

Subject: Wilmcote & Pathlow Neighbourhood Plan Area Designation

Lead Officer: Matthew Neal
Contact on 01789 260320

**Lead Member
Portfolio Holder:** Councillor C Saint

Summary

The report provides information on Neighbourhood Planning and its process. It recommends designating the revised Neighbourhood Plan Area as submitted by Wilmcote Parish Council. This will enable the re-submission of the Wilmcote & Pathlow neighbourhood development plan (NDP) to examination following the completion of all other statutory consultation processes as set out in section 2 of this report.

Recommendation

That the revised Wilmcote & Pathlow Neighbourhood Plan Area be designated as submitted in Appendix 1 and 2.

1. Background/Information

- 1.1 The District Council has received a revised Area Designation application submitted by Wilmcote Parish Council for the formal designation of the Wilmcote & Pathlow Neighbourhood Plan Area. The Neighbourhood Plan Area comprises the entire Parish of Wilmcote. A copy of the area application is attached to this report as **Appendix 1 and 2 (letter and map respectively)**.
 - 1.2 An original Area Designation application was submitted to SDC by Wilmcote Parish Council in November 2013 and approved at Cabinet on 10 February 2014. The application was based on the Parish boundary.
 - 1.3 Through the Stratford-on-Avon (Reorganisation of Community Governance) Order 2013 a number of Parish boundary changes were instigated and were brought into force in May 2015. One of the changes was the subsuming of the Old Stratford and Drayton Parish into neighbouring Parishes, including Wilmcote.
 - 1.4 The NDP was subsequently prepared and consulted on the basis of the Parish boundary post-2015. Unfortunately, a revised area designation application was not received from the Parish Council, despite SDC informing them of the requirement to do so as early as January 2014.
 - 1.5 The Planning and Compulsory Purchase Act (PCPA) 2004 states that a "neighbourhood development plan is a plan which sets out policies in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan". During the Examination of the neighbourhood plan in October this year, the Examiner discovered that due to a Parish boundary change that came into force in
-

May 2015, the neighbourhood plan had been prepared on an area different to the boundary agreed through the area designation application approved by SDC in February 2014.

- 1.6 Unfortunately, this meant that the Plan had been prepared for an area which had not been designated as a neighbourhood plan area and as a result the Plan did not comply with the PCPA 2004. The Examiner informed SDC that since the Plan as submitted for examination was not legally compliant, if the examination continued, she would have no option but to recommend that the Plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements. The only alternative to receiving a 'fail' report from the Examiner was to withdraw the application, re-submit a new area designation application and look to get the Plan through the statutory processes and back to Examination as soon as possible.
- 1.7 Following discussions with SDC, the PC considered the most appropriate course of action was to withdraw the Plan and re-submit the area designation application with a view to getting the NDP back to Examination approximately April 2017.

2 What is a Neighbourhood Plan?

- 2.1 Once adopted, a NDP will form part of the statutory Local Plan for the area. Consequently, the Local Planning Authority is required to make decisions in accordance with the Neighbourhood Plan, unless material considerations indicate otherwise; in the same manner by which it makes decisions in accordance with the Development Plan. A NDP is therefore a significant planning document, which may be prepared by a Town or Parish Council, or combination of parishes, (or Neighbourhood Forum in non-parished areas) with the local communities. The NDP is able to set out policies on development and planning policies in response to local issues. A NDP is required to be in general conformity with the Development Plan policies and the National Planning Policy Framework.
- 2.2 There are a number of key procedural stages involved in the Neighbourhood Planning process. These include the following:
 - Designation of a Neighbourhood Plan Area
 - Presubmission consultation and publicity of the Neighbourhood Plan
 - Submission of the Plan to the Local Planning Authority
 - Consideration of the Plan by the Local Planning Authority relating to its conformity with the Development Plan
 - Consideration of the Plan by an Independent Examiner
 - Referendum of the local community
 - Adoption of the Neighbourhood Plan if 'sound'.

3. Designation of a Neighbourhood Plan Area

- 3.1 The designation of a Neighbourhood Plan Area is the first formal stage in the plan making process.
 - 3.2 The Neighbourhood Planning (General) Regulations 2012 requires that a valid application for a Neighbourhood Plan designation includes the following information;
 - A map which identifies the area to which the area application relates;
 - A statement explaining why this area is considerate appropriate to be designated as a Neighbourhood Area, and;
-

- A statement that the organisation or body making the area application is a relevant body for the purposes of Section 61G of the Town and Country Planning Act 1990 (as Amended).
- 3.3 The application contains a map which shows the proposed revised Neighbourhood Plan Area. Wilmcote Parish Council qualifies as a relevant body to submit an area application to the Local Planning Authority.
- 3.4 The area application also includes a statement to explain why the area is considered appropriate as a Neighbourhood Area. Wilmcote Parish Council states that:
- *“We consider our Parish boundary to be appropriate to define the Neighbourhood Plan Area as this encompasses the village of Wilmcote and its environs, and is the area that is relevant to our local community for neighbourhood planning”.*
- 3.5 Through The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016, there is no longer a requirement to publicise area designation applications if the area specified in the application encompasses the entire Parish area. In such cases, the Regulations state that designations must be made as soon as possible, once the Authority is satisfied that the application is valid and complete. This is the case with the Wilmcote PC application.
- 3.6 When determining an area application, the Council is required to consider how desirable it is to designate the whole of the Parish Area as a Neighbourhood Area; to maintain the existing boundaries of areas already designated as Neighbourhood Areas; and to consider whether it is appropriate to designate the area as a business area in accordance with Section 61G and H of the Town and Country Planning Act (TCPA) 1990.
- 3.7 To assess the appropriateness of any proposed Neighbourhood Area, the Local Planning Authority must ensure that Neighbourhood Areas are coherent, consistent and appropriate in planning terms. As well as considering consultation representations, other factors may be taken into account. These may include the following:
- Any natural or man-made features (such as rivers or mountains, roads, railway lines or canals);
 - Catchment areas for current and planned infrastructure and services (e.g. schools);
 - Development proposals and allocations and environmental designations.
- 3.8 Consideration should be given to whether there would be any overlapping of Neighbourhood Plan Areas. Since the proposed area comprises the existing parish, there would be no overlapping with adjacent neighbourhood boundaries.
- 3.9 Section 61H of the TCPA 1990 states that in deciding to designate a Neighbourhood Area, Local Authorities should consider that the area is wholly or predominantly business in nature. Given that the proposed area comprises the existing Wilmcote Parish, it would not be appropriate to designate it as a business area.
- 3.10 This application relates to the entire Parish area, consistent with all other neighbourhood areas applied for within Stratford-on-Avon District. Since the area applied for does not overlap with any other neighbourhood boundaries, to designate the entire Parish as the neighbourhood area would be logical.
-

4. Options available to the Leader of the Council

- 4.1 The following options are available in relation to the Wilmcote & Pathlow NDP:

Option 1

To approve the revised Wilmcote & Pathlow Neighbourhood Plan Area so that it may be designated as such, and enable the Plan to proceed to Regulation 14 'pre-submission' consultation.

Option 2

To refuse the Wilmcote & Pathlow Neighbourhood Plan Area designation and to publish a notice of its refusal on the District Council's website in line with the Neighbourhood Planning (General) Regulations 2012.

5. Ward Members' Comments

- 5.1 Due to the changes to the Regulations in October 2016, there is no requirement for consultation on applications relating to the Parish boundary. Therefore, the Ward Member has not been contacted for comments on this occasion.

6. Implications of the Proposal

6.1 *Legal/Human Rights Implications*

- 6.1.1 The Localism Act 2011 places a legal requirement on the District Council to assist and support local communities in the preparation of NDPs.
- 6.1.2 NDPs must however be compatible with EU obligations and Human Rights requirements together with such plans having regard to national planning policy and be in general conformity with strategic policies in the development plan for the area.
- 6.1.3 The District Council is under a duty to bring them into force, following examination of the NDP by an independent qualified person, confirming that conditions in 6.1.2 have been met and thereafter such plans have been passed by a Local Referendum.

6.2 *Financial*

- 6.2.1 The Department of Communities and Local Government has provided funding to Local Authorities, to enable them to fulfil their statutory duty to 'assist and support' local communities in the preparation of NDPs. Any additional costs will be met within existing resources.

6.3 *Environmental*

- 6.3.1 NDPs are not required to carry out the type of sustainability appraisal necessary for a Development Plan Document as required by the Town and Country Planning Act 2004. There may be the need to carry out a Strategic Environmental Assessment (SEA) depending on the content of the Neighbourhood Plan. Local Planning Authorities are advised to undertake an early SEA screening of the plan to determine whether it is required. However, it is not required for the consideration of an area application.

6.4 *Corporate Strategy*

- 6.4.1 The designation of a Neighbourhood Area is the first formal step in the production of a NDP. As such, it will contribute towards Aim One 'Addressing Local Housing Need' and Aim Three 'Improving Access to Services' of the Stratford-on-Avon District Council's Corporate Strategy. Through the preparation of a NDP for the Parish of Wilmcote, its residents
-

may have more influence over development and decisions that affects their area.

6.5 ***Analysis of the effects on Equality***

6.5.1 No issues identified.

7. Risk Assessment

7.1 Government guidance produced by the Planning Advisory Service states that unless there are valid planning reasons, Local Authorities should approve Area applications. If the Council decides to refuse the application, it must publish its decision and statement of reasons. Any decision to refuse the Area application should be founded on robust reasoning or the Council would be subject to a legal challenge.

8. Conclusion

8.1 A revised Area Designation application has been submitted by Wilmcote Parish Council for the designation of the Parish of Wilmcote as a Neighbourhood Plan Area by the District Council. This is the first formal stage in the neighbourhood planning process and if adopted, it will enable the Wilmcote & Pathlow NDP to proceed to Regulation 14 'pre-consultation' stage of the NDP process, with a view to getting the Plan back to Examination as soon as possible following the completion of all statutory processes.

Dave Webb

EXECUTIVE DIRECTOR

