

# REPORT FOR DECISION

**MEETING:** COUNCIL

**DATE:** 17th OCTOBER 2012

**SUBJECT:** LOCALISM AND NEIGHBOURHOOD PLANNING

**REPORT FROM:** T Mitchell (Assistant Director of Planning,  
Environmental & Regulatory Services)

**CONTACT OFFICER:** T Mitchell

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**TYPE OF DECISION:** COUNCIL DECISION

**FREEDOM OF  
INFORMATION/STATUS:** This paper is within the public domain

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**SUMMARY:** The purpose of this report is to advise on the principles and issues around Neighbourhood Planning in Bury as per C.07 motion 3 at the Council meeting on 12<sup>th</sup> September 2012 and the subsequent amendment.

**OPTIONS &  
RECOMMENDED OPTION**

Council are requested to agree;

1. To note the contents of the report and the emerging opportunities for local communities to develop Neighbourhood Plans;
2. That Planning and Legal Officers develop advisory material to assist any local groups through Neighbourhood Forums who wish to develop Neighbourhood Plans.
3. That the Planning Advisory Service hosts a "Question and Answer" session for all Councillors and any interested parties.

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**IMPLICATIONS:**

**Corporate Aims/Policy  
Framework:**

Do the proposals accord with Policy Framework? Yes.

**Statement by s151 Officer:**

Some additional Government resource is being provided to fund the additional work involved in developing the Neighbourhood Plan.

It is important that the overall costs of the exercise are contained within the additional funding and other existing budgets.

A robust planning framework is essential to promote growth in the Borough; important in terms of Council Tax income, and locally retained Business Rates.

**Statement by Executive Director of Resources:**

There are no wider resource implications although [detailed staffing implications may be identified once the advisory guidance has been prepared by Planning/Legal Officers.](#)

**Equality/Diversity implications:**

**Considered by Monitoring Officer:** Yes

**Are there any legal implications?** The legal implications are detailed in the report

**Wards Affected:**

- All

**Scrutiny Interest:**

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**TRACKING/PROCESS****EXECUTIVE DIRECTOR:** Graham Atkinson

Chief Executive/	Executive Member/Chair	Ward Members	Partners
Scrutiny Commission	Cabinet	Committee	Council

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## 1.0 BACKGROUND

- 1.1 The purpose of this report is to advise on the principles and issues around Neighbourhood Planning in Bury as per C.07 motion 3 at the Council meeting on 12<sup>th</sup> September 2012 and the subsequent amendment. The original motion is attached at **Appendix 1**.
- 1.2 The Localism Act sets out the framework and key principles for a system of neighbourhood planning in England. It creates new planning tools to help empower communities to shape and manage development in their local areas. These include:
- Neighbourhood Development Plans
  - Neighbourhood Development Orders
  - Community Right to Build orders.
- 1.3 The Government's Planning Advisory Service (PAS) describe neighbourhood planning as being about letting the people who know about and care for an area plan for it. Fundamentally, it is led by the residential and business community, **not** the Council, and is about building neighbourhoods – **not** stopping growth. If communities wish to use the provisions there is an ability to develop planning policies for a particular neighbourhood that will become part of the planning framework for their area.
- 1.4 This is a fundamental change to the planning system and the Council's role will be minimal, being restricted to advising and supporting communities on their neighbourhood planning work.

## 2.0 THE NEW PLANNING SYSTEM HIERARCHY

- 2.1 With the advent of the Localism Act, a new tier of planning has been introduced below the local authority level which is that of the 'neighbourhood' level. The Government have announced their intention to remove the regional level, with the revocation of Regional Spatial Strategies, although these remain part of the statutory development plan for the time being. There are no specific timescales for this to take place.
- 2.2 The **statutory development plan** now therefore consists of:
- § **Regional Spatial Strategy (RSS)** – The North West RSS remains as part of the development plan until the Government have satisfied the requirements of the Strategic Environmental Assessment (SEA) Directive in seeking to revoke it.
  - § **Local Plan** – The adopted Local Plan for Bury is still the Unitary Development Plan (UDP) adopted in 1998. The emerging Bury Local Plan will replace the UDP. The Core Strategy is the key strategic document in the Local Plan and is in preparation with publication expected in April 2013 and following submission and examination the adoption is programmed for April 2014.

§ **Neighbourhood Plans** – If and when adopted, these form part of the development plan for the neighbourhood area in question and therefore any planning applications must have regard to its policies.

In order to be considered worthy of adoption by an Examiner, Neighbourhood Plans must be in conformity with the strategic policies in the Local Plan.

- 2.3 Outside of the development plan is the **National Planning Policy Framework (NPPF)** to which the Local Plan and Neighbourhood Plans must be consistent with. The NPPF makes clear that achieving sustainable development is still the purpose of the planning system. The presumption is in favour of sustainable development as set out in the NPPF. This means that development proposals that accord with the development plan should be approved without delay unless the adverse impacts would significantly and demonstrably outweigh the benefits. This presumption will apply in all cases where the Local Plan is “silent” or where relevant policies are out of date
- 2.4 Therefore it can be seen that a chain of conformity exists between the varying levels from the lowest level (neighbourhood planning) through to the highest level (NPPF). A diagram showing this relationship is attached at **Appendix 2**.

### **3.0 NEW NEIGHBOURHOOD PLANNING MEASURES**

- 3.1 The following section summarises the key points from each of the new mechanisms introduced by the Localism Act for neighbourhood planning – namely Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders.

#### **3.2 *Neighbourhood Development Plans***

##### ***Key Points***

- (i) It is an **optional**, not a compulsory process;
- (ii) It is led by the community, not by the Council;
- (iii) Must be in line with the statutory development plan i.e. the overall strategic approach of the Borough’s adopted Local Plan, the RSS and also with the National Planning Policy Framework;
- (iv) There cannot be more than one neighbourhood plan for one area i.e. agreed neighbourhood plan area boundaries should not overlap;
- (v) It can propose more development than in the statutory development plan but not less. The focus must be on guiding development rather than stopping it;
- (vi) Subject to a consultation process and a formal legal process including a referendum;
- (vii) Over 50% of those residing in the neighbourhood area (including local business) and voting in the referendum have to be in support of the plan for it to be adopted.

### **3.3 What will it cover?**

- (i) It will set out a vision for the neighbourhood area or site and planning policies for the use and development of land.
- (ii) Can vary in range and complexity from single issue e.g. affordable housing or design quality or it could be in relation to a single site;
- (iii) Local rather than strategic issues – reflecting the aspirations of the community and local circumstances.

### **3.4 Who will prepare it?**

- (i) As there are no town or Parish Councils in the Borough a neighbourhood forum must be set up by the community;
- (ii) Neighbourhood forums must have a minimum membership of 21 people and be open to business and residents in the area;
- (iii) A written constitution must be agreed by the forum.
- (iv) The Council has no role to play in this.

### **3.5 What will be the role of the Council?**

- (i) To provide technical advice and support to a level considered appropriate e.g. providing evidence, advice on consultation; Will consider a request to create a neighbourhood area and be responsible for formally designating the neighbourhood area boundary;
- (ii) It will ensure the neighbourhood forum represents a broad section of community interests;
- (iii) It will check the plan has been prepared correctly in that it meets legislation and regulations;
- (iv) It will arrange for an independent check of the plan by an "Examiner." If approved the Council then arranges a Referendum, both of which will be at a cost to the Council

### **3.6 Why prepare one?**

- (i) If adopted it will become part of the statutory development plan for that neighbourhood area only and the Council will be required to have regard to it when deciding planning applications;
- (ii) Can be used to provide more detailed policy than in a Local Plan to help give more local specificity to decisions about use of land;
- (iii) It should be noted that there is no requirement to produce one – it is for communities to decide, the Local Plan policies will still apply in the neighbourhood area.

### **3.7 Neighbourhood Development Orders**

- (i) The neighbourhood grants planning permission for specified developments only e.g. types of extensions or shop fronts and can include certain conditions;
- (ii) This is similar to a "deemed" planning permission and so there is no need to apply to the Council for planning permission for the development it covers.
- (iii) The guiding principles of all planning decision including the Neighbourhood Development and Community 'Rights to Build' (below) will be those set out in the National Planning Policy

Framework and any decisions could be challenged if not compliant with that framework.

- (iv) The approval of both Neighbourhood Development and Community Rights to Build will be subject to a referendum within the neighbourhood, of all those on the electoral register.

### 3.8 **Community Right to Build Orders**

- (i) Similar to a Neighbourhood Development Order, appropriately constituted community groups can grant planning permission for new buildings they would like to see go ahead, without the need to apply to the Council for planning permission.

## 4.0 **ISSUES AND QUESTIONS**

### 4.1 ***Can neighbourhood plans or Development Orders be used to stop developments like on land at Spen Moor in an area?***

No, as this is not the intention of the Government. Communities will have influence over what form housing may take but not to prevent it altogether when there is an identified local housing need. An Examiner will not accept the plan if it is not reasonable and not in conformity with the statutory development plan.

### 4.2 ***Will the new system provide for decisions to be made at the Neighbourhood level?***

Whilst local communities will be empowered to effectively give Planning Permission through the Neighbourhood Development Orders, this will not provide a general decision making function and would certainly not provide for a mechanism to resist development.

### 4.3 ***How much work will be involved in preparing a neighbourhood plan and are there funding streams available to help with the cost?***

The neighbourhood forum will need to focus considerable time and resources on preparing the plan depending on its scope, indeed some of the larger plans with a range of issues have taken 2 years to complete.

The Government have made a total of £50 million available nationally, until March 2015 to fund the requirements for neighbourhood planning. It is estimated that this equates to £30,000 per plan where £5,000 is provided upfront to kick-start the process and the remainder forthcoming as the plan proceeds towards adoption. It is questionable whether this will adequately cover the associated costs.

### 4.4 ***Can we prepare a Neighbourhood Plan when an up-to-date Local Plan is not in place?***

The Government prefer there to be an approved up-to-date Local Plan if in place but this is not a necessity. If there is an emerging Local Plan in preparation the Neighbourhood Plan can be prepared alongside this process.

The emerging Core Strategy is the key strategic document in this respect and is in preparation but will not expected to be adopted until April 2014.

#### **4.5 What is the role of the Township Forums in the process?**

- (i) The Township Forums are Committees of the Council and must be distinct from neighbourhood forums. Neighbourhood forums are to be established by organisations.
- (ii) The boundaries for the neighbourhood which a neighbourhood forum will represent are proposed by a community group and so will be very different to the Council's Township Forums, which are based on the Council's definition of an area?
- (iii) Separately, the Core Strategy process has involved wide-ranging consultation mechanisms with the local community and has reported to Township Forums on its progress and has invited comments throughout its preparation.
- (iv) In its current form, the Core Strategy provides 'Township Frameworks' for each of the Borough's six Townships to help tease out the key issues for each area with the intention of aiding the neighbourhood planning process.

#### **4.6 Will single issues dominate this?**

There are checks and balances to avoid this happening, When a plan is submitted to the Council for examination a consultation statement must be provided saying who has been involved in the process. Ultimately if the plan does not have community wide support it will fail at referendum.

### **5.0 RECOMMENDATIONS**

- (i) To note the contents of the report and the emerging opportunities for local communities to develop Neighbourhood Plans;
- (ii) That Planning and Legal Officers develop advisory material to assist any local groups through Neighbourhood Forums who wish to develop Neighbourhood Plans.
- (iii) That the national Planning Advisory Service host a "Question and Answer" session for all Councillors and any interested parties.

## **Appendix 1**

### **Original Motion to Council – 12 September 2012**

#### **3. Neighbourhood Planning**

"This Council notes the end of the moratorium on building on green spaces in our Borough and the recent planning decision to commence large scale building on Spen Moor. We recognise the strength of public outrage on this outcome and the precedent that this decision has now set for future potential housing developments. Such planning issues have a very direct impact on the lives of the people in our local communities.

This Council firstly resolves to acknowledge the need for a balance between the ever changing housing targets imposed on this Borough and the need to protect the green spaces that characterise our Borough's quality of life.

Further, this Council notes the recent provisions made in The Localism Act 2012 to allow Neighbourhood Planning. The Neighbourhood Planning Framework encourages the involvement of Township Forums so that local people can have direct involvement in determining planning policies. Neighbourhood Planning Orders could be used to allow certain applications to be decided in the local area rather than the centralised local authority planning process.

Therefore, this Council secondly resolves to establish a Neighbourhood Planning Framework in Bury which will allow communities to submit their Neighbourhood Plans."



