

**REPORT 3****HARBOROUGH DISTRICT COUNCIL****REPORT TO THE CABINET MEETING OF 5 OCTOBER 2020****PUBLIC REPORT: Y****EXEMPT REPORT: N**

<b>Report Title</b>	<b>Great Bowden NDP Review and Scheme of Delegation amendment</b>
<b>KEY DECISION</b>	<b>No</b>
<b>Report Author</b>	Matthew Bills – Neighbourhood and Green Spaces Officer
<b>Purpose of Report</b>	To seek approval to ‘make’ the Gt Bowden NDP review plan with non-material amendments and to further update the Neighbourhood Planning Scheme of Delegation to allow officers to ‘make’ review plans with only non-material amendments on agreement of the Portfolio Holder
<b>Reason for Decision</b>	To ensure that appropriate governance arrangements are in place to take account of the requirements of Local Planning Authority when Neighbourhood Plans are reviewed.
<b>Portfolio (holder)</b>	Cllr Jonathan Bateman
<b>Corporate Priorities</b>	CO 1 Keeping the District a great place to live.
<b>Financial Implications</b>	Reviews of Neighbourhood Plans currently attract a Neighbourhood Plan Delivery Grant. (Zero when only non-material amendments are required; £10k for Examination only; £20k for Examination and Referendum)
<b>Risk Management Implications</b>	Failure to put in place appropriate governance arrangements could lead to challenge of the Neighbourhood Plan process.
<b>Environmental Implications</b>	To ensure new and reviewed neighbourhood plans continue to be made and their provisions given effect to across the District.
<b>Legal Implications</b>	The Council is permitted to ‘make’ non-material changes to a neighbourhood plan that do not materially affect the policies in the plan. A local planning authority may make such updates but only with the consent of the qualifying body. Consultation, examination and a referendum are not required in this situation. The Council may be subject to challenge under the Neighbourhood Planning Regulations, as amended, (including Neighbourhood Planning Act 2017, The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016) if appropriate governance arrangements are not made.
<b>Equality Implications</b>	None as part of this report.
<b>Data Protection Implications</b>	None as part of this report.
<b>Consultation</b>	CMT and Portfolio Holder

<b>Options</b>	<p>To not approve the Great Bowden Neighbourhood Plan review – this would result in the community not having an up to date Plan that properly references the changes in the National Planning Policy Framework and Local Plan adoption.</p> <p>To not amend the scheme of delegation – this would result in the Scheme of Delegation remaining as approved in July 2019. The current Scheme of Delegation is not explicit when an examination is not required for amendments to a review Plan.</p>
<b>Background Papers</b>	Neighbourhood Planning – Scheme of Delegation 1 July 2019
<b>Recommendations</b>	<ol style="list-style-type: none"> <li data-bbox="722 638 1495 817">1. <b>To ensure Great Bowden Neighbourhood Plan remains up to date and references changes to planning legislation and policy, Cabinet are recommended to approve the Great Bowden Neighbourhood Plan review to be ‘made’.</b></li> <li data-bbox="722 857 1495 1144">2. <b>To ensure the process of Neighbourhood Planning remains efficient and speedy: Cabinet are recommended to approve an amendment to the Scheme of Delegation, as set out in Appendix A, to enable officers, with the agreement of the Portfolio Holder, to make the minor, non-material modifications to the review Plan.</b></li> </ol>

## 1. Introduction

- 1.1 The Great Bowden Neighbourhood Plan review has taken place during 2019 and 2020. The Qualifying Body submitted the Plan to Harborough District Council for checking in May 2020.
- 1.2 The Scheme of Delegation was updated in July 2019 to reflect changes in the Neighbourhood Planning Regulations and to take account of the changes in job title for the Joint Chief Executives.

## 2. Key Facts

- 2.1. The amendments made to the Great Bowden Neighbourhood Plan were changes only to make the Plan consistent with the National Planning Policy Framework 2019 and the newly adopted Local Plan.
- 2.2. The Great Bowden Neighbourhood Plan can be found at **Appendix B** and the summary of amendments to the Plan can be found at **Appendix C**.

- 2.3. These changes are considered to be minor only and are permitted to be made by the Council at any time with the agreement of the Qualifying Body. Legal services have confirmed that the changes are only minor.
- 2.4. The original Scheme of Delegation was approved by Executive on 29<sup>th</sup> October 2012 and gave a framework under which officers could make certain decisions and report key decisions to Executive or Council for determination.
- 2.5. A review of Neighbourhood Planning was approved by Executive Committee in February 2014 in order to update the current position with regard to Neighbourhood Planning in the District and to make any recommendations that officers considered would improve the Council's service to communities.
- 2.6. In July 2019 Cabinet approved further amendments to the Scheme of Delegation to permit officers to make amendments to a review Plan where an Examiner has found that the changes are non-material.
- 2.7. The Scheme of Delegation is not explicit where amendments to a review plan are minor, do not materially affect the policies of the Plan and do not require consultation, examination or referendum.
- 2.8. Planning Practice Guidance states; 'a local planning authority may make such updates at any time, but only with the consent of the qualifying body. Consultation, examination and referendum are not required. (Paragraph: 084a Reference ID: 41-084a-20180222).
- 2.9. There are 3 types of modification which can be made to a neighbourhood plan or order. The process will depend on the degree of change which the modification involves:
  - Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
  - Material modifications which do not change the nature of the plan or order which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.
  - Material modifications which do change the nature of the plan or order and which would require examination and a referendum. This might, for example, involve allocating significant new sites for development.
- 2.10 The proposed amendment to the wording of the Scheme of Delegation is shown in **Appendix A** underlined. The amendment allows the minor amendments to be

made by officers in consultation with and agreement of the Portfolio Holder at any time.

- 2.11 The minor amendments may include correcting errors, such as a reference to a supporting document, and updating Plans to reflect changes in national planning legislation or adoption of planning documents such as the District Local Plan.

Note: amendments are underlined

**Neighbourhood Planning Scheme of Delegation Sept 2020**

**APPENDIX A**

<b>Neighbourhood Development Plan Preparation stage</b>	<b>HDC Action</b>	<b>HDC Decision</b>	<b>HDC Decision</b>	<b>HDC Decision</b>
	<b>Actions delegated to the <u>Chief Executive</u></b>	<b>Circumstances in which the decision is delegated to the <u>Chief Executive in conjunction with Strategic Planning Portfolio Holder</u></b>	<b>Circumstances in which a recommendation is presented to Cabinet for a decision</b>	<b>Circumstances in which a recommendation is presented to Council for a decision</b>
<b>Neighbourhood area applications</b>				
Publicising neighbourhood area applications (Regulation 6 <sup>i</sup> ).	Upon receipt of a Neighbourhood area application, officers will publicise the application			
Assess and approve / reject neighbourhood area applications (section 61G of the 1990 Act <sup>ii</sup> ).		If no issues / objections are raised during consultation and officers have no significant concerns, then the neighbourhood area will be designated by Portfolio Holder.	If any issues / objections / officer concerns are raised during consultation which can not be overcome through discussion with the NF/PC, then a recommendation to refuse to designate the neighbourhood area will be presented to a	

			meeting of Cabinet.	
Publicising the decision on a neighbourhood area application (Regulation 7).	As soon as possible after designating or refusing to designate the neighbourhood area, officers will arrange for the decision to be published.			
<b>Neighbourhood forum applications</b>				
Publicising a neighbourhood forum application (Regulation 9).	Upon receipt of a Neighbourhood area application, officers will discuss any issues with the NF / PC and then publicise the application.	Where a neighbourhood forum has already been designated, a recommendation to decline to consider the application will be considered by Portfolio Holder (in accordance with Regulation 11).		
Assess and approve / reject neighbourhood forum applications (section 61F of the 1990 Act).		If officers are satisfied that an organisation or body meets the conditions for a neighbourhood forum, then the application to form a neighbourhood forum will be approved by officers.	If officers are not satisfied that the conditions to form a neighbourhood forum are met, a recommendation to refuse the application will be presented to a meeting of Cabinet.	
Publicising a designation of a	As soon as possible after designating or			

neighbourhood forum (Regulation 10).	refusing to designate the neighbourhood forum, officers will arrange for the decision to be published.			
Voluntary withdrawal of designation (Regulation 11).	Where a neighbourhood forum gives notice that it no longer wishes to be designated, officers will withdraw the designation and publish the withdrawal of the designation.			
<b>Proposed Neighbourhood Development Plan (NDP)</b>				
Publicise the submitted NDP and invite representations (Regulation 16).	As soon as possible after receiving a proposed NDP and associated documents, officers will publish these and invite comments.			
Consideration of proposed Neighbourhood Development Plans (section 6(2) and 6(3), Schedule 4b of the 1990 Act).	Officers will consider whether the proposed NDP and associated documents meet the requirements of section 6(2) and 6(3), Schedule 4b of the 1990 Act.			

<p>Organise the examination and appoint a suitably qualified and experienced person to examine the NDP (section 7(1), (3), (4), (6)).</p>		<p>If officers are satisfied that matters set out in section 6(2) and 6(3) have been met or complied with, officers will organise the examination and appoint an examiner.</p>	<p>If officers are not satisfied that matters set out in section 6(2) and 6(3) have been met or complied with, a recommendation not to proceed with the examination will be presented to a meeting of Cabinet.</p>	
<p>Submission of plan proposal to examination (Regulation 17).</p>	<p>Officers will submit the draft NDP and associated documents to the person appointed to undertake the examination.</p>			
<p><u>Submission of minor (non-material) updates to a neighbourhood plan or Order that would not materially affect the policies in the plan or permission granted by the Order where consultation, examination and referendum are not required.</u></p>	<p><u>Officers will provide a statement to the Portfolio Holder for agreement to make the review plan with the minor, non material amendments. Agreement of the Qualifying Body will also be required.</u></p>			
<p>Submission of a plan <b>review</b> to examination</p>	<p>Officers will provide a statement to the Examiner</p>			



<p>(61M of the Town and Country Planning Act<sup>iv</sup> as amended by As amended by Neighbourhood Planning Act 2017<sup>v</sup>).</p>	<p>stating whether in the opinion of the LPA the amendments to the Plan are material or non - material modifications and whether or not the Plan requires an Examination and / or Referendum.</p>			
<p>Publication of the examiner's report and plan proposal decision (Regulations 18 and section 12).</p>			<p><b>Circumstances in which a recommendation is presented to Cabinet for a decision</b> – If an Examiner recommends that a Plan should proceed to referendum unchanged or with minor modifications which do not change the intention of individual policies or the Plan itself and does not recommend changes to the referendum area, and the Plan has been modified to meet the recommendations of the Examiner and officers are satisfied in all other respects then a recommendation to proceed to a referendum on the Plan (as modified if necessary) will be presented to a meeting of Cabinet. Officers will</p>	<p><b>Circumstances in which a recommendation is presented to Council for a decision</b> – If an Examiner recommends that a Plan does not proceed to referendum, or that the referendum area is changed, or that modifications be made which change the intention of a policy or which have not been made to the satisfaction of officers or officers recommend that Council;</p> <ul style="list-style-type: none"> <li>• decline to consider a plan proposal under paragraph 5 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act);</li> </ul>

			then publish the Cabinet's decision.	<ul style="list-style-type: none"><li>• to refuse a plan proposal under paragraph 6 of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act); or</li><li>• that they are not satisfied with the plan proposal under paragraph 12(10) of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act), a recommendation will be made to a meeting of Council not to proceed to referendum. Officers will then publish the Council's decision</li></ul>
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Note: amendments are underlined

<p>Where material modifications do not change the nature of the plan (and the examiner finds that the proposal meets the basic conditions, or would with further modifications) (Regulation 18A<sup>vi</sup>).</p>	<p>Officers will 'make' the modified plan within 5 weeks following receipt of the examiner's report, or such later date as agreed in writing between the local planning authority and the qualifying body.</p>			
<p>Holding a referendum (section 14 and associated Regulations<sup>iii</sup>)</p>	<p>Officers will hold the referendum following Cabinet's (Council) decision.</p>			
<p><b>Final Decision on NDP</b></p>				
<p>Decision on a plan proposal (Regulation 19).</p>	<p>Officers will publicise the decision following Cabinet and the referendum.</p>			

Note: amendments are underlined

Publicising a neighbourhood development plan (Regulation 20).	Officers will publicise the fact that a NDP has been made.			
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- <sup>i</sup> [The Neighbourhood Planning \(General\) Regulations 2012](#)
  - <sup>ii</sup> Town and Country Planning Act, as inserted by the Localism Act 2011
  - <sup>iii</sup> [The neighbourhood Planning \(Referendums\) Regulations 2012](#)
  - <sup>iv</sup> [61M of the Town and Country Planning Act 1990 \( As amended\)](#)
  - <sup>v</sup> [Neighbourhood Planning Act 2017](#)
  - <sup>vi</sup> [The Neighbourhood Planning \(General\) Regulations 2012 \(as amended\)](#)