

Report to: **Executive**

Date: **15<sup>th</sup> October 2015**

Title: **Neighbourhood Plan Procedures**

Portfolio Area **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee: **Overview and Scrutiny**

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken: 27<sup>th</sup> October 2015

Author: **Ross Kennerley** Role: **Lead Specialist – Place and Strategy**

Contact: [ross.kennerley@swdevon.gov.uk](mailto:ross.kennerley@swdevon.gov.uk)

#### **Recommendations: That Executive**

1. Agrees that the authority to approve the Neighbourhood Plan procedures set out in Appendix 1 be delegated to the Lead Specialist, Place and Strategy in consultation with the Community First Portfolio Holder and the ward member(s) for the designated Neighbourhood Plan area.
2. Subject to approval of recommendation 1 above, agrees that the appropriate changes be made to the Council's Neighbourhood Planning Protocol.

## **1. Executive summary**

The Localism Act and National Planning Policy Framework (NPPF) both came into effect in 2012. These encourage communities to prepare Neighbourhood Plans for their area. The Council has adopted a Neighbourhood Planning Protocol which provides information on the procedures that will guide the Neighbourhood Plan process.

Executive has previously agreed to delegate the Designation of Neighbourhood Plan Areas. This item seeks similar delegation to agree subsequent stages of the NP process. It is suggested that the final stage of a Neighbourhood Plan – the point at which the Plan is "Made" - is retained as an Executive level decision.

## **2. Background**

The Localism Act established Neighbourhood Plans as part of the Development Plan.

This places the responsibility for preparing the Plan onto the “Qualifying Body” (usually the Town or Parish Council) but also places distinct roles onto SHDC as the Local Planning Authority.

Delegation of the power to designate an NP area was granted to officers in consultation with portfolio holder and ward members in December 2014. With plans now advancing through subsequent stages of the NP process (as set out in Appendix 1) it is considered expedient to extend the delegated powers to allow NPs to progress through further phases outside of the Executive meeting cycle. The final stage of the process, the making of the NP, is recommended to remain as a decision for Executive. As set out at Appendix 1 the following stages are recommended to be subject to delegation.

- Regulation 14 Consultation
- Regulation 15 and 16 Publication and related matters

It is also recommended that the existing Neighbourhood Planning Protocol be updated. This has clear links to the recommendation made in relation to *Our Plan* to provide updated guidance to Neighbourhood Plan groups.

### 3. Outcome

The aim is to put in place a proportionate approach to dealing with Neighbourhood Plans that allows plans to progress in an efficient manner. The proposals for enhanced delegation, with full involvement of the portfolio holder and ward members, will allow NPs that are emerging to advance with what is considered to be an appropriate level of member involvement.

### 4. Options available and consideration of risk

The Council could continue to require the decisions at all stages of the Neighbourhood Plan process to be referred back to Executive for agreement. However with 17 plans already in preparation (and a number of others proposed) this may become both a burden on Executive and a possible delay to the free flow of the process for the Qualifying Bodies. The proposed level of delegation, with continued Member involvement and with the final “making” of the Plan returning to Executive, is considered to be expedient and balance risks with benefits.

### 5. Proposed Way Forward

The proposal is to delegate responsibility for elements of the Neighbourhood Plan process to officer level in consultation with Members as set out in recommendation 1 and Appendix 1. Further the NP Protocol (and linked Neighbourhood Plan Guidance) will be updated accordingly.

### 6. Implications

| Implications     | Relevant to proposals | Details and proposed measures to address  |
|------------------|-----------------------|---|
| Legal/Governance | Y                     | National Planning Policy Framework (NPPF) 2012<br>Localism Act 2011<br>Town and Country Planning, England |

|   |   |  |
|---|---|--|
|   |   | Neighbourhood Planning (General) Regulations 2012 (as amended)   |
| Financial   | N | Increased delegation will increase specialist and administration efficiency  |
| Risk  | Y | Delay to Delivery of Neighbourhood Plans: The increased delegation seeks to streamline the ability of SHDC to respond to the stages of NP preparation in a proportionate manner.<br>Reputation: Delays in the process to allow for preparation and consideration of Executive reports could slow the process and raise concerns over SHDC commitment and support to NP process |
| <b>Comprehensive Impact Assessment Implications</b> |   |  |
| Equality and Diversity                              | Y | NPs should support Equality and Diversity in their proposed policies   |
| Safeguarding  | N | No specific matters identified   |
| Community Safety, Crime and Disorder                | Y | NPs can address matters that improve Community safety and crime & disorder reduction   |
| Health, Safety and Wellbeing                        | Y | NP policies should, where appropriate, support health, safety and wellbeing  |
| Other implications                                  | N |  |

### **Supporting Information**

**Appendices:** Appendix 1.

**Background Papers:** None

### **Approval and clearance of report**

| <b>Process checklist</b>                                    | <b>Completed</b> |
|---|------------------|
| Portfolio Holder briefed                                    | <b>Yes</b>       |
| SLT Rep briefed   | <b>Yes</b>       |
| Relevant Exec Director sign off (draft)                     | <b>Yes</b>       |
| Data protection issues considered                           | <b>Yes</b>       |
| If exempt information, public (part 1) report also drafted. | <b>No</b>        |

## **Appendix 1 Neighbourhood Plan Procedures**

| <b>No</b> | <b>Relevant stage of the NP process</b>   | <b>Specific requirements of delegated authority</b>   |
|-----------|---|---|
| 1         | <u>Designate the Area</u>   | Delegated authority already approved  |
| 2         | <u>Regulation 14 consultation</u><br>The Qualifying Body (Town and/or Parish Council) are required to consult on their draft plan by conducting a Reg 14 consultation. The Local Planning Authority is a consultee in this process and has the opportunity to assess the contents of the draft plan to ensure compliance with local and national planning policy. | Delegated authority to provide feedback to the Qualifying Body in response to the Regulation 14 consultation that confirms that the <i>basic conditions</i> of Schedule 4B to the 1990 Town & Country Planning Act have been met, or details of the matters that the LPA feel that need addressed before the <i>basic conditions</i> can be met.  |
| 3         | <u>Regulation 15 publication</u><br>The Local Planning Authority is required to publicise a final draft of a neighbourhood plan as submitted by the appropriate qualifying body. This consultation will run for 6 weeks.  | Delegated authority to issue the Reg 15 plan, to make further LPA comments as necessary and publicise all responses to the Regulation 15 consultation, as required by Regulation 16 of the regulations.   |
| 4         | <u>Appointment Of Examiner and issuing of examination report</u><br>The LPA and appropriate qualifying body need to work together to appoint an independent examiner,   | No delegation necessary as this stage, as it is triggered by process. SHDC to approach the Neighbourhood Planning Independent Panel and Referral Service (NPIERS) to propose suitably qualified examiners who can conduct an independent examination of the draft plan and to appoint an examiner in conjunction with the qualifying body. SHDC publish the examination report and any proposed modifications   |
| 5         | <u>Referendum</u><br>The LPA is required to place the Neighbourhood Plan (as revised in accordance with the Examiners report) to a local referendum   | No delegation necessary as this stage, as it is triggered by process. SHDC to undertake a referendum, the terms of which are defined in <a href="#">Neighbourhood Planning (Referendum) Regulations 2012</a> (as amended by the <a href="#">Neighbourhood Planning (Referendum) (Amendment) Regulations 2013</a> and 2014) and the <a href="#">Neighbourhood Planning (Prescribed Dates) Regulations 2012</a> . |
| 6         | <u>'Making' the Plan</u><br>The requirement lies with the LPA to make the plan (the legal process by which the plan becomes part of the development plan)   | Subject to retained approval by the Executive   |