

EDEN DISTRICT COUNCIL

UPPER EDEN NEIGHBOURHOOD AREA DESIGNATION APPLICATION

1. INTRODUCTION

- 1.1 The Executive at its meeting on 31 July 2012 resolved that the Chief Executive be authorised to consider the area designation application for the Upper Eden and if appropriate to approve the application.

2. BACKGROUND

- 2.1 The power to designate an area as a Neighbourhood Area is exercisable under section 61G of the Town and Country Planning Act 1990. Under Regulation 5(1) of The Neighbourhood Planning (General) Regulations 2012 (which came into force on 6 April 2012) an area application has to include a map which identifies the area to which the area application relates, a statement explaining why *this* area is considered appropriate to be designated as a neighbourhood area and a statement that the body making the area application is a relevant body for the purposes of section 61G(2) of the 1990 Act.
- 2.2 Brough Parish Council as the 'relevant body' (for the purposes of section 61G(2) of the Town and Country Planning Act 1990) submitted an application for designation of the Upper Eden Neighbourhood Area on behalf of The Upper Eden Community Plan Group, an association of 17 parishes in the Upper Eden Area including Brough Parish Council, who have applied for their individual areas to be collectively designated as a Neighbourhood Area as defined in that Act. For the avoidance of doubt the specified area includes the whole of the area of Brough Parish Council and so satisfies section 61G(3) of the Act. The submission of the application complied with the Regulations.
- 2.3 The seventeen Parishes that make up the proposed Upper Eden Neighbourhood Area include: Kirkby Stephen, Brough, Crosby Garrett, Natbey, Ravenstonedale, Soulby, Warcop, Brough Sowerby, Hartley, Helbeck, Kaber, Mallerstang, Musgrave, Stainmore, Waitby, Wharton and Winton.

3. CONSIDERATION AS TO WHETHER OR NOT TO DESIGNATE

- 3.1 The issue is whether or not the specified area is an 'appropriate area to be designated as a Neighbourhood Area'.
- 3.2 The fact that the designation of the Upper Eden Neighbourhood Area would allow the Upper Eden Community Plan Group to produce a Neighbourhood Plan does not form part of the determination of this application nor does the fact that the Government is keen to support the Council to enable the Upper Eden Plan to become one of the first neighbourhood plans in the country to be adopted.
- 3.3 The specified area falls completely within the Council's area.
- 3.4 This is the first application made to the Council as local planning authority and so, in determining this application, the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas does not fall to be considered under section 61G(4)(b) of the Act.

- 3.5 The reasons explaining why *this* specified area is considered appropriate are set out in the application for designation itself and the application for designation has been publicised in accordance with Regulation 6 of The Neighbourhood Planning (General) Regulations 2012.
- 3.6 The application for designation as a Neighbourhood Area was publicised for an 8 week public consultation period from 20 June 2012 until 15 August 2012 for any representations to be received on or before 15 August 2012.
- 3.7 In total eight responses were made within that timescale – 3 were in support, 3 had no comments to make, 1 had no objection and 1 were in support in principle (subject to issues being addressed in the plan). The representations are made available in appendix 1, and regard has to be given to them.
- 3.8 In determining the application for designation of an area as a Neighbourhood Area, regard must be had to the desirability of designating the whole of the area of a parish council as a neighbourhood area as required under section 61G(4)(a) of the Act.
- 3.9 The specified area of the Upper Eden comprises the combined entire area of 17 parishes (parish councils and parish meetings).
- 3.10 Under section 61H of the 1990 Act whenever a local planning authority exercises powers under section 61G to designate an area as a neighbourhood area, consideration must be given as to whether the authority should designate the area concerned as a business area.
- 3.11 As designation of the specified area can only be done if the authority considers that the area is wholly or predominantly business in nature [section 61H(3)], the specified area cannot be designated as a business area.
- 3.12 If the application is approved, then Regulation 7(1) of The Neighbourhood Planning (General) Regulations 2012 requires the designation to be publicised. If the application is refused, reasons must be given under section 61G(9) of the 1990 Act and Regulation 7(2) of the Regulations requires the decision to be publicised.

4. RECOMMENDATION

- 4.1 I believe that the specified area without modification should be designated as a Neighbourhood Area for the reasons set out in the application and the results of the consultation with the public lend support to the designation. It is considered that the specified area is an 'appropriate area to be designated as a neighbourhood area' and I recommend that it be so designated.
- 4.2 The specified area is not wholly or predominantly business in nature and so it is inappropriate to designate it as a business area.
- 4.3 I also am of the opinion that it is not desirable that only part of such parish councils' areas be designated as this could lead to a fragmented approach within those areas.
- 4.4 A copy of the recommended decision to approve the application for designation of the specified area as a Neighbourhood Area is attached.

Ruth Atkinson
Communities Director

Appendix 1

Responses submitted to Eden District Council during the consultation on the application for the designation of Upper Eden as a Neighbourhood Area

Respondent	Comments
Kirby Stephen Town Council	Kirkby Stephen Town Council considered the above consultation at its meeting of 10 th July. The Town Council supports the designation of Upper Eden as a Neighbourhood Area.
Brough Parish Council	After its recent meeting on Monday 9th July 2012 I would like to confirm that the Parish Council wishes to be included in the area for the preparation of the Upper Eden Neighbourhood Plan.
Murton Parish Council	I am writing to inform you that Murton Parish Council supports the Upper Eden Neighbourhood Area application.
The Highways Agency	The Agency recognises the importance of such a document within the recent changes to the planning process and the involvement in the local community in decision making policy. At the present time the Agency has no specific comments with regard to the contents of this document; however the Highways Agency will continue to be involved in consultation of any further LDF documents provided for Eden District Council, that may have an effect on the Strategic Road Network.
English heritage	English Heritage has no representations to make on this issue we will however be providing comments on the Neighbourhood Development Plan.
Natural England	Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. Natural England has recently been in discussions with the Upper Eden Community Group regarding the draft Upper Eden Neighbourhood Plan and Habitats Regulations Assessment (HRA). Natural England is satisfied with the conclusion of the HRA that, whilst it can be concluded that the NDP is unlikely to have a significant effect on European sites, the NDP will include an appropriate caveat to ensure that relevant proposals coming forward at the detailed stage will be considered in relation to potential effects on European sites. For clarity Natural England also recommends that the Plan should refer to the significant biodiversity and landscape importance of the area, reflected through the numerous AONB, SSSI, SAC, SPA and local wildlife site designations, and the need to protect and enhance these through development. Subject to the above issues being addressed in the Plan, Natural England is satisfied that the Upper Eden is an appropriate area for designation as a Neighbourhood Area.

The Coal Authority	The proposed area is outside of the current defined coalfield; therefore The Coal Authority has no specific comments to make on the area designation order.
United Utilities	United Utilities PLC has no objections to the proposed 'Upper Eden neighbourhood area' and/or any specific comments to make at this stage, but wish to be included in further consultations and if possible, the development of the Upper Eden Neighborhood Plan and Eden District Council's future sustained economic growth plans and policies.