

Housing and Planning Act 2016: Neighbourhood Planning

What is in this for local councils?

Local councils were advised of a consultation on Government plans to implement 'technical changes' to the planning system under a bill which subsequently received Royal Assent on 12 May 2016 - the Housing and Planning Act 2016 (LAIS1388). The proposals included changes to the neighbourhood planning system. This LAIS summarises the conclusions reached by Government and published in its recent paper *Neighbourhood Planning*.

The proposed changes outlined in the consultation in relation to neighbourhood planning were generally welcomed by local councils and Government has decided to progress all of them, with a few modifications. This should strengthen the ability of local councils to progress their neighbourhood plans and orders in a timely and unobstructed manner, with Government intervention where required. Implementing regulations will be made.

Date: 2 September 2016 document published. Government intends to progress implementing regulations to come into effect by October 2016.

References to local councils: 17

Pages: 16

Detail

This LAIS reports Government's decisions in relation to the neighbourhood planning aspects of a technical consultation on planning (see LAIS1388). These are part of a suite of measures enabled by the enactment of the Housing and Planning Act 2016. The neighbourhood planning proposals were designed to help enable plans and orders to be progressed in an efficient and supported manner and were broadly welcomed by local councils. The recent *Neighbourhood Planning* paper published on 2 September 2016 provides information on the neighbourhood planning changes that Government intends to implement through regulations, having considered the responses to its consultation.

The Government paper includes the interesting facts:

- So far more than 1900 communities across England, covering nearly 10 million people, have started the process of neighbourhood planning.
- Since 2013 all 200 plans that have progressed to the referendum stage have been approved by voters, with nearly 340,000 votes cast.
- On average 89% of people who have voted were in favour of the proposed plan for their neighbourhood.

This is a summary of the Government decisions reported in the paper, in relation to the original consultation questions:

Question 5.1: Do you support our proposals for the circumstances in which a local planning authority must designate all of the neighbourhood area applied for? This was in relation to situations where either the planning authority had not met the time period for consideration of neighbourhood areas or where a parish council had applied for the neighbourhood area to be the parish or to extend an existing designated area from part of the parish to the whole parish.

Government will progress this proposal and did not accept local planning authority representations that this would create an additional burden for them.

Question 5.2: Do you agree with the proposed time periods for a local planning authority to designate a neighbourhood forum? Generally, the time limit proposed was 13 weeks or 20 where the neighbourhood forum would cover more than one local authority area.

Government will progress this proposal and did not accept local planning authority representations that this would create an additional burden for them and noted that they could still decline an application if it does not meet statutory requirements, provided the decision is made within prescribed time limits.

Question 5.3: Do you agree with the proposed time period for the local planning authority to decide whether to send a plan or Order to referendum? The proposal was that in most cases a time period of 5 weeks (from the date the authority receive the examiner's report) would apply for local planning authorities to make a decision on whether the draft neighbourhood plan or Order meets the basic conditions and other legal tests (or would do with modifications) and whether a referendum must be held. This would not apply where a local planning authority proposes to make a decision which differs from that recommended by the examiner or where they agree with a neighbourhood group that more time is required.

Government will progress this proposal and does not appear to have accepted that this would create an additional burden for local planning authorities.

Question 5.4: Do you agree with the suggested persons to be notified and invited to make representations when a local planning authority's proposed decision differs from the recommendation of the examiner? The proposal was that the neighbourhood planning group and anyone who made representations during the period the plan was publicised by the local planning authority should be notified and able to make representations.

Government will progress the proposals and noted the strong support for consultation. They will include an additional requirement to notify and consult with statutory bodies (i.e. Natural England, Historic England and the Environment Agency).

Question 5.5: Do you agree with the proposed time periods where a local planning authority seeks further representations and makes a final decision? This related to where a local planning authority comes to a different view to that of the examiner and proposed that the period during which further representations can be made should be limited to 6 weeks and that the local planning authority should issue its final decision within 5 weeks of the end of that period (unless the authority considers it appropriate to refer the issue to independent examination).

Government will progress this proposal and does not appear to have accepted the local planning authority concerns about the timescale.

Question 5.6: Do you agree with the proposed time period within which a referendum must be held? The proposed period was within 10 weeks of the decision that a referendum should be held (or 14 weeks where there is also a business referendum). This would apply unless it can be combined with another poll that is due to be held within 3 months of the end of the 10 or 14 week period, where there are unresolved legal challenges to the decision to hold a referendum or where the local planning authority and the neighbourhood group agree an alternative time period.

Government will progress this proposal with some minor changes. The time period will be expressed in working days, to fit with existing referendum regulations relating to the requirement for the local authority to publish an Information Statement before the referendum. The time period within which a local planning authority must set the date for a referendum will be 56 working days for standard referendums and 84 working days for business referendums. This would allow 28 working days to prepare the Information Statement. The 84 day limit will additionally apply where the neighbourhood planning area and referendum area falls within more

than one local planning authority area and where the local planning authority is not the “principal authority” responsible for arranging the referendum e.g. National Park Authorities. Exceptions to time limits will apply.

Question 5.7: Do you agree with the time period by which a neighbourhood plan or Order should be made following a successful referendum? This relates to the date on which the plan or Order come into legal force as part of the development plan for an area. The proposed period is within 8 weeks of the date of the referendum/s, unless there are unresolved legal challenges relating to the referendum.

Government will progress this proposal and does not accept that this creates a new burden on local planning authorities.

Question 5.8: What other measures could speed up or simplify the neighbourhood planning process?

The majority of respondents, particularly local planning authorities, mentioned that funding and resources were the key to speeding up and simplifying the neighbourhood planning process. The level and nature of support from local planning authorities was also identified as of importance, with many calling for the local planning ‘duty to support’ to be strengthened.

Other suggestions included encouraging local authorities to delegate decisions to officers, simplifying the sustainability appraisal process, requiring allocation of reserve sites in all neighbourhood plans to boost the supply of housing, the need for more clarity to be provided on the weight of emerging neighbourhood plans, introducing flexibility to change neighbourhood areas, making the recommendations of neighbourhood planning examiners reports binding and removing the requirement for a referendum.

Government states that it will explore the opportunities for improving support on neighbourhood planning. It also points to the Neighbourhood Planning & Infrastructure bill (referred to in the Queen’s Speech), to be introduced shortly, which it believes addresses many of the issues raised. Planning guidance already encourages delegation of decisions to officers and allocation of reserve sites in neighbourhood plans. In relation to its commitment to meeting the cost of new burdens on local authorities, it notes that in March the Department announced updated arrangements for funding local planning authorities in 2016/17.

Question 5.9: Do you agree with the proposed procedure to be followed where the Secretary of State may intervene to decide whether a neighbourhood plan or Order should be put to a referendum? New powers in the Housing and Planning Act enable the Secretary of State to intervene at the request of a neighbourhood planning group, in the rare cases where a plan has passed examination but has been blocked by a local planning authority and where the local planning authority:

- Has failed to take a decision whether to send the plan to referendum within the period prescribed; or
- Does not accept all of the examiner’s recommendations; or
- Proposes to modify the plan or Order proposal in a way that was not recommended by the examiner.

Government will implement the procedure set out in the proposals in order to enable the power to intervene. It is anticipated that this power would only be used in exceptional circumstances.

Question 5.10: Do you agree that local planning authorities must notify and invite representations from designated neighbourhood forums where they consider they may have an interest in the preparation of a Local Plan?

Government will progress this proposal which aligns with existing good practice.

References

Neighbourhood Planning (Government response) can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/550049/Neighbourhood_planning_-_Gov_response_to_consultation.pdf

The Housing and Planning Act 2016 can be found at www.legislation.gov.uk