

South Lakeland District Council
Cabinet
9 September 2020
Designation of Burneside Neighbourhood Area

Portfolio:	Councillor Dyan Jones Climate Emergency and Localism Portfolio Holder
Report from:	David Sykes – Director of Strategy, Innovation, and Resources
Report Author:	Damian Law – Specialist (Strategy)
Wards:	Burneside (Strickland Ketel and Strickland Roger)
Forward Plan:	Not applicable

1.0 Expected Outcome

- 1.1 The designation as a Neighbourhood Area of Burneside Parish. This will enable the Parish Council to prepare a Neighbourhood Plan for the Parish as a whole.

2.0 Recommendation

2.1 It is recommended that (Cabinet):-

(1) note the outcome of the consultation and objections referred to within this Report; and

(2) further note that the Neighbourhood Area application submitted by Burneside Parish Council on 28 January 2020 and published on 16 April 2020 will now be designated as a Neighbourhood Area of Burneside Parish in accordance with regulation 5A of the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulation 2016.

3.0 Background and Proposals

- 3.1 Under the Localism Act, 2011, communities may shape new development by preparing Neighbourhood Plans and Neighbourhood Orders. These powers can only be exercised by Town and Parish Councils where these exist. The first step required under the Neighbourhood Planning (General) Regulations 2012 (as amended), is for the Parish Council to apply to the Local Planning Authority (LPA) for the designation of the area to which they would like their Neighbourhood Plan to apply as a Neighbourhood Area.
- 3.2 On the 19th April 2016 Burneside Parish Council submitted an application for a Neighbourhood Plan area that constituted the whole of Burneside Parish (Strickland Ketel and Strickland Roger) excluding those parts of the Parish within the development boundary of Kendal in the South Lakeland Local Plan – Land Allocations. These allocations are West of High Sparrowmire and part of North of Laurel Gardens. The Neighbourhood Area was formally approved by South Lakeland District Council on 29 June 2016.

- 3.3 Burneside Parish falls partly within South Lakeland's area as Local Planning Authority (LPA) and partly within the Lake District National Park Authority's area as LPA and the application was made to both LPAs accordingly.
- 3.4 On 28 January 2020, Burneside Parish Council submitted an application to the Council and LDNPA for the designation of a Neighbourhood Area (see Appendix 1) following informal discussions with officers from the Strategy Team and in liaison with the Lake District National Park Authorities equivalent officers. The proposed Neighbourhood Area constitutes all of Burneside Parish.
- 3.5 The application submitted on 28 January 2020 therefore constitutes a variation to the currently designated Burneside Neighbourhood Area.
- 3.6 Under the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulation 2016, local planning authorities must designate (approve) a Neighbourhood Area in cases where an application is received from a Parish Council which consists of the whole of the parish council area (regulation 5A). The regulations do not require Local Planning Authorities to invite representations to be made where an application meets this criteria.
- 3.7 An anomaly now exists between the current legislation and the Council's Constitution. Legislation is clear that there is no discretion and that a local planning authority must approve a Neighbourhood Area application if it meets the criteria. Under the Council's Constitution, the Director of People and Places (now Director of Strategy, Innovation, and Resources) has delegated powers to approve any further applications for the designation of Neighbourhood Areas in respect of parishes that are wholly or partly outside the Lake District National Park and Yorkshire Dales National Park only where:-
- (a) the applications relate to the designation of single whole parishes, excluding areas of any other parishes; and
 - (b) no substantive objections are received
- 3.8 In order for the delegated power to be exercised and in compliance with the Council's constitution requirements, the application was publicised and representations were invited. The representations received are outlined in Section 4.0 of this report.
- 3.9 As evidenced, there have been 3 objections to the application, and these are considered to be substantive in nature. The objections have been considered, and a response to each is given in paragraph 4.4 below.
- 3.10 In normal circumstances, delegated powers would be exercised, however, because substantive objections have been received, under the Council's constitution, the decision needs to be made by Cabinet.
- 3.11 Given the legal regulations require LPA's to designate Neighbourhood Area Applications as has been submitted, and taking into account the representations received, it is considered that the proposed Neighbourhood Area is appropriate and that the Council should designate the Neighbourhood Area as proposed.
- 3.12 The Lake District National Park Authority has formally agreed to designate the Neighbourhood Area (see Appendix 2).

4.0 Consultation

- 4.1 The Council, publicised and invited comments on the Neighbourhood Area application for 8 weeks from 16 April 2020 to 11 June 2020.
- 4.2 The application, together with how comments could be made, were published on the Council's website. In addition officers wrote directly to statutory bodies and a range of relevant local organisations on the Local Plan consultation database. In addition a

feature about the consultation appeared in the May 2020 Burneside Parish Newsletter. Consultation methods have been by electronic means only on account of the Coronavirus situation.

4.3 There were 11 respondents;

- Environment Agency and Crook & Winster Parish Council both stated they had no objections.
- SSA Planning, Homes England and Natural England each stated they had no comments on the proposal. Natural England offered some general advice to be taken into account when preparing the Neighbourhood Plan.
- An individual and Historic England both stated they support the application.
- National Grid provided some general advice to be taken into account when preparing the Neighbourhood Plan.
- A Kendal Town Councillor objected on grounds that any Community Infrastructure Levy (CIL) monies gained from any future development of a site (West of High Sparrowmire) would be allocated to Burneside parish and unlikely to be used for the benefit of the Hallgarth Estate extension.
- Kendal Town Council Planning Committee objected on the grounds that Burneside Parish Council had not provided justification for the application. Concerns were raised about the potential for CIL receipts from future development of the West of High Sparrowmire site which is next to Kendal Town Council boundary to not be spent on the infrastructure needs arising from it which will impact on services in Kendal.
- Kendal Town Council Management Committee objected on the grounds that the area includes land proposed for housing development (West of High Sparrowmire) which constitutes an extension to the Hallgarth estate which is within the Kendal Town boundary. Also a concern raised is CIL spent within Burneside Parish would less likely be of direct benefit to the Hallgarth community to which the site in question will form part of.

4.4 The Council has considered the 3 objections received and provided a response as follows:

- Any infrastructure needs required for the acceptable development of the site West of High Sparrowmire should be met in full from planning conditions or Section 106 agreements, negotiated as part of the granting of planning permission;
- In respect to the Community Infrastructure Levy (CIL), Burneside Parish Council will receive as of right 15% of CIL paid from housing development in the Parish. This would increase to 25% if a Neighbourhood Plan is adopted. Consultation on a Neighbourhood Plan for Burneside provides some opportunity for consultees to offer suggestions on how CIL might be spent, although the final decisions would remain fully with the Parish Council. The District Council will actively encourage and support effective dialogue between the Parish Council and key stakeholders, including neighbouring Councils, throughout the preparation of the Neighbourhood Plan on such matters;
- It is noted since the previous application to prepare a Neighbourhood Plan for Burneside, the District Council has adopted a Development Brief for the site West of High Sparrowmire, following extensive consultation. There is now

detailed planning policy guidance to help ensure the most appropriate development of the site and its integration with Kendal.

5.0 Alternative Options

- 5.1 There are no alternative options other than to approve the designation of the area applied for. Under Regulation 5A as inserted by the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 the Local Planning Authority must designate the specified area as a neighbourhood area.
- 5.2 If the Council refused the application, this would be contrary to legal regulations which state the Local Planning Authority has to designate the Neighbourhood Area, and would prevent Burneside Parish Council from preparing a Neighbourhood Plan that consists of the whole Parish area. The Council would be required under the Neighbourhood Planning (General) Regulations 2012 7(2) to publish a document stating its reasons for the refusal.
- 5.3 In light of the regulations, it is recommended that the current proposal is accepted and the proposed area designated.

6.0 Links to Council Priorities

- 6.1 Progressing a Neighbourhood Plan will help to ensure that people have a greater say in what happens in their area, empowering people, which is a Council Plan Value. Additionally, it is likely to support delivery of Economic Growth, Balanced community, and responding to climate change and enhancing biodiversity priorities, depending on the content of the final Plan.

7.0 Implications

Financial, Resources and Procurement

- 7.1.1 The Council will be required to fund the examination and referendum, once the final Neighbourhood Plan is submitted to the Council. The Council is also expected to support the community during the course of preparing a Neighbourhood Plan in accordance with the Neighbourhood Planning Protocol.
- 7.1.2 The Referendum covering Grange Town Council Parish cost £5,348. It is likely it will be less for Burneside given the smaller population.
- 7.1.3 SLDC can claim a further £20,000 following a successful examination and once a date for Referendum is set. This is to cover Referendum costs and the cost of any other further steps that may be needed for the neighbourhood plan to come into legal force.

Human Resources

- 7.2 No additional Human Resources are required as a result of this proposal.

Legal

- 7.3 The Neighbourhood Planning (General) Regulations 2012 (as amended), The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulation 2016 as well as the relevant parts of the Town and Country Planning Act 1990 (as amended), have been fully considered in formulating this proposal. The proposed actions are required to comply with this legislation. The discrepancy between the current legislation provisions and the Council's Constitution will be rectified at the next Constitutional Review to avoid a similar situation arising in the future.

Health, Social, Economic and Environmental

- 7.4 Have you completed an Health, Social, Economic and Environmental Impact Assessment? No
- 7.5 A Health, Social, Economic and Environmental Impact Assessment has not been undertaken, on account that the decision to designate an area for which to prepare a Neighbourhood plan will, in itself, have no equalities/health/socio-economic or environmental impacts. However, the proposal will begin a process that will enable positive impacts through a Neighbourhood Plan.

Equality and Diversity

- 7.6 Have you completed an Equality Impact Analysis? No
- 7.7 If you have not completed an Impact Assessment, please explain your reasons: It is considered an Impact Assessment is not required on the basis that designating an area for which to prepare a Neighbourhood Plan will, in itself, have no equalities/health/socio-economic or environmental impacts.

7.8

Risk

Risk	Consequence	Controls required
No Neighbourhood Area is designated for whole of Burneside Parish, current designated area will remain	The Council will have to justify why, it considers accordance with the regulations is not appropriate in this instance	Approve the application to designate the area proposed as Burneside Neighbourhood Area

Contact Officers

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Appendices Attached to this Report

(delete if no appendices attached)

Appendix No.	Name of Appendix
1	Burneside Neighbourhood Area Application
2	Lake District National Park formal approval of designation

Background Documents Available

Name of Background document	Where it is available
Neighbourhood Planning Protocol	https://tinyurl.com/y9m2ocwr
Neighbourhood Planning (General) Regulations 2012	https://tinyurl.com/7u8arfh
Neighbourhood Planning (General) Regulations Amendment 2015	https://tinyurl.com/yeh7etqy

Name of Background document	Where it is available
Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulation 2016	https://tinyurl.com/yaq6xzjh
National Planning Guidance – Neighbourhood Planning	https://tinyurl.com/yd6fy24u
Town and Country Planning Act 1990 (as amended)	https://tinyurl.com/knqmzk9

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	12 August 2020	12 August 2020
Monitoring Officer	12 August 2020	24 August 2020
CMT	28 July 2020	31 July 2020

Circulated to	Date sent
Lead Specialist	12 August 2020
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	12 August 2020
Ward Councillor(s)	12 August 2020
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A