

Bolsover District Council

and

..... Parish / Town Council

Neighbourhood Planning Protocol

Service Level Agreement

Approved by Bolsover District Council Executive on 6th November 2017

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INTRODUCTION

- 1.1 The Localism Act 2011 introduced a number of ways for local communities to influence and shape development in their areas through neighbourhood planning. The Localism Act and subsequent Regulations provide provisions for local communities prepare Plans for their localities, and Orders giving planning permission for specific development. The initiative allows communities to take on new responsibilities in relation to planning.
- 1.2 To support communities who wish to take on this new role, the Council has produced a Protocol for Neighbourhood Planning in Bolsover district. This is intended to:
 - Provide a general overview and advice to parish and town council's on the neighbourhood planning process;
 - Ensure there is clarity and transparency for local communities in terms of Council support;
 - Provide a coordinated approach within the Council in relation to neighbourhood planning.
- 1.3 The Protocol will be kept under review in light of experience of Neighbourhood Development Plans, Neighbourhood Development Orders, and Community Right to Build Orders coming forward.

WHAT IS NEIGHBOURHOOD PLANNING?

- 2.1 Neighbourhood planning is made up of three planning tools. All are intended to be community- led and pro-growth, encouraging development.**
- 2.2 Before starting work on either a Neighbourhood Development Plan or Neighbourhood Development Order the parish or town council must apply to the district Council to have the area of their proposed Plan or Order designated as a Neighbourhood Area.

Neighbourhood Development Plans

These are prepared by a parish or town council. They are community-led Plans to guide the future development and growth of an area. They relate to the use and development of land and allow communities to establish general planning policies. They can influence the type, design, location and mix of new development in the Plan area. When adopted they sit alongside other development plans for the district (for example the Local Plan).

Neighbourhood Development Orders¹

These are also prepared by a parish or town council. The Orders can be used to grant planning permission for a site, or a specific type of development (for example housing or retail uses). The Orders can apply to all or part of a Neighbourhood Area².

Community Right to Build Orders

These can be prepared by town or parish councils, or local community organisations that meet certain requirements. The Orders grant planning permission for small-scale, site-specific, community-led developments that benefit the community.

- 2.3 In addition to the above, the legislation allows for the modification of neighbourhood planning documents.
- 2.4 A key part of the neighbourhood planning process is that the proposals for neighbourhood planning are subject to an independent examination. Before a Plan is adopted or Order made, local residents³ can vote in a referendum on the proposals. If the Plan or Order is supported by over 50% of the turnout, the local authority must adopt the Plan or make the Order.
- 2.5 Neighbourhood planning proposals must be:
- In compliance with local and national policies;

¹ Both Neighbourhood development Orders and Community Right to Build Orders still need to comply with any necessary Building Regulations

² There are some exclusions to the type of development that can be covered by the orders, for example, minerals and waste sites.

³ Residents in the parish/ town registered on the Council's Electoral Register

- In compliance with other relevant legislation;
- In compliance with any relevant regulations;
- In accordance with the local planning authorities plans for growth.

2.6 It should be noted that there is no requirement for parish/town councils to undertake neighbourhood planning. The Council is not required to give any financial assistance to neighbourhood planning initiatives.

SUMMARY OF KEY STAGES

INITIAL SCOPING MEETING

The Council meets with the Parish / Town Council or prescribed community organisation to discuss whether a Neighbourhood Plan/ Neighbourhood Development Order/Community Right to Build Order are the most appropriate route to deliver the objectives of their local communities and whether there are alternative options. Alternative options such as better integration with Local Plan preparation and Regeneration Frameworks could be considered.(Up to 2 hours)
(For further information see Appendix A).

PROVIDING INITIAL ADVICE AND AGREEING A TIMETABLE

The Council meets with members of the town or parish council to discuss:

- The proposed Neighbourhood Plan/Neighbourhood Development Order/Community Right to Build Order/ modifications to existing Plans or Orders in the context of national and strategic level policies and plans;
- Any published evidence or data that the planning policy team have, or is being planned that might be of use in formulating the proposed Plans or Orders;
- Possible screening for other necessary assessments;
- A mutually acceptable timetable to bring the proposed initiative forward.

PREPARATION OF NEIGHBOURHOOD PLANS AND ORDERS

The Parish/Town Council works with local stakeholders to prepare a draft Plan or Order that is in general conformity with national policy and guidance, and the Local Plan or emerging Local Plan for Bolsover District.

The Parish or Town Council carries out statutory consultation on their proposals.

PRE-SUBMISSION DISCUSSION ON DRAFT PLANS AND ORDERS

If requested, the Council will meet with the parish or town council to discuss any issues in relation to their draft Plan or Order.

SUBMISSION OF DRAFT PLAN OR ORDER

The Parish / Town Council submit their draft Plan or Order (including the information and statements required by any legislation/regulations) to the Council.

PUBLICITY ON THE SUBMISSION DRAFT PLAN OR ORDER

This is an opportunity for local people and other interested bodies to make representations to be made for consideration by the independent examiner.

EXAMINATION

The District Council will forward any representations and other information to the independent examiner, and organise and pay for the independent examination.

CONSIDERATION OF EXAMINER'S REPORT

The District Council will consider the examiner's report and their response(s).

REFERENDUM

The Council will organise and pay for a local Referendum to take place.

- If there is a 50% + 1 yes vote the Plan will be adopted or Order made. In the case of a Neighbourhood Plan, the document will form part of the statutory Development Plan for Bolsover District.
- Where a Plan is adopted or Order made, the Council will publicise the decision

PURPOSE OF THE PROTOCOL

- 4.1 This agreement has been prepared to help ensure a clear understanding of the responsibilities for both Bolsover District Council and the relevant Parish or Town council⁴ in relation to the development of Neighbourhood Plans/Neighbourhood Development Orders/Community Right to Build Orders.
- 4.2 Achieving a clear understanding will enable both parties to plan appropriately the degree of resources required to ensure the prepared Neighbourhood Plan/Neighbourhood Development Order/Community Right to Build Order is given the best chance to be successful at examination.
- 4.3 As a result, Bolsover District Council has considered how it can facilitate the aspirations of local communities to prepare their own Neighbourhood Plan/Neighbourhood Development Order/Community Right to Build Order, whilst recognising the potential costs and impacts on service delivery in other areas.
- 4.4 This Service Level Agreement confirms:
- i. How Bolsover District Council will undertake its statutory duties within the Neighbourhood Planning (General) Regulations 2012, as amended⁵;
 - ii. The level of support that Bolsover District Council guarantees to provide to Parish and Town Councils to help them deliver their aspirations regarding the preparation of their own Neighbourhood Plans/Neighbourhood Development Orders/Community Right to Build Orders;
 - iii. The responsibilities of Parish and Town Councils ('the qualifying body') regarding the preparation of their Neighbourhood Plans.
- 4.5 The guidance within the document is not absolute, but provides a benchmark as to the level of support we can guarantee to provide. The Council will always seek to give up to date advice and assistance to help the Parish or Town Council in a positive and proactive manner whenever possible.

⁴ Or in some cases community body

⁵ As amended by the Neighbourhood Planning (General) (Amendment) Regulations 2015; and, The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.

BOLSOVER DISTRICT COUNCIL RESPONSIBILITIES

Under current legislation Bolsover District Council is responsible for:

Statutory requirements

- a. determining applications for the designation of a neighbourhood area, and publicising the designation;
- b. the designation of a neighbourhood forum (where relevant);
- c. the publicising of proposals at key stages;
- d. at Submission stage, checking that a basic condition statement has been submitted;
- e. the arrangements for and cost of an independent examination;
- f. considering the inspector's findings, and deciding whether to submit the document for a local referendum;
- g. arranging and covering the cost of the local referendum ;
- h. subject to a positive referendum result, adopting the Neighbourhood Plan, or making the Order.
- i. in addition to the above, the Council may make an order to modify a neighbourhood development order that they have made for the purpose of correcting errors.

Support

- j. provide advice and guidance to help the Parish / Town Council establish the most appropriate route to achieve its aspirations;
- k. providing assistance and advice to facilitate applications for Neighbourhood Areas; Neighbourhood Plans; Neighbourhood Development Orders; or Community Right to Build Orders,
- m. providing/advising on sources of relevant information on the process and content of neighbourhood planning documents, including providing relevant published evidence base documents;
- n. assistance as detailed at Appendices B- D below.

PARISH/TOWN COUNCIL RESPONSIBILITIES

Statutory requirements

- a) the preparation (including writing) of Neighbourhood Development Plans, Neighbourhood Development Orders, and Community Right to Build Orders; (*Under the provisions of the Localism Act 2011*)
- b) undertaking extensive consultation with the local community;
- c) preparing a Plan or Order in conformity with the Local Plan or emerging Local Plan for Bolsover District;

Preparing a Plan or Order in conformity with national planning policies

- d) (where applicable) preparing a plan or order in conformity with European Union environmental regulations (strategic environmental assessment (SEA), Habitats Regulations, or any subsequent changes or re-enactment of these requirements);
- e) where applicable) preparing a plan or order in conformity with equality and human rights legislation (Equalities Act 2010, Human Rights Act 1998), or any subsequent changes or re-enactment of these requirements);
- f) resourcing the work;
- g) submission to the Council of a draft Plan or Order that has been prepared in accordance with the Neighbourhood Planning Regulations

Other

- h) For non-planning aspects the Parish / Town Council will endeavour to work with the District Council to ensure that:
 - i. Projects are deliverable;
 - ii. Where possible, projects are linked to other plans/strategies as appropriate.
- i) To deliver the principal task at i. above, the Parish / Town Council is also required to undertake the following tasks

Meetings

- j) establish a Steering Group (or similar) to guide the preparation of the Neighbourhood Development Plan; Neighbourhood Development Order ;or Community Right to Build Order;
- k) ensure the Steering Group reports on a regular basis to the Parish / Town Council for the endorsement of decisions;
- l) ensure the Parish / Town Council remains compliant with the requirements for designation as set out in the Localism Act and Regulations;
- m) ensure best use of Bolsover District Council officer time by only inviting the Bolsover District Council representative to attend and advise the Steering

Group in accordance with the level of support outlined in Appendices B-D below;

- n) wherever possible, an agenda and supporting papers should be sent to the Bolsover District Council representative 5 days in advance of a meeting.

Minutes of Meetings

- o) Minutes of all Steering Group meetings should be forwarded to the Bolsover District Council representative for information to assist with support and for the early identification of issues.

Project Plan

- p) undertake to work towards the submission of a Neighbourhood Development Plan; Neighbourhood Development Order; or Community Right to Build Order with a clear work programme and timetable for delivery;
- q) send copies of project plans to the Bolsover District Council representative at regular intervals to assist with general support and resource planning.

Working arrangements

- r) work with the District Council during the preparation of Neighbourhood Development Plan; Neighbourhood Development Order; or Community Right to Build Orders to enable the District Council to carry out its duty to advise and assist and to help ensure a successful examination.

Communication

- s) inform the District Council on emerging policies and proposals prior to the Pre-Submission draft Plan or Order consultation;
- t) provide the District Council with the Pre-Submission draft Neighbourhood Plan or Order and supporting documents in electronic format;
- u) provide results of primary source data which could be helpful to the District Council;
- v) provide regular reports to the District Council on progress and issues as appropriate.

Delivery

- w) if supported through the referendum the District Council, the Parish / Town Council and other relevant organisations will be responsible for delivery of Neighbourhood Development Plan; Neighbourhood Development Order; or Community Right to Build Orders as appropriate.

THE SIGNED AGREEMENT

This agreement is between:

- a) Bolsover District Council, and;
- b) xxx Parish / Town Council

Signed:

.....

xxx, appropriate officer of Bolsover District Council

date

and

.....

xxx, Chair of xxx Parish / Town Council

date

This agreement takes place with immediate effect and will be updated as appropriate.

Is a Neighbourhood Development Plan, Neighbourhood Development Order, or Community Right to Build Order the best way of meeting the objectives of the parish/town council, or community organisation?

- A1. Communities should not regard Neighbourhood Development Plans, Neighbourhood Development Orders or Community Right to Build Orders as the only option or planning tool open to them. There are many other forms of community planning and ways of delivering development locally that may be more appropriate.
- A2. The following points should be carefully considered before embarking on a Neighbourhood Development Plan, Neighbourhood Development Order, or Community Right to Build Order:
- a. **Are you clear on why you need it?** For example, can the outcomes sought be delivered through other planning mechanisms such as a Parish / Town or Community Plan, a planning application, or other routes?
 - b. **Have you considered the length of time the process may take?** For example in the case of a Neighbourhood Development Plan, it could take at least 2 years from start to finish, and probably longer.
 - c. **Have you considered the time and financial resource implications needed to do it?** For example, Communities and Local Government (CLG) stated that the average cost of a Neighbourhood Development Plan is between £17,000 and £63,000⁶ and after ten years the cost of reviewing a Plan is around 70% of the initial cost.
 - d. **Are there the skills and enthusiasm within the community to undertake the work?** and are you confident this enthusiasm can be maintained through the process?
 - e. **Are you prepared to engage with land owners and developers and to have constructive conversations with people who may hold opposing views from your own?**
- A3. There are a number of alternatives to Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders that a community can undertake in their area and may be more appropriate. These include:
- a. **Parish / Town or Community Plans**, which provide an opportunity for the community to work together to decide on what they want to improve or achieve, in their area, at present or in the future. The final document generally sets out how the community intend to make improvements to the local area, for example community led initiatives such as creating play groups or other social infrastructure, street cleaning, or refuse and recycling collections.
 - b. **Village & Urban Community Design Statements**, which is a document that describes the qualities and characteristics that the community value in their area. It sets out clear and simple guidance for the design of all future development in a village.

⁶ CLG figures from 2011

- A4 Neighbourhood Plans and Orders have to follow governmental guidance. Firstly, they must generally be in line with national and local planning policies. Secondly they cannot be used to block development that may already have been permitted or is proposed within the Local Plan. In addition, there are certain types of development that cannot be covered by a Neighbourhood Development Order. These 'excluded' types of development include any development connected with minerals or waste: nationally significant infrastructure projects; and major projects requiring an Environmental Impact Assessment under EU law.
- A5 The **advantages** of the alternative methods set out above are that they are potentially cheaper, quicker than Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders , and do not have to go through examination or be subject to a referendum.
- A6 The **disadvantages** of these alternative methods are that they cannot make specific land use proposals, have limited input from developers and the Council, can raise expectations unrealistically; and do not have the material weight of a Neighbourhood Development Plan Neighbourhood Development Order or a Community Right to Build Order in Planning terms.

Level of District Council support for making Neighbourhood Areas and Neighbourhood Plans

DESIGNATING A NEIGHBOURHOOD AREA
<p>Stage B1: Initial Scoping Meeting (Planning Policy Team)</p> <p>We Will:</p> <p>Offer to hold one two-hour meeting with the Parish or Town Council to:</p> <ul style="list-style-type: none"> • Discuss whether a Neighbourhood Development Plan; Neighbourhood Development Order; or Community Right to Build Order is the most appropriate route for the community to achieve its aspirations; • Discuss alternative ways of getting involved in the development process.
<p>Stage B2a: Application for designation of a neighbourhood area by a town or parish Council where the proposed designation covers the whole of a parish (Planning Policy and Legal Teams)</p> <p>We will:</p> <ul style="list-style-type: none"> • Consider whether the application meets the statutory requirements; • Advise of any additional information needed to meet the statutory requirements; • When the application meets the statutory requirements, designate the area as a neighbourhood area. <p><i>Note - the next stage in this process is Stage B5 below</i></p>
<p>Stage B2b: Application by a relevant body for designation of a neighbourhood area where the proposed neighbourhood area does not cover the parish (Planning Policy and Legal Teams)</p> <p>We will:</p> <ul style="list-style-type: none"> • Consider whether the application meets the statutory requirements; • Where the statutory requirements are met, notify the application body within one week of receipt of the application; • Where the statutory requirements are not met, notify the application body and advise of any additional information needed to meet the statutory requirements within three weeks.
<p>Stage B3: Publicising an area application (Governance Team)</p> <p>We will:</p>

- Publicise the application so that people can make representations within two weeks of receiving an application;
- Publicise how representations can be made.

Note – the period for making representations must be at least four weeks (unless application relates to more than one Parish / Town area, then the period for representations must be at least six weeks).

Stage B4: Determining an area application (Legal Team)

We will:

- *(Where the application falls within the areas of two or more local authorities), determine the application within 20 weeks from the date the application is first publicised (stage B3 above)*
- In all other cases determine the application within 13 weeks

Stage B5: Publicising the designation or refusal of a neighbourhood area (Governance Team)

We will:

- Publicise the within one week of determining the application;
- Inform anyone who requested notification of the designation.

PREPARING A NEIGHBOURHOOD PLAN

Stage B6: Initial Meeting (Planning Policy Team)

We will:

- Provide an initial two hour meeting with the Town or Parish Council to discuss; community ambitions and aspirations;
- Seek to agree a timetable for the preparation of the Neighbourhood Plan;
- Provide advice and assistance on;
 - Published information and data sets the planning department has;
 - The published evidence used by the District Council in preparing its new Local Plan;
 - Advice on consultation methods and questionnaire format; and
 - Discussion on possible need for Sustainability Appraisal / Environmental Assessment and Habitat Regulations Assessment;
- Provide an additional seven hours of further general support if requested

Stage B7: Once drafted, before the proposed Plan is submitted to the Council (Planning Policy Team and Legal Team) (if requested) We will:

- Provide a two hour meeting to discuss and comment on the draft Plan
- Provide an additional four hours of support if requested;

Stage B8: Consulting on the proposed Plan (Planning Policy Team) We will:

- Publicise the receipt of the proposed Neighbourhood Plan; and
- Publicise how interested parties can make representations on the proposed Neighbourhood Plan.

Note - the period for making representations must be at least six weeks

Stage B9: Submission of the plan proposal to examination (Planning Policy Team) We will:

Within six weeks of the close of consultation:

- appoint a person to examine the Neighbourhood Plan.
- send the Neighbourhood Plan and its supporting documentation including copies of representations received to the examiner
- make the necessary arrangements for the examiner to examine the Neighbourhood Plan, including arranging for a Hearing where required.

Note - if an appropriate examiner is not available an alternative timescale will be agreed between the Council and parish or town council

Stage B10: Examiners Report (Planning Policy Team) (if requested) We will:

- Provide a third meeting with the town or Parish Council to discuss the findings of the inspector's report and the Council's initial response;
- Provide an additional four hours of general support if required.

Stage B11: Publication of the examiner's report and plan proposal decisions (Planning Policy Team) We will:

- Within five weeks of receiving the examiner’s report, prepare and publish a decision statement, setting out the Council’s decision(s) on the recommendations made by the examiner and the reasons for the decision(s). Decisions may include:
 1. to decline to consider a Plan proposal;
 2. to refuse a Plan proposal;
 3. what actions to take in response to the recommendations in the examiner’s report;
 4. modifications are needed to the draft plan (if any);
 5. whether to extend the referendum area;
 6. that the Council is not satisfied with the proposal;
- Publish a Decision Statement.

Stage B12: Referendums (Elections Team)

We will:

- Organise and hold a referendum on the Neighbourhood Plan within 56 working days of the publication of the decision to hold a referendum

(Where more than 50% of those voting in the Neighbourhood Plan referendum vote in favour of the Plan)

Stage B13: Date for making a neighbourhood development plan (Planning Policy and Legal Teams)

We will:

- Adopt the Neighbourhood Development Plan within 8 weeks of the date of the referendum

Stage B14: Publicising Decision (Planning Policy and Governance)

We will:

- Publicise the decision on the Plan.

Stage B15: Publication of a new Neighbourhood Development Plan (Planning Policy and Governance)

We will:

- Publish the adopted Neighbourhood Plan.

Level of District Council Support for Neighbourhood Development Orders and Community Right to Build Orders

Stage C1: Initial Meeting (Planning Policy Team)

We will:

- Provide an initial two hour meeting with the Town or Parish Council to discuss community ambitions and aspirations
- Seek to agree a timetable for the preparation of the Order;
- Provide advice and assistance on;
 - Published information and data sets the planning department has;
 - The published evidence used by the District Council in preparing its new Local Plan;
 - Advice on consultation methods and questionnaire format; and
 - possible requirements for Sustainability Appraisal / Environmental Assessment and Conservation of Habitat and Species Regulations;
- Discuss possible requirements in respect of the historic environment, including: any listed buildings; ancient monuments; and conservation areas
- Provide four hours of further general support if requested

Stage C2: Once drafted, before the proposed Order is submitted to the Council (Planning Policy Team and Legal Team) (if requested) We will:

- Provide a meeting to discuss and comment on the draft Order:
- Provide an additional four hours of support if requested;

Stage C3: Consulting on the proposed Order (Planning Policy Team)

We will:

- Publicise the receipt of the proposed Order; and
- Publicise how interested parties can make representations on the proposed Order

Note - the period for making representations must be at least six weeks

Stage C4: Submission of the Order proposal to examination (Planning Policy Team)**We will:**

- Within six weeks of the close of consultation appoint a person to examine the proposed Order.
- Within six weeks of the close of consultation send the Order and its supporting documentation including copies of representations received to the examiner
- Within six weeks of the close of consultation make the necessary arrangements for the examiner to examine the Order, including a Hearing where required.

Note - if an appropriate examiner is not available an alternative timescale will be agreed between the Council and the District and parish or town council

Stage C5: Examiners Report (Planning Policy Team)**(If requested) we will:**

- Provide a third meeting with the town or Parish Council to discuss the findings of the inspector's report and the Council's initial response;
- Provide an additional four hours of general support if required.

Stage C6: Publication of the examiner's report and plan proposal decisions (Planning Policy Team)**We will**

- Within five weeks of the receipt of the examiner's report, prepare and publish a decision statement, setting out the Council's decision(s) on the recommendations made by the examiner and the reasons for the decision(s). Decisions may include:
 1. to decline to consider an Order proposal;
 2. to refuse an Order proposal;
 3. what action to take in response to the examiner's report, such as send the plan to referendum;
 4. modifications are needed to the draft order (if any);
 5. whether to extend the referendum area;
 6. that the Council is not satisfied with the Order.
- Publish a Decision Statement.

Stage C7: Referendums (Elections Team)

We will:

- Organise and hold a referendum on the proposed Order within 56 working days of the publication of the decision to hold a referendum

(Where more than 50% of those voting in the Neighbourhood Plan referendum vote in favour of the Plan)

Stage C8: Date for making an Order (Planning Policy and Legal Teams)

We will:

- Make the Order within 8 weeks of the date of the referendum

Stage C9: Publicising Decision (Planning Policy and Governance)

We will:

- Publicise the decision on the Order.

Stage C10: Publication of a new Order (Planning Policy and Governance)

We will:

- Publish the new Order.

Carry out any additional necessary notification.

Appendix D

Level of District Support for Modification of a Neighbourhood Development Order, a Community Right to Build Order, or a Neighbourhood Plan

Stage D1: Initial Meeting (Planning Policy Team)

We will:

- Provide an initial two hour meeting with the relevant body(s) to discuss the reasons for seeking the proposed modification;
- Seek to agree the modification;
- Discuss the process and timetable for the modification;

Stage D2: Publicity

We will:

- Publicise the changes
- Carry out any additional notification.