

**REPORT 7****HARBOROUGH DISTRICT COUNCIL****REPORT TO THE CABINET MEETING OF 1 July 2019****PUBLIC REPORT: Y****EXEMPT REPORT: N**

<b>Report Title</b>	<b>Neighbourhood Planning – Scheme of Delegation</b>
<b>KEY DECISION</b>	<b>Yes</b>
<b>Report Author</b>	Matthew Bills – Neighbourhood and Green Spaces Officer
<b>Purpose of Report</b>	To seek approval to update the Neighbourhood Planning Scheme of Delegation to take account of upcoming reviews of Neighbourhood Plans and to update/amended Joint Chief Executive job title to reflect this.
<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 Phillip King
<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. (£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 and failure of the Plan at Examination.
<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 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>	Consultation only with CMT and Portfolio Holder for Strategic Planning.
<b>Options</b>	To not amend the scheme – this would result in the Scheme of Delegation remaining as approved in February 2014. This would result in the need for a fresh Cabinet report to be prepared and presented for each Neighbourhood Plan Review in order the reviewed plans to proceed to Examination. Subsequent Cabinet reports are still required for Cabinet to be able to consider the

	proposed modifications of the Examiner and to approve proceeding to Referendum on each and every neighbourhood plan review on an individual basis.
<b>Background Papers</b>	None.
<b>Recommendations</b>	<p><b>1. 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 to issue the statement to the Examiner on behalf of the Local Planning Authority as to whether the modifications to reviewed neighbourhood plan are:</b></p> <ul style="list-style-type: none"> <li>• <b>Minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order.</b></li> <li>• <b>Material modifications which do not change the nature of the plan or order which would require examination but not a referendum.</b></li> <li>• <b>Material modifications which do change the nature of the plan or order and which would require examination and a referendum.</b></li> </ul> <p><b>2. To make minor amendments to the text of the Scheme of Delegation to reflect the Joint Chief Executive change in job title.</b></p>

## **1. Introduction**

1.1 The original Scheme of Delegation was approved in October 2012, with an update approved by Executive Committee in February 2014. Since the 2014 update Government has updated the Regulations and guidance concerning reviews of Neighbourhood Plans and it is important that the approved Scheme of Delegation is updated accordingly in order to fully reflect these updates.

## **2. Key Facts**

2.1. 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.

2.2. 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.

- 2.3. The amendment to the Regulations and Guidance concerning reviews of Neighbourhood Plans makes it necessary for the Council's Scheme of Delegation to be updated again so that the Authority can continue to deliver an efficient service to Neighbourhood Planning Groups and meet the statutory requirements for Neighbourhood Plan reviews.
- 2.4. The changes are required specifically to take account of the requirement of the Local Planning Authority to make a statement to the Examiner whether they believe that the modifications are so significant or substantial as to change the nature of the plan and give reasons.
- 2.5. 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.
- 2.6. The proposed amendment to the wording of the Scheme of Delegation is shown in **Appendix A** underlined. The amendment allows the statement to be provided by officers in an efficient manner using their professional judgement.
- 2.7. The decision whether the modifications do change the nature of the Plan is that of the Examiner, who will issue their report accordingly.
- 2.8. 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) a referendum is not required. A local planning authority must '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.
- 2.9. Where material modifications do change the nature of the plan, the Local

Planning Authority would publicise and consider the Examiner's report in line with the procedure for making a new neighbourhood plan. A decision may be made whether to proceed to referendum so that, if the referendum is successful, the neighbourhood plan becomes part of the development plan without undue delay.

Note: amendments are underlined

**Neighbourhood Planning Scheme of Delegation**

**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 <u>Joint Chief Executive</u></b>	<b>Circumstances in which the decision is delegated to <u>Joint 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 a plan review to examination (61M of the Town and Country Planning Act<sup>iv</sup> as amended by Neighbourhood Planning Act 2017<sup>v</sup>).</u></p>	<p><u>Officers will provide a statement to the Examiner 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.</u></p>			
<p>Publication of the examiner's report and plan proposal decision (Regulations 18 and</p>			<p><b>Circumstances in which a recommendation is presented to</b></p>	<p><b>Circumstances in which a recommendation is presented to Council</b></p>



<p>section 12).</p>			<p><b>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 then publish the Cabinet’s decision.</p>	<p><b>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> <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</li> </ul>
---------------------	--	--	---	---

Note: amendments are underlined

				<p>12(10) of Schedule 4B to the 1990 Act (as applied by section 38A of the 2004 Act),</p> <p>a recommendation will be made to a meeting of Council not to proceed to referendum. Officers will then publish the Council's decision.</p>
<p><u>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>).</u></p>	<p><u>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.</u></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>			

Note: amendments are underlined

<b>Final Decision on NDP</b>				
Decision on a plan proposal (Regulation 19).	Officers will publicise the decision following Cabinet and the referendum.			
Publicising a neighbourhood development plan (Regulation 20).	Officers will publicise the fact that a NDP has been made.			

---

<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 \(as amended\)](#)