

## North Yorkshire Council

## Constitution Members Working Group

Wednesday 4<sup>th</sup> October 2023**Member Engagement and Decision Making Throughout the Preparation of Development Plan Documents – Recommended Changes to the Council’s Constitution****Report of the Corporate Director Community Development****1.0 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to present to Members, for their consideration for recommendation to the Executive and ultimately full Council for approval, proposed changes to the Constitution to support more effective and streamlined decision making during the preparation of Development Plan Documents (DPDs), such as the new Local Plan for North Yorkshire (set out in Section 4 of this report).

**2.0 BACKGROUND**

- 2.1 The local plan is a statutory requirement for the council and a key delivery vehicle for many of the priorities and ambitions that are set out in other plans and strategies that the council prepares. It will bring everything together and set out the blueprint for place and growth for North Yorkshire.
- 2.2 The role of elected members is critical in this process. We need to make sure that we have effective and timely engagement with Members, both informally and formally, to ensure that:
- The process best supports the requirement to bring together a single local plan across the North Yorkshire geography
  - Both officers and Members develop a collective understanding of the issues that are important for the plan to address; and are bought into the overall plan strategy
  - Members have a full understanding of the local plan process and the evidence that underpins it
  - Good working relations are developed between officers and Members
  - We make smooth and timely progress of the plan through the various stages of preparation with efficient decision-making processes in place.
- 2.3 Plan making comprises the preparation of evidence across all policy areas, a call for available sites to be submitted to the council, site assessment and selection, policy drafting, significant stages of countywide public consultation and an independent Examination by the Secretary of State. Long lead in times for reporting to Members at key stages will quickly put the council behind schedule.
- 2.4 Legislation relating to newly forming councils includes a duty for the council to have a new local plan in place by end March 2028, which would be challenging for any local authority area, but particularly for a plan area of the scale and diversity of North Yorkshire. In

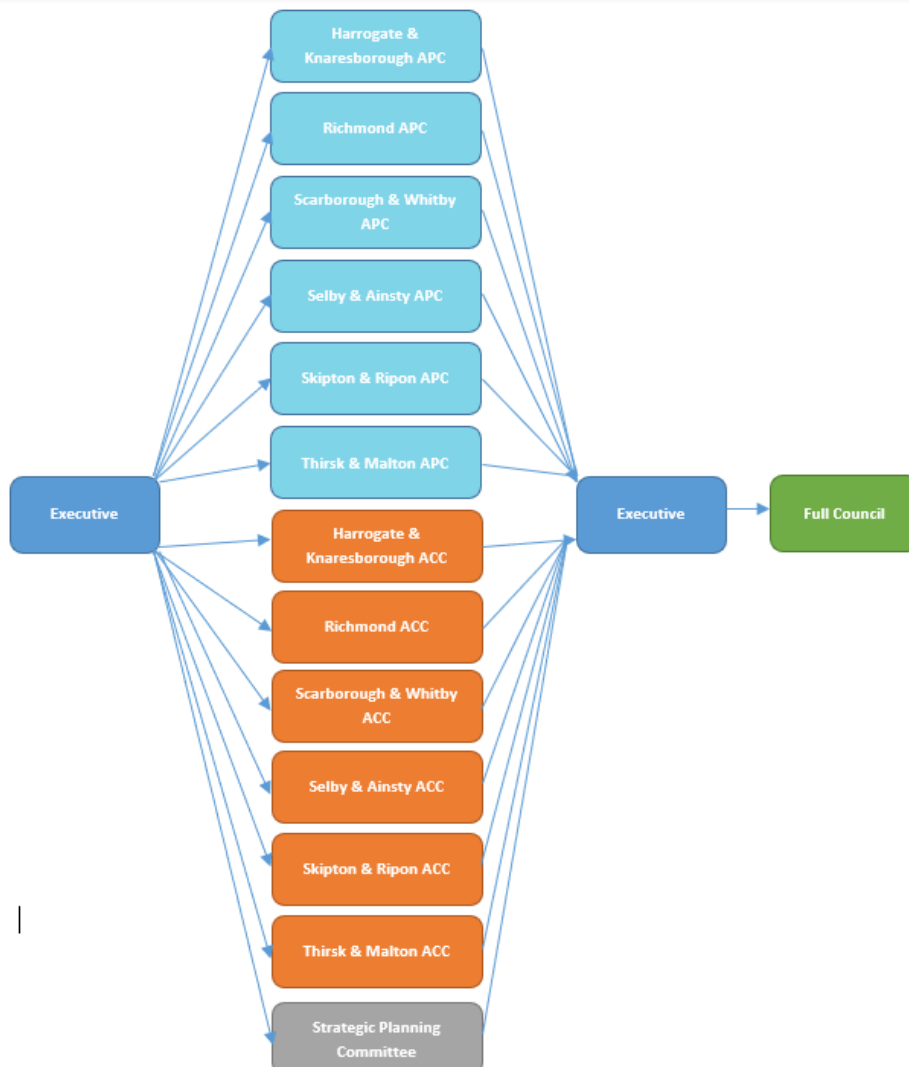
addition to this, the Department for Levelling Up Housing & Communities (DLUHC) have released a consultation on changes to plan making which would see pressure to further reduce these timescales. Officers are putting together a response to the consultation on behalf of the council and will monitor closely any changes to the process and how those changes relate to existing legislation.

2.5 It should be noted that the process for Member engagement and decision making during plan making also applies to the preparation of other DPDs such as the Selby Local Plan, Maltkiln New Settlement DPD and the review of the Minerals and Waste Joint Plan when that takes place.

### 3.0 THE CURRENT CONSTITUTION

3.1 The Council's constitution currently assigns the role of plan making to seven separate committees whereby each of the Area Planning Committees (APCs) and the Strategic Committee has the following remit: 'To support and be consulted in respect of any development plan documents'. In addition, the constitution assigns the following role to the Area Constituency Committees (ACC): 'To act as consultees in major decisions affecting their area and to influence policy development and the strategic agenda of the Council'. The current process is shown in diagram form below.

3.2 Collectively this approach (illustrated in the diagram below) undermines effective and efficient decision making as part of the plan making process because of the time needed to take plans through 13 separate committees and the difficulty in bringing together a single set of recommendations to Executive in respect of a single local plan/DPD.

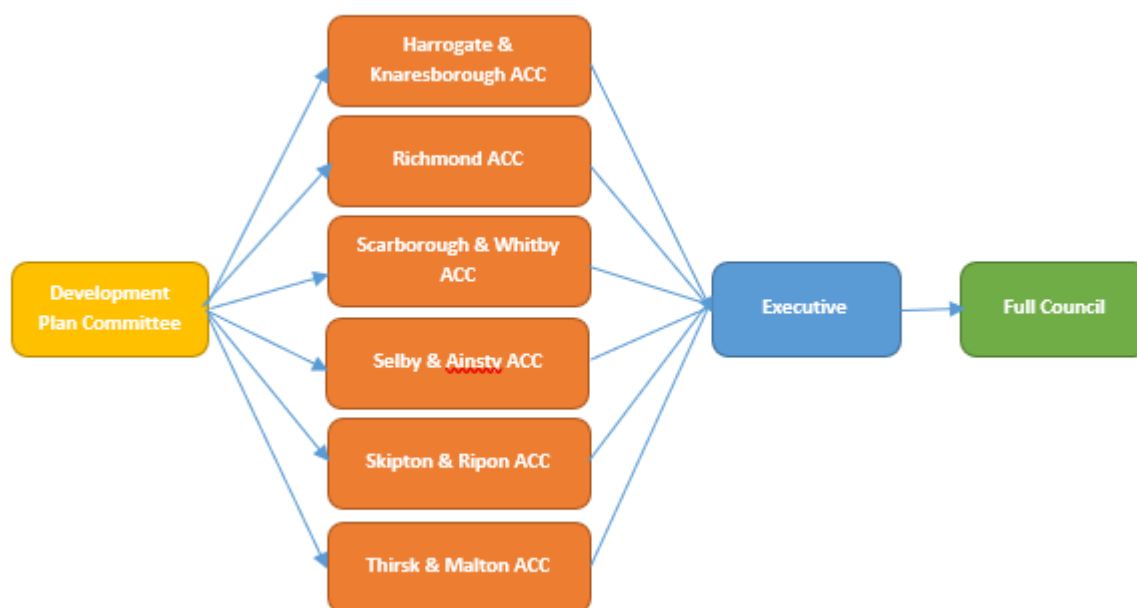


#### 4.0 RECOMMENDED APPROACH FOR DISCUSSION WITH THE CONSTITUTION WORKING GROUP (REFERRED TO AS OPTION A)

- 4.1 Drawing on experience and best practice, officers have put together options for amending the constitution so that the process for engaging with Members is more effective and streamlined. Officers put forward two options for discussion with the Executive Member with responsibility for Planning in consultation with other Executive Members in September 2023. They are set out as Option B and Option C within Appendix 1.
- 4.2 Taking into consideration feedback from the Executive Member, the preferred option is set out as Option A below, which is a variation of options B and C (see Appendix 1). It is considered that Option A creates a balance between the need to streamline the process and ensure strategic oversight of the local plan/DPDs as a whole, and the desire to retain local input from the ACCs at key formal stages.

#### Option A

- 4.3 Option A (illustrated in the diagram below) retains a role of the ACCs at the formal stages and proposes the use of a single Development Plan Committee throughout the plan making process. The concept of a single Development Plan Committee across a plan area is widely used by other local planning authorities and is considered best practice. Feedback from the LGR Planning Members Task and Finish Group (set up in 2022 to oversee work on LGR transition) showed support for a single cross-party Development Plan Committee.



- 4.4 The Development Plan Committee would act as the main sounding board for the preparation of the Local Plan/DPDs<sup>1</sup> (both informally and at formal stages); supporting officers in the evolution of the plan and ultimately providing recommendations and comments for consideration by the ACCs and the Executive at formal stages of plan making.

<sup>1</sup> Except for Neighbourhood Plans (see para 4.14)

- 4.5 The Development Plan Committee would be politically proportionate and would meet both informally (non-decision making, interactive workshops and information sharing) and formally (decision making to the extent that they provide formal views back to the ACCs and Executive). In addition to streamlining decision making this option allows for a more effective collaborative working relationship to develop between officers and Members and a better collective understanding in bringing together a single local plan for North Yorkshire.
- 4.6 In respect of the new Local Plan for North Yorkshire, the informal and formal (public) meetings of the Committee will be scheduled in line with the stages set out at Appendix 2. It should be noted that early informal engagement with all Members of the Council on the Local Plan is an essential part of this process.
- 4.7 The Membership of the Development Plan Committee would be based upon the overall balance of the Council, with a total membership of either:
- 24 Members comprising 4 Members from each ACC, or
  - 30 Members, comprising 5 Members from each ACC
- 4.8 Nominations from the political groups (including named substitutes) would be requested once the proportionality calculation has been run and Terms of Reference for the committee would be included in the Constitution and on the NYC website. Appendix 3 illustrates the proportionality calculation based on 24 and 30 Members.
- 4.9 The Development Plan Committee meetings will be arranged in consultation with the Chair, as needed, to tie in with key stages of plan making. For formal (public) meetings, papers will be published on the council's website five clear working days ahead of each meeting. Due to the ongoing legislative requirement to review DPDs, the committee will be a standing committee of the council and not time limited. It will in effect undertake a scrutiny role.
- 4.10 In addition to the creation of the Development Plan Committee the following changes to the constitution are proposed:
- The following is deleted from the remit of the APCs *'To support and be consulted in respect of any development plan documents'*
  - The following be added to the remit of ACCs
    - *'To support and be consulted on development plan documents at formal decision making stages of the plan making process'*
    - *'To support and be consulted in respect of Neighbourhood Plans within the constituency area'*
  - The following is deleted from the remit of the Strategic Planning Committee *'To support and be consulted in respect of any development plan documents'*
- 4.11 It should be noted that none of the options referred to in this paper include roles for the Area or Strategic Planning Committees within the formal stages of plan making. Whilst there would be no legal issue with their inclusion, both officers and the Executive Member

for Planning (in consultation with other Executive Members) conclude that it is not preferable or necessary for these committees to assume a dual role of both determining planning applications and being consulted on and feeding into the preparation of DPDs. In effect having both a regulatory role as well as a policy development role.

### **Neighbourhood Planning**

- 4.12 Neighbourhood planning allows local communities to develop a shared vision for their neighbourhood; to set out planning policies within Neighbourhood Plans that will form part of the development plan used in determining applications for planning permission.
- 4.13 Whilst the Neighbourhood Plan is very much community led, the Council has a role in providing support and guidance as the Neighbourhood Planning Group develop their proposals and ultimately, following an examination of the Plan and a successful referendum the Council adopts the Plan.
- 4.14 The very local nature of Neighbourhood Plans aligns well with the locality-based approach of ACCs. In the case of Neighbourhood Plans, it is therefore proposed that ACCs are the main committee for considering this type of plan and that it is not necessary to consult with the Development Plan Committee in addition to the relevant ACC/ACCs. The process would usually involve the input of a single ACC, unless the boundary of the Neighbourhood Area intersects with more than one constituency area.
- 4.15 Appendix 4 to this report recommends how and when the relevant ACC interacts with the Neighbourhood Planning process. There are numerous stages in the Neighbourhood Planning process, some of which are purely or largely procedural over which we as a Council have no influence. In these instances we are recommending that officers simply provide an update note to the relevant ACC, via the Chair. Equally, and whilst the Plan remains that of the local community preparing it, we do have an influencing role at certain stages. Here we are recommending that before the Council provides its comments to the Neighbourhood Planning group the relevant ACC is consulted.

## **5.0 CONSULTATION UNDERTAKEN AND RESPONSES**

- 5.1 Consultation has taken place with Executive Members and officers from Legal and Democratic Services.

## **6.0 ALTERNATIVE OPTIONS CONSIDERED**

- 6.1 The alternative options considered are set out within Appendix 1. Another option would be to leave the constitution as written, however this is not recommended as the other options better support the considerations set out at para 2.2.

## **7.0 FINANCIAL IMPLICATIONS**

- 7.1 The option proposed significantly reduces the number of committees, timescale and staff resource needed to work through the formal decision making process for DPDs.
- 7.2 It is proposed to ask the Independent Remuneration Panel to consider an appropriate allowance for the Chair and Vice Chair of the Development Plan Committee. It is officers

view that this would be comparable to an Overview and Scrutiny role which has a Chair receiving an SRA of £5,526 and the Vice Chair £1,842. However this will be a matter for the IRP and full Council to approve.

## **8.0 LEGAL IMPLICATIONS**

8.1 The Council's legal officers have been consulted during the preparation of this report and their feedback has been considered in bringing together this recommendation.

## **9.0 EQUALITIES IMPLICATIONS**

9.1 The preparation of all DPDs are supported by their own Equalities Impact Assessment in accordance with current legislation.

## **10.0 CLIMATE CHANGE IMPLICATIONS**

10.1 This paper sets out proposed amendments to the decision making process in order that it is more effective and efficient. It does not propose any change that would have anything other than a neutral impact on climate change.

## **11.0 REASONS FOR RECOMMENDATIONS**

11.1 The recommendations set out within this report seek to ensure more effective and streamlined engagement and decision making throughout the preparation of DPDs such as the council's Local Plan for North Yorkshire.

## **21.0 RECOMMENDATIONS**

- i) That the Constitution Working Group support amendments to the constitution in line with section 4 of this report.
- ii) That the Constitution Working Group provide views on the appropriate number of Members to include within the Development Plan Committee (either 24 or 30 as set out in para 4.6 above).

## **APPENDICES:**

- Appendix 1 – Alternative Options Considered
- Appendix 2 – Further Explanation of Option A in Respect of the New Local Plan for North Yorkshire
- Appendix 3 - Proportionality calculated on a Committee of 24 and/or 30 based on the overall proportionality of NYC AND the individual area proportionality of each individual ACC
- Appendix 4 - Recommended Approach to Role of the Area Constituency Committee and Political Sign Off During the Preparation of Neighbourhood Plans

## **BACKGROUND DOCUMENTS:**

- The Councils Constitution

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Presenter of Report – Linda Marfitt, Head of Planning Policy & Place*

*Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.*

## APPENDIX 1 – ALTERNATIVE OPTIONS CONSIDERED

### Option B: The Creation of a Single New Development Plan Committee

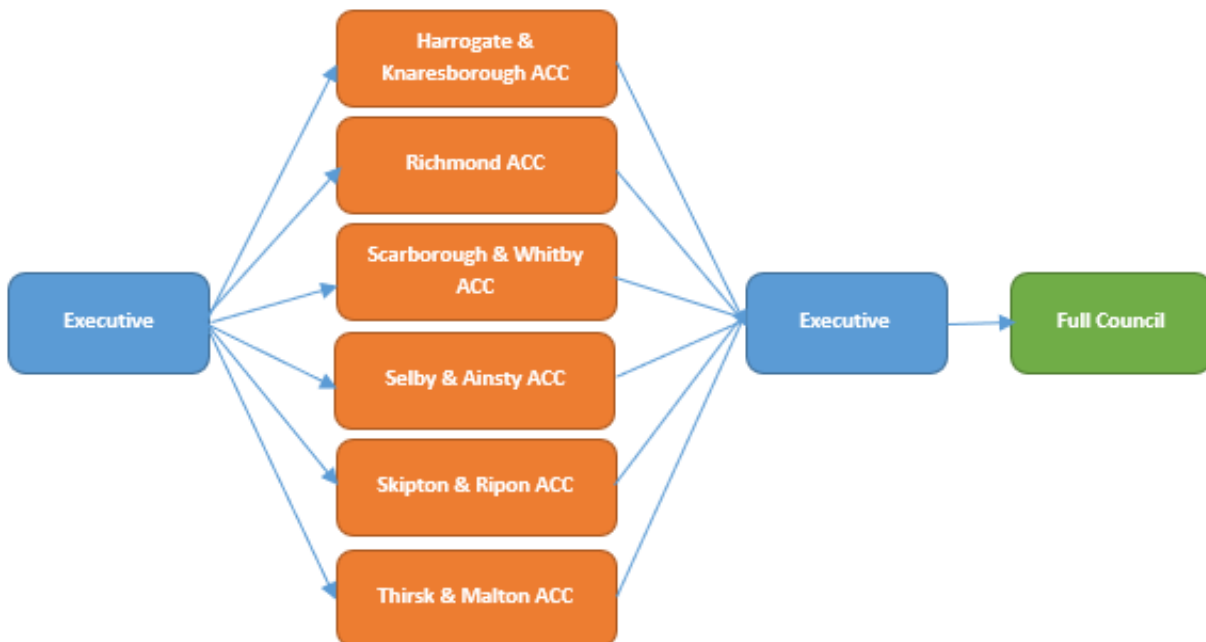
As shown in the diagram below, this option would be the same as Options A but without the inclusion of the ACCs during the formal stages of plan making.



This approach would bring the most benefit in terms of the considerations set out at para 2.2 of this report. This option is the most streamlined and having one overall Development Plan Committee is seen as best practice by some other local authorities across the country.

### Option C: The Use of ACCs

As shown in the diagram below, this option proposes retaining the role of the ACCs but includes no overall committee. This modest amendment still leaves us with quite a convoluted process by which views of the various ACCs are fed into the plan making process in comparison with option B, but with the risk of limited strategic oversight of the plan as a whole.





**APPENDIX 2 – FURTHER EXPLANATION OF OPTION A IN RESPECT OF THE NEW LOCAL PLAN FOR NORTH YORKSHIRE**

	<b>Stage of Plan making (Taken from draft LDS)</b>	<b>Proposed Engagement with Members</b>
<b>Reg 18</b>	Pulling together key evidence, review national guidance, initial engagement on issues for the Local Plan	<ul style="list-style-type: none"> <li>• All member briefing session – by way of introduction</li> <li>• Regular Executive Member updates/briefings</li> <li>• Meeting of new DP Committee:               <ul style="list-style-type: none"> <li>○ Informal, interactive session: Scoping the Issues</li> </ul> </li> </ul>
	Consult on scope of the Local Plan and spatial options (Issues & Options consultation)	<ul style="list-style-type: none"> <li>• Regular Executive Member updates/briefings</li> <li>• Meetings of new DP Committee:               <ul style="list-style-type: none"> <li>○ Informal, interactive session:                   <ul style="list-style-type: none"> <li>▪ Spatial options</li> <li>▪ content of consultation document</li> </ul> </li> </ul> </li> <li>• All Member briefing session</li> <li>• Executive (or Executive Member) agrees content for consultation</li> </ul>
	Consult on draft plan	<ul style="list-style-type: none"> <li>• Regular Executive Member updates/briefings</li> <li>• Meetings of new DP Committee:               <ul style="list-style-type: none"> <li>○ Informal workshops and briefing sessions</li> <li>○ Content of workshops based around development of the draft plan</li> </ul> </li> <li>• All Member briefing session</li> <li>• Meeting of new DP Committee to consider content of Draft Plan and make comments/ recommendations to Executive (formal meeting)</li> <li>• Formal meeting of each ACC to consider content of draft plan and provide views to the Executive</li> <li>• Executive (or Executive Member) agrees content for consultation following receipt of comments from new LP Committee</li> </ul>
<b>Reg 19</b>	Consult on Submission Draft Plan	<ul style="list-style-type: none"> <li>• Regular Executive Member updates/briefings</li> <li>• Meeting (s) of new DP Committee:               <ul style="list-style-type: none"> <li>○ Informal workshops and briefing sessions</li> <li>○ Content of workshops based around feedback from consultation and proposed amendments to policies and proposals</li> </ul> </li> <li>• Meeting of new DP Committee to consider content of Draft Plan and make comments/ recommendations to Executive (Formal meeting)</li> <li>• All Member briefing</li> <li>• Formal meeting of each ACC to consider content of draft plan and provide views to the Executive</li> <li>• Executive agrees content of consultation following receipt of comments from new DP Committee and recommends to council for consultation and subsequent submission</li> </ul>

		<ul style="list-style-type: none"> <li>• Full Council agrees content for consultation and subsequent submission with modifications being delegated to relevant officer in consultation with Exec Member for Planning</li> </ul>
<b>Reg 22</b>	Submission of the Plan for Examination	<ul style="list-style-type: none"> <li>• Member workshop/briefing sessions: <ul style="list-style-type: none"> <li>○ Meeting of new DP Committee (Informal)</li> <li>○ Content of workshops based around feedback from consultation and proposed modifications</li> </ul> </li> <li>• Subject to appropriate delegation (see above) Exec Member/Exec agrees any modifications for submission plus any other supporting docs</li> </ul>
<b>Reg 24</b>	Examination of the Plan	Delegated Authority to be sought to ensure relevant officer in consultation with the Executive Member can conduct matters on behalf of the council during the examination including responding to questions, requests from the inspector and agreeing to modifications during the hearing sessions
<b>Reg 26</b>	Adoption of the Plan	<ul style="list-style-type: none"> <li>• Full Council adopts the plan (with modifications as required) via recommendation from Executive</li> </ul>

**APPENDIX 3: PROPORTIONALITY CALCULATED ON A COMMITTEE OF 24 AND/OR 30 BASED ON THE OVERALL PROPORTIONALITY OF NYC AND THE INDIVIDUAL AREA PROPORTIONALITY OF EACH INDIVIDUAL ACC**

1. A Committee of 24 should consist of 13 seats allocated to the majority group and 11 to the others.
2. A Committee of 30 should consist of 16 seats allocated to the majority group and 14 to the others.
3. If an equal number of seats is allowed from each ACC, of which there are 6, then a Committee of 24 will consist of 4 seats per ACC and a Committee of 30 will consist of 5 seats per ACC based upon the political make up of each ACC.

<b>ACC</b>	<b>No. of Councillors in ACC</b>	<b>4 Member proportionality on a Committee of 24 based on the political make-up of the ACC</b>	<b>5 Member proportionality on a Committee of 30 based on the political make-up of the ACC</b>
<b>Richmond</b>	16	3 Conservative & 1 from by election result	4 Conservative & 1 from by election result
<b>Thirsk and Malton</b>	15	2 Conservative & 1 NY Ind & 1 Liberal	3 Conservative, 1 NY Ind & 1 Liberal
<b>Skipton &amp; Ripon</b>	15	2 Conservative & 1 Lib (& 1 NY Ind or Green)	3 Conservative, 1 Lib (& 1 NY Ind or Green)
<b>Harrogate &amp; Knaresborough</b>	13	2 Conservative & 2 Liberal	2 Conservative & 3 Liberal
<b>Scarborough &amp; Whitby</b>	15	2 Conservative & 2 Labour	2 Conservative, 2 Labour (& 1 NY Ind or Ind Unaff)
<b>Selby &amp; Ainsty</b>	16	2 Conservative, 1 Labour (& 1 NY Ind or Ind Unaff)	2 Conservative, 2 Labour (& 1 NY Ind or Ind Unaff)
<b>Total</b>		13 Conservative seats	16 Conservative seats
		4 Liberal seats	5 Liberal seats
		3 Labour seats	4 Labour seats
		1 NY Independent	1 NY Independent
		1 NY Ind or Green	1 NY Ind or Green
		1 NY Ind or Ind Unaffiliated	2 NY Ind or Ind Unaffiliated
		1 dependent on by election result	1 dependent on by election result
		24	30

**APPENDIX 4: RECOMMENDED APPROACH TO ROLE OF THE AREA CONSTITUENCY COMMITTEE AND POLITICAL SIGN OFF DURING THE PREPARATION OF NEIGHBOURHOOD PLANS**

Stage	Recommended Engagement with Relevant ACC and process for political sign off	Commentary
<p><b>Consultation on proposed neighbourhood area</b> (if required)</p>	<ul style="list-style-type: none"> <li>Email update provided to Executive Member for Planning and Chair of relevant ACC</li> </ul>	<p>Consultation is not required for new neighbourhood areas for the whole of a parish.</p> <p>Where an area is proposed that is not a whole parish a 6 week public consultation is required.</p> <p>Either way there is no power for the council to prevent this, therefore no decision making required of the Council.</p>
<p><b>Area Designation</b></p>	<ul style="list-style-type: none"> <li>Approval for Area designation delegated to Executive Member for Planning</li> <li>Email update provided to Chair of relevant ACC</li> </ul>	<p>There is no need for this to go before any other committee, other than for information as it is not specifically related to the development plan. For example areas can be designated, but no Neighbourhood Plan is prepared.</p> <p>If the area proposed is the whole parish, there is a requirement to designate. Area designations have to be carried out within prescribed timescales.</p>
<p><b>Comments on Draft Plan (pre-submission) Consultation</b></p>	<ul style="list-style-type: none"> <li>Officers provide support and guidance to the neighbourhood planning group as they prepare their Submission Plan; providing officer comments on the pre-submission version of the plan.</li> <li>Email update provided to Executive Member for Planning and Chair of relevant ACC</li> <li>Where basic conditions are not met, approval of comments on the Submission Draft Plan</li> </ul>	<p>This is an informal stage that allows for views to be provided to help the NP group develop their plan and to ensure that they meet the basic conditions. This tends to be via regular engagement with the neighbourhood planning group and culminates in a written response. We are proposing that as this is the informal stage this would be dealt with at officer level.</p> <p>However, there may be instances where Member involvement would be necessary, for example where officers considered that basic conditions were not met.</p>

	delegated to Executive Member for Planning who consults with Relevant ACC	
<b>Submission consultation</b>	<ul style="list-style-type: none"> <li>Email update provided to Executive Member for Planning and Chair of relevant ACC</li> </ul>	This is a purely procedural stage. Subject to the submission requirements consultation should start as soon as possible. There is no option to choose not to consult. Minimum 6 weeks for consultation.
<b>Comments on Submission Consultation</b>	<ul style="list-style-type: none"> <li>Approval of comments on the Submission Draft Plan delegated to Executive Member for Planning who consults with Relevant ACC</li> </ul>	
<b>Examination</b>	<ul style="list-style-type: none"> <li>Email update provided to Executive Member for Planning and Chair of relevant ACC</li> </ul>	<p>Following submission, the plan must be examined and we have no scope to influence the process. Working with the Neighbourhood Planning Group officers appoint an Examiner.</p> <p>It would only be if the consultation raised previously unidentified issues that could not reasonably be resolved through examination that the plan would not go to examination (Discussions with the plan body would be needed and they would have to effectively withdraw the plan).</p>
<b>Post Examination: Examiners report and Referendum</b>	<ul style="list-style-type: none"> <li>Approval of Examiners recommendations and agreement to proceed to referendum delegated to Executive Member for Planning</li> <li>Email update provided Chair of relevant ACC</li> </ul>	<p>In all likelihood recommendation from examiner to put the plan to referendum, usually subject to modifications.</p> <p>Whilst the decision to hold a referendum is procedural, given that NYC as the LPA is required to make a decision on what action to take in response to the Examiner's recommendations this is a significant milestone so political sign off is appropriate.</p> <p>Recent experience with the Bradley Neighbourhood Plan supports the recommend approach with both the Area Planning Committee and Strategic Committee questioning why the report was before them given the stage in the process.</p>
<b>Adoption</b>	<ul style="list-style-type: none"> <li>Full Council takes the decision that the plan is 'made' via a report from the Executive</li> </ul>	The plan will become part of the Development Plan, as such is a full council decision.

	<ul style="list-style-type: none"><li>• Email update provided Chair of relevant ACC</li></ul>	<p>Following a positive outcome from the referendum, the regulations give full weight to the neighbourhood plan in decision making. The decision at this stage is therefore procedural.</p> <p>The plan must be adopted within 8 weeks (starting on the day after referendum). Whilst the regulations do not specify sanctions if this does not happen it may be that we need to either a) consider setting up a special meeting of Council or b) seeking to agree with the neighbourhood planning group a date beyond 8 weeks.</p>
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