



BRIEFING PAPER

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Neighbourhood Planning

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Summary

This briefing – which applies only to England – summarises the policy and processes around neighbourhood planning.

What is neighbourhood planning?

The *Localism Act 2011* provided for a new neighbourhood planning regime. The Act allows parish councils and groups of people from the community, called neighbourhood forums, to formulate Neighbourhood Development Plans and Orders, which can guide and shape development in a particular area. These plans and orders must have regard to national policies and conform to local strategic policies.

The draft plans and orders must pass an independent check. If they pass they must then be put to a local referendum. If there is a majority vote in favour, the local planning authority (LPA) must adopt the plan, subject to its legal compatibility. The Act contains a similar procedure for Community Right to Build Orders, which give permission for small-scale, site-specific developments by a community group. The government has emphasised that neighbourhood planning should not be a way to block necessary development.

The LPA has a statutory role to play in supporting neighbourhood planning. For example, it will organise the independent examination of the Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order. This is to check that the plan or order meets certain minimum conditions. In the majority of cases, it will be the LPA which will pay for and run the neighbourhood planning referendum.

What impact has neighbourhood planning had?

According to Government figures from March 2018, [there have been 500 referendums](#).

[Government research](#) from 2015 (using a small sample of neighbourhood plans), suggested that in areas with a neighbourhood plan in place, there was a 10% increase in housing allocations (over that provided by the Local Plan). Research by planning consultancy firm Turley from 2014 found that more than half of the draft plans published for consultation had 'protectionist' agendas and that many were openly anti-development. It also found that neighbourhood planning provided an opportunity for "meaningful" community engagement in the planning process.

The Ministry of Housing, Communities and Local Government publishes an [interactive map](#) showing where neighbourhood planning and other community right uses are taking place across the country.

What financial support is available?

Government funding has been made available for local authorities and for parish councils and neighbourhood forums to help with neighbourhood planning. The [My Community website](#) sets out the funding available for 2015-18 and beyond.

In addition to this, in areas where there is a neighbourhood development plan in place, the neighbourhood will be able to receive 25% of the revenues from the Community Infrastructure Levy arising from the development they have chosen to accept.

Changes in the *Housing and Planning Act 2016* and *Neighbourhood Planning Act 2017*

The [Housing and Planning Act 2016](#) contained measures designed to simplify and speed up the neighbourhood planning process. It also allowed for greater intervention by the Secretary of State in the process of making a neighbourhood plan. The [Queen's Speech on 18 May 2016](#) announced a Neighbourhood Planning and Infrastructure Bill 2016-17 to improve the process for reviewing and updating plans and providing a more transparent duty for the Government to support groups wanting to do neighbourhood planning. The [Neighbourhood Planning Act 2017](#) received Royal Assent on 27 April 2017. It introduced a new procedure to allow Neighbourhood Plans to be modified and dealt with the situation where a new Neighbourhood Plan is needed but covering a slightly different geographical area to the previous one.

Changes to the National Planning Policy Framework

The National Planning Policy Framework (NPPF) was revised and updated in 2018, following a consultation.

One of the changes to the NPPF related to the circumstances in which a NDP can be relied on when considering planning applications which might otherwise fall within the presumption in favour of sustainable development. In the former Housing Minister [Gavin Barwell's written statement in December 2016](#), he drew attention to the frustration felt by communities that had worked to put together a Neighbourhood Plan – which would in other circumstances mean that planning applications conflicting with that plan would normally be refused – but found that the presumption in favour of sustainable development nevertheless kicked in, because the local planning authority could not demonstrate a five-year land supply of deliverable homes. The statement therefore said that (with certain other conditions) the Neighbourhood Plan's policies for supply of housing should not be considered out-of-date if that plan was less than two years old.

The [NPPF 2018](#) has thus been reworded to say that, for the adverse impact of development conflicting with the Neighbourhood Plan to significantly and demonstrably outweigh its benefits, one of the conditions is that the Neighbourhood Plan should have become part of the development plan within the last two years. The [relevant paragraphs in NPPF 2018](#) setting out the transitional arrangements provide for a limited exception to the requirement that the neighbourhood plan should have become part of the development plan two years or less before the date on which the decision is made – until 11 December 2018, plans that became part of the development plan more than two years before the date of decision are also included.

What happens in Scotland, Wales and Northern Ireland?

There is no direct equivalent of neighbourhood planning in Scotland, Wales or Northern Ireland.

Some mechanisms exist in each area for the involvement of communities in planning: information about neighbourhood planning functions, where they exist, in the devolved administrations can be found on pages 13 – 14 of the joint briefing paper, [Comparison of the planning systems in the four UK countries: 2016 update](#). These mechanisms use the phrase “community planning” or “place plans” to refer to closer working between communities and local authorities, rather than creating a new power to produce plans at the very local level, as in England. Information on [community planning in Northern Ireland](#)

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is available on the Department for Communities' website. The latest information on [community planning in Scotland](#) is available on the Scottish Government website.

Other Commons Library briefings on various matters to do with planning are available on the [topic page for housing and planning](#).

1. What is neighbourhood planning?

In summary

The [Localism Act 2011](#) placed a legal duty on local planning authorities to support and advise groups wanting to do neighbourhood planning.

[Schedule 9 to the Act](#) enables three types of organisation, known as qualifying bodies, to lead on neighbourhood planning functions. In practical terms, a qualifying body will be

- a parish or town council
- a neighbourhood forum or
- a community organisation.

Neighbourhood planning allows communities to prepare:

- Neighbourhood Development Plans
- Neighbourhood Development Orders and
- Community Right to Build Orders.

For further information on neighbourhood planning see the [Neighbourhood Planning](#) section of the online Planning Practice Guidance (PPG) and the Government [Neighbourhood Planning](#) webpage.

Detailed information and “tool kits” about neighbourhood planning and how to do it in practice are also available online for constituents. See for example the [Royal Town Planning Institute](#) and the [My Community Rights](#) websites.

1.1 What’s the legal framework?

Section 116 of the *Localism Act 2011* brings into effect schedule 9 (which deals with neighbourhood planning) and inserts into the *Town and Country Planning Act 1990* schedule 10 (dealing with the process for making Neighbourhood Development Orders) and schedule 11 (dealing with Community Right to Build Orders).

Further regulations have also made provision for the details of the neighbourhood planning regime:

- The *Neighbourhood Planning (General) Regulations 2012*, as amended.¹ These were [consulted on](#) in October 2011.² An [impact assessment](#)³ and a [summary of responses](#) to the consultation were published in March 2012.⁴
- The *Neighbourhood Planning (Referendums) Regulations 2012*⁵

Section 116 and schedules 9,10 and 11 of the *Localism Act 2011* provide the legislative framework for neighbourhood planning.

**1 SI 2012/637

² DCLG, [Neighbourhood planning regulations: Consultation](#), October 2011. In January 2018, the Department for Communities and Local Government (DCLG) changed its name to the Ministry of Housing, Communities and Local Government (MHCLG).

³ DCLG, [Localism Act: Neighbourhood Plans and Community Right to Build: Impact assessment](#), March 2012

⁴ DCLG, [Neighbourhood Planning Regulations: Consultation Summary of responses](#), March 2012

⁵ SI 2012/2031

- The *Neighbourhood Planning (Prescribed Dates) Regulations 2012*⁶
- The *Neighbourhood Planning (Referendums) (Amendment) Regulations 2013*⁷
- The *Neighbourhood Planning (General) (Amendment) Regulations 2015*⁸

1.2 What is a neighbourhood forum?

A designated neighbourhood forum is an organisation or group empowered to lead the neighbourhood planning process in a neighbourhood area where there is no town or parish council.

A group or organisation must apply to the LPA to be designated as a neighbourhood forum. To be designated as a neighbourhood forum, the group must have a membership that includes a minimum of 21 individuals who either:

- live in the neighbourhood area
- work there, and/or
- are elected members for a local authority that includes all or part of the neighbourhood area.⁹

The neighbourhood area is also designated by the LPA.¹⁰ The application for designation must include a statement explaining why the proposed neighbourhood area is an appropriate one.¹¹

The Coalition Government was also concerned about the speed of the neighbourhood planning system. It [consulted in July 2014](#) on setting a statutory time limit within which a LPA must make a decision on whether or not to designate a neighbourhood area.¹² A [Government response](#) followed in December 2014 and the [Neighbourhood Planning \(General\) \(Amendment\) Regulations 2015](#), which came into force on 9 February 2015, now prescribe the date by which a LPA must determine applications for designation of a neighbourhood area as follows:

Where the area to which the application relates falls within the areas of two or more local planning authorities, the prescribed date is the date 20 weeks from the date immediately following that on which the application is first publicised. In other cases, the prescribed date is the date 13 weeks from the date immediately following that on which the application is first publicised by the local planning authority, or eight weeks where the application is from a parish council and the area to which the application relates is the whole of the area of the parish council.¹³

⁶ SI 2012/2030

⁷ SI 2013/798

⁸ SI 2015/20

⁹ MHCLG, [Planning Practice Guidance, What is a designated neighbourhood forum?](#) Paragraph: 016 Reference ID: 41-016-20140306, 6 March 2014.

¹⁰ Article 5 of the [Neighbourhood Planning \(General\) Regulations 2012](#) (SI 2012/637, as amended)

¹¹ MHCLG, [Guidance: What is the process for designating a neighbourhood area?](#) Paragraph: 024 Reference ID: 41-024-20161116, 16 November 2016

¹² DCLG, [Technical consultation on planning](#), July 2014

¹³ *Neighbourhood Planning (General) (Amendment) Regulations 2015: Explanatory Notes*, paragraph 7.2

1.3 What is a Neighbourhood Development Plan?

Neighbourhood forums and parish or town councils can use neighbourhood planning powers to establish general planning policies for the development and use of land in a neighbourhood. These are called Neighbourhood Development Plans (NDPs).

LPAs are expected to continue to produce local development plans that will set the strategic context within which NDPs will sit and the LPA must support people in developing their neighbourhood plan. Policies produced in an NDP cannot block development that is already part of the local development plan (Local Plans). NDPs can, however, shape and influence where that development will go and what it will look like.

NDPs must meet several conditions to ensure plans are legally compliant and take account of wider policy considerations (such as national policy). The conditions are:

- They must have regard to national planning policy
- They must be in general conformity with strategic policies in the development plan for the local area (such as in a core strategy), and
- They must be compatible with EU obligations and human rights requirements.¹⁴

The basic conditions that a draft NDP or Order must meet if it is to proceed to referendum are set out in the [PPG on neighbourhood planning](#).

An independent qualified person, normally a planning inspector, will check that an NDP meets these conditions before it goes to the next stage of being voted on in a local referendum. This is to make sure that referendums only take place when proposals are workable and of a decent quality. Proposed NDPs need to gain the approval of a majority of voters of the neighbourhood to come into force. If proposals pass the referendum, the LPA is under a legal duty to bring them into force.

The Government's [Plain English Guide to the Planning System](#), January 2015, provides a flowchart at annex B, which sets out the NDP-making process and gives further information about what is required at each stage.

In some circumstances, an emerging NDP can carry weight in determining planning applications. Guidance on these circumstances is also set out in the PPG on [What weight can be attached to an emerging neighbourhood plan when determining planning applications?](#)

How does it relate to Local Plans?

Local Plans are produced by the LPA and cover the entire local authority area. These are the key documents through which LPAs can guide what developments should and should not get planning permission, how land should be protected and how a balance between development,

¹⁴ Planning Portal website, [Neighbourhood planning](#) (accessed 28 September 2018)

environmental protection and public interest should be ensured. They are adopted only by a process of public consultation and independent examination.¹⁵

Once a neighbourhood plan passes all its stages and comes into force it has the same legal status as the Local Plan. At this point it becomes an official development plan document which carries statutory weight. Applications for planning permission must be determined in accordance with a development plan document, unless material considerations indicate otherwise.¹⁶

The [National Planning Policy Framework](#) outlines how NDPs should relate to the area's strategic policies:

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies¹⁶.

Footnote 16: Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.¹⁷

The [PPG](#) also sets out the relationship between an NDP and a Local Plan. It provides guidance about what happens if an NDP is brought forward before an up-to-date Local Plan is in place:

Can a Neighbourhood Plan come forward before an up-to-date Local Plan is in place?

(...)

Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- the emerging neighbourhood plan
- the emerging Local Plan
- the adopted development plan
- with appropriate regard to national policy and guidance.

¹⁵ Local plans are not mandatory, but LPAs are strongly encouraged by Government to have one and to review it regularly. Recently, the Government has been stepping up its efforts to encourage LPAs to create and adopt local plans. In the housing white paper *Fixing Our Broken Housing Market* in February 2017, the Government said it would use its intervention powers to ensure that local plans were put in place and set out the criteria for intervention, suggesting that intervention might take the form of writing the plan for the LPA. In November 2017, the then Housing Secretary, Sajid Javid, wrote to 15 LPAs, setting out his intention to intervene. In a written statement in March 2018, he set out the varying degrees of progress made and how he intended to act in the three – Castle Point, Thanet and Wirral – where he considered there had been “consistent failure and lack of progress”. The updated [National Planning Policy Framework](#) published in July 2018 makes various changes to plan-making.

¹⁶ Section 70(2) of the *Town and Country Planning Act 1990* and section 38(6) of the *Planning and Compulsory Purchase Act 2004*.

¹⁷ MHCLG, [National Planning Policy Framework](#), Cm 9680, July 2018: page 10

The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination.

The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.¹⁸

There are also sections in the PPG on how planning applications should be decided where the LPA cannot demonstrate a five-year supply of deliverable housing sites, in relation to:

- An [emerging neighbourhood plan](#); and
- A [made](#) neighbourhood plan.

These sections were introduced following the Government's proposal in the November 2015 [Autumn Statement](#) to ensure that local communities could allocate land for housing through neighbourhood plans, even if that land is not allocated in the Local Plan.¹⁹

1.4 What happens in Scotland, Wales and Northern Ireland?

There is no direct equivalent of neighbourhood planning in Scotland, Wales or Northern Ireland.

Some mechanisms exist in each area for the involvement of communities in planning: information about neighbourhood planning functions, where they exist, in the devolved administrations can be found on pages 13 – 14 of the joint briefing paper, [Comparison of the planning systems in the four UK countries: 2016 update](#). These mechanisms use the phrase "community planning" or "place plans" to refer to closer working between communities and local authorities, rather than creating a new power to produce plans at the very local level, as in England. Information on [community planning in Northern Ireland](#) is available on the Department for Communities' website. The latest information on [community planning in Scotland](#) is available on the Scottish Government website.

¹⁸ MHCLG, [Planning Practice Guidance, Can a Neighbourhood Plan come forward before an up-to-date Local Plan is in place?](#) Paragraph: 009 Reference ID: 41-009-20160211, Revision date 11 February 2016

¹⁹ As above. The relationship between NDPs and the presumption in favour of sustainable development is discussed later.

2. Neighbourhood planning functions

2.1 Who can do it?

The legislation enables three types of organisation, known as qualifying bodies, to lead on neighbourhood planning functions.

Section 61E (6) of schedule 9 defines a “qualifying body” as “a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purpose of a neighbourhood development order to act in relation to a neighbourhood area ...” In practical terms, a qualifying body will be

- a parish or town council
- a neighbourhood forum or
- a community organisation.

To take part in neighbourhood planning as a neighbourhood forum, a group or organisation must apply to the LPA to be designated. (The designation process is outlined later).

Not all these organisations can lead on every type of neighbourhood planning function. Further information about the role of each of these types of organisations and what they can do is set out in the Government’s online PPG on [Who leads neighbourhood planning in an area?](#)²⁰

2.2 What is the local planning authority’s role?

The LPA must provide support to help people develop their neighbourhood plan. For example, it will organise the independent examination of the NDP, neighbourhood development order or Community Right to Build Order. This is to check that the plan or Order meets certain minimum conditions.

Financial assistance to support local authorities with this role is discussed later.

2.3 Examples of neighbourhood planning

In March 2013 Upper Eden in Cumbria became the first area officially to adopt an NDP.²¹

MHCLG’s Neighbourhood Planning Team produces a [newsletter](#) with the latest examples of neighbourhood planning in practice, news and policy developments. MHCLG has also produced an [interactive map](#) showing where neighbourhood planning and other community right uses are taking place across the country.

The [Neighbourhood Planner website](#) provides information about neighbourhood planning activity throughout England and gives an

²⁰ MHCLG, [Guidance: Neighbourhood planning](#), 6 March 2014, updated 13 September 2018

²¹ DCLG, [Historic first as neighbourhood plan is voted in by community](#), 8 March 2013

indication of which stages different neighbourhood plans and applications for designations are at.

The [Neighbourhood Planning website](#) offers support on developing neighbourhood plans and neighbourhood development orders.

2.4 Neighbourhood Development Orders

Neighbourhood planning can also be used to permit development in an area without the need for planning applications. These are called “neighbourhood development orders.” A neighbourhood development order can grant planning permission for major development schemes, new houses, a new shop or pub, or permit extensions of a certain size or scale across the whole neighbourhood area. As with an NDP, it must pass an independent inspection and must also gain the approval of a majority of voters of the neighbourhood in a referendum before it can come into force.

2.5 Community Right to Build Orders

The *Localism Act 2011* powers also give communities the power to make a Community Right to Build Order. This is an order which gives permission for small-scale, site-specific developments by a community group.²²

The preparation of a Community Right to Build Order is a slightly different process in that it requires the formation of a constituted community group rather than a neighbourhood forum. Parish and town councils can also lead on Community Right to Build Orders.

²² Department for Communities and Local Government website, [Neighbourhood Planning](#) [on 3 June 2015]

3. Changes in the *Housing and Planning Act 2016* and after

Commons Library briefing

For background and analysis of the *Housing and Planning Act 2016* (HPA 2016), see Commons Library briefings

- [Implementation of the Housing and Planning Act 2016](#)
- [Housing and Planning Bill 2015-16](#)
- [Housing and Planning Bill: Report on Committee Stage](#) and
- [Housing and Planning Bill: Lords amendments and Ping Pong](#).

The role of neighbourhood plans is explained in the online [Planning Practice Guidance \(PPG\) on neighbourhood planning](#).

A parish council or body acting as a neighbourhood forum can apply to a LPA for a neighbourhood development order, designating areas within which neighbourhood planning activities may take place. Subject to any necessary local referendums, a LPA must designate at least some of the area applied for.

- Section 139 of the HPA 2016 amended the *Town and Country Planning Act 1990* to enable “the Secretary of State to make regulations requiring a LPA to designate all of the area applied. For this to apply the application must meet prescribed criteria, or must have not been determined within a prescribed period (subject to prescribed exceptions).”²³
- A LPA has a number of duties following an application for a neighbourhood development order. Section 140 of the HPA 2016 amends the 1990 Act to allow the Secretary of State to determine time periods in which these duties must be carried out or decided.
- Section 141 prescribes circumstances in which the Secretary of State can intervene, at the request of the body responsible for a neighbourhood planning area, in a decision to hold a referendum on a neighbourhood planning proposal. The Secretary of State may by regulation specify the procedure to follow for such an intervention.
- Section 142 requires a LPA, at the request of a neighbourhood forum in their area, to notify the forum of planning applications in the neighbourhood area for which the forum is designated.²⁴

All these provisions are now in force, having come into force on either 12 May 2016 or 1 October 2016.²⁵

3.1 Background to these provisions

In September 2016, the Government published its response to the [Neighbourhood Planning element of the technical consultation on implementation of planning changes](#), which considered many of the

²³ [Explanatory Notes: Housing and Planning Act 2016](#), 2016, page 64

²⁴ [Explanatory Notes: Housing and Planning Act 2016](#), 2016, page 66

²⁵ [Housing and Planning Act 2016 \(Commencement No.2, Transitional Provisions and Savings\) Regulations 2016](#) (SI 2016/733)

new neighbourhood planning powers in the HPA 2016.²⁶ The Government later issued the [Neighbourhood Planning \(General\) and Development Management Procedure \(Amendment\) Regulations 2016](#), which came into force on 1 October 2016. The [PPG on neighbourhood planning](#) explains the Secretary of State's intervention powers, created by the HPA 2016.²⁷

In February 2016, the Government published an [Implementation of planning changes: technical consultation](#) which provided more information about how the powers in the Act were likely to be used..²⁸

In its December 2015 [consultation on proposed changes to national planning policy](#), the Government proposed to amend national planning policy so that neighbourhood plans could allocate "appropriate small-scale sites" in the Green Belt specifically for starter homes, with neighbourhood areas having the discretion to determine the scope of a small-scale site.²⁹

In its [summary of the consultation responses](#), DCLG noted that some concerns had been raised about (amongst other things) unrestricted sprawl of villages and the undermining of neighbourhood plans and so it abandoned its **proposals for extending the presumption in favour of sustainable development of small sites adjacent to existing settlements**, (see box 1 below for further information about this "presumption"):

The Government agrees that there are local economic and social benefits arising from the development of suitable small sites for housing within existing settlements. (...) Following careful consideration and in recognition of the potential harmful impacts to villages, the Government will not take forward proposals for extending the presumption in favour of sustainable development of small sites adjacent to existing settlements.³⁰

3.2 Neighbourhood Planning Act 2017

The Queen's Speech on 18 May 2016 announced a Neighbourhood Planning and Infrastructure Bill 2016-17.

The [Government's background briefing paper](#) to the Queen's Speech 2016 announced that the *Neighbourhood Planning and Infrastructure Bill 2016-17* would make the following changes to the neighbourhood planning system:

- To further strengthen neighbourhood planning and give even more power to local people.
- The new legislation would also strengthen neighbourhood planning by making the local government duty to support

²⁶ DCLG, [Neighbourhood planning](#), September 2016

²⁷ DCLG, [Guidance: Neighbourhood planning](#), 6 March 2014, updated 13 September 2018

²⁸ DCLG, [Implementation of planning changes: technical consultation](#) 18 February 2016

²⁹ HM Government, [Consultation on proposed changes to national planning policy](#), December 2015, pages 19-20

³⁰ DCLG, [Proposed Changes to NPPF \(Dec 2015\) - Summary of Consultation Responses](#), February 2017: pages 8 - 9

groups more transparent and by improving the process for reviewing and updating plans.

The [Neighbourhood Planning Act 2017](#) received Royal Assent on 27 April 2017. All Bill documents – including Commons Library briefings for second reading and committee stage – are available on [the Bill page](#).

The Act introduced a new procedure to allow Neighbourhood Plans to be modified. It also dealt with the situation where a new Neighbourhood Plan is needed but covering a slightly different geographical area to the previous one. This part of the Act was also the subject of a consultation, [Implementation of Neighbourhood Planning provisions in the Neighbourhood Planning Bill](#).

3.3 Review of the National Planning Policy Framework

While a Neighbourhood Plan is a formal development plan document, its weight when taking planning decisions is often challenged if it relates to an area where the LPA cannot demonstrate its five-year supply of housing.³¹

MHCLG's [PPG on neighbourhood planning](#) says that there is no need to review or update Neighbourhood Plans but, if they conflict with more recent policies in a Local Plan, it is those more recent plans which take precedence.³² This, then, means that a Neighbourhood Plan may be potentially overridden when considering local housing need or planning applications against the backdrop of a more recent Local Plan (or, conversely, an absent Local Plan), often to the frustration of the local community.

Box 1: The presumption in favour of sustainable development

The National Planning Policy Framework (NPPF) was first published in 2012 and revised and updated in 2018.

The presumption in favour of sustainable development – based on what the NPPF 2018 terms “objectively assessed needs” (OAN) for housing and other uses – was introduced by the NPPF in 2012, which described it as a “golden thread”.³³

Although some have not done so, LPAs are strongly encouraged to prepare a Local Plan which sets planning policies in their area.³⁴ Where they do not, they will often become liable to the “presumption in favour of sustainable development” which (broadly speaking) provides that planning permission should be granted where it accords with an up-to-date development plan or (where such plans are absent or out-of-date) planning permission should be granted *unless* the NPPF policies protecting areas or assets of particular importance provide a clear reason for refusal *or* the adverse impacts of granting planning permission would significantly

³¹ For discussion of some recent legal cases concerning neighbourhood plans, local plans and the relationship between them, see the UK Planning Law Blog, [Neighbourhood plans v housing](#), 15 February 2018

³² MHCLG, [Neighbourhood planning](#), 6 March 2014, updated 22 February 2018

³³ DCLG, [National Planning Policy Framework](#), March 2012: *Achieving sustainable development*

³⁴ The [Town and Country Planning \(Local Planning\) Regulations 2012](#) (SI 2012/767) set out the process for preparing a Local Plan.

and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. An up-to-date adopted Local Plan and/or 5-year housing supply is therefore important for local planning authorities wishing to control where development should go and to avoid speculative development.

The [consultation document](#) for the revision of the NPPF in 2018 said that the wording of the presumption in favour of sustainable development had been amended to reflect the way that plan and decision-making were approached in practice. It also set out an expectation that objectively assessed needs would be accommodated unless there were strong reasons not to (including any unmet needs from neighbouring areas).³⁵ The [draft revised NPPF](#) therefore set out the presumption in its revised form.³⁶ The specialist publication *Planning commented on the proposed changes in wording*, describing them as “small but significant”³⁷

The [Government response to the consultation](#) remarked that there had been “widely diverging views” on the presumption in favour of sustainable development and so further minor changes to the wording had been made.³⁸ The [NPPF 2018](#) therefore offers an amended definition of the presumption in favour of sustainable development, with some more small changes.

Some of the [proposals in the housing white paper](#), from February 2017, related to changing the NPPF in relation to neighbourhood plan policy.³⁹

In March 2018, MHCLG [launched the consultation](#) on an updated NPPF. The [draft revised NPPF](#) set out how MHCLG proposed to amend and update the NPPF; one of the changes related to the circumstances in which a NDP can be relied on when considering planning applications which might otherwise fall within the presumption in favour of sustainable development.⁴⁰

The intention behind the change – as with some of the other changes in the draft revised NPPF – was to bring into the text policy changes already announced through written Ministerial Statements, in this instance the former Housing Minister [Gavin Barwell's written statement in December 2016](#). In that statement, Gavin Barwell drew attention to the frustration felt by communities that had worked to put together a Neighbourhood Plan – which would in other circumstances mean that planning applications conflicting with that plan would normally be refused – but found that the presumption in favour of sustainable development nevertheless kicked in, because the LPA could not demonstrate a five-year land supply of deliverable homes. The statement was thus intended to give some clarity and some degree of weight to the Neighbourhood Plan, by saying that (with certain other conditions) the Neighbourhood Plan’s policies for supply of housing

³⁵ MHCLG, [National Planning Policy Framework: Consultation proposals](#), March 2018: pages 8-9

³⁶ MHCLG, [National Planning Policy Framework: Draft text for consultation](#), March 2018: page 6

³⁷ “[How the NPPF revisions would change the system part 1: sustainable development](#)”, *Planning*, 15 June 2018

³⁸ MHCLG, [Government response to the draft revised National Planning Policy Framework consultation](#), Cm 9680, July 2018: page 10

³⁹ HM Government, [Fixing our broken housing market](#), 7 February 2017: page 86

⁴⁰ Where there is no local plan (or it’s out of date) the presumption in favour of sustainable development weights the planning decision towards allowing development.

should not be considered out-of-date if that plan was less than two years old.⁴¹

Paragraph 14 and footnote 9 of the [draft revised NPPF](#) therefore set this out.⁴² The draft revised NPPF was, though, criticised by the Campaign to Protect Rural England (CPRE) for (in their view) implying that Neighbourhood Plans would have to be revised every two years.⁴³ In the [Government response to the NPPF consultation](#), MHCLG highlighted that neighbourhood planning bodies had suggested that Neighbourhood Plans should be considered up-to-date for five years rather than two. The Government however rejected this suggestion, arguing that such a change was not necessary as the transitional arrangements reflected the December 2016 Written Ministerial Statement.⁴⁴

The [NPPF 2018](#) has therefore been reworded to say that, for the adverse impact of development conflicting with the Neighbourhood Plan to significantly and demonstrably outweigh its benefits, one of the conditions is that the Neighbourhood Plan should have become part of the development plan within the last two years:

14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
 - a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
 - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
 - d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.⁴⁵

CPRE continues to argue that this leaves the status of older Neighbourhood Plans unclear:

CPRE have a number of other concerns, including:

(...)

- the discouragement of neighbourhood planning because of uncertainty over the validity of plans older than two years.⁴⁶

⁴¹ [HCWS346, 12 December 2016](#)

⁴² MHCLG, [National Planning Policy Framework: Draft text for consultation](#), March 2018: page 7

⁴³ See, for example, CPRE, "[Letter: Crass threat to Neighbourhood Plans](#)", 23 April 2018

⁴⁴ MHCLG, [Government response to the draft revised National Planning Policy Framework consultation](#), July 2018: page 58

⁴⁵ MHCLG, [National Planning Policy Framework](#), Cm 9680, July 2018: page 7

⁴⁶ CPRE, [New 'planning rulebook' heavily criticised by CPRE](#), 24 July 2018

When does the NPPF 2018 come into effect?

On implementation, the PPG says that for plans being prepared under the transitional arrangements, the NPPF 2012 will continue to apply.⁴⁷

The [relevant paragraphs in NPPF 2018](#) setting out the transitional arrangements provide for a limited exception to the requirement in paragraph 14 (a) that the neighbourhood plan should have become part of the development plan two years or less before the date on which the decision is made – until 11 December 2018, plans that became part of the development plan more than two years before the date of decision are also included:

216. For the purpose of paragraph 14:

a) up to and including 11 December 2018, paragraph 14a also includes neighbourhood plans that became part of the development plan more than two years before the date on which the decision is made; and

b) from November 2018 to November 2019, housing delivery should be at least 25% of that required over the previous three years, as measured by the Housing Delivery Test.⁴⁸

Concerns remain about the weight to be given to older Neighbourhood Plans, as the NPPF 2018 limits the transitional arrangements to those that are less than two years old, although there is a limited exception: up to and including 11 December 2018, paragraph 14a also includes neighbourhood plans that became part of the development plan more than two years before the date on which the decision is made.

⁴⁷ MHCLG, [Guidance: Housing need assessments](#), 20 March 2015, updated 13 September 2018

⁴⁸ MHCLG, [National Planning Policy Framework](#), Cm 9680, July 2018: page 62

4. What impact has neighbourhood planning had?

It was [reported in October 2018](#) that the Housing Minister, Kit Malthouse, had spoken “passionately” at the Conservative Party conference about neighbourhood planning and had identified three aspects where he hoped for more progress: increasing coverage of neighbourhood planning across the country; appeal decisions to support neighbourhood plans, so that people involved in neighbourhood planning were not discouraged; and perhaps finding a different model, to encourage take-up in urban areas.⁴⁹

4.1 Government research

According to Government figures from December 2015, 126 neighbourhood plan referendums had been held – all of which had been successful.⁵⁰ More recently, in March 2018, Government figures showed that [there had been 500 referendums](#).⁵¹

In May/June 2015, officials from DCLG worked with LPAs and neighbourhood planning groups to collect data on Local Plan and neighbourhood plan housing allocations and planning permissions. The sample was small (the first 16 plans to allocate sites for housing) and the findings are interspersed with caveats. Nevertheless, they suggested that in areas with a neighbourhood plan in place, there was a 10% increase in housing allocations (over that provided by the Local Plan), and that local planning applications and permissions were advancing rapidly.⁵²

4.2 Planning consultancy research

In June 2016 Nathaniel Lichfield & Partners (NLP) published [Neighbourhood Plans: In Theory, in Practice, in The Future](#). The report highlighted the number of neighbourhood plans made to date:

since their introduction through the Localism Act, the number of made Neighbourhood Plans has grown steadily – with the total number currently at 160, with a further 30 in the pipeline having achieved a successful referendum.

There are now around 1,800 designated Neighbourhood Plan Areas and, whilst not all will progress to a made Neighbourhood Plan, it clearly shows that momentum is growing and that the geographical coverage of Neighbourhood Plans can be expected to increase significantly in the future.⁵³

⁴⁹ “[Neighbourhood Watch: Three points the housing minister made about neighbourhood planning at the Tory conference](#)”, *Planning*, 4 October 2018. The Commons Library subscribes to *Planning* magazine. Readers in Parliament who would like copies of this or any other selected article should ring 020 7219 3666.

⁵⁰ DCLG, [Notes on neighbourhood planning](#), 17th edition, December 2015

⁵¹ MHCLG, [Notes on neighbourhood planning](#), 20th edition, March 2018

⁵² DCLG, [Neighbourhood Planning: progress on housing delivery](#), October 2015

⁵³ Nathaniel Lichfield & Partners, [Neighbourhood Plans: In Theory, in Practice, in The Future](#), June 2016

The NLP report also made some recommendations to Government aimed at improving the planning system for neighbourhood plans:

- A minimum evidence base requirement including clear understanding of local needs.
- The Basic Conditions should ensure 'conformity' with the NPPF, rather than simply having 'regard' to it.
- Clear guidance on the weight to be attributed to Neighbourhood Plans at all stages of their preparation including where an up-to-date Local Plan isn't in place.
- A requirement for Independent Examiners to be chartered members of the RTPI or RICS and to be selected by PINS.
- A presumption in favour of a public hearing at Examination, unless there are no material objections.
- A minimum voter turnout threshold of 35% to validate referenda.

In March 2014, planning consultancy firm Turley published a report, [Neighbourhood Planning: Plan and Deliver?](#), which examined the progress and effectiveness of neighbourhood plans. Some of the report's "key findings" were that:

- Some plans are openly pro-development, in some cases seeking to extend housing targets and to promote economic growth, although these are in the minority
- More than half of the draft plans published for consultation (55%) have 'protectionist' agendas and many are openly anti-development
- The stance taken in many neighbourhood plans to restrict development is potentially at odds with the Government's pro-growth agenda and the presumptions that underpin the NPPF. Notwithstanding Government pronouncements concerning the reversal of 'centralism', conflicts between national policy and neighbourhood planning 'localism' appear inevitable
- The development industry is wary of the impact of neighbourhood plans on the prospects for securing planning permission, with developers promoting schemes ahead of plan adoption or focusing on higher tier policy (with which neighbourhood plans should conform)
- Neighbourhood plans provide a further opportunity afforded by neighbourhood planning for meaningful engagement
- The fast pace at which plans can progress suggests a need for the development industry to closely monitor the emergence of neighbourhood plans, and to engage at an early stage
- The emergence of a 'patchwork' of neighbourhood areas lacking spatial (or even policy) cohesion is a concern. Incomplete coverage, non-contiguous policy areas, huge variations in size and character, and the absence of any guidance relating to the requirement to accommodate development, represent major challenges for the planning system
- Tattenhall demonstrates the willingness of some to challenge plans which they view as unfairly restrictive, even

if such actions are not directly challenging specific policies.⁵⁴

Other issues

In March 2016, Aylesbury Vale District Council said that, following legal advice, it would no longer contest a legal challenge made by developer Lightwood Strategic to the Haddenham Neighbourhood Plan, which was adopted in September 2015.⁵⁵ Although parish councils normally prepare neighbourhood plans, it is the LPA who formally “makes” the neighbourhood plan and so has responsibility to respond to and fund the cost of any legal challenge.

The judicial review related to alleged mistakes made in the preparation of the plan in respect of site allocations. The council said that the decision to withdraw from the legal challenge “will mean that the housing policies in the Haddenham Neighbourhood Plan will then be quashed and removed”:

Further evidence was submitted by the developer at the end of last week and AVDC consulted its barrister about the impact of that evidence and the prospects of the case being won. On the basis of that legal advice, AVDC has, regrettably, decided that the best interests of the council would be served if it ceases to contest this case. This will mean that the housing policies in the Haddenham Neighbourhood Plan will then be quashed and removed.⁵⁶

Haddenham Parish Council issued a statement setting out its disappointment in the District Council’s decision not to defend the legal challenge and expressing concern about the implications for neighbourhood planning:

This is hugely disappointing for the Parish Council and the volunteers who put so many hours into the preparation of the HNP and the Parish Council would like to thank all those who have supported it throughout, in particular those who have withstood the scrutiny imposed on them by this legal process.

The future of Neighbourhood Planning being undertaken by volunteers in their communities appears to be under threat if they cannot be protected by the bodies that are there to support them through the process and beyond. Neighbourhood Planning is now likely to turn into a costly process that is carried out by professionals for those communities with sufficient funding and will be beyond the reach of many smaller communities. This surely goes against the principles of localism on which the neighbourhood planning policy was founded.⁵⁷

⁵⁴ Turley, [Neighbourhood Planning: Plan and Deliver?](#) March 2014, p26

⁵⁵ The Application for a Judicial Review of the Haddenham Neighbourhood Plan, [Statement by Haddenham Parish Council](#), 3 March 2016

⁵⁶ Aylesbury Vale District Council, [Legal challenge to the Haddenham Neighbourhood Plan](#), 2 March 2016

⁵⁷ The Application for a Judicial Review of the Haddenham Neighbourhood Plan, [Statement by Haddenham Parish Council](#), 3 March 2016

5. What financial support is available?

5.1 For local authorities

The financial support for local authorities to help with neighbourhood planning was set out in a Coalition [Government press release](#) from October 2014.⁵⁸ In November 2015, the Government published [Neighbourhood Planning & Local Planning Service Redesign & Capacity Building: Pilot Programme for Local Authorities](#). This announced a pot of £600,000 resource grant funding to be made available in the 2015 to 2016 financial year, to be awarded to a series of pilot authorities to help them:

- better support neighbourhood planning by piloting ways of making neighbourhood planning an integral part of their planning service, for example in relation to Local Plan-making, or
- to identify ways of involving or delegating planning decisions to neighbourhood planning groups, or
- to make changes to their service to ensure that they have an up-to-date Local Plan in place by 2017⁵⁹

5.2 For parish councils, neighbourhood forums and community groups

In October 2014, the then [Government announced](#) funding for communities wanting to do neighbourhood planning:

The funding announced today will help more communities become neighbourhood planning areas by:

- providing community groups a further £1 million for grants during this financial year, in addition to the £4.25 million already awarded since 2013 - grants of up to £7,000 can now be applied for on mycommunityrights.org.uk
- making available £22.5 million over 2015 to 2018 to provide community groups with expert advice, grant funding and technical assistance to get neighbourhood plans and orders from their inception to their coming into force following a local referendum - this is a 50% increase in the value of the existing support
- providing £100,000 to enable groups to organise workshops on neighbourhood planning in their local area, run by knowledgeable advocates of neighbourhood planning and aiming to give communities the information and encouragement needed to start on a neighbourhood plan.⁶⁰

⁵⁸ MHCLG, [New funding to encourage more communities to get involved in neighbourhood planning](#), 31 October 2014

⁵⁹ MHCLG, [Neighbourhood planning and local planning: service redesign and capacity building](#), 20 November 2015, withdrawn 13 June 2016

⁶⁰ MHCLG, [New funding to encourage more communities to get involved in neighbourhood planning](#), 31 October 2014

A [press release](#) in February 2015 provided information about how this funding could be accessed.⁶¹

5.3 What's available beyond 2018?

More recent information is available from the [My Community website](#), which sets out the funding available to local groups for 2015-18 and beyond:

There are two types of support available in the 2015-2018 programme. However, the 2015-2018 support programme for Neighbourhood Planning is due to close shortly. Please take note of these important dates:

- **Grants:** 2015-2018 programme grant applications are **now closed**. 2018-2022 programme grant support will open no later than 1 April 2018.
- **Technical Support:** 2015-2018 programme applications must be received by **5 March 2018**. 2018-2022 programme support will open no later than 1 April 2018.

Neighbourhood Planning programme post-2018

The Ministry of Housing, Communities and Local Government (MHCLG) shall be continuing the Neighbourhood Planning programme beyond March 2018. [You can read about the proposed new programme here.](#)

A formal update on the new Neighbourhood Planning programme is expected shortly.

In the interim, we have been asked by MHCLG to advise all visitors to the My Community site that the new programme is on track to open from the **1 April 2018**.

Applications for Grant and Technical Support will be available from this date. We will provide a full update here as soon as we have clarification.⁶²

MHCLG's [notes on neighbourhood planning in March 2018](#) also drew attention to the funding available for 2018 – 2022:

Neighbourhood planning support for communities 2018-2022

In September a new £22.8m 2018-2022 neighbourhood planning support programme was announced. We have now completed the process to recruit our delivery partners. Locality have been contracted as our lead partner, with Groundwork UK contracted to provide grant administration support.

Locality and Groundwork UK are our partners for the current 2015-18 programme, which ends on 31 March. The new programme starts on 3 April and will continue to provide the resources and expertise that communities may need to plan for the future of their areas.

Grants will still be available alongside professional planning support on key issues such as housing, design, establishing neighbourhood forums and facilitation. A new website has been

⁶¹ MHCLG, [£22 million funding to boost neighbourhood planning](#), 26 February 2015

⁶² My Community, [Neighbourhood Planning - Grants & Support](#) [accessed 23 February 2018]

launched which provides further details about the programme:
<https://neighbourhoodplanning.org/>⁶³

5.4 Other incentives for neighbourhood planning

In January 2013, DCLG [announced](#) that in areas where there is a neighbourhood development plan in place, the neighbourhood would be able to receive 25% of the revenues from the Community Infrastructure Levy arising from the development that they have chosen to accept.⁶⁴ The money would be paid directly to parish and town councils and could be used for community projects such as re-roofing a village hall, refurbishing a municipal pool or taking over a community pub. To incentivise the use of neighbourhood planning powers, neighbourhoods without a neighbourhood development plan but where the community infrastructure levy was still charged would receive a capped share of only 15% of the levy revenue arising from development in their area.⁶⁵

The aim of this policy was to incentivise house building:

Instead of hectoring people and forcing development on communities, the government believes that we need to persuade communities that development is in everyone's interest. Incentives are key to getting the homes built that we both need for today and for future generations.

It is vital this country increases the number of homes it builds to meet the needs of its increasing population. The failure of previous administrations to build enough homes, latterly despite the credit boom, led to a severe housing shortage that has been made worse by the rapid increase in the number of households. The number of people living alone has rocketed, and immigration has led to an influx of 1.7 million people into England in the last decade.⁶⁶

This policy came into force, on 25 April 2013, through the *Community Infrastructure Levy (Amendment) Regulations 2013*.⁶⁷

⁶³ MHCLG, [Notes on neighbourhood planning](#), 20th edition, March 2018

⁶⁴ DCLG, [Communities to receive cash boost for choosing development](#), 10 January 2013

⁶⁵ Planning Portal, [Cash for communities that choose development](#), 10 January 2013

⁶⁶ DCLG, [Communities to receive cash boost for choosing development](#), 10 January 2013

⁶⁷ SI 2013/982

6. Secretary of State power to “recover” housing appeals in neighbourhood plan areas

The Secretary of State has powers to “recover” a planning appeal which has been submitted to the planning inspectorate. A “recovered inquiry” is basically a planning appeal (against a local authority’s decision to refuse a planning application) which the Secretary of State can decide to determine himself, rather than allowing a planning inspector to take the final decision, as is the normal process.

In July 2014, the then Housing Secretary [announced](#) that he would like to “consider the extent to which the Government’s intentions are being achieved on the ground”, in relation to the neighbourhood planning regime introduced under the *Localism Act 2011*:

It is clear that communities have positively embraced these new powers, which go far beyond the traditional approach and also ensure real community involvement at every stage of the process. The number of areas having taken the first step in creating a neighbourhood plan by applying for neighbourhood area designation recently passed 1,000, and the 20 successful referendums so far have shown that local residents are succeeding in using their new power, creating plans that are now being used in determining applications and shaping development. This trend is set to continue.

The Secretary of State is keen that all planning appeal decisions should reflect the Government’s clear policy intention when introducing neighbourhood planning, which was to provide a powerful set of tools for local people to ensure they get the right types of development for their community, while also planning positively to support strategic development needs. He is therefore keen to give particular scrutiny to planning appeals in, or close to, neighbourhood plan areas to enable him to consider the extent to which the Government’s intentions are being achieved on the ground.⁶⁸

For a period of 12 months from 10 July 2014, the recovery criteria were therefore amended to include:

proposals for residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made.⁶⁹

In July 2015, a further [written Ministerial Statement](#) extended this period for another six months.⁷⁰ This was followed by another [written Ministerial Statement](#) in January 2016, extending the period for a further six months.⁷¹

For more general information about the Secretary of State’s power to “recover” appeals, see the Commons Library briefing, [Calling-in of Planning Applications](#) (SN 00930, 17 July 2017).

⁶⁸ [HC Deb 10 July 2014 c25WS](#)

⁶⁹ [HC Deb 10 July 2014 c25WS](#)

⁷⁰ [HCWS90, 9 July 2015](#)

⁷¹ [HCWS457, 11 January 2016](#)

In July 2016, the Government extended the period for another six months, but limited the criterion to residential development of more than 25 units:

I am now extending that period for a further 6 months from today but, in the light of the experience which has now accrued on neighbourhood planning, I intend to limit the criteria to include proposals for residential development of more than 25 units in areas where a qualifying body has submitted a neighbourhood plan to the local authority but the relevant plan has not yet been made. This change to the criteria would not however preclude Ministers from exercising their discretion to recover any other appeal which fell outside these parameters if they considered it appropriate under any of the criteria set out in the Written Ministerial Statement made by Mr. Parmjit Dhanda on Monday, 30 June 2008 (Hansard col 41WS).⁷²

The recovery criteria do not appear to have been extended since these six months elapsed.

An article in the specialist publication *Planning* in 7 May 2015, highlighted three instances of High Court challenges where judges had subsequently ordered the Secretary of State's decision to be redetermined in relation to appeals that he had recovered and rejected, relating to neighbourhood plan areas.⁷³

⁷² [HCWS74, 7 July 2016](#)

⁷³ ["Pickles suffers third neighbourhood plan legal setback"](#) *Planning*, 7 May 2015

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