

# REPORT TO CONSTITUTION COMMITTEE

**REPORT OF:** Planning Policy and Partnerships Service Manager

**REPORT NO:** PLA948

**DATE:** 24<sup>th</sup> September 2012

<b>TITLE:</b>	<b>Neighbourhood Planning: Amendment to Constitution</b>	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Key Decision	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Cllr Paul Carpenter Governance and Communication	
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<b>INITIAL IMPACT ANALYSIS:</b>	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
<b>Equality and Diversity</b>	Not applicable	
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	The Localism Act 2011 ( <a href="http://www.legislation.gov.uk/ukpga/2011/20/contents">http://www.legislation.gov.uk/ukpga/2011/20/contents</a> ) The Neighbourhood Planning (General) Regulations 2012 ( <a href="http://www.legislation.gov.uk/uksi/2012/637/contents/made">http://www.legislation.gov.uk/uksi/2012/637/contents/made</a> )	

## 1. RECOMMENDATION

1.1 That the Constitution Committee recommend to Council that the Constitution be amended at page 105.3 – Delegation to the Head of Development and Growth by the insertion of the following:

### 4. Neighbourhood Planning

(i) To take, after consultation with the relevant Portfolio Holder and the local ward member(s), decisions on the following matters, as defined in the Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (or as may be amended):

- Applications to designate a Neighbourhood Area
- Applications to designate a Neighbourhood Forum

- **To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order**
- **Validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order**
- **Appointment of person to carry out examination of a Neighbourhood Development Plan or Neighbourhood Development Order**

## **2. PURPOSE OF THE REPORT**

- 2.1 The Localism Act 2011 (the Act) introduced neighbourhood planning as a new way for communities to help shape future development in their area. The Act and the Neighbourhood Planning (General) Regulations 2012 (the Regulations) confer specific functions on local planning authorities (LPA) in relation to neighbourhood planning. As the Act and Regulations are not specific as to where within the LPA decision making on neighbourhood planning should rest, it is a matter of local choice. This report, therefore, considers where within the Council the authority to carry out these functions would most appropriately sit and any consequential amendments to the constitution that may be necessary to reflect this.

## **3. DETAILS OF REPORT**

- 3.1 The Localism Act has introduced the following:
- Neighbourhood Development Plans (NDP) which set out policies for the development and use of land in a particular area. If a NDP has successfully passed all stages of preparation including an examination and referendum the LPA must adopt it as part of the Development Plan for their area
  - Neighbourhood Development Orders (NDO) which grant planning permission for a specific type of development within a specified area or a site specific development. These must also be subject to examination and referendum
- 3.2 The procedures for making NDPs and NDOs are very similar. In each case only a qualifying body (Parish or Town Councils except in unparished areas where a Neighbourhood Forum, a local organisation or body which must meet certain criteria set out in the Act, can be designated) can instigate NDPs and NDOs. Specific pre-submission consultation and publicity must be carried out by the qualifying body before a NDP or NDO is submitted to the LPA for the examination and referendum stages.
- 3.3 The Act and Regulations set out certain decisions to be taken in respect of the LPA's functions at various stages of preparing NDPs or NDOs. This includes the designation of neighbourhood areas (the area to be covered by a NDP or NDO) and forums and decisions on moving the NDP or NDO to the next stage of the process. A summary of the stages and the LPA functions is attached as Appendix 1. As a number of the decisions to be made are administrative and/or technical against set criteria established in the Act, where the element for discretion is limited, it is recommended that these decisions are delegated to the Head of Development and Growth. Any applications or submissions would be discussed with the relevant Portfolio Holder and local ward member thereby

allowing for any contentious issues that may arise to be considered at a higher level.

3.4 The exception to the above is in respect of action to be taken in response to an examiner's report and whether to modify the Plan in response before submitting it for referendum and the bringing into force the NDP as part of the Development Plan. Decisions on these matters would rest with the Cabinet and Full Council respectively.

3.5 It is, therefore, proposed that decisions on the following matters, as defined in the Act and Regulations, be delegated to the Head of Development and Growth after consultation with the Portfolio Holder for Economic Development and the relevant local ward member(s):

- a. Whether to designate a Neighbourhood Area
- b. Whether to designate a Neighbourhood Forum
- c. Whether to accept or decline repeat proposals for NDPs and NDOs
- d. Validity and acceptance of proposals for a NDP or NDO
- e. Who to appoint as an examiner

3.6 An application to designate Long Bennington Parish as a Neighbourhood Area has been made by Long Bennington Parish Council. The application has been advertised in accordance with the Regulations and the publicity period for making comments on the application will end on the 14<sup>th</sup> September. This will be reported to Council on the 11<sup>th</sup> October for a decision on the application. Subject to the Committee and Council's agreement of the recommendation, future decisions will be made in accordance with the proposals set out in paragraph 3.5.

#### **4. OTHER OPTIONS CONSIDERED**

4.1 Decisions need to be taken in an efficient and effective way in order not to delay the process of preparing the NDP or NDO. The proposed decision making processes are considered to represent the most appropriate way to ensure that this is achieved for decisions on matters that are relatively minor and un-contentious whilst providing for input from members at key stages.

#### **5. RESOURCE IMPLICATIONS**

5.1 There are costs associated with Neighbourhood Planning that will fall to the Council as it has a duty, as the LPA, to support Parish/Town Councils or Neighbourhood Forums. Whilst the nature/extent of this support is for each authority to determine, the Act and Regulations are clear that the cost of the early administration costs of designation and arranging the necessary examination and referendum will fall to the Council to fund.

5.2 It is not possible to predict how many communities will come forward to prepare a NDP or NDO but the support costs for Neighbourhood Planning this financial year can be met from the Planning Policy service budget. The Government have recently announced a grant scheme for 2012/13 to enable local authorities to claim £30,000 for each neighbourhood plan completed in their area. This is payable in two stages: £5,000 following designation of a neighbourhood area and £25,000 following completion of the examination

stage. Government funding arrangements beyond the end of this financial year have yet to be announced.

## **6. RISK AND MITIGATION**

- 6.1 Risk has been considered as part of this report no exceptional or specific high risks have been identified.

## **7. ISSUES ARISING FROM IMPACT ANALYSIS**

- 7.1 Not applicable. It will be for Town and Parish Councils or Neighbourhood Forums to carry out any necessary impact analysis and assessment of their proposals.

## **8. CRIME AND DISORDER IMPLICATIONS**

- 8.1 None arising out of this report.

## **9. COMMENTS OF FINANCIAL SERVICES**

- 9.1 Any financial implications arising from approving the recommendations will be met from existing budgetary provisions.

## **10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

- 10.1 There are a number of decisions to be taken in the preparation of either a Neighbourhood Development Plan or Order. These decisions are administrative or technical relating to the consideration process which are suitable for delegation to the Head of Development and Growth in consultation with the Portfolio Holder and relevant ward members. Any decision relating to bringing a Plan or Order into effect or modification will remain with Cabinet and Council. This will allow decisions to be dealt with efficiently.

## **11. APPENDICES:**

Appendix 1 – Neighbourhood Planning Key Stages

## Appendix 1: Neighbourhood Planning Process

### Step 1. Designation of Neighbourhood Area/Forum

- Parish/Town Council apply for designation as Neighbourhood Area<sup>1</sup>
- SKDC publicise application allowing minimum of 6 weeks for representations
- SKDC makes decision on application

### Step 2. Preparation of Neighbourhood Development Plan/Order

- Parish/Town Council drafts Plan/Order
- Consultation with community and consultation bodies on draft Plan/Order (allowing 6 weeks minimum for representations)
- Undertake Strategic Environmental Assessment of Plan if required<sup>2</sup>
- Revise Plan/Order in light of responses to representations

### Step 3. Examination

- Parish/Town Council submits Plan/Order to SKDC
- SKDC publicise Plan/Order (allowing 6 weeks minimum for representations)
- SKDC check Plan/Order and submit it for independent examination<sup>3</sup>
- Examiner's report is published<sup>4</sup>

### Step 4. Referendum

- SKDC organise referendum on Plan/Order<sup>5</sup>

### Step 5. Adoption

- SKDC bring Plan/Order into effect

#### Notes:

<sup>1</sup>Where there is no Parish or Town Council an application to designate a Neighbourhood Forum will also need to be made

<sup>2</sup>The draft Plan/Order will have to conform with the EU Directive on Strategic Environmental Assessments (SEA). At a minimum a screening procedure to determine whether the proposals are likely to have an impact on the environment is likely to be required.

<sup>3</sup>SKDC will check the Plan/Order for legal compliance before it is submitted for examination by an independent suitably qualified person.

<sup>4</sup>The Inspector's report is not binding. They can recommend that the Plan is put forward for referendum, or that it should be modified or that the proposal should be refused.

<sup>5</sup>Where the examination is favourable the draft Plan/Order will be subject to a referendum organised by SKDC. If more than 50% of those who vote agree with the Plan/Order it will be brought into effect by SKDC.