



Ministry of Housing,
Communities &
Local Government

Guidance on the New Towns Act 1981 (Local Authority Oversight) Regulations 2018



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1. Introduction

This guidance aims to support readers' understanding of the New Towns Act 1981 (Local Authority Oversight) Regulations 2018 ("the Regulations"). It does not give a detailed commentary on the legislation; rather it sets out how the government expects the process of setting up a locally-led new town development corporation (LLNTDC) to work. The guidance also provides clarification on other issues that were of particular concern to those who responded to the consultation on the draft Regulations.

2. The process of designating a new town

The table below outlines the process for designating of a new town and creating an LLNTDC.

Stage		Section
1	<p style="text-align: center;">Development of proposals</p> <p style="text-align: center;"><i>The local authority (or authorities) explores options, builds the evidence base, conducts appropriate consultations, encourages public participation and develops new town proposals.</i></p> <p style="text-align: center;">↓</p>	3.1, 3.2
2	<p style="text-align: center;">Application to Secretary of State</p> <p style="text-align: center;"><i>The local authority (or authorities) writes to the Secretary of State requesting that they make an order designating the new town and appointing the local authority (or authorities) to oversee its development and including details of its proposal and supporting evidence.</i></p> <p style="text-align: center;">↓</p>	3.1
3	<p style="text-align: center;">Government assessment of application</p> <p style="text-align: center;"><i>The government examines the robustness of the proposal and supporting evidence to assess whether the designation of the new town is "expedient in the national interest", and also considers the establishment of a new town development corporation.</i></p> <p style="text-align: center;">↓</p>	3.2

4	<p style="text-align: center;">Government consultation</p> <p><i>The Secretary of State consults local authorities, local community representatives on the new town proposal (including establishing a new town development corporation), and considers the responses received.</i></p> <p style="text-align: center;">↓</p>	3.3
5	<p style="text-align: center;">Decision</p> <p><i>The Secretary of State decides whether the designation of the new town is expedient in the national interest.</i></p> <p style="text-align: center;">↓</p>	3
6	<p style="text-align: center;">Parliamentary process</p> <p><i>The Secretary of State lays a statutory instrument (an Order) in Parliament to designate a new town area, appoint a local authority (or authorities) to be the oversight authority for the new town, and establish an LLNTDC. Once debated and approved by both Houses the Order comes into force.</i></p> <p style="text-align: center;">↓</p>	3.4
7	<p style="text-align: center;">Locally Led New Town Development Corporation established and Oversight Authority appointed</p> <p style="text-align: center;">↓</p>	4, 5, 6
8	<p style="text-align: center;">Dissolution and revocation</p> <p><i>Oversight authority writes to the Secretary of State requesting dissolution of the LLNTDC, giving evidence that the purposes for which it was established have been substantially achieved.</i></p> <p><i>The Secretary of State considers the evidence provided and robustness of proposed legacy arrangements.</i></p> <p style="text-align: center;">↓</p>	7
9	<p style="text-align: center;">Parliamentary process</p> <p><i>If satisfied, the Secretary of State lays a statutory instrument in Parliament, transferring property, rights and liabilities from the LLNTDC to local authority/authorities or another body and revoking the new town designation.</i></p>	7

3. Designating a new town and establishing an LLNTDC

3.1 What steps should local authorities take if they wish to see the designation of an area for a new town and its development by an LLNTDC?

The leader of the local authority (or leaders of local authorities) wanting to become the oversight authority of the LLNTDC should write to the Secretary of State requesting that they make an Order under section 1(1) of the New Towns Act 1981 (“the Act”) designating the area specified in the letter for a new town. The letter should also request that the Order¹ appoint the local authority or authorities to oversee the development of the area. We would expect the letter to include:

- a map defining the area (or areas) to be designated for the new town.
- the name proposed for the new town
- material and evidence to support the proposal (as referred to in section 3.2)
- letters of support (see below)

Given the size and complexity of a new town development project, the Secretary of State would expect there to be strong local buy-in from the outset. The letter seeking designation should, at a minimum, be accompanied by letters of support from any other local authority (including any combined authority) that covers the proposed new town area but which does not propose becoming part of the oversight authority.

Before a request for designation is sent to the Secretary of State, we would expect there to have been engagement between the requesting local authority (authorities) and officials from Homes England and the Ministry of Housing, Communities and Local Government (MHCLG).

3.2 What does the Secretary of State need to consider in reaching a decision on the designation of a new town?

In order to designate a new town, the Secretary of State must be satisfied that it is “expedient in the national interest” that the area of land proposed be developed as a new town. For the Secretary of State to be able to judge this, we would expect the applying local authority/authorities to have undertaken significant preparatory work in advance of requesting a designation. The government will want to test the evidence to ensure that a project of such scale and complexity rests on sound foundations. In doing so, the government will want to examine a number of areas:

A) EVIDENCE OF COMMUNITY PARTICIPATION AND CONSULTATION

The Secretary of State will need to be satisfied that there is a robust evidence base demonstrating the suitability of an area for a new town, and that appropriate local public participation and consultation has taken place.

¹ As provided for by section 1A(2) of the Act

While each request will be considered on its merits, the Secretary of State considers that the allocation of a site in an adopted local plan is likely to create a presumption that these evidence and consultation criteria have been met. We expect that, in general, local authorities will only seek a designation after (or close to the point at which) the proposed new town site or sites are included in an adopted local plan. However, where a robust evidence base and opportunities for community participation of a similar character to those required for a local plan can be established by an applicant - and a strategy is in place for creating a planning framework for the development of the new town - this need not be the case.

B) DELIVERABILITY

Whilst recognising that the delivery of a new town is complex, the government will need to be satisfied that deliverability has been robustly assessed against a range of scenarios and assumptions.

We will need to see financial modelling covering the whole delivery lifecycle, including projected returns and debt profile, clearly showing peak debt requirements. Information should be provided on the expected delivery structure and sources of financing. The Secretary of State will need to be satisfied that this takes account of the implications for public sector expenditure and borrowing and, where possible, seeks to minimise these.

Before taking forward the designation process, the government will also want to agree with the local authority/authorities the LLNTDC's maximum acceptable levels of peak debt through the development cycle. We expect this to be agreed on a case by case basis.

C) BEST ROUTE

The Secretary of State will need to be satisfied that the new town designation and the creation of an LLNTDC represent the best route to securing expedited delivery of a high quality, sustainable new development with the necessary supporting physical and social infrastructure and a plan for the long term stewardship of assets. In particular, the Secretary of State will want to be satisfied that this level of public sector intervention is needed, and to satisfy himself that a similar outcome would be unlikely using other private or public sector-led delivery models.

D) GOVERNANCE

The government will expect to see robust governance proposals relating to the LLNTDC, including proposals for board appointments in line with the guidance below (section 5). These arrangements should provide appropriate balance between the need for oversight of, and independence for, the LLNTDC, and ensure that there is a mechanism for review to ensure that it remains fit for purpose to achieve its objectives throughout its lifetime.

E) PLACE MAKING, COMMUNITY ENGAGEMENT, STEWARDSHIP AND FUTURE GROWTH

The government will expect to see robust proposals for high quality place making, by, for example, adopting frameworks such as the Garden City Principles. This could include proposals for ensuring appropriate levels of affordable housing, community participation, sustainable development and long-term stewardship and legacy arrangements. These proposals should not simply be statements of intent: they should give detail on how these outcomes will be delivered. For example, proposals could include: detail on the processes that will be used to ensure high quality and inclusive design, proposals for promoting sustainable transport over the phases of the development; long-term plans for how community assets and green infrastructure will be funded both during the development of the settlement and once the LLNTDC has been dissolved; and detail on how governance arrangements will support community participation.

F) STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) AND APPROPRIATE ASSESSMENT (AA)

Before seeking a new town designation, we expect local authority/authorities² seeking to become oversight authorities to have considered carefully the environmental impacts of their proposals. In particular, they should have considered whether their proposals engage:

(i) the requirements of EU Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment ('SEA Directive') and the Environmental Assessment of Plans and Programmes Regulations 2004 ('SEA Regulations'); and

(ii) the requirements of EU Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ('Habitats Directive'), EU Directive 2009/147/EC on the conservation of wild birds ('Birds Directive'), and the Conservation of Habitats and Species Regulations 2017 ('Habitats Regulations').

As part of the evidence base accompanying a designation request, the Secretary of State will expect the local authority (or authorities) to provide such evidence as may reasonably be required to satisfactorily demonstrate that:

- Any likely significant effects on the environment of implementing the proposals - and reasonable alternatives taking into account the objectives

² As the 'responsible authority' under [The Environmental Assessment of Plans and Programmes Regulations 2004](#)

and the geographical scope of the proposals - have been identified, described and evaluated; and

- Any likely significant effects of the proposals on European Site(s) and/or European Marine Site(s) (either alone or in combination with other plans or projects) has been subject to appropriate assessment of its implications for the site(s) in view of the site(s) conservation objectives.

As noted above where a new town has been promoted through a local plan then this material may have been prepared as part of that sustainability assessment process.

3.3 Government consultation

Before reaching a decision the Secretary of State must consult the following groups on the proposed new town designation and establishment of a new town development corporation:

- representatives of those living within, or in the vicinity of, the site
- representatives of businesses with premises within, or in the vicinity of, the site
- every county or district council for an area which falls wholly or partly within the site;

The Secretary of State will carefully consider responses to these consultations before deciding whether it is expedient in the national interest to designate the new town.

3.4 The parliamentary process

Once a decision to designate a new town is made, the statutory instrument setting out the boundaries of the new town, appointing the local authority(ies) to oversee the new town and establishing a locally led new town development corporation will be drafted. This instrument is laid in Parliament in draft and cannot come into force unless and until it is approved by both Houses (Commons and Lords).

4. Roles and responsibilities once the new town is designated

4.1 Making plans for development

Section 7 of the New Towns Act 1981, as modified by the Regulations, requires the LLNTDC, following a direction from the oversight authority, to submit their proposals for the development of the new town to the oversight authority for approval. The oversight authority will need to decide taking into account local circumstances on the

appropriate, and proportionate, level of community engagement and participation in the approval process.

In general, we would expect the LLNTDC, working closely with the oversight authority, to produce a masterplan for the whole area, providing an overarching vision, indicating zoning, design ambition and setting out infrastructure requirements. It will be for the oversight authority to determine the appropriate level of detail for some or all of the area, and what subsequent masterplans may need to be developed and approved for later stages of development. If a development plan document (DPD) exists then the development corporation may, with the approval of the oversight authority, use that as its masterplan. Where the oversight authority is the local planning authority we would in general expect that they include the new town masterplan as part of a DPD.

4.2 Granting permission for development

It will be for the oversight authority^[2] to grant permission for development. This can be achieved either through the usual mechanisms (for example, the approval of outline planning applications and reserved matters), or through use of a local development order.

The government would encourage consideration being given to the use of local development orders^[3] as a means of securing high quality development at pace within clear parameters.

4.3 The role of central government

The decision on whether to designate an area of a new town for development by an LLNTDC, overseen by the local authority (or authorities), rests with the Secretary of State. As set out above, the Secretary of State will seek Parliamentary approval for the designation only once satisfied, following consultation, that it is expedient in the national interest that the area of land should be developed as a new town and that there are robust proposals in place for governance and delivery.

Once that governance and delivery framework is agreed, we expect, in line with the localist principles of the Regulations, the government to stand back from the operational decisions of the LLNTDC and its oversight by the local authority (or authorities). The Secretary of State will, however, continue to play a limited role, for example in decisions on whether to confirm any compulsory purchase orders and on the dissolution of an LLNTDC.

Given the scale and complexity of this type of development, Homes England and the Secretary of State would both expect to be part of an ongoing dialogue with the

^[2] Where the oversight authority is the local planning authority

^[3] Section 7(2)(b) New Towns Act 1981, as amended by the Regulations

oversight authority, for example on the provision of delivery support and advice. We are not, however, proposing any general reporting requirements on the oversight authority. We consider this to be neither necessary nor consistent with the principle of local accountability.

5. Governance

5.1 Who should be appointed to the Board of the NTDC?

Schedule 3 to the New Towns Act 1981, as modified by these Regulations, requires that in the appointment of its independent board members, the oversight authority has regard to appointing people both from the local area and/or with relevant experience and skills.

Given the scale and complexity involved in delivering a new town, we will expect board members collectively – and throughout the lifetime of the LLNTDC – to have a wide range of place making skills. This could include experience of leading major housing or infrastructure projects, development, construction, community development, finance and engineering expertise, art and cultural development, environmental science, human health and wellbeing and planning and design skills. Strong partnership working with the community, private sector and other public sector bodies will be essential to successful delivery. We also regard the appointment of a suitable number of board members who live locally to be an important demonstration of commitment to planning for community participation - one of the statutory aims of the oversight authority.

The appointment of the chair, deputy chair and independent board members should be through an open, transparent and publicly advertised process in line with wider principles of local authority appointments. Independent members should not be officers or elected members of a local authority in the new town area.

6. Quality, stewardship and community involvement

6.1 What are government's expectations around quality, stewardship and community involvement?

These Regulations are intended to facilitate not simply the delivery of new towns, but new garden communities that future generations will see as standing out from the ordinary in terms of their quality and commitment to sustainable development.

Sections 4(1A) and 4(1B) of the New Towns Act 1981 place obligations relating to sustainable development and good design on the new town development corporation. The Regulations modify section 4 to expand on these, establishing the

oversight authority aims of planning for high quality settlements and sustainable communities; supporting sustainable development and good design; and planning, from the outset, for long-term stewardships of assets, community participation and legacy arrangements for once the LLNTDC is dissolved.

Before designating an area for a new town, the Secretary of State will want to be satisfied that the proposals before him are consistent with these statutory aims. The proposals should extend beyond an aspiration to achieve the characteristics set out above; they should provide a credible route to their delivery. For example, we will want to see detail of the mechanisms to fund high quality place making; provision made in the financial modelling to fund continuous and long term community stewardship of assets; and governance arrangements that embed community representation from the outset.

7. Dissolution and alteration of new town boundaries

7.1 What is the process the oversight authority should follow if it considers that the LLNTDC should be dissolved?

Where the oversight authority is satisfied that the purposes for which the LLNTDC was established have been substantially achieved, it may write to the Secretary of State requesting that it be dissolved. The oversight authority's letter should give the preferred timescale for the dissolution; indicate the proposed division of the LLNTDC's property, rights, liabilities and obligations; and provide evidence that the purposes for which the LLNTDC was established have been substantially achieved.

In considering whether the LLNTDC should be dissolved, and whether the proposed distribution of property is appropriate, we expect the Secretary of State to have particular regard to whether robust legacy arrangements, including long-term community stewardship of the new town's assets, are in place. These outcomes are key statutory aims of the oversight authority. We will expect long term arrangements to have been made for the new town's parks, green spaces and other cultural and community amenities -together with endowments to support their maintenance - to have been passed to an appropriate body working on behalf of the community.

Once satisfied that the purposes for which the LLNTDC was established have been substantially achieved (and following consultation with any local authority covering the new town area that has not already indicated its support for dissolution by virtue of being part of the oversight authority), the Secretary of State may lay a statutory instrument bringing about the dissolution of the LLNTDC.

On dissolution, the property, rights, liabilities and obligations of the LLNTDC will be transferred to the local authorities comprising the oversight authority, a community stewardship body, or any other body in the proportions notified to the Secretary of

State by the oversight authority (as permitted under paragraph 2 of Schedule 10 to the Act). In order to fulfil the requirement of the regulations in relation to the promotion of community stewardship we would expect the oversight authority to provide for sufficient assets to community stewardship bodies so as to meet the current and future cultural, environmental and social needs of the town. Where the oversight body is unable to agree the division of property, rights, liabilities and obligations, this will be determined by the Secretary of State.

7.2 What process should the oversight authority follow if it considers that the area designated for the new town should be increased?

The government would not, in general, expect the area designated for a new town to increase; we consider it important that, from the outset, all parties establish clarity on the scale and the geographical boundaries of the new town. However, we recognise that there may be circumstances in which it might make sense to expand the boundaries of the new town, or to bring an additional, non-contiguous site under the purview of an existing LLNTDC. That might be in the local authority area of the oversight authority or, potentially, where the strategic fit is strong, in the area of a neighbouring local authority.

Where an oversight authority wishes to expand the area of the new town it should write to the Secretary of State requesting this and provide a map of the proposed area. The oversight authority should include letters of support from the leaders of all the local authorities that cover both the existing and expanded new town but which do not currently form part of the oversight authority.

Thereafter, the process will be the same for the proposed extension as for the original designation of the new town (as set out in section 1). In addition, the Secretary of State will need to be satisfied that it is expedient that an LLNTDC take on responsibility for developing the new area. We would, through the consultation process, be clear that this was the intention.

Parliamentary approval of the designation of the additional area for a new town would be needed. The Secretary of State would need to make an order by a statutory instrument under section 1 of the New Towns Act 1981 which need to be laid in draft and debated and approved in both Houses of Parliament.

Where the new area covers a local authority area that was not part of the area of the originally designated new town, the composition of the oversight authority may need to be changed. The oversight authority would need to ensure that the LLNTDC board included members from any additional local authorities covering the expanded new town area, and that the board retained an independent majority.

7.3. What is the process the oversight authority should follow if it considers the area designated for the new town should be decreased?

Where the oversight authority wishes to reduce the area of the new town it should write to the Secretary of State requesting this and enclose a map of the proposed area to be removed from the designation. The oversight authority should include letters of support from the leaders of local authorities that cover the area affected but which do not form part of the oversight authority. The Secretary of State will need to consult the LLNTDC and all local authorities affected. If satisfied that it is expedient to do so, the Secretary of State can lay a statutory instrument and, subject to Parliamentary approval, the area of the new town will be reduced.

Where the reduction in the designated area means that one or more local authorities no longer cover an area of land that is designated for the new town, they can no longer, by virtue of sections 1A(3) and 2(2)(a) of the New Towns Act 1981, be part of the oversight authority. Once the reduction order is made, such a local authority would automatically cease to be part of the oversight authority.

Before making the order to reduce the designated area, the Secretary of State would want to be satisfied that the oversight authority had agreed which assets, rights, liabilities and obligations of the LLNTDC should transfer to the local authority or authorities which were ceasing to be part of the oversight body, or to a community stewardship body.