

**SOLIHULL METROPOLITAN BOROUGH COUNCIL**

<b>Report to:</b>	Cabinet Member for Managed Growth
<b>Meeting date:</b>	7 July 2016
<b>Subject/Report Title:</b>	<b>APPLICATION FOR DESIGNATION OF A NEIGHBOURHOOD AREA BY DICKENS HEATH PARISH COUNCIL</b>
<b>Report from:</b>	Assistant Director - Growth & Development
<b>Report Author/Lead Contact Officer:</b>	Gary Palmer, Planning and Transport Policy Manager
<b>Wards affected:</b>	<input type="checkbox"/> All Wards <input type="checkbox"/> Bickenhill <input type="checkbox"/> Castle Bromwich <input type="checkbox"/> Dorridge/Hockley Heath <input type="checkbox"/> Kingshurst/Fordbridge <input type="checkbox"/> Lyndon <input type="checkbox"/> Olton <input type="checkbox"/> Shirley South <input type="checkbox"/> Silhill <input type="checkbox"/> St Alphege <input checked="" type="checkbox"/> Blythe <input type="checkbox"/> Chelmsley Wood <input type="checkbox"/> Elmdon <input type="checkbox"/> Knowle <input type="checkbox"/> Meriden <input type="checkbox"/> Shirley East <input type="checkbox"/> Shirley West <input type="checkbox"/> Smith's Wood
<b>Public/Private report:</b>	Public
<b>Exempt by virtue of Paragraph:</b>	N/A

<b>1. Purpose of Report</b>
1.1 To consider the application made by Dickens Heath Parish Council and agree to designate the Parish as a Neighbourhood Area.
<b>2. Decision(s) Recommended</b>
2.1 To delegate to the Director for Managed Growth, in consultation with the Cabinet Member for Managed Growth, the decision to designate the Neighbourhood Area as submitted by Dickens Heath Parish Council.

### 3. Background

- 3.1 The Localism Act 2011 (the Act) introduced a set of measures to help shift power away from central government to local councils and communities.
- 3.2 Given the widespread national publicity of the Government's Localism agenda and Neighbourhood Planning, at your Cabinet meeting of 21<sup>st</sup> June 2012, Members approved the publication of Neighbourhood Planning Guidance for Solihull, which provides a Plain English guide to the new powers. A copy of the guidance and a set of Frequently Asked Questions are available on our Neighbourhood Planning [webpage](#).
- 3.3 This guidance explains that Neighbourhood Planning enables local communities and Parish/Town Councils to prepare Neighbourhood Development Plans (NDP), Neighbourhood Development Orders (NDO) and Community Right to Build Orders (CRBO).
- 3.4 Members will recall that a NDP is a community led plan which sets out policies to guide the future use and development of land within a specified Neighbourhood Area. The scope and content of plans will be defined by local communities, however, they must meet certain 'basic conditions'. In particular, plans must contribute to the achievement of sustainable development and be in general conformity with the strategic policies of the Development Plan for the area.
- 3.5 The regulatory process for preparation of a NDP can be summarised as follows:

Key Stage / Process	Action
1. Neighbourhood Area Designation	Parish/Town Council or Neighbourhood Forum apply to Solihull Council for Area designation and the Council formally designate.
2. Pre-Submission Consultation	Six week consultation on draft Neighbourhood Plan undertaken by the local community.
3. Submission	Neighbourhood Plan formally submitted to Solihull Council.
4. Technical Compliance Check	Local planning authority check that all regulatory procedures have been followed.
5. Publication	Six week consultation undertaken by Solihull Council.
6. Examination	Solihull Council send Neighbourhood Plan to independent Examination.
7. Plan Proposal Decision	Solihull Council considers examiners report, including any recommended modifications and if satisfied with the Plan proposal, proceed to referendum.
8. Referendum	Organised and funded by Solihull Council. Where 50% or more of those voting are in favour of the draft Neighbourhood Plan, it must be 'made' by the local authority and it then forms part of the statutory Development Plan.

3.6 The Council has already designated 5 Neighbourhood Areas in the Borough:

- Balsall & Berkswell
- Cheswick Green
- Hampton in Arden
- Knowle, Dorridge & Bentley Heath
- Meriden

#### **4. Dickens Heath Neighbourhood Area Application**

##### Context

- 4.1 The Parish Council submitted an application to Solihull Council to designate the Parish as a Neighbourhood Area. The application is the first formal stage in the process of the Parish Council preparing a NDP for Dickens Heath.
- 4.2 The application proposes to designate the whole of Dickens Heath Parish as a Neighbourhood Area. A map of the area is attached at Appendix 1 and the [full application](#) is available on the Solihull Council website.
- 4.3 The Parish covers an area immediately to the south of the built up area of Shirley. To the east is Cheswick Green, and to the south is Tidbury Green. The parish shares its western boundary with Bromsgrove District.
- 4.4 Other than a few isolated properties, most of the population of the parish live in the settlement of Dickens Heath, which was largely built from the late 1990's onwards.
- 4.5 Dickens Heath Parish Council is the 'relevant body' as defined by the Act to prepare a NDP for the proposed area. The Parish Council considers the area is appropriate for designation bearing in mind its community, communications, transport arrangements and services. The designated area includes the whole of the civil Parish of Dickens Heath.
- 4.6 In accordance with The Neighbourhood Planning (General) Regulations 2012, the application was published for consultation. The application was advertised on both the Parish Council and Solihull Council websites, posters were displayed within the proposed Neighbourhood Area and a copy of the application was available to view locally and on the Solihull Council website. Awareness of the application was also raised through Solihull Council's Twitter accounts.
- 4.7 All recognised residents associations and Parish Councils both within and adjacent the proposed Neighbourhood Area were notified of the application.

##### Assessment of the application

- 4.8 In determining an application for a Neighbourhood Area, Section 61G(5) of the Town and Country Planning Act 1990 requires the local planning authority to consider whether the proposed area is appropriate for designation. Local planning authorities must have regard to:

- (a) the desirability of designating the whole area of a parish council as a

## Neighbourhood Area, and

- (b) the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas

- 4.9 A further consideration is whether the area concerned should be designated as a business area.
- 4.10 Government guidance states that a local planning authority must designate a neighbourhood area if it receives a valid application and some or all of the area has not yet been designated. It is also stated that the local planning authority should aim to designate the area applied for. The Local Planning Authority can modify the boundary only where there are clear planning reasons to do so.
- 4.11 A high court [judgement](#) has also clarified that in deciding whether an area is appropriate or not, the local planning authority should have regard to the specific factual and planning policy circumstances at the time of the decision.
- 4.12 The adopted Development Plan for the Borough is the Solihull Local Plan (SLP) (December 2013). Members will be aware that despite the Court Order, which has had implications for the Council's housing land provision target and the sites in Tidbury Green, in all other respects, the Local Plan remains unaffected and continues to be the adopted Development Plan for the Borough.
- 4.13 In terms of this Neighbourhood Area Application, with the exception of the settlement itself, the remainder of the Parish is entirely in the Green Belt. Three allocations for residential development are made in the SLP, and these have now received the benefit of planning permission are under construction or have been constructed.
- 4.14 The Local Plan makes provision for affordable housing developments on Green Belt land to meet local needs where they are consistent with a Neighbourhood Plan.
- 4.15 Any future NDP would therefore need to be mindful of these designations and be in general conformity with the strategic policies of the Solihull Local Plan. However it is important that it is recognised that the Council has commenced the Local Plan Review (LPR). This will have important implications for the development of future neighbourhood plans as it will ultimately set the strategic policies that neighbourhood plans would need to be in accordance with. Any neighbourhood plans 'made' under the SLP may become out of date as the LPR is adopted. Therefore it is preferable for a Neighbourhood Plan to be considered alongside the emerging LPR (so that both can inform 'each other') and this underlines the importance of collaborative working and sharing of evidence. However this issue of timing does not have a bearing on whether the neighbourhood area application is appropriate.
- 4.16 In this case, the Neighbourhood Area application is valid, none of the area applied for has been previously designated as a Neighbourhood Area and it would not affect the other designated Neighbourhood Areas in the Borough. The area is not wholly or predominantly business in nature such that it should be designated as business area.
- 4.17 Therefore, in accordance with Government guidance, regulations and having regard to relevant case law, it is considered appropriate that the area applied for by Dickens Heath Parish Council should be designated as a Neighbourhood Area.

### Next Steps

4.18 The next stage in the process would be for Dickens Heath Parish Council to develop its NDP and submit to Solihull Council to check that it has complied with legislation and is in general conformity with the strategic policies of the Development Plan and national policy guidance.

#### Funding for Neighbourhood Planning

4.19 Solihull MBC has a legal obligation to assist Parish / Town Councils and Neighbourhood Forums with the process of preparing NDPs, if requests come forward. Although the regulations do not require local planning authorities to give financial assistance to such groups, the Council is required to organise and pay for the independent examination of a plan and the referendum.

4.20 As of April 2016, new arrangements are in place for the way LPAs can claim financial assistance for fulfilling their duty to support neighbourhood planning.

4.21 The basic level of funding of £30,000 has been reduced. LPAs can still claim £20,000 once a NDP has been examined and a date for referendum has been set. However, the £5000 that local authorities could claim for every designation of a neighbourhood area (up to a maximum of 20 designations per year or £100,000) can now only be claimed for the first five neighbourhood area designations. The limit of five areas applies to the total number of areas designated in the LPA (i.e. it includes areas designated in previous years). As Solihull already has five designated neighbourhood areas, no further claims can be made. These funding arrangements also apply to the designation of neighbourhood forums; however, in Solihull only one neighbourhood forum has been designated so far, so a further four claims can be made in the event of subsequent neighbourhood forum designations.

4.22 Previously, £5000 could also be claimed when the final pre-examination version of the NDP is publicised by the LPA prior to examination. This is now no longer the case.

4.23 Further details of the funding changes are available [here](#)

## **5. Scrutiny**

5.1 To date, there have been no scrutiny issues with regard to the designation of a Neighbourhood Area for Meriden.

## **6. Implications**

### **6.1 Delivery of the Council's Priorities**

The options/proposals in this report will contribute to the delivery of the following Council Priority(ies):

- Managed Growth (Local Plan Delivery and review)
- Build Stronger Communities (Building community capacity to identify and meet local needs)

6.2 **Policy/Strategy Implications** – NDPs must be in 'general conformity' with the strategic policies of the Development Plan. Once a NDP is adopted, it forms part of the statutory Development Plan. This means that decisions on planning applications will have to be made in accordance with the adopted NDP as well as the Development Plan for the Borough, unless material considerations indicate

otherwise.

- 6.3 **Meeting the duty to involve** – The Neighbourhood Area application has been subject to consultation, although the period for comments has yet to finally expire, hence the recommendation to delegate authority to the Director for Managed Growth in consultation with the Cabinet Member for Managed Growth so that should any representations be received prior to the deadline, they can be taken into account before a decision is made.
- 6.4 **Financial Implications** – The staff time associated with providing support to developing the plan will be funded through the existing Policy and Spatial Planning budget. The cost independent examination of the plan will be incurred by the Authority and will be refunded via the final assistance available. If the examination does not lead to a referendum this cost will be funded through existing Policy and Spatial Planning resources.
- 6.5 **Legal implications** – See above regarding assistance in the process of preparing NDPs.
- 6.6 **Risk Implications** – None identified at this stage.
- 6.7 **Statutory Equality Duty** – A Fair Treatment Assessment of a Neighbourhood Area application is not required.
- 6.8 **Carbon Management/Environmental** – None identified at this stage.
- 6.9 **Partner Organisations** – Recognised Residents' Associations and Parish Councils both within and adjoining the proposed Neighbourhood Area were notified of the application.
- 6.10 **Safeguarding/Corporate Parenting Implications** – None identified.
- 6.11 **Customer Impact** – None identified at this stage.
- 6.12 **Other implications** – None identified.

## 7. List of Appendices Referred to

- 7.1 Appendix 1 – Map of the proposed Dickens Heath Neighbourhood Area.

## 8. Background Papers Used to Compile this Report

- 8.1 None.

## 9. List of Other Relevant Documents

- 9.1 None.