

# Brighton & Hove City Council

## Executive Director Decision by Delegated Authority

<b>Report of:</b>	Executive Director Economy, Environment & Culture		
<b>Subject:</b>	Hangleton & Knoll - Designation of Neighbourhood Area and Neighbourhood Forum		
<b>Date:</b>	1 November 2018		
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<b>Ward(s) affected:</b>	Hangleton & Knoll		

### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to obtain Member support for the Executive Director to use powers of delegated authority to approve two neighbourhood planning applications which have been submitted by Hangleton & Knoll Community Action to designate a Neighbourhood Area and a Neighbourhood Forum. These designations fall under the neighbourhood planning provisions introduced by the Localism Act 2011. When approved, they will enable the designated forum to prepare a neighbourhood development plan for the designated neighbourhood area.
- 1.2 The neighbourhood planning regulations require that applications to designate a neighbourhood area and/or for neighbourhood forum status must be determined within 13 weeks of first being publicised (unless the application relates to more than one local planning authority area). The regulations also require that the Council publicises applications for neighbourhood area and/or neighbourhood forum status for a minimum of 6 weeks.
- 1.3 The Council's committee protocols allow for the designation of neighbourhood area and neighbourhood forum status to be delegated to the Executive Director Environment, Development & Housing. At its meeting on 18 June 2015, the Economic Development and Culture Committee agreed to the following process for dealing with all decisions and responses required in respect of neighbourhood planning:
- i) Where timetabling allows applications to be determined within the legislative timescales these will be brought to the Economic Development & Culture Committee for decisions;
  - ii) Where timetabling does not allow this the Executive Director for Environment, Development & Housing will consult with the Chair, Deputy Chair and Opposition Spokesperson will be consulted and:
    - a. If there is unanimous consensus amongst the views of Members the application will be determined;
    - b. If there is no unanimous consensus amongst Members an Urgency Sub-Committee will be convened to determine the application.
- 1.4 To meet the 13 week deadline in this case, the Council needs to determine the neighbourhood area and neighbourhood forum applications no later than Monday 5 November 2018. For this reason, and subject to the agreement of the relevant

Members, the Executive Director is seeking to approve the current applications for Hangleton & Knoll under delegated powers as set out in Paragraph 1.3(ii) above.

- 1.5 This report sets out the legislative background to neighbourhood planning and summarises the specific statutory and regulatory requirements that the Council must consider when deciding whether to approve the current applications for Hangleton & Knoll and designate neighbourhood area and forum status. The report also considers the representations received during the 6 week consultation and presents Council officer responses to the points raised. Appended to the report are copies of the Neighbourhood Area and Forum applications, analysis of the public consultation responses and detailed officer responses to all the points raised.
- 1.6 Having considered the report, Members are requested to agree the delegated decision of the Executive Director as set out below.

## **2. DECISION**

- 2.1 Subject to the agreement of the Chair, Deputy Chair and Opposition Spokesperson, the Executive Director for Economy, Environment and Culture agrees to:
- i) approve the designation of the area shown on the map attached at Appendix 1 of this report as a Neighbourhood Area within the meaning of the Town and Country Planning Act 1990; and
  - ii) approve the designation of the Hangleton & Knoll Community Action as a Neighbourhood Forum within the meaning of the Town and Country Planning Act 1990.

## **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Localism Act 2011 introduced neighbourhood planning as a means of giving local communities more power to influence the future of the places in which they live. A key element of neighbourhood planning is the ability to prepare neighbourhood development plans (which are commonly referred to as 'neighbourhood plans').
- 3.2 A neighbourhood plan enables a community to set out planning policies in relation to the development and use of land in a particular neighbourhood area. Neighbourhood planning is optional, however if a neighbourhood plan is prepared it must comply with national policy and be in general conformity with the strategic policies of the development plan (e.g the policies set out in the City Plan Part One). Neighbourhood plans must also contribute to the achievement of sustainable development and be compliant with national planning policy. They should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. Once a neighbourhood plan has been brought into force, it forms part of the statutory development plan and its policies take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.

- 3.3 Only parish councils or designated bodies that meet specified requirements can produce a neighbourhood plan for a designated area. In order to prepare a neighbourhood plan it is necessary to designate a neighbourhood area. An application for designation must be submitted to the local planning authority by a relevant body (a parish council or neighbourhood forum). The neighbourhood area and forum must be designated in accordance with the relevant legislation<sup>1</sup>.
- 3.4 The local planning authority determines whether or not a proposed neighbourhood area is an appropriate area for designation. The legislation requires that the 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. In general a proposed area should be considered appropriate except where it overlaps with another neighbourhood area or has been submitted by a non-qualifying body. A local planning authority can refuse to designate the area applied for if it considers the area is not appropriate, but must give reasons. Where an area is not considered appropriate, the local planning authority must seek to secure that some or all of the specified area applied for forms part of one or more neighbourhood areas (the local planning authority has powers to modify existing neighbourhood area designations).
- 3.5 In order for a local planning authority to designate a neighbourhood forum the authority must be satisfied that the neighbourhood forum meets all the statutory criteria set out in section 61F(5) of the Town and Country Planning Act 1990. These are:
- i) that the forum is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists of or includes the neighbourhood area concerned;
  - ii) the forum's membership must be open to individuals who live or work in the neighbourhood area and to councillors any of whose ward falls within the area;
  - iii) the forum must have at least 21 members each of whom lives, works or is a councillor in the area; and
  - iv) the forum must have a written constitution.
- 3.6 In addition, the local planning authority must have regard to the desirability of designating a forum that:
- i) has taken reasonable steps to secure membership that includes at least one person from each of the three aforementioned groups;
  - ii) has membership drawn from different places in the area and from different sections of the community in the area; and
  - iii) whose purpose reflects the character of the area.
- 3.7 The legislation states that only one forum can be designated for a neighbourhood area and that a forum designation lasts for 5 years.

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<sup>1</sup> Statutory requirements regarding the designation of neighbourhood areas and neighbourhood forums are set out in the Town and Country Planning Act 1990 as applied to Neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. Specific procedures that the local planning authority is required to undertake in designating a neighbourhood area or neighbourhood forum are set out in the Neighbourhood Planning (General) Regulations 2012, Neighbourhood Planning (General) (Amendment) Regulations 2015 and Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.

### The applications submitted

- 3.8 Applications were submitted to the Council by Hangleton & Knoll Community Action in July 2018 to establish a neighbourhood area and become a designated neighbourhood forum. The following documents were submitted:
- Application form for designation of a neighbourhood area, including a map of the proposed neighbourhood area (attached at Appendix 1). The proposed neighbourhood area would cover the whole of Hangleton & Knoll ward except the part falling within the South Downs National Park.
  - Application form for designation of a neighbourhood forum, including a map showing locations where members live and work, and copy of written constitution (attached at Appendix 2).

### Community engagement & consultation undertaken

- 3.9 To meet the requirements set out in the Regulations, the Council has undertaken a 6 week period of public consultation on the applications between 6 August and 17 September 2018. The publicity and consultation included:
- Publicising the neighbourhood area and neighbourhood forum applications on the Council website;
  - Displaying site notices advertising the applications at around 40 locations throughout the proposed Hangleton & Knoll neighbourhood area;
  - Notifying all contacts on the Council's development plan database;
  - Notifying all Brighton & Hove councillors and key internal officers;
  - Providing hard copies of the applications at the Customer Service Centres, at the main city libraries, and at the local libraries within and close to the Hangleton & Knoll area;
  - Publishing a press release; and
  - Providing an online consultation portal and consultation response form for individuals and organisations wishing to comment.
- 3.10 The representations received during the consultation period have been considered in determining the applications as set out in Section 4 below.

## **4. ANALYSIS & CONSIDERATION OF THE APPLICATIONS**

- 4.1 In determining the applications for neighbourhood area and neighbourhood forum status, the Council needs to consider whether the applications comply with the requirements set out in the legislation (see paragraphs 3.4 to 3.6 above) taking account of the comments received in response to the public consultation undertaken.
- 4.2 The public consultation sought views and comments in respect of the following questions.
- Q1 - Do you recognise the proposed area as a distinct neighbourhood?
  - Q2 - Do you think that the boundaries of the proposed area are appropriate?
  - Q3 - Please add any further comments you have about the proposed Neighbourhood Area
  - Q4 - Do you think Hangleton & Knoll Neighbourhood Forum should be approved (designated)?

- Q5 - Is the Forum representative of people who live and work in the area?
- Q6 - Please add any further comments you have about the proposed Neighbourhood Forum

4.3 Appendix 3 presents a summary and analysis of the responses received. In total, the Council received 8 representations. Two representations were submitted by organisations (National Grid and Historic England). The remaining 6 responses were from private individuals, 5 of which gave addresses within the proposed neighbourhood area.

4.4 Appendix 4 presents the full text of all comments submitted in response to questions 3 and 6, together with the Council officer response to the points and issues raised.

#### Designation of the neighbourhood area

4.5 As noted above, the Council must designate some or all of the neighbourhood area applied for. The national planning guidance lists a range of considerations to be taken into account when deciding the boundaries of a neighbourhood area. For example, these include the catchment area for walking to local services (e.g shops, primary schools, doctors' surgery, parks etc); formal or informal community networks; the physical appearance or characteristics of the neighbourhood; whether the area forms a coherent area for businesses or residents; and natural boundaries defined by infrastructure or physical features.

4.6 In response to the consultation questions, 3 respondents considered that the proposed area represents a distinct neighbourhood compared to 1 respondent who did not. Four respondents considered that the proposed boundaries are appropriate whereas 3 did not.

4.6 In terms of further comments regarding the proposed neighbourhood area, the responses from the National Grid and Historic England both provided specialist information about the area that they wished to be highlighted for the purposes of future neighbourhood planning. In addition, one respondent stated that they were happy with the proposed neighbourhood area boundary.

4.7 Of the remaining comments, one respondent considered that the Hangleton road is a dividing line between the Hangleton and Knoll areas. In addition, 2 respondents disagreed with the inclusion of Toad's Hole Valley within the proposed neighbourhood area. Their arguments included that the proposed strategic development should form a distinct community; is not well related to Hangleton due to the physical separation created by the designated as a Site of Nature Conservation Importance/ Local Wildlife Site; and relates better to the Goldstone Valley area (within Hove Park ward).

4.8 The detailed officer responses to these comments are set out in Appendix 4. The national planning guidance allows for neighbourhood areas to be defined on the basis of a range of relevant local factors, so there are always likely to be differing views about the most appropriate boundaries. There is nothing to prevent neighbourhood areas covering more than one neighbourhood, and many neighbourhood areas based on parish boundaries cover several settlements.

However, the guidance does say that electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area.

- 4.9 The proposed Hangleton & Knoll neighbourhood area is bordered to the east by the already declared Hove Park Neighbourhood Area (which covers all of Hove Park ward except the area south of Old Shoreham Road). In these circumstances, it makes sense for the Hangleton & Knoll neighbourhood area to share a common boundary with the Hove Park neighbourhood area. It should be noted that Hove Park Neighbourhood Forum did not submit any representations in response to the consultation and have since stated that they are supportive of the plans for Hangleton and Knoll to designate an area and set up a Neighbourhood Forum.
- 4.10 With regard to the concerns raised about the inclusion of Toad's Hole Valley in the neighbourhood area, it is accepted that the proposed strategic development site is currently somewhat separated from surrounding existing neighbourhoods (including both Hangleton and the Goldstone Valley). However, it should be emphasised that the Council's strategy and vision for the strategic development as set out in the City Plan (Policy DA7) and accompanying supplementary guidance (SPD15) emphasises the need to improve accessibility and provide new community facilities to share with adjacent neighbourhoods, whilst also allowing for the development of Toad's Hole Valley as a distinctive new community.
- 4.11 The Council itself is taking the lead in planning the future development at Toad's Hole Valley and pre-application discussions with the site promoters are at an advanced stage with a planning application expected in the very near future. During preparation of City Plan Part 1 and the SPD, the Council undertook extensive consultation with all local residents and representative groups within both the Hangleton & Knoll and Hove Park wards and will continue to follow this approach, irrespective of the declaration of a Hangleton & Knoll Neighbourhood Area.
- 4.12 Based on the information provided with the neighbourhood area application and having considered the consultation responses received, it is considered that the proposed neighbourhood area boundaries are appropriate and would meet the requirements set out in the legislation.

#### Designation of the neighbourhood forum

- 4.13 The determination of the application to designate a neighbourhood forum requires that the forum complies with the statutory criteria set out in paragraph 3.5 above and regard should be given to the desirable factors as detailed in paragraph 3.6 above. Only one forum can be designated for a neighbourhood area and determination cannot take into account financial implications. To accord with the purposes/objectives of localism and legislation, forum membership can only include residents, workers and elected members from within the neighbourhood area. The local planning authority must consider whether the prospective neighbourhood forum has secured or taken reasonable steps to attempt to secure membership from each category and from different places and sections of the community in that area. A neighbourhood forum must have an

open membership policy, but cannot force people to be a part of something they may not wish to be a part of.

- 4.14 The application for neighbourhood forum designation includes a copy of the written constitution of Hangleton & Knoll Community Action (the proposed neighbourhood forum) which sets out its purpose to promote and improve the social, economic and environmental well-being of the Hangleton & Knoll area.
- 4.15 The application also provides details of its current membership which comprises 37 individuals, which exceeds the minimum figure of 21 members required by the legislation. In addition, the membership is stated to include 26 who live in the proposed neighbourhood area, 26 who work or volunteer within the area, and the 3 Brighton & Hove ward councillors. Also included is a map broadly indicating the location of members' homes and workplaces within the Hangleton & Knoll ward. Further information was also submitted with the application providing a breakdown of the membership by age, gender, ethnic origin, religion, and health/disability. Based on this evidence, officers are satisfied that the forum membership would include representation from the required categories from within the local community and would be drawn from different places and different sections of the community within the area.
- 4.16 In response to the consultation questions, 5 respondents considered that the Hangleton & Knoll Neighbourhood Forum should be approved compared to 1 respondent who did not. Two respondents considered that the forum is representative of people who live and work in the area, whilst the remainder did not know or provided no comment.
- 4.17 In terms of further comments regarding the proposed neighbourhood forum, one respondent welcomed the forum as it will give the residents information on what is being proposed for the area, i.e housing etc. Of the remaining comments, one respondent commented that the forum should contain proportional representation of those who live and work in the Community. In addition, one argued that Hangleton & Knoll Community Action does not represent the residents and groups of West Blatchington, and has undertaken little engagement with the area. Finally, 2 respondents argued that that the proposed forum would not be an appropriate body to undertake neighbourhood planning for Toad's Hole Valley.
- 4.18 Detailed officer responses to these comments are set out in Appendix 4. With regard to the first point, the neighbourhood planning regulations do not require proportional representation and, as noted above, officers are satisfied that the forum membership includes representation from residents, people who work in the area and elected members, and that the forum membership drawn is from different places in the area and from different sections of the local community. It should also be noted that, once designated, the Forum's membership would be open to other individuals living and working in the area to join and is likely to change over time.
- 4.19 West Blatchington is geographically split between the Hangleton & Knoll and Hove Park wards which may partly explain why Hangleton & Knoll Community Action may not have been able to engage as effectively with local residents and groups from the area. However, as mentioned above, the boundary of the Hove Park Neighbourhood Area is already defined as the ward boundary, so it makes

sense for the remaining (western) part of West Blatchington to be included within the Hangleton & Knoll neighbourhood area. Once established, the Forum would be open to further West Blatchington residents to join and influence future neighbourhood planning in the area.

- 4.20 With regard to Toad's Hole Valley, the comments expressed concerns that a Hangleton & Knoll neighbourhood forum would not take account of other neighbourhoods directly affected by the new strategic development (e.g the Goldstone Valley area) and would not represent the development's intended status as a distinct new community. However, as noted previously, the City Council itself is leading the planning and development of the new strategic development with detailed planning policy and guidance for the development is already set out in Policy DA7 and the accompanying SPD15. The Council remains committed to working in liaison with local residents and representative groups within all neighbouring areas affected by the new development, including both the Hangleton & Knoll and Hove Park wards, and this approach would not be altered by the designation of a Hangleton & Knoll Neighbourhood Forum. In addition, the neighbourhood forum status would only last for 5 years and could if appropriate be reconsidered at a future date once the Toad's Hole Valley development is established. As noted above, the Hove Park Neighbourhood Forum has indicated that it supports the designation of a neighbourhood forum and area covering Hangleton & Knoll.
- 4.21 Based on the information provided with the neighbourhood forum application and having considered the consultation responses received, it is considered that the proposed neighbourhood forum would meet all the requirements set out in the legislation (section 61F(5) of the Town and Country Planning Act 1990).

## **5. CONCLUSION**

- 5.1 After considering all relevant issues and all representations submitted in response to public consultation, officers consider that the applications for neighbourhood area and neighbourhood forum status satisfy all of the requirements set out in the legislation. Therefore, the Executive Director wishes to approve the designation of the Hangleton & Knoll Neighbourhood Area and to approve the designation of the Hangleton & Knoll Neighbourhood Forum.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Hangleton & Knoll Neighbourhood Area application (completed form), including A4 map of proposed Neighbourhood Area
2. Hangleton & Knoll Neighbourhood Forum application (completed form), including map showing locations where members live and work, and copy of written constitution
3. Summary & analysis of consultation responses
4. Officer responses to consultation comments received



## Background Documents

1. National Planning Practice Guidance on Neighbourhood planning (includes links to relevant legislation)  
<https://www.gov.uk/guidance/neighbourhood-planning--2>
2. Relevant legislation - Town and Country Planning Act 1990; Planning and Compulsory Purchase Act 2004; The Localism Act 2011; Neighbourhood Planning (General) Regulations 2012; Neighbourhood Planning (General) (Amendment) Regulations 2015; and Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016