DECISION
OF COUNCILLOR ELFAN AP REES

THE EXECUTIVE MEMBER FOR STRATEGIC PLANNING, HIGHWAYS AND TRANSPORTATION, CONCESSIONARY FARES, CAR PARKS, HOUSING, GYPSIES AND TRAVELLERS AND ECONOMIC DEVELOPMENT

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WITH ADVICE FROM
THE DIRECTOR OF DEVELOPMENT AND ENVIRONMENT

DECISION NO 15/16 DE 253

SUBJECT: Portbury Neighbourhood Area

Background: Portbury Parish Council is seeking to produce a Neighbourhood Development Plan. The first step in this process is to designate a Neighbourhood Area to which the Neighbourhood Development Plan will relate. This is formally designated by North Somerset Council under the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 (as amended).

Portbury Parish Council submitted an application to designate a Neighbourhood Area on 16 December 2015. The proposed Neighbourhood Area relates to the whole of the Parish of Portbury. This was duly advertised by North Somerset Council in accordance with the above regulations. The consultation closed on Monday 29 February 2016.

Seven responses have been received, largely from statutory consultees who have no comment to make on the area application. A response form Persimmon Homes (Severn Valley) suggests issues that the Neighbourhood Plan could involve itself in and asks that they continue to be involved in the Plans preparation.

A lengthy objection to the area has been received from the Bristol Port Company (BPC) in relation to their interests at and around Royal Portbury Dock (RPD). The Parish Boundary cuts across the land occupied by the Bristol Port Company at the Royal Portbury Dock, the remaining larger area of the Dock being within Easton-in Gordano parish. The Parish boundary appears to be based on old land features possibly in part the line of a stream now affected by subsequent port development. Portbury parish therefore includes a significant amount of land in which the BPC has land owning interests.

The BPC object to the inclusion within the Neighbourhood area of

- land within the Royal Portbury Dock estate,
- land to the south of RPD as part of the area known as Court House Farm (a small part of this site falls within the parish boundary) which is allocated for port related uses both within the adopted North Somerset Replacement Local Plan and within the Sites and

Policies Development Management Plan Policy DM49 (now at an advance stage of preparation); and

- land to the west of RPD, known as Shipway Farm which lies outside the operational boundary and within the green belt, is undeveloped and although is within the land ownership of the Bristol Port Company is not allocated for port uses within any existing or emerging Local Plans.

The objection is on the grounds that operational land within the RPD estate is exempt from normal planning controls in relation to operational development and therefore is not within the parameters which the neighbourhood plan could address. Also BPC are concerned that any subsequent neighbourhood plan would attempt to influence strategic development at the Port on land not within the operational boundary to the detriment of their interests (potentially land at Court House Farm and Shipway Farm).

Parish boundaries, being based on historic features, often appear irregular in relation to current development patterns. There are no rules about what can and can't be included within a neighbourhood area and parish boundaries appear to be an accepted norm. Guidance is given in Planning Practice Guidance paragraph 033 on potential considerations, however LPA's are required "to have regard to the desirability of designating the whole of the area of a parish or town council as a neighbourhood area (see 61G(4) of the Town and Country Planning Act 1990)". The government is generally in favour of following parish boundaries within a parished area and is seeking to bring in an automatic parish boundary designation.

Neighbourhood areas can include strategic sites within them although any subsequent neighbourhood plan cannot contain policies which seek to differ in approach from existing strategic policies. A subsequent neighbourhood plan could not contain policies which would affect the Ports interests within its' operational boundary, or at Court House Farm, or which would not maintain or enhance its role within the local or regional economy (Core Strategy Policy CS24), since these are strategic matters. A neighbourhood plan cannot in short deal with strategic issues or site allocations and any attempts to do so would not succeed at Examination.

Portbury Parish Council have responded to the BPC's concerns confirming that the use of the parish boundary is a matter of expedience and is not an inference that the plan would contain objectives that are in contradiction of existing policies and strategies within which the Royal Portbury Dock operates. It is confirmed that the plan will be concentrating on objectives where it can have legitimate influence.

In any event Planning Practice Guidance paragraph 035 states that a local planning authority should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan or Order when considering the neighbourhood area.

A similar situation exists within Wrington Parish where the Wrington Neighbourhood Area has been designated to include Bristol Airport. The Parish Council in that instance, acknowledged that they understood the Neighbourhood Plan could not seek to affect land at the airport.

Whether the Royal Portbury Dock lay within or outside the neighbourhood area it is important that the BPC are included in the development of a neighbourhood plan for Portbury, as a major landowner. However it is not in the in the interests of proper planning to exclude areas of land from the neighbourhood area, such as Shipway Farm, on the basis of land ownership.

Where an application for a neighbourhood area is made, then even if the Local Planning Authority decide to refuse the boundary of the area as submitted because they consider the area is not appropriate, they must designate an alternative area. They must give reasons.

Options

1. Approve the area as submitted (any subsequent neighbourhood plan will not be able to contain policies which affect the strategic designations, or operational authority of the Port)
2. Refuse the area submitted but approve an alternative boundary. There is some difficulty in choosing an alternative boundary which does not disadvantage either party at the outset of the plan making process. The BPC suggested boundary would exclude land at Shipway Farm on the basis that it is within their ownership, however this lies outside the operational boundary and within the green belt, is undeveloped and although is within the land ownership of the Bristol Port Company is not allocated for Port uses within any existing or emerging Local Plans. As stated above land ownership is not a legitimate planning consideration. Another option may be to exclude the operational area of the Port. One way of achieving this would be to use the green belt boundary, however this does not always follow identifiable features on the ground and is a planning policy tool rather than physical entity, cutting across land uses/interests.

   Only a very small part of the land at Court House lies within the parish boundary, which given the planning context outlined above is not significant in relation to the neighbourhood area.

Conclusion The Parish Council have acknowledged that they are aware of the context in which a future neighbourhood plan would be developed. Policies which attempted to contravene already established strategic objectives would not in any event be successful at Examination. The Bristol Port Company will have the opportunity to be involved in the plan making process and to help shape the plans policies. There are problems in defining an alternative boundary which would not disadvantage one or other party at this early stage in the plan making process. On balance it is considered that a decision should be made on the basis of confirming the parish boundary as the boundary of the neighbourhood area.

DECISION: The application for the designation of a Neighbourhood Area for the Parish of Portbury is approved in accordance with the application received on 16 December 2015.

Reasons: The designation of the Neighbourhood Area is a pre-requisite to enable Portbury Parish Council to produce its Neighbourhood Plan and the whole of the Parish is on balance a logical area to designate.

Other Alternatives Considered: Difficult to identify an area which would not disadvantage either BPC or the Parish Council in future neighbourhood plan proposals**.** Would prejudge the content of the future plan contrary to the advice given in para 035 of Planning Practice Guidance.

Risk Assessment: There are no specific risks associated with the designation of the Portbury Neighbourhood Area. Where an application is submitted the Local Planning Authority must designate an area, even if it is not the boundary put forward in the application.

Financial Implications:

The decision is within the relevant budget of the Directorate and the overall budget is not projected to be overspent. Government funding is available to cover North Somerset Council's costs in publicising the Neighbourhood Area, arranging the examination of the submitted Neighbourhood Development Plan and any resultant referendum. Portbury Parish Council is also able to access Government funding for its work on drafting the Plan.

Implications for Future Years:

The approval of the Neighbourhood Area does not have any direct budgetary implications. North Somerset Council retrospectively can claim £5k from government for the receipt of the Neighbourhood area application. North Somerset Council is required to fund the examination of the plan and any resultant referendum, but the costs of can also be covered by Government funding.

Signed.....

The Executive Member for Strategic Planning, Highways and Transportation, Concessionary Fares, Car Parks, Housing, Gypsies and Travellers and Economic Development

Dated…….

Confirmation of Advice Given

Signed.....Director of Development & Environment

Dated……