

DECISION SHEET: CABINET - 25 JULY 2012

Members Present:	Councillors A Geary (Chair), Bald, Bint, Dransfield, Hopkins and P Geary
Officers Present:	D Hill (Chief Executive), L Bull (Corporate Director Community Wellbeing), G Tolley (Corporate Director of Children and Families), G Snelson (Director of Strategy), M Bracey (Assistant Director [Children and Families: Learning Organisation and Improvement]), N Fenwick (Assistant Director [Planning, Economy and Development]), N Jones (Assistant Director [Financial Management]), I Ali (Acting Assistant Director [Law and Governance]), L Ellen (Head of Housing Management), B Matthews (Head of Transportation Services), D Webber (Senior Planning Officer) and S Heap (Democratic Services Manager)
Apology:	Councillor Brock
Also Present	Councillors Bradburn, Edwards, Marland, Miles, Webb and C Williams
Public Present:	43

Minute Ref.	Accountable Cabinet Member	Subject and Decision	Key Decision	Within Policy	Borough Ward	Officer Responsible for Action
C35		<p>Neighbourhood Planning Decision-Making Process</p> <ol style="list-style-type: none"> 1. That the following applications be approved as neighbourhood areas, in accordance with Section 61G of the Town and Country Planning Act 1990: <ol style="list-style-type: none"> (a) the neighbourhood area covering the Woburn Sands Town Council; and (b) the neighbourhood area covering Wavendon Parish Council. 2. That the Central Milton Keynes neighbourhood area application be approved as a business neighbourhood area, in accordance with Section 61H of the Town and Country Planning Act 1990. 3. That the following decisions in the neighbourhood planning process, as defined in the Neighbourhood Planning (General) Regulations 2012, be delegated to the Cabinet Member responsible for Strategic Planning: <ol style="list-style-type: none"> (a) whether to accept and designate a neighbourhood area; (b) whether an application for a neighbourhood development plan or order is valid and should be accepted; (c) whether to decline or accept a repeat proposal for a neighbourhood development plan or order; 	-	-	All Wards	Senior Planning Officer

Wards Affected:

All Wards

NEIGHBOURHOOD PLANNING

Author: Diane Webber, Senior Planning Officer, Tel: (01908) 25 2668

Executive Summary:

This report informs Cabinet about the process for Neighbourhood Planning including the designation of Neighbourhood Areas and the making of Neighbourhood Development Plans and Neighbourhood Development Orders. The report considers the first three Neighbourhood Area designation applications received by the council (for Central Milton Keynes, Woburn Sands Town Council and Wavendon Parish Council) and recommends that they should be approved.

The report's recommendations also propose how the required decisions in the Neighbourhood Planning process should be dealt with.

1. Recommendation(s)

- 1.1 That the following Neighbourhood Area applications be approved in accordance with Section 61G of the Town and Country Planning Act, 1990:
- (a) The neighbourhood area covering the **Central Milton Keynes Town Council** area be designated as a business neighbourhood area
 - (b) The neighbourhood area covering the **Woburn Sands Town Council** area be designated as a neighbourhood area.
- 1.2 That consideration of the Neighbourhood Area application for the **Wavendon Parish Council** area be deferred to allow for further discussions to take place with the parish council in light of comments received on the application.
- 1.3 That the following decisions in the Neighbourhood Planning process, as defined in the Neighbourhood Planning (General) Regulations 2012, be delegated to the Assistant Director for Planning, Economy and Development after consultation with the relevant local ward member(s) and the Cabinet Member responsible for Strategic Planning:
- (a) whether to accept and designate a Neighbourhood Area;
 - (b) whether an application for a neighbourhood development plan or order is valid and should be accepted;

- (c) whether to decline or accept a repeat proposal for a neighbourhood development plan or order;
- (d) the appointment of an examiner for a Neighbourhood Development Plan or Order;
- (e) whether to make a neighbourhood development plan or order following a referendum, and

The following decisions be delegated to the Cabinet Member responsible for Strategic Planning:

- (f) decisions as to what actions to take in response to an examiner's report,
- (g) whether to modify neighbourhood development plans or orders.

2. Issues

2.1 **Neighbourhood planning:** The Localism Act 2011 (the Act) introduces neighbourhood planning as a new way for communities to decide the future of their own area. There are three types of neighbourhood planning processes:

- (a) Neighbourhood Development Plans (NDPs) are plans which set out policies for the development and use of land in a particular Neighbourhood Area.
- (b) Neighbourhood Development Orders (NDOs) grant planning permission for a specific use or development within a specified area.
- (c) Community Right to Build Orders (CRtB) are a sub-category of NDOs. They enable community organisations to bring forward small scale, site specific, community-led developments, without the need to apply for planning permission.

2.2 **Neighbourhood Area applications:** The designation of a Neighbourhood Area is the first formal step for parish councils wishing to undertake neighbourhood planning for their area.

2.3 Regulation 5 of the 2012 Regulations require parish councils submitting an area application to include a map which shows the area to be designated; a statement explaining why the parish council considers the area to be appropriate for designation and confirmation that the parish council concerned is the relevant body for the purpose of neighbourhood planning for that area.

2.4 Regulation 6 requires that on receipt of a neighbourhood area application, the local planning authority publicises it for a period of not less than 6 weeks. The details of the consultation periods and methods for the three neighbourhood area applications being considered in this report are set out in Annex B. For each application there is also a summary of the comments received and your

officer's response to them. Where the comments received raise issues, the comments and the officer's response have been discussed with the relevant parish and town councils and their response is reflected in the summary table.

- 2.5 The first three applications have been brought to Cabinet as part of this report to raise awareness of the neighbourhood planning process. Subject to Cabinet's agreement of Recommendation 1.2 above in respect of the delegation of decision making for neighbourhood planning functions, neighbourhood area applications in future will be delegated to the Assistant Director for Planning, Economy and Development.
- 2.6 Each of the three applications are considered in turn
- 2.7 **Central Milton Keynes:** the proposed neighbourhood area for Central Milton Keynes (CMK) covers the area for which Central Milton Keynes Town Council is the elected body and the relevant body for the purposes of neighbourhood planning under the Act and the 2012 Regulations.
- 2.8 The area covered by the proposed neighbourhood area application is identified as a business neighbourhood planning frontrunner by the Department for Communities and Local Government. Notwithstanding this, in submitting the neighbourhood area application, the Town Council has asked that the council give consideration to designating the area as a neighbourhood area rather than as a business neighbourhood area.
- 2.9 Section 61H to Schedule 9 of the Act requires that whenever a local planning authority exercises their powers to designate an area as a neighbourhood area they must consider whether they should designate the area as a business area. In designating a business area, the local planning authority should consider the area in question to be wholly or predominantly business in nature. The primary implication of designating a business neighbourhood area is that this triggers the need for an additional referendum for the business community alongside the referendum of residents. Regulations are awaited that will define how the business vote is to be allocated. Implicit in this approach is that the business community should be very closely involved in and support the preparation of the plan.
- 2.10 Annex B provides a summary of the comments received during the publicity period on the area application and your officer's response to those. It can be seen that whilst the identification of CMK as a business neighbourhood area has been supported by respondents, a question has been raised as to whether it is appropriate to also include Campbell Park in the area as this area at present is mainly residential.
- 2.11 The Core Strategy identifies CMK as the main focus of employment, retail and leisure in CMK. The city centre will be the focus of future office development and within Campbell Park over 100,000sqm of office floorspace is already permitted with potential for some 5,200 jobs. Whilst CMK and Campbell Park already also have an important element of residential development in place and there are plans for some 5,000 more homes it is considered that both of these areas fits the requirement for designation of a business area, being predominantly business in nature. The CMK Alliance which is the group leading the preparation of the neighbourhood development plan in CMK has

established a Steering Group on which there is equal representation of members representing both the business community and the residents.

- 2.12 Having regard to the comments received it is considered that it is appropriate to designate the CMK neighbourhood area (including Campbell Park as defined on the neighbourhood area application) as a business area for the purpose of neighbourhood planning.
- 2.13 **Woburn Sands:** the proposed neighbourhood area for Woburn Sands covers the area for which Woburn Sands Town Council is the elected body and the relevant body for the purposes of neighbourhood planning under the Act and the 2012 Regulations.
- 2.14 The proposed area covers the whole parish and it is not appropriate to define the area as a business area under Section 61H of Schedule 9 of the Act. One representation has been received seeking the removal of land at Woodleys Farm from the neighbourhood area in order to provide flexibility should the site come forward as a strategic land allocation in the future.
- 2.15 The officer's comments on this representation are set out in Annex B and these and the representation have been discussed with the Town Council. The Town Council supports the officer's comments that, as the Woodleys Farm site does not form part of the Strategic Site Allocation in the Core Strategy and there are no outstanding planning proposals for the development of it as a strategic housing site, it would be appropriate to keep the site within the defined Neighbourhood Area. Should the situation change following the Core Strategy examination resulting in the inclusion of the site in a strategic site allocation, the neighbourhood plan would have to respect and be in broad conformity with such an allocation (ie the neighbourhood plan could not propose less housing on the site than was proposed in a higher level plan).
- 2.16 At this time therefore it is not considered appropriate to exclude this area of land from the neighbourhood area and it is therefore recommended that the area be designated as per the Town Council's proposal.
- 2.17 **Wavendon:** the proposed neighbourhood area for Wavendon covers the area for which Wavendon Parish Council is the elected body and the relevant body for the purposes of neighbourhood planning under the Act and the 2012 Regulations.
- 2.18 The proposed area covers the whole parish and it is not appropriate to define the area as a business area under Section 61H of Schedule 9 of the Act.
- 2.19 Seven representations have been received raising issues about the extent of the neighbourhood area, the overlap with areas that are already developed, subject to planning permission or the subject of strategic policies in the emerging Core Strategy. Questions are also asked of the scope of the proposed neighbourhood plan. Concerns have been raised that as the Neighbourhood Area proposed covers the whole of the parish area, it includes the Strategic Land Allocation which is identified in the Core Strategy and for which a Development Framework Supplementary Planning Document is being prepared. The concern is that the Neighbourhood Plan process might

duplicate the development framework process. The representations are summarised in Annex B, together with your officer's comments in response.

- 2.20 The representations have been referred to the parish council and need to be discussed further with them. In view of this it is suggested that consideration of this application should be deferred to allow for all of the issues to be fully assessed.
- 2.21 **Decision making for neighbourhood planning proposals:** The Act and the subsequent Neighbourhood Planning (General) Regulations 2012 (the 2012 Regulations) confer specific functions on local planning authorities in relation to neighbourhood planning. As these functions are new to the council, this report has been prepared to consider who within the council has the authority to carry them out.
- 2.22 Under the Act and the 2012 Regulations, the majority of decisions to be made by the council in respect of neighbourhood planning are administrative and need to be taken against set criteria where the element of discretion is limited. As such it is recommended that the majority of these decisions could be delegated to the Assistant Director for Planning, Economy and Development. The exception to this approach is in respect of decisions as to what actions to take in response to an examiner's report and whether to modify neighbourhood development plans or orders. It is suggested that these decisions are delegated to the Cabinet member responsible for Strategic Planning as they could potentially involve more than minor administrative decisions.
- 2.23 Annex A to this report provides more background information for each of the neighbourhood planning decisions outlined in the Recommendations section above.
- 2.24 The Executive Scheme of Delegation creates allowances for delegation of decision-making downwards to a single Cabinet member, the Chief Executive, Corporate or Assistant Director, subject to limitations. The most relevant Cabinet portfolio for neighbourhood planning functions is Economy, Development and Enterprise. This portfolio brings together the 2011/2012 portfolio of Growth and Development with that for Economic Development.
- 2.25 Under the portfolio of Growth and Development there were three specified decisions reserved for Cabinet or Cabinet Committee:
- (a) All relevant matters reserved for Cabinet level decision as detailed in the Rules of Procedure.
 - (b) Policy Developments of strategic significance relating to the Portfolio's Terms of Reference.
 - (c) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- 2.26 Of the three decisions specified above, (b) is the most relevant to neighbourhood planning although it is considered, that, in the majority of cases, the local nature of neighbourhood planning proposals mean that they

are unlikely to be of strategic significance. Each neighbourhood planning matter requiring a decision will need to be considered on its merits, in consultation with the relevant Cabinet member, to determine the appropriate level of delegation.

- 2.27 Neighbourhood planning proposals might also be considered to be a key decision where they significantly affect more than two or more wards. Each matter requiring a decision will need to be considered on its merits and included on the Forward Plan if considered to be a Key Decision.

3. Options

- 3.1 Neighbourhood Area applications: Once a neighbourhood area application is submitted, the 2012 Regulations require the council to come to a view on it and publicise that decision. It is recommended above that the area applications for CMK and Woburn Sands be approved with the CMK area be approved as a business area. Other options would be:

- (a) Refuse the area applications
 - (i) there are not considered to be any planning reasons to refuse these applications
- (b) Approve CMK as a neighbourhood area rather than as a business neighbourhood area
 - (i) Section 61H of the Act requires the council to designate a business area for areas that are wholly or primarily commercial in nature. For the reasons given in para 2.7 onwards above, it is considered appropriate that CMK should be designated a business area. Not doing this would mean that the interests of businesses within the area might not be fully or adequately represented.

- 3.2 It is recommended that the neighbourhood area for Wavendon be deferred to allow for further discussion of issues raised in representations with the parish council. Other options would be:

- (a) refuse the application
 - (i) This would be unduly punitive at this stage, in advance of discussions with the parish council to understand how they would like to proceed in the light of the representations
- (b) Approve the application now
 - (i) This could leave the neighbourhood plan open to challenge, either now or at a later stage once considerable work had been carried out.

- 3.3 Decision making on neighbourhood planning: The 2012 Regulations place requirements on Local Planning Authorities to fulfil certain functions and take certain decisions. The council does have options though in terms of how those decisions could be taken.
- 3.4 This report advocates delegation of decision making to the Assistant Director for Planning, Economy and Development. Each application and submission will be discussed with the relevant Cabinet portfolio holder and the views of ward member will be taken on board; allowing for contentious applications of issues to be considered at a higher level. Other options are:
- (a) Cabinet to be the decision making body – this would have a number of implications:
 - (i) Slower and less responsive timescales for decision making on the relatively minor and uncontentious issues
 - (ii) Increased volume of reports on Cabinet agendas as reports are needed for each of the stages of decision making on neighbourhood planning
 - (b) Delegation of all decisions to the Cabinet member – implications of this would be
 - (i) Increased volume of reports requiring Cabinet member decision. as reports are needed for each of the stages of decision making on neighbourhood planning

4. **Implications**

4.1 Policy

The National Planning Policy Framework sets out that neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies. In Milton Keynes, the strategic policies are set out in the adopted Milton Keynes Local Plan and the emerging Core Strategy.

Once a Neighbourhood Plan has successfully passed all of the stages of preparation, including an examination and referendum, it is 'adopted' by the local planning authority, forms part of the authority's Development Plan and is a material consideration when considering development proposals. In terms of the planning policy hierarchy, a Neighbourhood Plan, once adopted carries more weight than a Supplementary Planning Document.

Resources and Risk

The Localism Act and the 2012 Regulations place new duties on local planning authorities in relation to neighbourhood planning. These new duties have implications for staff resources as the council has a duty to support parish councils wishing to undertake neighbourhood planning, in addition to

which there are the decision-making processes set out in this report which will involve staff time and costs in publicising proposals; considering comments received; and assessing submitted neighbourhood plans against strategic policies. The costs of arranging both the examination and the referendum fall to the local planning authority.

Where a business neighbourhood area is proposed, then an additional referendum of the business community will need to be held.

Staff resources to support neighbourhood planning will come from the existing staff within the Development Plan team.

The council has received funding of £20,000 from CLG towards the production of each of 6 frontrunner neighbourhood plans of which the CMK business neighbourhood plan is one. There is no CLG funding available for the Wavendon and Woburn Sands neighbourhood plans; support from MKC for these plans will be limited to staff resources and access to evidence and background information.

N	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	N	Asset Management

4.2 Carbon and Energy Management

The proposals do not impact on carbon and energy management.

4.3 Legal

Neighbourhood planning is part of the Government's initiative to empower local communities to take forward planning proposals at a local level as outlined in Section 116 of the Localism Act, 2011. The Act and the subsequent 2012 Regulations confer specific functions on local planning authorities in relation to neighbourhood planning.

4.4 Other Implications

Stakeholders:

The proposed Neighbourhood Area applications have been the subject of consultation for 6 weeks and the views of stakeholders are reported in this report and set out in Annex B.

Consultation and involvement of stakeholders is an important part of the neighbourhood planning process and will ultimately be tested by a single issue referendum at the end of the process.

N	Equalities/Diversity	N	Sustainability	N	Human Rights
N	E-Government	Y	Stakeholders	N	Crime and Disorder