



Department for
Communities and
Local Government

Implementation of neighbourhood planning provisions: Government response to consultation



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Introduction

1. The Localism Act 2011 gave communities direct power to shape the development and growth of their local area through a neighbourhood plan or by granting planning permission through Neighbourhood Development Orders and Community Right to Build Orders. Over 2,000 communities across England have taken up their new neighbourhood planning powers. There have been over 280 neighbourhood planning referendums with an average yes vote of 89%. Over 230 plans have come into force as part of the development plan for their area and are being used as the starting point for determining local planning applications. We would like to see many more communities make use of their neighbourhood planning powers.
2. Through neighbourhood planning and active participation at an early stage in other plan-making processes, communities have both a voice in decisions and a choice about development in their area. They are likely to then become the proponents, rather than the opponents, of appropriate growth.¹
3. The Housing and Planning Act 2016² introduced a range of measures to speed up and simplify the neighbourhood planning process and give more power to neighbourhood forums. Building on those reforms, the 2016 Queen's Speech³ set out how new legislation would be introduced to further strengthen neighbourhood planning.
4. The Neighbourhood Planning Bill contains provisions intended to strengthen neighbourhood planning. It does this by ensuring that planning decision-makers take account of well-advanced neighbourhood plans and by giving neighbourhood plans full force as soon as they have passed referendum. It introduces a proportionate process for modifying neighbourhood plans or Orders and facilitates the modification of neighbourhood areas where a neighbourhood plan has already been made in relation to that area. The Bill also makes the duty on local planning authorities to support neighbourhood planning groups more transparent and improves community involvement in the early stages of plan-making by a local planning authority.

¹ 42% of people said they would be more supportive if local people "...had a say in proposed developments in the neighbourhood..." (British Social Attitudes Survey, 2014).

² <http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

³ <https://www.gov.uk/government/publications/queens-speech-2016-background-briefing-notes>

Overview

5. A technical consultation⁴ on the detailed regulations to implement some of the neighbourhood planning measures in the Neighbourhood Planning Bill was published on 7 September 2016. The consultation was widely publicised⁵ and closed on 19 October 2016.
6. We consulted on proposals for regulations covering:
 - The detailed procedures for modifying neighbourhood plans
 - Modifying designated neighbourhood areas where a neighbourhood plan has already been made in relation to that area
 - A requirement for local planning authorities to review their Statements of Community Involvement at regular intervals
 - A requirement for local planning authorities to publish their policies on the advice and assistance they will give to neighbourhood planning groups
7. Respondents were invited to reply online using an internet survey package or to email or post written comments to the Department for Communities and Local Government.
8. We received 86 responses to the consultation. This document sets out a summary of the responses to each question of the consultation and the Government's response.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551132/Neighbourhood_Planning_regulations_consultation.pdf

⁵ The consultation was publicised in several ways, including a letter to all local planning authority Chief Planning Officers in England; online via the Notes on Neighbourhood Planning newsletter on www.gov.uk: <https://www.gov.uk/government/collections/notes-on-neighbourhood-planning>; and via individual emails to neighbourhood planning stakeholders.

Consultation responses

9. A breakdown of the categories of respondent is shown below:

Response by category of respondent	% breakdown
Local planning authorities (including National Parks, Broads Authority, and London Boroughs)	22%
Local councils (including Parish and Town)	17%
Designated and prospective neighbourhood forums	4%
Voluntary / charitable / community / research organisations	9%
Development industry (including homebuilders / housing associations / development industry)	8%
Businesses	9%
Professional institutions / associations	9%
Industry representative bodies / trade organisations	7%
Other (including individuals)	15%
Total	100%

Consultation questions

10. The summary of responses is structured around the questions asked in the consultation document. We were grateful for all the responses received, including the alternative or additional text which some respondents offered. These have been given full consideration. It should be noted that in evaluating the responses to this consultation, the Government has carefully considered the arguments put forward in support of, or against, any particular proposal, rather than reaching a view based on the absolute number of respondents for or against a particular measure.

11. This report sets out an overview of the responses to individual questions, and provides more detail on the Government's proposals for implementing the neighbourhood planning reforms.

12. Throughout the document, qualitative terms are used to describe the responses; these terms should be interpreted as follows:

Overwhelming support	90%+	About half	45-54%
Strong support	75%+	Less than half	35-44%
Considerable support	60%+	Around a third	25-34%
More than half	55%+	Less than a third	24% and below

Consultation responses

Procedure for modifying neighbourhood plans and Orders

13. The Neighbourhood Planning Bill would introduce a process for modifying neighbourhood plans or Orders that is proportionate to the modifications proposed.

- A local planning authority, with the agreement of the relevant qualifying body⁶, would be able to make minor modifications to a neighbourhood plan or Order at any time without the need for public consultation, examination or referendum (in the same way that the authority can currently correct errors).⁷ Minor modifications are those that do not materially affect any planning permission granted by a neighbourhood development order or the policies in a neighbourhood plan.
- More significant modifications to a neighbourhood plan that are not so significant or substantial as to change the nature of the plan may be made through a streamlined procedure. The independent examination will be 'paper based', with hearings only likely to take place in exceptional circumstances. There would be no referendum, with the examiner's recommendations being binding on the local planning authority in most cases. The local planning authority will decide if proposed modifications are appropriate for this process and the examiner will confirm this.

14. Where proposed modifications would change the nature of the plan, the existing process for making a new neighbourhood plan (including consultation, examination and referendum) would still be required.

15. The Bill would introduce a power for the Secretary of the State to make provisions in regulations setting out the procedure for modification. The consultation proposed exercising these powers by making amendments to the Neighbourhood Planning (General) Regulations 2012 which currently set out the procedures for making a new neighbourhood plan in accordance with existing powers set out in Schedule 4B of the Town and Country Planning Act 1990.

16. The new streamlined modification procedure would require the local planning authority to submit a copy of the original neighbourhood plan to the examiner, so that the examiner can better understand what modifications are being proposed.

⁶ <http://planningguidance.communities.gov.uk/blog/guidance/neighbourhood-planning/who-leads-neighbourhood-planning-in-an-area/>

⁷ The current requirements to publicise any modifications to a neighbourhood Plan or Order are set out in Part 8 regulation 30 of the [Neighbourhood Planning \(General\) Regulations 2012](#)

Question 1: Do you agree that regulations setting out the detail of the process for modifying an existing neighbourhood plan should replicate as far as possible the existing regulations for making a new plan?

17. We received 86 responses to this question, with overwhelming support across all categories of respondent.
18. Respondents agreed that the proposed approach would be more straightforward because local planning authorities and neighbourhood planning qualifying bodies would in many cases be familiar with the current regulations. 12 respondents from local planning authorities and local councils suggested that the meaning of “minor,” “material” and “substantial” in relation to proposed modifications should be defined in the Government’s planning practice guidance.

Government response

19. We welcome the overwhelming support for our proposal. Subject to Royal Assent of the Neighbourhood Planning Bill, we intend to implement the proposal as set out in the consultation. Aligning the regulations in this way will ensure consistency between the process for making a new neighbourhood plan and the process for modifying an existing plan, which will benefit existing and future users of the neighbourhood planning system.
20. Local planning authorities are already familiar with the concept of minor non material amendments to plans as part of the Local Plans process and are well versed in making these judgments. Authorities are also familiar with the neighbourhood planning process, with over 70% having at least one designated neighbourhood area. Whether a modification is considered under the new procedure will be dependent on the context of the overall plan. A modification that is significant or substantial in one context may be not be in another.
21. We therefore do not consider that guidance from the Government is necessary; however we will keep this under review in light of practice.

Modifying designated neighbourhood areas where a neighbourhood plan has already been made in relation to that area

22. When a parish council or prospective neighbourhood forum would like to start preparing a neighbourhood plan or Order for their area they must first ask the local planning authority to designate a “neighbourhood area” that their policies will cover.
23. Currently it may be difficult to amend an existing neighbourhood area to accommodate changing circumstances without first revoking any existing neighbourhood plan in force for that area. This is because a neighbourhood plan must only relate to a single neighbourhood area and no more than one plan can be in force for each area.
24. The Neighbourhood Planning Bill would address this by allowing for an existing neighbourhood plan to remain in force, even where the boundaries of the neighbourhood area for which it was made are amended or a new neighbourhood area is designated.
25. There may be circumstances where the making of a new neighbourhood plan may have such a detrimental impact on an existing plan that it should not be made, or the proposals should be significantly modified before the neighbourhood plan is brought into force.
26. Therefore, the consultation proposed using an existing power in the Town and Country Planning Act 1990 to prescribe in regulations an additional ‘basic condition⁸’ that the plan proposal must meet. This would require the independent examiner to consider whether the plan proposal would have any adverse consequences on an existing plan and, if so, what measures would mitigate the effects. The examiner’s consideration would be informed by information supplied by the qualifying body in the statement that they would submit alongside the draft modified plan explaining how the proposal meets the relevant legal tests.⁹ The local planning authority would also need to consider the additional basic condition when reaching a view on whether the plan meets the relevant legal tests and should proceed to referendum.

Question 2: Do you agree that a new basic condition is needed to ensure that a neighbourhood plan proposal does not adversely affect any existing plan that remains in place, in areas where neighbourhood area boundaries have changed?

⁸ paragraph 8(2)(e) of Schedule 4B to the Town and Country Planning Act 1990 sets out the basic conditions that a draft neighbourhood plan or order must meet.

⁹ Commonly referred to as a ‘basic conditions statement’.

27. There were 86 responses to this question with overwhelming support from local planning authorities, designated neighbourhood forums, voluntary and community organisations, businesses, development industry, professional institutions and industry representatives. Support for the proposal was strong among local councils. There were a number of points raised; however there was no common theme.

Government response

28. We welcome the overwhelming support for our proposal. Subject to Royal Assent of the Neighbourhood Planning Bill, we intend to implement the proposal as set out in the consultation to maintain the robustness of the neighbourhood planning independent examination process and to ensure that a neighbourhood plan proposal does not adversely affect any existing plan that remains in place, where the boundaries of a neighbourhood area have changed.

Reviewing Statements of Community Involvement at regular intervals

29. Local planning authorities are required to produce a statement of community involvement. The purpose of this document is to set out the authority's policy on involving the community and others in aspects of planning such as preparing Local Plans and deciding planning applications.
30. While local planning authorities prepare statements of community involvement, the performance of authorities in keeping them up-to-date is more variable.
31. The Bill would remedy this by introducing a power for the Secretary of State to make provision in regulations requiring local planning authorities to review their local development documents (including statements of community involvement) at such times as may be prescribed.
32. Following a review, local planning authorities must consider whether to revise their statement of community involvement, and if they decide not to, they must publish their reasons for considering that no revisions are necessary.

Question 3: Do you agree that local planning authorities should review (and if necessary update) their statement of community involvement at least every five years? If not, what alternative do you propose?

33. We received 86 responses to this question. There was strong support overall for the proposal. The proposal had overwhelming support from local councils, industry representatives and designated neighbourhood forums. Local planning authorities and the development sector strongly supported the proposal. There was considerable support from voluntary and community organisations.
34. Five local planning authorities considered that the review period should be shorter. Conversely, five authorities were of the view that a local planning authority should have the flexibility to update the statement of community involvement as and when necessary, indicating that a five year period would be too long. Four local planning authorities stressed that resourcing would be an issue and five authorities stated that statement of community involvement should be updated when Local Plans are reviewed.

Government response

35. We welcome the strong support for our proposal. Subject to Royal Assent of the Neighbourhood Planning Bill, we intend to implement the proposal as set out in the consultation. Reviewing the statement of community involvement at five year intervals

would be consistent with our policy that most Local Plans are likely to require updating in whole or in part at least every five years¹⁰.

36. We have made it clear that our measures would not preclude a local planning authority from reviewing the statement of community involvement more regularly where they consider this appropriate.

¹⁰ <http://planningguidance.communities.gov.uk/blog/guidance/local-plans/preparing-a-local-plan/>.

Require local planning authorities to publish their policies on the advice and assistance they will give to neighbourhood planning groups

37. The Neighbourhood Planning Bill would make the existing duty on local planning authorities to provide advice or assistance to neighbourhood planning groups more transparent and improves community involvement in the early stages of plan-making by a local planning authority.
38. The Bill would do this by requiring local planning authorities to publish their policies for giving advice or assistance to communities that want to take up the opportunities neighbourhood planning provides in their statement of community involvement. The Bill would also require local planning authorities to set out in their statements of community involvement their policies for involving interested parties in the preliminary stages of plan-making.
39. The consultation proposed setting in regulations an initial deadline of 12 months following Royal Assent of the Neighbourhood Planning Bill for authorities to comply with the new requirements.

Question 4: Do you agree that local planning authorities should include their policies on providing advice or assistance to groups preparing neighbourhood plans and their policies for involving interested parties in the preliminary stages of plan-making in their statements of community of involvement within 12 months of Royal Assent to the Bill? If not, what alternative do you propose?

40. There were 80 responses to this question with considerable support overall. There was overwhelming support from prospective neighbourhood forums, professional institutions and industry representatives. Local Councils and the development industry provided strong support with local planning authorities providing considerable support. About half of businesses agreed with the proposal.
41. Within the context of strong support for the proposals, five local planning authorities suggested that 12 months for implementing the reforms presented a challenging timeframe, with 24 and 36 months suggested as alternatives. However, 11 local planning authorities agreed with the proposal.

Government response

42. We have carefully considered the responses provided and welcome the considerable support for this proposal. Subject to Royal Assent of the Neighbourhood Planning Bill, we intend to implement the proposal as set out in the consultation. Engaging with the local community to understand their views and what they would like to see in the local area is a fundamental part of a good plan-making.
43. Local planning authorities are legally required to provide advice or assistance¹¹ to neighbourhood planning groups and are required to produce a statement of community involvement¹². While the planning practice guidance set out the Government's expectations of how local planning authorities should discharge their duty to support neighbourhood planning groups¹³, practice is varied across England. Therefore we believe it makes sense to set out, in one place, a local planning authority's policies for supporting neighbourhood planning together with the policies for involving communities in the early stages of the authority's plan-making.
44. These measures would ensure that no community would be left in any doubt about the ways in which they can get involved in the planning of their area. We believe statements of community involvement are an essential tool that will provide much needed clarity from local planning authorities on the advice or assistance they can offer to communities that want to take up the opportunities neighbourhood planning provides.

¹¹ paragraph 3 of Schedule 4B to the Town and Country Planning Act 1990

¹² Section 18 of the Planning Compulsory Purchase Act 2004

¹³ <http://planningguidance.communities.gov.uk/blog/guidance/neighbourhood-planning/the-role-of-the-local-planning-authority-in-neighbourhood-planning/>

Future of neighbourhood planning

45. The consultation explained that we are always interested to hear further thoughts on how neighbourhood planning can be improved and strengthened.

Question 5: Do you have any other suggestions for further strengthening neighbourhood planning?
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46. 57 respondents provided comments, of which 10 were from local planning authorities, 14 from local councils, six from professional institutions, five from the development sector, four from community organisations and four from industry representatives.

47. Respondents raised a number of points that they considered could further strengthen neighbourhood planning; however there was no common theme. More general points were made about the funding and resourcing of local planning authorities and of neighbourhood planning groups.

Government response

48. We have noted the comments made. Financial considerations are addressed under question 7 below.

49. We are supporting neighbourhood planning across England through making available a £22.5 million support programme from 2015-2018 which has made over 1,700 payments to groups since April 2015. All groups can apply for a grant of up to £9,000. Additional grant of £15,000 and technical support is available to priority groups, including those in urban and more deprived areas.

Public Sector Equality Duty

Question 6: Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter? Is there anything that could be done to mitigate any impacts identified?

50. Four respondents commented on the impact of the proposals on people with protected characteristics. However, the points raised were related the neighbourhood planning system in general and were not linked to the proposals consulted on.

Government response

51. These responses have been carefully considered as part of our analysis and policy decisions.

52. The proposals covered in this consultation have been assessed by reference to the public sector equality duty contained in the Equality Act 2010. The overall aim of these proposals is to strengthen the neighbourhood planning system and ensure it is supporting the delivery of new homes that the country needs. None of the proposals are specifically aimed at persons with a protected characteristic and we have not identified any adverse equalities impacts.

53. We do not envisage a significant differential impact of any of these proposals on protected groups (those who share a “protected characteristic”; namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity).

Financial considerations

54. The consultation stated that the Department is committed to meeting the costs of any New Burdens on local authorities that result from their statutory obligations under neighbourhood planning. The consultation also stated that the Department does not consider that the proposals covered in the consultation would have significant financial impacts on local planning authorities, business, neighbourhood planning groups or on civil society organisations.

Question 7: Do you have any views about the potential positive or negative financial implications on local planning authorities, neighbourhood planning groups, or others, of our proposed changes? What evidence do you have on this matter? Is there anything that could be done to mitigate any costs identified?

55. There were 45 responses to this question, with 14 responses from local planning authorities, 10 responses from neighbourhood planning qualifying bodies and 21 responses from other groups or individuals.

56. One local planning authority stated that the proposed changes should enable a more streamlined process for reviewing and modifying plans, which should not have additional financial implications. They went on to state that the authority regularly reviews the statement of community involvement, so the requirement to include the need for such reviews in regulations should not have any further financial impact. Another local planning authority stated that an obvious financial burden would be incurred by complying with the proposed regulations, both in terms of staffing and resources. Where local planning authorities chose to respond they commonly sought confirmation that New Burdens funding would be provided to cover the examination and referendum costs for modified neighbourhood plans. One authority suggested that a negative financial implication could arise from reviewing, and if necessary, updating the statement of community involvement.

57. Of the qualifying bodies that responded two did not think that the proposals would have negative financial impacts, with one qualifying body commenting that a number of the proposals simply reflect good practice already undertaken by local planning authorities. One parish council suggested that the proposals could have limited but negative financial implications for local planning authorities, while two qualifying bodies raised concerns about whether qualifying bodies would be able to fund the costs they could incur from modifying their plans.

58. Of the other 21 respondents, two did not believe that the proposed changes would have any significant financial impact, while three respondents did; for local planning authorities when revising their statements of community involvement and managing the

process of modifying plans, and also for neighbourhood groups who want to modify their plans.

59. Minimising the administrative requirements of the proposals and replicating or streamlining existing processes was a proposed as a way to mitigating potential costs.

Government response

60. Our rigorous New Burdens doctrine ensures local planning authorities receive the relevant resources to meet their statutory obligations under neighbourhood planning. Over £13 million has been paid out since 2012 to help local planning authorities meet these responsibilities.

61. Under current arrangements, local planning authorities receive: £5,000 for each of the first five neighbourhood areas they designate; £5,000 for each of the first five neighbourhood forums they designate and £20,000 for all neighbourhood plans when a referendum date has been set, after the plan has been through a rigorous independent examination. We believe that the funding available is sufficient.

62. After considering the responses to this consultation, we remain of the view that our proposals for regulations that would implement some of the neighbourhood planning provisions in the Neighbourhood Planning Bill would not have a significant financial impact.

63. As with all local authority New Burdens, we will keep these funding arrangements under review.