

RECORD OF DECISION MADE UNDER DELEGATED POWERS FOR NEIGHBOURHOOD PLANNING

Delegation approved by Council 27 April 2016 A230 94 (D)

NEIGHBOURHOOD PLANNING APPROVALS AND CHANGES TO THE COUNCIL'S DELEGATIONS -
(CABINET 11TH APRIL 2016 – MINUTE NUMBER 136/B124)

COUNCIL RESOLVED that

(b) delegated authority be given to the Acting Director of Economy and Environment in consultation with the Cabinet Member with responsibility for Regeneration and Economic Development to approve applications for Neighbourhood Areas and approve the designation of Neighbourhood Forums, following consultation on the applications for such designations.

DELEGATED REPORT

SOWERBY AND BEECHWOOD NEIGHBOURHOOD FORUM AND AREA

1. An application from the prospective Neighbourhood Forum for Sowerby and Beechwood submitted to the Council in January 2017 for designation as a neighbourhood forum under Section 61 the Town and Country Planning Act 1990 (as amended), and for the area for which those powers would be taken (being part of Ryburn Ward within the Metropolitan Borough of Calderdale NOT within the area covered by Ripponden Parish Council. (The Area to be designated is shown on the attached Plan).
2. In accordance with the Regulations the application received included a copy of the Constitution of the proposed Form together with evidence that the Forum has at least 21 signed up Members.
3. The Applications were advertised for a 6 week long period commencing 27th January 2017 and ending 10th March 2017.
4. During the Consultation Period 14 Representations have been received :
 - There are 6 representations in support of the proposal;
 - There are 2 Objections;
 - The 5 representations from the Statutory Consultees, who have made comments but not raised objections. Representations are from Statutory Bodies providing advice that will need to be forwarded to the Forum, if it is approved, as a result of this Report.
 - There is one additional comment from a planning consultant about the principles of neighbourhood planning.

All the comments are to be found in the Appendix to this Report.

5. Matters to be considered:

In order to comply with the Regulations, the following Table sets out the relevant questions and responses:

Question	CONSIDERATION
<i>Is the application from a "relevant body" and does it provide the required information?</i>	YES. The application states how the Prospective Forum is a relevant body. The Prospective Forum has more than 21 Members from within the designated area. The application has evidenced this and provided a copy of the Constitution.

Question	CONSIDERATION
<p><i>Should the Council approve the area applied for as the Neighbourhood Area in its entirety; OR should the Council reject the neighbourhood area;</i></p>	<p>YES the Forum and area should be approved... the application forms a coherent area and the Forum will need to work hard to ensure that residents and businesses within the area are engaged in the preparation of the Neighbourhood Plan.</p> <p>HOWEVER: There are objections from 2 local residents whilst not objecting to the idea of a Neighbourhood Forum for Sowerby and Beechwood, object to the area that this would cover who raise the prospect that by approving this application any possibility of Mill Bank or Triangle being represented or joining a Neighbourhood Forum for a larger area covering Sowerby Bridge and its wider area. Their preference is for a larger Forum area covering Sowerby Bridge together with Sowerby, Triangle and Millbank.</p> <p>This issue occurred at the previous application stage for this Forum, but no progress has been made by any other groups wishing to set up a Neighbourhood Forum for any part of the Sowerby Bridge area.</p> <p>The previous application for the Sowerby Township and Villages Neighbourhood Forum and Plan was withdrawn in the light of comments made before determination.</p> <p>MAIN ISSUE : Should this application be refused pending other groups coming forward with proposals to take Neighbourhood Planning powers for a larger area which also covers Sowerby and Beechwood?</p> <p>There are no proposals being brought forward for neighbourhood planning in the wider area and the lack of progress by other groups should not be seen as a reason to prevent the legitimate application being determined.</p>

RECOMMENDATION :

That under the Powers conferred by the Town and Country Planning Act 1990 (as amended), and as delegated by the Council to the Director and appropriate Cabinet Member, the application for a Neighbourhood Planning Forum and Areas is **GRANTED**.

Cabinet Member for Regeneration and Economic Development : Cllr Barry Collins

(Acting) Director of Economy & Environment : Mark Thompson

Dated :

Service Lead for Planning : Richard Seaman;

AUTHOR : Development Strategy Manager : Phil Ratcliffe (Tel) 01422 392255

REPRESENTATIONS RECEIVED REGARDING THE SOWERBY TOWNSHIP AND VILLAGES NEIGHBOURHOOD FORUM AND AREA

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SNP1	Planning Administration Team	Sport England			<p>Thank you for consulting Sport England on the above Neighbourhood Consultation.</p> <p>Planning Policy in the National Planning Policy Framework identifies how the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Encouraging communities to become more physically active through walking, cycling, informal recreation and formal sport plays an important part in this process and providing enough sports facilities of the right quality and type and in the right places is vital to achieving this aim. This means positive planning for sport, protection from unnecessary loss of sports facilities and an integrated approach to providing new housing and employment land and community facilities provision is important.</p> <p>It is important therefore that the</p>		

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					<p>Neighbourhood Plan reflects national policy for sport as set out in the above document with particular reference to Pars 73 and 74 to ensure proposals comply with National Planning Policy. It is also important to be aware of Sport England's role in protecting playing fields and the presumption against the loss of playing fields (see link below), as set out in our national guide, 'A Sporting Future for the Playing Fields of England – Planning Policy Statement'.</p> <p>http://www.sportengland.org/facilities-planning/planning-for-sport/development-management/planning-applications/playing-field-land/</p> <p>Sport England provides guidance on developing policy for sport and further information can be found following the link below:</p> <p>http://www.sportengland.org/facilities-planning/planning-for-sport/forward-</p>		

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					planning/ Sport England works with Local Authorities to ensure Local Plan policy is underpinned by robust and up to date assessments and strategies for indoor and outdoor sports delivery. If local authorities have prepared a Playing Pitch Strategy or other indoor/outdoor sports strategy it will be important that the Neighbourhood Plan reflects the recommendations set out in that document and that any local investment opportunities, such as the Community Infrastructure Levy, are utilised to support the delivery of those recommendations. http://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/ If new sports facilities are being proposed Sport England recommend you ensure such facilities are fit for purpose and designed in		

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					<p>accordance with our design guidance notes.</p> <p>http://www.sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/</p> <p>If you need any further advice please do not hesitate to contact Sport England</p>		
SNP2	Mr Robert Ellis	Wakefield Metropolitan District Council			Wakefield Council have no comment to make with regard to the above consultation.		
SNP3	Claire Dennison	<p>Sustainable Places Planning Advisor</p> <p>Environment Agency</p>			<p>We have no objection to the aims of the Neighbourhood Plan.</p> <p>Aims – Environmental</p> <p>We support aim three in this section to Protect and enhance the current flood alleviation policies.</p> <p>We recommend an Aim in this section that say something on the lines of ‘Protect and enhance the water environment where possible’. This is to protect the watercourse that run through the plan area.</p>		

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					<p>We have attached some further information for when you are producing the plan on what we would like to be included in any plan. You could help your area to manage environmental risks and improve its resilience to climate change through neighbourhood planning. By highlighting local problems and developing policies for land use, you could help your community to manage the risk of flooding by providing landscaping to manage and store water, and by promoting the use of sustainable drainage systems. Planting trees helps to create green spaces can store water, and provide shade for people and wildlife. Should you require any additional information, or wish to discuss these matters further, please contact me.</p>		
SNP4	Miss Samantha Roberts		Yes		I think this is a good idea and will give the community a cohesive voice in how they wish their area to develop.	Yes	
SNP5	Dr Rob		Yes	Excellent proposal and will promote		Yes	

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	Hinds			community involvement and to give views on proposed developments			
SNP6	Mr Simon Roberts		Yes		You have the worst website I have ever tried to use. It's so bad I assume it's deliberate to exclude virtually everyone from participation.	Yes	
SNP7	Miss Rachael Bust	Deputy Head of Planning and Local Authority Liaison Department The Coal Authority			Thank you for consulting The Coal Authority. Having reviewed your document, I confirm that we have no specific comments to make on it. Should you have any future enquiries please contact a member of Planning and Local Authority Liaison at The Coal Authority		
SNP12	Mr Samuel Irvine		No	Though I support the idea of Sowerby creating a neighbourhood development plan		No	The boundary of this plan would not allow the

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				and agree with their aims I feel I have to object to this plan as the boundary they have drawn would block the possibility of Triangle and Millbank joining with Sowerby Bridge to create a plan, a wish that was expressed in the comments on the previous Sowerby Township NDP consultation, I would also like to see more representation on the forum from around the area.			possibility of Triangle and Millbank joining to create a plan with Sowerby Bridge as a section of Triangle that meets up with Sowerby Bridge ward boundary has been included here.
SNP13	Mr Craig	Historic Places Adviser Historic			Thank you for notifying Historic England in your e-mail consultation of Friday 27 January 2017, that the Sowerby Neighbourhood Plan Committee has applied		

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	Broadwith	England			<p>to Calderdale Council for designation of a Neighbourhood Plan Area under the Neighbourhood Planning (General) Regulations 2012 to enable them to undertake a Neighbourhood Development Plan.</p> <p>We do not wish to provide any comments at this stage, but are happy to provide written advice, if required, as the Neighbourhood Plan develops.</p>		
SNP8	Ms Sheila Greetham		Yes		The neighbourhood plan will be supported and formed by knowledgeable and responsible people who have a sound understanding of the social, environmental and economic need so the area.	Yes	
SNP9	Mrs Rhoda Hinds		Yes		The neighbourhood forum will help the local community have a say in the ongoing development of this area of Calderdale		
SNP10	Mrs Lynda Roberts		Yes		I think this is a good way of involving the community in its own future.	Yes	

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SNP11	Mr Peter Walker		No	I am very concerned that by granting this application that it will affect the other areas that are keen that we work together with one voice to cover the entire Sowerby Bridge, Triangle and Mill Bank Area. For some reason unknown to the rest of us the Sowerby Village group seem determined to speak only for their own area. I am concerned that if this application is approved the areas not covered by this group i.e. Sowerby Bridge, Triangle and Mill Bank Rea will be			

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				unable to progress their application. As Chair of The Mill Bank Group we have already agreed that our best interests are best delivered by the Sowerby Bridge Neighbourhood Group. I understand that Triangle also have agreed to join this group. It seems rather unfair that granting the Sowerby Village with Beechwood that the rest of our group will be disenfranchised from forming their own group. The Mill Bank Group believes firmly that the Neighbourhood Group should cover			

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				the whole area including Sowerby Village.			
SNP14	Ms Megan Pashley	Gladman Developments Ltd			<p>We would also like to offer our assistance in the preparation of the neighbourhood plan and invite the Neighbourhood Plan Committee to get in touch regarding this.</p> <p>Legislation</p> <p>Before a Neighbourhood Plan can proceed to referendum it must be tested against a set of Neighbourhood Plan Basic Conditions, set out in §8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended by section 28a of the Planning and Compulsory Purchase Act 2004). The Basic Conditions which the Neighbourhood Plan must be found in compliancy with are as follows:</p> <p><i>a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make</i></p>		

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					<p><i>the neighbourhood plan</i></p> <p><i>b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order</i></p> <p><i>c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order</i></p> <p><i>d) The making of the neighbourhood plan contributes to the achievement of sustainable development</i></p> <p><i>e) The making of the neighbourhood plan is in general conformity with the strategic policies contained within the development plan for the area of the authority</i></p> <p><i>f) The making of the neighbourhood plan does not breach, and is otherwise</i></p>		

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					<p><i>compatible with, EU obligations</i></p> <p>If the Neighbourhood Plan is not developed in accordance with all of the Neighbourhood Plan Basic Conditions as set out above, then there is a real risk that it will fail when it reaches Independent Examination.</p> <p>High Court Judgments</p> <p>Woodcock Judgement</p> <p>The Woodcock High Court judgment demonstrates the implications for progressing a neighbourhood plan where there is no local plan in place nor a five-year housing land supply. In summary, this High Court judgment demonstrates the following key points:</p> <p>- That §14 and §49 of the Framework in regard to five-year housing land supply and the weight to be given to extant housing land supply policies applies equally to both</p>		

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					<p>emerging and 'made' neighbourhood plans as well as other development plan documents otherwise adopted and/or emerging by the local planning authority.</p> <p>- There is nothing in policy or statute that elevates neighbourhood planning to a level above the wider development plan that enables special consideration.</p> <p>- Neighbourhood Plans must respect national planning policy and the core planning principles outlined within the Framework.</p> <p>- Prematurity must be assessed against the whole of the requirements of the PPG. In neighbourhood planning, there is no requirement for qualifying bodies to produce an objective assessment of housing needs.</p> <p>Crownhall Judgment</p>		

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					<p>On 21st January 2016, Holgate J handed down judgment in R(Crownhall Estates Ltd) v Chichester District Council [2016] EWHC 73 (Admin). This judgment summarises the respective legislation at §12-§28 (further detailed below), and the relevant principles at §29.</p> <p>This judgment does not however mark the end of policy development, on 11th February 2016, the Secretary of State published a series of updates to the Neighbourhood Planning chapter of the Planning Practice Guidance (PPG). In particular, the PPG now stresses the importance of housing reserve sites and providing indicative delivery timetables to ensure that emerging evidence of housing needs is addressed to help minimise any potential conflicts that can arise to ensure that a neighbourhood plan is not ultimately overridden by the contents of an emerging Local Plan.</p>		

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					<p>It is important to note that the updates to the PPG were drafted following the Crownhall judgment and it is essential that the steering group consider all of the advice and guidance contained in the PPG.</p> <p>National Planning Policy Framework</p> <p>The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how these are expected to be applied. In doing so it sets out the requirements for the preparation of Neighbourhood Plans and the role they must play in meeting the development needs of the local area in which they control.</p> <p>Paragraph 16 of the Framework sets out the positive role that Neighbourhood Plans should play in meeting the development needs of the local area. Its states that:</p> <p><i>"The application of the Presumption (In</i></p>		

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					<p><i>Favour of Sustainable Development, set out in paragraph 14 of Framework) will have implications for how communities engage in neighbourhood planning. Critically it will mean that neighbourhoods should:</i></p> <ul style="list-style-type: none"> <i>Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;</i> <i>Plan positively to support local development, shaping and directing development in their area that is outside of the strategic elements of the Local Plan ”</i> <p>Further guidance on the relationship between Neighbourhood Plans and strategic policies for the wider area set out in a Council’s Local Plan is included in paragraph 184 of the Framework:</p> <p><i>“ The ambition of the neighbourhood should be aligned with the strategic needs and</i></p>		

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					<p><i>priorities of the wider local area. Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date plan is in place as quickly as possible. Neighbourhood Plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood Plans...should not promote less development than set out in the Local Plan or undermine its strategic policies ”.</i></p> <p>It is clear from the above that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted Development Plan. As highlighted above, on 11th February 2016, the Secretary of State published a series of updates to the PPG for the preparation of neighbourhood plans. This update makes clear that neighbourhood plans should take account of the latest and up-to-date evidence of</p>		

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					<p>housing needs. In particular, where a qualifying body is attempting to identify and meet housing needs, a local planning authority should share relevant evidence on housing need gathered to support its own plan making.</p> <p>Neighbourhood Plans should also provide indicative delivery timetables and consider the allocation of reserve sites to ensure that emerging evidence of housing need is addressed in order to help minimise any potential conflicts where a post Framework Local Plan is yet to be adopted.</p> <p>A further update to the PPG was published on 19th May 2016. Paragraph 50 of the PPG1 makes clear that all settlements have a role to play in delivering sustainable development and should avoid blanket policies restricting housing development. Accordingly, the neighbourhood plan should not include policies that would act to arbitrarily preclude the delivery of</p>		

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					<p>sustainable development coming forward within the neighbourhood area.</p> <p>Relationship with Local Plans</p> <p>To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, Neighbourhood Plans should be prepared to conform to up-to-date strategic policy requirements set out in Local Plans. Where an up-to-date Local Plan has been adopted and is in place for the wider authority area, it is the strategic policy requirements set out in this document that a Neighbourhood Plan should seek to support and meet. When a Local Plan is emerging or is yet to be found sound at Examination, there will be lack of certainty over what scale of development a community must accommodate or the direction the policies in the Neighbourhood Plan should take.</p>		

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					<p>Adopted Local Plan</p> <p>The adopted Development Plan relevant to the preparation of the Sowerby and Beechwood Neighbourhood Plan consists of the adopted Replacement Calderdale Unitary Development Plan covering the period from 2001 – 2016. This plan was adopted in August 2006 and therefore is out of date against the requirements of the Framework which requires local planning authorities to identify and meet full Objectively Assessed Needs (OAN) for housing. Whilst this is the Development Plan that the Sowerby and Beechwood Neighbourhood Plan will be tested against it is important that sufficient flexibility is included within the Plan so that its contents are not superseded by the provisions of s38(5) of the Planning and Compulsory Purchase Act 2004.</p> <p>Emerging Local Plan</p>		

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					<p>To meet the requirements of the Framework, the Council has commenced work on a new Local Plan. Consultation on Potential Sites and Other Aspects of the Local Plan took place from November 2015 to March 2016. The approved timetable confirms that the Council expect to consult on a pre-submission version of the Local Plan in October 2017. As such, given that the Plan is in the early stages of preparation, there remains considerable uncertainty over what level of development that Sowerby and Beechwood may need to accommodate to assist the Council in meeting its OAN for housing. Accordingly, the Plan will need to ensure that it allows for sufficient flexibility to ensure that it is able to react to changes that may arise through the emerging Local Plan Examination.</p> <p>Neighbourhood Plan Policies and Proposals</p> <p>In accordance with the Neighbourhood Plan Basic Conditions, Neighbourhood Plan</p>		

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					<p>policies should align with the requirements of the Framework and the wider strategic policies for the area set out in the Council's Local Plan. Neighbourhood Plans should provide a policy framework that complements and supports the requirements set out in these higher-order documents, setting out further, locally-specific requirements that will be applied to development proposals coming forward.</p> <p>The Framework is clear that Neighbourhood Plans cannot introduce policies and proposals that would prevent development from going ahead. They are required to plan positively for new development, enabling sufficient growth to take place to meet the strategic development needs for the area. Policies that are clearly worded or intended to place an unjustified constraint on further sustainable development taking place would not be consistent with the requirements of the Framework or meet the Neighbourhood</p>		

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					<p>Plan Basic Conditions.</p> <p>Communities should not seek to include policies in Neighbourhood Plans that have no planning basis or are inconsistent with national and local policy obligations. Proposals should be appropriately justified, by the findings of a supporting evidence base and must be sufficiently clear to be capable of being interpreted by applicants and decision makers. Policies and proposals should be designed to add value to policies set out in Local Plan and national guidance, as opposed to replicating their requirements.</p> <p>The community should liaise with the Council's planning team to seek advice on the appropriateness of the Neighbourhood Plan's proposals.</p> <p>Sustainability Appraisal/Strategic Environmental Assessment</p>		

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					<p>The preparation of a Neighbourhood Plan may fall under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a Strategic Environmental Assessment (SEA) to be undertaken where a Plan's proposals would be likely to have significant environmental effects. The requirement to undertake an SEA will be dependent on a Neighbourhood Plan's proposals, but is likely to be necessary where a Plan is proposing specific allocations or site designations.</p> <p>In accordance with Schedule 1 of the SEA Regulations, a Screening Assessment of a Neighbourhood Plan's proposals should be completed to assess whether an SEA must be prepared. Where an SEA is required this should be commenced at the earliest opportunity, alongside the preparation of the emerging Neighbourhood Plan, to ensure the Neighbourhood Plan's proposals have been properly considered through the SEA process, and appropriately justified</p>		

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					<p>against other reasonable alternatives. Where an adequate SEA has not been undertaken a Neighbourhood Plan is unlikely to meet the Neighbourhood Plan Basic Conditions.</p> <p>Although Neighbourhood Plans do not require a Sustainability Appraisal (SA) of their proposals, preparing an SA can help to show how a Neighbourhood Plan will contribute to the achievement of sustainable development, a Neighbourhood Plan Basic Condition. Where an SEA is required, extending this assessment to the preparation of an SA is unlikely to require significant additional input.</p> <p>The Council's planning team will be able to advise on the likely need for an SEA of the Neighbourhood Plan's proposals. To be compatible with EU obligations, further appraisals, such as a Habitats Regulations Assessment, may also be required depending on local circumstances.</p>		



