

Name of meeting: Cabinet

Date: 8<sup>th</sup> March 2016

Title of report: Kirkburton Parish Council Neighbourhood Area Application for Kirkheaton

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Is it in the <a href="#">Council's Forward Plan</a> ?	Not applicable
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman - 15.02.16
Is it signed off by the Director of Resources?	David Smith - 11.02.16
Is it signed off by the Assistant Director - Legal Governance and Monitoring	Julie Muscroft - 29.02.16
Cabinet member <a href="#">portfolio</a>	Cllr Peter McBride - Transportation, Skills, Jobs and Regional Affairs/Cllr Steve Hall - Planning, Highways and Open Spaces/Cllr Cathy Scott - Housing and the Relief of Poverty

Electoral [wards](#) affected: All

Ward councillors consulted: Yes

Public or private: Public

## 1. Purpose of report

- 1.1. The purpose of this report is to inform Cabinet of the comments received in response to the six week publicity on Kirkburton Parish Council's application for its proposed neighbourhood planning area. Following consideration of the comments received, Cabinet is requested to consider approval of the neighbourhood area as required by Part 6 Chapter 3 and Schedule 9 of the Localism Act 2011 and National Planning Practice Guidance.
- 1.2 It should be noted that as a Parish Council exists for Kirkburton, it is regarded as the "appropriate body" for the purposes of neighbourhood planning and no other organisation or body may be designated for the Neighbourhood area. There is therefore, no requirement to submit an application for designation as an appropriate body.

## **2. Key points**

### **2.1 Background**

#### **Neighbourhood Area**

- 2.1.1 Kirkburton Parish Council has submitted an application for a Neighbourhood Plan Area designation based on part of the Civil Parish area (part of Kirkburton Civil Parish and encompassing the ward of Kirkheaton excluding the areas of Battyeford and Colne Bridge to the North-North East of the ward).
- 2.1.2 In a parished area, a local planning authority is required to have regard to the desirability of designating the whole of the area of a parish or town council as a neighbourhood area (Ref: 61G(4) of the Town and Country Planning Act 1990). Where only a part of a parish council's area is proposed for designation, it is helpful if the reasons for this are explained in the supporting statement.
- 2.1.3 Regulation 5 of the Neighbourhood Planning Regulations requires the following:
- 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 for the purposes of section 61G of the 1990 Act.
- 2.1.4 The application is attached at Appendix 1.

### **2.2 Publicity**

- 2.2.1 In accordance with the Neighbourhood Planning Regulations, the application was published for a period of 6 weeks from 15<sup>th</sup> January to 26<sup>th</sup> February 2016.
- 2.2.2 Copies of the documentation and details of how and when to make representations were placed on the council's website and hard copies of the documentation made available at Planning Reception Civic Centre 3, Kirkburton Library and Information Centre and Kirkheaton Library Information Centre.
- 2.2.3 An advert was placed in the Huddersfield Examiner and the Dewsbury Reporter series which provided details on how to make a representation and where information could be viewed.
- 2.2.4 Additional publicity included:
1. Letters to statutory consultees (this included adjoining local authorities and parish councils)
  2. E-mail to ward Members
  3. Info on Huddersfield District Committee Facebook page
  4. Kirkburton Parish Council webpage <http://www.kbpc.co.uk>

## **Comments received in response to the publicity**

2.2.5 A total of seven representations were received, 7 from statutory consultees in relation to the neighbourhood area. The comments received are outlined below:

### **Coal Authority:**

The Neighbourhood Plan lies within the current defined coalfield. However, as the consultation only relates to the proposed designation of the neighbourhood plan area, the Coal Authority has no specific comments to make at this stage.

The Coal Authority highlighted the following information which should be noted as the plan progresses:

According to the Coal Authority Development High Risk Area Plans, there are recorded risks from past coal mining activity in the form of 60 mine entries, recorded shallow coal workings, past surface mining, thick coal outcrops and unrecorded probable shallow coal workings. The Local Planning Authority has GIS data which identifies the Coal Authority defined Development High Risk Area which encompasses these mining legacy features.

If the Neighbourhood Plan allocates sites for future development in these areas, which are mostly in the western half of the Neighbourhood Development Plan (NDP) area, then consideration as to the development, will need to respond to these risks to surface stability in accordance with the National Planning Policy Framework and the Kirklees Development Plan. In addition, any allocations on the surface coal resource which covers the entire NDP area will need to consider the impacts of mineral sterilisation in accordance with the National Planning Policy Framework and the Kirklees Development Plan.

### **Environment Agency:**

No comments specifically about the proposed boundary for the Neighbourhood Area. Detailed guidance prepared by the Environment Agency, English Heritage, Forestry Commission and English Nature was submitted for information for the neighbourhood planning body.

A map of environmental constraints including source protection zones within the proposed plan area was also provided for reference for the neighbourhood plan body.

### **Highway England's response:**

Highway's England offer no comment at this stage, but look forward to being consulted on any emerging neighbourhood Plan should the designated areas be agreed.

### **Meltham Town Council**

Meltham Town Council supports the application.

### **Mirfield Town Council:**

Acknowledged receipt of application and that it would be considered at its next meeting. No comments received at the present time.

## **Natural England:**

No specific comments were made on the boundary. However, detailed advice was provided on the role of Natural England, planning policy for the natural environment, natural environment information sources including landscape, wildlife habitats, priority and protected species, best and most versatile agricultural land and improving the natural environment. Natural England requested that the information was sent to Kirkburton Parish Council.

## **Historic England**

Historic England has no objection to the proposed boundary neighbourhood boundary. Kirkburton Parish Council should note that the area includes a number of important designated heritage assets, including the Church of St John the Baptist and 7 grade ii listed buildings (details provided).

## **Wakefield District Council:**

No comments to make on the application.

## **2.3 Implications**

2.3.1 Following approval of a neighbourhood area, the Parish Council can produce a neighbourhood development plan or order (as applied for) which relates to the development and use of land. A Neighbourhood Plan will be part of the statutory development plan for the area, if it is successful at referendum.

2.3.2 In preparing the plan, the Parish Council must ensure that it meets basic conditions which will be tested through independent examination and checked by the Local Planning Authority prior to proceeding to a referendum on the plan.

2.3.3 Basic conditions for Neighbourhood Plans and Orders are:

- they must have regard to national policy and advice contained in guidance issued by the Secretary of State;
- they must contribute to the achievement of sustainable development;
- they must be in general conformity with the strategic policies in the development plan for the local area;
- must be compatible with EU obligations, including human rights requirements;
- prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

2.3.4 To meet these basic conditions, the Parish Council will need to work with council officers. The current development plan for the area is the Kirklees Unitary Development Plan (UDP) adopted March 1999, revised September 2007. However, the council has just consulted on a draft Local Plan. It is therefore likely that if a Neighbourhood Development Plan was to meet the basic conditions set out above, it will require close alignment to local plan work including Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA).

2.3.5 If the plan meets the basic conditions, the examiner will recommend that the plan proceeds to the referendum stage. The neighbourhood plan needs to secure more than 50% of those voting in the referendum to vote 'yes' for the council to bring the plan into legal force. If this is not achieved, the neighbourhood forum and the council would need to consider the

implications of this and how to move forward. The referendum is for residents entitled to vote in the area.

## **2.4 Officer comments**

### **Neighbourhood Area**

- 2.4.1 Kirkburton Parish Council has submitted an application for a Neighbourhood Plan Area designation based on part of the Civil Parish area (part of Kirkburton Civil Parish and encompassing the ward of Kirkheaton excluding the areas of Battyeford and Colne Bridge to the North-North East of the ward).
- 2.4.2 While the council has to have regard to the desirability of designating the whole of a parished area as set out in paragraph 2.2.2 of this report, it is considered that the proposed boundary forms an appropriate neighbourhood boundary. The parished area covers a significant area which has varied physical, economic, social and cultural characteristics. The area chosen focuses on the area of Kirkheaton and adjacent areas. This forms an identifiable community and the main focus of the population. Notwithstanding this, as the plan progresses, Kirkburton Parish Council should ensure that it has an audit trail which demonstrates that the wider parish area has been consulted and that the implications of any proposals/policies to be contained in the neighbourhood area and their impact on both the neighbourhood plan area and the whole parish area has been considered.
- 2.4.3 No changes to proposed neighbourhood area have been identified through the publicity period undertaken by the council.

## **2.5 Plan preparation costs**

- 2.5.1 The costs in preparing a neighbourhood development plan for the relevant planning body are dependent on the scale and content. Average costs are estimated at £17,000 to £63,000 per plan. Grants ranging from £500 - £7000 are available from Locality to support groups as a contribution to costs incurred by the group in preparing a neighbourhood plan. Direct support is also available and advice is tailored to meet the needs of the group. Groups need to apply directly to Locality for their grants and direct support.

## **3. Implications for the Council**

### **Benefit**

Neighbourhood planning gives communities direct power, to develop a shared vision for their neighbourhood and shape the development and growth of their local area. There is an opportunity for the neighbourhood plan to feed into the emerging Local Plan.

### **Risk**

It is a statutory requirement to support the preparation of neighbourhood plans and for the council to adopt, or 'make' them, if supported by the referendum. Failure to comply with the statutory requirement and support Kirkburton Parish Council to prepare a neighbourhood plan could result in a legal challenge by way of judicial review.

### **Costs**

The Local Planning Authority can claim £5,000 from DCLG following designation of a neighbourhood area. This money is for the Local Authority in recognition of officer time to support and advise the community in taking forward a neighbourhood development plan.

The Local Planning Authority has to fund the examination and referendum. Local Planning Authorities can claim £5,000 from DCLG as a contribution to costs of the examination. A further £20,000 can be claimed on successful completion of the Neighbourhood Planning Examination to cover further examination costs and other steps that are needed to bring the plan into legal force including the referendum. This is unlikely to cover the costs of officer time, the examination and referendum. The council will need to meet the balance of these costs.

Neighbourhood Planning Guidance Note 4 - Council support for Neighbourhood Plans agreed by Neighbourhoods Committee on 6<sup>th</sup> August 2013 sets out inter alia the level of officer support available for groups undertaking neighbourhood development plans.

#### **4. Consultees and their opinions**

4.1 Comments from statutory consultees have been included within the report.

#### **5. Next steps**

- 5.1 Following approval of Kirkburton Parish Council Neighbourhood Area, the council is required to publicise the decision on its website, advertise in a relevant local paper and place a copy of the advert in Kirkburton Library and Information Centre and Kirkheaton Library and Information Centre. The decision will also be communicated through area and neighbourhood communication channels.
- 5.2 The council will meet with Kirkburton Parish Council or its Steering Group Kirkheaton Futures, to form a working partnership and agree the level of officer support to be provided through a service level agreement in line with Neighbourhood Planning Guidance Note 4.
- 5.3 Kirkheaton Futures will be responsible for carrying out consultation and engagement on their proposals within the neighbourhood plan area and developing their neighbourhood plan, with support from council officers. The next stages of the neighbourhood plan will be reported to members at the appropriate time.

#### **6. Officer recommendations and reasons**

6.1 That Cabinet approves Kirkburton Parish Council Neighbourhood Plan Area as outlined in appendix 1.

#### **7. Cabinet portfolio holder recommendation**

7.1 The portfolio holders, Councillor Peter McBride, Councillor Cathy Scott and Councillor Steve Hall are in agreement with the next steps as detailed in section 5.1 and 5.2 of this Cabinet report and would recommend that Cabinet approves the Kirkburton Parish Council Neighbourhood Plan Area as outlined in Appendix 1 of this report.

## **8. Contact officer and relevant papers**

Richard Hollinson  
Policy Group Leader  
01484 221000  
[richard.hollinson@kirklees.gov.uk](mailto:richard.hollinson@kirklees.gov.uk)

Jo Scrutton  
Principal Planning Officer  
01484 221000  
[johanna.scrutton@kirklees.gov.uk](mailto:johanna.scrutton@kirklees.gov.uk)

## **9. Assistant Director responsible**

Paul Kemp  
Assistant Director - Place  
01484 221000  
[paul.kemp@kirklees.gov.uk](mailto:paul.kemp@kirklees.gov.uk)







# KIRKBURTON PARISH COUNCIL



Burton Village Hall  
Northfield Lane  
Highburton, Huddersfield HD8 0QT  
Tel/Fax: 01484 604391  
E-mail: [clerk@kbpc.co.uk](mailto:clerk@kbpc.co.uk)  
Website: [www.kbpc.co.uk](http://www.kbpc.co.uk)  
7 December 2015

Mr P Kemp  
Assistant Director (Acting)  
Investment & Regeneration,  
PO Box B93 Civic Centre 3,  
Huddersfield, HD1 2JR

Dear Mr Kemp

Please find enclosed the Council's application to designate a neighbourhood area within the Kirkburton Parish Council area.

If you require any further information, please do not hesitate to contact me.

Yours sincerely,



Lucy Gardner  
Assistant Clerk to the Council



Clerk to the Council: Mrs Angela Royle  
Assistant Clerk: Mrs Lucy Gardner

Office Hours:  
Monday & Thursday 9.30 am – 1.30 pm

## **Application form for a Neighbourhood Forum and/or Neighbourhood Area**

1. What is the name of the organisation  
**Kirkburton Parish Council**

The name of the proposed Neighbourhood Forum if different from above?  
**Kirkheaton Future has been established as the Steering Group**

2. What is the name of the proposed Neighbourhood Area to which the application relates?  
**Kirkheaton (Part of Kirkburton Civil Parish and encompassing the ward of Kirkheaton excluding the areas of Battyeford & Colne Bridge to the North-North East of the ward)**

3. Contact Details  
**Mrs Lucy Gardner, Assistant Clerk  
Kirkburton Parish Council  
Burton Village Hall  
Northfield Lane  
Highburton HD8 0QT  
clerk@kbpc.co.uk  
01484 604391  
Office Hours: 9.30 am to 1.30 pm on Mondays and Thursdays**

4. Checklist for application for a Neighbourhood Forum

**Points answered in relation to the Kirkheaton Future steering group.**

- A copy of the steering group's written constitution.  
**Kirkheaton Future Constitution Issue 1 attached.**
- A map identifying the neighbourhood area.  
**See Checklist 5 below.**
- A statement that the proposed group meets the conditions set out in Section 1.  
**Kirkheaton Future has been established by Kirkheaton's Community Association, Yetton Together, to develop a Neighbourhood Plan with the express purpose of promoting / improving the social, economic and environmental well-being of the Kirkheaton Neighbourhood Plan area as identified. Its membership is open to anyone who lives or works in the neighbourhood area or is an elected member of the Council for the area concerned and the group confirm that general membership includes a minimum of 21 people who live or work in the neighbourhood area or are an elected member of the Council for the area concerned.**

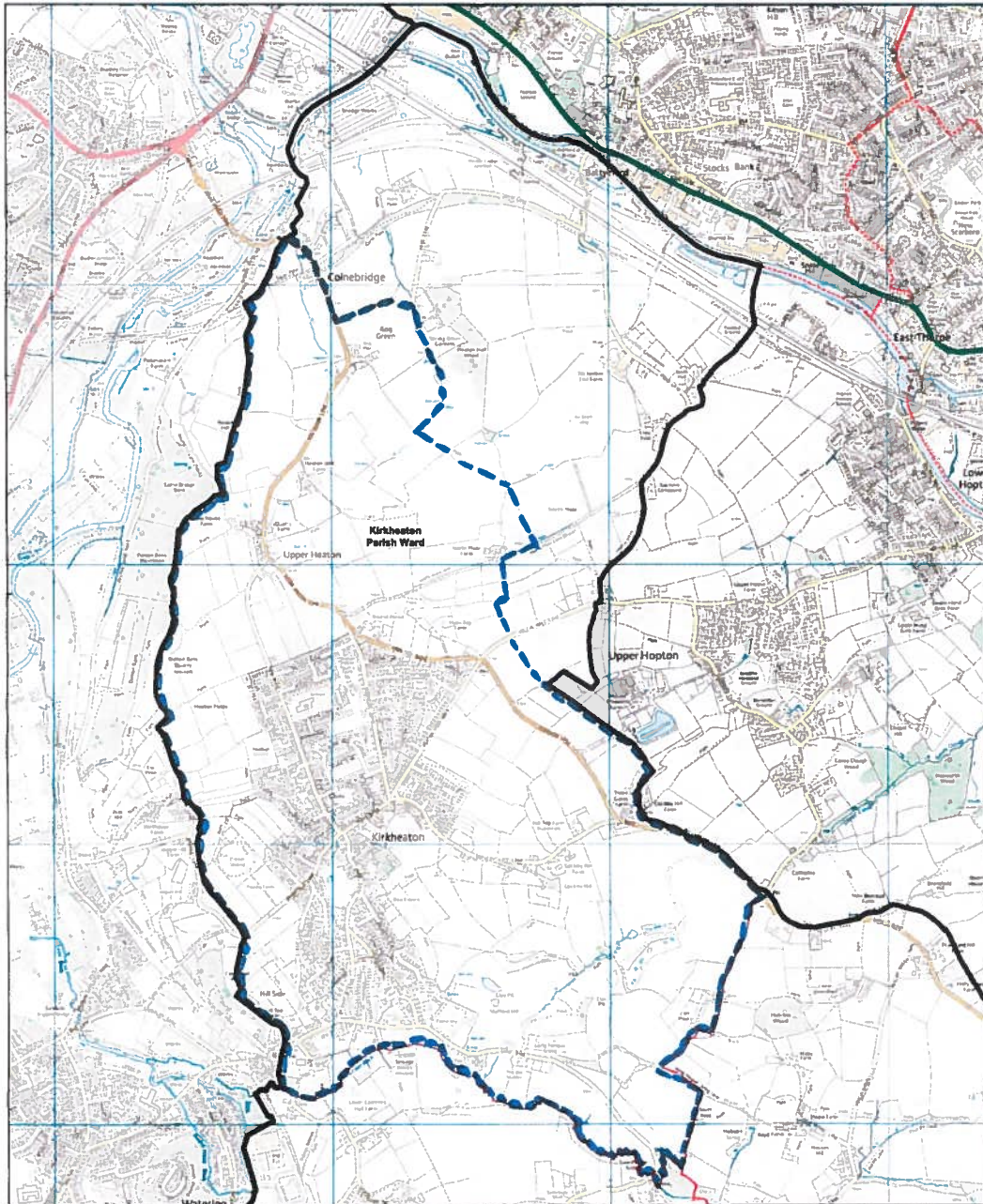
**As Kirkheaton is in a parished area, Kirkburton Parish Council is the qualifying body and all of the neighbourhood area falls inside the boundary of the Kirkheaton Ward.**



**Kirkburton Parish Council approved the name of the group; the group constitution; the boundary and the justification for that boundary at its Council meeting held on 1 October 2015 and is responsible for submitting the area application to Kirklees Council.**

5. Checklist for application for a Neighbourhood Area

- Ordinance Survey map on an appropriate scale identifying proposed neighbourhood area. **Ordinance Survey Map 1 (Scale 1:12,500 dated 16 September 2015 and named Filename: Proj2543 Kirkheaton Ward. A3 copy provided in addition to the image below.**

ORDINANCE SURVEY MAP 1



 <b>Kirklees</b> COUNCIL	© Crown Copyright and database right 2015. Ordnance Survey 100019241	<b>Kirkheaton Parish Ward</b>  Date: 16th September 2015 Scale: 1:12,500 Filename: Proj 2543 Kirkheaton A3	<b>KEY</b> ■ Parish □ Parish Ward ■ Kirkheaton Neighbourhood Area
<b>Policy Unit</b> Geographic Research and Information Team			

- **Statement explaining why the area is appropriate.**  
**Kirkburton Parish Council covers an area of approx 22 sq miles, which includes 11 villages made up of 8 wards. It has varied physical, economic, social and cultural characteristics and the Parish area is not a generally identified and identifiable community in its own right. As such, the Parish Council resolved (Min:234/09.01.2015) not to undertake a comprehensive Neighbourhood Plan for the whole parish, but to undertake plans for individual neighbourhoods with community groups, if desired.**

**The Kirkheaton Neighbourhood Area boundary as presented on Ordinance Survey Map 1 has been proposed by Kirkheaton Future, the neighbourhood plan steering group via Yetton Together, Kirkheaton's Community Group and approved at a meeting of Kirkheaton Future attended by 23 members on 21 October 2015 and by Kirkburton Parish Council (Min:116/01.10.2015).**

**The chief part of the boundary is coterminus with that of Kirkheaton Ward, within Kirkburton Parish Council. This is to contain the plan area within the Parish boundary.**

**To the North East of the Kirkheaton Ward area there is an amendment which, in effect, causes the plan area boundary to follow the interfluvium that separates the land directly draining into the River Calder, from that draining into Ox Field Beck / Fenay Beck. This removes the extreme NE segment of the Kirkheaton Ward, which is physically separate from Kirkheaton village and which would better be considered through another Neighbourhood Plan. The amended boundary follows designated footpaths and bridleways for most of the distance and then follows a stream at its northern end until it meets Paul Lane. At the southern end, it follows field boundaries until it re-joins the Parish Council boundary.**

**The amendment noted in the above paragraph reflects the consultation and agreed boundary of the Yetton Together Community Plan (2012). The area proposed is intended to reinforce the community cohesion engendered by the Community Plan and to provide a "more focused area" as advocated in the legislation and guidance on the preparation of Neighbourhood Plans provided by the Department for Communities and Local Government.**

**The resulting boundary, and the area contained within it, exhibits a high degree of physical, economic, social and cultural cohesion; this is a generally identified and identifiable community. In addition, and fundamental to the success of any area selected for the purposes of the preparation, the supplemental boundary demarcates an area which contains within it sufficient land and characteristics to offer a solution to the planning problems likely to be encountered.**

- Statement that the organisation making the area application is either a designated body or is capable of being such.

**Kirkheaton is in a parished area and as such Kirkburton Parish Council is the qualifying body and all of the neighbourhood area falls inside the boundary of the Kirkheaton Ward.**

- A project plan (optional)

**Not available**

Signed:



Organisation: **Kirkburton Parish Council**

Date: *7 December 2015.*

Attachments:

**A3 Ordinance Survey Map 1**

**Kirkheaton Future Constitution Issue 1**

