

Executive

Neighbourhood Planning Protocol

5 March 2012

Report of Head of Strategic Planning and the Economy

PURPOSE OF REPORT

To seek approval of a Neighbourhood Planning Protocol, to ensure local communities are aware of the Neighbourhood Planning process.

This report is public

Recommendations

The Executive is recommended to:

- (1) Agree and adopt the Neighbourhood Planning Protocol.

Executive Summary

Introduction

- 1.1 The Localism Act proposes the introduction of Neighbourhood Plans as a new local dimension to the Development Plan system. They are seen as a way of enabling communities to shape their local areas and may be drawn up by Parish Councils in Districts that have these, or by Neighbourhood Forums in non-parished areas.
- 1.2 Neighbourhood planning is “central to the Government’s decentralisation, localism and Big Society agenda. With greater decentralisation of planning powers, people are being given the opportunity to shape and influence the places where they live and they have more reasons to say ‘yes’ to sustainable development.” The Government intends that neighbourhood planning should be community-led with the community being in the driving seat of the process but with the local planning authority making necessary decisions at key stages.
- 1.3 To support this new approach the Government recently published draft Regulations that seek to establish the key steps required to produce a Neighbourhood Plan. These take a light-touch approach, but seek to ensure a nationally consistent approach to designating neighbourhood areas and neighbourhood forums, and the preparation of neighbourhood plans and neighbourhood development orders. The Council also considers that it is important that local communities are aware of the Neighbourhood Planning

process including the steps involved in preparation and resources that the District Council may be able to offer. The Protocol seeks to provide this information to allow parish and town councils to make informed decisions.

Proposals

- 1.4 It is proposed that the Neighbourhood Planning Protocol be approved
- 1.5 The Protocol is annexed to this covering report

Conclusion

- 1.6 It is important that local communities are aware of the Neighbourhood Planning process including the steps involved and the resources that the District Council may be able to offer. The Protocol seeks to provide this information for communities to make informed decisions.

Background Information

2. The Government has published a plain English guide to the Localism Act. It describes the main measures of the Localism Bill under four headings:
 - new freedoms and flexibilities for local government
 - new rights and powers for communities and individuals
 - reform to make the planning system more democratic and more effective
 - reform to ensure that decisions about housing are taken locally
- 2.1. Under Neighbourhood Planning the Guide states:

'Instead of local people being told what to do, the Government thinks that local communities should have genuine opportunities to influence the future of the places where they live. The Bill will introduce a new right for communities to draw up a 'neighbourhood development plan'.

Neighbourhood planning will allow communities to come together through a local parish council or neighbourhood forum and say where they think new houses, businesses and shops should go – and what they should look like.

These neighbourhood development plans could be very simple, or go into considerable detail where people want. Local communities would also be able to grant full or outline planning permission in areas where they most want to see new homes and businesses, making it easier and quicker for development to go ahead.

Provided a neighbourhood development plan is in line with national planning policy, with the strategic vision for the wider area set by the

local authority, and with other legal requirements, local people will be able to vote on it in a referendum. If the plan is approved by a majority, then the local authority will bring it into force.

Local planning authorities will be required to provide technical advice and support as neighbourhoods draw up their plans. The Government will also fund sources of help and advice for communities. This will help people take advantage of the opportunity to exercise influence over decisions that make a big difference to their lives'. (DCLG 2011)

- 2.2. The Protocol summarises how a Neighbourhood Plan should be prepared and considers CDC's approach towards to what it can offer by way of support and advice. Cherwell District contains over 90 settlements (hamlets, villages and towns) together with 2 Town and 76 Parish Councils. It is difficult to gauge the precise level of interest of communities in the Neighbourhood Plan process. Wroxton has already secured DCLG funding while a number of other areas have indicated that they are likely to be preparing Neighbourhood Plans including Bloxham and Adderbury. It is therefore likely that there will be a resource issue in terms of amount of financial and staff support the District Council is able to provide. The Council cannot refuse an application from a Parish Council to prepare a Neighbourhood Plan where the correct procedures have been followed. The Council will need to balance this with its key priority of delivering an up to date and sound Core Strategy for the District.
- 2.3. It is unclear as to how costly and complex the preparation of a Neighbourhood Plan will be to a Parish Council. The Government is seeking to learn from its series of frontrunner parishes that cover a wide range of different sizes and type of areas. The Protocol sets out the stages involved in preparation and suggests areas where the District Council can offer support and advice, including for example the wide range of evidence that is available from the CDC Website. It is considered important that those promoting Neighbourhood Plans are aware of the processes involved and consider whether such an approach is the most appropriate or whether local issues and concerns are more concerned with public services and village amenities rather than land use planning and guiding growth.
- 2.4. To provide further detailed guidance to Parish Councils currently considering this issue its is proposed to hold a workshop for them, to explain the process, the challenges, the risks and the potential costs involved in considering pursuing a Neighbourhood Plan. CDC members will also be invited to the event.
- 2.5. The intention underpinning the Neighbourhood Planning legislation is to allow community groups, residents and businesses to become involved in enabling and shaping and promoting growth and development that takes place in their local area. Preparing a Plan that seeks to prevent or to say 'no' to growth will not be acceptable. A Neighbourhood Plan is required to be consistent with higher level plans such as the National Planning Policy Framework (NPPF) and Local Plans. They will be tested at examination and again at a local referendum. If a local plan, which may set out a different policy approach, is adopted subsequent to a Neighbourhood Plan then it will be the Local Plan that takes precedence.

- 2.6. The Protocol sets out the possible benefits relating to additional housing units that are supplied as a result of neighbourhood planning, including the New Homes Bonus (NHB) and Community Infrastructure Levy (CIL). Central Government has advised that NHB could be used to directly support services and infrastructure within local communities where development occurs, to fund services and infrastructure in the wider Council area or to finance general council expenditure and thereby maintain service levels. The Council has yet to decide how NHB will be used.
- 2.7. The Community Infrastructure Levy is a new planning charge that CDC will need to have in place locally by 2014. Under CIL, developers will negotiate and pay councils a flat rate fee according to the type, scale and nature of the development, to support public improvements in their local area. This is different to Section 106 payments, where developers negotiate with councils on an individual basis about the amount they will invest to support local improvements. Charging authorities will be required to allocate a *meaningful proportion* of their levy revenues raised in each neighbourhood back to that neighbourhood, to spend on the infrastructure that local people consider is most needed. The actual amount of this is not defined and itself subject to a separate consultation.

The Neighbourhood Planning Regulations Consultation Document

- 2.8. The recent consultation on regulations to underpin Neighbourhood Planning provides additional guidance as to how the process will be implemented. The regulations –which have not yet been published in their final form - propose:
- placing the minimum of requirements on communities to free them from unnecessary process and to encourage them to get involved
 - placing the minimum of requirements on local planning authorities to enable local dialogue on the detail of the process so that it suits local circumstances
 - not interfering with local authority decision making
 - reserving regulation making powers wherever possible, and only taking them up in the future if practice proves them to be necessary; and
 - drawing on existing procedures where this is possible and appropriate, to minimise the time taken for communities and authorities to become familiar with the new system.
- 2.9. On many issues for example the Independent Examination and Referendum to be held at the end of the process the regulations draw on existing approaches, where it would be wasteful and unnecessary to reinvent existing approaches that are established and work perfectly well. The regulations also leave many aspects to communities and authorities to decide. The intention is that the preparation should be community led and not be overly bureaucratic. However, the regulations do seek an effective and transparent system which inspires communities to get involved, gives communities confidence that their views will have real influence, and delivers growth. At the same time the system needs to be legally robust and consistent across the country.
- 2.10. The consultation covered the following areas:

Information requirements – The regulations set out the information

communities must provide when seeking to establish a neighbourhood, a neighbourhood forum or a community right to build organisation and when putting proposals forward to the local planning authority for a neighbourhood plan and/or a neighbourhood development order (including a community right to build order). The regulations require that the “minimum necessary” information be provided to enable a local planning authority or examiner to assess the proposals, but leave it open to local planning authorities to devise their procedures around these minimum requirements. In practical terms the proposals state that a simple plan or statement of the proposed area along with an explanation of why the area is proposed are all that is needed for the application for designation of a neighbourhood area.

Publicity and consultation – The neighbourhood planning process must be community led, and keep residents and other local interests fully informed of what is being proposed. The community needs to have the right and be given the ability to make their views known throughout the process. The local planning authority will only be required to publish information e.g. the draft plan or order or the voting result of the referendum in a manner that will bring it to the attention of those who live, work or carry on business in the area. But how much more information made available than this will be up to the local planning authority. The regulations set out the manner in which information should be published at key stages. For example, when the Neighbourhood Plan or Order is ‘made’ (the final draft is published) it will be expected to be made available through publication on the local planning authority’s website, be available for inspection at their principal office, and that their website provides details of where the document can be inspected.

Time limits - Time-limits are proposed for only certain parts of the process to provide local planning authorities with the ability to flex the process to suit their own practices and timetables. Time-limits are proposed for consultation on the details of the Neighbouring Plan when it is first announced to provide residents and businesses of the neighbourhood areas, and any other bodies an opportunity to comment on the proposals. However, no time limit will be set for the period the local planning authority has to decide whether to designate a neighbourhood forum, although this decision should be made as soon as reasonably practical.

Local authority decision making - The Secretary of State has taken powers to set out how the local planning authority should make certain decisions (e.g. to validate an application or designate a forum). It is not proposed to prescribe exactly how the local authority should make key decisions – for example whether by delegated officer, a full meeting of the Full Council or via the Council’s Executive, or whether there must be a majority vote at those council meetings in order for the decision to be valid. This will be a matter for local planning authorities to decide.

Cross boundary Plans – A neighbouring planning area may cross two or more local planning authority boundaries. Although there are powers to specify how this is done, in general it is left to local planning authorities to work together to decide how they wish to manage cross boundary arrangements.

Future Proofing – Several of the powers given to the neighbourhood planning system in the Localism Bill will not be put into effect until a later date. This will enable the system to be able to reflect changing circumstances and

to reflect experience of putting the system into practice. The system will need to be able to respond to situations where new organisations, individuals or groups emerge over time.

Independent examination –Details of the independent examination into the plan or order are set out in detail in the Bill and therefore DCLG do not see the need for extensive further regulation. In addition, this is left largely to the local planning authority that has experience of organising independent examinations for local plans and that are best placed to decide how to undertake this activity. The proposals do not prescribe when a public hearing must be held. The regulations say that "the examiner should decide when to hold a public hearing into a plan or order".

The referendum – This is an essential part of the process as it ensures communities have the final say on whether a neighbourhood plan or development order or Community Right to Build order comes into force in their area. The consultation notes that the referendum arrangements should make it easy and convenient for local people to have their say on proposed developments and plans. The Secretary of State has powers to set out regulations about how referendums should be carried out. Existing regulations will form the basis of the proposals for referendums.

The regulations do however require that a referendum will be combined with another election if the latter is held either three months before or after the date of the referendum. The consultation asks whether the period for a referendum combined with another election should be longer – for example six months. The requirements for information that will be published by the local authority alongside the referendum to a minimum, and will be for the local planning authority to determine on a case-by-case basis. But it is recognised as being important to ensure that certain additional information is available to help voters to understand what they are voting for/against and what have been the outcomes of other steps in the process.

It should be noted that the draft regulations do not deal with EU obligations, nor details of referendums, which since they are common to various other Localism Bill innovations will be in separate regulations.

Commentary

- 2.11. The consultation draft of the proposed regulations sets out more detail on the procedure for the preparation of Neighbourhood Plans than was previously available which is useful for communities entering into the debate on whether to prepare a Neighbourhood Plan. The regulations draw on existing procedures where possible which will minimise the time communities and councils need to become familiar with the new system. Given that Neighbourhood Plans are effectively a new layer of Development Plan making it is sensible to follow the existing ways in which DPDs are produced.
- 2.12. The regulations proposed set out the minimum level of requirements that would ensure a nationally consistent approach to designating neighbourhood areas and neighbourhood forums, and the preparation of neighbourhood plans and neighbourhood development orders.
- 2.13. The workload and resources that will be required from within the Council in a

rural local authority area with a large number of Parishes cannot yet be quantified but looks likely to be substantial.

Key Issues for Consideration/Reasons for Decision and Options

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One To approve the Neighbourhood Planning Protocol to ensure local communities are aware of the Neighbourhood Planning process.

Option Two The Executive could choose not to agree the Protocol on Neighbourhood Planning. However, the Protocol is considered to be a valuable guide for local communities as to the process involved in their preparation and the Council's own position in terms of available financial and other resources

Consultations

Lead Member for Planning(Councillor Michael Gibbard) Informal Briefing

Implications

Financial: Neighbourhood planning will have financial and staffing implications for the Council, the precise extent of this cannot as yet be quantified. There are likely also to be significant financial implications for parish and town councils should they choose to prepare a Neighbourhood Plan. The Protocol seeks to set out possible sources of funding that may be available to assist in this process. A financial reserve has been created as a contingency to cover costs as they arise.

Comments checked by Karen Muir, Corporate Systems Accountant, 01295 221559

Legal: The Protocol will provide a guide for Parish Councils on the statutory process of preparing a Neighbourhood Plan

Comments checked by Nigel Bell, Solicitor, 01295 221687

Risk Management: Reputational risks from not having a process and procedure in place for advising communities on the most appropriate steps to follow.

Comments checked by Claire Taylor, Community & Corporate Planning Manager, 01295 221563

Wards Affected

All

Corporate Plan Themes

A cleaner, greener Cherwell
Cherwell, a District of Opportunity
A Safe and Healthy Cherwell
Cherwell, an accessible value for money council

Lead Member

Councillor Michael Gibbard
Lead Member for Planning

Document Information

Appendix No	Title
Appendix 1	Neighbourhood Planning Protocol
Background Papers	
DCLG Draft Regulations on Neighbourhood Planning	
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