

Neighbourhood Planning

A Briefing Note for Parish and Town Councils

1. It is just over five years since neighbourhood planning was introduced by the Localism Act 2011, giving every town and parish council powers to make a Neighbourhood Development Plan ("NDP") containing local planning policies for its area. Local councils are also empowered by other planning 'tools' such as Neighbourhood Development Orders, Community Right to Build Orders and the List of Community Assets.
2. Once 'made' an NDP becomes part of the statutory development plan alongside the local plan; that means that relevant NDP policies must be considered in every planning determination. That is highly significant and gives local councils an influence on planning as never before. A parish plan is not an NDP and will not do the job of an NDP.
3. There is now a significant legislative framework governing neighbourhood planning and the procedures to be adopted if a draft NDP is to pass the examination and secure the simple majority vote required at a referendum. Furthermore, as developers have become more aware of their significance, NDPs have become increasingly contentious and this is reflected in the growing number of legal challenges.
4. An NDP must be guided by the National Planning Policy Framework ("NPPF") and National Planning Policy Guidance ("NPPG") which is a regularly updated interpretation of the NPPF in the context of legislative changes and recent case law.
5. So whilst producing an NDP is not as straightforward as was originally intended it is nonetheless very worthwhile. Any difficulties associated with an emerging NDP should be considered against the risk of not having one. Local plan policies are unlikely to guide or manage development at a parish level as carefully or in as much detail as an NDP should do. If there is no NDP to specify where within the parish certain types of development may be permitted, the local planning authority ("LPA") may be powerless to refuse development regarded locally as undesirable.
6. NDPs are intended to promote, not hinder, development but an NDP *can* prevent inappropriate development. Provided the plan has policies to permit or even allocate sites for development for which there is an evidenced need, then other NDP policies may effectively block such development in other parts of the parish.

7. Furthermore, an NDP need not slavishly adhere to the precise wording of local plan policies provided it is *in general conformity with the strategic objectives of the local plan*. Not all LPAs or NDP Examiners fully appreciate this crucial distinction. Identifying 'strategic' local plan policies is important in this context and the NPPG is clear that simply calling a planning policy 'a strategic policy' does not make it a strategic policy.
8. According to statute a conflict between a local plan policy and an NDP policy *must be resolved in favour of the policy which is contained in the last document to be adopted*, so where adoption of the local plan precedes the making of an NDP, the latter prevails.
9. The first step for any NDP is area designation by the LPA. New regulations introduced in October 2016 make clear that where a parish council applies for the whole parish as its Neighbourhood Area, the LPA must designate the whole parish.
10. The LPA has a statutory duty to assist in the preparation of an NDP, and is responsible for the administration and costs of the publication, consultation, examination and referendum stages for which it receives government funding on a plan by plan basis. A corollary of this statutory role is that every formal decision or order in the NDP plan-making process is made by the LPA, not the parish council (or other qualifying body). This is significant because it means that any legal challenge is made against a decision of the LPA, not the parish council, and this makes LPAs understandably cautious.
11. Most LPAs positively support NDPs, fully appreciate that they should reflect local views and distinctiveness and encourage the use of consultants to assist the parish council in working with the LPA to prepare an effective NDP that will pass the examination.
12. However, increasing development needs and developers seeking planning permissions on the most profitable sites puts enormous pressure on LPAs and their local plan policies, and this in turn can create tensions between the LPA and the town or parish council and its NDP. It is generally in the LPA's interests to encourage NDPs to pass the examination and be made as quickly and smoothly as possible.
13. The real test of a neighbourhood plan though is not whether it passes the examination but how it is applied by planning decision-makers (LPA officers, planning committees and appeal inspectors – most of whom will have had nothing to do with the making of the plan), and what it achieves as a result. An NDP that adds nothing to local plan policies or whose policies cannot be interpreted, or enforced, to produce the intended outcomes is worthless - a waste of time and money. Unfortunately, there are all too many NDPs and NDP policies that fall into this category.



14. In our experience any town or parish council looking to produce an NDP should aim to;
 - establish an efficient steering group to manage the NDP process;
 - set achievable local planning objectives (that are within the legitimate scope of an NDP) - as the basis for consultation and draft policies;
 - objectively record, analyse and process consultation responses;
 - ensure NDP policies are properly evidenced and well drafted to make them robust, purposeful and effective - a short NDP with a handful of policies covering key areas may well be more effective than a lengthy document that tries to cover everything.
15. NDPs already in place should be monitored and kept under review. In the ever-changing world of planning most NDPs are likely to need a formal review every five years or so.
16. Government continues to promote NDPs as evidence has shown that on average more houses are built or at least residential planning permissions are granted more quickly in areas with an NDP. There is no doubt that neighbourhood planning is here to stay and is being supported by new regulations and continued grant funding.
17. The costs of producing an NDP will vary on a number of factors including size and population of parish, the availability of resources within the parish and the complexity of the NDP itself. A basic government grant of up to £9,000 is available for every NDP, to cover costs including consultancy fees. In special cases, additional funding and direct technical support may be applied for. An application for a basic grant must be accompanied by a project timetable with grant monies applied for in six-monthly tranches. Funds not spent within six months are returned and may be re-applied for, up to the £9,000 limit. PPL can advise in more detail on, and assist with, grant applications.
18. PPL is a planning and public affairs consultancy with specialist expertise in neighbourhood planning, advising clients on planning and related matters throughout the UK. We act for several parish councils and with grant funding have provided professional support to a number of NDPs under different LPAs, one of which has recently been made. We offer expert assistance throughout, or at any stage of, the NDP process; from setting objectives and advising on consultations to drafting planning policies, independently auditing draft NDPs and advising on the NDP examination.
19. We respond promptly to any enquiries and provide clear, purposeful and cost-effective advice. We will happily advise just on a specific issue, or assist with your NDP from start to finish. For further information please contact Peter Edwards by email (peteredwards@planningprogress.co.uk) or by phone (07503 733966).

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