

## Appendix A

# Government Guidance on Neighbourhood Planning and Referendum

A Neighbourhood Development Plan only has legal standing once it has been approved by the Residents in the Parish. The neighbourhood planning referendum is organized by the District Council in accordance with Government guidelines. These can be found on the Government webpage:

<https://www.gov.uk/guidance/neighbourhood-planning--2#the-neighbourhood-planning-referendum>

The following is an extract of the explanation of the guidance to Councils.

### 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 \(as amended\)](#)) 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 \(as amended\)](#).

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](#) (as amended by the [Neighbourhood Planning \(Referendum\) \(Amendment\) Regulations 2013](#) and 2014) and the [Neighbourhood Planning \(Prescribed Dates\) Regulations 2012](#).

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](#)) 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 \(as amended\)](#) and [Schedules 6 to 8 of the Neighbourhood planning \(Referendums\) \(Amendment\) Regulations 2013 \(as amended\)](#)).

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](#)).

Paragraph: 064 Reference ID: 41-064-20170728

Revision date: 28 07 2017 See [previous version](#)

## 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](#)
- 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](#)).
- 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

Paragraph: 080 Reference ID: 41-080-20180222

Revision date: 22 02 2018 See [previous version](#)

### **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](#) 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\(1\)\(d\)](#) and [regulation 22\(1\)\(e\)](#) 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](#) 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 13](#) of the National Planning Policy Framework is clear that neighbourhood plans should support the delivery of strategic policies contained in local plans and spatial development strategies. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside these strategic policies. More specifically [paragraph 29](#) of the National Planning Policy Framework states that neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

Beyond this, the content of a draft neighbourhood plan or Order will determine which other aspects of national policy are or are 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: 41-070-20190509

Revision date: 09 05 2019 See [previous version](#)

## 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 184 to 202](#) of the National Planning Policy Framework and in the [guidance pages](#).

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-making should help to achieve sustainable development. A qualifying body should 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](#). 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: 41-072-20190509

Revision date: 09 05 2019 See [previous version](#)

### Is an environmental assessment required of a neighbourhood plan?

A neighbourhood plan may require a [strategic environmental assessment](#) if the draft neighbourhood plan falls within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004. This may be the case if it is likely to have a significant effect on the environment. 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. Neighbourhood plans may also require assessment in relation to the Habitats Regulations 2017. A neighbourhood plan proposal must provide sufficient information to enable a competent authority to undertake an appropriate assessment or to screen it to determine whether an appropriate assessment is necessary. If an appropriate assessment is required then this will engage the need for a strategic environmental assessment.

Paragraph: 073 Reference ID: 41-073-20190509

Revision date: 09 05 2019 See [previous version](#)

## 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 20](#) of the National Planning Policy Framework sets out the strategic matters about which are expected to be addressed through policies in local plans or spatial development strategies. The basic condition addresses strategic policies no matter where they appear in the development plan. [Paragraph 21](#) sets an expectation that plans should make explicit which policies are strategic policies.

Paragraph: 075 Reference ID: 41-075-20190509

Revision date: 09 05 2019 See [previous version](#)

### How is a strategic policy determined?

Strategic policies will be different in each 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 or spatial development strategy
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the local plan or spatial development strategy
- whether the local plan or spatial development strategy identifies the policy as being strategic
- Planning practice guidance on [plan-making](#) provides further advice on strategic policies.

Paragraph: 076 Reference ID: 41-076-20190509

Revision date: 09 05 2019 See [previous version](#)

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

A local planning authority (or, where relevant, elected Mayor or combined authority) should set out clearly its strategic policies in accordance with [paragraph 21](#) of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.

Paragraph: 077 Reference ID: 41-077-20190509

Revision date: 09 05 2019 See [previous version](#)

## 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](#) 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](#) 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 \(as amended\)](#) prescribe 2 basic conditions in addition to those set out in the primary legislation. These are:

- the making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017, which set out the habitat regulation assessment process for land use plans, including consideration of the effect on habitats sites. (See [Schedule 2 to the Neighbourhood Planning \(General\) Regulations 2012 \(as amended\)](#) 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 \(as amended\)](#)), where the development described in an order proposal is [Environmental Impact Assessment development](#).

Paragraph: 079 Reference ID: 41-079-20190509

Revision date: 09 05 2019 See [previous version](#)



## Updating a neighbourhood plan

### In what ways can a neighbourhood plan or order be changed?

There are 3 types of modification which can be made to a neighbourhood plan or order. The process will depend on the degree of change which the modification involves:

- Minor (non-material) modifications to a neighbourhood plan or order are those which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum.
- Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.
- Material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

Paragraph: 106 Reference ID: 41-106-20190509

Revision date: 09 05 2019

### 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](#)). 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 covering the neighbourhood area 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 (or spatial development strategy) is adopted, communities preparing a neighbourhood 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: 41-084-20190509

Revision date: 09 05 2019 See [previous version](#)

### 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, but only with the consent of the qualifying body. Consultation, examination and referendum are not required.

Paragraph: 084a Reference ID: 41-084a-20180222

Revision date: 22 02 2018

### 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 should 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](#)

### **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. A decision may be made whether to proceed to referendum so that, if the referendum is successful, the neighbourhood plan becomes part of the development plan. A decision may be made whether to proceed to referendum so that, if the referendum is successful, the neighbourhood plan becomes part of the development plan.

Paragraph: 085a Reference ID: 41-085a-20180222

Revision date: 22 02 2018

### **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. If the original plan primarily shapes growth through measures such as 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: 41-086-20190509

Revision date: 09 05 2019 See [previous version](#)

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

Yes. [Section 61M\(4\) of the Town and Country Planning Act 1990](#), (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

Revision date: 19 05 2016

## **Decision-taking**

### **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 is likely to be a material consideration in many cases. [Paragraph 48](#) of the revised National Planning Policy Framework sets out that weight 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. A referendum ensures that the community has the final say on whether the neighbourhood plan comes into force as part of the development plan. Where the local planning authority publishes notice of a referendum, the emerging neighbourhood plan should be given more weight, while also taking account of the extent of unresolved objections to the plan and its degree of consistency with NPPF. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals. 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 \(as amended\)](#) 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: 41-007-20190509

Revision date: 09 05 2019 See [previous version](#)

**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?**

Policy on the relevance of prematurity to a decision on a planning application is set out at [paragraph 49](#) of the National Planning Policy Framework.

Paragraph: 008 Reference ID: 41-008-20190509

Revision date: 09 05 2019 See [previous version](#)

**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 be able to give weight to relevant policies in the emerging neighbourhood plan.

[Paragraph 48](#) of the revised National Planning Policy Framework sets out criteria for determining whether weight may be given to relevant policies in emerging plans in decision making.

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](#).

Paragraph: 082 Reference ID: 41-082-20190509

Revision date: 09 05 2019 See [previous version](#)

<https://webarchive.nationalarchives.gov.uk/20190606212426/https://www.gov.uk/guidance/neighbourhood-planning--2#what-is-neighbourhood-planning>

**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?**

If the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, a neighbourhood plan may benefit from the protections set out in [paragraph 14 of the National Planning Policy Framework](#).

Paragraph 14 states that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits provided the neighbourhood plan:

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- became part of the development plan 2 years or less before the date on which the decision is made;
- contains policies and allocations to meet its identified housing requirement; and
- the local planning authority has at least a 3 year supply of deliverable housing sites and housing delivery was at least 45% of that required over the previous 3 years.

The NPPF also states that where a planning application conflicts with an up-to-date neighbourhood plan (as part of the development plan), permission should not usually be granted.

Paragraph: 083 Reference ID: 41-083-20190509

Revision date: 09 05 2019 See [previous version](#)

<https://webarchive.nationalarchives.gov.uk/20190606212426/https://www.gov.uk/guidance/neighbourhood-planning--2#what-is-neighbourhood-planning>

#### **Where a qualifying body wants to benefit from the protection of paragraph 14, why is it important that they should include policies and allocations in their neighbourhood plan?**

Allocating sites and producing housing policies demonstrates that the neighbourhood plan is planning positively for new homes, and provides greater certainty for developers, infrastructure providers and the community. In turn this also contributes to the local authorities' housing land supply, ensuring that the right homes are delivered in the right places.

Paragraph: 096 Reference ID: 41-096-20190509

Revision date: 09 05 2019 See [previous version](#)