



Action with Communities in Rural England

ACRE Briefing: Neighbourhood Plans and the Localism Bill

Update: June 2011

Under measures proposed in the Localism Bill, Government wants communities to come together to develop a Neighbourhood Plan which, if it meets certain criteria, will set the context for development in their area. The crucial issues are around the criteria which need to be met because they will be tested at an independent examination. Much still needs to be decided concerning the criteria, but at the moment, a Neighbourhood Plan:

- must not conflict with the strategic policies in the existing Local Plan. It is about shaping the details of development already agreed in the local plan for the area, not preventing it
- must conform to the overall principles in the new National Planning Policy Framework which is not yet published, although early thinking on this is available
- must pass the test of local support via a referendum, on a simple majority vote.

The full process for producing and adopting a Neighbourhood Plan is outlined on page 4.

What can go into a Neighbourhood Plan

A successful Neighbourhood Plan will have statutory status. It can tackle any planning-related issues in an area and it can be much more detailed than a local plan. In addition to specifying locations for housing, it could, for instance, tackle improving roads, footpaths and cycleway networks, specify design and density of housing and safeguard sites from development that are valued as open space. It could also respond to affordable housing needs, the needs of the elderly and improvements to infrastructure and recreational facilities.

An important planning-related factor is how the **Community Infrastructure Levy**, soon to be introduced, will affect the way new facilities and improvements to existing facilities can be financed from new development. It could also, with the agreement of the Local Planning Authority, consider whether a proportion of the **New Homes Bonus** attracted by any new housing would be devolved for use within the community to help run services and facilities.

Government has said that a Neighbourhood Plan does not have to be a comprehensive plan for the area – it can be based on a particular aspect or site that is important to a community. However, there can only be **one neighbourhood development plan for an area**, so communities may need to think carefully about which route is best for them. The benefit of starting with a comprehensive Community Led Planning (CLP) process as the basis for a Neighbourhood Plan is that, apart from building an evidence base and community support in advance of the referendum, the neighbourhood plan process can ensure that any financial implications of the CLP action plan are included within the negotiations on Community Infrastructure Levy and New Homes Bonus.

Local authorities will need to cooperate with the production of a Neighbourhood Plan, as well as paying the costs of their own input to the process, the independent examination and the referendum. Communities will have a choice between producing a formal **neighbourhood development plan**, which sets out detailed policies on the above, or a **neighbourhood development order**, which goes further. Any development that conforms to the order can proceed without the need for separate planning permission.

The government's **wider 'growth' agenda** has implications for neighbourhood planning which were not known at the time of publication of the Localism Bill. Some of these are discussed below but provide additional reasons why, in any participation within the planning arena, communities may need to consider equally what they DON'T want as well as what they DO want to happen in their area. They may no longer be able to rely on the housing envelope boundaries to prevent unwanted development, nor be sure that a formal planning application process would be required, as it is now, to develop commercial premises as housing, regardless of the views of the community or exploration of unintended impact.

Relationship to other Localism provisions

- **Community Right to Build**, which shares the Neighbourhood Development Plan process, but is site-specific and has to be mounted by a community organisation. No further announcements have been made on this since the publication of the Localism Bill, but it is difficult to see why the same outcomes could not be achieved through a Neighbourhood Plan.
- **Assets of Community Value**, previously known as the Right to Buy, which will enable communities to list sites of particular interest to help preserve services, facilities or land of amenity value. Government mounted a consultation on this earlier this year. It is not yet decided whether land can be listed because of a new use, rather than past or current use. The inclusion of potential use of a site would significantly increase its value and it would fit well with site-specific designations in a Neighbourhood Plan.
- **National Policy Planning Framework**, which will help define what is, and is not allowed in a Neighbourhood Plan. It is this Framework which will give a 'presumption for development' where local plan documents are out of date or silent as to a particular site. Communities undertaking a Neighbourhood Plan will need to consider what might happen to sites within their area, and ensure that their overall vision for their community cannot be compromised by speculative applications because those aspirations were not specified in sufficient detail. There is no definition as to what is meant by the local plan being 'silent'; for instance would a global 'countryside policy' specifying what types of rural development qualify. It is clear that this 'presumption for' development presents a challenge not just for communities wishing to undertake a Neighbourhood Plan but in their day to day relationships with the planning system.
- **Relaxation of Change of Use** – government is consulting on relaxing the current requirements to apply for planning permission for a change of use, for instance, from commercial to housing development. Whereas this is not intended to put at risk key services such as retail outlets and pubs, there are other possible sites or uses that a community may wish to prevent losing to housing, particularly if local jobs may be at stake. A Neighbourhood Plan could potentially be used to restrict permitted development on a site, although the scope of the proposal and its detailed implementation is not yet determined.
- **Financial considerations in planning approvals** – government has recently announced their intention to make financial incentives relating to an individual planning application a material consideration which carries weight at any planning appeal. How much weight compared with, for instance, statutory planning documents, is yet to be determined. However, anything that degrades the integrity of a Neighbourhood Plan may be a disincentive to a community to trust the process.

Communities have options!

Option	Result	Benefits and risks
Do nothing new, other than respond to the overall local plan consultations	<p>The local plan will define the overall level of development in a community, but the detailed design and 'offer' will come via a later planning application submitted by a developer</p> <p>If the local plan is 'silent' on a particular site, the proposed changes to the planning system will give a presumption in favour of development</p>	<p>It is far more difficult to influence design or the nature of development once a site-specific planning application has been received.</p> <p>Elements important to the community have to be negotiated against tight timescales</p> <p>'Presumption in favour' will bring forward more 'unplanned' planning applications</p>
Undertake a Community Led Plan	<p>Requires time and effort by the community, but provides the basis for then taking forward any planning-related elements into development plan documents that would have statutory status</p> <p>Where community projects are identified (taking over land or buildings) the business plan might need to be completed early on to get the financial and planning requirements 'on the table' in statutory plans</p>	<p>Builds community participation, an evidence base and community support. Engages statutory stakeholders during, rather than after the process</p> <p>Ensures priorities and options are fully explored both where development should take place, and, more importantly, where it should not</p> <p>Harnesses volunteers for community-led initiatives</p> <p>Does not have statutory status unless outcomes are used for statutory plans</p>
Work with the Local Planning Authority on either an Area Action Plan or a Supplementary Planning Document	<p>Local authority responsibility to produce, so less of a 'community-led' initiative</p> <p>Both AAPs and SPDs are official development documents and therefore have weight in deciding planning applications</p> <p>Potential timing considerations – how does this fit with the Core Strategy consultation and Examination in Public cycle?</p> <p>Possible use in ensuring site-specific protection is given to areas where development or change of use would not be desirable</p>	<p>Local Authority agreement required</p> <p>Can build on Community Led Plans</p> <p>SPDs have less 'weight' as a material consideration in planning decisions than statutory plans</p> <p>Avoids the Neighbourhood Plan referendum test, which may prove a barrier, particularly in areas of housing growth</p>
Undertake a Neighbourhood Plan	<p>Interpretation still to be tested of 'must be in conformity with strategic policies in the local plan'</p> <p>Can be used to put the planning relationship (and resulting financial benefits) on a firmer footing</p> <p>Possible use in ensuring site-specific protection is given to areas where development or change of use would not be desirable</p>	<p>Local Authority cooperation assured and has statutory status</p> <p>Can be as detailed or specific as required, although every time additions need to be made, it requires going through the whole process again</p> <p>Can build on Community Led Plans</p> <p>Failure at a referendum likely to generate community conflict</p>

Neighbourhood Planning: the stages of the process

1. In a **parished area**, the parish or town council initiates the Neighbourhood Plan, specifying the area to be considered. Where the area covers more than one parish, the consent of other relevant parish councils is required.
2. In an **unparished area**, a suitably qualified body in the community applies to become a '**neighbourhood forum**' covering a specific '**neighbourhood area**'. The local authority has first to approve these designations. An applicant can be a self-appointed community group whose aims cover the social, environmental and economic well-being of residents and where membership is open to all residents in the area concerned. Recent government amendments to the Localism Bill state that there must be at least 21 such members who live in the specified area, and there is now a requirement to involve local businesses and the local ward councillor(s).

The area designated must not include land which falls into a parished area. Local authority approval of a neighbourhood forum prevents any other group being similarly designated for a period of 5 years. However, the local authority can amend the neighbourhood area boundary and subsequently amend this again at any time, regardless of the status of the Neighbourhood Plan.

3. The Neighbourhood Plan is developed by the community, but the local authority is required to cooperate with its preparation. It is submitted to the local authority accompanied either as a draft **neighbourhood development plan** (NDP) or draft **neighbourhood development order** (NDO).
4. The local authority may decline the draft plan if it includes '**excluded development**', or is the same or similar to a proposal that has failed in the previous two years with no change of planning context that would alter the assessment.
5. The local authority then appoints a suitably qualified person, agreed with the applicant, to act as an independent examiner. The local authority pays the costs of the **examination**, which will be through written representations unless the examiner considers it necessary for oral evidence to be heard on one or more of the issues.
6. The examiner approves or rejects the application on criteria which include the following:
 - Whether **the referendum area** should be the neighbourhood area or needs extending
 - Whether the proposal is '**in general conformity with the strategic policies in the development plan for the area**'
 - Meets conditions that may apply in terms of sustainable development (to be defined in the **National Policy Planning Framework**).
7. The examiner can recommend modifications so that it meets the basic conditions laid out above, and can then recommend it is submitted to a referendum.
8. The local authority can decline the order at this stage, but on strictly limited grounds, and may refer the relevant issues back for a second examination.
9. The local authority, if it accepts the verdict of the examiner, must then arrange and pay for a **referendum** in the area as originally defined or modified by the examiner, but can further extend the referendum area if they wish.
10. If the proposal achieves support from more than 50% of the vote at the referendum, the local authority makes a **neighbourhood development plan or order**. In the case of an order, any proposed development that is consistent does not need to apply for full planning permission, though the NDO itself defines who can give permission and what conditions might be applied.