

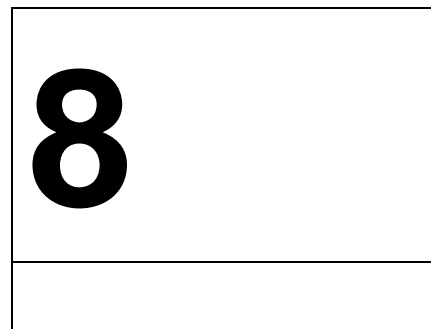
**Calderdale MBC**

**Wards Affected**

**Cabinet**

**Date : 17 November 2014**

**Hebden Royd and the Hill Top Parishes –  
Proposed Neighbourhood Area**



**Report of the Director, Economy and Environment**

**1. ISSUE**

- 1.1 Designation of the prospective Hebden Royd and the Hill Top Parishes Neighbourhood Area within which planning powers will be granted under Section 61G of the Town and Country Planning Act 1990 in order to bring forward a Neighbourhood Development Plan (NDP).

**2. NEED FOR A DECISION**

- 2.1 Designation of the Neighbourhood Area for Hebden Royd and the Hill Top Parishes Section is a legal process which requires approval of Council.

**3. RECOMMENDATION**

It is recommended:

- 3.1 That Cabinet recommend to Council that the area defined in the application as Hebden Royd and the Hill Top Parishes and administered by Hebden Royd Town Council, Blackshaw Parish Council, Erringden Parish Council, Heptonstall Parish Council and Wadsworth Parish Council is designated as a Neighbourhood Area in accordance with Section 61G of the Town and Country Planning Act 1990.

## 4. BACKGROUND

4.1 The Localism Act 2011 introduced new powers available to communities which enables them to take responsibility for the planning of their local area with the power to :

- make a neighbourhood development plan (NDP);
- make a neighbourhood development order (NDO);
- make a Community Right to Build Order (CrtBO);

4.2 The powers can only be taken-up by “relevant bodies” which are of two forms : -

1. **Parish and Town Councils.** These bodies have the right to take up the Neighbourhood Development Plan powers, but need the formal agreement of the Council to the area for which these powers will apply; or
2. **Neighbourhood Forums.** These bodies can be set up in areas not covered by Town or Parish Councils. The formal designation of the Neighbourhood Forum requires the approval of the Council and the area for which they will take the Neighbourhood Planning Powers also requires a separate resolution.

4.3 An application for the designation of a Neighbourhood Area was received on 11<sup>th</sup> August 2014 from the relevant bodies of Hebden Royd Town Council, Blackshaw Parish Council, Erringden Parish Council, Heptonstall Parish Council and Wadsworth Parish Council. The application is attached as the Appendix to this Report. The application seeks designation of a Neighbourhood Area for the full administrative area of the combined Parish/Town Councils.

4.4 The Neighbourhood Planning (General) Regulations 2012 require that the application for designation of a Neighbourhood Area must include the following information:-

- A map which identifies the area to which the application relates;
- A statement explaining why this area is considered appropriate to be designated as a neighbourhood area;
- A statement that the organisation or body is a relevant body for the purposes of Section 61G of the Town and Country Planning Act 1990.

4.5 For the purposes of this application and subsequent Neighbourhood Area, Hebden Royd Town Council will be the lead relevant body and will work with the other Parish Councils covered by the Neighbourhood Area designation to take forward the powers conferred by the amended Town and Country Planning Act 1990.

## 5. CONSULTATION

5.1 The Neighbourhood Planning (General) Regulations 2012 require the Council to publicise a neighbourhood area application. The Council undertook public consultation which went above and beyond the requirements of the legislation.

5.2 Formal consultation commenced on Friday 22<sup>nd</sup> August 2014 and closed on Friday 3<sup>rd</sup> October 2014. The application was advertised through the Council's web-site,

Statutory Notices were placed in the Halifax Courier, Hebden Bridge Times and Todmorden News. Copies of the application and consultation documents were lodged with Halifax Customer First; Hebden Bridge Town Hall, the Clerks of Hebden Royd Town Council, Blackshaw Parish Council, Erringden Parish Council, Heptonstall Parish Council and Wadsworth Parish Council Hebden Bridge Library, and Mytholmroyd Library; Notice was also provided through the Local Plan (Consultation email address list) to the persons and organisations that have registered to be kept up to date with the Local Plan. The Local Plan web-pages set out more detailed information and facilitated on-line engagement. A questionnaire was established which allowed respondents to say “yes” or “no” to the granting of approval for the Area.

- 5.3 The application was placed by the applicants on the Hebden Royd Town Council web-site with links to this Council’s Consultation database and information relating to how to make comments.

#### 5.4 **Comments Received**

There have been 16 responses in total including from Statutory Consultees each of whom have requested that their interests are taken into account during plan preparation:

- **Coal Authority:** - have raised their statutory issues and reminded plan-makers of the need to consult with the Coal Authority and to protect coal reserves.
- A composite representation from the **Environment Agency, Forestry Commission** and **English Heritage** – have raised no objections to the area to be covered but asked that their concerns and responsibilities are taken into account as the NDP is prepared.
- **Natural England:** - have raised issues regarding their statutory duties in the plan-making process and the need to protect the Special Protection Area and Special Area of Conservation which forms much of the rural area of the proposed Neighbourhood Area.
- Wakefield, Oldham and Kirklees Councils have raised no comments on the proposed Neighbourhood Area.

- 5.4 There have been ten comments from within the community. Eight people have supported the designation of the Neighbourhood Area and the creation of a Neighbourhood Development Plan, whilst there have been 2 objections :

“I can see the potential strengths and advantages of joining 'forces' - however, I do have a concern that the interests and issues relating to the Hilltop communities are VERY different to those of the larger - valley bottom communities (Hebden Bridge and Mytholmroyd) - and I would want to have re-assurances re how this will be addressed in a unified plan - before I would support it.”

“My concern is the lack of a similar plan for the Todmorden Neighbourhood”;

- 5.7 These comments do not, it is considered, object to the actual designation of the Neighbourhood Area. The first could be regarded as an issue for plan preparation and the Referendum later in the process and the second is a comment for

Todmorden Town Council to consider. It is not for Calderdale Council to decide where Neighbourhood Areas should be proposed.

## **6. OPTIONS CONSIDERED**

6.1 The following considerations need to be made regarding the application: -

- a. Is the application from a “relevant body” and does it provide the required information?
- b. Should the Council approve the Hebden Royd and Hill Top Parishes area as the Neighbourhood Area in its entirety; should the Council reject the neighbourhood area; OR should the Council make amendments to the area that will be designated?

6.3 **Is the application from a “relevant body” and does it provide the required information?**

The LPA can designate a Neighbourhood Area but only if a valid application has been made and that application was made by a “Relevant Body.”

**Consideration** : The application from the joint Hebden Royd and Hill Top Parishes has been submitted by “relevant bodies” that have the right to apply to take up these powers.

The application contained in the Appendix to this report provides the information required in the Neighbourhood Planning (General) Regulations (set out in paragraph 4.4 above) and therefore the application has been validly submitted.

6.3 **Should the Council approve the Hebden Royd and Hill Top Parishes area as the Neighbourhood Area in its entirety; should the Council reject the neighbourhood area; OR should the Council make amendments to the area that will be designated?**

**Consideration** : The proposed Neighbourhood Area covers the joint administrative areas of Hebden Royd Town Council, Blackshaw Parish Council, Erringden Parish Council, Heptonstall Parish Council and Wadsworth Parish Council. The proposed Neighbourhood Area has an area of 11,626ha and will cover nearly one third of Calderdale (area 36,200ha) with a combined population of about 12,000. The largest towns are Hebden Bridge and Mytholmroyd, both of which are part of Hebden Royd Town Council. A number of smaller villages including Heptonstall, Colden, Slack, Old Town/Chiserley, Cragg Vale, Blackshaw, Charlestown, Pecket Well, together with extensive rural areas including parts of the Special Protection Area (SPA) and Special Area of Conservation (SAC) of the South Penning Moors protected under European legislation form the rest of the proposed Neighbourhood Area.

The scale of the Neighbourhood Area proposed does give rise to some concerns from this Council. There will be a need for the team leading the Neighbourhood Development Plan to understand exactly what it is they are trying to achieve and the outputs they want from the NDP so that they can keep focussed on relevant land-use issues, policies, sites and outcomes as part of plan preparation. The Council’s concern is that they keep focussed and do not attempt to replicate the

Local Plan but add value to it. This would reduce the scale of work that they will need to undertake and increase the likelihood of it passing Examination later in the process.

The Council could propose that the area to be designated as part of the Neighbourhood Area could be limited to that outside the SPA/SAC with an appropriate buffer zone. This may reduce some of the work needed by the NDP team particularly in respect of Habitats Regulations Assessment (HRA). However the Council does not wish to fetter the people of Hebden Royd and the Hilltop Parishes in creating their own vision for development in their area. As a result whilst there are some concerns about the scale of work that the NDP team may have to undertake and potential resources required these, are not considered a reason to amend the boundary of the proposed Neighbourhood Area.

One respondent questioned whether the area proposed to be designated could be regarded as appropriate. It was suggested that the issues in the Hill Top Parishes are quite different from those in the valley towns. This is a reasonable concern, but the team preparing the Neighbourhood Development Plan will need to be aware of these issues and develop an appropriate response as they progress the plan. It is not necessarily considered that this is a reason to refuse the designation of the area across these qualifying bodies.

The Neighbourhood Area proposed is considered to be appropriate and does not need to be amended.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 Once the Neighbourhood Area has been formally designated the Council has a “Duty to Support” the creation and development of the Neighbourhood Development Plan or other rights that the relevant bodies choose to take up, the local planning authority is legally required to advise or assist those bodies producing a Neighbourhood Plan in its area.

This could include things like:

- arranging meetings, as appropriate, with the qualifying body;
- making available data for the evidence base, such as housing need data, development viability considerations, environmental designations, and flood risk assessments;
- setting out local strategic policies in the Local Plan;
- setting out national policies which will need to be considered;
- providing advice on the legal requirements for Neighbourhood Planning under the Localism Act;
- providing advice on general planning matters;
- sharing information on key contacts and stakeholders;
- making available venues and helping to arrange community engagement activities, to avoid consultation overload and maximise efficiencies of resources;
- checking the plan prior to formal submission;
- participation in meetings of the qualifying body or its working groups;
- providing advice on who needs to be consulted, especially in order to help the draft proposals meet the basic conditions (such as compatibility with EU obligations);

- providing technical support, such as assistance in laying out and illustrating a plan;
- providing members for neighbourhood forums or more informal steering/working groups;
- identifying any need for and undertaking environmental assessment or Habitat Regulations Assessment.

7.2 The Duty to Support does not require the giving of financial assistance to parish councils or designated neighbourhood forums, but Council's may offer financial assistance if they wish. This Council does not have a budget specifically for supporting Neighbourhood Planning, and therefore support will generally be in kind and through staff time and assistance rather than financial contributions.

7.3 The Government has recognised the liabilities that Council's will have in respect of Neighbourhood Planning and has established a fund against which the Council can draw down phased funding called Neighbourhood Planning Grant. For the Financial year 2014/15 the arrangements set by DCLG are as follows: -

- The first payment of £5,000 will be made following designation of a neighbourhood area recognising the officer time supporting and advising the community in taking forward a neighbourhood plan. For authorities designating several neighbourhood areas, each local planning authority could claim up to a maximum of £100,000 for area designations, in 2013/14 for example.
- The second payment of £5,000 will be made when the local planning authority publicises the neighbourhood plan prior to examination. This will contribute towards the costs of the examination as well as other staff costs incurred at this stage.
- The third payment of £20,000 will be made on successful completion of the neighbourhood planning examination. This is to cover costs for that examination and any other further steps that may be needed for the neighbourhood plan to come into legal force, including referendum. However, the payment is not dependent on pursuing the referendum route if both parties agree on a different approach at that point (for example, if both parties agree, the neighbourhood plan could be taken forward as part of the local plan or as a supplementary planning document). There was no cap in 2013/14 nor in 2014/15.

7.4 It has been confirmed through an exchange of emails with the officer at the DCLG with responsibility for Neighbourhood Planning Grant that the designation of this Neighbourhood Area will be regarded by the DCLG as one area for grant funding purposes and therefore the support that the Council will be able to draw down is limited to the amounts set out in paragraph 7.3 above. – amounting to £30,000 in total.

7.5 Revised funding arrangements are being introduced by the DCLG from April 2015. This will allow an approved Neighbourhood Area to apply for £8,000 to help fund plan preparation. If a neighbourhood area is made up of more than one "relevant body" an

additional £6,000 can be drawn down, making £14,000 in total to the Neighbourhood Area.

## **8. EQUALITY AND DIVERSITY**

8.1 The Equality Act 2010 introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

8.3 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality.

It is considered that there are no direct equality and diversity implications arising from this recommendation.

## **9. RISK AND LEGAL IMPLICATIONS**

9.1 Granting Neighbourhood Planning Powers gives the “qualifying body” the power to bring forward the following: -

- a neighbourhood development plan (NDP);
- a neighbourhood development order (NDO);
- a Community Right to Build Order (CrtBO);

Preparation of these plans and orders would be the responsibility of the Hebden Royd Town Council working with the other Parish Councils covered by the area designation.

However Calderdale Council would be responsible for final checking of the NDP and for appointing the Inspector to undertake the examination and arranging the referendum. Ultimately the major risk is that the “qualifying body” fails to bring forward a “sound” Neighbourhood Development Plan. However that is not a reason which should weigh against designation.

9.2 Ensuring the Council fulfils its “Duty to Support” obligations (generally set out in paragraph 7.1) will help ensure that the Neighbourhood Forum addresses the relevant planning and other issues as they progress in plan making and avoid potential issues through the process.

- 9.3 The Town and Country Planning Act 1990 Section 61G (as amended by the Localism Act 2011) provides the framework for the Council to grant the powers sought by these applications from Hebden Royd Town Council and the Hill Top Parishes.

## 10. CORPORATE IMPLICATIONS / POPULATION OUTCOMES

- 10.1 The granting of the powers for the neighbourhood area will contribute to the Council's priority outcomes for: -

**Growth** : *driving economic development and enterprise;*

The NDP will bring forward policies and ideas for growth and development within the Hebden Royd and the Hill Top Parishes area to meet the aims and aspirations of the local community;

**Ambition** : *raising aspiration and achievement for all our residents;*

The NDP will help to promote enterprise across Hebden Royd and the Hill Top Parishes and allow the community to develop its own vision and proposals for a better future;

## 11. CONCLUSION

- 11.1 This application by the Hebden Royd and Hill Top Parishes is from "relevant bodies" that have the right to take up the neighbourhood planning powers derived from the Localism Act 2011. The area to be covered by the Neighbourhood Area is extensive but coherent and so is an appropriate area within which a Neighbourhood Development Plan can be prepared.

Ian Gray  
Director of Economy & Environment

16 October 2014

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**For further information on this report, contact:**

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**The documents used in the preparation of this report are:**

1. Localism Act 2011;
2. Town and Country Planning Act 1990 (as amended);
3. Locality – Neighbourhood Plans Roadmap Guide 2013;
4. Calderdale Council - Neighbourhood Development Plans Guidance March 2013;
5. Application by Hebden Royd and the Hilltop Parishes for designation of a Neighbourhood Area

**The documents are available for inspection at:**

- On the internet or Council's web-site;
- The application is available for inspection at:  
<http://www.calderdale.gov.uk/environment/planning/local-plan/neighbourhood-development-plans/index.html>