to be given delegated powers to approve key stages of the neighbourhood planning process.
- 2.5 Cabinet is the appropriate committee for early stages of the planning making process. Once the Parish Council or Neighbourhood Forum has progressed their plan or order to the submission stage it is considered appropriate for the Council to determine whether the Plan or Order should be submitted to examination. This is an important stage and the Council will need to be confident the plan or Order is compliant with its own development plans as well as national planning policy and practice guidance, regulations and European Union obligations.
- 2.6 Following the Examination, Council should determine whether the Plan or Order should be approved for a referendum. Subject to a successful referendum, the Council's Cabinet is considered the most appropriate committee to decide whether to adopt a Neighbourhood Plan or Order. At this final stage the Borough Council will ultimately be determining whether the neighbourhood plan should form part of the Council's statutory Development Plan, which is the starting point for determining planning applications.

3. Alternative options Considered

- 3.1 There are no suitable alternative to its production.

4. Consultation and feedback

- 4.1 Neighbourhood planning regulations¹ require the Council to publish and publicise neighbourhood

¹ The Neighbourhood Planning (General) Regulations 2012; and The Neighbourhood Planning (General) (Amendment) Regulations 2015

area applications, forum applications, plans and orders at several stages. As a statutory requirement the council must ensure adherence to the neighbourhood planning regulations.

5. Performance management –monitoring and review

5.1 The main consideration for the Council is to establish a protocol for determining and processing neighbourhood plans and orders in Cheltenham Borough.

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Appendices	1. Risk Assessment 2. Cheltenham Borough Council Neighbourhood Planning Protocol
Background information	All background information regarding the application will be made available on the Council's website.

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 are no legal risks associated with this document										
	<p>There are potentially financial risks to the authority. Additional funding is made available to the Council to help cover neighbourhood planning costs. In some instances this funding will not cover the full cost to the Council.</p> <p>As a statutory process there are potential impacts on officer resources. The amount of resources required will vary depending on the nature / complexity of each plan and the number of plans that need to be administered by the Council.</p>	Tracey Crews	01/12/15	3	2	5	Accept	Monitor the situation. Officers to investigate sharing resources with neighbouring authorities	N/A	Tracey Crews	N/A
<p>Explanatory notes</p> <p>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)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6</p>											

(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

