

DECISION RECORDING FORM

DECISION: Tiverton Neighbourhood Area

To approve the formal designation of the Tiverton Neighbourhood Area under Section 61G of the Town and Country Planning Act 1990 (as amended).

REASON FOR DECISION:

To determine the application submitted by Tiverton Town Council to modify the existing Tiverton and Halberton Area Designation for the purposes of preparing a neighbourhood plan.

DECISION BY:

Mrs Jenny Clifford, Head of Planning, Economy and Regeneration in consultation with Cllr Richard Chesterton, Cabinet Member for Planning and Economic Regeneration * *Member or Officer as appropriate*

CONSULTEES

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|----------------|-----------------------------------|
| WARD(S) | Tiverton and all adjoining wards. |
|----------------|-----------------------------------|

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| HAS/HAVE WARD MEMBER(S) BEEN CONSULTED | YES |
| COMMENTS OF WARD MEMBER(S) All members received notification of the application and were provided with details of the consultation and how to submit representations. | |

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| COMMENTS OF OTHER CONSULTEES All parishes adjoining Tiverton were invited to submit comments over a four week consultation period. One representation was received from Halberton Parish Council as follows: <i>"In response to the consultation on the suitability of the Tiverton Neighbourhood Plan boundary, Halberton Parish Council has no objections to the boundary proposal, subject to the boundary being the same as the existing borough boundary."</i> |
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| DATE OF DECISION | Monday 12 November 2018 |
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| EXEMPT INFORMATION | No |
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*If yes to either question, state why:

FINANCIAL, LEGAL & EQUALITY ISSUES, IF ANY:

Financial: An adopted Neighbourhood Plan allows Town and Parish Council's to qualify for 25% of future Community Infrastructure Levy in their areas as opposed to the 15% given automatically.

Legal: The determination of the application is a requirement of the Town and Country Planning Act 1990 (As amended) and associated regulations. As soon as possible after publicising an area application for four weeks, the Council is required to make a formal designation on whether to accept or refuse an area designation for a Neighbourhood Plan.

Equality: A Neighbourhood Area defines the geographical area for the purposes of preparing a neighbourhood plan. The designation in itself, would not lead to any impacts on the equality strands protected under the Equality Act 2010 (the 'protected characteristics'). A neighbourhood plan may lead to equalities impacts; these would need to be considered in detail by those preparing the plan and its associated evidence base.

RISK ASSESSMENT

Decisions can be legally challenged. Rejecting a Neighbourhood Area application should only be carried out in justifiable circumstances.

ADDITIONAL INFORMATION / DOCUMENTS TAKEN INTO ACCOUNT:*

Introduction:

Neighbourhood planning was introduced by the Localism Act 2011 as a new, local tier to the planning system. Neighbourhood planning is optional, but allows communities to come together through a local Town/Parish Council or Neighbourhood Forum and have direct involvement in land-use planning of the their local area.

The first stage in the preparation of a neighbourhood plan is the designation of a neighbourhood area. The existing Tiverton and Halberton Neighbourhood Area was designated on 28th July 2015. Since then, Halberton Parish Council has withdrawn from the process and Mid Devon District Council has received an application from Tiverton Town Council to modify the area designation accordingly.

The application made by Tiverton Town Council was appropriately made under Regulation 5 of The Neighbourhood Planning (General) Regulations 2012 and has been publicised for four weeks (in accordance with Regulation 2 of the Neighbourhood Planning (General) (Amendment) Regulations 2015 which amends the 2012 Regulations). The Council is now required to formally determine the application.

Proposal:

A formal application was made by the Town Council to modify the existing area designation on 21 August 2018. The application was consulted upon from 3 October – 1 November 2018.

The application is available to view on the Council's website [here](#). Regulation 5(1) requires each application to include:

- 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 area; and
- c) A statement that the organisation or body making the area application is a relevant body (such as a Parish Council)

In determining applications under Section 61G(4) of the Town and Country Planning Act (as amended), this Council must have regard to:

- a) The desirability of designating the whole of the area of a parish council as a neighbourhood area; and
- b) The desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas (designated areas must not overlap).

Under Section 61G (9) of the Act, if the Council refuses an application, it must give reasons to the applicant for refusing the application. Unless there are valid or reasonable reasons the Council should designate the proposed Neighbourhood Area. If the Council considers the area not to be appropriate, it must issue a refusal notice, explaining why, and then designate a revised Neighbourhood Area to include some or all of the originally proposed area.

In this instance, the application is seeking to modify an existing neighbourhood area. Section 61G (6 and 6A) of the Act sets out the relevant provisions. It stipulates that the Council may, in determining any application, modify designations already made; but if a modification relates to any extent to the area of a parish council, the modification may be made only with the Council's consent. Section 6A states that this includes power:

- a) To change the boundary of an existing neighbourhood area,
- b) To replace an existing neighbourhood area with two or more separate neighbourhood areas, and
- c) To replace two or more existing neighbourhood areas with a single neighbourhood area.

The application to modify the designation has been publicised to bring it to the attention of the people who, live work or carry on business in the area to which the application relates. One representation was received during the consultation, from Halberton Parish Council:

"In response to the consultation on the suitability of the Tiverton Neighbourhood Plan boundary, Halberton Parish Council has no objections to the boundary proposal, subject to the boundary being the same as the existing borough boundary."

The Council must therefore consider whether to reduce the area of the existing designation to Tiverton parish alone, or divide the area into two distinct neighbourhood areas. Having regard to the consultation response received from Halberton Parish Council, it is appropriate to reduce the neighbourhood area to Tiverton Parish only, thereby removing any area designation from Halberton Parish. This would not preclude a future application from Halberton Parish Council should they wish to prepare a neighbourhood plan in the future.

In determining the boundary of a neighbourhood area, the Government's Planning Practice Guidance (Paragraph 33 Reference ID: 41-033-2010306) stipulates that the following considerations also apply:

- Village or settlement boundaries, which could reflect areas of planned expansion
- The catchment area for walking to local services such as shops, primary schools, doctor's surgery, parks or other facilities
- The area where formal or informal networks of community based groups operate
- The physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style
- Whether the area forms all or part of a coherent estate either for businesses or residents
- Whether the area is wholly or predominately a business area
- Whether infrastructure or physical features define a natural boundary, for example a major road, or railway line or waterway
- The natural setting or features in an area
- Size of the population (living and working) in the area.

Conclusion

Having considered the above, and in light of Halberton Parish Council's decision to withdraw from the neighbourhood plan process, the application to modify the designation should be approved. The Council has had regard to Section 61G (4) of the Town and Country Planning Act (as amended) and considers that the modified area designation is coherent, consistent and appropriate for the purposes of preparing the Tiverton Neighbourhood Plan.

SIGNED Jenny Clifford

(Member or officer taking decision)

DATE 12 November 2018