



# Response form

## Proposals for new neighbourhood planning regulations Consultation

We are seeking your views on the following questions on the Government's proposed approach to new regulations on neighbourhood planning. **If possible, we would be grateful if you could please respond by email.**

Email responses to: [neighbourhoodplanning@communities.gsi.gov.uk](mailto:neighbourhoodplanning@communities.gsi.gov.uk)

Alternatively, we would be happy to receive responses by post.

Written responses to:

Neighbourhood Planning Regulations Consultation  
Communities and Local Government  
Zone 1/J1  
Eland House  
Bressenden Place  
London  
SW1E 5DU

## (a) About you

### (i) Your details

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### (ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

- Organisational response
- Personal views

### (iii) Please tick the one box which best describes you or your organisation:

- Private developer or house builder
- Housing association
- Land owner
- Voluntary sector or charitable organisation
- Business
- Community organisation
- Parish council
- Local government (i.e. district, borough, county, unitary, etc.)
- National Park
- Other public body (please state)
- Other (please state)

**(iv) Please tick the one box which best describes which viewpoint you are representing:**

Rural

Urban

## (b) Consultation questions

### Question 1:

Do you agree that the proposed approach is workable and proportionate, and strikes the right balance between standardising the approach for neighbourhood planning and providing for local flexibility on:

#### a) designating neighbourhood areas

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Explanation/Comment:

Existing Parish and Town Councils are considered to be more straight forward in regard to establishing boundaries for designated Neighbourhood areas. Although some of the parish/town boundaries in Leeds cover larger areas than would normally be associated with a neighbourhood, the constituency of the groups and the boundaries are already established. For inner areas and those areas not covered by a parish/town council the setting of boundaries could create some friction between neighborhoods where there are significant cross boundary issues.

The regulations do not explain how neighborhoods' should work across boundaries. The guidance should address cross boundary issues where one community might be affected by an adjoining area's proposals. For example traffic impacts or those arising from major retail proposals. Although it is recognised that an inspector can recommend extending an area for the purposes of a referendum to ensure that all those that may be affected can have a right to vote (see examination below) this may disproportionately sway the results and may be too late in the process for communities to feel that they have had real involvement in the process that could have most impact on them.

## **b) designating neighbourhood forums**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

Clarification is required on the constitutional and representative arrangements for setting up and running a Neighbourhood Forum. Concern is raised also that the powers given to some communities may provide inappropriate powers to people who are not appointed or accountable through any democratic process.

There is some concern that the period of notification suggested in the draft regulations for a Neighbourhood Forum (28 days for alternatives to come forward) and the 6 week notification period for the designation of a neighbourhood area do not necessarily complement each other. It is considered more than likely that the application for the designation of a neighbourhood area and a neighbourhood forum will come in hand in hand and therefore there needs to be clarity on the process of determination.

However, it is welcomed that the Local Planning Authority will have the flexibility to devise and adapt the minimum requirements to be set out in the regulations in order to devise our own procedures, but greater clarity should be provided on how planning powers are to be assigned, managed, enforced and if necessary removed from Neighbourhood Forums as well as Parish/Town Councils.

## **c) Community Right to Build organisations**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

Concern is expressed that the community groups that are entitled to put forward Community Right to Build orders (minimum of 5 un-related individuals) may not necessarily be affiliated with, or represent a designated Neighbourhood Forum or Parish/Town council area, and conflicts may arise between what is proposed through a smaller group with an interest in a particular site and the wider local proposals through the Neighbourhood Plan. Although the use of Local Referendums and the submission for LPA approval should remove these concerns, greater clarity on what can come forward and what issues need to be addressed through a CRtB should be set out.

Clarity needs to be provided on the minimum criteria to ensure that what is built takes account of the potential impacts and constraints. It is also uncertain as to whether the regulations will provide clarity on how any conditions or S106 requirements may be dealt with and enforced and what part the Local Planning Authority will play in guiding the process and potentially being involved in monitoring and enforcement when the council won't be receiving the traditional planning fee for these schemes. How will the LPA be notified of the schemes?

Clarity is also sought on the issue of how appeals will be dealt with (by whom and within what context). What is the role of the Local Planning Authority?

**d) preparing the neighbourhood plan**

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Explanation/Comment:

Guidance needs to recognise that Neighbourhood Planning is only one part of a wider toolkit for local communities to get involved in planning and that areas not producing a plan are not seen as being vulnerable to development pressures or at a disadvantage. The guidance must be clear on the requirements of the preparation, consultation and evidence needed to progress a Neighbourhood Plan in a manageable way that communities can work with. It will be essential that Local Planning Authorities work closely with communities at the beginning of the process in order to provide clarity on the statutory requirements and “general conformity issues”.

There is concern that LPA’s are being asked to speedily produce up to date local plans which will provide the context to the production of Neighbourhood Plans in a time of reduced staff numbers and this could conflict with our ability to have a duty of support in providing technical advice to those communities that are expressing an interest in progressing a Neighbourhood Plan. There are serious concerns about the staff resources needed to progress and deliver the Core Strategy and Site Allocations Development Plan Document work programme priorities and being able to provide time and resources to Neighbourhood Planning in addition to the costs of the Inquiry and referenda.

To date Leeds City Council has had interest from 16 Parish/Town Councils and 4 community Groups and potentially one business led interest group wishing to prepare a Neighbourhood Plan for their areas. There is a potential that the rest of the 31 Parish/Town Councils will wish over time to prepare a Neighbourhood Plan and there are an untold number of community groups covering the rest of Leeds that may wish to form a Neighbourhood Forum.

The Council will need to establish a clear protocol and methodology setting out how we aim to be able to assist and what we can provide in way of technical assistance. This needs to manage communities expectations in a manner that does not stifle community interest or enthusiasm, but does not impact negatively on the progress of the statutory planning functions and work programme priorities.

As an example of the level of staff resources Neighbourhood Planning could involve, one of the areas, undertaking a Neighbourhood Plan in Leeds, which is already well established and under way in collecting community views have already approach the council requesting data on a number of issues, including population change (going back 50 years) and associated changes such as average house prices, social housing numbers and stock turnover; implemented planning permissions, including the total numbers of affordable housing and specialised housing (elderly) along with an update on the retail health check for the town centre. For each Neighbourhood Plan area, similar data requests are likely to require bespoke data analysis which is resource intensive and time consuming. Particularly where the request will involve the input of other directorates and sections. Whilst the authority provides a lot of data on the web we are getting more requests to provide data analysis. It is rare that the larger consultants would ask for this as they usually know how to use the data, but for smaller consultants and community groups that do not have the skills to do the analysis themselves is a real problem, furthermore we would want to avoid the risk that the information could be misinterpreted which would subsequently raise additional questions, and increase officer time spent in dealing with enquiries.

The Regulations and guidance on Neighbourhood Planning focuses on the process being community led, but there is a concern expressed in Leeds that communities on their own will not have the capacity to bring forward a Neighbourhood Plan. Similar

concerns are expressed in regard to the potential disparity between the more affluent communities who may be able to afford professional advisors and more deprived communities where the pressure to provide new homes is greatest.

Although the Government are providing grants and funding to organisations that have a key role in assisting and training community groups the skill set needed for communities to led on complex planning documents could be quite demanding and should not be underestimated. Nor should the time it takes be underestimated. Best practice in Leeds on the preparation of Village and Neighbourhood Design Statements that can take on average 2 years to adopt as supplementary planning guidance. This is without the examination and referendum requirements.

There is concern that the messages about Neighbourhood Planning are too simplistic and there needs to be greater clarity about the role of Neighbourhood Plans supporting the Government s growth agenda and not restricting development. It is understood that some of the areas that have expressed interest in preparing a Neighbourhood Plan in Leeds, did so on the mistaken understanding that they could control and restrict further housing growth and development in their neighbourhoods. There may have been concern that without a Neighbourhood Plan in place they would be left vulnerable to developers seeking to build in the Green Belt given the draft NPPF and the presumption in favour of sustainable development.

Whilst the empowerment and provision of a planning tool to enable those communities that wish to pursue a Neighbourhood Plan is broadly welcomed, Leeds has concerns that the guidance on the production of a Neighbourhood Plan is too simplistic and that the bottom-up approach advocated by Localism is actually quite constrained by the top-down conformity of the Local Plan. This needs to be made much clearer. There has also been concern expressed to date by Leeds in it's response on the draft National Planning Policy Framework that the NPPF reforms provides conflict between Localism and the governments growth agenda.

There is certainly a need to provide guidance on the interim arrangements and transition between the NPPF and the adoption of Core Strategies.

#### **e) preparing the neighbourhood development order**

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Explanation/Comment:

The regulations will need to clarify the relationship between Neighbourhood Planning and Neighbourhood development orders. Unlike Community Right to Build the inference is that only Neighbourhood Forums and Parish/Town Councils have the ability and power to formulate a Neighbourhood Development Order.

There will need to be clear procedures and governance arrangements established in Leeds to undertake this work. The Local Planning Authority will also have the right to revoke or modify an order which is welcomed but in itself will require staff resources from planners and lawyers.

Clarity needs to be provided on the minimum criteria to ensure that what is to be built has full consideration of the potential impacts and constraints. It is also uncertain as to whether the regulations will provide clarity on how any conditions or S106 requirements may be dealt with and enforced and what part the Local Planning Authority will play in guiding the process and potentially being involved in monitoring and enforcement when the council won't be receiving the traditional planning fee for these schemes.

**f) preparing the Community Right to Build order**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:



Concern is expressed that the community groups that are entitled to put forward Community Right to Build orders may not necessarily be affiliated to a designated Neighbourhood Forum or Parish/Town council, and conflicts may arise between what is proposed through a smaller group interest for a particular site, than the wider local proposals through the Neighbourhood Plan. A process for dealing with these potential conflicts needs to be established.

Clarity needs to be provided on the minimum criteria to ensure that what is to be built through Community Right to Build has full consideration of the potential impacts and constraints. It is also uncertain as to whether the regulations will provide clarity on how any conditions or S106 requirements may be dealt with and enforced and what part the Local Planning Authority will play in guiding the process and potentially being involved in monitoring and enforcement when the council won't be receiving the traditional planning fee for these schemes. How will the LPA be notified of any conditions and S106 requirements?

Clarity on the issue of how appeals could be dealt should be provided. The role of the Local Planning Authority needs to be made clearer in this regard.

**g) Community Right to Build disapplication of enfranchisement**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

**h) independent examination**

- Strongly agree
- Agree

- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

The organisation and the costs of the Neighbourhood Planning examination process will need to be covered by the Local Planning Authority and these cost are not insubstantial. The appointment of an inspector from PINS can charge over £1k/day. The normal rule is 4 days writing up time for every day of a hearing. So even for a “light-touch” hearing based on a single day the costs could come to over £5k. The CLG impact assessment suggests examination costs of £5-8k. In practice, Inspectors costs start before the examination, as they are appointed on submission to do preparatory work. If the inspector decides to hold a public hearing additional costs will arise.

It is understood that it is obligatory to appoint a PINS inspector, but it may be more appropriate to appoint a suitable person which could bring the costs down and clarity is sought on this point.

#### **i) referendum**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

The arrangements for referendums are not included in the draft regulations and therefore there are a number of uncertainties about this part of neighbourhood Planning.

It is interesting to note that in the debate in Lords before the enactment of the Localism Bill, Baroness Hanham appeared to be suggesting that where the Local Planning Authority agree that a Neighbourhood Plan conforms to the local plan then a referendum will not be necessary. As it is a pre-condition that neighbourhood plans are in “general conformity” this would greatly reduce the need for referenda. This discussion is not reflected in the published consultation material but it is important that clarity is provided about the status of Baroness Hanham’s comments.

#### **j) making the plan or order**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

**k) revoking or modifying the plan**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

The power for Local Planning Authorities to modify a plan or revoke it seems appropriate and sensible. Clarity should be provided for when this may be appropriate so that the communities understand the reasons for LPA's need to make alteration. There are issues around monitoring and enforcement that are not picked up here, as it for the LPA to make and publish the amendments, but in order to do this, monitoring will need to be undertaken of the policies in each Neighbourhood Plan. As stated early in regard to the powers of appointing a Neighbourhood Forum, there needs to be clarification on the constitutional arrangements for setting up and running a Neighbourhood Forum and how planning powers are to be assigned, managed, enforced and if necessary removed from Neighbourhood Forums. This needs to equally apply to Parish/Town Councils.

**l) parish councils deciding conditions**

- Strongly agree
- Agree

- Neither agree nor disagree
- Disagree
- Strongly disagree

Explanation/Comment:

Clarity needs be given on the constitutional arrangements for setting up and running a Neighbourhood Plan/ Neighbourhood Development Order/ Community Right to Build Order and how the planning powers are to be assigned, managed and enforced and if necessary removed.

It is considered that there will be considerable training needs to enable Parish Members and Neighbourhood Forums to take the lead on establishing conditions and in appropriate circumstances S106 requirements. It is not clear how Neighbourhood Forums fit within this point.

The regulations state that the Parish Council has 28 days to determine whether they will be making the decision. If they chose not to, or fail to notify the Local Planning Authority within that 28day period they will not then be entitled to make a decision and it is assumed that the decision powers falls back to the Local Planning Authority. This could add considerable delay to the determination of an application under a NDO, which is supposed to be a simplification of the process and could lead to criticism of the Local Planning Authority.

**Question 2:**

Our proposition is that where possible referendums should be combined with other elections that are within three months (before or after) of the date the referendum could be held. We would welcome your views on whether this should be a longer period, for example six months.

- Three months
- Six months
- A different period

Explanation/Comment:

Clearly the local costs of referendums will vary depending on the size of the area concerned and whether it can be linked to local elections. Leeds City Council agrees that for cost savings to be made it may be best to combine with local elections, but there may be concern that local communities will see the period of six months or more as an unnecessary delay in the production process of a Neighbourhood Plan and the council could be criticized for losing local momentum if the period is more than six months.

The regulations do not currently provide any detail on when a referendum should be held and it is considered unnecessary for the regulations to be specific on the timing of holding a referendum, leaving it to the Local Authority and community to decide on the most appropriate course.

### Question 3:

The Bill is introducing a range of new community rights alongside neighbourhood planning – for example the Community Right to Buy and the Right to Challenge. To help communities make the most of this opportunity, we are considering what support measures could be made available. We are looking at how we could support people in communities, as well as local authorities, other public bodies, and private businesses to understand what each right can and cannot do, how they can be used together, and what further support could be made available for groups wanting to use them.

We would welcome your views on what support could usefully be provided and what form that support should take.

Explanation/Comment:

Leeds already has a strong track record of community ownership of assets and the council are starting to respond to expressions of interest which links to work already underway to make procurement and the commissioning process more accessible.

Clarity on what facilities and services communities can express an interest needs to be provided. Expressions of interest will automatically trigger complex procurement processes and it needs to be made clear that expressing an interest does not guarantee that communities can find the funding within the timescales. Leeds City Council have examples where the transfer of assets becomes a very long drawn out process with local community and political support for a community project but no funding and /or business case and in the meantime buildings deteriorate and the costs to look after the buildings are a drain on Council resources.

Community Right to Buy and the Right to Challenge will raise local communities expectations in terms of maintaining community assets and involve the Council in additional time and expense in determining the best future use for an asset. Being community requests, they do also tend to involve a level of emotion/aspiration that may not take on the reality or responsibility of taking on such an asset . This all takes time and resources to deal with.

Concern is expressed over the potential that this could lead to the fragmentation of services with some sectors of the community effectively cherry-picking parts and making it difficult for the council to deliver and run the rest. This could result in increased costs and uncertainty in regard to accountability and responsibility.

Query whether there is fairness in the approach between different sector's ability to apply and undertake this right. Some sectors will clearly need assistance.

Where private assets are involved, the owner has the right of appeal and if they incur loss the Council will have to pay compensation. This places additional financial pressure on the Council. It is also likely that the number of requests for asset transfer will increase and this will impact on the Councils capital receipt program and ability to raise revenue from the sale of buildings/land. There is the potential conflict with competing Leeds City Council priorities .I.e. should the asset be sold to raise a capital receipt rather than going to a Community use and the receipt being invested in other Council projects.

#### **Question 4:**

Do you have any other comments on the proposals?

(Please begin with relevant regulation number and continue on a separate page if necessary)

Explanation/Comment:

The Regulations seek to remove barriers and provide new tools to assist bottom-up plan making for neighbourhood and local communities but there are a number of 'barriers' in regards to the skills and experience needed. The Government should not underestimate the value being placed on the amount of volunteer time and commitment needed by communities to undertake and run these new powers.

There is inequality between those areas that can afford to undertake the new tools available to them, and there is the potential that those communities that are less affluent and do not have existing groups in place (most likely inner urban areas) are immediately at a disadvantage and there will be associated time delays whilst these areas seek the necessary funding.

Neighbourhood Planning will have clear links to Community Infrastructure Levy/S106 agreements and this needs to be made clear. It is clear in the consultation document that those communities that support new growth should see the benefits but this must be balanced against strategic infrastructure needs. The Council has provided comment on this in response to the CIL consultation.