



BRIEFING PAPER

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Neighbourhood Planning

By Louise Smith

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Summary

The *Localism Act 2011* provided for a new neighbourhood planning regime. The Act allows parish councils and groups of people from the community, called neighbourhood forums, to formulate Neighbourhood Development Plans and Orders, which can guide and shape development in a particular area. These plans and orders must have regard to national policies and conform to local strategic policies.

The draft plans and orders must pass an independent check. If they pass this check, they must then be put to a local referendum. If the majority of those who vote are in favour the local planning authority must adopt the plan, unless it conflicts with EU law or policy. The Act contains a similar procedure for Community Right to Build Orders, which give permission for small-scale, site-specific developments by a community group.

Government publications stress that neighbourhood planning should not be a way to block necessary development.

The local planning authority has a statutory role to play in supporting neighbourhood planning. For example, it will organise the independent examination of the Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build order. This is to check that the plan or order meets certain minimum conditions. In the majority of cases, it will be the local planning authority which will pay for and run the neighbourhood planning referendum.

Government [Funding](#) is available for local authorities and for parish councils and neighbourhood forums to help with neighbourhood planning. In addition to this, in areas where there is a neighbourhood development plan in place, the neighbourhood will be able receive 25% of the revenues from the Community Infrastructure Levy arising from the development that they have chosen to accept.

The [Queen's Speech 2015](#) announced a Housing Bill which would, among other things, provide measures to "simplify and speed up the neighbourhood planning system, to support communities that seek to meet local housing and other development needs through neighbourhood planning."

This note sets out these issues in more detail. It applies to England only. Further information is also available on the Government [Neighbourhood Planning](#) webpage.

1. What is neighbourhood planning?

In summary neighbourhood planning allows communities to prepare:

- Neighbourhood Development Plans;
- Neighbourhood Development Orders; and
- Community Right to Build Orders.

The *Localism Act 2011* placed a legal duty on local planning authorities to support and advise groups that want to do neighbourhood planning. Neighbourhood planning can be carried out by a parish council, or by a group of people which might include residents, business and local councillors who are designated a “neighbourhood forum” by the local authority.

1.1 Legal framework

Section 116 of the *Localism Act 2011*, and schedules 9, 10 and 11 provide the legislative framework for neighbourhood planning.

Further regulations have also made provision for the details of the neighbourhood planning regime:

- The Neighbourhood Planning (General) Regulations 2012 (SI 2012/637), as amended. These were [consulted on](#) in October 2011.¹ An [Impact Assessment](#) and a [Summary of Responses](#) to the Consultation were published in March 2012.
- The Neighbourhood Planning (Referendums) Regulations 2012 (SI 2012/2031).
- The Neighbourhood Planning (Prescribed Dates) Regulations 2012 (SI 2012/2030).
- The Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 (SI 2013/798).

1.2 Neighbourhood Development Plans

Neighbourhood forums and parish councils can use the neighbourhood planning powers to establish general planning policies for the development and use of land in a neighbourhood. These are called “neighbourhood development plans” (NDPs).

Local councils are expected to continue to produce local development plans that will set the strategic context within which neighbourhood development plans will sit. Policies produced in a NDP cannot block development that is already part of the local development plan (local plans). NDPs can, however, shape and influence where that development will go and what it will look like.

NDPs have to meet a number of conditions to ensure plans are legally compliant and take account of wider policy considerations (e.g. national policy). The conditions are:

¹ Department for Communities and Local Government, [Neighbourhood planning regulations Consultation](#), October 2011

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- they must have regard to national planning policy;
- they must be in general conformity with strategic policies in the development plan for the local area (i.e. such as in a core strategy); and
- they must be compatible with EU obligations and human rights requirements.²

An independent qualified person, normally a planning inspector, will check that a NDP meets these conditions before it goes to the next stage of being voted on in a local referendum. This is to make sure that referendums only take place when proposals are workable and of a decent quality. Proposed NDPs need to gain the approval of a majority of voters of the neighbourhood to come into force. If proposals pass the referendum, the local planning authority is under a legal duty to bring them into force.

Once it is in force, it becomes part of the legal framework and planning decisions for the area must be taken in accordance with it, as well as the Local Plan for the wider area, unless material considerations indicate otherwise.

The local planning authority must provide support to help people develop their NDP. For example, it will organise the independent examination of the neighbourhood development plan, neighbourhood development order or Community Right to Build order. This is to check that the plan or order meets certain minimum conditions. According to DCLG, in the vast majority of cases, it will be the local planning authority which will pay for and run the neighbourhood planning referendum.³

The Government's [Plain English Guide to the Planning System](#), January 2015, provides a flowchart at annex B, which sets out the NDP making process and gives further information about what is required at each stage.

In some circumstances an emerging NDP can carry weight in determining planning applications. Guidance on these circumstances set out in the Government's National Planning Practice Guidance, [What weight can be attached to an emerging neighbourhood plan when determining planning applications?](#) (Paragraph: 007Reference ID: 41-007-20140306).

Relationship with local plans

Local plans are produced by the LPA and cover the entire local authority area. These are the key documents through which LPAs can guide what developments should and should not get planning permission, how land should be protected and to ensure a balance between development, environmental protection and public interest. They are adopted only by a process of public consultation and independent examination. They are

² Planning Portal website, [Neighbourhood Planning](#) [on 29 May 2013]

³ Department for Communities and Local Government website, [Neighbourhood Planning](#) [on 9 April 2013]

not mandatory, but LPAs are strongly encouraged by Government to have one and to review it regularly.⁴

Once a neighbourhood plan passes all of its stages and comes into force it has the same legal status as the local plan. At this point it becomes an official development plan document which carries statutory weight. Applications for planning permission must be determined in accordance with a development plan document, unless material considerations indicate otherwise.

A section from the Government's [National Planning Practice Guidance](#) sets out the relationship between a NDP and a local plan. It provides guidance about what happens if a NDP is brought forward before an up-to-date local plan is in place:

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](#). A draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan although the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.

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. This is because [section 38\(5\) of the Planning and Compulsory Purchase Act 2004](#) 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.⁵

⁴ [HC Deb 1 May 2014 c802W](#)

⁵ National Planning Practice Guidance, [What is neighbourhood planning?](#) Paragraph: 009Reference ID: 41-009-20140306 [on 3 June 2015]

1.3 Neighbourhood Development Orders

Neighbourhood planning can also be used to permit development in an area without the need for planning applications. These are called “neighbourhood development orders.” A Neighbourhood Development Order can grant planning permission for major development schemes, new houses, a new shop or pub, or permit extensions of a certain size or scale across the whole neighbourhood area. As with a NDP it must pass an independent inspection and it must also gain the approval of a majority of voters of the neighbourhood in a referendum before it can come into force.

1.4 Community Right to Build Orders

The *Localism Act 2011* powers also give communities the power to make a Community Right to Build Order. This is an order which gives permission for small-scale, site-specific developments by a community group.⁶ The preparation of a Community Right to Build order is a slightly different process in that it requires the formation of a constituted community group rather than a neighbourhood forum. Parish and town councils can also lead on Community Right to Build Orders.

1.5 Role of the local authority

The local planning authority must provide support to help people develop their neighbourhood plan. For example, it will organise the independent examination of the neighbourhood development plan, neighbourhood development order or Community Right to Build order. This is to check that the plan or order meets certain minimum conditions. Financial assistance to support local authorities with this role is set out below.

⁶ Department for Communities and Local Government website, [Neighbourhood Planning](#) [on 3 June 2015]

2. Financial support

2.1 For local authorities

The financial support for local authorities to help with neighbourhood planning was set out in a [Government press release](#) from October 2014:

Local planning authorities can claim £5,000 for each neighbourhood plan area designated, up to a maximum of 20 areas per year. They can also claim a further £5,000 for each 'neighbourhood forum' designated.

A further £5,000 can be claimed by the local planning authority when a parish or neighbourhood forum submits a neighbourhood plan (or neighbourhood development order) to them for examination.

The local planning authority can claim a final £20,000 for each successful examination of a neighbourhood plan or order. In business areas an additional £10,000 is available to reflect the need for an additional referendum.⁷

In October 2014 the Government published, [Frequently Asked Questions on Neighbourhood Planning funding for Local Planning Authorities](#), which gives further information about funding paid to local authorities to support their neighbourhood planning duties.

2.2 For parish councils, neighbourhood forums and community groups

In March 2013 the [Government announced](#) a package of financial support for communities interested in doing neighbourhood planning. The press release set out that groups of residents seeking to create a neighbourhood plan will be able to bid for grants up to £7,000 each to contribute to the costs of preparing their proposal.⁸

Further information about this support and how to access it is set out in the Government's publication, [Supporting Communities in Neighbourhood Planning 2013-15](#).

In August 2013 the Government published further guidance, [Community led project support funding – planning application route: application guidance](#), which set out that the rules for accessing the fund would be widened to also enable community groups to apply who wish to take the more traditional route of applying for planning consent, rather than use a Community Right to Build Order. The aim is to encourage more take-up from the self build housing sector.

The Supporting Communities in Neighbourhood Planning programme also offers advice and support, with an average value estimated to be equivalent to £9,500, which tailored to meet the needs of supported neighbourhoods. More information about this is available on the [Locality My Community Rights website](#).

⁷ Department for Communities and Local Government, [New funding to encourage more communities to get involved in neighbourhood planning](#), 31 October 2014

⁸ Department for Communities and Local Government, [£9.5 million to support hundreds of communities to create neighbourhood plans](#), 13 March 2013

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In October 2014 the [Government announced](#) further funding for communities wanting to do neighbourhood planning:

The funding announced today will help more communities become neighbourhood planning areas by:

- providing community groups a further £1 million for grants during this financial year, in addition to the £4.25 million already awarded since 2013 - grants of up to £7,000 can now be applied for on mycommunityrights.org.uk
- making available £22.5 million over 2015 to 2018 to provide community groups with expert advice, grant funding and technical assistance to get neighbourhood plans and orders from their inception to their coming into force following a local referendum - this is a 50% increase in the value of the existing support
- providing £100,000 to enable groups to organise workshops on neighbourhood planning in their local area, run by knowledgeable advocates of neighbourhood planning and aiming to give communities the information and encouragement needed to start on a neighbourhood plan.⁹

A [press release](#) from the former Government from 26 February 2015 provided information about how the £22.5 million funding, set out above, could be accessed.¹⁰ Information is available from the Locality My Community, [Neighbourhood Planning- Grants & Support website](#).

⁹ Department for Communities and Local Government, [New funding to encourage more communities to get involved in neighbourhood planning](#), 31 October 2014

¹⁰ HM Government, [£22 million funding to boost neighbourhood planning](#), 26 February 2015

3. Incentives for neighbourhood planning

On 10 January 2013 the Department for Communities and Local Government [announced](#) that in areas where there is a neighbourhood development plan in place, the neighbourhood would be able receive 25% of the revenues from the Community Infrastructure Levy arising from the development that they have chosen to accept.¹¹ The money would be paid directly to parish and town councils and could be used for community projects such as re-roofing a village hall, refurbishing a municipal pool or taking over a community pub.

To incentivise the use of neighbourhood planning powers, neighbourhoods without a neighbourhood development plan but where the community infrastructure levy is still charged will receive a capped share of only 15% of the levy revenue arising from development in their area.¹²

The aim of this policy was to incentivise house building:

Instead of hectoring people and forcing development on communities, the government believes that we need to persuade communities that development is in everyone's interest. Incentives are key to getting the homes built that we both need for today and for future generations.

It is vital this country increases the number of homes it builds to meet the needs of its increasing population. The failure of previous administrations to build enough homes, latterly despite the credit boom, led to a severe housing shortage that has been made worse by the rapid increase in the number of households. The number of people living alone has rocketed, and immigration has led to an influx of 1.7 million people into England in the last decade.¹³

This policy came into force, on 25 April 2013, through the *Community Infrastructure Levy (Amendment) Regulations 2013* (SI 2013/982).

¹¹ Department for Communities and Local Government, [Communities to receive cash boost for choosing development](#), 10 January 2013

¹² Planning Portal, [Cash for communities that choose development](#), 10 January 2013

¹³ Department for Communities and Local Government, [Communities to receive cash boost for choosing development](#), 10 January 2013

4. Secretary of State power to “recover” housing appeals in neighbourhood plan areas

The Secretary of State has powers to “recover” a planning appeal which has been submitted to the planning inspectorate. A “recovered inquiry” is basically a planning appeal (against a local authority’s decision to refuse a planning application) which the Secretary of State can decide to determine himself, rather than allowing a planning inspector to take the final decision, as is the normal process.

On 10 July 2014 the then Secretary of State [announced](#) that he would like to “consider the extent to which the Government’s intentions are being achieved on the ground”, in relation to the neighbourhood planning regime introduced under the *Localism Act 2011*:

It is clear that communities have positively embraced these new powers, which go far beyond the traditional approach and also ensure real community involvement at every stage of the process. The number of areas having taken the first step in creating a neighbourhood plan by applying for neighbourhood area designation recently passed 1,000, and the 20 successful referendums so far have shown that local residents are succeeding in using their new power, creating plans that are now being used in determining applications and shaping development. This trend is set to continue.

The Secretary of State is keen that all planning appeal decisions should reflect the Government’s clear policy intention when introducing neighbourhood planning, which 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. He is therefore keen to give particular scrutiny to planning appeals in, or close to, neighbourhood plan areas to enable him to consider the extent to which the Government’s intentions are being achieved on the ground.¹⁴

For a period of 12 months from 10 July 2014, the recovery criteria has now been amended to include:

proposals for residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made.¹⁵

The new Government has not yet confirmed whether or not it intends to renew this expansion of the recovery criteria.

An article from the specialist publication, *Planning*, from 7 May 2015, highlighted three recent instances of High Court challenges where judges had subsequently ordered the Secretary of State’s decision to be

¹⁴ [HC Deb 10 July 2014 c25WS](#)

¹⁵ [HC Deb 10 July 2014 c25WS](#)

redetermined in relation to appeals that he had recovered and rejected relating to neighbourhood plan areas.¹⁶

For further information about the Secretary of State's power to "recover" appeals more generally, see Library standard note, [Calling-in of Planning Applications](#).

¹⁶ "Pickles suffers third neighbourhood plan legal setback" [Planning](#), 7 May 2015

5. Future changes to neighbourhood planning

In the [Queen's speech](#), on 27 May 2015, a Housing Bill was announced which, according to the [background briefing notes](#), would, among other things, "simplify and speed up the neighbourhood planning system, to support communities that seek to meet local housing and other development needs through neighbourhood planning."¹⁷

The Government has not yet provided further information about how it intends to speed up and simplify the system.

The previous Government was also concerned about the speed of the neighbourhood planning system. It [consulted in July 2014](#) on setting a statutory time limit within which a LPA must make a decision on whether or not to designate a neighbourhood area.¹⁸ A [Government response](#) followed in December 2014 and the [Neighbourhood Planning \(General\) \(Amendment\) Regulations 2015](#) (SI 20), which came into force on 9 February 2015, now prescribe the date by which a local planning authority must determine applications for designation of a neighbourhood area as follows:

Where the area to which the application relates falls within the areas of two or more local planning authorities, the prescribed date is the date 20 weeks from the date immediately following that on which the application is first publicised. In other cases, the prescribed date is the date 13 weeks from the date immediately following that on which the application is first publicised by the local planning authority, or eight weeks where the application is from a parish council and the area to which the application relates is the whole of the area of the parish council.¹⁹

¹⁷ HM Government, [Queen's Speech background briefing notes](#), 27 May 2015, p28

¹⁸ HM Government, [Technical consultation on planning](#), July 2014

¹⁹ Neighbourhood Planning (General) (Amendment) Regulations 2015 [Explanatory Notes](#), para 7.2

6. Examples of neighbourhood planning

In March 2013 Upper Eden in Cumbria became the first area to officially adopt a neighbourhood development plan.²⁰

For examples of neighbourhood planning in practice, the Department for Communities and Local Government's Neighbourhood Planning Team produces a [newsletter](#) with the latest news and policy developments.

The [Neighbourhood Planner website](#) provides information about neighbourhood planning activity throughout England and gives an indication about which stages different neighbourhood plans and applications for designations are at.

²⁰ Department for Communities and Local Government announcement, [Historic first as neighbourhood plan is voted in by community](#), 8 March 2013

7. Further information

For further information on neighbourhood planning see the Government [Neighbourhood Planning](#) webpage.

There is also detailed information and “tool kits” available online for constituents about neighbourhood planning and how to do it in practice. See for example the [RTPI](#) and the [My Community Rights](#) websites.

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