

11 October 2017

Planning and Licensing Committee

Ingatestone & Fryerning Parish Neighbourhood Plan Area Designation

Report of: *Phil Drane – Planning Policy Team Leader*

Wards Affected: *All Wards*

This report is: *Public*

1. Executive Summary

- 1.1 In August 2017 the Council received an application from Ingatestone and Fryerning Parish Council to formally designate the entirety of Ingatestone and Fryerning Parish as a 'Neighbourhood Area'; the designation of a neighbourhood area being the first step in the process of preparing a Neighbourhood Development Plan.
- 1.2 This report sets out the process of designating the neighbourhood area, which is a requirement on the Council and neighbourhood plan preparation, in relation to which the Council has a duty to provide support.

2. Recommendation

- 2.1 To confirm the designation of Ingatestone and Fryerning Parish as a Neighbourhood Area under Section 61G of the Town and Country Planning Act 1990 (as amended).**

3. Introduction and Background

- 3.1 The Localism Act 2011 has provided local communities more power to plan for the future of their area, offering parishes and community groups the opportunity to prepare Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders.
- 3.2 A Neighbourhood Plan enables local communities (i.e. parish council or neighbourhood forum) to draw up planning policies for the development and use of land in their area. This would set a vision for the future and

can cover things like where development should take place and what it should look like. Once 'made' (the term for their adoption) Neighbourhood Plans carry full weight as part of the statutory Development Plan for the area, from which due regard must be had when making decisions on planning applications.

- 3.3 The legislative framework governing the preparation of Neighbourhood Plans is set out in the Town and Country Planning Act 1990 (as amended) along with a series of subordinate regulations. The power to designate a neighbourhood area being conveyed to local planning authorities under Section 61G of the Town and Country Planning Act 1990, as amended.
- 3.4 The Neighbourhood Planning (General) Regulations 2012 came into force on 1st April 2012 and set out the steps that must be achieved in order to progress the preparation of a Neighbourhood Plan. The first formal step towards the preparation of a Neighbourhood Plan is the designation of a neighbourhood area, which is achieved through the application of a qualifying body to the relevant local planning authority.
- 3.5 Prior to 1 October 2016, under the regulations, the local planning authority was obliged to publicise any application for the designation of a neighbourhood area as soon as possible after receipt, to those living working and doing business in the area and invite comment on the proposal for a specified period. In doing so, the local planning authority determines the application within a set period, moving to designate the area unless there were justified reasons not to do so.
- 3.6 From 1 October 2016 amended regulations were introduced that simplified the process of neighbourhood area designation. The amended regulations introduced a streamlined process for applications where:
 - a) the qualifying body is a parish council;
 - b) the proposed area consists the whole of the parish council's area;
and
 - c) if any part of the specified area is part of an existing neighbourhood area, none of the existing neighbourhood area extends outside of the parish council's area.
- 3.7 In such circumstances, where the received application is determined to be valid, the local planning authority is directed to exercise its powers to designate the specified area as a neighbourhood area. As such, if a qualifying application meeting these requirements is submitted a local planning authority must designate the area with no discretion to amend.

4. Issue, Options and Analysis of Options

Ingatestone and Fryerning Neighbourhood Area Designation

- 4.1 On 8 August 2017 the Council received an application from Ingatestone and Fryerning Parish Council, seeking the designation of the entirety of the Ingatestone and Fryerning Parish as a neighbourhood area. The application letter and map of the parish can be found in Appendix A and B respectively.
- 4.2 The application is considered valid, comprising all the information necessary to meet the requirements prescribed within the regulations, as set out below:
- a) a map which identifies the area to which the area application relates,
 - b) a statement explaining why this area is considered appropriate to be designated as a neighbourhood plan area; and
 - c) a statement that the parish council is a relevant body for the purpose.
- 4.3 The application is also considered to conform with the requirements of amended regulation that enable the simplified process for consideration, in that the application is:
- a) from Ingatestone and Fryerning Parish Council;
 - b) the area specified within the application consists of the whole of the parish council of Ingatestone and Fryerning; and
 - c) no part of the area specified in the application is currently part of a neighbourhood area which extends outside of the parish council's area.
- 4.4 Where this is the case, Regulation 5A(2) of The Neighbourhood Planning (General) Regulations 2012 states that the Council must exercise its powers under Section 61G of the 1990 Act and designate the specified area as a neighbourhood area.

Consequences of Neighbourhood Area Designation

- 4.5 The Neighbourhood Planning (General) Regulations 2012 specify roles and responsibilities for local planning authorities and the parish councils and neighbourhood forums who prepare the plans or orders. These Regulations also require Neighbourhood Plans to conform to strategic

policies in the Local Development Plan and national policy. Communities cannot use neighbourhood planning to block development by stipulating a lower level of development than set out in the Local Development Plan, but they can use neighbourhood planning to influence the type, design, location and mix of new development or propose a higher level of development.

- 4.6 In light of the Council's role as planning authority, the Council has published a guidance note on its website; "Neighbourhood Planning in Brentwood Borough". This sets out the protocol for how the Council intends to respond to requests to prepare Neighbourhood Plans or orders, as well as sources for further information.
- 4.7 To date there has been two neighbourhood areas approved by the Council, the Doddinghurst Neighbourhood Plan Area and the West Horndon Neighbourhood Plan Area, both of which consist of the entire parish council areas.
- 4.8 The Council is obligated to provide assistance in accordance with a 'duty of care and support'. However, the Localism Act makes it clear that the preparation of Neighbourhood Plans should be led by parish/town councils in consultation with their communities.
- 4.9 Once drafted, a Neighbourhood Plan will be submitted to the local planning authority who will carry out a check to ensure that it has been prepared correctly and meets the right basic standards. The local authority will then undertake a six week consultation, following which the Council will facilitate and fund an independent examination into the Neighbourhood Plan. Providing that the Examiner recommends that the Neighbourhood Plan is appropriate to be taken forward then a referendum will be called for which the Council will be responsible for facilitating and funding. The Neighbourhood Plan requires the support of the majority of those who vote in the referendum in order to be taken forward.
- 4.10 If the referendum indicates community support, the Neighbourhood Plan will normally then be adopted or 'made' by the local planning authority, becoming part of the statutory Development Plan against which relevant planning applications will be determined.

5. Reasons for Recommendation

- 5.1 The Ingatestone and Fryerning Area application has triggered the obligation, in accordance with Regulation 5A(2) of The Neighbourhood Planning (General) Regulations 2012, for the Council to designate the

parish of Ingatestone and Fryerning as a Neighbourhood Area. As such, it is recommended that the area of Ingatestone and Fryerning Parish is designated as a Neighbourhood Area in accordance with Section 61G of the Town and Country Planning Act 1990, as amended.

6. Consultation

6.1 From 1 October 2016 amended regulations were introduced that simplified the process of neighbourhood area designation. The amended regulations introduced a streamlined process for applications where:

- a) the qualifying body is a parish council;
- b) the proposed area consists the whole of the parish council's area; and
- c) if any part of the specified area is part of an existing neighbourhood area, none of the existing neighbourhood area extends outside of the parish council's area.

6.2 In such circumstances the previous requirement under Regulation 6 and 6A of The Neighbourhood Planning (General) Regulations 2012, which required a minimum of four weeks publicity from first publication on the local planning authorities website, no longer apply, with the local planning authority now having to approve the application once they consider the application to be valid and complete.

7. References to Vision for Brentwood 2016-19

7.1 Adopted Neighbourhood Plans will form part of the Council's Local Development Plan, preparation of which is a key priority in the Council's Corporate Plan.

8. Implications

Financial Implications

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8.1 Government grants and technical support is available directly to neighbourhood planning groups immediately following area designation, through a consortium led by Locality. The grant available is for up to £9,000. A further grant of £6,000 and technical support is available directly to groups where there are, for example, further complex issues; clusters of parishes, or business Neighbourhood Plans.

- 8.2 Neighbourhood Planning Regulations require Local Planning Authorities to bear the costs of examination and referendum of neighbourhood plans or orders.
- 8.3 The Department for Communities and Local Government has confirmed arrangements for claiming financial support for neighbourhood planning in 2017/18. From April 2017, local planning authorities (LPAs) will be able to claim as follows:
- a) For all areas: LPAs can claim £20,000 once they have set a date for a referendum following a successful examination where a local plan has not previously been made for that area.
- 8.4 Additional funding is available in certain circumstance:
- a) Area Designation: LPAs can claim £5,000 for the first five neighbourhood areas designated.
 - b) Forum Designation: LPAs can claim £5,000 for the first neighbourhood forums they designate.
 - c) Business Areas: LPAs can claim a further £10,000 once they have set a date for a referendum following a successful examination.
- 8.5 The designation of the Ingatestone and Fryerning Parish as a neighbourhood area would enable the Borough Council to claim this first grant of £5,000.
- 8.6 Subject to no significant future change to the level of grant funding available from Government to support local planning authorities neighbourhood planning responsibilities, it is likely that the level of grant that can be claimed in relation to the preparation of a Neighbourhood Plan for Ingatestone and Fryerning, will broadly cover the level of anticipated expenditure incurred to meet the Council's prescribed responsibilities.

Legal Implications

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- 8.7 Neighbourhood Planning (General) Regulations require the Council to confirm valid applications that seek the designation of neighbourhood areas. The power to designate neighbourhood areas is also governed by section 61F and 61G of the 1990 Act.
- 8.8 It is a statutory requirement to support the preparation of Neighbourhood Plans and for this Council to adopt, or 'make' them, if supported by the

referendum. Failure to support Ingatestone and Fryerning Parish Council to prepare a Neighbourhood Plan could result in legal challenge with any subsequent consequences for the Council.

- 8.9 The Council is legally required through the Town and Country Planning Act 1990 and associated subordinate regulations to consider and determine applications for the designation of neighbourhood areas. In the case of this application, the legislation requires that the Council designate the area specified in the application. The amended Regulations (regulation 5A) give an authority no discretion but to designate an area where the application area is the whole of a parish and where part of the area is already a neighbourhood area but does not extend beyond the parish.

9. Background Papers

- a) Planning Advice: Neighbourhood Planning in Brentwood Borough (February 2013)

10. Appendices to this report

Appendix A: Ingatestone and Fryerning area application

Appendix B: Map of the proposed Ingatestone and Fryerning area (parish)

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