

## **Report of the Strategic Director of Place to the meeting of Executive to be held on Tuesday 6 December 2022**

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### **Subject:**

**Keighley Neighbourhood Development Plan – Neighbourhood Area Designation**

### **Summary statement:**

**This report concerns the Neighbourhood Area designation application, submitted by Keighley Town Council, for the purpose of preparing a Neighbourhood Development Plan for its area.**

**In line with Regulation 5A of the Neighbourhood Planning (General) Regulations 2012 (as amended), whereby if a neighbourhood area application from a parish or town council equates to the whole of the parish area, consultation prior to the designation of the neighbourhood area is no longer required.**

**The Executive is recommended to approve the Neighbourhood Area Application as the first step in producing a Neighbourhood Development Plan for the Keighley area.**

### **EQUALITY & DIVERSITY:**

The Keighley Neighbourhood Development Plan will be developed via extensive community engagement and consultation in the coming months and years, with local people and others with an interest, having the opportunity to contribute to it and its contents.

A key requirement is that the plan meets European Union obligations including the Convention on Human Rights which is encapsulated into UK law via the Human Rights Act 1998. The extent to which plan meets these obligations will be tested as part of the independent examination process.

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Chris Eaton  
Interim Assistant Director (Planning,  
Transportation and Highways)

Report Contact: Andrew Marshall  
Phone: (01274) 434050  
E-mail: [andrew.marshall@bradford.gov.uk](mailto:andrew.marshall@bradford.gov.uk)

### **Portfolio:**

Regeneration, Planning and Transport

### **Overview & Scrutiny Area:**

Regeneration and Economy

## **1. SUMMARY**

- 1.1 This report concerns the application for Neighbourhood Area designation submitted by Keighley Town Council (the Town Council) to City of Bradford Metropolitan District Council (the Council).
- 1.2 Keighley Town Council submitted a Neighbourhood Area Application to the Council on 30 September 2022 to designate the whole of its area as a Neighbourhood Area for the purposes of preparing a Neighbourhood Development Plan (NDP).
- 1.3 This designation is in accordance with Regulation 5A of the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, which came into force on 1 October 2016.
- 1.4 These regulations included an amendment whereby if a neighbourhood area application from a parish or town council equates to the whole of the parish area, consultation prior to the designation of the neighbourhood area is no longer required.
- 1.5 The Executive is recommended to approve the Neighbourhood Area application as this first step in preparing an NDP for the Keighley Town Council area.
- 1.6 Should the NDP move through the various stages involved in its preparation including evidence/information community engagement, periods of formal consultation, and independent examination, it will then be subject to a local referendum in the neighbourhood area. Should the referendum be successful, the NDP will be formally adopted by the Council and it will become part of the statutory development plan for Bradford District.
- 1.7 The NDP would then be used by Council officers and elected members in making decisions on planning applications within the Keighley Town Council area.

## **2. BACKGROUND**

- 1.1 The Localism Act 2011 (the 2011 Act) gives communities the opportunity to shape how their areas grow and develop through the use of a number of tools. One of these tools is the production of a neighbourhood plan, which when formally “made” will form part of the statutory development plan for the local authority area.
- 1.2 Neighbourhood plans cannot be used to stop development and should not promote less growth than the levels set out in the Local Plan or undermine its strategic policies. Plans also cannot deal with strategic planning matters or other excluded matters such as mineral extraction.
- 1.3 The scope and detailed content of plans is determined by the community. The plan can be a means of setting out more detailed policies for their community over and above the Local Plan, to start to shape the choices over the use of land and the designation of land for housing, employment or community uses. They should only cover land use planning issues.

1.4 Whilst Neighbourhood Plans are produced by relevant qualifying bodies, there are also significant roles and responsibilities for Local Planning Authorities, some of which are defined in legislation, which include

1. Designation of a neighbourhood area – the current stage
2. Designation of neighbourhood forums (non parished areas)
3. Considering of compliance with statutory requirements
4. Organising and funding the independent examination
5. Organising and funding the local referendum
6. General duty to support
7. Duty to adopt

1.5 At its meeting on 29 September 2022, Keighley Town Council resolved to develop a Neighbourhood Plan for its entire Civil Parish area. Subsequently the Town Council submitted a Neighbourhood Area Application to the Council on 30 September 2022 to designate the whole of its area as a neighbourhood area for the purposes of preparing a Neighbourhood Development Plan (NDP) (see Appendices 1 and 2, attached). In line with Regulation 5 of the Neighbourhood Planning (General) Regulations 2012 (the 2012 Regulations), this application included:

- A map showing the proposed neighbourhood area;
- A statement setting why this area is considered appropriate to be designated; and
- A statement setting at the Town Council is a relevant (qualifying) body to prepare an NDP under section 61G of the Town and Country Planning Act 1990 (the 1990 Act).

1.6 The application has been reviewed by officers to ensure that it meets the requirements under the 2012 Regulations. In previous years, the application would then be publicised for a period of six weeks (or more) to allow local people and others with an interest in the NDP to provide representations on the proposed neighbourhood area, before the outcome was reported to Executive and resolution sought to approve the application or not.

1.7 However, amendments to the 2012 Regulations introduced by Regulation 5A of the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, which came into force on 1 October 2016, state that where:

- The area application is from a parish/town council
- the area specified in the application is consistent with the whole of Town Council's area, and

- if any of part of the specified area is part of an already designated neighbourhood area, none of that neighbourhood area extends outside the parish council's area.

The Local Planning Authority must exercise their powers under section 61(G) of the 1990 Act to designate the specified area as a neighbourhood area.

- 1.8 Based upon this amendment, the Council is, therefore, required to designate the proposed neighbourhood area under the powers set out in section 61(G) of the 1990 Act. Under the circumstances set out above there is no requirement for consultation to be undertaken on the proposed neighbourhood area.
- 1.9 The Town Council has applied to have the whole its area designated as a neighbourhood area. The area specified in the application does not extend beyond the Keighley Town Council boundary and does not overlap with other neighbourhood area already designated or applied for and awaiting determination.
- 1.10 The application is in line with Regulation 5A, whilst the Town Council is considered to be Qualifying Body for the purposes of neighbourhood planning under section 61G of the 1990 Act.

### **3. OTHER CONSIDERATIONS**

- 1.1 Once "made", the NDP will ensure planning decisions reflect the priorities and aspirations of the local community. It will contribute to the achievement of well-designed quality developments.
- 1.2 In line with Community Infrastructure Levy (CIL) Regulations 2010 (as amended), 15% of CIL income is passed directly to those parishes or towns where development has taken place (known as the neighbourhood proportion), subject to the cap set in national CIL regulations. This will increase to 25% in any areas with an adopted neighbourhood plan
- 1.3 Payment of the neighbourhood proportion takes place in October (for CIL monies received by the CIL charging authority between 1 April and 30 September in any financial year) and April (for monies received between 1 October and 31 March).
- 1.4 The making of the Plan, should it be successful at referendum will allow the Town Council to secure 25% of any CIL payments for qualifying developments such as new homes and this money will be able to be spent on local priorities and infrastructure in line with the CIL Regulations<sup>1</sup>. The Town Council will have responsibility for spending CIL monies and is therefore required to account for it. They are required to report this and publish the details.

### **4. FINANCIAL & RESOURCE APPRAISAL**

- 1.1 The cost of preparing a neighbourhood plan will be partly met by the local planning authority and partly by the Qualifying Body (the Town/Parish Council or

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<sup>1</sup> Community Infrastructure Levy Regulations 2010 (as amended) – Regulation 59C

neighbourhood forum). The main financial and resource implications for the Council in discharging its statutory duties in relation to neighbourhood planning under the Localism Act are:

- Arranging and undertaken formal consultation under Regulation 16 of the 2012 Regulations.
  - Arranging and covering the costs of independent examinations (usually between £5,000 and £10,000);
  - Arranging and holding the referendum; and
  - Officer time in providing expertise and advice to Qualifying Bodies on neighbourhood plans. This is particularly the case in the early stages of plan preparation.
- 1.2 The exact cost of each will vary depending on the complexity of the contents of the neighbourhood plan being developed, whether the examination is conducted via written representations or a public hearings and the area to be covered by the referendum.
- 1.3 In order to assist Local Planning Authorities (LPAs) with neighbourhood planning, the Government has put in place a programme of financial support. This is kept under review on a regular basis. As of April 2021, LPAs can claim:
- £5,000 for the first five neighbourhood areas designated. In the case of Bradford District, there are currently twelve designated neighbourhood areas. This restriction was introduced as part of changes to the support package for LPAs from April 2016. Prior to this point LPAs were able to claim £5,000 for up to 20 neighbourhood area designations per year. Accordingly, for those areas designated before that point, the Council should have secured this support for the majority of the initial neighbourhood plans. It would be only those areas designated post 2016 that would not be eligible to receive £5,000.
  - £20,000 when the decision statement detailing their intent to send the neighbourhood plans for referendum (as set out under Regulation 18 of the 2012 Regulations). Previously this was done when the referendum date was set.
- 1.4 Qualifying bodies can apply for support in preparing neighbourhood plans via the Department for Levelling Up, Housing and Communities' (DLUHC) Supporting Communities in Neighbourhood Planning programme. This makes some grant funding available to neighbourhood plan groups to contribute to the costs incurred in preparing plan. This can be in the order of £10,000 per neighbourhood area, subject to meeting eligibility criteria.
- 1.5 DLUHC also offer direct professional planning support to communities to assist them in preparing neighbourhood plans via Locality, who manage the programme on their behalf. This may take the form grant funding or technical support.

## **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

- 1.1 The main risks for preparing the NDP relate to potential changes to the planning system nationally and that it may not be found to be compliant with the Basic Conditions as part of the examination process. Another risk is that it may not receive more than 50% yes votes in the referendum and that its adoption is subject to a legal challenge/review.
- 1.2 The NDP will need to be prepared in line with the legal and regulatory framework governing neighbourhood planning as well as the governance arrangements for neighbourhood planning agreed by Executive in October 2012 and subsequently revised in February 2018.
- 1.3 Following the receipt of the Examiner's report and recommendations, the outcome of the examination will be reported to the Council's Executive in line with governance arrangements described in paragraph 5.2. The Executive will:
  - Consider the Examiner's recommendations for modifications to NDP and decide whether or not these should be accepted, and determine whether or not modified the NDP in line with them'
  - Determine whether the modified/amended NDP should proceed to a local referendum in the designated neighbourhood area; and
  - Should the NDP be successful at the local referendum, approve its formal making (adoption) via delegated decision by the Assistant Director (Planning, Transportation and Highways) in consultation with the Portfolio Holder (Regeneration, Planning and Transport) in line with the agreed government arrangements and within the timescales required by legislation.

## **6. LEGAL APPRAISAL**

- 1.1 The legal requirements associated with neighbourhood planning as they apply to the Local Planning Authority and the Qualifying Body are set out in the Localism Act 2011 and The Neighbourhood Planning (General) Regulations 2012 (as amended). The latter was subject to amendments in 2016, 2017 & 2018.
- 1.2 The NDP should also have regard to national planning policy such as the National Planning Policy Framework (NPPF) and be in general conformity with the strategic planning policy framework for Bradford District.

## **7. OTHER IMPLICATIONS**

### **7.1 SUSTAINABILITY IMPLICATIONS**

Depending on the nature and contents of the NDP, it may be necessary for it to be supported a Strategic Environmental Assessment (SEA) and/or Habitat Regulations Assessment (HRA). A screening will be undertaken as part of the NDP preparation

prepare process to determine whether or not one or both of these assessment will be required.

One of the Basic Conditions that the NDP must meet is where it contributes to the achievement of sustainable development.

## **7.2 GREENHOUSE GAS EMISSIONS IMPACTS**

The NDP would need to ensure that it complies with national and local policies in relation to promote sustainable development and minimising/reducing climate change impacts.

## **7.3 COMMUNITY SAFETY IMPLICATIONS**

There are no community safety implications at this stage.

## **7.4 HUMAN RIGHTS ACT**

All NDPs are subject to consultation and engagement in accordance with relevant planning legislation and Government regulations. One of the Basic Conditions that the NDP must meet, and will be tested against as part of the independent examination, is that must compatible with European Union obligations including the European Convention on Human Rights (the Convention) and the Human Rights Act 1998. The relevant bodies, the Town Council and the local planning authority will also be required to consider their obligations under the Public Sector Equality Duty as defined in the Equalities Act 2010.

## **7.5 TRADE UNION**

There are no trade union implications.

## **7.6 WARD IMPLICATIONS**

The Neighbourhood Area application relates specifically to the Keighley Town Council area, which is located within the Keighley Central, Keighley East and Keighley West and part of the Worth Valley electoral wards. Should the NDP be adopted following its progress through its various stages of preparation, it would then be used as part of determining planning applications within the area it covers.

## **7.7 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)**

Not Applicable

## **7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE**

There are no corporate parenting issues.

## 7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

With regard to the public consultation the General Data Protection Regulation (GDPR) principles relating to individuals' data and rights under the Data Protection Act 2018 will respected as work on the NDP progresses.

## 8. NOT FOR PUBLICATION DOCUMENTS

None

## 9. OPTIONS

- 1.1 The Executive is requested to consider the Neighbourhood Area Application for the designation of a Neighbourhood Area in Keighley. There is one option for consideration, which is as follows:
- 1.2 **Option 1 (Recommended):** to approve the Neighbourhood Area application in line with the Council's powers under section 61(G) of the Town and Country Planning 1990 to designate the Keighley Town Council area as a neighbourhood area.

## 2 RECOMMENDATIONS

- 2.1 That the Neighbourhood Area Application submitted by Keighley Town Council be approved in line with the Council's powers under section 61(G) to the Town and Country Planning Act 1990 to designated the Keighley Town Council area as a neighbourhood area, and that the Assistant Director (Planning, Transportation & Highways) be authorised to arrange formal publication in line with the relevant Regulations.

## 11. APPENDICES

Appendix 1: Keighley Neighbourhood Area Application

Appendix 2: Keighley Neighbourhood Area Application – Map Showing the Proposed Neighbourhood Area.

## 12. BACKGROUND DOCUMENTS

- 1.1 A number of background documents have been used to inform this report. All are published and readily available to the public. These include:
  - [Town and Country Planning Act 1990 \(as amended\)](#)
  - [Localism Act 2011 \(as amended\)](#)
  - [Neighbourhood Planning \(General\) Regulations 2012 \(as amended\)](#)
  - [National Planning Policy Framework \(NPPF\) \(2021\)](#)