

Neighbourhood Planning – Briefing Note

March 2012

The purpose of this briefing, with thanks to the Voluntary Sector North West, is to:

- Introduce the concept of Neighbourhood Planning
- Explain the process for developing a Neighbourhood Plan
- Identify sources of support for communities interested in Neighbourhood Planning.

The Background to Neighbourhood Planning

The government has proposed major changes to the current planning system. Although there will still be a development plan-led system...

- The national planning policy statements and guidance will be replaced by a National Policy Framework (NPPF)
- The Regional Spatial Strategies have been revoked
- Neighbourhood Planning has been introduced through the Localism Bill, which will come into place in April 2012.

New powers for communities: the fourth Community Right

The planning system helps stimulate economic growth and deliver homes, while ensuring development is directed to the right locations in order to protect the environment and local communities.

It is recognised that many communities feel like the planning process is a 'closed shop' and do not feel that they have any meaningful say with regard to development. The Government has introduced Neighbourhood Planning to provide communities with new rights to influence planning in their area.

The importance of Neighbourhood Planning is that the tools used are developed by the community and have actual statutory powers. Planning

applications will be determined in accordance with the policies of neighbourhood plans, as will appeals.

Neighbourhood Planning is not compulsory, though. There is no legal requirement on local authorities/communities to produce these documents. However, Government does envisage that a number of communities will take these up.

The Localism Bill creates statutory powers for communities to produce:

- Neighbourhood Plans which allocate sites and/or set policies against which planning applications are to be assessed.
- Neighbourhood Development Orders which grant planning permission in full or in outline. The planning permission can vary from a number of homes on a specified site to a blanket consent, such as extensions to residential properties across the defined Neighbourhood Area.

How to develop a Neighbourhood Plan

If a community wishes to develop a Neighbourhood Plan there are a number of stages they must go through:

- Stage 1: Defining the Neighbourhood (and the qualifying body)
- Stage 2: Preparing your Neighbourhood Plan
- Stage 3: Independent Check
- Stage 4: Community Referendum
- Stage 5: Legal Force

Stage 1: Defining the Neighbourhood (and the qualifying body)

The first stage is to apply for a “neighbourhood area” to be designated. An application is made to the local planning authority (LPA) to designate a neighbourhood area. The application must include:

- A plan or statement that sets out the proposed area
- A statement as to why the area is appropriate for neighbourhood planning
- A statement that the group applying is capable of being a qualifying body (see below).

The council publishes the application for six weeks and invites comments. Following this a decision is made.

What is a qualifying body?

Parish and Town Councils are qualifying bodies. Where none exist, a Neighbourhood Forum can take the lead.

Setting up a Neighbourhood Forum

The Localism Act states that a Neighbourhood Forum must have at least 21 members and be established for the express purpose of promoting or improving the social, economic and environmental well-being of their area.

Their membership must be open to:

- Individuals who live in the neighbourhood area
- Individuals who work in the neighbourhood area
- Individuals who are elected members of the area.

The forum must have a written constitution.

The group then makes an application to the local planning authority (LPA) to be designated as a Neighbourhood Forum, which must include:

- Neighbourhood Forum's name and written constitution
- Name of the Neighbourhood Area (previously designated as above)
- Contact details of the Neighbourhood Forum
- A statement of how the Neighbourhood Forum meets the conditions for Neighbourhood Forums (outlined above).

The council then publicises the application of the Neighbourhood Forum for 28 days (to allow rival bids to come forward) and then publishes its decision. There is no right of appeal against the decision but the council must give reasons for refusing to designate a forum.

Stage 2: Preparing Your Neighbourhood Plan

It must be stressed that every Plan/Order will be different and as such there is not a rigid process that must be followed. A Neighbourhood Plan can be a single policy or over one hundred policies. Similarly, a Neighbourhood Development Order can grant permission for one house or grant blanket consent for extensions on all houses within the defined area. No two Plans/Orders will look the same.

7 Mansfield Road Nottingham NG1 3FB

T: 0115 934 8471 F: 0115 934 8498 E: office@one-em.org.uk www.oneeastmidlands.org.uk

Charity no: 1094733 Limited company no: 4342574

There are, however, some requirements, known as the basic conditions, which must be adhered to. All Plans/Orders must:

- Have regard to national policies
- Have regard to the desirability of preserving the settings of listed buildings(s)
- Have regard to the desirability of preserving the character and appearance of any conservation area(s)
- Ensure it contributes towards sustainable development
- Be in general conformity with the strategic policies of the local plan (the LPA will advise on this)
- Be compatible with EU obligations.

Neighbourhood plans cannot propose less development than the local plan – they must be in conformity with strategic policies. They are not a tool to block development agreed in the Local Plan. They can, however, promote more development.

Once the proposals have been drawn up they must be consulted upon. This is the responsibility of the Forum/Parish Council who must bring the proposals to the attention of a majority of those who live, work or operate business in the neighbourhood area. There is a minimum six week consultation period.

They must also consult any statutory consultees whose interests are affected (e.g. Environmental Agency on areas in flood plains). The council will advise on who these are in each case.

Formally submitting the proposals to the Council

The proposal must be submitted with:

- A plan or statement showing the area covered by the proposals
- A consultation statement
- The title of the draft Plan/Order
- A statement of how the proposals meet the basic conditions.

The local planning authority (LPA) then makes the draft proposals available for inspection for a period of six weeks.

Stage 3: Independent Check

Once Stage 2 is completed the Plan/Order is subject to an independent examination. The LPA can only appoint someone to independently check the proposal with the consent of the Parish Council/Neighbourhood Forum.

The person(s) appointed must:

- Be independent of the Parish/Neighbourhood Forum and the LPA
- Have no interest in any land that may be affected by the Plan/Order
- Have appropriate qualifications and experience.

The examiner will look to see if the Plan/Order meets the basic conditions. In the first instance, the examination will be held primarily through written representations, unless the examiner considers it necessary to hold a public hearing in order to listen to oral representations.

The examiner then prepares a report that will recommend one of three things. Namely:

- That it is submitted to a referendum
- That modifications are made and then submitted to a referendum or
- That the proposals are refused.

The only modifications that can be recommended are:

- Modifications required to meet the basic conditions
- Modifications needed to be compatible with covenant rights
- Modifications to correct errors (spelling, grammar, etc).

The examiner must give reasons for any proposed modifications and a copy of the report is sent to the LPA and the Parish Council/Neighbourhood Forum. The examiner also makes a recommendation on the extent of the referendum.

Stage 4: Community Referendum

If the Plan/Order completes the previous three stages it can then go to a community referendum. The LPA is responsible for organising and funding the referendum.

The referendum will involve everyone who lives or works within the "neighbourhood area". There are also provisions to extend the referendum beyond the neighbourhood area if the proposals directly affect those living in adjacent areas. The independent examiner makes the assessment as to the extent of the referendum area.

If more than 50% (of those voting) vote yes then the Plan/Order is “made”. This demonstrates why it is fundamentally important to engage with the wider community throughout the process as without their support the Plan/Order will not be successful.

Stage 5: Legal Force

When the Localism Act comes into force in April 2012, “made” Neighbourhood Plans/Development Orders are statutory tools. Planning applications and appeals must be assessed against the policies of a Neighbourhood Plan, and Neighbourhood Development Orders actually grant planning permission.

Support with Neighbourhood Planning

A key question that is often raised is “how are we going to afford this?” It should be stressed that communities will possess a number of skills that could help them achieve their vision. However, there is other support such as:

- Local Authority “duty to cooperate” – The Localism Act does not define what this entails but may include officer support, evidence base
- Local Authority will fund referendum and examiner
- Sponsorship by the private sector
- The possibility of the Government making funds directly available to communities in the future and
- Assistance offered from organisations such as Planning Aid England.

Currently, four organisations have been funded by DCLG to support communities get involved in Neighbourhood Planning. They are:

- Planning Aid England: www.rpti.org.uk/planningaid
- Locality: <http://locality.org.uk>
- Campaign for the Protection of Rural England (CPRE) and The National Association of Local Councils (NALC): www.cpre.org.uk
- The Prince’s Foundation: <http://princes.foundation.org>

At the time of writing, the government has not yet confirmed if these organisations will be providing support after 31st March 2012. For the latest information visit their websites. An initial summary of intended activity (as listed in April 2011) is available here:

www.bigcivilsociety.blogspot.com/search/label/neighbourhood%20planning

Further Support

If you would like further information on Neighbourhood Planning please contact:

Carol Latham
Community Planning Outreach Co-ordinator
Planning Aid England
carol.latham@planningaid.rtpi.org.uk
07841 009989

One East Midlands

One East Midlands is the regional voluntary and community sector infrastructure organisation for the East Midlands. We work to ensure that the voluntary and community sector is actively engaged with key regional bodies and other partners, from across the public, statutory, business and social enterprise sectors. We bring together organisations that support voluntary and community groups across the region to influence and shape policy, improve services and provide a point of contact at a regional level.

Author(s)

Claire Chapman, Information and Membership Officer, One East Midlands
clairechapman@one-em.org.uk 0115 934 9535

Carol Latham, Community Planning Outreach Co-ordinator, Planning Aid England
carol.latham@planningaid.rtpi.org.uk 07841 009989