



# **Getting started with neighbourhood planning**

## **An advice note**

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## Introduction

### Purpose of this advice note

- 1 This advice note is intended for local planning authorities. It aims to assist them in getting an early fix on the principles of neighbourhood plan production, and help them carry out productive early discussions with potential promoters of such plans. The main focus is on neighbourhood plans, though neighbourhood development orders are touched on.
- 2 The Localism Bill sets out the broad architecture of the neighbourhood planning system, and the principles are unlikely to change. However, some of the detail may change as the Bill progresses through Parliament, and the detailed procedures for neighbourhood plan preparation emerge in Regulations and perhaps policy guidance. In particular, during the Commons Committee stage on the Bill, Greg Clark undertook to consider a number of matters and bring proposals back to the House, including the roles of local councillors and business.
- 3 Parish councils and neighbourhood forums will only be able to carry out formal work on neighbourhood plans subsequent to the Bill being enacted and the Regulations made. However, there is a lot of interest among communities in the concept of localism and the idea of preparing neighbourhood plans. Some of that interest may be based on the misapprehension that neighbourhood plans will be able to be used to prevent development. It is likely that some groups will begin to make preparations to produce neighbourhood plans before the Bill is enacted, with associated growth of commitment and momentum on their part.
- 4 It is therefore anticipated that planning authorities will not simply wait until the details of the neighbourhood planning system are finalised before beginning to engage with their communities. They will wish to have early discussions with parish councils and community groups to -
  - brief them about the broad process for preparing neighbourhood plans, and the emerging principles;
  - explain the duties which will fall on the Council to assist the process;
  - explain what the Council has in mind for its own development plan preparation;
  - form an initial view of the possible level of neighbourhood plan making activity; and
  - enable an initial assessment to be made of the potential resource implications for the authority
- 5 This advice note provides some practical advice and ideas on how authorities might go about these matters.

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## 1 The principles of neighbourhood planning

- 1.1 It is helpful to summarise the main principles of the neighbourhood plan making system as indicated by the Localism Bill and recent statements by Ministers and CLG officials. The following summary is not definitive, and reference should be made to the Bill and the CLG explanatory notes for further detail. The explanatory notes can be accessed at <http://www.publications.parliament.uk/pa/cm201011/cmbills/126/en/2011126en.htm>
- 1.2 The Bill sets out a single set of procedures which will apply in the same way whether a neighbourhood plan or a neighbourhood development order is being produced. The summary which follows concentrates on the process as it will apply to neighbourhood plan preparation, but touches on neighbourhood development orders in places. Some comments are offered, which are distinguished from statements of fact.
- 1.3 **It is stressed that the Localism Bill may change in its progress through Parliament in ways which affect the way neighbourhood plans will be prepared. What follows should therefore be read with this in mind.**
- 1.4 **Qualifying bodies** - The power to prepare neighbourhood plans (and neighbourhood development orders) will depend on whether an area is parished or not. In an area which has a parish council, only the parish council will qualify.
- Comment: This is presumably in recognition of Parish Councils' democratic mandate and statutory standing.*
- 1.5 In non-parished areas, only a body which has made application to the LPA and been designated as a "neighbourhood forum" may qualify to prepare a neighbourhood plan or make a neighbourhood development order. The Bill says that to qualify as a neighbourhood forum an organisation must -
- (a) be established for the express purpose of furthering the social, economic and environmental well-being of individuals living, or wanting to live, in the area
  - (b) have its membership open to individuals living, or wanting to live in the area
  - (c) have at least 3 members who live in the area concerned, and
  - (d) have a written constitution.
- 1.6 The Bill also contains provisions for Regulations to specify other categories or organisations which may become neighbourhood forums.
- Comment: Authorities are advised not to signal their agreement that an organisation will qualify until the Bill is enacted and the Regulations and any guidance can be taken into account. This may be particularly relevant if it appears that there could be competition to become a neighbourhood forum, or potential conflict between competing organisations.*
- 1.7 **The "neighbourhood area"** - In parished areas, the area to be covered by a neighbourhood plan (referred to in the Bill as the neighbourhood area) may be part or the whole of a parish, or a wider area extending across all or part of two or more parishes. It will be for the parish council(s) to propose its extent, and for the LPA to designate the neighbourhood area.
- 1.8 In an un-parished area, the neighbourhood area will be proposed by the organisation seeking to be designated as a neighbourhood forum.
- 1.9 Once a neighbourhood area has been designated, it may be used for the purpose of preparing a neighbourhood plan, or a neighbourhood development order, or both.

**Comment:** Authorities will need to be mindful of this in considering whether the area put forward is suitable.

- 1.10 The explanatory note says that the LPA will be able to amend a proposed neighbourhood area if it considers that some other area is more suitable.

**Comment:** During the House of Commons Committee stage Greg Clark stressed that it will be for the LPA to decide whether the area proposed as a neighbourhood area is appropriate, or should be changed so as to provide a more suitable area for plan making. However, authorities should not assume that this means they will be able to impose pre-determined ideas as to suitable areas of coverage for neighbourhood plans. Further guidance is to be hoped for in due course.

- 1.11 **Role of LPA in production** - CLG has made it clear that the LPA will not control the process, and that the production of a neighbourhood plan will be “owned” by the parish council or neighbourhood forum.

- 1.12 The Bill contains a duty for the LPA to “give such advice or assistance to qualifying bodies as, in all the circumstances, they consider appropriate for the purpose of, or in connection with, facilitating the making of proposals for neighbourhood development orders.” The explanatory note says that this could involve providing technical advice or facilitating public consultation.

**Comment:** It is difficult to see where the line would reasonably be drawn between meeting the strict duty proposed by the Bill, and getting more fully involved in assisting the qualifying body with the work of plan making. It may therefore be difficult for officers to quantify how much work would be involved.

- 1.13 **General conformity** - the Bill provides that a neighbourhood plan should be appropriate in relation to national policy, and in general conformity with the strategic policies contained in the development plan for the area.

**Comment:** It is understood that currently this means general conformity with the strategic policies of the core strategy. However, some core strategies contain development management or implementation policies in addition to what may be considered to be truly strategic policies. It is assumed that the requirement will not apply to these, but confirmation is awaited.

- 1.14 **The approval and adoption process** - As the Bill stands, the first step is that the draft neighbourhood plan will be considered by the LPA to satisfy itself that it is suitable to go forward to independent examination. This appears to be primarily to do with legal compliance matters, eg that the body putting the plan forward is a qualifying body, and the plan area consistent with the designated area.

- 1.15 The draft plan will then be subject to independent examination. The LPA will appoint the examiner with the agreement of the parish council or neighbourhood forum. The cost of the examination will fall to the LPA. The Bill refers to matters to be considered by the examiner, including whether it is appropriate having regard to national policy and in general conformity with the strategic policies of the development plan. Regulations are expected to provide further detail of the matters to be considered at examination.

- 1.16 The examiner’s report will not be binding. He or she will be able to recommend that the plan is put to referendum, or that it should be modified, or that the proposal for the order should be refused. The LPA will then decide what should be done in the light of the Inspector’s report. Where the Inspector recommends modifications, the LPA is expected to invite the parish council or neighbourhood forum to make modifications to the plan. Where the Inspector recommends that the proposal be refused, the LPA will presumably do so.

- 1.17 Assuming the examination is favourable, the draft plan will go forward to referendum. The examiner will be able to recommend that the area of the referendum should be extended beyond the plan area. The referendum will be organised by the LPA, and its cost will fall to the LPA. A simple majority will be sufficient for the referendum to succeed.

***Comment:** The ability of the Inspector to recommend that the area covered by the referendum is understood to be to ensure that all those who may be affected by the proposals can have a right to vote.*

- 1.18 The neighbourhood plan will then be adopted by the planning authority, and will become part of the development plan for the area.

## 2 Briefing officers and elected members

- 2.1 The officers and members of many authorities have already discussed the Localism Bill and its proposals. Where this has not taken place, it is advised that there should be early briefing of senior officers and members. Clearly such briefing will have to be subject to the caveat that the Bill may change in its progress through the House, and that important details will only be known when Regulations and any CLG guidance are issued.
- 2.2 Senior officers and the political leadership may be expected to be interested in matters such as -
- the broad process for neighbourhood plan preparation
  - potential resource implications of providing advice and support
  - the possible effect upon the authority's own plan preparation work, including such matters as the timetable for implementing the Community Infrastructure Levy
  - the stages at which the Council will have a formal role to play
  - the requirement for the LPA to meet the cost of the examination and referendum, though there is expected to be CLG grant to offset such costs
  - the possibility that neighbourhood development orders or community right to build orders may be brought forward
  - potential local political sensitivities
- 2.3 Internal briefings can also be used to stress that neighbourhood plans will not be able to be used as a tool to stop development, but must provide for at least as much development as is indicated by the core strategy.
- 2.4 As part of the internal briefing process, it is suggested that endorsement is obtained for meetings to be held with parish councils and/or community groups to brief them on the neighbourhood plan system and explore the possible level of interest.
- 2.5 Many councillors are keen on the principle of localism, because they see it as reducing central control and giving the authority more self determination in its activities. However, it should not be assumed that they will all be as enthusiastic about the idea of planning powers being effectively transferred from the Council to parish councils or community groups. Some certainly will be, but others may see it as an erosion of their democratic and representative role. Where this is the case, then if communities do come forward to prepare neighbourhood plans, it will be important to consider how these concerns can be addressed.
- 2.6 In providing internal briefings, care should be taken not to over-state the extent to which neighbourhood plans may come forward. Some commentators have already suggested that there may not be anything like as many neighbourhood plans as Ministers anticipate. While parish councils and organisations may initially be interested in the idea, they will need to consider the demands which preparing a neighbourhood plan will put upon them, and their ability to provide the necessary resources. They will also have gear up to taking the plan through the various procedures set out in the Bill, including examination and the referendum. Officers are therefore advised to make it clear that a better picture will emerge only when there have been discussions with potential promoters of neighbourhood plans.

### 3 Initial discussions with parish councils and/or community groups

- 3.1 It is suggested that in the first place authorities concentrate on providing parish councils and/or neighbourhood groups with a broad picture of the provisions of the Bill and how it is currently understood the neighbourhood plan system will work. This can then be followed up subsequently with more focused discussions with those which express positive interest in the idea of producing a neighbourhood plan.
- 3.2 There may be groups which have already indicated their interest in preparing a neighbourhood plan. Also, there may be areas where the need for an AAP has already been identified, and the officers wish to sound out the level of interest in developing such a plan as a neighbourhood plan. However, it is advised that the invitation to an initial meeting should be offered to *all* parish councils and/or community groups, in case some show interest in preparing a community plan where it was not anticipated.
- 3.3 The approach will clearly depend on the stance of the authority in relation to community planning. Where the authority is enthusiastic about the idea, officers will be able to make this clear, and offer a high level of support and collaboration from the outset. Where the authority takes a more cautious position, the officers will need to be correspondingly circumspect.
- 3.4 An initial meeting might cover matters such as -
- the provisions for neighbourhood plans, neighbourhood development orders, and community right to build orders, and what they will be able to do
  - a run through of the process for their preparation
  - the need to fit with national policy and the strategic policies of the local plan/core strategy
  - what neighbourhood plans may cover, but also what they cannot
  - a summary of what may be involved in terms of technical work
  - expectations of effective community engagement on the emerging proposals
  - the authority's own intentions for further DPDs in addition to the core strategy
  - possible resource and capacity implications for the authority
- 3.5 Some of these matters are considered in more detail here. They may not all need to be covered in presentations to the meeting, but officers will wish to be prepared so that they can deal with questions.
- 3.6 ***Introducing neighbourhood plans*** - It should be made clear from the outset that the Government is firmly putting the initiative with parish councils and neighbourhood groups. They will decide whether or not they wish to prepare neighbourhood plans. There are no pre-conceived ideas that there should be comprehensive coverage of neighbourhood plans, nor the areas they will cover. The LPA will have a say in matters such as the area to be covered by a neighbourhood plan to make sure it is suitable, but not to dictate matters.
- 3.7 A key point to stress is that Ministers see the value of neighbourhood plans as being that they will be prepared by the local community, and therefore address their ideas and concerns about how the future of their area should be shaped. However, Ministers have made it clear that neighbourhood plans are not to be a means of stopping development, and therefore they must provide for as much or more development as the LPA plans require.
- 3.8 The actual power to prepare neighbourhood plans will only be available after the Localism Bill is enacted, and meanwhile a lot of detail is still awaited. As noted in Section 1 of this note, there may be changes in the Bill or through Regulations. Therefore organisations would be advised to concentrate for the time being on developing their understanding of

what they would be taking on, and thinking about how they would go about it. Then, those that decide they will prepare neighbourhood plans will be ready to engage effectively with the LPA and start the process.

- 3.9 **The process** - Section 1 of this note may be a helpful basis for a plain English presentation. It should be made clear we have to wait for the issue of Regulations and CLG guidance (presumably late in 2011) to be able to answer detailed questions about procedure.
- 3.10 Presentations should explain that the authority will be under a duty to assist and advise those who prepare neighbourhood plans, in matters such as compliance with EC Directives and Regulations or facilitating consultation. This does not mean that the authority will prepare the plan itself, nor is it required to provide financial assistance. However, the authority can explain that the Government is providing funding for support to be given to those preparing neighbourhood plans (the “Supporting communities and neighbourhoods in planning” programme), though the details of just how much support will be available and what form it will take are awaited.
- 3.11 **National policy and local strategy** - It will be important to communicate the fact that neighbourhood plans will need to be appropriate in terms of national policy, and conform generally with the strategic policies of the local plan, and in particular that they will need to meet or exceed the planned level of development in the area. While these matters will be dealt with formally at the examination, it will make sense for the authority to advise on conformity on an ongoing basis so that by the time a neighbourhood plan gets to examination there should not be any significant conformity issues.
- 3.12 **Content of neighbourhood plans** - It should be made clear that the matters addressed in a neighbourhood plan must relate to development and the use of land, though looking wider than land use planning. At the basic level a neighbourhood plan would normally include land allocations and development management policies. These policies will not be required to conform to the LPAs own development management policies, so there could be different development management policies in a neighbourhood plan area than the rest of the LPA’s area. A neighbourhood plan could also go into more detail than would be normal for an LPA plan, eg design details.
- 3.13 The opportunity can be taken to address any misconceptions about what can be included in a development plan, and that it will not be possible for a neighbourhood plan to try to deal with matters which are not related to development and land use. Thus for instance a neighbourhood plan could not seek to change the pattern of refuse collection, or to extend a leisure centre’s opening hours. Part of the role of the LPA in advising and supporting neighbourhood plan preparation could be to advise on whether particular matters can be legitimately included.
- 3.14 **Technical work** - Clearly it will not be possible to consider what specific evidence and technical work will be prepared for a particular neighbourhood plan until there has been discussion of its anticipated content with the parish council or community organisation concerned. Moreover, it is not yet known how the examination of neighbourhood plans will operate, and what matters will be have to be considered by the Inspector. However, it is understood that process will involve a lighter touch than current DPOD examinations.
- 3.15 Presentations should stress that the development plan system is evidence driven, and that the purpose of the examination is in part to consider whether a plan is supported by the evidence. It is likely that evidence already produced or in hand for the LPA will meet many of the requirements of neighbourhood plans. But potential promoters should understand that some new evidence may be required depending on the nature of the plan and what it will contain. The LPA may be able to assist with advice on the commissioning of any studies which are necessary, but the cost will fall to the parish council or neighbourhood forum.

- 3.16 It is not yet known whether the provisions for sustainability appraisal of DPDs (Planning and Compensation Act 2004) will apply in the same way to neighbourhood plans. However, even if they do not, it will still be necessary under the SEA Directive to carry out a screening procedure to determine whether the proposals of a neighbourhood plan are likely to have a significant impact upon the environment. If the answer is "Yes", then at minimum an SEA assessment will be required.
- 3.17 **Community engagement** - The Government has stressed that neighbourhood plans should truly reflect how residents believe the future of their area should be shaped. This means there must be full and effective opportunity for engagement of all residents in the way the plan is prepared. It follows that parish councils and community groups should be encouraged to start thinking early on about how they will secure such engagement. There are of course a wide range of approaches which have been developed, and which can be drawn upon.
- 3.18 Effective community engagement will not only be fundamental in its own right, but important in relation to the referendum. The promoters of a neighbourhood plan will wish to be confident that the plan enjoys widespread community support before committing themselves and their plan to a referendum.
- 3.19 **The authority's own plan making intentions** - If the authority has not yet adopted its core strategy, the presentation can set out the timetable and process for its completion. This will help prospective producers of neighbourhood plans to see how their work programme might be influenced. The authority should also explain the intentions for other DPDs, whether authority-wide or in the form of AAPs. Where the authority intends to prepare a site allocations and/or development policies DPD, it can be explained that there will be flexibility for this DPD to apply at the same time as a neighbourhood plan, or for the authority's plan to exclude the area of the neighbourhood plan (ie it could in effect be an inset in the DPD).
- 3.20 Where the LDS includes preparation of one or more area action plans, the authority should not presume that it will press on with these and resist any ideas for neighbourhood plans affecting those areas. Rather it should be open to the idea that the parish councils or community groups in the area might be interested in bringing forward a neighbourhood plan to address the same growth targets. Some authorities have already indicated that they are considering an approach to AAP preparation which closely involves the local communities in steering the work and making the decisions.
- 3.21 Preparing a neighbourhood plan on the lines of an AAP for a growth area would be much more demanding than for a village or urban neighbourhood. It would require extensive discussions with the parish council(s) or community groups concerned to help them form a full idea of what will be involved, and explore how they and the authority might work together. There are a number of good precedents for such an approach.
- 3.22 **Capacity of the authority** - The presentation should explain honestly the limits to the authority's capacity for making progress on its own DPDs and assisting neighbourhood plan preparation. This will depend upon a number of local circumstances and events, eg the possibility of several neighbourhood plans being prepared concurrently. However, until the parish councils and community groups are in full possession of the facts about what will be involved in preparing neighbourhood plans, it will not be safe for the LPA to make assumptions about how many will actually decide to go ahead. It is possible that some will wait before embarking on a neighbourhood plan, perhaps so that they can take account of the experience of those who go first.

## **4 Subsequent to the initial discussions**

- 4.1 The initial discussions should give the authority an idea of which parish councils or community groups are seriously interested in preparing neighbourhood plans. They can be followed up by one-to-one discussions with them, or perhaps with a group whose area of interest coincides with an area where the authority considers that an AAP is required.
- 4.2 When parish councils and community groups have come to a view about preparing a neighbourhood plan, it will be helpful for the LPA to have further discussions on their individual preparation programmes, and the implications for the authority being able to provide effective support.
- 4.3 Authorities should expect to keep parish councils and community groups up-to-date with the development of the neighbourhood plan system, particularly when the Bill is enacted and when draft Regulations and guidance emerge. There may also be helpful experience from the vanguard authorities involved in the current CLG project which can be fed back.