

**Setting the scene for the latter stages of the
neighbourhood planning process**

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Resources and support

- DCLG has announced that there will be a new programme for supporting neighbourhood planning starting in 2015 equating to £22.5 million. DCLG has recently announced that Locality has won the contract. The intention is:
- All groups demonstrating a need for grant support will be eligible to apply for up to £9,000.
- Some priority groups facing more complex issues will be eligible to apply for a further £6,000 in grant and specific packages of direct technical support where needed (i.e. high growth areas, deprived areas, business areas).
- Grants are likely to be awarded to spend over 6 month periods and cannot span financial years, therefore groups may wish to make multiple applications over the course of the programme.
- Direct support will be targeted at groups with more complex requirements, to deliver specific pieces of work.
- £12 million funding for local authority burdens for 2015/16 has also been confirmed (funding to meet the LPAs legislative duties i.e. paying for formal consultation, examination, referendum and any potential judicial review)

Regulation Changes – February 2015

- The Neighbourhood Planning (General) (Amendment) Regulations 2015 (SI 2015/20) (2015 Regulations) have been published and came into force in England on 9 February 2015. The 2015 Regulations amend the Neighbourhood Planning (General) Regulations 2012 (SI 2012/637) (2012 Regulations).
- The 2012 Regulations made the following provisions in relation to that new regime:
 - Set out procedural requirements for designating a neighbourhood area in relation to the content of the application and what the local planning authority (LPA) must do to publicise an application.
 - Include provisions relating to neighbourhood development plans, including information on the consultation process and the content and publicising of proposals (currently 6 week consultation period and no statutory time period within which to determine each area application)

Regulation Changes – February 2015

- The 2015 Regulations amend the 2012 Regulations by inserting a new regulation to prescribe the date by which an LPA must determine applications for designation of a neighbourhood area (the date of which differs depending on the application area as follows):
 - where the area applied for follows parish boundaries the period will be eight weeks (with the associated consultation period reduced from six to four weeks in these cases)
 - for applications that include any of the areas of more than one local planning authority (even if the area applied for follows parish boundaries) the period will be 20 weeks
 - for all other applications the period will be 13 weeks
- The 2015 Regulations also add to the list of documents that a qualifying body must submit to an LPA with a proposal for a neighbourhood plan. The additional document must be either an environmental report or a statement of reasons why an environmental assessment is not required.

Where are we now, nationally?

- Over 1,400 communities have begun the neighbourhood planning process through the submission of an area designation application
- To date, there have been 52 successful referendums country-wide
- Many more plans are at, or nearing examination stage
- 6.1 million people in England live in a designated neighbourhood area
- £4.8 million has been awarded to communities country-wide through support grants
- The top 5 authorities for area designations in the country are:
 - Herefordshire (88)
 - Cornwall (49)
 - Leeds (33)
 - Wiltshire (29)
 - Stratford-on-Avon District (28)

Where are we now, locally?

- Within Stratford-on-Avon District, we currently have:
- 30 neighbourhood plan areas designated
- These cover: the main town, 7 out of 8 Main Rural Centres and 22 out of 44 Local Service Villages (LSVs)
- The breakdown of communities involved in preparing a plan is:
- All 5 Category 1 LSVs
- 6 out of 9 Category 2 LSVs
- 5 out of 11 Category 3 LSVs
- 6 out of 19 Category 4 LSVs

Where are we now, locally?

- Long Compton 'made'
- Kineton - referendum set for 1st September 2016
- Welford-on-Avon - Been through Examination
- Salford Priors – at Examination
- Stratford – close to 'formal' submission
- Bidford-on-Avon – at Reg.16 consultation
- Wilmcote & Pathlow – at Reg.16 consultation
- Snitterfield – at Reg.14 consultation
- Wellesbourne & Walton – at Reg.14 consultation
- The rest are at various stages of the plan making process (evidence gathering and policy drafting)

Submission

- In order for the NP to be formally submitted, the LPA must satisfy itself that the submitted Plan complies with all statutory requirements before presenting it for examination
- Documents which need to be submitted include:
 - a) a map or statement identifying the plan area
 - b) a Consultation Statement
 - c) the proposed plan
 - d) a Basic Conditions Statement
 - e) any relevant environmental assessments (where appropriate)
- The LPA does not make a judgement as to whether the Plan meets the Basic Conditions until after the Examiner's Report has been received

What are the Basic Conditions?

- Had regard to national policies and advice, most notably the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)
- In general conformity with the strategic policies of the adopted Local Plan. Whilst not a basic condition, also expect to have regard to any emerging Local Plan (especially its evidence base)
- Be compatible with European obligations and human rights requirements

Independent Check

- The LPA publicises the Plan for six weeks (including organisations and people who had commented on the Plan at pre-submission stage) and invites comments – representations must relate to the basic conditions
- Examiner appointed (paid for by LPA) but must be agreed with the Qualifying Body. The examiner must be:
 - Independent
 - Have no interest in the land (prejudicial interest)
 - Have appropriate qualifications and experience
- Usually only considers written representations
- Examiner may choose to hold a public hearing if:
 - Needs to explore an issue in more detail
 - To give someone a chance to have their say

The Examination Process

- It is not a 'test of soundness' as is the case with a Local Plan
- No other material considerations are examined
- 'aspirational' policies within an appendix to the Plan are not examined
- The examiner is looking at:
 - Compliance with the Basic Conditions
 - The consultation responses
 - The referendum area
- The examiner will not look at:
 - Non-land use planning policies (these must be in an appendix)
 - Compliance with emerging policy
 - Representations that do not deal with the basic conditions

The Examiner

- The examiner can be anyone who meets the criteria in The Localism Act 2011:
- (a) is independent of the Qualifying Body and the Local Authority;
- (b) does not have an interest in any land that may be affected by the draft order; and
- (c) has appropriate qualifications and experience to assess the Plan
- Suitable candidates will often be planning consultants, planning professionals or planning inspectors
- When appointing an examiner, it is advisable to look into the appointment at the earliest opportunity, since the process may take several weeks due to entering into a contract (after pre-submission?)
- Consider level of Professional Indemnity Insurance levels, since sole practitioners may have lower level than usually required by LPA

NPIERS Referral Service

- NPIERS stands for: Neighbourhood Planning Independent Examiner Referral Service
- This service has been developed as a key source of independent examiners. It provides communities and local authorities with an accessible service which guarantees high levels of knowledge, professional standards and integrity.
- You are able to apply to NPIERS for either, a pre-submission health check review of your neighbourhood plan, or the referral of examiners who are able to undertake the examination of your neighbourhood plan.
- A health check is an opportunity for the draft Plan to be reviewed against the basic conditions by an NPIERS panel member.

NPIERS Health Check

- An independent desk-based review at pre-submission stage
- The review will look into whether the draft Plan meets the basic conditions and provide advice on any potential amendments required to ensure the plan meets the basic conditions.
- Identifies issues that may cause delay or rejection at examination
- Will not involve the re-writing of the policies but provide general advice on what changes that need to be made.
- It would cost £375 plus VAT per day (plus reasonable expenses) to undertake a pre-submission health check review of a neighbourhood plan.
- Since this stage would be prior to formal submission to the LPA, this cost would need to be borne by the Qualifying Body

NPIERS – Appointment of Examiner

- To request the referral of up to three examiners who are able to undertake the examination of a neighbourhood plan, an application form needs to be completed jointly by the Qualifying Body and the Local Authority
- The applications should be sufficient to appoint provided you have said what you want – more information provided, better potential candidate match...
- NPIERS provide CV, photo and suitability statement from 3 potential examiners – tailored to the scope of the Plan and examiner availability
- The Qualifying Body and LPA must consider the details submitted and agree on a candidate (may require an interview)
- The contract is then between the LPA and the Examiner
- Will cost £750 plus VAT per day (plus reasonable expenses) to undertake the examination of a neighbourhood plan (cost borne by the LPA)

Preparation for the examination

- The LPA nominates a single point of contact for the examiner
- Agree a means of communication (e-mail best)
- Agree anticipated timeline for the examination
- Examiner will usually (but not necessarily) visit the area. This may be accompanied or unaccompanied, but access issues must be considered if wishing to enter privately owned land
- LPA and QB should provide a list of relevant documents, identify relevant parts of lengthy documents (e.g. appropriate policies only of the Local Plan/Core Strategy) and provide copies of the associated documents (i.e. a 'common' list)

Written representations or hearing?

- Examination by written representations is the general rule
- Representations to the plan should address the basic conditions and other tests (guidance should be issued by LPA or examiner)
- Late representations are not normally considered
- A hearing may be required due to:
 - (a) complexity;
 - (b) lack of literacy on the part of appropriate participants
- If a hearing is deemed necessary, LPA and examiner must agree roles:
- Examiner – identify topics for consideration; parties to speak; take charge of proceedings including recording and social media rules
- LPA – issuing notice of hearing; arranging venue; invitations (considering accessibility, parking, toilets, refreshments etc)

The Examiner's Report

- The examiner will determine whether or not the plan meets the basic conditions
- The report will state: pass, pass with modifications, or fail...
- The report may set out recommendations which are required to be addressed, plus other recommendations (i.e. required or advisory changes)
- Will make recommendations on the referendum area – this could have financial implications
- The report is not binding
- The recommendations of the report need to be discussed with the Qualifying Body and agreement needs to be reached on any modifications to the plan

Decision Statement

- The Local Planning Authority are required to publish a Decision Statement following receipt of the Examiner's report
- This Statement should set out whether or not the Plan will proceed to referendum
- If the Plan is to proceed to referendum, the date of the referendum should be included
- The LPA will need to consider Cabinet timescales at this point, should the Plan need to be approved by Members

The Referendum

- The Local Planning Authority organises and funds the referendum
- The LPA can apply for 'new burdens funding' to pay for the referendum
- It must be conducted in accordance with:
 - Neighbourhood Planning Referendum Regulations 2012, as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2014
 - Neighbourhood Planning (Prescribed Dates) Regulations 2012
- Any person within the referendum area who meets the criteria to vote in a local election can vote in a neighbourhood plan referendum
- There is no minimum turn-out
- A majority of people voting must support the plan
- Yes vote – Plan 'made'
- No vote – Plan 'cannot be made'

Community Referendum Question

“Do you want Stratford-on-Avon District Council to use the neighbourhood development plan for [add title of neighbourhood area] to help it decide planning applications in the neighbourhood area?”

- The poll results are then published in accordance with the Regulations

Decision Statement/make the plan

- If it transpires the poll has advocated a 'yes' vote, then the Local Planning Authority will publish a decision statement to 'make' (or adopt) the plan
- A copy of the decision statement is sent to the Qualifying Body
- Once the decision statement has been approved by the Council, the plan will be formally 'made' (adopted) and will from that time form part of the statutory development plan for the area
- Along with the adopted local plan, it will then provide basis for the determination of planning applications and appeals

Timescales

- The (basic) timeline would appear to be as follows. I have put an approximate time to carry out each element in brackets:
- Formal Submission
- Check plan complies with statutory requirements (1 week)
- Publicise plan - statutory consultation period of 6 weeks (7 weeks including 1 week lead-in time)
- Appointing an Examiner
- Through NPIERS (5 weeks) N.B. This may have been carried out at the pre-submission stage or at the same time as the statutory consultation, above
- Examination
- May be written rep's or hearing depending upon complexity of plan. (1 to 2 weeks + lead-in time)
- Examiner's report issued (2 weeks)

Timescales (cont'd)

- Re-drafting Plan
- Taking on board Examiner's comments/recommendations and amending as necessary (2 weeks?)
- Referendum
- Lead-in time, publicising event, polls and results (5 weeks)
- Adoption by LPA
- Report to Cabinet/Council (3-5 weeks depending on agenda closedown)
- This would lead me to conclude that the process could take in the region of 20 to 25 weeks (depending upon any potential overlaps of processes) and everything running without incident.
- Evidence from other LPAs suggest this timescale is potentially achievable, but tight.

Helpful websites

- My Community Rights - mycommunityrights.org.uk
- Locality – locality.org.uk
- Planning Practice Guidance – planningguidance.planningportal.gov.uk
- Neighbourhood Planning Independent Examiner Referral Service (NPIERS) – npiers@prics.org
- Planning Aid England – advice@planningaid.rtpi.org.uk
- Lots of additional advice and information on search engines