

Briefing Note



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The Status of Neighbourhood Development Plans

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1. Purpose

- 1.1 This briefing note sets out the status of Neighbourhood Development Plans and clarifies the weight which can be afforded to them when determining planning applications.

2. Background

- 2.1 Neighbourhood planning is a right for communities introduced through the Localism Act 2011. Communities can shape development in their areas through the production of Neighbourhood Development Plans (NPs).
- 2.2 A neighbourhood plan should support the strategic development needs set out in the Local Plan and plan positively to support local development. It puts in place planning policy for a neighbourhood area to guide future development. A neighbourhood plan is about the use and development of land and may contain a vision, aims, planning policies, proposals for improving the area or providing new facilities, or allocation of key sites for specific kinds of development. It may deal with a wide range of social, economic and environmental issues (such as housing, employment, design, heritage and transport) or it may focus on one or two issues only.
- 2.3 The procedure for making an NP is prescribed by statute. One requirement is that a neighbourhood plan must meet certain specified 'basic conditions'. These ensure plans contribute to the achievement of sustainable development, have regard to national policy and guidance and are in general conformity with adopted strategic local planning policies.
- 2.4 A neighbourhood plan is subject to examination by an independent person, however the examination is very different to a local plan examination. The examiner is only testing whether the plan meets the basic conditions and other relevant legal requirements, they are not testing the soundness of the plan or considering other material considerations. If the Examiner is satisfied that the NP meets the basic conditions, (either with or without modifications) a recommendation to proceed to a referendum will be made.

3. Status of a Neighbourhood Plan following Successful Referendum.

- 3.1 Once approved at a referendum, a neighbourhood plan attains the same legal status as the Local Plan (i.e. Core Strategy, Saved UDP, AVLAAP, and NRWP). At this point, the NP comes into force as part of the statutory development plan.
- 3.2 LPAs (and planning inspectors) considering planning applications or appeals must make their decisions in accordance with the policies of the development plan, unless material considerations indicate otherwise.¹ Therefore the policies within a NP should be afforded full weight unless material considerations indicate otherwise.
- 3.3 However where an LPA cannot demonstrate a 5-year supply of deliverable housing sites the weight afforded to the NP policies may change. Where² all of the following criteria apply:
- the neighbourhood plan has been part of the development plan for 2 years or less;
 - the neighbourhood plan allocates sites for housing;
 - the LPA has at least a 3 year supply of deliverable housing sites (against its 5 year housing supply requirement, including the appropriate buffer)³; and
 - the LPA's housing delivery was at least 45% of that required over the previous 3 years⁴.

decision makers should give significant (rather than full) weight to the neighbourhood plan notwithstanding the fact that the LPA cannot demonstrate a 5-year supply of deliverable housing sites.

- 3.4 If the above criteria do not apply and the application involves the provision of housing, then the policies (including NP policies) which are most important for determining the application are deemed to be out of date and the “presumption in favour of sustainable development” applies. This requires that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole⁵ or restrictive policies in the NPPF indicate development should be restricted⁶.
- 3.5 Upon adoption of the Site Allocations Plan (SAP) and/or the Core Strategy Selective Review (CSSR), the LPA will be able to demonstrate a 5-year supply of deliverable housing sites. Subject to the receipt of the Inspectors' report adoption of the SAP is expected to be considered by Full Council in July 2019 and the CSSR in September 2019.

¹ S.38(6)PCPA 2004

² Written ministerial statement on 12 December 2016, subject to subsequent case law

³ As at the date of this Briefing Note this criterion is satisfied

⁴ As at the date of this Briefing Note this criterion is satisfied

⁵ Paragraph 11 NPPF 2019

⁶ E.g. green belt policies

4. Status of emerging Neighbourhood Plan (up to successful referendum)

- 4.1 An emerging neighbourhood plan may be a material consideration. Factors to consider in deciding whether the emerging NP is a material consideration to the application include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies within it⁷.
- 4.2 Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, as part of the development plan, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan.
- 4.3 Documentation produced in support of or in response to emerging neighbourhood plans, such as basic conditions statements, consultation statements, representations made during the pre-examination publicity period and independent examiners' reports, may also be of assistance to decision makers in their deliberations.
- 4.4 However in the context of the NPPF (and in particular the presumption in favour of sustainable development) arguments that an application is premature and will undermine the emerging NP, are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
- the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the neighbourhood plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging NP; and
 - the emerging NP is at an advanced stage but is not yet formally part of the development plan for the area.

Therefore, depending on the above, it might be exceptionally justifiable to refuse planning permission before a neighbourhood plan has been brought into force where the application conflicts with an emerging NP policy.

- 4.5 Where a post-examination draft neighbourhood development plan is material to an application, the LPA must have regard to it⁸.
- 4.6 Where the LPA cannot demonstrate a 5-year supply of deliverable housing sites, decision makers may still give some weight to relevant policies in the emerging neighbourhood plan, even though these policies should not be considered up-to-date.
- 4.7 Upon adoption of the Site Allocations Plan (SAP) and/or the Core Strategy Selective Review (CSSR), the LPA will be able to demonstrate a 5-year supply of deliverable housing sites. Subject to the receipt of the Inspectors' report adoption of the SAP is expected to be considered by Full

⁷ Paragraph 48 NPPF 2019

⁸ S.70(2) TCPA 1990

Council in July 2019 and the CSSR in September 2019.

5. Conclusion

- 5.1 In summary the weight which can be afforded to a Neighbourhood Plan depends upon the stage of preparation of the plan. Where an NP has a successful referendum result it can be afforded full weight as part of the adopted development plan. Up until that point, emerging policies within a NP can be afforded more weight the further it advances in the plan making process and the LPA must have regard to a post examination plan. Finally, the weight to be afforded to NP can be effected where an LPA cannot demonstrate a five year supply of deliverable housing sites.