

8 June 2015

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| Report of | Head of Commercial Services | Author | Beverley McClean 01206 282480 |
| Title | Changes to Neighbourhood Plan Regulations | | |
| Wards affected | All wards | | |

The Local Plan Committee is asked to note changes to timescales in respect of Neighbourhood Planning as amended by the 2015 Neighbourhood Plan Regulations. The Committee is also asked to delegate powers to the Portfolio Holder for Economic Growth and Planning to approve Neighbourhood Plan Area Designation applications.

1. Decision(s) Required

- 1.1 The Local Plan Committee is asked to note changes to consultation timescales and timeframes for determining Neighbourhood Plan Area Designation proposals as amended by the 2015 Neighbourhood Plan Regulations. The committee is also asked to delegate powers to the Portfolio Holder for Economic Growth and Planning to approve Neighbourhood Plan Area Designation applications.

2. Reasons for Decision

- 2.1 Consultation timescales and timeframes for determining Neighbourhood Plan Area Designation proposals have been amended through the 2015 Neighbourhood Plan Regulations. The committee is being asked to note these changes and make changes to the Scheme of Delegation to ensure that future decisions related to Neighbourhood Planning are taken in accordance with the most current Regulations.

3. Alternative Options

- 3.1 The alternative option is to not make changes to current procedures which may mean Neighbourhood Plan Area Designations cannot be dealt with within the prescribed timescales set out in the amended 2015 Neighbourhood Plan Regulations. This could potentially leave the Council vulnerable to legal challenge for failing to comply with the most current Regulations.

4. Supporting Information

- 4.1 The concept of Neighbourhood Planning was introduced through the Localism Act in 2011 and embedded in the National Planning Policy Framework in March 2012, when it came into effect. Neighbourhood Plans were introduced to give local communities greater planning influence over how the areas where they live and/or work develop over time. Neighbourhood Plans are subject to examination and referendum, and if both processes are completed successfully, Neighbourhood Plans become part of the statutory Development Plan. There are currently 7 Neighbourhood Plans being progressed across Colchester Borough. These cover the parishes of Boxted, West Bergholt,

Wivenhoe, Stanway, Mile End & Braiswick, Eigh Ash Green and Tiptree. Fordham, Copford with Easthorpe Parish Council is also considering preparing a Neighbourhood Plan for their area.

- 4.2 Neighbourhood Planning Regulations were published in 2012 by Central Government to help guide Local Authorities and qualifying bodies i.e. Parish Councils or in non parished areas, Neighbourhood Forums, through the process of developing Neighbourhood Plans.
- 4.3 The 2012 Neighbourhood Plan Regulations are divided into 9 parts.
- Part 1 sets out requirements for the Secretary of State to review the Neighbourhood Plan Regulations
 - Part 2 provides guidance about the information Parish Councils or Neighbourhood Forums must submit and the information that Local Planning Authorities must publish as part of the statutory consultation process to support Neighbourhood Plan Area Designations proposals.
 - Part 3 covers the process of establishing a Neighbourhood Forum and consultation requirements to endorse a Neighbourhood Forum.
 - Part 4 covers Community Right to Build Organisations.
 - Part 5 sets out consultation requirements prior to and leading up to submitting a Neighbourhood Plan for examination and referendum. It also sets out the procedure for 'making' a Neighbourhood Plan, once it has successfully passed the referendum stage.
 - Part 6 sets out consultation requirements prior to and leading up to the submission of a Neighbourhood Development Order or a Community Right to Build Order, for examination stage.
 - Part 7 covers Community Right to Build Orders.
 - Part 8 deals with the procedures involved in revoking or modifying Neighbourhood Development Plans, Neighbourhood Development Orders or Community Right to Build Orders
 - Part 9 sets out the requirement for Neighbourhood Plans to consider European Legislation, in this case, the Habitats Directive.
- 4.4 In February 2015, amended Neighbourhood Plan Regulations were published. The key amendments were to Part 2 Regulation 6c and to Part 5 Regulation 15 (c & d) of the 2012 Regulations. The key change to Regulation 6 amends how much time consultees have to submit representations to Neighbourhood Plan Area Designation proposals and how much time Local Planning Authorities have to determine these proposals.
- 4.5 Under Part 2 Regulation 6c of the amended Regulations, consultees now only have 4 weeks to respond to Neighbourhood Plan Area Designation proposals being put forward by Parish Councils, as opposed to the 6 weeks allowed under the previous regulations. The 6 week timescale remains unchanged under the 2015 Regulations for Neighbourhood Plan Area Designations proposed by a Neighbourhood Forum or for proposals covering more than 1 parish.
- 4.6 The amended 2015 Neighbourhood Plan Regulations include a new Regulation 6A stipulating the timescales for determining Neighbourhood Plan Area Designations. These are set out below;
- a) Neighbourhood Plan Area Designation proposals submitted by a Parish Council (only applies to Parish Councils) and only covering a single parish, are now required to be determined within 8 weeks from the date of publication.

- b) Area designation applications (irrespective of whether a PC or Neighbourhood Forum submits it), covering 2 or more local planning authority areas, have to be determined within 20 weeks from the date of publication.
- c) In other situations, for example, where, an area designation proposal has been submitted by a Neighbourhood Forum or Business Forum, then the area designation proposal has to be determined within 13 weeks from the date of publication.

4.7 Regulation 15 (d) of the 2012 Regulations was also amended by the 2015 Regulations to require either the submission of an environmental report prepared in accordance with the Environmental Assessment of Plans and Projects 2004. In situations, where it has been determined that Neighbourhood Plan proposals are unlikely to have significant environmental effects, a statement needs to be submitted to show how this decision has been reached. This is necessary to comply with European legislation.

5. Proposals

5.1 Neighbourhood Planning and the approval of various stages of the plan making is currently a function of the Local Plan Committee. However, the new timescales for determining Neighbourhood Plan Area Designations, in some cases, may not fit well with Local Plan Committee timescales. The requirement to determine a designation within 8 weeks will not always be possible. It is therefore proposed that the Committee delegate approval of a Neighbourhood Plan area to the Portfolio Holder for Economic Growth and Planning. This will ensure that Neighbourhood Plan Area Designation applications can be determined in accordance with the timescales specified in the revised 2015 Neighbourhood Planning Regulations. Other functions related to Neighbourhood Planning will remain as functions of the Local Plan Committee.

6. Strategic Plan References

6.1 Compliance with the 2015 Neighbourhood Plan Regulations will help the Council deliver its strategic priorities to generate opportunities for growth and supporting infrastructure, improve sustainability, provide opportunities to increase the number of homes available including those that are affordable for local people and to develop a strong sense of community across the Borough by enabling people and groups to take more ownership and responsibility for their quality of life.

7. Consultation

7.1 None.

8.0 Publicity Considerations

8.1 None

9. Financial Implications

9.1 None

10. Equality, Diversity and Human Rights implications

10.1 An Equality Impact Assessment has also been prepared for the Local Development Framework and is available to view by clicking on this link:-

<http://www.colchester.gov.uk/article/4962/Strategic-Policy-and-Regeneration>

Alternatively go to the Colchester Borough Council website www.colchester.gov.uk and follow the pathway from the homepage: Council and Democracy > Policies, Strategies and Performance > Equality and Diversity > Equality Impact Assessments > Strategic Policy and Regeneration and select Local Development Framework from the Strategic Planning and Research section.

10.2 There are no particular Human Rights implications.

11. Community Safety Implications

11.1 None.

12. Health and Safety Implications

12.1 None

13. Risk Management Implications

13.1 Failure to comply with the amended Neighbourhood Plan Regulations particularly in relation to determining Neighbourhood Plan Area Designations proposal could potentially leave the Colchester Borough Council open the legal challenge for failure to comply with the current Neighbourhood Plan Regulations. The proposal in the report is intended to minimise this risk.