

Notes on Neighbourhood Planning

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The Neighbourhood Planning Bill was introduced in the House of Commons on 7 September 2016 and the House of Lords on 14 December 2016. The Bill is entering the final stages of Parliamentary scrutiny following several debates in both Houses over the last few months. The Bill Explanatory notes are available on the [Parliament website](#) together with details of the Bill's passage and a record of the debates that have taken place.

The Neighbourhood Planning Bill contains a focused set of measures that will further strengthen neighbourhood planning to give even more power to local people. The Government has proposed a number of amendments to the Bill since it was introduced in the Commons. These include:

- Amendments that mean neighbourhood planning groups with a 'post-examination' neighbourhood plan are automatically alerted to future planning applications in their area so that they can make their views on a proposal for development known to their local planning authority before decisions are taken.
- Amendments that would allow the Secretary of State to set out the procedures that must be followed for neighbourhood planning examinations.
- New measures on Local Plan making to ensure that every part of the country has an up-to-date, sufficiently ambitious plan so that communities are not disadvantaged by unplanned growth. Other measures will encourage innovative uses of planning data (information) by making the data in Local Plans and other planning documents available as 'open data'. We are doing this to encourage the creation of smartphone apps and other tools to make planning information available to communities and others.

In December last year the Government published its response to the public consultation on [Implementation of neighbourhood planning provisions](#). This consultation sought views on proposals for the regulations required to implement some of the neighbourhood planning provisions in the Bill. There was overwhelming support for the Government's proposal to replicate as far as possible the existing regulations.

Neighbourhood planning examination process – taking stock after 350 examinations

One of the areas that Peers [recently debated](#) during the passage of the Bill was the neighbourhood planning examination process. There was general agreement that communities should not feel divorced from decisions about the neighbourhood plan they have worked so hard to prepare, and that they should be alerted at an early stage if there are fundamental flaws with their neighbourhood plan. Peers were concerned that this may not be happening.

The current examination process

After a draft plan has been submitted to the local planning authority, and the statutory publicity period has been completed, the authority arranges the examination. This includes the appointment of an examiner, which has to be agreed by the neighbourhood planning group that submitted the plan. The law requires that the examiner must be independent of the neighbourhood planning group and the authority, and that they do not have an interest in any land that may be affected by the plan. The examiner must also be appropriately qualified and experienced.

It is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Those who want to make their views known to the independent examiner, or who wish to submit evidence for the examiner to consider, will do this by submitting written

representations to the local planning authority during the statutory publicity period on the submitted draft neighbourhood plan, which must be at least 6 weeks.

Where the independent examiner considers it necessary to ensure adequate examination of an issue or to give a person a fair chance to put a case, they must hold a hearing to listen to representations about a particular issue. Where there is a hearing both the neighbourhood planning group and the local planning authority must be invited to speak, the examiner decides who else they need to hear from.

Examiners can only recommend modifications (changes) to a neighbourhood plan that are necessary for the plan to meet the legal tests required if the plan is to proceed to referendum. The examiner's report must set out the reasons for each recommendation.

The [Government's online planning guidance](#) has a section on the examination of neighbourhood plans and orders. [Additional resources](#) are available through the Government's neighbourhood planning support programme. These include advice on how to prepare a statement setting out, in the neighbourhood planning group's opinion, how their neighbourhood plan meets the relevant legal tests against which it will be examined.

Have your say on whether changes are needed to the examination process

On the 7 February 2017 the Government published a Housing White Paper - [Fixing our Broken Housing Market](#) (pictured above) and accompanying consultation. As part of the consultation, the Government is seeking views on what changes may be needed to ensure that consultation and examination procedures for all types of plan-making are appropriate and proportionate.

With over 350 neighbourhood planning examinations now completed across England since 2012 we would welcome hearing from communities, and others, with direct experience of the examination process to inform decisions on whether reforms are appropriate.

We are particularly interested in understanding peoples' experience of the examination process and whether a better dialogue is needed between all involved up to and during the examination of a neighbourhood plan or a neighbourhood development order. For example:

- What sort of advice and support do neighbourhood planning groups (qualifying bodies) receive just before they submit their neighbourhood plan or order to the local planning authority and what additional support would be helpful?
- What information is available to neighbourhood planning groups and others in the very early stages of the examination process and what would people find most useful?
- What information or support is available to neighbourhood planning groups and others on when oral hearings might be appropriate? Are there additional or alternative ways that an examiner could explore issues or seek further information?
- Should the examination process better involve neighbourhood planning groups in decisions where modifications to a neighbourhood plan are being recommended?

To help stimulate discussion on the examination of neighbourhood plans we have set out the following two-page flowchart based on the suggestions we have heard during the passage of the Bill.

The White Paper consultation closes on 2 May 2017. Please take this opportunity to share your experiences and views. Further details on how to respond can be found at:

<https://www.gov.uk/government/consultations/fixing-our-broken-housing-market-consultation>

The following flowchart document is designed to stimulate discussion on the neighbourhood planning examination procedure. It is not Government policy.

'Health Check' – This is an existing non-statutory option. All groups have the option of applying to the main organisations referring examiners to local planning authorities for a pre-submission 'health check' of draft plan by an experienced examiner (this is not the same person who will examine the neighbourhood plan once it has been submitted). Enables the qualifying body (parish council / neighbourhood forum) to make any amendments to plan ahead of submission to the local planning authority.

Plan Submitted – This is an existing procedure. Qualifying body submits neighbourhood plan proposal and other required documents to the local planning authority.

Check & Publicity – This is an existing procedure. Local planning authority completes compliance check followed by minimum 6 week publicity period. Appointment of the examiner, with the agreement of the qualifying body.

Pre-examination meeting – This is a possible future addition. Is there a need for pre-examination meetings between the examiner, qualifying body and local planning authority? For example are there likely to be any outstanding contractual matters and basic logistics of the examination process to discuss? If a meeting were to take place, what sort of information should be made available to the wider public / others with an interest?

Early appraisal - This is a possible future addition. Would confidence in the process be aided by requiring examiners to undertake an early appraisal of the neighbourhood plan and supporting material, together with a site visit and for that appraisal to be made public? An appraisal could identify what the main matters and issues are that their examination is likely to focus on and any questions that the examiner may have.

Initial Guidance - This is a possible future addition. Would more published information or guidance on the examination process be helpful at an early stage? This might for example sets out the role of the examiner; tests that they are required to apply; proposed method and procedure for examination; key issues and any questions around evidence that the examiner has identified. What should an examiner be required to do if they have any fundamental or cumulative concerns about a plan proposal?

Exploratory meeting - This is a possible future addition. Is there a need for a common approach to how examiners request further information, if needed? Should exploratory meeting/s be offered or made available on request to a qualifying body and others, as an early mechanism to seek clarification or further information arising from the examiner's early appraisal?

Examination Complete - This is an existing procedure. Examiner completes their examination of the neighbourhood plan (including any further site visit/s as necessary). Examiner prepares a draft report and recommendations.

Draft Report Published - This is a possible future addition. Would the process benefit from an examiner publishing their draft report and inviting the qualifying body, and others to:

- consider and propose any alternative wording that could achieve the same effect as any modifications that are necessary for the plan to meet the legal tests?
- request a fuller explanation of recommendation/s or technical language for those less familiar with the planning system such as the wider community?

This would not allow for a re-consideration of any issues during the examination, the recommendations will remain the same. It would be about providing clarity and considering alternative drafting only.

Meeting - This is a possible future addition. Could there be an opportunity for a qualifying body and others to request a meeting to assist the process above?

Fact Check - This is a possible future addition. The examination of development plan documents commonly involves a fact check of the inspector's report by the local planning authority. Would a similar fact check process by the qualifying body / local planning authority be beneficial for examiners' reports on neighbourhood plans?

Final Report Published - This is an existing procedure. Examiner issues final report with recommendations to qualifying body and local planning authority. Local planning authority publicises the report.

Local planning authority decision - This is an existing procedure. Local planning authority must decide what action to take in response to each of the examiner's recommendations. If the authority propose to make a decision which differs from that recommended by the examiner, they must notify the qualifying body and others of their proposed decision (and the reason for it) and invite representations.

Flowchart ends.

Using regulations to set out the procedure for neighbourhood planning examinations

Existing regulation making powers and the additional powers proposed in the Neighbourhood Planning Bill would allow the Secretary of State to set out the procedures that must be followed for neighbourhood planning examinations. Since 2011 the Government's guiding principles for taking forward regulations has been that it would do this by:

- placing the minimum of requirements on communities to free them from unnecessary process and to encourage them to get involved .
- placing the minimum of requirements on local planning authorities to enable local dialogue on the detail of the process so that it suits local circumstances.
- not interfering with local authority decision making.
- using regulation making powers only where practice proves them to be necessary.
- drawing on existing procedures where this is possible and appropriate, to minimise the time taken for communities and authorities to become familiar with any new system.

We have not previously regulated the examination process as local planning authorities already have a wealth of experience to draw on. The Royal Institution of Chartered Surveyors (RICS) that manages the Neighbourhood Planning Independent Examiner Referral Service (one of the main providers of examiners) have committed to produce procedural guidance by autumn 2017 that will be used by the examiners they refer to local planning authorities.

We would welcome views via Question 2 of the White Paper consultation on whether the neighbourhood planning examination process would benefit from regulation by the Government, and if so, how regulations should be targeted?

Policy update: protecting neighbourhood plans that plan for housing

On 12 December 2016, the Housing and Planning Minister, Gavin Barwell, made a [Written Ministerial Statement](#) in Parliament to make it clear that where communities have planned for housing in their area through a neighbourhood plan, those plans should not be deemed to be out-of-date unless there is a significant lack of land supply for housing in the wider local authority area.

The policy statement sets out that relevant policies for the supply of housing in a neighbourhood plan, that is part of the development plan, should not be deemed to be 'out-of-date' under paragraph 49 of the National Planning Policy Framework where all of the following circumstances arise at the time the decision is made:

- the written ministerial statement is less than 2 years old, or the neighbourhood plan has been part of the development plan for 2 years or less;
- the neighbourhood plan allocates sites for housing; and
- the local planning authority can demonstrate a three-year supply of deliverable housing sites.

This responded to a common concern that relevant policies for the supply of housing in neighbourhood plans are considered to be out-of-date because the local planning authority has failed to demonstrate a five year land supply of deliverable housing sites. The Government has received a claim for Judicial Review in respect of the Written Ministerial Statement issued on 12 December 2016, and is resisting the challenge.

The Written Ministerial Statement was clear that the Housing White Paper would consult on elements of the policy. The White Paper commits to taking forward this protection with the following amendments:

- neighbourhoods should be able to demonstrate that their site allocations and housing supply policies will meet their share of local housing need; and
- the local planning authority should be able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area (to ensure that delivery rates across the area as a whole are at a satisfactory level).

Question 17 of the White paper consultation invites your views on this approach, do have your say!

Housing White Paper – other highlights

The Housing White Paper covers the whole house building process, from finding sites to securing local support and permission as well as getting homes built quickly and sold on fair terms. The Housing White Paper recognises that development is about far more than just building homes. Communities need roads, rail links, schools, shops, GP surgeries, parks, playgrounds and a sustainable natural environment. Without the right infrastructure, no new community will thrive – and no existing community will welcome new housing if it places further strain on already stretched local resources.

The Housing White Paper includes specific proposals for the planning system. Chapter 1 recognises that if we are to build the homes this country needs, we need to make sure that enough land is released in the right places, that the best possible use is made of that land, and that local communities have control over where development goes and what it looks like.

As part of the Housing White Paper, we are also consulting on changes to planning policy and legislation in relation to planning for housing, sustainable development and the environment. That consultation closes on 2 May 2017, and we are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public. Further details of the consultation, including how to respond, can be found at: <https://www.gov.uk/government/consultations/fixing-our-broken-housing-market-consultation>.

Particular areas of interest in relation to neighbourhood planning include commitments to:

- **make further funding available to neighbourhood planning groups from 2018-2020**, so they can access the additional support they might need, for example where they allocate sites for housing and in planning for better design;

- **amend planning policy so that neighbourhood planning groups can obtain a housing requirement figure** from their local planning authority, to help avoid delays in getting a neighbourhood plan in place;
- **Taking forward the protection for neighbourhood plans announced in the Written Ministerial Statement of 12 December 2016**, with amendments relating to housing need and delivery;
- **Expect that local and neighbourhood plans** (at the most appropriate level) and more detailed development plan documents like area action plans **should set out a clear design expectations following a consultation with local communities.**

The Government is very keen to hear the views of the neighbourhood planning community, local planning authorities and the house-building industry on these areas and also on the other parts of the White Paper that are also relevant to neighbourhood planning. For example, the '*making enough land available in the right places*' section, of the White Paper seeks views on opportunities to make the practical consequences of presumption in favour of sustainable development more explicit, and to make aspects of the presumption clearer in the light of experience since the National Planning Policy Framework was introduced.

Support for Communities preparing a neighbourhood plan

A reminder that communities preparing a neighbourhood plan can apply for support in the form of grants and technical support at www.mycommunity.org.uk. New toolkits recently added include one on [Local Green Space](#), which includes advice on how to designate 'Local Green Spaces' in neighbourhood plans.

All groups can use their grant funding to apply to the main organisations referring examiners to local planning authorities for a health check to test their plan before it is submitted for examination. Priority groups can apply for a free health check as a technical support package.

The definition of "priority groups" has recently been extended to include those **undertaking a site assessment for a site allocation, or groups who are allocating sites for housing or mixed development**. This means that such groups are eligible for additional grant funding (up to £15,000) and technical support. Other priority groups include neighbourhood forums, high growth areas, clusters of parishes and business-led neighbourhood plans.

Have your say on support!

The support for communities includes a range of toolkits to help those preparing a neighbourhood plan. We would welcome views on issues or processes that you think should be covered in future toolkits.

As announced in the Housing White Paper, the Government is committed to continuing to support communities to prepare neighbourhood plans from 2018 to 2020. We would welcome views on what kind of support offers the best value for money and would work best for neighbourhood planning groups.

Please send us your views on future support to Daniel.Betts@communities.gsi.gov.uk

Neighbourhood planning funding for local planning authorities

To support the vital role of local authorities in the neighbourhood planning process, the Government has announced arrangements for funding local planning authorities for the financial year beginning April 2017. Further details are available [here](#).

Neighbourhood planning in action!

Over 300 neighbourhood plans have now passed referendum! Recent referendums include:

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| Chew Valley (Bath and North East Somerset): | 91% Yes, 24% turnout |
| Braunston (Daventry): | 85% Yes, 35% turnout |
| Hartshill (North Warwickshire): | 87% Yes, 19% turnout |
| Heversham & Hincaster (South Lakeland): | 78% Yes, 36% turnout |
| Growing Together (Northampton): | 91% Yes, 13% turnout |
| Lawrence Weston (Bristol City): | 94% Yes, 13% turnout |
| Kelsall (Cheshire West and Chester) | 96% Yes, 24% turnout |
| Appleton Thorn (Warrington) | 96% Yes, 35% turnout |
| Mendlesham (Mid-Suffolk) | 94% Yes, 37% turnout |
| Langham (Rutland) | 91% Yes, 32% turnout |
| Holmes Chapel (Cheshire East) | 97% Yes, 41% turnout |
| Pluckley (Ashford) | 88% Yes, 31% turnout |
| Cuckney, Norton, Holbeck and Welbeck (Bassetlaw) | 79 % Yes, 30% turnout |

Over 280 neighbourhood plans are now in force in England – an incredible achievement by all those involved!

And finally: Neighbourhood planning on the box

BBC's Countryfile on 26 February included a feature on neighbourhood planning – with a contribution from Neighbourhood Planning Champion George Trubody talking about neighbourhood planning in Rame in Cornwall. Catch up at: <http://www.bbc.co.uk/iplayer/episode/b08h63v2/countryfile-isle-of-man>