

Neighbourhood planning: frequently asked questions

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Frequently Asked Questions:

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Answers

1. Can applications to designate neighbourhood areas and neighbourhood forums be submitted to a local planning authority at the same time?

A sequential process is normally used; the neighbourhood area is established first, to ensure that it is the right area in planning terms and then the neighbourhood forum designated so that it is representative of the designated neighbourhood area.

Legally the four/six week consultation period on the neighbourhood area and six week consultation period on the prospective neighbourhood forum can occur simultaneously however this does incur a risk. If the designated neighbourhood area is different from the one applied for there is a risk that the composition or constitution of the prospective neighbourhood forum no longer meets the criteria in the legislation. As a result the forum application may need to change and be subject to further six week consultation.

2a. Do parish meetings have the same status as town and parish councils or will a neighbourhood forum need to be created?

No they don't. The parish meeting would need to apply for designation as a neighbourhood forum if it wanted to take forward a neighbourhood plan. Alternatively they could work together with adjacent parish councils to develop a neighbourhood plan or order that covered all of part of the parish council area and their area.

2b. If a parish council wants to include a non parished area in a neighbourhood plan area, would a Neighbourhood Forum for the non parished area have to be formed?

No. A parish council is the only organisation that can take forward a Neighbourhood Plan or a neighbourhood development order where the neighbourhood area includes the whole or part of a parish..

3. How will competition between prospective neighbourhood forums to prepare plans be resolved?

An application for designation by a prospective neighbourhood forum must include a copy of its written constitution and a statement of how they meet the conditions for designation as a neighbourhood forum as set out in the Localism Act. This would be the starting point for considering competing applications. LPAs should consider how representative are the groups of the community and how the groups are made up, for example do they include members of the local business community, elected members etc. You'll need to call on all your mediation and negotiation skills to explore the issues with the different groups and come to a view as to the best way to achieve the outcomes wanted.

4. Can neighbourhood plans be used to block development rather than promote it?

No. Neighbourhood planning is about shaping the development of a local area in a positive manner. It is not a tool to stop new development proposals from happening and should reflect local and national policies. Neighbourhood plans and orders should not promote less development than set out in the local plan or undermine its strategic policies.

5. Can a neighbourhood plan promote more development than the local plan permits?

The NPPF makes explicit reference to the opportunity for neighbourhood plans to promote more development than is set out in the local plan.

6. Will neighbourhood plans in London have to be in accordance with the London plan?

Yes. In London, the development plan for the local area includes the London plan and any development plan documents prepared by borough councils applicable to that local area.

7. Will area action plans, land allocation documents, SPD etc. all disappear?

No. All the existing 'planning tools' (AAPs, SPDs etc) still remain and can be used to plan a local area. Some of these planning tools will be better suited than others to deal with different planning issue. Most of the planning options available are set out in: **Planning and Localism: Choices and Choosing (CPRE Gloucestershire)** (on the Localism Network website.)

8. Will a neighbourhood plan have 'weight if it doesn't finish the formal process?

Planning law requires that planning applications are decided in accordance with the local plan, unless material considerations indicate otherwise. An emerging neighbourhood plan may be considered as a material consideration; this can depend on the stage the plan has reached and the level of consultation undertaken. It is for the decision maker to determine the weight to give to these considerations.

9. Are existing parish plans and village design statements still valid?

Yes. All of these community led planning documents provide a good platform to undertaken neighbourhood planning. But they aren't part of the statutory development plan for the area.

10. Does the Localism Act allow the community to rewrite permitted development rights?

No. However, a neighbourhood development order or community right to build order can be used to grant planning permission for development which complies with the order.

11. If a town/parish councils or forum has made a neighbourhood plan, do they then have decision making responsibilities for applications, appeals, enforcement etc.?

No. Decision making remains with the local planning authority.

12. Will the duty to co-operate apply to qualifying bodies for neighbourhood plans?

No - the duty applies to local planning authorities, county councils and other public bodies, working on strategic, cross-boundary matters delivered through the Local plan. However authorities are expected to work collaboratively when dealing with cross-boundary neighbourhood proposals, either through formal or informal arrangements.

13. Can planning applications be judged as premature in relation to an emerging neighbourhood plan?

Planning applications are decided in accordance with the local plan, unless material considerations indicate otherwise. An emerging neighbourhood plan may be considered as a material consideration depending on the stage the plan has reached and the level of consultation undertaken. It is for the decision maker to determine the weight to give to these considerations.

Guidance on prematurity is contained in 'The Planning System: General Principles' which remains in place. This can be found at: **The Planning System: General Principles** – on the Department for Communities and Local Government website.

14. How does the presumption in favour of sustainable development relate to a neighbourhood plan?

The presumption in favour of sustainable development is principally a means of ensuring that plans, both local and neighbourhood, are positively prepared to achieve the best social, economic and environmental outcomes for an area. Neighbourhood plans need to have appropriate regard to this national policy. The presumption makes clear that planning applications which are in line with local plans and neighbourhood plans should normally be approved. This should be a strong incentive to put local and neighbourhood plans in place.

15. Do ward councillors have to be involved in any neighbourhood planning for their area?

It is advisable and expected. Experience from the neighbourhood planning front runners is that where local elected members are involved they play a key role and can help progress the work significantly – giving it profile with the community and within the wider council and helping to access resources for the work.

16. Can the six weeks the qualifying body must allow for representations on the first draft proposal and the six weeks the LPA must allow for representations on the plan proposal be run in parallel?

No – the regulations require six weeks consultation by the qualifying body on a draft plan or order proposal before submission. The responses to the consultation then have to be thought about and the plan amended where appropriate. The local planning authority must then publicise the submitted proposal for another six weeks and invite representations.

17. When do local planning authorities check the neighbourhood plans: prior to the examination or following the inspectors report?

Before the examination, the local planning authority has to check that the submitted plan/order is legally compliant, i.e. the procedural steps have been followed. The authority doesn't have to check whether the plan/order proposal meets the basic conditions until after the examination report has been received. The examiner's report is not legally binding, but the authority must have clear reasons for departing from any of the examiner's recommendations. After a successful referendum, the local planning authority should check the document is still compliant with EU and European Convention of Human Rights law, before the neighbourhood plan or order is made.

18. Who will draft the policies in a neighbourhood plan – can neighbourhoods do it? Will they be robust enough for development management purposes?

It is the responsibility of the parish council or neighbourhood forum to prepare any neighbourhood plan or order. They could write the plan policies themselves, or they could get help or ask another group to do it, but they are responsible for it. Advising on the policies in a neighbourhood plan is one of the ways a LPA can help support neighbourhood planning work e.g. some LPAs are asking their DM teams to look at the policies in emerging neighbourhood plans to see if they could use them. A guide to writing planning policies is available on the **MyCommunity website**.

19. Can a neighbourhood plan include areas outside of the development envelope on exception sites?

In principle, this is possible, but the plan must meet the basic conditions such as its fit with local and national policy and compliance with EU law. **An introduction to neighbourhood planning** – on the Department for Communities and Local Government website.

20. How will any possible conflicts with landowners be managed including where the land owner does not want development and vice-versa?

Land owners are key members of the community and should be engaged in the neighbourhood planning process to help in the development of a plan or order. Early engagement at an early stage can help overcome possible conflicts. Anecdotally there is concern among groups about working with landowners, their role in the process and possible conflict of interest. Involving landowners is far more beneficial than not. From their own development management experiences LPAs are well placed to advise on managing this form of engagement, helping to develop practice and protocols and to ensure that the process is transparent to all.

21. Who will be ensuring that the neighbourhood plans are viable and deliverable?

Neighbourhood plans need to be aspirational but they also need to be realistic and deliverable. Ultimately this is down to the qualifying bodies but it's in no one's interest if a plan is prepared that is not deliverable. As part of your support to neighbourhood plan makers you could share the viability assessment undertaken as part of your local plan work with parish councils and neighbourhood forums as a starting point for their own plans.

22. What role do neighbourhood plans have in meeting Objectively Assessed Housing Need?

Neighbourhood Plans should support the strategic development needs set out in Local Plans, including policies for housing which will have been informed by the area's Objectively Assessed Housing Need. Where local planning authorities are in the process of preparing their Local Plan and collecting data on housing need it will be important for the neighbourhood planning groups and local authorities to work together and share evidence in order to develop consistent plans.

23. What role does the LPA have in the Strategic Environmental Assessment?

It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a **neighbourhood plan** proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the neighbourhood plan proposal is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).

The local planning authority should discuss the steps that the qualifying body needs to take and what needs to be produced in order to comply with the **Environmental Assessment of Plans and Programmes Regulations 2004** as part of meeting its duty to advise or assist the qualifying body with neighbourhood planning. The local planning authority should consider what further assistance it can provide to help a qualifying body comply with the regulations, for example making available information and evidence that may help a qualifying body that is preparing the environmental report where one is required.

24. When is the best time to undertake Strategic Environmental Assessment screening?

A Strategic Environmental Assessment screening should be undertaken as soon as sufficient information on its potential environmental effects are known. As a minimum the aims of the plan, a list of potential policies and whether the plan intends to allocate sites is likely to be required. Some authorities have produced templates to do the screening - **Herefordshire** and **Wiltshire**.

25. Can second home owners vote?

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.

26. What is the threshold for the number of people to vote in a referendum?

There is no minimum turnout figure.

27. Why is the referendum so late in the process – better to do it before the examination – and help reduce time, effort and costs?

Having a referendum at the end of the process ensures communities have the final say on whether a neighbourhood development plan or order comes into force in their area.

28. When should LPAs start thinking about the referendum?

It is important to establish early dialogue with the electoral service team within the Local Authority (note, if you are a National Park, this will be another Local Authority) to identify and build into your project planning the lead in times and management arrangements for the carrying out of the referendum. You will also want to understand at the area application stage, the electoral implications of a particular designated neighbourhood area boundary (e.g. does it align with existing electoral administrative areas). The arrangements for referendums are tightly prescribed in the legislation, for example the timetable within which certain activities must be undertaken is set and needs to be included in project programmes for the delivery of Neighbourhood Development Plans. You will also need to talk to electoral colleagues to understand what neighbourhood planning may mean for the practical administration of the poll. For example, the boundaries for the referendum area, may be different to 'established' polling districts, especially in non-parished areas. This might mean that new polling places need to be identified. Adequate time therefore needs to be allowed for coordinating the referendum.

29. Why are unitary authorities not included as 'relevant councils' to run a referendum (para 14(3) (Schedule 10)?

Legally, unitary authorities are either district councils or county councils that perform the functions of the other type of council as well.

30. What is the life time of neighbourhood plans and development orders?

There are no specified time limits for neighbourhood plans or orders; this will be decided by the community and this must be specified on the plan or order.

31. What happens in cases where the designated area lies in more than one local authority?

Where a neighbourhood area designation stretches across the administrative boundary of the local authority, including a national park or broads authority, the planning authorities will need to decide between them who is to claim and how to share the payment. There are special arrangements in place for payments to National Parks authorities and Broads Authorities in respect of the costs incurred by a Local authority undertaking a referendum on behalf of the National Parks authority or Broads Authority.

32. What are the overall costs of a neighbourhood plan likely to be?

Although the costs of the examination and the referendum will be the responsibility of the council, most of the costs involved in preparing a neighbourhood plan will fall to the community. The extent to which the advice and assistance of the local planning authority will be able to reduce the costs to the community is likely to depend on the extent to which the council can help with the evidence base. In this context it is important that an understanding of the support available from the council is discussed and agreed at an early stage. It is up to the council to consider how much advice and assistance it will be able to resource to help the communities in their area. The mechanisms that councils have used set out their offer and to agree levels of assistance are discussed in the **Neighbourhood planning : Memorandum of Understanding case study**.

In their guide to neighbourhood plans, Locality discuss both the financial costs as well as costs in terms of energy and time for communities. This will depend on the type of neighbourhood plan or order being prepared. Some focused on specific issues, for example density issues or housing for older people or rural diversification. Others are akin to mini-local plans. The cost of preparing a plan will vary accordingly depending on the neighbourhood area itself and the complexity and scope of the proposed plan and the capacity of the local group to undertake the work themselves. Having worked to support many community groups, the advice of this group on costs will be valuable for communities at the early stages of considering neighbourhood planning. Groups should also be encouraged to consider other resources, for example planning students from University College London and Oxford Brookes University now support local neighbourhood planning groups as part of a university module. Other students, such as marketing, graphic and design might also be able to help in the production of plans. View: <http://mycommunity.org.uk/wp-content/uploads/2012/04/Roadmap-worksheets-map-May-13.pdf>

33. Some parishes have their own devolved local tasks and budget. How will resourcing neighbourhood planning work in non-parished areas?

These decisions are the responsibility of individual communities and local planning authorities. If local authorities want to provide financial support for neighbourhood forums, and the forum has a suitable mechanism for handling a budget, then there is nothing to stop this. However, it should be noted that a neighbourhood forum is the designated body for neighbourhood planning in a non-parished area. It is not a substitute for a parish council.

34. How do neighbourhood plans and community right to build (CrTB) relate to the new proposals for the community register of land of community value?

Groups preparing a neighbourhood plan could take the opportunity to consider the management of community assets using the new powers available under the new community rights powers. Legally these are two separate process, but it could be useful for the community to consider both together.

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