

<b>Subject:</b>	<b>Government Consultation: Neighbourhood Planning Regulations</b>		
<b>Date of Meeting:</b>	<b>2 February 2012</b>		
<b>Report of:</b>	<b>Strategic Director, Place</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Rebecca Fry</b>	<b>Tel: 293773-</b>
	<b>Email:</b>	<b>Rebecca.fry@brighton-hove.gov.uk</b>	
<b>Key Decision:</b>	<b>No</b>		
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report seeks endorsement of the officers' response to the Government consultation relating to the draft Neighbourhood Planning Regulations.
- 1.2 The response was to be reported to the 22 December 2011 meeting for approval prior to submission. Unfortunately that meeting needed to be cancelled. The response has therefore been sent in order to meet the consultation deadline of 5 January 2012. It was sent as an officers' response and formal Cabinet Member endorsement is now sought at this meeting.

**2. RECOMMENDATIONS:**

- 2.1 That the Cabinet Member for Planning, Employment, Economy & Regeneration endorses the council's officers' response to the Government's consultation, as set out at Appendix 1, to the Government's consultation relating to the draft Neighbourhood Planning Regulations.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 DCLG has published a number of consultation documents relating to planning over the past year. A key objective for the Government is to reform the planning system in order to simplify it and to promote sustainable development placing emphasis on housing and economic growth. It also seeks to give neighbourhoods far more ability to determine the shape of the places in which their inhabitants live giving them more reason to say 'yes' to sustainable development. This report relates to the recent consultation on the draft Neighbourhood Planning Regulations. The deadline for consultation responses was **5 January 2012**.
- 3.2 The consultation set out how the Government proposes to take up the regulation making powers in the Localism Act 2011 for Neighbourhood Planning and Community Right to Build. The consultation asked for comments on whether the regulations as proposed are workable and proportionate.

- 3.3 Neighbourhood Planning is central to the Government's localism and 'Big Society' agenda. The neighbourhood planning proposals are intended to enable the devolution of planning responsibilities to a more local level than ever before. A fundamental principle is that Neighbourhood Planning should be community-led with the community being in control of the process and with the local planning authority making necessary decisions at key stages. A referendum in the neighbourhood at the end of the process ensures the community has the final say on whether a Neighbourhood Plan, Neighbourhood Development Order or a Community Right to Build Order comes into force.
- 3.4 The consultation covered:
- The designation of a neighbourhood area
  - The designation of a neighbourhood forum
  - Community right to build organisations
  - Neighbourhood development plans
  - Neighbourhood development orders
  - Community right to build orders
  - Examinations by an independent examiner
  - Revocation and modification of a neighbourhood development plan, neighbourhood development order and a community right to build order
  - Parish Councils' powers to determine an application for approval (in relation to a condition or limitation subject to which planning permission is granted by a neighbourhood development order).
- 3.5 The consultation did not cover the following:
- The regulation making powers on charges that local planning authorities can levy on development allowed under a neighbourhood development order, to enable them to recoup some of the costs of neighbourhood planning
  - Any provisions in respect of the requirements that are needed to ensure compatibility with EU obligations (eg Strategic Environment Assessment, Environmental Impact Assessment, Habitat Directives)
  - The provisions in respect of referendums
- 3.6 Whilst local authorities are required to take a decision as to whether to validate applications for neighbourhood areas, neighbourhood plans and designate forums it has not been prescribed how this should be done. It is therefore for each local authority to decide how such decisions are to be made for example by officers through delegated powers by the Council's Executive or through a meeting of Full Council.
- 3.7 The following is a brief summary of the key points in the response:
- There is support for processes that increase neighbourhood engagement and help to ensure weight is given to the collective view of a neighbourhood on the future land use and changes in their area. The council is supporting the setting up of Neighbourhood Councils in order to help give neighbourhoods greater control in their areas. There is a concern raised over the introduction of new duties upon local authorities at a time of significant public sector savings.
  - Greater clarity is sought in relation to the minimum requirements for proposals, e.g. publicity.

- There is insufficient detail and clarity provided in the draft Regulations on how a local community will produce a robust planning document. This is a particular concern in relation to the links between the neighbourhood forums and local authorities and the need for equalities.
- Concerns are raised that the Regulations for Neighbourhood Planning are being published in two to three parts. It is stated that the draft Regulations do not include powers on charges that local planning authorities can levy on development to support neighbourhood planning nor do they cover requirements that ensure compatibility with the EU Regulations. This will lead to unnecessary complexity in understanding of the Regulations and is counter to the stated aim of the government to simplify and consolidate national planning policy and Regulations.

3.8 A copy of the full response to the consultation on the draft Neighbourhood Planning Regulations is set out in Appendix 1.

3.9 References in the consultation paper to the Localism Bill should now be read as the Localism Act 2011 following Royal Assent on the 15 November 2011. After considering consultation responses, the Government aims to bring the definitive version of the neighbourhood planning regulations into effect in April 2012.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

4.1 Internal consultation has been undertaken with officers via an officers working group set up to facilitate the setting up of Neighbourhood Councils.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

5.1 The only direct financial implications associated with this report are in relation to officer time spent preparing the response to the consultation. Depending on the Neighbourhood Planning Regulations which are subsequently issued, there will then be implications for the council in relation to the available resources.

*Finance Officer Consulted: Name Karen Brookshaw Date: 19/12/11*

##### Legal Implications:

5.2 The Cabinet Member for Planning, Employment, Economy & Regeneration is asked to endorse the consultative response set out in the appendix.. As and when draft regulations are issued in their definitive form, further legal advice will be offered as to the implications of those Regulations for the council.

*Lawyer Consulted: Name Bob Bruce Date: 03/01/12*

##### Equalities Implications:

5.3 The council's proposed response to the draft Regulations seeks more clarity on how Neighbourhood Plans will be representative of the views and concerns of all of the community.

#### Sustainability Implications:

- 5.4 Sustainability considerations are central to the planning system and form part of the consultation document and proposed response respectively. By giving communities a greater opportunity to shape and influence the places where they live and work it is envisaged this will facilitate the creation of sustainable communities. There are concerns that EU obligations in relation to sustainability are not covered by these draft Regulations.

#### Crime & Disorder Implications:

- 5.5 No direct crime and disorder implications have therefore been identified in respect of this consultation document or council's proposed response. Where crime and disorder is considered a key issue in an area this can be addressed through Neighbourhood Plan. The proposed response suggests the inclusion of the Police as a statutory consultee.

#### Risk and Opportunity Management Implications:

- 5.6 No direct risk and opportunity management implications have been identified in respect of this consultation document or council's proposed response.

#### Public Health Implications:

- 5.7 No public health implications have been directly identified in relation to the draft Regulations however where public health is considered a key issue in an area this can be addressed through Neighbourhood Plan

#### Corporate / Citywide Implications:

- 5.8 The draft Neighbourhood Planning Regulations relate to amendments to the current planning system which enable neighbourhoods to take on newly proposed planning powers. The draft Regulations propose a number of duties upon the local authority and will have corporate and citywide implications. The main impacts of these draft Regulations have been indicated within this report or the council's proposed response, particularly in relation to Neighbourhood Councils.

### **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 None identified. A do nothing approach (not responding to the consultation document) is not considered appropriate in view of the importance of this document within the planning system.

### **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To gain formal approval and endorsement of the council's draft response to the Government consultation on the draft Neighbourhood Planning Regulations. Whilst the response has been sent in order to meet the consultation deadline of 5 January 2012 this was on the understanding it was to be subject to approval and endorsement at Cabinet Members Meeting.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Brighton & Hove City Council's proposed response to the Government consultation on the draft Neighbourhood Planning Regulations.

### **Documents in Members' Rooms**

None

### **Background Documents**

1. Department for Communities and Local Government consultation on the [Neighbourhood Planning Regulations](#)
2. Department for Communities and Local Government document entitled "[An Introduction to Neighbourhood Planning](#)"
3. Department for Communities and Local Government document entitled "[Neighbourhood Planning : e-flyer](#)"

