

EAST HERTS COUNCIL

EXECUTIVE – 1 JULY 2014

REPORT BY EXECUTIVE MEMBER FOR STRATEGIC PLANNING
AND TRANSPORT

REQUEST FOR AREA DESIGNATION FOR NEIGHBOURHOOD
PLANNING: BUNTINGFORD AREA

WARD(S) AFFECTED: Buntingford, Mundens and Cottered,
Braughing

Purpose/Summary of Report

- To enable the consideration of an application for the designation of a Neighbourhood Area

<u>RECOMMENDATIONS FOR EXECUTIVE:</u> That:	
(A)	the application for the designation of a Neighbourhood Area, submitted by Buntingford Town Council, and to cover the Buntingford area, be supported.

1.0 Background

1.1 Buntingford Town Council submitted a completed application for the designation of a Neighbourhood Area to the Council on 2 February 2014. Agreement to the designation of a Neighbourhood Area is required by the Council as Local Planning Authority (LPA) before a Neighbourhood Plan can be formulated. In this case, the application is identified as one for the Buntingford Area – and covers the whole of the parishes of Buntingford, Aspenden, Buckland, Cottered, Hormead and Wyddial.

1.2 The application was made in the form of a letter from the Town Council, a statement of its aims, a project plan and a plan setting out the area to which the application relates. A subsequent letter was also submitted, dated 21 May 2014. This set out further information with regard to the authority of the Town Council to request designation of a Neighbourhood Area, further information

in support of the area put forward for designation and in relation to the plan submitted. Both letters and plan form **Essential Reference Paper B** to this report.

1.3 The documents submitted also contain copies of initial expressions of interest to inclusion in the area Neighbourhood Plan, from the adjoining parishes. Then, following that, extracts from the subsequent minutes of the relevant parish meetings where inclusion was agreed. Copies of these documents are included in **Essential Reference Paper B**. The information submitted meets the requirements with regard to that to be submitted to support a designation request and is therefore a valid request.

2.0 Consultation

2.1 The Council has undertaken the appropriate consultation with regard to the application submission. One representation was initially received in response. This has been submitted on behalf of Wheatley Homes and is included in full in **Essential Reference Paper C**. This was followed up by two further responses on behalf of the same organisation, the last of these received in response to further consultation on the Area Designation Request. All the letters are included, in full, in **Essential Reference Paper C** and are not summarised here as a result.

3.0 Considerations

3.1 Section 61G of the Town and Country Planning Act 1990, amended by Part 1 of Schedule 9 of the Localism Act 2011, sets out the matters the Authority must have regard to when considering a Neighbourhood Area application. One of these is that the Authority determining the application must have regard to the desirability of maintaining the existing boundaries of Neighbourhood Areas already designated.

3.2 In that respect, there are no other Neighbourhood Areas either designated or under consideration in the vicinity of that now proposed for Buntingford. In addition, it is not considered that the designation of this area, if agreed, will compromise the ability of other communities to bring forward further applications for Neighbourhood Areas in the future if they wish to do so. This is because the current proposals, aligned with parish boundaries and the nature of those boundaries in this area, do not have any impact that would be harmful to the proper planning of areas

beyond the Neighbourhood Area sought, in the future. In addition, the Parishes which adjoin the area proposed, are rural in nature and the proposed Neighbourhood Area would not prevent them coming forward either individually or as groups and in a way which still enables coherent planning. No adverse weight needs to be given to this consideration therefore.

- 3.3 The other area of consideration set out in the Act, is the desirability of designating the whole of the area of a parish council as the Neighbourhood Area.
- 3.4 As indicated, in this case, the whole of the Buntingford Town Council area is advanced in the designation, along with the whole of the named adjoining parishes. No reasons have been advanced as to why designation of any part of the Parish Councils area in isolation would be more appropriate. Buntingford forms a service centre for the surrounding Parishes and therefore the designation of the entirety of the group of parishes is also appropriate.
- 3.5 Subsequent to the legislation in 2011, the National Planning Practice Guidance (NPPG) has been released. In relation to multi parish Neighbourhood Areas, the guidance advises that a Parish Council can apply for a multi parished Neighbourhood Area to be designated as long as it includes all or part of that Parish Councils administrative area. In this case, all of the administrative area is included.
- 3.6 The guidance goes on to indicate that when the Parish that has applied for a multi parished Neighbourhood Area to be designated goes on to develop a Neighbourhood Plan, it needs to secure the consent of the other Parish Councils to do so. Again, that has been secured in this case. The guidance also set out a list of matters which could be considerations when deciding the boundaries of a Neighbourhood Area. The proposed area is acceptable when judged against the considerations set out.
- 3.7 The concerns raised in the objection received are noted. The main issue raised is that, by proceeding with a Neighbourhood Plan at this stage, the Town Council will be seeking to bring forward a plan in advance of the Council's District Plan. As a result, there will be no up to date strategic policy framework in place within which the Neighbourhood Plan can be formulated. The Neighbourhood Plan cannot, as a result, be in conformity with that framework as is required. In addition, the stage reached in

the formulation of the District Plan is such that the existence of a strategic framework to which significant weight can be assigned, is some way off yet, and is still likely to be subject to significant debate and difference of view.

- 3.8 The relationship of the relative plans, as highlighted by the objector, is noted and agreed, the Neighbourhood Plan must reflect and conform to the strategic policies in place in the area to which it relates. At this stage, in so far as weight can still be assigned to them, strategic policies are contained in the Council's Local Plan 2007.
- 3.9 Guidance is available on this matter in the NPPG. It sets out that a Neighbourhood Plan can be developed before or at the same time that the Planning Authority is producing its Local Plan. The NPPG is recent guidance (6 March 2014) and indicates that the absence of an up to date Local Plan is not a barrier to bringing a Neighbourhood Plan forward. The approach is not unlawful therefore, as suggested by the objector.
- 3.9 A Neighbourhood Plan that comes forward in line with the timescale for the District Plan, and is in conformity with it, would be a document to which significant weight could be assigned. The points made by the objector about the timescale for bringing the District Plan forward and the debate that will be required as part of that are noted and understood. Again this is a matter on which guidance is given in the NPPG. It indicates that the responsible organisations work collaboratively to ensure the production of complementary Neighbourhood and Local Plans.
- 3.10 The objector notes and it is agreed, the project plan submitted with the application request does suggest a Neighbourhood Plan coming forward quickly. Project plans of this nature, even with the most realistic of assessment behind them, will be subject to a range of impacts beyond the control of the body which has formulated them. They will often then be subject to amendment. In that respect it is noted that the project plan submitted will have to be subject to revision as it anticipated the formulation of a draft Neighbourhood Plan as early as February 2014.
- 3.11 Whilst the aspirations of the submitted project plan are noted therefore, it is considered that little weight can be given to the concern that the objector raises that, necessarily and as a result, a Neighbourhood Plan will come forward that is out of conformity with the strategic policies in place.

- 3.12 It is also considered that there is not a conclusive basis to reach the view that, by seeking designation of a Neighbourhood Area now, the Town Council is seeking to usurp the process of District Plan formulation and to establish a strategy through the Neighbourhood Plan that should be established through the District Plan. It cannot be assumed that views expressed previously by the Town Council will articulate themselves in a future Neighbourhood Plan.
- 3.13 In addition, the steps that are required to be taken to bring the Neighbourhood Plan forward enable the Council to review the Neighbourhood Plan and comment on its content prior to adoption. Independent examination is also required. There are then sufficient safeguards in place, through the formulation process to ensure that, despite the concerns raised by the objector, a Neighbourhood Plan does not proceed to adoption which is flawed in the way that the objector suggests.
- 3.14 The case law that the objector refers to, namely the Tattenhall case, is noted. It is also noted that the objector confirms that there is a very significant difference between the Tattenhall Neighbourhood Plan and the Buntingford Neighbourhood Plan (the letter of 8 June). However, with that in mind, and the fact that the judgement did not relate to the decision now being made, namely Neighbourhood Area designation, the judgement does demonstrate that it is possible to bring forward a Neighbourhood Plan in the absence of current policy setting out housing supply for the whole district. This gives weight the view that the concerns raised by the objector are misplaced.
- 3.15 In concluding consideration of this matter I have turned again to the guidance set out in the NPPG. It sets out that, if it receives a valid application and some or all of the area has not yet been designated, a Local Planning Authority must designate a Neighbourhood Area. It goes on to advise that the Local Planning Authority should aim to designate the area applied for.
- 3.16 Importantly, in relation to the objectors point above, the guidance also set out that the Local Planning Authority should avoid pre-judging what a qualifying body may subsequently decide to put in its draft Neighbourhood Plan. It should not make assumptions about the Neighbourhood Plan.

4.0 Conclusion

4.1 The purpose of this report is to enable a decision to be reached in relation to the designation of a Neighbourhood Area. It is not addressing the process which is to be subsequently followed, or the content of a Plan which may subsequently emerge.

4.2 Neighbourhood planning is now an integral part of the planning system with legislative backing through the Localism Act. The LPA is charged with determining applications for the designation of Neighbourhood Areas. The Council has had regard to all of the regulatory requirements relevant to determining a Neighbourhood Area and all the information submitted in support of the application. In this case, noting and taking into account all the points of objection raised also, it is considered that designation of the area requested for neighbourhood planning purposes is appropriate and acceptable and can be supported.

5.0 Implications/Consultations

5.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None

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