EXPLANATORY MEMORANDUM TO

THE BARNSLEY AND SHEFFIELD (BOUNDARY CHANGE) ORDER 2024

2024 No. 1328

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Jim Mc Mahon, Minister of State, Ministry of Housing, Communities and Local Government, confirms that this Explanatory Memorandum meets the required standard.

2.2 Evi Bell, Deputy Director for Local Government Oversight and Improvement, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Piers Netting at the Ministry of Housing, Communities and Local Government Telephone: [+44 303 444 1013] or email: piers.netting@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument provides for the district boundary between the Metropolitan Borough of Barnsley and the Metropolitan Borough of Sheffield City to be revised in order to include the whole area of the Oughtibridge Mill housing development in the city of Sheffield. The instrument also provides for consequential changes to the corresponding ward boundary, parish boundary and parish ward boundary

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 This instrument will move the area of the Oughtibridge Mill housing development from the area and governance of the borough of Barnsley to the borough of Sheffield.

5.2 This requires changing the district boundary between the Metropolitan Borough of Barnsley and the Metropolitan Borough of Sheffield City, as well as changing the

boundary between Penistone East ward to the Stocksbridge and Upper Don ward and the parish boundary between Wortley parish and the Wharncliffe Side ward of Bradfield parish in order to keep all boundaries coterminous.

5.3 Few reviews of the external, administrative boundaries of local authority areas in England have been carried out since 1992. As a consequence, there are a number of small-scale boundary anomalies between local authorities caused by new developments and population change. A boundary which cuts through a property, or an estate is unlikely to be convenient to the property owners who may have to deal with two separate local authorities, for example for council tax or planning purposes or for the provision of council services.

5.4 Whilst in practice local government will put in place informal arrangements to deal with such situations the very fact that they need to do so is not conducive to effective and convenient local government. Such anomalies can also impact on perceptions of community identity - people who do not feel, for whatever reason, "part" of an area are potentially less likely to take an interest in their council.

5.5 Under the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") the Local Government Boundary Commission for England (the "LGBCE") is able to undertake a Principal Area Boundary Review ("PABR") at the request of a local authority, on its own initiative (for instance, if it is aware of an outstanding problem) or at the request of the Secretary of State. The LGBCE has decided that it will undertake some administrative boundary reviews that are not contentious and where there is local agreement. The PABR considers the desirability of a boundary change based on the need to secure effective and convenient local government, and the need to reflect the identities and interests of local communities.

What was the previous policy, how is this different?

5.6 On 14 April 2022 the LGBCE received a formal request for a PABR of the boundary in this area made jointly by Barnsley Council and Sheffield City Council. The existing boundary runs along the River Don but this resulted in the Oughtibridge Mill development being split between the two councils. Both councils told LGBCE that due to the geography of the local communities and existing road layout the impact on service demand would mostly be felt by Sheffield Council and that services would be best delivered by Sheffield.

5.7 The PABR final recommendations following the consultation process was to transfer the area of the Oughtibridge Mill housing development that is in Barnsley Council's boundaries into Sheffield Council's boundaries. This would be accomplished by moving a section the councils' shared boundary at the River Don to encapsulate the Oughtibridge Mill development. The development includes 12 existing and 284 future dwellings.

5.8 A recommendation to omit the area from the Penistone East ward and add it to the Stocksbridge and Upper Don ward in the interest of a coterminous boundary realignment was specified in the PABR.

5.9 The recommendations also included a suggestion for the realignment of the parishes (see subsection 6.7).

5.10 The Minister of State at the Ministry of Housing, Communities and Local Government, on behalf of the Secretary of State, agreed that the LGBCE recommendations met the statutory obligation to secure effective and convenient local

government while reflecting the interests and identities of local communities, and thus decided to implement them without modification.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument gives effect to the final recommendations, published on 10 January 2023, of the PABR of the boundary between Barnsley Metropolitan Borough Council and Sheffield City Council, by the LGBCE.

Why was this approach taken to change the law?

6.2 As stated in subsection 5.6 a formal joint request between Barnsley and Sheffield City council for a PABR was issued to the LGBCE.

6.3 Under Section 8(1) of the 2007 Act the LGBCE may, ***either*** on their own initiative or at the request of the Secretary of State or a local authority, conduct a review of one or more local government areas.

6.4 Under Section 10(1) of the 2007 Act the Secretary of State may choose to implement the LGBCE's recommendation (with or without modification), take no action regarding the recommendation, or request further review.

6.5 On 4 September 2024 the Minister on behalf of the Secretary of State gave his approval to the Boundary Change without modification.

6.6 For the purpose of implementing the LGBCE's recommendations, the statutory instrument revises the district boundary under the power in section 11(3)(c) of the 2007 Act and makes consequent changes to the ward boundary under section 11(3)(i) of the 2007 Act.

6.7 It was not within the LGBCE's remit to recommend a change to any parish boundary. However, under the Secretary of State's power in section 11(1)(b) (incidental matters) and 11(4)(c) of the 2007 Act, the instrument amends the parish boundary between Wortley and Bradfield parishes (specifically between Wortley and the Wharncliffe Side ward of Bradfield parish) so that it is coterminous with the revised district boundary.

7. Consultation

Summary of consultation outcome and methodology

7.1 The LGBCE PABR followed section 9 of the 2007 Act and consulted:

(a) the council of any local government area to which the review relates; and

(b) such other local authorities, parish councils and other persons as appear to them to have an interest.

7.2 The LGBCE published a draft of their recommendations on 27 September 2022, and it was open for recommendations for six weeks until 7 November 2022. They received 19 responses to their draft recommendation consultation. Six of these submissions were from residents who identified themselves as living within the affected area. Five of these residents supported the transfer of the area from Barnsley to Sheffield. One resident was opposed.

7.3 Of the remaining 11 submissions, six were in favour of the proposed change and five were opposed. Those opposed stated opposition to what they considered would be the financial cost of the move based on land values and the services to be provided. Some

objected to the name of the development, and one thought a larger area should be transferred. LGBCE concluded that all objections related to issues around the development itself and outside the scope the PABR.

7.4 In addition to these submissions, LGBCE also received responses from Bradfield Parish Council and Stocksbridge Town Council. Bradfield Parish Council is directly affected by the change whilst Stocksbridge parish is within the Stocksbridge & Upper Don ward whose boundary will be amended. Both councils supported the proposal.

7.5 Both Barnsley and Sheffield councils assured the LGBCE that their proposal for a PABR of the boundary had been discussed with Miriam Cates, the then MP for the Penistone and Stocksbridge constituency which covers the entirety of the area in question, and that she had been supportive. However, she did not respond to the Commission's consultation.

7.6 The Commission sent the Secretary of State a copy of their report and recommendations on 9 January 2023, the day before they were formally published. A copy of final version of the PABR as sent to the Secretary of State can be found published on the LGBCE's website *https://www.lgbce.org.uk/all-reviews/pabr-barnsley-and-sheffield*.

7.7 Section 9(4)(b)(ii) of the 2007 Act provides that there must be a four-week period where interested parties can make representations about the PABR to the Secretary of State before he takes a decision on the recommendations. The Commission notified all local partners and those who responded to the consultation of this period of representations which closed on 7 February 2023.

7.8 The Department received no representations either by email or post.

8. Applicable Guidance

8.1 The Department does not intend to issue any guidance alongside these instruments. This is not considered necessary as the provisions of the draft Orders are self-explanatory.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no impact on the private or voluntary sector foreseen and the impact on the public sector is limited to the area for which the draft Order makes provision and managed by the local authorities concerned.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because of the limited area affected by the boundary change and the legislation does not apply to activities that are undertaken by small businesses.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is limited to the areas for which the draft Orders make provision. The one-off cost of producing the maps referred to by the instruments is to be funded by the LGBCE. The one-off costs of amending the electoral registers to reflect the amended, district and parish boundaries are to be funded by the local authorities concerned.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This instrument does not introduce new policy so there is no plan to monitor and review the Order. However, under section 8(1) of the 2007 Act, the boundary changes implemented by this instrument could, if necessary in the future, be reviewed again by the LGBCE on its own initiative, or at the request of the Secretary of State or a local authority.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Jim McMahon, the Minister of State, Ministry of Housing, Communities and Local Government, has made the following statement regarding Human Rights:

"In my view the provisions of the Barnsley and Sheffield (Boundary Change) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").