

Report to the Cabinet

Report reference: C-014-2013/14

Date of meeting: 22 July 2013



**Epping Forest
District Council**

Portfolio: Planning

Subject: Neighbourhood Planning

Responsible Officer: Kassandra Polyzoides (01992 564119).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To note the latest information on Neighbourhood Planning and this Council's statutory duties in relation to the former;**
- (2) To note the budgetary requirements, current staffing allocations and potential future resource requirements in relation to delivering Neighbourhood Development Plans;**
- (3) To agree the governance arrangements for the delivery of Neighbourhood Development plans;**
- (4) To agree the level of advice and assistance currently available from Forward Planning staff to town and parish Councils in support of delivering Neighbourhood Development Plans; and**
- (5) To designate the Neighbourhood Area of the Moreton, Bobbingworth and the Lavers Neighbourhood Area following receipt of representations.**

Executive Summary:

Neighbourhood Development Plans (NDPs) were introduced as part of the Localism Act 2011 and enable local communities (town/parish council's or designated neighbourhood forums) to produce Neighbourhood Plans which when approved are part of the statutory development plan and adopted as Council policy. NDP's need to be grounded in Local Plan evidence and include intensive consultation and stakeholder engagement. There are specific statutory responsibilities that Council's need to fulfil under the Localism Act to facilitate the preparation of a NDP. One of these is to provide advice and assistance to communities in the production of plans. During 2013/14 the Government is offering grant contributions to local authorities to support the delivery of NDP's and these can be applied for following the completion of stages of plan making. Moreton, Bobbingworth and the Lavers Parish Council have submitted an application for a Neighbourhood Area designation in order to progress with a Neighbourhood Plan. This has been publicised in accordance with the regulations.

Reasons for Proposed Decision:

All decisions have been recommended in order for the Council to meet its duties under the relevant regulations.

Other Options for Action:

The above recommendations need to be met in order for the Council to meet its duties under the regulations.

Report:

1. The Government introduced Neighbourhood Planning as part of the Localism Act 2011, in order to enable town parish councils and Neighbourhood Forums (Neighbourhood Forums are designated in authorities that are not parished) to actively participate in plan making. A Neighbourhood Development Plan (NDP), once it has passed a referendum, will be part of the statutory development plan and will need to be taken into account in the determination of planning applications. It can include housing and employment land allocations, policies and design statements and can be as simple or as complicated as the town/parish council choose. The NDP must meet certain conditions including compliance with the NPPF, the Council's Local Plan and therefore be thoroughly evidenced, as well as meet all the criteria set out in the relevant regulations. One of the duties the Council is obligated to pursue is the designation of a Neighbourhood Area, which includes seeking representations, once a town/parish Council submits a formal request for designation. The Neighbourhood Area boundary will cover the remit of the Neighbourhood Development Plan.

2. Under the Town and Country Planning Act 1990 (as amended), the Council has a statutory duty to advise and assist communities in the preparation of Neighbourhood Development Plans and orders and to take plans through a process of examination and referendum. The Localism Act 2011 (Part 6 chapter 3) sets out all the Local Planning Authority (LPA) responsibilities, which includes carrying the costs associated with some tasks, as follows:

- (a) Designating a forum (not relevant to Epping Forest);
- (b) Designating the area of the NDP. The LPA are responsible for organising and paying for the publicity both on the application for designation and on the decision made;
- (c) Advising or assisting communities in the preparation of a neighbourhood plan. The 1990 Act Schedule 4B para 3 states: "*A local planning authority must give such advice or assistance to qualifying bodies as, in all the circumstances, they consider appropriate for the purpose of, or in connection with, facilitating the making of proposals for NDPs in relation to neighbourhood areas within their area*". This applies to NDP's through S3A of the Planning and Compulsory Purchase Act 2004. There is no requirement to give financial assistance;
- (d) Checking a submitted plan meets the legal requirements;
- (e) Arranging for the independent examination of the plan;
- (f) In addition legislation sets out who the relevant Councils are with responsibility for arranging the referendums, in our case it is the District Council. These referendums will need to be carried out via the Council's electoral services, in line with other referenda and the relevant regulations; and
- (g) Subject to the results of the referendum bringing the plan into force.

3. A full legal compliance checklist for Local Planning Authorities duties, supplied by the LGA and PAS is included at Appendix 1.

4. To support local planning authorities in this work, financial support has been provided by the DCLG. For 2013/14 LPAs can claim £5,000 following each designation of a Neighbourhood Plan Area. A further payment of £5,000 becomes available when the local authority publicises the Neighbourhood Development Plan prior to examination and a third payment of £20,000 on the successful completion of an independent examination. It is not clear whether funding will be available beyond this period. Separately to this there is, for the period from 2013/2015, support by way of grant payments up to £7,000 per Neighbourhood Area to contribute to the costs incurred by the group preparing the NDP. This programme is being delivered by Locality <http://locality.org.uk/>

5. There is currently one Neighbourhood Area recommended for designation from Moreton, Bobbingworth and the Lavers, which is covered separately in this report, below. An officer in Forward Planning has been allocated the task of producing further guidance/signposting to existing guidance on Neighbourhood Planning for town and parish Council's to be made available on the Council's website, and leading on Neighbourhood Planning as per our obligations outlined above. It needs to be noted however that should additional town/parish Councils come forward with proposals to designate, additional officer resource will be sought so as to not undermine the delivery of the Council's Local Plan. The cost of carrying out the referendum has been indicated as £5,000 and will be reimbursed to electoral services after the referendum has been delivered by the service.

6. On the basis that the Council's number one priority is the delivery of the Local Plan, and the Forward Planning teams' capacity, it is recommended that the level of advice and assistance provided to local councils for Neighbourhood Planning extends to:

- (a) Inception meeting to discuss local council aspirations and ensure clarity around level of District Council support and required information for designation, discuss project plan/programme for development of the plan;
- (b) Provide relevant updates and advice online regarding regulations, funding and Local Plan information, including emerging evidence base;
- (c) Signposting to all existing evidence base, other relevant studies and documents, ward profile information and data and maps;
- (d) Although an inception meeting is made available, this does not include subsequent meetings or attendance at evening meetings. A named officer will be available to answer key questions and provide updates on Local Plan work via telephone and email; and
- (e) Provide comments on a draft NDP and supporting documentation on conformity of the plan with the Local Plan and whether it meets the basic conditions and other legislative requirements.

7. Moreton, Bobbingworth and the Lavers Parish Council have submitted an application for a Neighbourhood Area designation in order to progress with a Neighbourhood Plan – a copy of their submission is included at Appendix 2. The application received from Moreton was publicised by EFDC in the following ways:

- (a) Information published on the Council's website;
- (b) Press release issued;
- (c) Correspondence sent to all Town and Parish Councils within the District; and

(d) Public notices displayed within the Parish.

8. In accordance with Regulation 6 of The Neighbourhood Planning (General) Regulations 2012, representations were invited for a period of 6 weeks from 7 May until 18 June 2013. During this period no representations were received. Drawing on the experience of other Local Planning Authorities, it is worth noting that it is not unusual to receive little or no response when an application of this nature is publicised. Given that the proposed Neighbourhood Area follows the Parish boundary, and that there are no valid or reasonable reasons for refusal, the Council is required to designate the Neighbourhood Area.

Resource Implications:

Currently Neighbourhood Planning is being delivered within existing resources. Any additional requests for NDP's will require dedicated officer resource so as to not delay the delivery of the Local Plan.

There is no specific budget provision for the conduct of a local referendum. The estimated cost of the referendum will be dependent on the number of electors for the area deemed appropriate to vote on the Neighbourhood Plan. A typical bye election would cost up to £5,000 but this figure can only be regarded as indicative. Costs that can be anticipated include polling station hire, polling station staff, stationery and supplies, count centre and count staff.

Unit costs would be assisted if this referendum were to be held concurrently with other elections (eg the European Parliamentary elections in May 2014 (date to be determined by the EU Parliament which may be held alongside delayed District council elections).

Legal and Governance Implications:

The Council is required to meet its duties under the relevant regulations as outlined within the report.

Neighbourhood Plans fall within the category of Council functions under the Local Government Act 2000 as functions not to be the sole responsibility of the Executive. Thus, although the process of considering such a plan is a matter for the Cabinet, a final decision on such a document is a matter for the full Council, to which the Cabinet should submit a recommendation.

It is proposed that Cabinet be responsible for designating Neighbourhood Areas and that bringing the NPD into force following a successful referendum sit with full Council, due to the relevance of NPDs to the Local Plan. It is recommended that responsibilities in between such as checking whether a submitted plan meets the legal requirements, arranging the independent examination of the plan and launching a referendum are delegated to officers.

The conduct of a local referendum is governed by the Localism Act 2011 and is conducted in accordance with the rules for conducting other elections. The Council on 23 April 2013 has authorised the Returning Officer as the responsible officer for the purposes of any local referendum held.

Moreton, Bobbingworth & The Lavers is a grouped Parish – comprising 5 separate Parishes, namely High, Little and Magdalen Lavers, Moreton and Bobbingworth. The parishes are grouped under a Government order made in 1973 and in practical terms function as a single parish although the individual parishes still exist as legal entities.

Safer, Cleaner and Greener Implications:

N/A.

Consultation Undertaken:

Whilst not a consultation, representations were invited with regard to designation of the Moreton, Bobbingworth & Lavers application for the designation of a Neighbourhood Area.

Background Papers:

Planning Advisory Service and Local Government Association- Legal Compliance Checklist for LPAs.

Moreton, Bobbingworth and the Lavers- submission for Neighbourhood Area designation.

Impact Assessments:

Risk Management

There are not many lessons learned to date with regard to developing and delivering NPD's as most are in their infancy. The most appropriate approach is that we ensure that, we are aware of other developing NPD's and their outcome and that we liaise with town and parish councils delivering NPD's so that we check that they are in line with our requirements.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?

N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

N/A