

**CABINET  
20 JULY 2021**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: DESIGNATION OF A NEIGHBOURHOOD PLANNING FORUM AND NEIGHBOURHOOD PLANNING AREA FOR CHARLTON**

REPORT OF THE SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: EXECUTIVE MEMBER FOR PLANNING

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES

**1. EXECUTIVE SUMMARY**

- 1.1. This report details the applications to designate a neighbourhood planning forum for Charlton and to designate a neighbourhood planning area for the area of Charlton following consultation on the application.
- 1.2. Designation of a neighbourhood planning forum and neighbourhood planning area would allow a neighbourhood plan to be prepared for the area.

**2. RECOMMENDATIONS**

- 2.1. That delegated authority is granted to the Service Director – Regulatory in consultation with the Executive Members for Community Engagement and Planning to:
  - i. determine the current applications for the neighbourhood planning area and neighbourhood planning forum within the statutory 13-week time limit following the conclusion of the public consultation period; and
  - ii. work with the Charlton Neighbourhood Forum and other parties interested in neighbourhood planning in the area to address the issues of concern raised in this report and explore the opportunities to progress neighbourhood planning for Charlton.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. To ensure the Council meets its statutory duties in relation to neighbourhood planning within the prescribed time periods.
- 3.2. As part of an unparished area of the District, the application to designate a neighbourhood planning area and neighbourhood planning forum must be considered by the local planning authority. However, for the reasons discussed in Section 8, it would be appropriate for further discussions to be held with the Charlton Neighbourhood Forum and other (potential) neighbourhood planning bodies before a decision is taken.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. That Cabinet agree to delegate the decision to approve the neighbourhood planning area and neighbourhood planning forum for Charlton following the conclusion of public consultation on the two applications.
- 4.2. That following public consultation, no decision is taken, and the neighbourhood planning area and neighbourhood planning forum are designated by default upon expiration of the statutory 13-week period.
- 4.3. That Cabinet agree that the applications for the neighbourhood planning area and the neighbourhood planning forum are refused under delegated powers following conclusion of public consultation on the two applications. In this case, the local planning authority would need to exercise its powers to designate part or all of the area as part of a different neighbourhood planning area.
- 4.4. These options are not recommended for the reasons set out in the report.

#### **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1. Members for Hitchin wards were informed that the application for the neighbourhood planning forum and the neighbourhood planning area as part of the wider consultation in June 2021.
- 5.2. Consultation has taken place with key stakeholders, including Parish Councils, statutory consultees, local community and voluntary organisations, local developers and landowners. The consultation period was open between 9 June and 21 July 2021.
- 5.3. The Executive Member for Planning and deputy and the Executive Member for Community Engagement have been briefed on the matters raised in this report.

#### **6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

#### **7. BACKGROUND**

- 7.1. Neighbourhood planning was introduced into the planning system by the Localism Act 2011, allowing local communities to shape development in their area. If a neighbourhood plan is prepared, examined and receives a majority vote in a referendum it becomes part of the statutory development plan for the designated neighbourhood planning area and is used in determining planning applications, alongside the Council's local plan.
- 7.2. The Neighbourhood Planning Regulations 2012 (as amended) set out the statutory process that must be followed when designating a neighbourhood planning forum and neighbourhood planning area and then subsequently preparing a neighbourhood plan.
- 7.3. The first stage in the process requires an application to be made for the designation of a neighbourhood planning forum in an unparished area and an application to designate a neighbourhood planning area.

7.4. An application must be determined within 13-weeks of the start of public consultation on the proposal. In this instance, the 13-week period will expire on 8 September 2021.

## **8. RELEVANT CONSIDERATIONS**

8.1. The Charlton Society Neighbourhood Forum submitted applications to designate a neighbourhood planning forum and a neighbourhood planning area in May 2021. The application letter, supporting documentation and a plan of the proposed area for designation are attached as Appendices to this report.

8.2. Previously, all applications for a neighbourhood planning area designation in the district have been made by a Parish Council, which are recognised as a Qualifying Body. This application for a neighbourhood planning area designation is made for an unparished area of the district and is therefore accompanied by an application to designate a neighbourhood planning forum.

8.3. On receipt of an application for a neighbourhood planning area and neighbourhood planning forum, the local planning authority must consult on the applications for six weeks. Consultation started on 9 June 2021 and closes after this Cabinet meeting on 21 July 2021.

### Designation of the neighbourhood planning area

8.4. The Charlton Society Neighbourhood Forum have defined a proposed neighbourhood planning area for Charlton which is shown in [Appendix C](#). The application also includes an explanation of why the area is considered to be appropriate for the purposes of neighbourhood planning, as required by the Regulations. This is set out in [Appendix A](#).

8.5. The application for the designation of a neighbourhood planning area must be assessed to ensure that the area is coherent, consistent and appropriate in planning terms. Any representations received in respect of the proposed neighbourhood planning area must also be considered. Consultation on the proposed neighbourhood planning area started on 9 June 2021 and closes on 21 July 2021.

8.6. To date, 6 representations have been received, four of which make no comment about the neighbourhood planning area and two which support the proposed neighbourhood planning area. A verbal update on the consultation will be provided at the meeting.

8.7. In considering the appropriateness of the application for the designation, it is considered relevant to have regard to the following factors:

- whether the proposed area is appropriate for neighbourhood planning purposes; and
- the alternate neighbourhood planning arrangements that could be implemented.

- 8.8. In terms of considering whether the proposed neighbourhood planning area is appropriate there are a number of factors which should be considered, these are set out in full in Planning Practice Guidance ([Paragraph 033 Reference ID: 41-033-20140306](#)). A number of these factors are particularly relevant to this application:
- there is no village or settlement boundary defined for Charlton in the Local Plan. However, the small settlement of Charlton is well defined and the proposed neighbourhood planning area reflects this together with the surrounding farmland;
  - the application demonstrates that there is a network area of community based groups;
  - the historic character of the hamlet is recognised in that most of the settlement lies within the Charlton Conservation Area; and
  - the proposed neighbourhood planning area is defined by recognisable physical features, including the A505, A602 and public rights of way.
- 8.9. The application to designate a neighbourhood planning area for Charlton therefore meets a number of the spatial and geographical criteria set out in guidance. However, the guidance also identifies the size of the population (living and working) in the area as a potential consideration, stating

*Electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area; these have an average population of about 5,500 residents*

#### Designation of the neighbourhood planning forum

- 8.10. The second application to consider is the designation of a neighbourhood planning forum to act as the Qualifying Body for the proposed neighbourhood planning area. The requirements which must be met to designate a neighbourhood planning forum are set out in section 61F(5) of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.
- 8.11. In its application to be designated as a neighbourhood planning forum, the Charlton Society Neighbourhood Forum have included a copy of the constitution (Appendix B) which confirms that the group would meet the requirements set out in section 61F(5)(a), (b) and (d).
- 8.12. Section 61F(5)(c) sets out the requirements for the membership of a neighbourhood forum. It states that to be designated, a neighbourhood forum must have a minimum of 21 individuals who either:
- Live in the neighbourhood area;
  - Work there; and/or
  - Are elected members for a local authority that includes all or part of the neighbourhood area.
- Whilst a neighbourhood forum is not required to have a member from each category to be designated, the neighbourhood forum must have an open membership policy.

- 8.13. However, it is not clear that the Charlton Society Neighbourhood Forum can meet the requirements of section 61F(5)(c). Within the proposed neighbourhood planning area there are 34 properties and an electorate of 54 people. Whilst the constitution states that membership of the forum is open to all members of the community it is not clear whether there are 21 active members of the forum and no details of the membership have been provided in the application. There is a concern whether this level of membership of a neighbourhood forum could be sustained for the duration of preparing a neighbourhood plan given the very small population of the application area.
- 8.14. Once a neighbourhood plan has been prepared, it becomes part of the statutory development plan if there is a successful referendum. The referendum is held within the designated neighbourhood planning area and requires a simple majority to “make” the neighbourhood plan. In the context of Charlton, this would mean that if there was a 100% turnout to vote, 27 people would have to vote “yes” to making the neighbourhood plan. Turnout figures for previous neighbourhood plan referenda in the district have been between 29% and 56%.

#### Way forward

- 8.15. In July 2018 Cabinet delegated a number of decisions and functions in relation to neighbourhood planning to the (now) Service Director Regulatory in consultation with the (now) Executive Member for Planning. However, it remains necessary to bring applications for neighbourhood planning areas and forums in unparished areas of the District before Cabinet.
- 8.16. The statutory thirteen-week period for this application expires on 8 September 2021, prior to the next scheduled meeting of Cabinet on 21 September 2021. If no decision is made within the thirteen-week period, the neighbourhood planning area and forum would become designated by default.
- 8.17. The consultation does not close until after this meeting of Cabinet. It is therefore recommended that the decision on this application is delegated to the Service Directory Regulatory in consultation with the Executive Members for Planning and Community Engagement to allow for a timely decision to be made in light of all consultation responses that might be received.
- 8.18. As set out above, there are some areas of concern with the current application particularly around the membership of the statutory neighbourhood forum and its required size relative to the electorate of the proposed area.
- 8.19. The delegation will allow an opportunity to consider these matters further and determine, in consultation with representatives of the proposed neighbourhood forum, whether they can be satisfactorily resolved within the 13-week period.
- 8.20. In the event that the application is refused, the Council is then under a statutory obligation to ensure that some or all of the area applied for becomes designated for neighbourhood planning purposes under alternate arrangements.
- 8.21. There are several alternatives which could be considered in terms of defining a neighbourhood planning area for Charlton.

- 8.22. An alternative way for a neighbourhood plan to be progressed would be to “add” the proposed area to a neighbourhood planning area where a Parish Council would become the Qualifying Body. Of the parishes which adjoin the proposed neighbourhood planning area, Preston already has a “made” neighbourhood plan and Offley Parish Council have not pursued any neighbourhood planning initiatives.
- 8.23. There is a designated neighbourhood planning area in neighbouring St Ippolyts parish. It would be possible to investigate together with the Charlton Society Neighbourhood Forum and St Ippolyts Parish Council whether it would be an appropriate and acceptable way forward for neighbourhood planning in this area.
- 8.24. A much wider proposal would be to form a neighbourhood planning area and neighbourhood planning forum for a wider part of the unparished area of Hitchin. However, it is difficult to determine which parts of Hitchin would be appropriate to include in a coherent neighbourhood planning area for Charlton as the village is very different in character from the wider Hitchin area. A neighbourhood plan for the wider Hitchin area might result in very different planning policies which would not be suitable for a rural area. It is therefore considered unlikely that this is an appropriate way forward.
- 8.25. These issues will be collaboratively explored under the delegation. If required, a further report to Cabinet setting out proposed alternate arrangements would be presented for approval in due course.

## **9. LEGAL IMPLICATIONS**

- 9.1. Section 61F (5), (6) and (7) of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 states that a local planning authority can designate a neighbourhood planning forum, sets out the conditions that must be met and if an application to designate a neighbourhood forum is refused states that the local planning authority must set out its reasons.
- 9.2. Section 61G F (5) of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 states that if a local planning authority refuse the application because it is considered that the area is not appropriate to be designated, the authority must exercise their power of designation to secure some or all of the specified area forms part of one or more areas designated as neighbourhood areas.
- 9.3. The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 requires that the local planning authority must determine the application for a neighbourhood planning forum within 13 weeks from the start of the consultation period.
- 9.4. Section 38A (3A) of the Planning and Compulsory Purchase Act 2004 states that a neighbourhood plan is part of the Development Plan if it has been approved by referendum and Section 38 (6) states that decisions on planning proposals must be made in accordance with the development plan unless material considerations indicate otherwise.

- 9.5. The terms of reference for Cabinet confirm that they should exercise the Authority's functions as Local Planning Authority and to receive reports on: strategic planning matters, applications for, approval/designation, revocation (or recommend revocation of) neighbourhood plans and orders (except where functions are reserved by law to the responsibility of the Council or delegated to the Strategic Director – Regulatory).

## **10. FINANCIAL IMPLICATIONS**

- 10.1. The Ministry of Housing, Communities and Local Government have announced that that a local authority can apply for a grant of £5,000 for designating a neighbourhood planning forum, up to a maximum of five neighbourhood planning forums. No neighbourhood planning forums have been designated in the district because other neighbourhood plans have been undertaken by Parish Councils.
- 10.2. Historically, neighbourhood planning activity has predominantly been funded through an annual allocation of £10,000 in the approved revenue budget. Any expenditure above this level in a given year has been funded from the neighbourhood plan reserve. The annual £10k has been removed for 2021/22 as a cost saving. Any neighbourhood planning expenditure (including that which requires 'forward funding' by the Council such as the examination of plans prior to referendum) will be funded from the reserve which stands at £98,200.
- 10.3. If a neighbourhood planning forum is designated, the additional £5,000 funding from central government will be used to help offset any costs of helping the forum to prepare a neighbourhood plan and to undertake any public consultation. Any funding left will be transferred to the reserve and will be ringfenced for any future neighbourhood plan expenditure.

## **11. RISK IMPLICATIONS**

- 11.1. The Council's new risk Management Framework specifies that we will now actively manage and monitor risks scoring 4 or higher on the risk matrix.
- 11.2. The Local Plan holds a current risk score of 9. In relation to this report, the preparation of a neighbourhood plan could provide a policy framework for planning proposals for the proposed neighbourhood planning area.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. There are not considered to be any direct equality issues arising from this report. Future individual schemes or considerations may well be subject to appropriate review to ensure they comply with latest equality legislative need. Any risks and opportunities identified will also be subject to assessment for impact on those that share a protected characteristic.

### **13. SOCIAL VALUE IMPLICATIONS**

13.1. The Social Value Act and “go local” requirements do not apply to this report.

### **14. ENVIRONMENTAL IMPLICATIONS**

14.1. There are no known Environmental impacts or requirements that apply to this report.

14.2. If a neighbourhood planning forum and neighbourhood planning area are designated, the District Council, as “responsible authority” would determine if a neighbourhood plan would have significant environmental effects.

### **15. HUMAN RESOURCE IMPLICATIONS**

15.1 None.

### **16. APPENDICES**

16.1. Appendix A - Charlton Society Application to designate a Neighbourhood Planning Forum and Neighbourhood Planning Area

16.2. Appendix B - Charlton Society – Constitution

16.3. Appendix C - Map of the Proposed Neighbourhood Planning Area

### **17. CONTACT OFFICERS**

17.1. Ian Fullstone, Service Director – Regulatory  
01462 – 474480 [ian.fullstone@north-herts.gov.uk](mailto:ian.fullstone@north-herts.gov.uk)

17.2. Clare Skeels, Senior Planning Officer  
01462 – 474424 [clare.skeels@north-herts.gov.uk](mailto:clare.skeels@north-herts.gov.uk)

17.3. Nigel Smith, Strategic Planning Manager  
01462 – 474847 [nigel.smith@north-herts.gov.uk](mailto:nigel.smith@north-herts.gov.uk)

17.4. Nurainatta Katevu, Legal Regulatory Team Manager  
01462 – 474364 [nurainatta.katevu@north-herts.gov.uk](mailto:nurainatta.katevu@north-herts.gov.uk)

17.5. Jodie Penfold, Group Accountant  
01462 – 474332 [jodie.penfold@north-herts.gov.uk](mailto:jodie.penfold@north-herts.gov.uk)

17.6. Jo Keshishian, HR Operations Manager  
01462 – 474314 [Jo.Keshishian@north-herts.gov.uk](mailto:Jo.Keshishian@north-herts.gov.uk)

17.7. Reuben Ayavoo, Policy and Community Engagement Manager  
01462 – 474212 [reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk)



**18. BACKGROUND PAPERS**

- 18.1. [Planning and Compulsory Purchase Act 2004](#)
- 18.2. [The Neighbourhood Planning \(General\) Regulations 2012](#)
- 18.3. [The Neighbourhood Planning \(General\) \(Amendment\) Regulations 2015](#)
- 18.4. [The Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations 2016](#)
- 18.5. [The Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations 2017](#)
- 18.6. [MHCLG letter to Chief Planning Officers, June 2021](#)