

3. Background

Neighbourhood planning overview

- 3.1 The Localism Act 2011 amends the Town and Country Planning Act 1990 to enable communities to define Neighbourhood Planning Areas and establish Neighbourhood Planning Forums to draw up a Neighbourhood Plan and/or Neighbourhood Development Orders (NDOs).
- 3.2 Only designated Neighbourhood Planning Forums can develop neighbourhood Plans. These Plans will likely provide planning policies for their defined area and could include planning policies, development principles for sites, community facilities and/or identify areas for public realm improvements. NDOs would exempt certain types of development, or development on a particular site, from requiring planning permission. Both of these elements need to be in general conformity with the Council's 'Local Plan'. Once adopted, Neighbourhood Plans will form part of the Council's Statutory 'Development Plan' and as such will hold significant weight in determining planning applications.

Neighbourhood Planning Areas

- 3.3 The Council has a statutory duty to advise and assist communities in the preparation of Neighbourhood Development Plans (NDP) under the Town and Country Planning Act (1990) and Planning and Compulsory Purchase Act 2004.
- 3.4 As the Local Planning Authority, the Council has a statutory duty to determine applications to establish Neighbourhood Planning Areas (NPA). NPAs can cover areas within Solihull Metropolitan Borough and across boundaries with our neighbouring planning authorities, they can be any shape or size however only one NPA can cover one location so there can be no overlapping.
- 3.5 Neighbourhood Planning Areas are initially identified by Neighbourhood Planning Forums and approved by the Council. The Town and Country Planning Act provides Solihull Council with a broad discretion in planning terms and requires the Council to:
- Consider whether the area is appropriate to be designated; and
 - Designate all or part of the initially proposed area (the Council cannot refuse to refuse to designate an area outright).
- 3.6 Pursuant to Section 61G(5) of the TCPA 1990 where a valid application for a NPA is made to the Council and some or all of the area has not been designated as a neighbourhood area, the Council have discretion whether or not to approve the application. No further guidance is given in either the TCPA 1990 or the regulations as to when an area may be considered appropriate to be designated as a neighbourhood area.
- 3.7 The Council can refuse the application 'because they consider that the area specified in the application is not an appropriate area to be designated as a neighbourhood area'. However, in these circumstances the Council must exercise its power of designation so as to secure that some or all of the area forms part of one or more areas designated as neighbourhood areas. In other words, the Council is required to make a designation but is entitled to deviate from the boundaries set out in the application. Any decision to alter the boundary of a neighbourhood area could be challenged in the courts and therefore the reasons for doing so must be clearly set out and justified.

4. Hockley Heath Neighbourhood Area Application

- 4.1 The Council has already designated the following as Neighbourhood Planning Areas:

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

- 4.2 HHPC submitted an application to designate the Parish as a NPA. The application is the first step in the formal process for the Parish Council to prepare a NDP for Hockley Heath.
- 4.3 HHPC is the 'relevant body' as defined in the Act in preparing a NDP for the area. The Parish Council considers the area is appropriate for designation bearing in mind its community, communications, transport and services infrastructure. It had developed a draft Village Plan in 2013.
- 4.4 The proposed Area of the application as depicted in appendix 1 is focused south of the M42 and west of the A3400 and covers all of the area of the Hockley Heath Parish. The Parish shares its southern boundary with Warwick District Council and Stratford District Council. A map of the Area is attached. The majority of the population resides in the village of Hockley Heath, located in the south of the parish.
- 4.5 In accordance with the Neighbourhood Planning (General) (Amendments) Regulations 2015, the application was consulted on between 11 August 2016 and 8 September 2016.. The application was advertised on the both the Parish and Solihull Council websites, within the Neighbourhood Area the Parish Council made a copy of the application available locally. Individuals who had indicated an interest in the Local Plan and Consultation topics on 'Stay Connected' email distribution list were emailed as were stakeholders on the Local Plan Review consultation database.

Assessment of the application

- 4.6 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 sties in Tidbury Green, in all other respects, the Local Plan remains unaffected and continues to be the adopted Development Plan for the Borough.
- 4.7 The Council is presently reviewing the Local Plan and will seek to adopt a revised Plan in 2017. As such, a NDP for the Area will need to be in conformity with the Plan adopted in 2017. It is, therefore, preferable for a Neighbourhood Plan to follow the Local Plan Review timetable or subsequently if it is to be in conformity with the policies in the revised Local Plan. Nevertheless, the NPA application is not bound by nor needs to be aligned with the Local Plan review timetable.
- 4.8 The Council is also required as the local planning authority, to consider whether the area applied for should be designated as a 'business area'. A business area is one that is wholly or predominately business in nature. While a relevant body can seek designation of an area as a business area, it is ultimately the local planning authority's decision whether or not to designate a business area.
- 4.9 In terms of this Neighbourhood Area Application, with the exception of Hockley Heath village, the remainder of the Parish is in the Green Belt. SLP makes provision for affordable housing developments on Green Belt land to meet local needs where they are consistent with a Neighbourhood Plan.
- 4.10 Therefore, in accordance with Government guidance, regulations and having regard

to relevant case law, it is considered appropriate that the area applied for by HHPC should be designated as a Neighbourhood Area.

Next Steps

- 4.11 There are a number of steps for both HHPC and Solihull Council to take, once the Neighbourhood Area has been designated by the Council. HHPC will need to develop a NDP and submit this 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.
- 4.12 The Council has a legal obligation to assist HHPC with the process of preparing its NDP. Although the Council, as the local planning authority, is not required by the regulations to provide financial assistance, it is required to pay for and organize the independent examination of HHPCs Neighbourhood Plan and the referendum.
- 4.13 Since April 2016 changes to central government financial support for neighbourhood planning means the Council cannot apply for central government funding to help fulfill their duty to support neighbourhood planning as Solihull has already designated five neighbourhood areas.
- 4.14 However, there are opportunities for HHPC to seek government funding up to £8,000 (or where there are complex issues an additional amount can be sought). There is also an opportunity for HHPC to secure to funding from the [Big Lottery Fund](#).

5. Reasons for Recommending Preferred Option

- 5.1 Cabinet have previously agreed to designate Neighbourhood Forums, with the designation of Dickens Heath Parish Councils application being the most recent.
- 5.2 Member will recall from these previous designations and from the paragraphs above that under Section 61G(5) of the Town and Country Planning Act 1990 (as amended) local planning authority are required to consider whether the proposed area is 'appropriate' for designation. Section 61G(4) of the Act further states that a local planning authority must have regard to:
- (a) The desirability of designating the whole of the 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.
- 5.3 The proposed Neighbourhood Area would cover the whole of the Hockley Heath Parish, and the boundaries do not overlap with any of the other designated Neighbourhood areas in Solihull.

6. Scrutiny

- 6.1 To date, there have been no scrutiny issues with regards to the designation of a Neighbourhood Area for Hockley Heath.

7. Implications

7.1 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 (specify the key programme)

- 7.2 **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.
- 7.3 **Meeting the duty to involve** – The Neighbourhood Area application has been subject to consultation.
- 7.4 **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 for the independent examination of the plan will be incurred by the Authority and will be refunded via the financial assistance available. If the examination does not lead to a referendum this cost will be funded through existing Policy and Spatial Planning resources.
- 7.5 **Legal implications**– See above regarding assistance in the process of preparing NDPs.
- 7.6 **Risk Implications** – none identified at this stage
- 7.7 **Statutory Equality Duty** – a Fair Treatment Assessment of a Neighbourhood Area application is not required.
- 7.8 **Carbon Management/Environmental** – none identified at this stage
- 7.9 **Partner Organisations** - Recognised Residents’ Associations and Parish Councils both within and adjoining the proposed Neighbourhood Area were notified of the application.
- 7.10 **Safeguarding/Corporate Parenting Implications** – None identified
- 7.11 **Customer Impact** – none identified at this stage
- 7.12 **Other implications** – none identified at this stage.

8. List of Appendices Referred to

- 8.1 Appendix 1 – Hockley Heath Parish Council Neighbourhood Area Application

9. Background Papers Used to Compile this Report

- 9.1 Hockley Heath Parish Council Neighbourhood Area application

10. List of Other Relevant Documents

- 10.1 No related documents