

## **Proposed Earswick Neighbourhood Plan Area**

### **Summary**

1. This report summarises the responses received during the recent consultation on the application by Earswick Parish Council for a Neighbourhood Plan area. The report recommends that the application by Earswick Parish Council to designate the Parish of Earswick as a Neighbourhood Planning area is approved.

### **Background**

2. As part of the Localism Act 2011, local communities are encouraged to come together to get more involved in planning for their areas by producing Neighbourhood plans for their area. Neighbourhood plans are centred specifically round creating plans and policies to guide new development.
3. Neighbourhood planning is about letting the people who know about an area plan for it. It is led by the residential and business community, not the Council, and is about building neighbourhoods – not stopping growth.
4. If adopted by the Council, Neighbourhood Plans and orders will have weight becoming part of the statutory plan making framework for that area. Designation of a Neighbourhood Area is the first stage in the preparation of a Neighbourhood Plan.
5. In line with National Planning Practice Guidance (NPPG) paragraph 24<sup>1</sup>:

*‘an application to produce a Neighbourhood Plan must be made by a parish or town council or a prospective neighbourhood forum to the*

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<sup>1</sup> ID 41-024-20140306

*local planning authority for a Neighbourhood Area to be designated (Regulation 5 of the Neighbourhood Plan (General) Regulations 2012 (As amended). This must include a statement explaining why the proposed neighbourhood area is an appropriate area’.*

6. The regulations state that where a relevant body, in this case Earswick Parish Council, submits an area application it must include:
  - A map which identified the area to which the area applications relates;
  - A statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
  - A statement that the organisation or body making the application is a relevant body for the purposes of Section 61G of the 1990 Town and Country Planning Act as applied to Neighbourhood Plans by Section 38a of the Planning and Compulsory Purchase Act (2004).
7. Earswick Parish Council is progressing work on a neighbourhood plan for the parish. In June 2015 the Parish Council submitted to the Council an application to designate the whole of the parish area of Earswick as a Neighbourhood Area for this purpose. This application and associated boundary map is attached at Annex A.
8. As detailed in the statement submitted the application is made by Earswick Parish Council who is a ‘relevant body’ as defined by the relevant regulations<sup>2</sup>. The statement also advises that the area that is the subject of the neighbourhood area application is the entire parished area of Earswick and that the boundary proposed directly follows the parish boundary. The statement details the reasons why the parish boundary is considered to be an appropriate neighbourhood area.
9. When an area application is received, the Council must publish the following details of the Plan:
  - The name of the neighbourhood area;
  - A map identifying the area; and
  - The name of the Parish Council who applied for the designation.

## **Consultation**

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<sup>2</sup> A relevant body means a) a parish or town council or b) an organisation or body which is, or is capable of being, designated as a neighbourhood forum.

10. The Neighbourhood Planning (General) Regulations 2012 (Regulation 6) and the Neighbourhood Planning (General) (Amendment) Regulations 2015 requires that the information to be published is:

- *A copy of the application*
- *Details of how to make representations*
- *Details of the deadline for representations, not less than 4 weeks after the date of publication.*

*This should be published on the website and in such other manner as is considered likely to bring the area application to the attention of people who live, work or carry on business in the area to which the area application applies.*

11. The Council formally published the Earswick Parish Council's application on 19<sup>th</sup> October for a 4 week period until 16<sup>th</sup> November 2015.

12. The application was published in the following ways which are legally compliant with the Act and with the Council's adopted Statement of Community Involvement:

- A letter, with the application attached was sent to the Parish Council (for info);
- A notice and a copy of the application was put up at several prominent locations around Earswick including Parish notice boards;
- A letter with the application attached was sent to businesses and landowners/agents in Earswick;
- A letter and copy of the application and boundary was sent to all neighbouring parish councils, these are:
  - Haxby Town Council
  - Huntington
  - New Earswick
  - Stockton on the Forest
  - Strensall with Towthorpe
- A webpage has been created at [www.york.gov.uk/neighbourhoodplanning](http://www.york.gov.uk/neighbourhoodplanning) where the Earswick application is available to view as well as additional information on the Neighbourhood Planning process.
- A specific email address [neighbourhoodplanning@york.gov.uk](mailto:neighbourhoodplanning@york.gov.uk) has been set up for representations as has a freepost address.

13. The Council has received six responses to the consultation which are included as Annex B to this report. In summary this includes a response from New Earswick Parish Council stating that they noted the application but no further comments were submitted and one support received for the application from a local landowner who supports the proposal for a neighbourhood plan area to be created in Earswick and agrees that the Parish Council should be designated as the appropriate body to undertake the Neighbourhood Plan.
14. The Council also received four objections to the application which in summary raise concerns with the justification for a Neighbourhood Plan, the motivation and credibility of the Parish Neighbourhood Planning Working Party, the appropriateness of Earswick Parish as a Neighbourhood Area and consideration of a joint Neighbourhood Plan with adjacent parishes of Huntington and Strensall with Towthorpe Parish Councils.

### **Options**

15. The following options are available for the Executive Member to consider:

**Option 1** – approve the application to designate the neighbourhood area for Earswick Neighbourhood Plan, including the proposed boundary (attached at Annex A) without modification;

**Option 2** – designate a modified area; and

**Option 3** – Defer the decision on the area application until the option of producing a joint plan has been explored further.

### **Analysis**

#### Lack of justification for a Neighbourhood Plan

17. The objections received suggest that there is no need for a Neighbourhood Plan given that the Parish produced a Village Plan in 2012 and the views of the community have not changed. They consider it unnecessary and unjustified to commit resources and expenditure to revisiting similar issues.
18. In a parished area the local planning authority has a statutory obligation to consider whether the area applied for is an appropriate

area for designation. It must have regard to the desirability of designating the whole of the area of a parish council as a neighbourhood area. It must also have regard to how desirable it is to maintain the existing boundaries of areas already designated as neighbourhood areas. In the case of this application the application is for the whole parish area and it would maintain existing areas already designated including the adjacent Huntington Neighbourhood Area which was approved on 1<sup>st</sup> October 2015

<http://democracy.york.gov.uk/ieDecisionDetails.aspx?ID=4453>

19. There is also a statutory requirement to consider whether the authority should designate the area as a business area. The power to designate an area as business area is, however, only exercisable if the Council considers that the area is wholly or predominantly business in nature. This is not considered to be the case for the Earswick Parish area proposed and, therefore, it is not considered appropriate to designate the area as a business area.
20. The Council should take into account the applicant's statement explaining why the area applied for is considered appropriate to be designated.
21. It is also required to determine the application in light of consultation responses received. Consideration of responses helps to inform whether to approve the area as proposed, i.e. the whole of Earswick parish area.
22. As to the objection that there is no need for a neighbourhood plan for the parish of Earswick, it is a matter for the parish council to choose whether or not to produce a neighbourhood plan.

#### Motivation and credibility of the parish team

23. The objections received suggest that the Parish Council and associated Neighbourhood Planning Working Party have not acting appropriately during the preparation of the Neighbourhood Plan. This has lead to disagreements within the community with a feeling that certain parties are under represented.
24. The Executive Member is reminded that in a parished area, the parish council is the relevant body for the purposes of taking forward a neighbourhood plan and as such does not require any separate designation by the local planning authority. Certain legal procedures and requirements need to be followed in undertaking neighbourhood

planning and this Council has a duty to provide support and advice to those parishes that decide to prepare a neighbourhood plan. Officers have advised the Parish Council to be as transparent as possible in terms of demonstrating how consultation responses influence the content of the Neighbourhood Plan. Community engagement during the plan process is important for a Neighbourhood Plan, as it is subject to a local public referendum before it can come into effect. The possibility of a 'no' vote is greatly reduced if the community has had the opportunity to participate in its production. Officers have advised the Parish Council to have due regard to the views of the full Earswick community and to reflect these in the Plan where possible and appropriate to do so.

#### Appropriateness of designating Earswick

25. The objectors consider the Parish area to be too small to undertake a Neighbourhood Plan. It is felt that as it is just a residential community with few services and facilities and that any development would sacrifice recreational space or Green Belt.
26. Neighbourhood Plans can be carried out for any sized area and there is nothing in the Regulations or NPPG which specifies a minimum population or area threshold. The proposed area for designation is the whole of the parish area. A Parish Council is the relevant body to undertake neighbourhood planning in a parished area and therefore Officers tend to support parish area applications as they represent an already established community and in the case of Earswick, a clearly defined settlement.

#### Proposed tri-Parish collaboration

27. Respondents propose that Earswick Parish Council should collaborate with Huntington and Strensall with Towthorpe Parish Council to identify a multi-parished neighbourhood area to undertake a Joint Neighbourhood Plan. Various justifications for this proposal are set out in the responses included at Annex B. These include; planning comprehensively for housing, services, facilities and transport in the three parishes, and resource savings.
28. National Planning Practice Guidance states that '*A single parish or town council (as a relevant body) can apply for a multi-parished neighbourhood area to be designated as long as that multi-parished*

*area includes all or part of that parish or town council's administrative area<sup>3</sup>.*

29. In terms of when a Parish Council needs to gain the consent of the other Parish Councils in order to take the lead on a Neighbourhood Plan the Practice Guidance states that:

*“A single parish or town council can apply for a multi-parished neighbourhood area to be designated as long as that multi-parished area includes all or part of that parish council's administrative area. But when the parish council begins to develop a Neighbourhood Plan it needs to secure the consents of the other parish councils to undertake neighbourhood planning activities. Gaining this consent is important if the pre-submission publicity and consultation and subsequently the submission to the local planning authority are to be valid<sup>4</sup>.*

30. Earswick Parish Council has not indicated that they wish to apply for a multi-parished neighbourhood area and the adjacent parish are already progressing with Neighbourhood Plans for their parish areas. The Huntington Neighbourhood Plan Area was approved on 1<sup>st</sup> October 2015 and the Strensall and Towthorpe Neighbourhood Plan area is currently out to consultation.
31. The neighbouring parish councils were consulted on the application by Earswick Parish Council for a neighbourhood area and they have not given any indication that they desire to collaborate with the adjacent parishes and have made no objection to the application for the Earswick Neighbourhood Area. Although the Localism Act leaves the final decision on the neighbourhood area with this Council, there would need to be agreement between the parish councils to work together in relation to a multi-parished neighbourhood area, as they cannot act for that area without each parish council's authority. So there is no point in the Council agreeing a joint neighbourhood plan area where the parish councils are unwilling to work together, as it would effectively create an impasse to neighbourhood planning in that area.

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<sup>3</sup> ID 41-026-2014306

<sup>4</sup> ID-41-027-2014306

32. At this stage, it is only the principle of becoming a neighbourhood area and the extent of the proposed boundary which is to be considered. The determination of the application should not pre-judge the content or approach of the proposed draft Neighbourhood Plan. When designating a neighbourhood area, a local planning authority should not make assumptions about the neighbourhood plan that will emerge from developing, testing and consulting on the draft neighbourhood plan when designating a neighbourhood area.

33. If the area applied for is not considered appropriate a Neighbourhood Plan and boundary application cannot be rejected outright as a revised boundary area that includes at least part of the area specified in the application must be designated. Planning Practice Guidance states that

*'The Local Planning Authority should take into account the relevant body's statement explaining why the area applied for is considered appropriate to be designated as such. The Local Planning Authority should aim to designate the area applied for. However a Local Planning Authority can refuse to designate the area applied for if it considers the area is not appropriate. Where it does so, the local planning authority must give reasons. The authority must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas<sup>5</sup>.'*

34. Option 1 would allow the creation of a neighbourhood plan for the whole of the parish area of Earswick. This fits with national guidance and is best practice to allow for a comprehensive Neighbourhood Plan. The concerns in relation to the size of the Parish are however noted. These comments need to be carefully considered in any decision.

35. Option 2 would allow for the creation of a neighbourhood plan for a modified area. This modified area must include at least part of the area specified in the application. It is considered that it is not desirable that only part of the Parish Council area be designated.

36. Option 3, whilst reflecting the concerns of the four objections, this would significantly delay the progress of a Neighbourhood Plan. Both Huntington and Strensall with Towthorpe Parish Councils were notified as part of the 4 week consultation period on the Earswick application and neither has responded which suggests that they are

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<sup>5</sup> ID: 41-035-20140306



not interested in producing a Joint Plan. In addition, whilst residents of Earswick share schools, services and facilities with both of these neighbouring parishes, there is not an obvious relationship between the areas which are clearly identified as separate settlements.

### **Next Steps**

37. If approval is granted on the neighbourhood area application, Earswick Parish Council can prepare the Neighbourhood Plan with advice and assistance from the Council. They are then required to undertake pre submission consultation by publicising the proposals and inviting representations for a period of not less than 6 weeks.
38. The Parish Council can then submit the Neighbourhood Plan to the Council along with a consultation statement containing details of those consulted, how they were consulted, summarising the main issues and concerns raised and how these have been considered, and where relevant addressed in the proposed Neighbourhood Plan.
39. On receipt of the draft Neighbourhood Plan, the Council needs to publicise the Plan and invite representations for a period of not less than 6 weeks. Once the Council is satisfied that the Plan meets the requirements of the Town and Country Planning Act 1990 the Council then appoints an independent inspector. The Council is responsible for paying the costs of the examination so it is in the Council's interests to ensure that the proposed plan meets the requirements.
40. The Examination and subsequent Referendum will follow. Should the vote be in favour (50% plus 1), then the Council will publish the Neighbourhood Plan.

### **Council Plan**

41. The proposed Earswick Neighbourhood Plan will be a positive contribution to the Council Plan priority of '*A council that listens to residents - to ensure it delivers the services they want and works in partnership with local communities*'.

## **Implications**

42. **Financial/Programme** – If the neighbourhood plan area for Earswick is approved, the council will be required to advise and assist the Parish Council in the production of Neighbourhood Plan and to pay for the examination and the subsequent referendum. The Council can apply for the Neighbourhood Planning Grant from the Department for Communities which is a staged payment totalling £30,000. The cost of producing a Neighbourhood Plan will vary depending on the complexity and size of the proposal and the available supporting evidence. This will need to be funded through the grant provided and from existing resources.
43. **Human Resources** – None.
44. **Equalities** – None.
45. **Legal** – The designation of Neighbourhood Plan Areas is to be made in accordance with the Neighbourhood Planning (General) Regulations 2012, the Neighbourhood Planning (General) (Amendment) Regulations 2015 and the provisions of the Localism Act 2011.
46. **Crime and Disorder** – None.
47. **Information Technology** – None.
48. **Property** – None.

## **Risk Management**

49. No significant risks are associated with the recommendation in this report have been identified.

## **Recommendations**

50. The Cabinet Member is recommended to:
  - (i) Approve the application as per Option 1.

Reason: to allow Earswick Parish Council to progress the Neighbourhood Plan.

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**Report Approved**

**Date** 30-11-15

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**All**

**For further information please contact the authors of the report.**

**Annexes:**

Annex A – Earswick Neighbourhood Plan application area map and supporting statement

Annex B – Representations made during the consultation period