

**REPORT FROM: PLANNING, BUILDING CONTROL & LICENSING SERVICE
MANAGER**

TO: EXECUTIVE

DATE: 24th August 2017

Report Author: John Halton
Tel. No: 01282 661330
E-mail: john.halton@pendle.gov.uk

KELBROOK & SOUGH NEIGHBOURHOOD AREA

PURPOSE OF REPORT

To advise the Executive of the application submitted by Kelbrook and Sough Parish Council, notifying the Council of their intention to prepare a neighbourhood plan.

To request that the Executive confirm the designation of the parish of Kelbrook and Sough as a neighbourhood area under Section 61G of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATIONS

- (1) Members note the receipt of the application.
- (2) Members designate the parish of Kelbrook and Sough as a Neighbourhood Area.

REASONS FOR RECOMMENDATIONS

- (1) To comply with the Neighbourhood Planning (General) Regulations 2012 and Planning Practice Guidance.
- (2) To comply with the Neighbourhood Planning (General) Regulations 2012, as amended and (section 61G(5) of the Town and Country Planning Act 1990 as applied to neighbourhood plans by Section 38A of the Planning and Compulsory Purchase Act 2004).

ISSUE

In a letter dated 19th June 2017 (Appendix 1), Kelbrook and Sough Parish Council has requested that Pendle Council formally designate the whole of the parish as a 'neighbourhood area'. This represents the first step in preparing a Neighbourhood Plan for the area.

This report sets out the process for formally designating the neighbourhood area and outlines the Council's duty to support to parish and town councils engaged in the preparation of a neighbourhood plan for their area.

Background

The Localism Act 2011 introduced legislation giving local communities more power to plan for the future of their areas by preparing a Neighbourhood Plan. Once made (the term for their adoption) Neighbourhood Plans carry full weight as part of the statutory Development Plan for the area, and their policies must be taken into account when making decisions on planning applications.

The legislative framework governing the preparation of Neighbourhood Plans is set out in the Town and Country Planning Act 1990 (as amended) along with a series of subordinate regulations. The power to designate a Neighbourhood Area being conveyed to local planning authorities under Section 61G of the Town and County Planning Act 1990, as amended.

Pendle Council's Role

The Neighbourhood Planning (General) Regulations 2012, set out the statutory procedures for neighbourhood plans. The Regulations outline seven key roles and responsibilities for the Council:

1. Designation of neighbourhood areas;
2. Designation of neighbourhood forums (where appropriate);
3. Consider compliance with statutory and EU requirements (the "Basic Conditions");
4. Organise and fund an independent examination of the plan;
5. Organise and fund a public referendum;
6. General 'duty to support';
7. Duty to adopt.

Designation of Neighbourhood Area

The Neighbourhood Planning (General) Regulations 2012 set out the steps that must be followed in the preparation of a Neighbourhood Plan. The first formal step is the designation of a Neighbourhood Area.

An amendment to The Neighbourhood Planning (General) Regulations 2012 came into force on 1st October 2016. Regulation 5A states that if a valid application is received from a Parish Council and the area specified is for the whole of the parish, or an area wholly within the parish boundary, the Council must designate the area – there is no longer a requirement for the Council to publicise the application before confirming the designation.

The application received from Kelbrook and Sough parish Council is considered to conform with the requirements of Regulation 5A, in that:

1. Kelbrook and Sough Parish Council (a 'qualifying body') is the applicant.
2. The area specified within the application relates to the whole of the parish council's area.
3. No part of the area is currently part of a neighbourhood area, which extends outside of the parish council's area.

On this basis, Regulation 5A(2) requires that the Council must exercise its powers under Section 61G of the 1990 Act and designate the specified area as a neighbourhood area. The Council is afforded no discretion in this process. If no decision is made the neighbourhood area is automatically approved as applied for.

Regulation 7 requires that this decision must be published on the Council website and publicised in such other manner as considered is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area.

Next Steps

The Council has a general 'duty to support' the parish council. Lead responsibility for discharging this duty lies with Planning, Building Control & Licensing Services, although support from other service areas may also be required. A service level agreement (protocol) will be put in place to formalise the assistance provided by the Council in support of neighbourhood planning.

Following designation of the neighbourhood area the parish council will engage with the local community, statutory consultees and other interested parties in the preparation a draft Neighbourhood Plan. This process requires at least one formal six week public consultation (Regulation 14).

The final draft of the Neighbourhood Plan is submitted to the Council to check that it has been prepared correctly and meets the 'Basic Conditions' (Regulation 15). The Council will then carry out a further six week public consultation (Regulation 16). The plan and any comments received in response to this consultation are then sent to the person appointed to conduct the independent examination of the plan (Regulation 17), which is facilitated and funded by the Council.

If the examiner recommends that the Neighbourhood Plan can be taken the Council is responsible for facilitating and funding a referendum (Regulation 18). If the majority of those voting in the referendum support the plan, it carries substantial weight in the determination of planning applications increasing to full weight when 'made' (adopted) by the Council, as it formally becomes part of the statutory Development Plan.

IMPLICATIONS

Policy: If adopted the Kelbrook and Sough Neighbourhood Plan will become part of the statutory Development Plan for Pendle and its policies will be used by planning officers to help determine applications for planning permission that are located within the parish council boundary.

Financial: The costs associated with designating a neighbourhood area can be met within existing budgets.

It is not possible to estimate the financial implications associated with the preparation of a Neighbourhood Plan, so these will be reported in due course. Financial support is available from the Government to support the Council with its neighbourhood planning obligations. For the 2017/2018 financial year, it is possible to claim £20,000 for each Neighbourhood Plan, payable once a date is set for a referendum. The Council is also able to claim an additional £5,000 from Government for the designation up to five neighbourhood areas. The Kelbrook and Sough Neighbourhood Area is the fourth such designation in Pendle, after Barrowford, Trawden Forest and Colne.

Legal:	The Town and Country Planning Act 1990 and subordinate regulations require the Council to consider and determine applications for the designation of a neighbourhood area.
Risk Management:	A service level agreement between the Council and Kelbrook and Sough Parish Council will assist in the management of plan preparation.
Health and Safety:	None identified.
Sustainability:	A neighbourhood plans must be assessed to determine whether it is likely to have significant environmental effects. This process is commonly referred to as a 'screening assessment' and the requirements are set out in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.
Community Safety:	None identified.
Equality and Diversity:	Neighbourhood plans, through a democratic process of consultation and referendum, provide an opportunity for all sectors of the local community to have a say in the future development of their area.

APPENDICES

Appendix 1: Notice of Intention to Prepare a Neighbourhood Plan (Kelbrook and Sough Parish Council, 19th June 2017).

LIST OF BACKGROUND PAPERS

The Town and Country Planning Act 1990, as amended

 <http://www.legislation.gov.uk/ukpga/1990/8/contents>

Localism Act 2011

 <http://www.legislation.gov.uk/ukpga/2011/20/contents>

The Neighbourhood Planning (General) Regulations 2012; as amended

 <http://www.legislation.gov.uk/uksi/2012/637/contents/made>

The Neighbourhood Planning (General)(Amendment) Regulations 2015

 <http://www.legislation.gov.uk/uksi/2015/20/made>

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016

 <http://www.legislation.gov.uk/uksi/2016/873/contents/made>

Chief Planning Officer Letter from CLG: Update on financial support for neighbourhood planning in 2017 to 2018

 <https://www.gov.uk/guidance/planning-guidance-letters-to-chiefplanning-officers>

Kelbrook and Sough Parish Council

Mr Jonathan Dicken BSc (Hons) MPLAN MRTPI
Senior Planning Officer (Policy)
Pendle Borough Council
Strategic Services
Planning, Building Control & Licensing
Town Hall,
Market Street,
Nelson,
BB9 7LG

Mr Stephen Schollick
Clerk to the Parish Council of Kelbrook & Sough
Beechcliffe
24 School Lane
Earby
BB18 6QF

19th June 2017

Dear Mr Dicken,

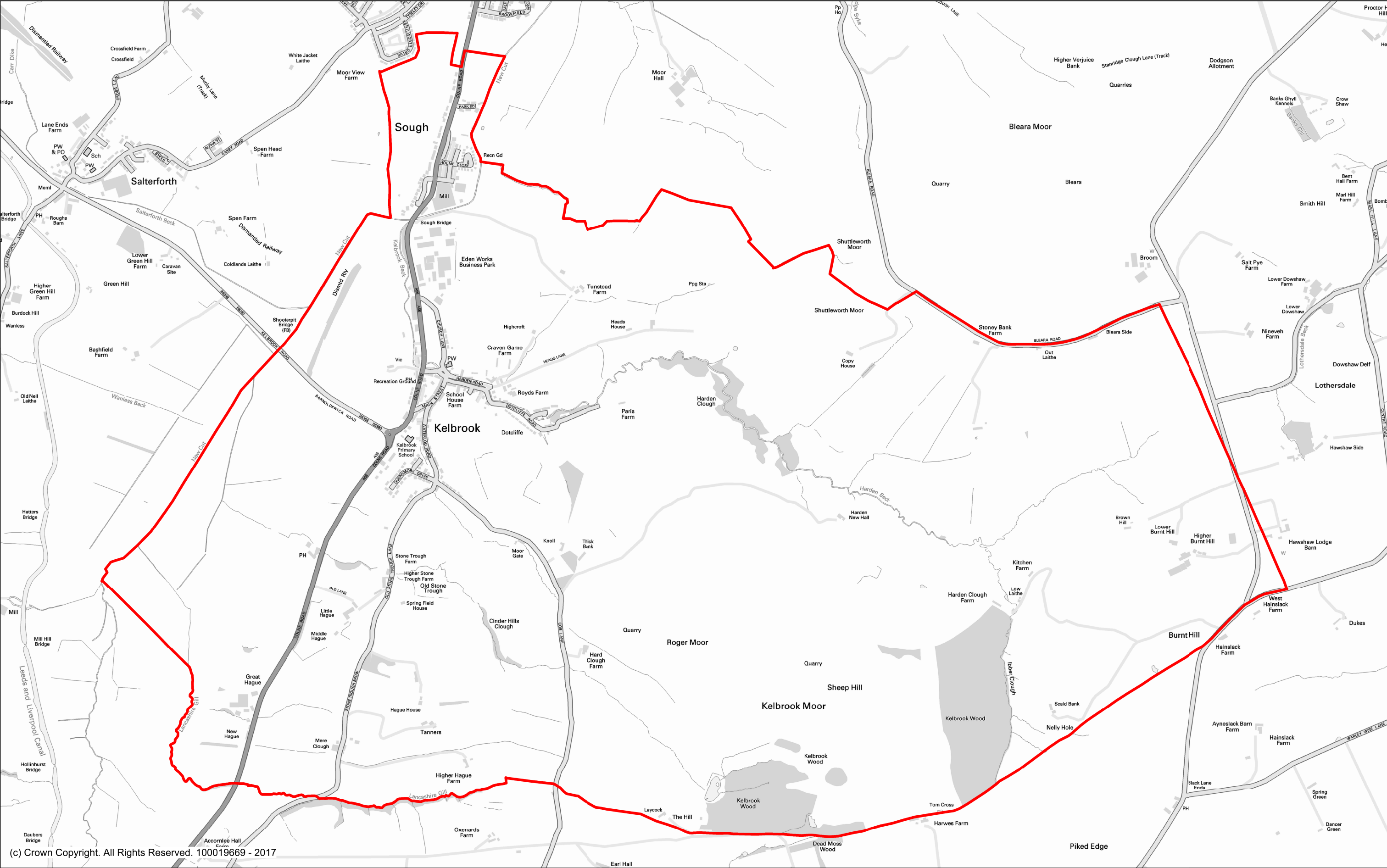
This email is a formal application to designate a neighbourhood area and thereafter create a neighbourhood plan.

1. The area is the entire parish of Kelbrook and Sough (plan attached).
2. The Parish Council believes the area requested for designation to be appropriate for the following reasons:
 - It is the entire parish which retains and maintains its separate identity from neighbouring parishes.
 - The parish council wishes to give local residents more say in how their parish will develop in the future.
3. The relevant body making this application is the Parish Council of Kelbrook and Sough.

Yours sincerely,



Stephen Schollick
Clerk to the Parish Council



Kelbrook and Sough Neighbourhood Area - Proposed Boundary

