

Neighbourhood planning

The guidance explains the neighbourhood planning system introduced by the Localism Act, including key stages and considerations required.

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What is neighbourhood planning?

What is neighbourhood planning?

Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided, and grant planning permission for the new buildings they want to see go ahead. Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Paragraph: 001 Reference ID: 41-001-20140306

Revision date: 06 03 2014

What can communities use neighbourhood planning for?

Local communities can choose to:

- set planning policies through a neighbourhood plan that is used in determining planning applications.
- grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.

Neighbourhood planning is not a legal requirement but a right which communities in England can choose to use. Communities may decide that they could achieve the outcomes they want to see through other planning routes, such as incorporating their proposals for the neighbourhood into the Local Plan (<https://www.gov.uk/guidance/local-plans--2>), or through other planning mechanisms such as Local Development Orders (<https://www.gov.uk/guidance/when-is-permission-required#Local-Development-Order>) and supplementary planning documents (<https://www.gov.uk/guidance/local-plans--2#monitoring-report>) or through pre-application consultation on development proposals. Communities and local planning authorities should discuss the different choices communities have to achieving their ambitions for their neighbourhood.

Paragraph: 002 Reference ID: 41-002-20140306

Revision date: 06 03 2014

What are the benefits to a community of developing a neighbourhood plan or Order?

Neighbourhood planning enables communities to play a much stronger role in shaping the areas in which they live and work and in supporting new development proposals. This is because unlike the parish, village or town plans that communities may have prepared, a neighbourhood plan forms part of the development plan and sits alongside the Local Plan (<https://www.gov.uk/guidance/local-plans--2>) prepared by the local planning authority. Decisions on planning applications will be made using both the Local Plan and the neighbourhood plan, and any other material considerations.

Neighbourhood planning provides the opportunity for communities to set out a positive vision for how they want their community to develop over the next 10, 15, 20 years in ways that meet identified local need and make sense for local people. They can put in place planning policies that will help deliver that vision or grant planning permission for the development they want to see.

To help deliver their vision communities that take a proactive approach by drawing up a neighbourhood plan or Order and secure the consent of local people in a referendum, will benefit from 25% of the revenues from the Community Infrastructure Levy arising from the development that takes place in their area.

Communities without a parish or town council will still benefit from this incentive. If there is no parish or town council the charging authority will retain the Levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools eg website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.

Paragraph: 003 Reference ID: 41-003-20140306

Revision date: 06 03 2014

What is a neighbourhood plan and what is its relationship to a Local Plan?

What should a Neighbourhood Plan address?

A neighbourhood plan should support the strategic development needs set out in the Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework (<https://gov.uk/guidance/national-planning-policy-framework/achieving-sustainable-development/#para016>)).

A neighbourhood plan can be used to address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2004/5/section/38>)).

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.

Paragraph: 004 Reference ID: 41-004-20170728

Revision date: 28 07 2017 See previous version

(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2>)

Must a community ensure its neighbourhood plan is deliverable?

If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably (<https://www.gov.uk/guidance/viability>) is threatened.

Paragraph: 005 Reference ID: 41-005-20140306

Revision date: 06 03 2014

Does a neighbourhood plan have the same legal status as the Local Plan?

A neighbourhood plan attains the same legal status as the Local Plan once it has been approved at a referendum. At this point it comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2004/5/section/38>)).

Paragraph: 006 Reference ID: 41-006-20170728

Revision date: 28 07 2017 See previous version

(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2>)

What weight can be attached to an emerging neighbourhood plan when determining planning applications?

Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it.

An emerging neighbourhood plan may be a material consideration. Paragraph 216 of the National Planning Policy Framework (<https://gov.uk/guidance/national-planning-policy-framework/annex-1-implementation/#para216>) sets out the weight that may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, as part of the development plan, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals. And all representations on the proposals should have been submitted to the local planning authority by the close of the local planning authority's publicity period.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/1990/8/section/70>) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application.

Paragraph: 007 Reference ID: 41-007-20170728

Revision date: 28 07 2017 See previous version

(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2>)

How should planning applications be decided where there is an emerging neighbourhood plan but the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites?

Where the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in the emerging neighbourhood plan, even though these policies should not be considered up-to-date.

Paragraph 216 of the National Planning Policy Framework (<https://gov.uk/guidance/national-planning-policy-framework/annex-1-implementation/#para216>) sets out the weight that may be given to relevant policies in emerging plans in decision taking.

Further assistance to decision makers in these circumstances can be found in guidance on the relationship between a neighbourhood plan and a local plan.

Documentation produced in support of or in response to emerging neighbourhood plans, such as basic conditions statements, consultation statements, representations made during the pre-examination publicity period and independent examiners' reports, may also be of assistance to decision makers in their deliberations.

Planning practice guidance also addresses the question of prematurity in relation to neighbourhood plans (<https://www.gov.uk/guidance/determining-a-planning-application#para014>).

Paragraph: 082 Reference ID: 41-082-20160211

Revision date: 11 02 2016

How should planning applications be decided where there is a neighbourhood plan in force but the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites?

Neighbourhood plans are an important part of the plan-led system. The government's policy intention when introducing neighbourhood planning was to provide a powerful set of tools for local people to ensure they get the right types of development for their community, while also planning positively to support strategic development needs.

Decision makers may find themselves considering applications in an area with a neighbourhood plan that has passed referendum and is therefore in force and forms part of the development plan, but where the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites.

A written ministerial statement on 12 December 2016 (<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-12-12/HCWS346/>) set out how planning applications and appeals should be determined in circumstances where the local planning authority cannot demonstrate a 5-year supply of housing, but there is a neighbourhood plan in force where all of the following criteria apply:

- the written ministerial statement is less than 2 years old, or the neighbourhood plan been part of the development plan for 2 years or less;

- the neighbourhood plan allocates sites for housing; and
- the local planning authority can demonstrate a 3-year supply of deliverable housing sites against its 5 year housing requirement.

The written ministerial statement stated that in such circumstances, relevant policies for the supply of housing in the neighbourhood plan should not be deemed to be 'out-of-date' under paragraph 49 (<https://www.gov.uk/guidance/national-planning-policy-framework/6-delivering-a-wide-choice-of-high-quality-homes#para049>) of the National Planning Policy Framework.

Subsequently, the Supreme Court in *Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG; Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council* [2017] UKSC 37 (<http://www.bailii.org/uk/cases/UKSC/2017/37.html>) has explained that it is not necessary to determine whether a policy is a "relevant policy for the supply of housing" in paragraph 49 of the National Planning Policy Framework, and deem it "out-of-date" in order to determine the weight that is attached to that policy. Weight is a matter of planning judgement for the decision maker. In circumstances where the development plan is absent, silent or relevant policies are out of date, paragraph 14 (<https://www.gov.uk/guidance/national-planning-policy-framework/achieving-sustainable-development#para014>) of the Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or restrictive policies in the Framework indicate development should be restricted.

In this situation, when assessing the adverse impacts of the proposal against the policies in the Framework as a whole, decision makers should include within their assessment those policies in the Framework that deal with neighbourhood planning. This includes paragraphs 183-185 (<https://www.gov.uk/guidance/national-planning-policy-framework/plan-making#para183>) of the Framework; and paragraph 198 (<https://www.gov.uk/guidance/national-planning-policy-framework/decision-taking#para198>).

Paragraph 198 of the Framework states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. In determining applications, decision-makers should take into account the impact of granting permission for an application that conflicts with a neighbourhood plan.

Where the criteria in the written ministerial statement apply, decision makers should give significant weight to the neighbourhood plan notwithstanding the fact that the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites.

Paragraph: 083 Reference ID: 41-083-20170810

Revision date: 10 08 2017 See previous version
(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2>)

In what circumstances might it be justifiable to refuse planning permission before a neighbourhood plan has been brought into force on the grounds of prematurity?

Guidance on the relevance of prematurity to a decision on a planning application (<https://www.gov.uk/guidance/determining-a-planning-application#para014>).

Paragraph: 008 Reference ID: 41-008-20170728

Revision date: 28 07 2017 See previous version
(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2>)

Can a neighbourhood plan come forward before an up-to-date Local Plan is in place?

Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan.

A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft neighbourhood plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development.

Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- the emerging neighbourhood plan
- the emerging Local Plan
- the adopted development plan

with appropriate regard to national policy and guidance.

The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination.

The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2004/5/section/38>) requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.

Paragraph: 009 Reference ID: 41-009-20160211

Revision date: 11 02 2016 See previous version

(http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/what-is-neighbourhood-planning/what-is-a-neighbourhood-plan-and-what-is-its-relationship-to-a-local-plan/#paragraph_009)

What is a Neighbourhood Development Order?

What type of permission can be granted by a Neighbourhood Development Order?

A Neighbourhood Development Order can grant planning permission for specific types of development in a specific neighbourhood area. A Neighbourhood Development Order can therefore:

- apply to a specific site, sites, or wider geographical area
- grant planning permission for a certain type or types of development (<https://www.gov.uk/guidance/when-is-permission-required>)
- grant planning permission outright or subject to conditions (<https://www.gov.uk/guidance/use-of-planning-conditions>).

Paragraph: 010 Reference ID: 41-010-20140306

Revision date: 06 03 2014

What type of development can be granted planning permission by a Neighbourhood Development Order?

A Neighbourhood Development Order can be used to permit:

- building operations (eg structural alterations, construction, demolition or other works carried out by a builder)
- material changes of use of land and buildings; and/or
- engineering operations

Further information and a definition of development (<https://www.gov.uk/guidance/when-is-permission-required>).

Paragraph: 011 Reference ID: 41-011-20140306

Revision date: 06 03 2014

What is a Community Right to Build Order and what can it do?

A Community Right to Build Order is a form of Neighbourhood Development Order that can be used to grant planning permission for small scale development for community benefit on a specific site or sites in a neighbourhood area.

A Community Right to Build Order can be used for example to approve the building of homes, shops, businesses, affordable housing for rent or sale, community facilities or playgrounds. Where the community organisation wishes to develop the land itself (subject to acquiring the land if appropriate), then the resulting assets can only be disposed of, improved or developed in a manner which the organisation considers benefits the local community or a section of it.

The legislation also provides a mechanism that enables housing developed using a Community Right to Build Order to be retained as housing that is affordable in perpetuity. This is achieved by disapplying certain statutory rights of tenants of long leases to buy their freehold and the statutory right given to qualifying tenants to acquire social housing (see paragraphs 11 and 12 of Schedule 4C to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/11/enacted>) and Part 7 of the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/uksi/2012/637/part/7/made>) (as amended) (<http://www.legislation.gov.uk/uksi/2013/235/made>)).

Paragraph: 012 Reference ID: 41-012-20140306

Revision date: 06 03 2014

Is there development that cannot be granted planning permission by a Neighbourhood Development Order or a Community Right to Build Order?

An Order must meet the basic conditions for neighbourhood planning and it cannot include development defined in section 61K of the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>). This includes:

- development normally dealt with by a county planning authority, for example minerals and waste related development
- development described in Schedule 1 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) (<http://www.legislation.gov.uk/uksi/2011/1824/schedule/1/made>) which automatically requires an Environmental Impact Assessment (and in the case of a Community Right to Build Order any Environmental Impact Assessment development)
- development of nationally significant infrastructure projects (which are defined in the Planning Act 2008 (<http://www.legislation.gov.uk/ukpga/2008/29/contents>))

Paragraph: 013 Reference ID: 41-013-20140306

Revision date: 06 03 2014

Who leads neighbourhood planning in an area?

Who leads neighbourhood planning in an area?

Where a community wants to take up the opportunities offered by neighbourhood planning, the legislation enables 3 types of organisation, known as qualifying bodies, to lead it:

- a parish or town council
- a neighbourhood forum
- a community organisation

Paragraph: 014 Reference ID: 41-014-20140306

Revision date: 06 03 2014

What is the role of a parish or town council in neighbourhood planning?

In a designated neighbourhood area which contains all or part of the administrative area of a town or parish council, the town or parish council is responsible for neighbourhood planning.

Where a parish or town council chooses to produce a neighbourhood plan or Order it should work with other members of the community who are interested in, or affected by, the neighbourhood planning proposals to allow them to play an active role in preparing a neighbourhood plan or Order.

The relationship between any group and the formal functions of the town or parish council should be transparent to the wider public. A parish or town council may choose to establish an advisory committee or sub-committee under section 102(4) of the Local Government Act 1972 (<http://www.legislation.gov.uk/ukpga/1972/70/section/102>) and appoint local people (who need not be parish councillors) to those bodies. Members of such committees or sub-committees would have voting rights under section 13(3), (4)(e) or (4)(h) of the Local Government and Housing Act 1989 (<http://www.legislation.gov.uk/ukpga/1989/42/section/13>). The terms of reference for a steering group or other body should be published and the minutes of meetings made available to the public.

Paragraph: 015 Reference ID: 41-015-20160211

Revision date: 11 02 2016 See previous version

(http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/who-leads-neighbourhood-planning-in-an-area/#paragraph_015)

What is a designated neighbourhood forum?

A designated neighbourhood forum is an organisation or group empowered to lead the neighbourhood planning process in a neighbourhood area where there is no town or parish council.

A group or organisation must apply to the local planning authority to be designated as a neighbourhood forum (a forum application). Those making a forum application must show how they have sought to comply with the conditions for neighbourhood forum designation. These are set out in section 61F(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 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>).

To be designated a neighbourhood forum must have a membership that includes a minimum of 21 individuals who either:

- live in the neighbourhood area
- work there; and/or
- are elected members for a local authority that includes all or part of the neighbourhood area

Paragraph: 016 Reference ID: 41-016-20140306

Revision date: 06 03 2014

What if a prospective neighbourhood forum does not have a member from each category, can it still be designated?

A prospective neighbourhood forum is not required to have a member from each membership category in order to be designated. A neighbourhood forum must have an open membership policy, but it cannot force people to be a part of something they may not wish to be a part of. The local planning authority must consider whether the prospective neighbourhood forum has secured or taken reasonable steps to attempt to secure membership from each category and from different places and sections of the community in that area (see section 61F(7)(a)(i) and (ii) of the Town and Country Planning Act 1990 as applied to Neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>)).

Paragraph: 017 Reference ID: 41-017-20140306

Revision date: 06 03 2014

Can businesses be part of a neighbourhood forum?

Membership of a designated neighbourhood forum must be open to those working in a neighbourhood area as they will have an interest in the future of an area and the direction that its growth should take.

Individuals in businesses can take the lead in neighbourhood planning. They may wish to consider doing so particularly in areas that are wholly or predominantly business in nature. They should work closely with residents and others. They can ask their local planning authority to consider designating a neighbourhood area as a business area (see section 61H of the Town and Country Planning Act 1990 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>)).

Paragraph: 018 Reference ID: 41-018-20140306

Revision date: 06 03 2014

Can any community organisation develop a Community Right to Build Order in an area?

Any community organisation can develop a Community Right to Build Order in an area provided they meet the conditions set out in paragraph 3 of Schedule 4C to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/11/enacted>) and in regulation 13 of the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/uksi/2012/637/regulation/13/made>) (as amended) (<http://www.legislation.gov.uk/uksi/2013/235/made>)). This means the community organisation must be a body corporate and meet minimum membership requirements. Its constitution must allow people who live or work in the neighbourhood area to become voting members. Those who live in the area must have the majority of voting rights. The constitution must also ensure that the community organisation's assets can only be disposed of, improved, or developed for the benefit of the community.

A community organisation does not need to be designated by the local planning authority in order for it to develop a Community Right to Build Order in a designated neighbourhood area. The local planning authority must however consider whether the organisation meets the legal requirements to be a community organisation when a Community Right to Build Order proposal is submitted to it.

Paragraph: 019 Reference ID: 41-019-20140306

Revision date: 06 03 2014

Can a community organisation that meets the conditions also produce a neighbourhood plan or a Neighbourhood Development Order?

Community organisations can only produce a Community Right to Build Order, they cannot produce a neighbourhood plan unless they are also a designated neighbourhood forum.

Paragraph: 020 Reference ID: 41-020-20140306

Revision date: 06 03 2014

The role of the local planning authority in neighbourhood planning

What role should the local planning authority play in neighbourhood planning?

A local planning authority must:

- take decisions at key stages in the neighbourhood planning process within the time limits that apply.
- provide advice or assistance to a parish council, neighbourhood forum or community organisation that is producing a neighbourhood plan or Order as required by paragraph 3 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>).

Paragraph: 021 Reference ID: 41-021-20140306

Revision date: 16 11 2016 See previous version

(<http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/the-role-of-the-local-planning-authority-in-neighbourhood-planning/>)

How should a local planning authority carry out its neighbourhood planning functions?

A local planning authority should:

- be proactive in providing information to communities about neighbourhood planning.
- fulfil its duties and take decisions as soon as possible, and within statutory time periods where these apply.
- set out a clear and transparent decision making timetable and share this with those wishing to prepare a neighbourhood plan or an Order.
- constructively engage with the community throughout the process including when considering the recommendations of the independent examiner of a neighbourhood development plan or Order proposal.

Paragraph: 022 Reference ID: 41-022-20150209

Revision date: 16 11 2016 See previous version

(http://webarchive.nationalarchives.gov.uk/20150922113135/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/the-role-of-the-local-planning-authority-in-neighbourhood-planning/#paragraph_022)

Is there a time period within which a local planning authority must take decisions?

Where a local planning authority has the responsibility for the neighbourhood planning process, it should make every effort to conclude each stage promptly. Timely decision taking is important particularly at the start and at the end of the process. Certain decisions must be taken within prescribed time periods. These are set out in the Neighbourhood Planning (General) (Amendment) Regulations 2015 (<http://www.legislation.gov.uk/uksi/2015/20/contents/made>), the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 (<http://www.legislation.gov.uk/uksi/2016/873/contents/made>), and the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017 (<http://www.legislation.gov.uk/uksi/2017/1243/made>) which amend the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/uksi/2012/637/contents/made>).

- the designation of a neighbourhood area.
- the designation of a neighbourhood forum.
- the decision by a local planning authority on whether to put a neighbourhood plan or order proposal to referendum following receipt of the report of the independent examiner.
- the time period for a local planning authority to seek further representations and make a final decision, where they propose to make a decision which differs from that recommended by the examiner.
- the time period within which the referendum must be held, following the decision that the plan or Order proposal should be put to referendum;
- the time period for a local planning authority to make a neighbourhood plan or Order after it has been approved in each applicable referendum.
- the time period for a local planning authority to make a modified neighbourhood plan following receipt of the report of the independent examiner, where the modifications do not change the nature of the plan.

Paragraph: 081 Reference ID: 41-081-20180222

Revision date: 22 02 2018 See previous version

(http://webarchive.nationalarchives.gov.uk/20171217000651/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/the-role-of-the-local-planning-authority-in-neighbourhood-planning/#paragraph_081)

Who takes the decisions on neighbourhood planning in a local planning authority?

The Council's Executive takes the decisions on neighbourhood planning in a local planning authority (where the authority operates executive arrangements). The Executive may be able to delegate others in the authority to discharge these duties. The neighbourhood planning functions may be delegated to a committee or another authority. For further details see the Local Government Act 2000 (<http://www.legislation.gov.uk/ukpga/2000/22/contents>) and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (<http://www.legislation.gov.uk/uksi/2000/2853/contents/made>).

Paragraph: 023 Reference ID: 41-023-20140306

Revision date: 06 03 2014

Designating a neighbourhood area

What is the process for designating a neighbourhood area?

An application must be made by a parish or town council or a prospective neighbourhood forum (or a community organisation in the case of a Community Right to Build Order) to the local planning authority for a neighbourhood area to be designated (see regulation 5 of the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/uksi/2012/637/regulation/5/made>) (as amended). This must include a statement explaining why the proposed neighbourhood area is an appropriate area.

A local planning authority must determine the application within certain timescales.

Paragraph: 024 Reference ID: 41-024-20161116

Revision date: 16 11 2016 See previous version

(<http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/designating-a-neighbourhood-area/>)

Should the community consult the local planning authority before making an area application?

The community should consult the local planning authority before making an area application. There should be a positive and constructive dialogue about the planning ambitions of the community and any wider planning considerations that might influence the neighbourhood planning process if the outcome of that process is to be a neighbourhood plan or Order that meets the basic conditions for neighbourhood planning.

Paragraph: 025 Reference ID: 41-025-20140306

Revision date: 06 03 2014

Can a parish council propose a multi-parish neighbourhood area?

A single parish council (as a relevant body) can apply for a multi-parished neighbourhood area to be designated, as long as that multi-parished area includes all or part of that parish council's administrative area.

Paragraph: 026 Reference ID: 41-026-20140306

Revision date: 06 03 2014

In a multi-parished neighbourhood area when does a town or parish council need to gain the consent of the other town or parish council/s in order to take the lead in producing a neighbourhood plan or Order?

A single parish or town council (as a relevant body) can apply for a multi-parished neighbourhood area to be designated as long as that multi-parished area includes all or part of that parish or town council's administrative area. But when the parish or town council begins to develop a neighbourhood plan or Order (as a qualifying body) it needs to secure the consents of the other parish councils to undertake neighbourhood planning activities. Gaining this consent is important if the pre-submission publicity and consultation and subsequently the submission to the local planning authority are to be valid.

Paragraph: 027 Reference ID: 41-027-20140306

Revision date: 06 03 2014

Can a group apply for a neighbourhood area to be designated if they are not a designated neighbourhood forum?

A group can apply for a neighbourhood area to be designated even if it is not yet a designated neighbourhood forum. However, in order to be sure that the group is the appropriate body to lead neighbourhood planning in that area, the group must demonstrate that it is capable of becoming the designated neighbourhood forum for the neighbourhood area they are applying to have designated.

The organisation or body should be able to demonstrate that it is capable of meeting the conditions for designation (see section 61F(5) of the of the Town and Country Planning Act 1990 as applied to Neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>). It may wish to explain what steps it has taken and is taking towards meeting the conditions for designation. For example it may have a draft written constitution with an open membership policy.

Paragraph: 028 Reference ID: 41-028-20140306

Revision date: 06 03 2014

Can a community organisation apply to have a neighbourhood area designated?

A community organisation (or prospective community organisation) can apply for a neighbourhood area to be designated in connection with a Community Right to Build Order proposal (or anticipated proposal). This can include all or part of a parish council's administrative area, if that area has not already been designated.

Paragraph: 029 Reference ID: 41-029-20140306

Revision date: 06 03 2014

Can a neighbourhood area cross local planning authority administrative boundaries?

A parish council, prospective neighbourhood forum or community organisation can put forward the neighbourhood area that they consider appropriate for neighbourhood planning; this does not have to follow administrative boundaries. The area application must be made to each of the local planning authorities which has part of its administrative area within the proposed neighbourhood area.

Paragraph: 030 Reference ID: 41-030-20140306

Revision date: 06 03 2014

How should local planning authorities work together when cross boundary neighbourhood planning is proposed?

Where a neighbourhood area is proposed that crosses the administrative boundaries of 2 or more local planning authorities, the authorities are encouraged to agree a lead authority to handle neighbourhood planning in a particular neighbourhood area. A lead authority approach:

- simplifies the process for the community
- minimises the duplication of work by the local planning authorities
- provides opportunities for authorities to share resources

Paragraph: 031 Reference ID: 41-031-20140306

Revision date: 06 03 2014

What flexibility is there in setting the boundaries of a neighbourhood area?

Where a parish council applies for the whole of the area of the parish to be designated as a neighbourhood area, the local planning authority must designate the whole of the area applied for. This includes where a parish applies to extend its existing neighbourhood area to its parish boundary. Exceptions to this are where the area applied for:

- has already been designated as a neighbourhood area which extends beyond the parish boundary; or
- forms part of another application that has not yet been determined.

Paragraph: 032 Reference ID: 41-032-20170728

Revision date: 28 07 2017 See previous version

(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2#designating-a-neighbourhood-area>)

What could be considerations when deciding the boundaries of a neighbourhood area?

The following could be considerations when deciding the boundaries of a neighbourhood area:

- village or settlement boundaries, which could reflect areas of planned expansion
- the catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities
- the area where formal or informal networks of community based groups operate
- the physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style
- whether the area forms all or part of a coherent estate either for businesses or residents
- whether the area is wholly or predominantly a business area
- whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway
- the natural setting or features in an area
- size of the population (living and working) in the area

Electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area; these have an average population of about 5,500 residents.

Paragraph: 033 Reference ID: 41-033-20140306

Revision date: 06 03 2014

Can those who have submitted an area application change the boundaries once the application has been submitted?

There is no specific provision for withdrawing an area application once it has been submitted. If those making an area application subsequently want to change the neighbourhood area they should inform the local planning authority concerned. Where the local planning authority has not yet made a decision on the area application, it has the option of advising that a new application be submitted with the revised boundary. If the local planning authority accepts the new application it must publish and consult on this new area application for at least 6 weeks.

Paragraph: 034 Reference ID: 41-034-20140306

Revision date: 06 03 2014

Is there a time limit for the determination of a neighbourhood area application by a local planning authority?

The Neighbourhood Planning (General) (Amendment) Regulations 2015 (<http://www.legislation.gov.uk/ukxi/2015/20/contents/made>) prescribe time limits for the determination of a neighbourhood area application. Except where a local planning authority is required to designate the whole of a parish, applications must be determined within 13 weeks of first being publicised, or 20 weeks where the application relates to more than one local planning authority area. If these time limits are not met, the local planning authority must designate all of the area applied for.

Paragraph: 088 Reference ID: 41-088-20161116

Revision date: 16 11 2016

Must a local planning authority designate a neighbourhood area and must this be the area applied for?

A local planning authority must designate a neighbourhood area if it receives a valid application and some or all of the area has not yet been designated (see section 61G(5) of the Town and Country Planning Act 1990 Act as applied to Neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>)).

In certain circumstances, the local planning authority must designate all of the area applied for. These circumstances are where a parish council applies for the whole of their parish to be designated or where the time limit for determining the application has not been met.

In other cases the local planning authority should take into account the relevant body's statement explaining why the area applied for is considered appropriate to be designated as such. See section 61G(2) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>) and Schedule 4C(5)(1) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/11>) of the Town and Country Planning Act 1990 Act, as amended, for a description of 'relevant body'.

However, except where they are required to designate the whole area applied for, a local planning authority can refuse to designate the area applied for if it considers the area is not appropriate. Where it does so, the local planning authority must give reasons. The authority must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas.

When a neighbourhood area is designated a local planning authority should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan or Order. It should not make assumptions about the neighbourhood plan or Order that will emerge from developing, testing and consulting on the draft neighbourhood plan or Order when designating a neighbourhood area.

Paragraph: 035 Reference ID: 41-035-20161116

Revision date: 16 11 2016 See previous version

(http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/designating-a-neighbourhood-area/#paragraph_035)

Can a neighbourhood area include land allocated in the Local Plan as a strategic site?

A neighbourhood area can include land allocated in a Local Plan (<https://www.gov.uk/guidance/local-plans--2>) as a strategic site. Where a proposed neighbourhood area includes such a site, those wishing to produce a neighbourhood plan or Order should discuss with the local planning authority the particular planning context and circumstances that may inform the local planning authority's decision on the area it will designate.

Paragraph: 036 Reference ID: 41-036-20140306

Revision date: 06 03 2014

Can a local planning authority amend the boundary of a neighbourhood area once it has been designated?

A local planning authority can amend the boundary of a neighbourhood area after it has been designated only if the local planning authority is responding to a new application for a neighbourhood area to be designated.

Section 5 of the Neighbourhood Planning Act 2017 (which amends the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004) facilitates the amendment of neighbourhood areas and provides for what is to happen to the neighbourhood plan or Order that has already been made in relation to that area.

Should the community seek to amend a designated area as part of the process of updating a neighbourhood plan that is in force, they should ensure their neighbourhood area application considers any potentially adverse consequences on the existing plan which would remain in force for any area excluded from the amended boundary. If any such adverse consequences are identified, qualifying bodies should set out appropriate mitigation measures in the basic conditions statement.

Paragraph: 037 Reference ID: 41-037-20180222

Revision date: 22 02 2018 See previous version

(<http://webarchive.nationalarchives.gov.uk/20171217000651/https://www.gov.uk/guidance/neighbourhood-planning--2#preparing-a-neighbourhood-plan-or-order>)

How to designate a neighbourhood forum

What is the process for designating a neighbourhood forum?

Where there is no parish or town council who can lead on the creation of a neighbourhood plan, members of the community can form a neighbourhood forum to take forward the development of a neighbourhood plan or Order. A prospective forum should apply to the local planning authority for designation, setting out how it has met the requirements of section 61F(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 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>).

Paragraph: 089 Reference ID: 41-089-20161116

Revision date: 16 11 2016

Is there a time limit for determination of a neighbourhood forum application?

A local planning authority must take a decision on an application to designate a neighbourhood forum within 13 weeks (or 20 weeks, where the application must be submitted to more than one local planning authority), provided there is no other neighbourhood forum application already under consideration for all or part of the area. These time periods are prescribed in the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 (<http://www.legislation.gov.uk/uksi/2016/873/contents/made>).

Paragraph: 090 Reference ID: 41-090-20161116

Revision date: 16 11 2016

Does a local planning authority need to publicise all neighbourhood forum applications?

A local planning authority must publicise a neighbourhood forum application in accordance with regulation 11 of The Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/uksi/2012/637/regulation/11/made>).

Paragraph: 091 Reference ID: 41-091-20161116

Revision date: 16 11 2016

Can a local planning authority consult on applications to designate a neighbourhood area and a neighbourhood forum at the same time?

A local planning authority can consult on applications to designate a neighbourhood area and a neighbourhood forum at the same time. However, if the neighbourhood area then designated is not the same as the one originally applied for, a prospective neighbourhood forum may find that it has to revisit its membership, purpose or constitution and submit a revised forum application.

Paragraph: 038 Reference ID: 41-038-20140306 move

Revision date: 06 03 2014

What should a local planning authority do if it receives more than one neighbourhood forum application for the same area or part of the same area?

A local planning authority can only designate one neighbourhood forum for a neighbourhood area. Where there are competing forum applications for the same or overlapping areas, the local planning authority should encourage a dialogue between the applicants in order that they can consider working together as a single neighbourhood forum. The onus is on the prospective neighbourhood forums to be constructive and to reach an agreed solution.

If prospective neighbourhood forums cannot agree to work together one course of action open to a local planning authority is first to designate a neighbourhood area if it has not already done so. This provides certainty about the conditions that any organisation or body will need to meet in order to be designated as the neighbourhood forum for the particular neighbourhood area.

The local planning authority can then assess each neighbourhood forum application against the conditions for designation and evaluate each application in light of the factors set out in section 61F(5) and section 61F(7) of the Town and Country Planning Act 1990 Act as applied to Neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>).

Paragraph: 039 Reference ID: 41-039-20161116

Revision date: 16 11 2016 See previous version

(http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/designating-a-neighbourhood-area/#paragraph_039)

Preparing a neighbourhood plan or Order

What evidence is needed to support a neighbourhood plan or Order?

While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no 'tick box' list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.

A local planning authority should share relevant evidence, including that gathered to support its own plan-making, with a qualifying body. Further details of the type of evidence supporting a Local Plan (<https://www.gov.uk/guidance/local-plans--2>).

Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.

In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.

Paragraph: 040 Reference ID: 41-040-20160211

Revision date: 11 02 2016 See previous version

(<http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/preparing-a-neighbourhood-plan-or-order/>)

How should the policies in a neighbourhood plan be drafted?

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Paragraph: 041 Reference ID: 41-041-20140306

Revision date: 06 03 2014

Can a neighbourhood plan allocate sites for development?

A neighbourhood plan can allocate sites for development, including housing. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites (<https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>) and on viability (<https://www.gov.uk/guidance/viability>) is available.

Paragraph: 042 Reference ID: 41-042-20170728

Revision date: 28 07 2017 See previous version

(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2#preparing-a-neighbourhood-plan-or-order>)

What if a local planning authority is also intending to allocate sites in the same neighbourhood area?

If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.

Paragraph: 043 Reference ID: 41-043-20140306

Revision date: 06 03 2014

Can a neighbourhood plan allocate additional or alternative sites to those in a Local Plan?

A neighbourhood plan can allocate additional sites to those in a Local Plan (<https://www.gov.uk/guidance/local-plans--2>) where this is supported by evidence to demonstrate need above that identified in the Local Plan.

A neighbourhood plan can propose allocating alternative sites to those in a Local Plan, but a qualifying body should discuss with the local planning authority why it considers the Local Plan allocations no longer appropriate. In rural areas, all settlements can play a role in delivering sustainable development.

The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in the Local Plan, plan positively to support local development and should not promote less development than set out in the Local Plan or undermine its strategic policies (see paragraph 16 (<https://gov.uk/guidance/national-planning-policy-framework/achieving-sustainable-development#para016>) and paragraph 184 (<https://draft-origin.publishing.service.gov.uk/guidance/national-planning-policy-framework/plan-making#para184>) of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan.

Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 (<http://www.legislation.gov.uk/ukpga/2004/5/section/38>) requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.

Guidance on how local authorities should support sustainable rural communities (<https://www.gov.uk/guidance/rural-housing>) states that blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.

Paragraph: 044 Reference ID: 41-044-20160519

Revision date: 19 05 2016 See previous version

(http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/preparing-a-neighbourhood-plan-or-order/#paragraph_044)

Should a neighbourhood plan consider infrastructure?

A qualifying body may wish to consider what infrastructure needs to be provided in their neighbourhood area alongside development such as homes, shops or offices. Infrastructure is needed to support development and ensure that a neighbourhood can grow in a sustainable way.

The following may be important considerations for a qualifying body to consider when addressing infrastructure in a neighbourhood plan:

- what additional infrastructure may be needed to enable development proposed in a neighbourhood plan to be delivered in a sustainable way
- how any additional infrastructure requirements might be delivered
- what impact the infrastructure requirements may have on the viability of a proposal in a draft neighbourhood plan and therefore its delivery
- what are the likely impacts of proposed site allocation options or policies on physical infrastructure and on the capacity of existing services, which could help shape decisions on the best site choices

Qualifying bodies should engage infrastructure providers (eg utility companies, transport infrastructure providers and local health commissioners) in this process, advised by the local planning authority.

Paragraph: 045 Reference ID: 41-045-20140306

Revision date: 06 03 2014

What should a qualifying body do if it identifies a need for new or enhanced infrastructure?

A qualifying body should set out in their draft neighbourhood plan the prioritised infrastructure required to address the demands of the development identified in the plan.

Paragraph: 046 Reference ID: 41-046-20140306

Revision date: 06 03 2014

Consulting on, and publicising, a neighbourhood plan or Order

What is the role of the wider community in neighbourhood planning?

A qualifying body should be inclusive and open in the preparation of its neighbourhood plan or Order and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging neighbourhood plan or Order
- is made aware of how their views have informed the draft neighbourhood plan or Order.

Paragraph: 047 Reference ID: 41-047-20140306

Revision date: 06 03 2014

Should other public bodies, landowners and the development industry be involved in preparing a draft neighbourhood plan or Order?

A qualifying body must consult any of the consultation bodies whose interest it considers may be affected by the draft neighbourhood plan or Order proposal. The consultation bodies are set out in Schedule 1 to the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/ukxi/2012/637/schedule/1/made>) (as amended) (<http://www.legislation.gov.uk/ukxi/2013/235/made>). Other public bodies, landowners and the development industry should be involved in preparing a draft neighbourhood plan or Order. By doing this qualifying bodies will be better placed to produce plans that provide for sustainable development which benefits the local community whilst avoiding placing unrealistic pressures on the cost and deliverability of that development.

Paragraph: 048 Reference ID: 41-048-20140306

Revision date: 06 03 2014

At what stage does the pre-submission consultation take place on a draft neighbourhood plan or Order?

Before the formal pre-submission consultation takes place a qualifying body should be satisfied that it has a complete draft neighbourhood plan or Order. It is not appropriate to consult on individual policies for example. Where options have been considered as part of the neighbourhood planning process earlier engagement should be used to narrow and refine options. The document that is consulted on at the pre-submission stage should contain only the preferred approach.

Paragraph: 049 Reference ID: 41-049-20140306

Revision date: 06 03 2014

What are the pre-submission publicity and consultation requirements for neighbourhood planning?

A qualifying body must publicise the draft neighbourhood plan or Order for at least 6 weeks and consult any of the consultation bodies whose interests it considers may be affected by the draft plan or order proposal (see regulation 14 (<http://www.legislation.gov.uk/ukxi/2012/637/regulation/14/made>) and regulation 21 (<http://www.legislation.gov.uk/ukxi/2012/637/regulation/21/made>) of the Neighbourhood Planning (General) Regulations 2012) (as amended) (<http://www.legislation.gov.uk/ukxi/2013/235/made>). The consultation bodies are set out in Schedule 1 (<http://www.legislation.gov.uk/ukxi/2012/637/schedule/1/made>) to the Regulations.

Paragraph: 050 Reference ID: 41-050-20140306

Revision date: 06 03 2014

Is additional publicity or consultation required where European directives might apply?

European directives, incorporated into UK law, may apply to a draft neighbourhood plan or Order. Where they do apply a qualifying body must make sure that it also complies with any specific publicity and consultation requirements set out in the relevant legislation. The local planning authority should provide advice on this. The legislation that may be of particular relevance to neighbourhood planning is:

- the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended)
- the Conservation of Habitats and Species Regulations 2010 (as amended)
- the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended))

It may be appropriate, and in some cases a requirement, that the statutory environmental bodies Historic England (<https://historicengland.org.uk/services-skills/our-planning-services/charter/our-role/>), the Environment Agency (<https://www.gov.uk/government/organisations/environment-agency>) and Natural England (<https://www.gov.uk/government/organisations/natural-england>) be consulted. For example, a draft neighbourhood plan proposal must be assessed to determine whether it is likely to have significant environmental effects. The environmental assessment consultation bodies must be consulted as part of this process (see also guidance on Strategic environmental assessment (<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>)).

Paragraph: 051 Reference ID: 41-051-20150209

Revision date: 09 02 2015 See previous version

(http://webarchive.nationalarchives.gov.uk/20141202102440/http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/consulting-on-and-publicising-a-neighbourhood-plan-or-order/#paragraph_051)

Submitting a neighbourhood plan or Order to a local planning authority

What must a local planning authority consider when a neighbourhood plan or Order is submitted to it?

A local planning authority must satisfy itself that a draft neighbourhood plan or Order submitted to it for independent examination complies with all the relevant statutory requirements.

Paragraph: 052 Reference ID: 41-052-20140306

Revision date: 06 03 2014

Does the local planning authority consider whether a neighbourhood plan or Order meets the basic conditions when a neighbourhood plan or Order is submitted to it?

When a draft neighbourhood plan or Order is submitted to a local planning authority the authority is considering the draft plan or order against the statutory requirements set out in paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>). A local planning authority has to be satisfied that a basic condition statement has been submitted but it is not required to consider whether the draft plan or order meets the basic conditions. It is only after the independent examination has taken place and after the examiner's report has been received that the local planning authority comes to its formal view on whether the draft neighbourhood plan or Order meets the basic conditions. The local planning authority should provide constructive comments on an emerging plan or Order before it is submitted.

Paragraph: 053 Reference ID: 41-053-20140306

Revision date: 06 03 2014

What happens when a draft neighbourhood plan or Order submitted to the local planning authority meets the requirement in the legislation?

Where the draft neighbourhood plan or Order submitted to a local planning authority meets the requirements in the legislation, the local planning authority must publicise the neighbourhood plan or Order for a minimum of 6 weeks, invite representations, notify any consultation body referred to in the consultation statement and send the draft neighbourhood plan or Order to independent examination (see regulations 16 (<http://www.legislation.gov.uk/uksi/2012/637/regulation/16/made>), 17 (<http://www.legislation.gov.uk/uksi/2012/637/regulation/17/made>), 23 (<http://www.legislation.gov.uk/uksi/2012/637/regulation/23/made>) and 24 (<http://www.legislation.gov.uk/uksi/2012/637/regulation/24/made>) of the Neighbourhood Planning (General) Regulations 2012 (as amended (<http://www.legislation.gov.uk/uksi/2013/235/made>)).

Paragraph: 054 Reference ID: 41-054-20140306

Revision date: 06 03 2014

The independent examination

What is the independent examiner's role?

When considering the content of a neighbourhood plan or Order proposal, an independent examiner's role is limited to testing whether or not a draft neighbourhood plan or Order meets the basic conditions, and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>). The independent examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.

When considering a proposal for the modification of a neighbourhood plan that is already in force, an independent examiner must first decide whether the proposed modifications are so significant or substantial as to change the nature of the plan.

Paragraph: 055 Reference ID: 41-055-20180222

Revision date: 22 02 2018 See previous version

(<http://webarchive.nationalarchives.gov.uk/20171217000651/https://www.gov.uk/guidance/neighbourhood-planning--2#the-independent-examination>)

How is a neighbourhood plan or Order examined?

Neighbourhood plans and Orders should be examined fairly and transparently. Examiners should ensure that qualifying bodies remain well briefed on all matters relating to the independent examination. If the examiner requires any additional information, such requests and responses should be made publically available by local planning authorities in a timely fashion to ensure the fairness and transparency of the examination process.

It is expected that the examination of a draft neighbourhood plan or Order will not include a public hearing. Rather the examiner should reach a view by considering written representations (see paragraph 9(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>)). As a consequence the basic conditions statement is likely to be the main way that a qualifying body can seek to demonstrate to the independent examiner that its draft neighbourhood plan or Order meets the basic conditions.

Where the independent examiner considers it necessary to ensure adequate examination of an issue or to give a person a fair chance to put a case, they must hold a hearing to listen to oral representations about a particular issue.

The subject of a hearing is determined by the independent examiner based on their initial views of the draft plan or Order proposals and any other supporting documents submitted by the qualifying body and the representations received from interested parties.

Paragraph: 056 Reference ID: 41-056-20180222

Revision date: 22 02 2018 See previous version

(<http://webarchive.nationalarchives.gov.uk/20171217000651/https://www.gov.uk/guidance/neighbourhood-planning--2#the-independent-examination>)

How can the public make their views known to the independent examiner?

Those wishing to make their views known to the independent examiner, or who wish to submit evidence for the examiner to consider, will do this by submitting written representations to the local planning authority during the statutory publicity period on the submitted draft neighbourhood plan or Order, which must be at least 6 weeks.

Representations should address whether or not the draft neighbourhood plan or Order proposal meets the basic conditions and other matters that the independent examiner is required to consider under paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>). Representations may also address whether the referendum area should be extended beyond the neighbourhood area. Anyone wishing to make a case for an oral hearing should do so as part of a written representation.

Paragraph: 057 Reference ID: 41-057-20140306

Revision date: 06 03 2014

Can anyone choose to speak if a public hearing is held?

It is for the independent examiner to decide:

- the format and scope of the hearing
- who will be invited to speak at a hearing, in addition to the local planning authority and the qualifying body that submitted the neighbourhood plan or Order
- the questions to be asked at the hearing.

Paragraph: 058 Reference ID: 41-058-20140306

Revision date: 06 03 2014

Does an independent examiner consider the referendum area as part of their report?

When the examiner is minded to recommend that the neighbourhood plan or Order should proceed to referendum, the examiner must recommend whether the referendum area should extend beyond the neighbourhood area. If the examiner recommends that the area should be extended they must state what they consider that extended area should be.

It may be appropriate to extend the referendum area beyond the neighbourhood area, for example where the scale or nature of the proposals in the draft neighbourhood plan or Order are such that they will have a substantial, direct and demonstrable impact beyond the neighbourhood area.

Paragraph: 059 Reference ID: 41-059-20140306

Revision date: 06 03 2014

Who should be notified and invited to make representations when a local authority's proposed decision differs from the recommendation of the examiner?

An independent examiner of a neighbourhood plan or Order must send their report to the qualifying body and the local planning authority. The authority must then decide what action to take in response to each of the report's recommendations. If the authority propose to make a decision which differs from that recommended by the examiner, it must notify the following people or groups of their proposed decision (and the reason for it) and invite representations.

- the qualifying body
- anyone whose representation was submitted to the examiner and
- any consultation body that was previously consulted.

Paragraph: 092 Reference ID: 41-092-20161116

Revision date: 16 11 2016

How long must the period for representations be, and when must the local authority make a final decision, where it comes to a different view to the examiner?

Any representations must be submitted within 6 weeks of the local planning authority first inviting representations. The local planning authority may, if it considers it appropriate to do so, refer the issue to independent examination. Once the period for representations is over, the local planning authority must issue its final decision within 5 weeks, or within 5 weeks of receipt of the examiner's report if the issue was referred to examination.

Paragraph: 093 Reference ID: 41-093-20161116

Revision date: 16 11 2016

Can the Secretary of the State intervene in the neighbourhood planning process?

Paragraph 13B of Schedule 4B of the Town and Country Planning Act 1990, inserted by section 141 of the Housing and Planning Act 2016 (<http://www.legislation.gov.uk/ukpga/2016/22/section/141/enacted>), gives the Secretary of State power to intervene, where requested by a qualifying body in 3 circumstances:

- where the local planning authority has failed to take a decision to send a plan or Order proposal to referendum within 5 weeks of receipt of the examiner's report, or within 5 weeks of the end of the period for representations;
- where the authority does not follow all of the examiner's recommendations; or
- where the authority modifies the plan or Order in a way that was not recommended by the examiner (except where the modification is to ensure compatibility with EU or human rights obligations or to correct an error).

The parish or town council, or neighbourhood forum, must submit the request in writing and give reasons for making the request.

Paragraph: 094 Reference ID: 41-094-20161116

Revision date: 16 11 2016

Is there a time limit for a parish or neighbourhood forum to request that the Secretary of State intervene?

Where the local planning authority decides not to follow an examiner's recommendation or to make modifications that the examiner has not recommended, any request to the Secretary of State to intervene must be made within 6 weeks of the local planning authority publishing that decision. There is no time limit for making a request for intervention where the local planning authority have failed to make a timely decision whether the plan or Order proposal should be put to referendum.

Paragraph: 095 Reference ID: 41-095-20161116

Revision date: 16 11 2016

The neighbourhood planning referendum

Who is responsible for organising the referendum?

The 'relevant council' (see Schedule 4B to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>)) must make arrangements for the referendum/s to take place. Relevant councils are:

- district councils;
- London boroughs;
- metropolitan district councils; and
- county councils in any area in England for which there is no district council.

(Unitary authorities are either district councils or county councils that perform the functions of the other type of council as well.)

Where the relevant council for a referendum is not the local planning authority, the 2 authorities must co-operate as required by regulation 16 of the Neighbourhood Planning (Referendum) Regulations 2012 (as amended) (<http://www.legislation.gov.uk/ukdsi/2012/9780111525050/regulation/16>).

Paragraph: 060 Reference ID: 41-060-20140306

Revision date: 06 03 2014

What are the rules for the referendum process?

The rules covering all aspects of organising and conducting the polls can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (<http://www.legislation.gov.uk/ukdsi/2012/9780111525050/contents>) (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 (<http://www.legislation.gov.uk/ukdsi/2013/9780111534984/contents>) and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012 (<http://www.legislation.gov.uk/ukdsi/2012/2030/contents/made>).

A qualifying body, the local planning authority and the relevant electoral services team should establish an early dialogue as part of any project planning process.

Paragraph: 061 Reference ID: 41-061-20140306

Revision date: 06 03 2014

Who votes in a referendum?

A person is entitled to vote if at the time of the referendum, they meet the eligibility criteria to vote in a local election for the area and if they live in the referendum area.

In a 'designated business area' (see section 61H of the Town and Country Planning Act 1990 Act as amended (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>)) both residents and non-domestic rate payers get an opportunity to vote in referendums on whether the neighbourhood plan or Order should come into legal force (see paragraphs 12(4) and 15 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/10/enacted>) and Schedules 6 to 8 of the Neighbourhood planning (Referendums) (Amendment) Regulations 2013 (as amended) (<http://www.legislation.gov.uk/ukdsi/2013/9780111534984/schedule/1>)).

Paragraph: 062 Reference ID: 41-062-20140306

Revision date: 06 03 2014

What happens in a business area if residents and businesses voting in referendums do not agree?

In a designated business area, if a majority of those who have voted in one of the referendums vote in support of making the draft neighbourhood plan or Order and the majority of those who vote in the other referendum do not support the making of the draft plan or Order, the local planning authority must decide whether the neighbourhood plan or Order should be brought into force.

A local planning authority is advised to set out its decision-making criteria in this scenario in advance of the referendum taking place. It may for example, wish to consider criteria related to the level of support the neighbourhood plan or Order proposal received at each referendum, the relative size of the electorate or the characteristics of the neighbourhood area.

Paragraph: 063 Reference ID: 41-063-20140306

Revision date: 06 03 2014

What does a local planning authority do if the majority of those who vote are in favour of a neighbourhood plan or Order coming into force?

If the majority of those who vote in a referendum are in favour of the draft neighbourhood plan or Order (or, where there is also a business referendum, a majority vote in favour of both referendums), then the neighbourhood plan or Order must be made by the local planning authority within 8 weeks of the referendum.

A neighbourhood plan comes into force as part of the statutory development plan once it has been approved at referendum. An Order must be made by the local authority before it has effect.

The 8 week time limit does not apply where a legal challenge has been brought in relation to the decision to hold a referendum or around the conduct of the referendum. Where there is also a business referendum and a majority of those voting, vote in favour of the proposals in only one of the referendums, then the local planning authority may make the neighbourhood plan or Order but is not required to.

There are narrow circumstances where the local planning authority is not required to make the neighbourhood plan or Order. These are where it considers that the making of the neighbourhood plan or Order would breach, or otherwise be incompatible with, any EU or human rights obligations (see section 61E(8) of the Town and Country Planning Act 1990 Act as amended (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>)).

Paragraph: 064 Reference ID: 41-064-20170728

Revision date: 28 07 2017 See previous version

(<http://webarchive.nationalarchives.gov.uk/20170617000025/https://www.gov.uk/guidance/neighbourhood-planning--2#the-neighbourhood-planning-referendum>)

A summary of the key stages in neighbourhood planning

Step 1: Designating neighbourhood area and if appropriate neighbourhood forum

- Relevant body (parish/town council, prospective neighbourhood forum or community organisation) submits an application to the local planning authority to designate a neighbourhood area
- local planning authority publicises and consults on the area application for minimum 6 weeks (except for where a local planning authority is required to designate the whole of a parish.)
- local planning authority designates a neighbourhood area within the statutory timescales (<http://www.legislation.gov.uk/uksi/2015/20/contents/made>)
- In an area without a town or parish council a prospective neighbourhood forum submits an application to be the designated neighbourhood forum for a neighbourhood area
- local planning authority publicises and consults on the forum application for minimum 6 weeks

- local planning authority takes decision on whether to designate the neighbourhood forum

Step 2: Preparing a draft neighbourhood plan or Order

Qualifying body develops proposals (advised or assisted by the local planning authority)

- gather baseline information and evidence
- engage and consult those living and working in the neighbourhood area and those with an interest in or affected by the proposals (eg service providers)
- talk to land owners and the development industry
- identify and assess options
- determine whether a plan or an Order is likely to have significant environmental effect
- start to prepare proposals documents eg basic conditions statement

Step 3: Pre-submission publicity and consultation

The qualifying body:

- publicises the draft plan or Order and invites representations
- consults the consultation bodies as appropriate
- sends a copy of the draft plan or Order to the local planning authority
- where European Obligations apply, complies with relevant publicity and consultation requirements
- considers consultation responses and amends plan/Order if appropriate
- prepares consultation statement and other proposal documents

Step 4: Submission of a neighbourhood plan or Order proposal to the local planning authority

- Qualifying body submits the plan or Order proposal to the local planning authority
- Local planning authority checks that submitted proposal complies with all relevant legislation
- If the local planning authority finds that the plan or order meets the legal requirements it:
 - publicises the proposal for minimum 6 weeks and invites representations
 - notifies consultation bodies referred to in the consultation statement
 - appoints an independent examiner (with the agreement of the qualifying body)

Step 5: Independent Examination

- local planning authority sends plan/Order proposal and representation to the independent examiner
- independent examiner undertakes examination
- independent examiner issues a report to the local planning authority and qualifying body
- local planning authority publishes report
- local planning authority considers report and reaches own view (except in respect of community right to build orders and proposals for modifications of neighbourhood plans where the modifications do not change the nature of the plan, where the report is binding)
- local planning authority takes the decision on whether to send the plan/Order to referendum

Steps 6 and 7: Referendum and bringing the neighbourhood plan or Order into force

- relevant council publishes information statement
- relevant council publishes notice of referendum/s
- polling takes place (in a business area an additional referendum is held)
- results declared
- should more than half of those voting vote in favour of the neighbourhood plan, the plan comes into force as part of the statutory development plan for the area
- should more than half of those voting vote in favour of the Order, the Order only has legal effect once it is made by the local planning authority
- there are narrow circumstances where the local planning authority is not required to make the neighbourhood plan or Order. These are where it considers that the making of the neighbourhood plan or Order would breach, or otherwise be incompatible with, any EU or human rights obligations (see section 61E(8) of the Town and Country Planning Act 1990 Act as amended (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>)).
- in respect of proposals for modifications of neighbourhood plans where the modifications do not change the nature of the plan and meet the basic conditions, a referendum is not required. The local planning authority is required to make the modified neighbourhood plan

Revision date: 22 02 2018 See previous version

(<http://webarchive.nationalarchives.gov.uk/20171217000651/https://www.gov.uk/guidance/neighbourhood-planning--2#key-stages-in-neighbourhood-planning>)

The basic conditions that a draft neighbourhood plan or Order must meet if it is to proceed to referendum

What are the basic conditions that a draft neighbourhood plan or Order must meet if it is to proceed to referendum?

Only a draft neighbourhood Plan or Order that meets each of a set of basic conditions can be put to a referendum and be made. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990

(<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan). Read more details.
- b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders. Read more details.
- c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders. Read more details.
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development. Read more details.
- e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). Read more details.
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations. Read more details.
- g. 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). Read more details.

Paragraph: 065 Reference ID: 41-065-20140306

Revision date: 06 03 2014

When should a qualifying body consider the basic conditions that a neighbourhood plan or Order needs to meet?

Throughout the process of developing a neighbourhood plan or Order a qualifying body should consider how it will demonstrate that its neighbourhood plan or Order will meet the basic conditions that must be met if the plan or order is to be successful at independent examination. The basic conditions statement is likely to be the main way that a qualifying body can seek to demonstrate to the independent examiner that its draft neighbourhood plan or Order meets the basic conditions. A qualifying body is advised to discuss and share early drafts of its basic conditions statement with the local planning authority.

Paragraph: 066 Reference ID: 41-066-20140306

Revision date: 06 03 2014

What should a local planning authority do to assist a qualifying body in considering the basic conditions?

A local planning authority should provide constructive comments on the emerging neighbourhood plan or Order proposal prior to submission and discuss the contents of any supporting documents, including the basic conditions statement. If a local planning authority considers that a draft neighbourhood plan or Order may fall short of meeting one or more of the basic conditions they should discuss their concerns with the qualifying body in order that these can be considered before the draft neighbourhood plan or Order is formally submitted to the local planning authority.

Paragraph: 067 Reference ID: 41-067-20140306

Revision date: 06 03 2014

What must a qualifying body do to demonstrate that its neighbourhood plan or Order meets the basic conditions?

A statement (a basic conditions statement) setting out how a draft neighbourhood plan or Order meets the basic conditions must accompany the draft neighbourhood plan or Order when it is submitted to the local planning authority (see regulation 15(1)(d)

(<http://www.legislation.gov.uk/uksi/2012/637/regulation/15/made>) and regulation 22(1)(e)

(<http://www.legislation.gov.uk/uksi/2012/637/regulation/22/made>) of the Neighbourhood Planning (General) Regulations 2012 (as amended)).

Paragraph: 068 Reference ID: 41-068-20140306

Revision date: 06 03 2014

National policy and advice

What does having regard to national policy mean?

A neighbourhood plan or Order must not constrain the delivery of important national policy objectives. The National Planning Policy Framework (<https://gov.uk/guidance/national-planning-policy-framework>) is the main document setting out the government's planning policies for England and how these are expected to be applied.

Paragraph: 069 Reference ID: 41-069-20140306

Revision date: 06 03 2014

Which national policies are relevant to a neighbourhood plan or Order?

Paragraph 16 of the National Planning Policy Framework (<https://gov.uk/guidance/national-planning-policy-framework/achieving-sustainable-development#para016>) is clear that those producing neighbourhood plans or Orders should support the strategic development needs set out in Local Plans, including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. More specifically paragraph 184 (<https://gov.uk/guidance/national-planning-policy-framework/plan-making#para183>) of the National Planning Policy Framework states that neighbourhood plans and Orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

The content of a draft neighbourhood plan or Order will dictate which additional national policy is or is not a relevant consideration to take into account. The basic condition allows qualifying bodies, the independent examiner and local planning authority to reach a view in those cases where different parts of national policy need to be balanced.

A qualifying body is advised to set out in its basic conditions statement how they have had regard to national policy and considered whether a particular policy is or is not relevant. A qualifying body is encouraged to set out the particular national policies that it has considered, and how the policies in a draft neighbourhood plan or the development proposals in an Order take account of national policy and advice.

Paragraph: 070 Reference ID: 41-070-20140306

Revision date: 06 03 2014

Listed buildings and conservation areas

When do the basic conditions relating to listed buildings and conservation areas apply?

Basic conditions (b) and (c) that relate to listed buildings and conservation areas apply to a draft neighbourhood Development Order or a Community Right to Build Order so that making the order will not weaken the statutory protections for listed buildings and conservation areas. Further information on conserving and enhancing the historic environment can be found in paragraphs 126 to 141 (<https://gov.uk/guidance/national-planning-policy-framework/12-conserving-and-enhancing-the-historic-environment>) of the National Planning Policy Framework and in the guidance pages (<https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment>).

Paragraph: 071 Reference ID: 41-071-20140306

Revision date: 06 03 2014

Sustainable development

What must a qualifying body do to demonstrate that a draft Neighbourhood Plan or Order contributes to sustainable development?

This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or Order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures).

In order to demonstrate that a draft neighbourhood plan or Order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or Order guides development to sustainable solutions. There is no legal requirement for a neighbourhood plan to have a sustainability appraisal (<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>). However, qualifying bodies may find this a useful approach for demonstrating how their draft plan or order meets the basic condition. Material produced as part of the Sustainability Appraisal of the Local Plan may be relevant to a neighbourhood plan.

Paragraph: 072 Reference ID: 41-072-20140306

Revision date: 06 03 2014

Is an environmental assessment required of a neighbourhood plan?

A neighbourhood plan may require an environmental assessment (<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>) if it is likely to have a significant effect on the environment. Where this is the case the draft neighbourhood plan may fall within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004. This may be the case, for example, where a neighbourhood plan allocates sites for development.

A qualifying body is strongly encouraged to consider the environmental implications of its proposals at an early stage, and to seek the advice of the local planning authority on whether the Environmental Assessment of Plans and Programmes Regulations 2004 are likely to apply.

Paragraph: 073 Reference ID: 41-073-20140306

Revision date: 06 03 2014

General conformity with the strategic policies contained in the development plan

What is meant by 'general conformity'?

When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach

Paragraph: 074 Reference ID: 41-074-20140306

Revision date: 06 03 2014

What is meant by strategic policies?

Paragraph 156 (<https://gov.uk/guidance/national-planning-policy-framework/plan-making#para156>) of the National Planning Policy Framework sets out the strategic matters about which local planning authorities are expected to include policies in their Local Plans (<https://www.gov.uk/guidance/local-plans--2>). The basic condition addresses strategic policies no matter where they appear in the development plan. It does not presume that every policy in a Local Plan is strategic or that the only policies that are strategic are labelled as such.

Paragraph: 075 Reference ID: 41-075-20140306

Revision date: 06 03 2014

How is a strategic policy determined?

Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic

Planning practice guidance on Local Plans (<https://www.gov.uk/guidance/local-plans--2>) provides further advice on strategic policies.

Paragraph: 076 Reference ID: 41-076-20140306

Revision date: 06 03 2014

How does a qualifying body know what is a strategic policy?

A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 (<https://gov.uk/guidance/national-planning-policy-framework/plan-making#para183>) of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.

Paragraph: 077 Reference ID: 41-077-20140306

Revision date: 06 03 2014

EU obligations

What are the relevant EU obligations?

A neighbourhood plan or Order must be compatible with European Union obligations, as incorporated into UK law, in order to be legally compliant. There are 4 directives that may be of particular relevance to neighbourhood planning:

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (often referred to as the Strategic Environmental Assessment (SEA) Directive).

This seeks to provide a high level of protection of the environment by integrating environmental considerations (<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>) into the process of preparing plans and programmes. It may be of relevance to neighbourhood plans.

Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (often referred to as the Environmental Impact Assessment (EIA) Directive).

Environmental Impact Assessment (<https://www.gov.uk/guidance/environmental-impact-assessment>) is a procedure to be followed for certain types of proposed development. This is to ensure that decisions are made in full knowledge of any likely significant effects on the environment and that the public are given early and effective opportunities to participate in the decision making procedures. It may be of relevance to Neighbourhood Development Orders.

Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively). These aim to protect and improve Europe's most important habitats and species. They may be of relevance to both neighbourhood plans or Orders.

Other European directives, such as the Waste Framework Directive (2008/98/EC), Air Quality Directive (2008/50/EC) or the Water Framework Directive (2000/60/EC) may apply to the particular circumstances of a draft neighbourhood plan or Order.

Paragraph: 078 Reference ID: 41-078-20140306

Revision date: 06 03 2014

Other basic conditions

Are there any other basic conditions that apply besides those set out in the primary legislation?

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/ukxi/2012/637/part/9/made>) (as amended (<http://www.legislation.gov.uk/ukxi/2013/235/made>)) set out 2 basic conditions in addition to those set out in the primary legislation. These are:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/ukxi/2012/637/schedule/2/made>) (as amended (<http://www.legislation.gov.uk/ukxi/2013/235/made>)) in relation to the examination of neighbourhood development plans.)
- having regard to all material considerations, it is appropriate that the Neighbourhood Development Order is made (see Schedule 3 to the Neighbourhood Planning (General) Regulations 2012 (<http://www.legislation.gov.uk/ukxi/2012/637/schedule/3/made>) (as amended (<http://www.legislation.gov.uk/ukxi/2013/235/made>))), where the development described in an order proposal is Environmental Impact Assessment development (<https://www.gov.uk/guidance/environmental-impact-assessment>).

Paragraph: 079 Reference ID: 41-079-20140306

Revision date: 06 03 2014

Updating a neighbourhood plan

When will it be necessary to review and update a neighbourhood plan?

A neighbourhood plan must set out the period for which it is to have effect (section 38B(1)(a) of the Planning and Compulsory Purchase Act 2004) (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>). Neighbourhood plan policies remain in force until the plan policy is replaced.

There is no requirement to review or update a neighbourhood plan. However, policies in a neighbourhood plan may become out of date, for example if they conflict with policies in a Local Plan that is adopted after the making of the neighbourhood plan. In such cases, the more recent plan policy takes precedence. In addition, where a policy has been in force for a period of time, other material considerations may be given greater weight in planning decisions as the evidence base for the plan policy becomes less robust. To reduce the likelihood of a neighbourhood plan becoming out of date once a new Local Plan is adopted, communities preparing a plan should take account of latest and up-to-date evidence of housing need, as set out in guidance.

Communities in areas where policies in a neighbourhood plan that is in force have become out of date may decide to update their plan, or part of it. The neighbourhood area will already be designated, but the community may wish to consider whether the designated area is still the most suitable area to plan for.

Paragraph: 084 Reference ID: 41-084-20180222

Revision date: 22 02 2018 See previous version

(<http://webarchive.nationalarchives.gov.uk/20171217000651/https://www.gov.uk/guidance/neighbourhood-planning--2#updating-a-neighbourhood-plan>)

How are minor neighbourhood plan or Order updates made?

Minor (non-material) updates to a neighbourhood plan or Order would not materially affect the policies in the plan or permission granted by the Order. A local planning authority may make such updates at any time, only with the consent of the qualifying body. Consultation, examination and referendum are not required.

How are more substantive neighbourhood plan updates made?

If a qualifying body wish to make updates (modifications) that do materially affect the policies in the plan, they must follow the process set out in guidance, with the following additional requirements:

- the qualifying body must (at the pre-submission publicity and consultation stage and when the modified plan is submitted to the local planning authority) state whether they believe that the modifications are so significant or substantial as to change the nature of the plan and give reasons
- the local planning authority must (when sending the modified plan to the independent examiner) state whether they believe that the modifications are so significant or substantial as to change the nature of the plan and give reasons. The local planning authority must also submit a copy of the original plan to the independent examiner
- the qualifying body must decide whether to proceed with the examination after the examiner has decided whether the modifications proposed change the nature of the plan

Paragraph: 085 Reference ID: 41-085-20180222

Revision date: 22 02 2018 See previous version

(<http://webarchive.nationalarchives.gov.uk/20171217000651/https://www.gov.uk/guidance/neighbourhood-planning--2#updating-a-neighbourhood-plan>)

Do neighbourhood plan updates require a referendum?

Where material modifications do not change the nature of the plan (and the examiner finds that the proposal meets the basic conditions, or would with further modifications) a referendum is not required. A local planning authority will be required to make the modified plan within 5 weeks following receipt of the examiner's report, or such later date as agreed in writing between the local planning authority and the qualifying body.

Where material modifications do change the nature of the plan, the local planning authority would publicise and consider the examiner's report in line with the procedure for making a new neighbourhood plan.

How is the decision on whether modifications change the nature of the plan made?

Whether modifications change the nature of the plan is a decision for the independent examiner. The examiner will consider the nature of the existing plan, alongside representations and the statements on the matter made by the qualifying body and the local planning authority.

Neighbourhood plans can shape and direct sustainable development in their area. See National Planning policy Framework (<https://www.gov.uk/guidance/national-planning-policy-framework/plan-making#para183>). If the original plan primarily directs growth, for example through allocating sites for development, then allocating new sites for development would be unlikely to change the nature of the plan.

If the original plan primarily shapes growth, for example through design policies, then modifications seeking to take forward these policies through design codes would be unlikely to change the nature of the plan.

Paragraph: 086 Reference ID: 41-086-20180222

Revision date: 22 02 2018 See previous version

(<http://webarchive.nationalarchives.gov.uk/20171217000651/https://www.gov.uk/guidance/neighbourhood-planning--2#updating-a-neighbourhood-plan>)

Is it possible to modify a neighbourhood plan to correct an error?

Yes. Section 61M(4) of the Town and Country Planning Act 1990 (<http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/enacted>), (as applied to neighbourhood plans by section 38C(2)(c) of the Planning and Compulsory Purchase Act 2004) enables a local planning authority to modify a neighbourhood plan or order they have made for the purpose of correcting errors. The relevant qualifying body (if it still exists) must consent to the modification.

Paragraph: 087 Reference ID: 41-087-20160519

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Last updated 22 February 2018 + show all updates

1. 22 February 2018 The following paragraphs have been amended 037, 055, 056, 080, 081, 084, 085 and 086.
2. 10 August 2017 Updated paragraph 083.
3. 28 July 2017 Updated paragraphs 004, 006, 007, 008, 032, 042, 064, 080 and 083.
4. 6 March 2014 First published.

Related content

Collection

- Planning practice guidance (<https://www.gov.uk/government/collections/planning-practice-guidance>)

Policy

- Planning system (<https://www.gov.uk/government/policies/planning-system>)