



SCARBOROUGH
BOROUGH COUNCIL

**INCLUSIVE GROWTH
PORTFOLIO**

15 NOVEMBER 2022

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| | Key Decision | No |
| | Cabinet Portfolio Holder | Cllr Liz Colling |
| | Date of decision/ referral to O&S | 15 November 2022 |
| Corporate Aims: Better Lives, Better Homes, Better Places, Brighter Futures | Deadline for call-in 5.00pm | 18 November 2022 |
| | Implementation date (if no call-in) | 21 November 2022 |

REPORT OF THE INTERIM CHIEF EXECUTIVE – 22/240

WARDS AFFECTED: WHITBY

**SUBJECT: TO CONSIDER THE DESIGNATION OF A
NEIGHBOURHOOD DEVELOPMENT PLAN AREA IN
RESPONSE TO THE REQUEST RECEIVED FROM
WHITBY TOWN COUNCIL**

RECOMMENDATION (S):

That:

- a) The area submitted by Whitby Town Council for a neighbourhood development plan area covering Whitby Parish is designated.

REASON FOR RECOMMENDATION (S):

Whitby Town Council has applied to SBC for designation of Whitby Parish as a neighbourhood area. This is the first step in the process of preparing a neighbourhood plan. The neighbourhood plan would be prepared by the Town Council and could, amongst other things, set out planning policies for Whitby Parish.

Under the Neighbourhood Planning Regulations (amended), the Local Planning Authority is obliged designate the area being proposed by the Town Council if it follows the parish boundary; which it does.

Whitby Town Council's application was received on 25 October 2022 and should be designated as soon as possible.

HIGHLIGHTED RISKS:

Neighbourhood plans will become part of the development plan and therefore can have a significant influence on future planning decisions.

It would conflict with Government legislation and leave Scarborough Borough Council open to legal challenge if the area designation is not confirmed.

1. INTRODUCTION

- 1.1 Under the Localism Act 2011, the Government has introduced new legislation that gives greater weight to community-led planning, including the drawing up of a neighbourhood plan which includes the future use and development of land at a local level. Local planning authorities have a statutory duty to advise or assist communities in the preparation of neighbourhood plans.
- 1.2 Neighbourhood plans are prepared by a 'qualifying body' (as defined by the Town and Country Planning Act 1990 (as amended)) which include parish and town councils, or a neighbourhood forum in areas that are not governed by parish and town councils. Neighbourhood forums are designated by the local authority.
- 1.3 Neighbourhood plans once made (adopted) will form part of the local development plan and therefore need to be in general conformity with the National Planning Policy Framework and the Scarborough Borough Local Plan¹. Neighbourhood plans also have to be compatible with relevant EU (or equivalent) and human rights obligations.
- 1.4 Applying for designation as a neighbourhood area is the first step local communities are required to take before acquiring their new neighbourhood planning powers. The area indicated on the map in Appendix 1 is the geographical extent in which the town council wishes to undertake neighbourhood planning. In this instance it is the entire parish of Whitby that is the subject of the application.
- 1.5 Neighbourhood planning provides an opportunity for local people to be fully engaged in the future of their communities, and the local ownership that comes from neighbourhood planning is an opportunity to assist the Council in improving equality, diversity, cohesion and integration in our communities.

¹ It should be noted that Levelling Up Bill is proposing changes to this and conformity with the Local Plan may be removed with a replacement requirement to ensure any neighbourhood plan does not reduce the level of housing coming forward in that area. At the time of this report the outcome is as yet unknown.

- 1.6 The local planning authority has the primary responsibility for determining applications for neighbourhood areas and designating neighbourhood forums. This includes carrying out public consultations on the final neighbourhood development plan prior to an examination.

2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN

- 2.1 The preparation of a neighbourhood plan can align with and assist in the delivery of the main ambitions of the Corporate Plan in respect of Better Lives, Better Homes, Better Places and Better Futures. This will all depend on the matters that the town council decide to address in the neighbourhood plan but it could include:

- planning for more housing (including affordable);
- the protection of important assets (including community, cultural and open space);
- encouraging economic growth and the location of businesses in the area;
- setting localised design criteria;

- 2.2 This is not an exhaustive list as neighbourhood plans have a wide area of topics that can be covered.

- 2.3 In this instance it would appear that one of the aims and ambitions of the Plan is to address access to housing for local people and this may involve considering restrictions on second homes and/or holiday lets through a primary residence policy.

3. BACKGROUND AND ISSUES

Neighbourhood Plans

- 3.1 A neighbourhood plan can set out planning policies for a specific neighbourhood area. It is normally prepared by the town or parish council in parished areas.

- 3.2 Prior to the submission of this request four town and parish councils have (Eastfield Town Council, Filey Town Council, Cayton Parish Council and Newby and Scalby Town Council) have chosen to prepare a plan, however, since the designation of the respective areas none have made any meaningful progress. Additional communities could choose to prepare a neighbourhood plan at any time. The council is obliged to be proactive and constructively engage with communities preparing, or considering preparing, a neighbourhood plan and take key decisions in a timely manner.

- 3.3 Whitby Town Council has resolved to prepare a neighbourhood plan. They have submitted their application for designation of the whole of the Whitby parish as a neighbourhood area, which is the first step in the process.

Designation of a Neighbourhood Area

- 3.4 The Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (as amended) set out procedures for preparing a neighbourhood plan. The first stage is to apply to the local planning authority (LPA) for designation of the neighbourhood area. The neighbourhood plan will subsequently cover this geographical area.
- 3.5 Where the neighbourhood area follows the parish boundary, the LPA has to designate the neighbourhood area.

4. CONSULTATION

- 4.1 Following the submission of a nomination, the local planning authority must designate the area. The previous requirement to consult on the designation of the area no longer applies if the area proposed is the whole parish area. This was amended by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016
- 4.2 Consultation will take place later in the process on the actual content of the Neighbourhood Plan.

5. ASSESSMENT

- 5.1 In principle, the creation of neighbourhood areas is desirable as it enables the local community to have a greater say over future development affecting their area. A map of the proposed neighbourhood area is provided in Appendix 1.
- 5.2 A statement was submitted by the applicant explaining why this area is considered appropriate to be designated as a neighbourhood area. The area is suggested as being appropriate for a neighbourhood plan as the designated area covers the whole parish of Whitby.
- 5.3 Furthermore the reasoning for applying to prepare a Neighbourhood Plan is set out in the Town Council's words below:

The Town Poll held in June 2022 demonstrated that the local Whitby community has deep concerns about its future sustainability. Their opinion was expressed in relation to the provision and affordability of housing for occupation as a primary residence.

Housing provision has a wide-ranging impact on other economic environmental and infrastructure planning considerations, including employment opportunities, education and training, green space, healthcare provision, etc. The development of a Neighbourhood Plan for Whitby would help to ensure that future Local Plans (Whether developed by Scarborough Borough Council or North Yorkshire Council) are guided by the considered views of the local community.

- 5.4 If the local planning authority considers that a proposed neighbourhood area is wholly or predominantly business related in nature, a business area should be designated. This has the effect of allowing business people to vote in an additional referendum on whether to bring the neighbourhood plan into force. As this area covers the full parish there will be a significant number of businesses in the town centre, local centres and the business parks.
- 5.5 Notwithstanding this, the parish is predominantly residential in nature. As a result, it is not considered appropriate to designate the Whitby neighbourhood area as a business area; however, the town council should ensure that businesses within the neighbourhood plan area have the opportunity to be involved in the process.
- 5.6 Upon consideration of the Act and the relevant planning regulations, it is recommended that the neighbourhood area application is designated.

Next Steps

- 5.7 Upon designation of the proposed neighbourhood area, details must be published, as soon as possible following the decision. This should be on the LPA's website and in such other manner that is likely to bring the decision to designate to the attention of people living, working and carrying on business in the Area as detailed in Part 2 Regulation 7 of the Neighbourhood Planning (General) Regulations 2012.
- 5.8 Whitby Town Council will then be able to produce a neighbourhood plan that can eventually be adopted as part of the statutory development plan for the designated neighbourhood area.
- 5.9 To become part of the statutory development plan, a neighbourhood plan must receive a majority 'Yes' vote in a local referendum organised by Scarborough Borough Council. To reach the referendum stage a neighbourhood plan needs to progress through several stages. Completed neighbourhood plans will be submitted to the LPA who will need to be satisfied that the submitted plan complies with statutory requirements. Following a period of public consultation, the submitted plan will be examined by an independent inspector who is required to ensure the plan meets a set of basic conditions and legal requirements. Following a successful examination, a submitted neighbourhood plan can progress to a local referendum (in this case within Whitby) and, if successful, be made (adopted) as part of the development plan.

6. IMPLICATIONS

a) Policy

6.1 If progressed and made (adopted), the Whitby Neighbourhood Plan will form part of the statutory Development Plan and thereafter used in the determination of planning applications in addition to national planning policy and the Borough Local Plan

b) Legal

6.2 The Town and County Planning Act 1990 (as amended by the Localism Act 2011) and The Neighbourhood Planning (General) Regulations 2012 (as amended) set out the requirements and procedures for the designation of neighbourhood areas. The 1990 Act places a duty on the councils to designate neighbourhood areas. Additionally, councils have a statutory duty to provide advice and assistance (not financial) as deemed appropriate to town and parish councils in the preparation of neighbourhood plans.

c) Financial

6.3 No significant impacts at this stage, however, it should be noted that the costs of holding the examination of the plan² and the subsequent referendum will have to be borne by the borough council. A referendum could, however, be held at the same time as other election events if the timescales allowed.

6.4 Indicative costings have been sought from the Elections Team. The estimate is circa £13,200 if combined with another poll and £20,000 if not combined with another poll.

6.5 The Department for Levelling Up, Housing and Communities (DLUHC) has allocated funding to provide financial assistance to local planning authorities dealing with neighbourhood plans. Support is made in recognition of the consultation and officer time that will be spent supporting and advising the community in taking forward a neighbourhood plan/area. Providing DLUHC funding arrangements continue the borough council will be able to apply for:

- a £5,000 payment if the area is designated; and
- a £20,000 payment if the local planning authority issues a decision statement detailing the intention to send the plan to referendum.

6.6 The maximum number of claims for £5000 for designation is five. This is the fifth designation and will be the last time the authority can claim from that part of the funding pot.

d) Staffing

6.7 Matters relating to neighbourhood planning are dealt with by officers within the planning policy section, with assistance from legal services. The time

² In many cases and wherever possible, the examination of neighbourhood plans is carried out by way of written representations as opposed to in-person examinations.

associated with assisting the preparation of the neighbourhood plan will be met within existing staff resources. However, given that the policy team consists of three officers and commitments associated with the council's own review of the Scarborough Borough Local Plan and the North Yorkshire Plan from April 2023, the onus will be on the parish council itself to drive forward the process.

e) Planning

- 6.8 As per a), neighbourhood plans once made (adopted) will form part of the local development plan and therefore need to be in general conformity with the strategic planning policies, the current Scarborough Borough Local Plan and any subsequent review. This may be subject to review from the Levelling Up Bill, however, there will remain the need to align to some extent with the Scarborough Borough Local Plan most notably in relation to housing delivery. Neighbourhood Plans also need to have regard to national planning policy and be compatible with relevant EU (or equivalent) and human rights obligations.

f) Equality and Diversity

- 6.9 The full parish areas are proposed for designation and all residents and business owners will have the opportunity to partake in the neighbourhood plan process.

g) Environmental

- 6.10 Neighbourhood plans are required to conform to national and local policy which is supported by sustainability appraisals. However, depending on the nature of the neighbourhood plan, the plan may need to be supported by its own sustainability appraisal and strategic environmental assessment.

h) Communication

- 6.11 Future stages will also be subject to consultation as well as a referendum if the plan is progressed.

i) Local Government Reorganisation

- 6.12 The preparation of the neighbourhood plan would extend beyond vesting day. The new authority will take on responsibility for assisting with the preparation of such plans, as this is a statutory responsibility. A sub-group has been working on the transition of neighbourhood plans and this submission will be reported to that group.

- 6.13 I have considered whether further implications arise from this report and I am satisfied that there is no identified implication that will arise from this decision in respect of Crime and Disorder and Health and Safety.

7. ACTION PLAN

- 7.1 Agreement of the neighbourhood area will be subject to Individual Cabinet Member agreement. The timescale for the production of the plan itself is entirely in the hands of Whitby Town Council.

Nicholas Edwards

Nick Edwards
Interim Chief Executive

Author: Steve Wilson, Planning Policy & Conservation Manager
Telephone No: 01723 383510
E-mail address: steve.wilson@scarborough.gov.uk

Background Papers:
None.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT STEVE WILSON ON 01723 232480 e-mail steve.wilson@scarborough.gov.uk

RISK MATRIX

| Risk Ref | Date | Risk | Consequences | Mitigation | Current Risk Score | Target Score | Service Unit Manager/Responsible Officer | Action Plan |
|----------|---------------|--|---|--------------------|--------------------|--------------|--|-------------|
| 1 | November 2022 | Council does not make a decision on area designation | Council (Local Planning Authority) criticised for not enabling the Government's localism agenda and helping to bring forward Neighbourhood Development Plans. | Designate the area | D2 | B2 | Mr D Walker / Mr S Wilson | None |

Glossary of Terms

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| Risk | An event which may prevent the Council achieving its objectives |
| Consequences | The outcome if the risk materialised |
| Mitigation | The processes and procedures that are in place to reduce the risk |
| Current Risk Score | The likelihood and impact score with the current mitigation measures in place |
| Corporate Objectives | An assessment of the Corporate Objectives that are affected by the risk identified. |
| Target Risk Score | The likelihood and impact score that the Council is aiming to achieve |
| Service Unit Manager | The Service Unit or Officer responsible for managing the risk |
| Action Plan | The proposed actions to be implemented in order to reduce the risk to the target score |

Risk Scoring

| | | | | | | |
|--------|---|------------|---|---|---|---|
| Impact | 5 | | | | | |
| | 4 | | | | | |
| | 3 | | | | | |
| | 2 | | | | | |
| | 1 | | | | | |
| | | A | B | C | D | E |
| | | Likelihood | | | | |

Likelihood:

- A = Very Low
- B = Not Likely
- C = Likely
- D = Very Likely
- E = Almost Certain

Impact

- 1 = Low
- 2 = Minor
- 3 = Medium
- 4 = Major
- 5 = Disaster

Appendix 1

Note:

- Red line boundary is the Parish boundary

