



Planning Policy Committee – 12 December 2011

Neighbourhood Planning Regulations Consultation

Purpose of report

The purpose of this report is to set out a proposed response to this Consultation

Attachment(s)

- Appendix 1 Consultation document
 - Appendix 2 Proposed Response
-

1.0 Background

- 1.1 Members will be aware that the Localism Bill provided for a variety of Neighbourhood Planning initiatives. The Bill achieved Royal Assent on 15 November 2011. This consultation on Neighbourhood Planning Regulations seeks views on the Government's proposals for governing the process for establishing neighbourhood areas and forums, the requirements of Community Right to Build organisations, and the preparation of neighbourhood plans and neighbourhood development orders, and Community Right to Build Orders.
- 1.2 The regulations proposed set out the minimum level of requirements that would ensure a nationally consistent approach to designating neighbourhood areas and neighbourhood forums, and the preparation of neighbourhood plans and neighbourhood development orders. The consultation asks for comments on whether the regulations as proposed are workable and proportionate.
- 1.3 It does not cover how the Government propose to take forward the regulation making powers on charges that local planning authorities can levy on development allowed under a neighbourhood development order, to enable them to recoup some of the costs of neighbourhood planning. This will be the subject of a separate consultation later this year.
- 1.4 The consultation also does not cover any provisions in respect of the requirements that are needed to ensure compatibility with EU obligations, for example the Strategic Environment Assessment, the Environmental Impact Assessment or the Habitats Directives. It is anticipated that these will be brought forward separately as amendments to the relevant transposing regulations, if this is necessary.
- 1.5 This consultation also does not cover provisions in respect of referendums – these will be brought forward through separate regulations, which will be based on existing local government referendum regulations
- 1.6 The consultation commenced on 13 October and runs until **5 January 2012**.

2.0 The Consultation

- 2.1 The consultation is attached at Appendix 1.
- 2.2 A series of questions has been provided to help respond to the consultation and a proposed response is attached for Members' consideration (Appendix 2).

3.0 Conclusion

3.1 That the proposed response, as set out in Appendix 2 be submitted to DCLG, subject to any amendments Members may wish to make.

4.0 Equality and Diversity Implications

4.1 There are no equality and diversity implications.

5.0 Legal Implications

5.1 Once finalised, the proposals will form new regulations.

6.0 Risk Management

6.1 There are no identified risks.

7.0 Financial Implications

7.1 The process of Neighbourhood Planning will have financial implications for the Council, depending on the level of community interest in the various schemes/initiatives.

8.0 Corporate Outcomes

8.1 The relevant Corporate Outcomes are:

- Good quality of life - sustainable

9.0 Recommendation

9.1 The Committee is recommended to approve the consultation response for submission, subject to any alterations Members may wish to make (*Reason – to enhance opportunities for community involvement in the planning process*)

Legal	Power: Town and Country Planning Act 1990, Compulsory Purchase Act 2004, Localism Act				
	Other considerations: None				
Background Papers: None					
Person Originating Report:	Karen Britton – Planning Policy and Conservation Manager Extn: 2142 kbritton@east-northamptonshire.gov.uk				
Date: 17 November 2011					
CFO		MO		CX	



Neighbourhood planning regulations **Consultation**



Neighbourhood planning regulations

Consultation

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Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

October 2011

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Summary of the consultation

Topic of this consultation:	This consultation seeks views on the Government's proposed new regulations governing the process for establishing neighbourhood areas and forums, the requirements of Community Right to Build organisations, and the preparation of neighbourhood plans and neighbourhood development orders, and Community Right to Build Orders.
Scope of this consultation:	This consultation is to consider whether the proposed approach to taking up the regulation making powers in the Localism Bill with regards to neighbourhood planning strikes the right balance between standardising the approach to neighbourhood planning across the country and providing for sufficient local flexibility to reflect local circumstances.
Geographical scope:	The proposals relate to England only.
Impact Assessment:	The impact assessment for neighbourhood planning provisions in the Localism Bill was published on 31 January 2011 and is available at: http://www.communities.gov.uk/publications/localgovernment/localismneighbourhoodplans

Basic information

To:	This is a public consultation and it is open to anyone to respond. We would particularly welcome views from: <ul style="list-style-type: none"> • Community representatives • Parish and town councils • Local planning authorities
Body/bodies responsible for the consultation:	Department for Communities and Local Government
Duration:	12 weeks, 13 October to 5 January 2012
Enquiries:	Susan Peart Tel. 0303 444 1651 e-mail: susan.peart@communities.gsi.gov.uk

How to respond:	Please respond by 5 January 2012, by e-mail to: neighbourhoodplanning@communities.gsi.gov.uk. Or by post to: Neighbourhood Planning Regulations Consultation Planning Development Plans Division Department for Communities & Local Government 1/J1, Eland House Bressenden Place London SW1E 5DU
Additional ways to become involved:	If you require this material in an alternative format, please contact us.
After the consultation:	Responses to the consultation will be analysed and considered before the Government's response to the consultation is published on the DCLG website.
Compliance with the Code of Practice on Consultation:	This consultation complies with the Code of Practice on Consultation

Background

Getting to this stage:	The Coalition Government's "programme for government" made a commitment that the planning system would be radically reformed to give neighbourhoods far more ability to determine the shape of the places in which their inhabitants live, based on the principles set out in the Conservative Party publication <i>Open Source Planning</i> .
Previous engagement:	The enabling powers are set out in the Localism Bill, which is currently being debated in Parliament.

Contents

Purpose of the consultation	6
Response to the consultation	7
About this consultation	8
The proposed approach to neighbourhood planning regulations	10
Consultation response form	15
Annex A: The draft regulations	24

Purpose of consultation

Neighbourhood planning is central to the Government's decentralisation, localism and Big Society agenda. With greater decentralisation of planning powers, people are being given the opportunity to shape and influence the places where they live and they have more reasons to say 'yes' to sustainable development.

The Government's neighbourhood planning proposals will enable the devolution of planning responsibilities to a more local level than ever before. A fundamental principle is that neighbourhood planning should be community-led with the community being in the driving seat of the process but with the local planning authority making necessary decisions at key stages. A referendum in the neighbourhood at the end of the process ensures the community has the final say on whether a neighbourhood plan or neighbourhood development order or a Community Right to Build order comes into force.

The creation of the Community Right to Build will be a practical example of people power. Power and responsibility will be handed to local people for them to decide what they want to build in their communities.

This consultation sets out how the Government proposes to take up the regulation making powers in the Localism Bill for neighbourhood planning and Community Right to Build. The regulations proposed set out the minimum level of requirements that would ensure a nationally consistent approach to designating neighbourhood areas and neighbourhood forums, and the preparation of neighbourhood plans and neighbourhood development orders. The consultation asks for comments on whether the regulations as proposed are workable and proportionate.

The consultation does not cover how we propose to take forward the regulation making powers on charges that local planning authorities can levy on development allowed under a neighbourhood development order, to enable them to recoup some of the costs of neighbourhood planning. This will be the subject of a separate consultation later this year.

The consultation also does not cover any provisions in respect of the requirements that are needed to ensure compatibility with EU obligations, for example the Strategic Environment Assessment, the Environmental Impact Assessment or the Habitats Directives. We are anticipating that these will be brought forward separately as amendments to the relevant transposing regulations if this is necessary.

This consultation does not cover provisions in respect of referendums – these will be brought forward through separate regulations which will be based on existing local government referendum regulations.

Response to consultation

We would value your opinion on our proposed approach to the regulations attached at Annex A, in particular your views on the specific questions set out in the document. Our preference is to receive responses electronically at:

neighbourhoodplanning@communities.gsi.gov.uk.

If you wish to post your response, however, please send it to the following address:

Neighbourhood Planning Regulations Consultation
Neighbourhood Planning Team
Planning Development Plans Division
Communities & Local Government
Zone 1/J1, Eland House
Bressenden Place
London SW1E 5DU

This consultation will run from 13 October to 5 January 2012. The **deadline for responses is 5 January 2012.**

If you have any queries regarding the consultation please contact Susan Peart at susan.peart@communities.gsi.gov.uk

About this consultation

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business Enterprise and Regulatory Reform and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome;
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible;
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach;
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained;
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation;
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that

confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

The DCLG Consultation Co-ordinator
Zone 4/H3
Eland House
London SW1E 5 DU

consultationcoordinator@communities.gsi.gov.uk

The proposed approach to neighbourhood planning regulations

Neighbourhood planning is a new, community-led, level of planning. Our aim is for an effective and transparent system which inspires communities to get involved, gives communities confidence that their views will have real influence, and delivers the growth the country needs.

The regulation making powers in the Localism Bill have been taken to ensure that the system works, is legally robust (for example by ensuring they are compatible with human rights legislation) and there is a level of consistency of process across the country.

Our guiding principle in taking forward these regulations is that they should be workable and proportionate to their purpose. We will do this by:

- placing the minimum of requirements on communities to free them from unnecessary process and to encourage them to get involved
- placing the minimum of requirements on local planning authorities to enable local dialogue on the detail of the process so that it suits local circumstances
- not interfering with local authority decision making
- reserving regulation making powers wherever possible, and only taking them up in the future if practice proves them to be necessary; and
- drawing on existing procedures where this is possible and appropriate, to minimise the time taken for communities and authorities to become familiar with the new system.

For example, the proposed process prescribed through regulations:

- draws on existing approaches, such as in the case of holding referendums, where it would be wasteful and unnecessary to reinvent existing approaches that are established and work perfectly well; and
- is silent on aspects best left to communities and authorities to decide, for example for the procedures at examination where authorities already have a wealth of experience.

We believe that taking up all the powers in a detailed way would be overly bureaucratic and inconsistent with our belief that neighbourhood planning should be community-led.

We are publishing alongside this consultation a short guide to the key elements of the neighbourhood planning process, which can be found on our website. We expect as the new neighbourhood planning system matures that good practice will emerge which can be shared. The lessons learned from the neighbourhood planning front runners will also be especially helpful in encouraging communities who are thinking about neighbourhood planning to get started.

Information requirements

Our proposition is that the regulations require that information is provided that is the minimum necessary to enable a local planning authority or examiner to assess the proposals. Specifying minimum information requirements assists both local planning authorities and applicants, and ensures a degree of consistency. It is open to local planning authorities to devise their procedures around these minimum requirements.

For example, for an application for the designation of a neighbourhood area, we propose that this should simply consist of a plan or statement to indicate the proposed area, a statement of why this area is proposed and a statement that the group submitting the application is capable of being a qualifying body. These pieces of information are all needed to enable a local planning authority to make a decision about whether the proposed area is suitable.

Another example is the difference in information requirements between a neighbourhood plan and a neighbourhood development order. More information is required to support an order because it can grant full planning permission without the need for a normal planning application to be submitted to the local planning authority.

Publicity and consultation

A fundamental principle of neighbourhood planning is that it is community-led. This means that the community is kept fully informed of what is being proposed and is able to make their views known throughout the process.

In general our approach is light touch. We propose that the regulations will only require that the local planning authority should publish information about neighbourhood planning, for example the draft plan or order or the voting result of the referendum, in a manner which will bring it to the attention of those who live, work or carry on business in the area. It is open for the local planning authority to do more, but this is the minimum that we would expect to see.

At key stages we propose that the manner in which the information should be published or made accessible is set out in more detail. For example when the plan or order is ‘made’ (the final draft is published) it is important that this is visible to everyone, so we propose that the plan or order is published on the local planning authority’s website, is available for inspection at their principal office, and that their website provides details of where the document can be inspected.

Time limits

We have proposed time-limits in only certain parts of the process to provide information, submit applications or make a decision to provide local planning authorities with the ability to flex the process to suit their own practices and timetables.

For example we propose that the regulations will require a 6 week period from the date the first application for a neighbourhood area is received for representations and responses on the application. This will give different prospective neighbourhood forums an opportunity to submit applications for the same or different neighbourhood areas, and to provide residents and businesses of the neighbourhood areas, and any other bodies an opportunity to comment on the proposals. But we are not setting a time limit for the period the local planning authority has to decide whether to designate a neighbourhood forum. We expect the decision to be made as soon as reasonably practical.

Local authority decision making

The Secretary of State has taken powers to set out how the local planning authority should make certain decisions (e.g. to validate an application or designate a forum). We do not propose to prescribe exactly how the local authority should make key decisions – for example whether by delegated officer, a full meeting of the Full Council or via the Council’s Executive, or whether there must be a majority vote at those council meetings in order for the decision to be valid. We believe this is for local planning authorities to decide.

The Bill also allows for a neighbourhood planning area to cross two or more local planning authority boundaries. Although there are powers to specify how this is done, in general we feel that it is for local planning authorities to work together to decide how they wish to manage cross boundary arrangements, for example by establishing a joint committee or by agreeing a lead authority for part or all of the process.

Future proofing

A number of regulation making powers were taken to enable the neighbourhood planning system to reflect changing circumstances and to reflect experience of putting the system into practice. We therefore do not envisage taking all the regulations up initially. For example, there are powers to set out other conditions that qualifying bodies must meet to be able to represent a community and to allow bodies which do not currently fulfil the conditions for neighbourhood forums in the Bill or are not currently in existence to be eligible to be designated as a neighbourhood forum. This enables the system to respond to situations where new organisations, individuals or groups emerge over time. We have also taken powers to require the examiner to look at additional conditions or matters during the independent examination, but similarly do not need to take these powers at this time.

Independent examination

The independent examination into the plan or order is an important element in the process and so it is set out in detail in the Bill. Extensive further regulation is, therefore, unnecessary. We propose to be light touch in the way we take forward the regulation making powers. We feel that local planning authorities have experience of organising independent examinations for local plans and are best placed to decide how to undertake this activity.

Equally we believe that the examiner should decide when to hold a public hearing into a plan or order, and therefore do not propose to take up regulations that would prescribe the circumstances where a hearing must be held. We of course will reserve the power in case experience shows public hearings are not happening when they should.

The referendum

A core principle of neighbourhood planning is that the community should be in the driving seat of planning the future of their areas. A referendum at the end of the process ensures communities have the final say on whether a neighbourhood plan or development order or Community Right to Build order comes into force in their area.

We want to ensure that our referendum arrangements make it easy and convenient for local people to have their say on proposed developments and plans. The Secretary of State has powers to set out regulations about how referendums should be carried out. To avoid introducing additional procedural requirements and to maximise the opportunity for consistency in the approach to neighbourhood planning referendums and other local government referendums, we intend to look at the Local Authorities (Conduct of Referendums)(England) Regulations 2007 (SI No 2089/2007) as a basis for our proposals.

These Regulations will include a provision which specifies the question to be asked in the referendum. The arrangements for referendums are not, therefore, specified in these draft regulations.

Our proposition is that there will additionally be provisions requiring a referendum to be combined with another election if the latter is held either three months before or after the date of the referendum to be held in accordance with paragraph 14 of Schedule 4B to the Town and Country Planning Act (1990). We are seeking views on whether the period for a referendum combined with another election should be longer – for example six months.

We propose to keep any further centrally-imposed requirements for information that the local authority will publish alongside the referendum to a minimum. This will be for the local planning authority to determine on a case-by-case basis. But it is important to ensure that certain additional information is available to help voters to understand what they are voting for/against and what have been the outcomes of other steps in the process.

Community Right to Build

A Community Right to Build order is a type of neighbourhood development order. We have specifically designed this to ensure that the benefits of any development permitted through this order can be kept in the community. The Bill provides powers to modify or disapply certain enfranchisement rights which would allow a community organisation to specify in its application for a Community Right to Build order that it intends to disapply enfranchisement rights in respect of the property (or properties).



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

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

Name:	
Position (if applicable):	
Name of organisation (if applicable):	
Address:	
Email Address:	
Telephone number:	

(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:

b) designating neighbourhood forums

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

Explanation/Comment:

c) Community Right to Build organisations

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

Explanation/Comment:

d) preparing the neighbourhood plan

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

Explanation/Comment:

e) preparing the neighbourhood development order

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

Explanation/Comment:

f) preparing the Community Right to Build order

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

Explanation/Comment:

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:

i) referendum

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

Explanation/Comment:

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:

l) parish councils deciding conditions

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

Explanation/Comment:

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:

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:

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:

Annex A: The draft regulations

STATUTORY INSTRUMENTS

2012 No.

TOWN AND COUNTRY PLANNING, ENGLAND

Neighbourhood Planning (England) Regulations 2012

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State, in exercise of the powers conferred by sections 61E, 61F, 61G, 61H, 61K, 61L, paragraphs 4, 10, 11, 12 and 15 of Schedule 4B and paragraphs 3 and 11 of Schedule 4C to the Town and Country Planning Act 1990(a) and section 38A of the Planning and Compulsory Purchase Act 2004(b), makes the following Regulations:

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Neighbourhood Planning (England) Regulations 2012 and shall come into force on 1st April 2012.

(2) These Regulations apply in relation to England only.

Review

2.—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means—

(a)
(b)

- (a) the period of five years beginning with the day on which these Regulations come into force, and
- (b) subject to paragraph (4), each successive period of five years.

(4) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

Interpretation

3. In these Regulations—

“address” in relation to electronic communications means any number or address used for the purposes of such communications;

“contact details” means the name, address and telephone number of a person or body;

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(a);

“electronic communications apparatus” has the same meaning as in paragraph 1(1) of the electronic communications code;

“electronic communications code” has the same meaning as in section 106(1) of the Communications Act 2003 (general interpretation) (b);

“Environment Agency” means the body established by section 1 of the Environment Act 1995(c);

“Natural England” means the body established by section 1 of the Natural Environment and Rural Communities Act 2006(d);

“statutory consultee” means any of the bodies listed in Schedule 1; and

“the 1990 Act” means the Town and Country Planning Act 1990.

Electronic communications

4.—(1) Where within these Regulations—

- (a) a person is required to consult or seek representations from another person or body; and
- (b) that other person has an address for the purposes of electronic communications;

the document, copy, notice or notification may be sent or made by way of electronic communication.

(2) Where within these Regulations a person may make responses or representations on any matter or document, those representations may be made—

- (a) in writing, or
- (b) by way of electronic communication.

(3) Where—

- (a) an electronic communication is used as mentioned in paragraphs (1) and (2), and
- (b) the communication is received by the recipient outside normal working hours, it shall be taken to have been received on the next working day, and in this regulation “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

PART 2

Neighbourhood Areas

Interpretation

5. In this Part—

“application” means an application for the designation of a neighbourhood area.

Application

6.—(1) An application must be accompanied by—

- (a) a plan or statement identifying the land to which the application relates;
- (b) a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
- (c) a statement that the organisation or body making the application is a relevant body for the purposes of section 61G (meaning of “neighbourhood area”) of the 1990 Act.

(2) A local planning authority may decline to consider an application if the applicant has already made an application and a decision has not yet been made on that application.

Publicising an application

7.—(1) The local planning authority must publicise an application in such a manner as they consider is likely to bring the application to the attention of people who live, work or carry on business in the area to which the application relates.

(2) Any publicity must contain the following information—

- (a) the name of the proposed neighbourhood area;
- (b) details of how to respond to the publicity and make representations; and
- (c) the deadline for the receipt of those responses and representations, being not less than 6 weeks following the date on when the application is first publicised.

PART 3

Neighbourhood forums

Interpretation

8. In this Part—

“application” means an application by an organisation or a body to be designated a neighbourhood forum for a neighbourhood area;

“proposed neighbourhood forum” means the group of individuals or bodies, which is capable of being a neighbourhood forum, and which is the subject of the application; and

“relevant neighbourhood area” means the neighbourhood area to which the application relates.

Application

9. An application must contain the following information—

- (a) the name of the proposed neighbourhood forum;
- (b) a copy of the written constitution of the proposed neighbourhood forum;
- (c) the name of the relevant neighbourhood area;
- (d) the contact details of at least one member of the proposed neighbourhood forum; and

- (e) a written statement, which explains how the proposed neighbourhood forum meets the conditions contained in section 61F(5) (authorisation to act in relation to neighbourhood areas) of the 1990 Act.

Notice of accepted application

10. When a local planning authority receive an application that meets the requirements set out in regulation 9, they must publish on their website—

- (a) the name of the proposed neighbourhood forum;
- (b) the contact details of at least one member of the organisation or body making the application;
- (c) the date on which the application was received; and
- (d) a statement that any other application for the relevant neighbourhood area, after the first application to be accepted, must be received by the local planning authority no later than 28 days after the date on which the above information was first published on their website in relation to the first application they accepted.

Subsequent applications

11. Where a local planning authority have already accepted an application, they cannot accept a subsequent application received more than 28 days after the date on which the information was first published on their website, in accordance with regulation 10, in relation to the first application they accepted.

Publicising the decision

12.—(1) A local planning authority must publish on their website details of their decision on an application.

(2) These details must include the following information—

- (a) the name of the neighbourhood forum;
- (b) the name of the relevant neighbourhood area; and
- (c) contact details for at least one member of the neighbourhood forum.

PART 4

Community right to build organisations

13. For the purposes of paragraph 3(1)(b) of Schedule 4C (community right to build orders) to the 1990 Act, the following additional conditions are prescribed—

- (a) individuals who live or work in the particular area must have the opportunity to become members of the community organisation (whether or not others can also become members);
- (b) the constitution of the community organisation must provide that—
 - (i) individuals who live in the particular area control at least 51% of its voting rights;
 - (ii) one of its objectives is to provide a benefit for the local community;
 - (iii) any assets of the community organisation cannot be sold or developed except in a manner which the trust's members consider benefits the local community;
 - (iv) any profits from its activities will be used to benefit the local community (otherwise than by being paid directly to members);
 - (v) in the event of the winding up of the community organisation or in any other circumstances where the community organisation ceases to exist, its assets must be transferred to another body corporate which has similar objectives; and

- (vi) the organisation has at least 5 members, who are not related to each other, who live in the particular area.

PART 5

Neighbourhood development plans

Interpretation

14. In this Part—

“proposal” means a proposal for the making of a neighbourhood development plan by a local planning authority; and

“relevant neighbourhood area” means the area to which the proposal relates.

Pre-submission consultation and publicity

15. Before submitting a proposal to the local planning authority, a qualifying body(a) must—

- (a) publicise, in a manner that is likely to bring it to the attention of people who live, work or carry on business in the relevant neighbourhood area—
 - (i) a draft of the proposal;
 - (ii) details of how to respond to the publicity and make representations; and
 - (iii) the deadline for the receipt of those responses and representations, being not less than 6 weeks following the date on which the draft proposal is first publicised;
- (b) consult in respect of a draft of the proposal any statutory consultee whose interests it considers would be affected by the proposal if made; and
- (c) submit a draft of the proposal to the local planning authority.

Proposal and information accompanying a proposal

16.—(1) When a qualifying body submits a proposal to the local planning authority, it must be in writing and accompanied by—

- (a) a plan or statement showing the area covered by the proposed neighbourhood development plan;
- (b) a consultation statement;
- (c) the title of the proposed neighbourhood development plan; and
- (d) a written statement explaining how the proposed neighbourhood development plan meets the requirements set out in paragraph 8 of Schedule 4B (process for making of neighbourhood development orders) to the 1990 Act.

(2) In this regulation “consultation statement” means a document which—

- (a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) explains how they were consulted;
- (c) summarises the main issues and concerns raised by the consultees; and
- (d) describes how these issues and concerns have been addressed in the proposal.

(a)

Publicising a proposal

17. The local planning authority must publicise, in a manner that is likely to bring them to the attention of people who live, work or carry on business in the relevant neighbourhood area—

- (a) the proposal;
- (b) details of how to respond to the publicity and make representations; and
- (c) the deadline for the receipt of those responses and representations, being not less than 6 weeks following the date on which the proposal is first publicised.

Decision on a proposal

18. The local planning authority must as soon as reasonably practicable after making a decision under subsection (4) or (8) of section 61E (neighbourhood development orders) of the 1990 Act—

- (a) publish on their website—
 - (i) their decision;
 - (ii) a statement of their reasons for making that decision;
 - (iii) details of where and the times when the documents referred to in sub-paragraphs (i) and (ii) can be inspected;
- (b) make the decision and the statement of their reasons available for inspection at their principal offices and at such other places within their area as they consider appropriate during normal working hours; and
- (c) send a copy of the decision and statement of reasons to—
 - (i) the qualifying body;
 - (ii) the Environment Agency;
 - (iii) Natural England;
 - (iv) the Historic Buildings and Monuments Commission for England; and
 - (v) any person who made a written representation in respect of the proposal.

Publicising a neighbourhood plan

19. The local planning authority must as soon as reasonably practicable after making a neighbourhood development plan—

- (a) publish on their website—
 - (i) the plan; and
 - (ii) details of where and the times when the plan can be inspected; and
- (b) make the plan available for inspection at their principal offices during normal working hours.

PART 6**Neighbourhood development orders and community right to build orders****Interpretation**

20. In this Part—

“proposal” means a proposal for the making of a neighbourhood development order or community right to build order by a local planning authority.

Pre-submission consultation and publicity

21. Before submitting a proposal to the local planning authority, a qualifying body must—

- (a) publicise, in a manner that is likely to bring it to the attention of people who live, work or carry on business in the relevant neighbourhood area—
 - (i) a draft of the proposal;
 - (ii) details of how to respond to the publicity and make representations; and
 - (iii) the deadline for the receipt of those responses and representations, being not less than 6 weeks following the date on which the proposal is first publicised;
- (b) consult the Historic Buildings and Monuments Commission for England in respect of a draft of the proposal; and
- (c) consult in respect of a draft of the proposal such of the following persons whose interests it considers would be affected by the order, if made—
 - (i) any person with whom the local planning authority would have been required to consult on an application for planning permission for the development proposed to be permitted by the order;
 - (ii) any statutory consultee;
 - (iii) any planning authority;
 - (iv) any parish council; and
 - (v) any neighbourhood forum.

Proposal and information accompanying a proposal

22.—(1) When a qualifying body submits a proposal to the local planning authority it must be in writing and accompanied by the following—

- (a) a plan or statement identifying the land to which the proposal relates;
 - (b) a consultation statement;
 - (c) the title of the order;
 - (d) a statement explaining how the proposal meets the basic conditions for a neighbourhood development order or a community right to build order set out in paragraph 8 of Schedule 4B to the 1990 Act; and
 - (e) if appropriate, in the case of a proposal for community right to build order—
 - (i) details of any enfranchisement rights which the qualifying body proposes should not be exercisable; and
 - (ii) the relevant properties.
- (2) In this regulation “consultation statement” means a document which;
- (a) contains details of the persons and bodies who were consulted about the proposed order;
 - (b) explains how they were consulted;
 - (c) summarises the main issues and concerns raised by the consultees; and
 - (d) describes how these issues and concerns have been addressed in the proposal.

Publicising a proposal

23. The local planning authority must publicise in such a manner as it considers is likely to bring the application to the attention of people who live, work or carry on business in the area to which the application relates—

- (a) the proposal;
- (b) details of how to respond to the publicity and make representations; and
- (c) the deadline for the receipt of those responses and representations, being not less than 6 weeks following the date on which the proposal is first publicised.

Decision on a proposal

24. The local planning authority must as soon as reasonably practicable after making a decision under paragraph 12 of Schedule 4B to the 1990 Act —

- (a) publish on their website—
 - (i) their decision;
 - (ii) a statement of their reasons for making that decision;
 - (iii) details of where and the times when the documents referred to in sub-paragraphs (i) and (ii) can be inspected;
- (b) make the decision and the statement of their reasons available for inspection at their principal offices during normal working hours;
- (c) send a copy of the decision and the statement of their reasons to—
 - (i) the qualifying body;
 - (ii) the Environment Agency;
 - (iii) Natural England;
 - (iv) the Historic Buildings and Monuments Commission for England;
 - (v) every person whom the authority knows to be the owner or tenant of any part of the land to which the order applies and whose name and address is known to the local planning authority; and
 - (vi) any person who made a written representation in respect of the proposal.

Publicising a neighbourhood development order or a community right to build order

25. The local planning authority must as soon as reasonably practicable after making an order—

- (a) publish on their website—
 - (i) the order; and
 - (ii) details of where and the times when the order can be inspected; and
- (b) make the order available for inspection at their principal offices during normal working hours.

PART 7**Community right to build orders****Enfranchisement rights**

26.—(1) An enfranchisement right is not exercisable where the conditions set out in paragraph (2) below are satisfied.

(2) A community organisation must in a proposal for a community right to build order—

- (a) include details of any enfranchisement right which is not exercisable; and
- (b) identify the relevant properties.

Notice

27.—(1) Where as a result of a community right to build order an enfranchisement right is not exercisable, notice of this shall be endorsed on the face of the relevant lease.

(2) A failure to give notice in accordance with paragraph (1) shall not affect the fact that an enfranchisement right is not exercisable provided that regulation 26 has been complied with.

PART 8

Examinations

28. If an examiner has made a report under paragraph 10 of Schedule 4B of the 1990 Act, the local planning authority must publish the report—

- (a) on their website; and
- (b) in such a manner as they consider is likely to bring the report to the attention of people who live, work or carry on business in the relevant neighbourhood area.

29. The local planning authority must publish on their website their decisions made under paragraph 12 of Schedule 4B of the 1990 Act.

PART 9

Revocation and modification of a neighbourhood development order, a community right to build order and a neighbourhood development plan

Interpretation

30. In this Part—

“modification” means the modification of a neighbourhood development order, community right to build order or a neighbourhood development plan;

“revocation” means the revocation of a neighbourhood development order, community right to build order or a neighbourhood development plan.

Publicising a modification

31. The local planning authority must as soon as reasonable practicable after making a modification in accordance with section 61L (revocation or modification of neighbourhood development orders) of the 1990 Act—

- (a) publish on their website—
 - (i) details of the modification;
 - (ii) the new order containing the modification;
 - (iii) information and documents relating to the modification; and
 - (iv) details of where and the times when the information and documents can be inspected;
- (b) make the information and documents published in accordance with paragraph (a) available for inspection at their principal offices during normal working hours; and
- (c) give written notice of the modification to the following—
 - (i) the qualifying body;
 - (ii) statutory consultees, where appropriate;
 - (iii) in the case of a modification to a neighbourhood development order or community right to build order, every person whom the authority knows to be the owner or tenant of any part of the land to which the order applies and whose name and address is known to the local planning authority;
 - (iv) any person the local planning authority notified of the making of the neighbourhood development order, community right to build order or neighbourhood development plan; and
 - (v) any other person the local planning authority consider necessary in order to bring the modification to the attention of people who live, work or carry on business in the

area to which the modified neighbourhood development order, community right to build order or neighbourhood development plan relates.

Revocation

32. When the local planning authority have revoked a neighbourhood development order, community right to build order or neighbourhood development plan in accordance with section 61L of the 1990 Act they must—

- (a) within 2 weeks of the date of revocation, publish on their website—
 - (i) a statement of the revocation and the reasons for it; and
 - (ii) details of where and the times when the documents referred to in sub-paragraph (i) can be inspected;
- (b) make the above documents available for inspection at their principal offices and at such other places within their area as they consider appropriate during normal working hours;
- (c) given written notice of the revocation to—
 - (i) the qualifying body;
 - (ii) statutory consultees, where appropriate;
 - (iii) in the case of the revocation of a neighbourhood development order or community right to build order, every person whom the authority knows to be the owner or tenant of any part of the land to which the order applies and whose name and address is known to the local planning authority;
 - (iv) any person the local planning authority notified of the making of the neighbourhood development order, community right to build order or neighbourhood development plan; and
 - (v) any other person the local planning authority consider necessary in order to bring the revocation to the attention of people who live, work or carry on business in the area to which the revoked neighbourhood development order, community right to build order or neighbourhood development plan related; and
- (d) remove the revoked neighbourhood development order, community right to build order or neighbourhood development plan from their website and any other place where it was published or made available for inspection.

PART 10

Parish Councils

Interpretation

33. In this Part—

“application” means an application for approval under subsection (2) of section 61K (permission granted by neighbourhood development orders) of the 1990 Act; and

“approval” means approval in relation to a condition or limitation subject to which planning permission is granted by a neighbourhood development order.

Entitlement to determine an application

34.—(1) A parish council shall be entitled to determine an application if the land to which the application relates is located within the area of the parish council save that a parish council cannot determine an application in relation to land of which they are an owner.

(2) Within a period of 28 days beginning with the date on which notice of the application is received by the parish council, they must decide whether or not they will determine the application and inform the local planning authority, in writing, of their decision to determine an application.

(3) If the parish council do not notify the local planning authority of their decision to determine an application within the period of 28 days, they will not be entitled to do so.

Parish councils

35. When a parish council determine an application they shall be treated as a local planning authority for the purpose of the application.

Notice of determination

36. Where a parish council have determined an application they must notify in writing—

- (a) the applicant;
- (b) the local planning authority; and
- (c) any other person the parish council consider likely to be affected by the decision.

Signatory text

Address	<i>Name</i> Parliamentary Under Secretary of State
Date	Department for Communities and Local Government

SCHEDULE

Regulation 15 and 21

Statutory consultees

1. The following are statutory consultees for the purpose of these Regulations—

- (a) if the local planning authority is a London borough council, the Mayor of London;
- (b) a local planning authority, county council or parish council any part of whose area is in or adjoins the area of the local planning authority;
- (c) Natural England(a);
- (d) the Environment Agency;
- (e) the Historic Buildings and Monuments Commission for England (b);
- (f) Network Rail(c);
- (g) the Highways Agency;
- (h) the Marine Management Organisation(d);
- (i) any person—
 - (i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003 (application of the electronic communications code); and
 - (ii) who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority;
- (j) any of the following persons who exercise functions in any part of the relevant neighbourhood area—
 - (i) a Primary Care Trust(e);

(a)
(b)
(c)
(d)
(e)

- (ii) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989 (licences authorising supply, etc)(**a**);
- (iii) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986 (licensing of gas transporters)(**b**);
- (iv) a sewerage undertaker;
- (v) a water undertaker;
- (k) voluntary bodies some or all of whose activities benefit all or any part of the relevant neighbourhood area;
- (l) bodies which represent the interests of different racial, ethnic or national groups in the relevant neighbourhood area;
- (m) bodies which represent the interests of different religious groups in the relevant neighbourhood area;
- (n) bodies which represent the interests of disabled persons in the relevant neighbourhood area.

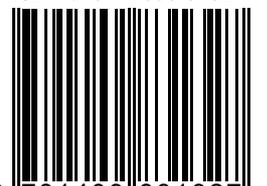
EXPLANATORY NOTE

(This note is not part of the Regulations)

(a)
(b)

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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

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

Name:	Karen Britton
Position (if applicable):	Planning Policy and Conservation Manager
Name of organisation (if applicable):	East Northamptonshire Council
Address:	Cedar Drive, Thrapston, Northants, NN14 4LZ
Email Address:	kbritton@east-northamptonshire.gov.uk
Telephone number:	01832 742142

(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:

Would agree if the following is amended - 6.(a) remove "or" and replace with "and" as a statement without a plan is not very helpful and can potentially be open to interpretation i.e it would be workable if a plan is required alongside a statement to describe it.

b) designating neighbourhood forums

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

Explanation/Comment:

No further comment

c) Community Right to Build organisations

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

Explanation/Comment:

However, 13. (b) (v) sounds rather vague re-transfer of assets...which has similar objectives - query if some examples can be given of the types of body that might be acceptable or via a technical companion guide perhaps?

d) preparing the neighbourhood plan

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

Explanation/Comment:

15. A locally consistent approach is also needed. A further point should be inserted to require that (a) and (b) be agreed first with the Local Planning Authority, before the "qualifying body" take any action. This "checking service" will ensure their approach is reasonable and appropriate consultees identified.

e) preparing the neighbourhood development order

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

Explanation/Comment:

Subject to changing :
22.(1)(a) Response as per Q1 (a) above - plan and statement required

f) preparing the Community Right to Build order

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

Explanation/Comment:

Subject to e) above

g) Community Right to Build disapplication of enfranchisement

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

Explanation/Comment:

This seems reasonable, but no particular comments on this question

h) independent examination

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Explanation/Comment:

No further comment

i) referendum

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Explanation/Comment:

No comment - The Consultation does not cover the provisions for referendums - it states in the "Purpose of Consultation" that these will be brought forward through separate regulations, which will be based on existing local government referendum regulations

j) making the plan or order

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

Explanation/Comment:

No further comment

k) revoking or modifying the plan

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

Explanation/Comment:

This seems reasonable

l) parish councils deciding conditions

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

Explanation/Comment:

This seems reasonable

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:

Whilst there is an obvious economy of scale in combining with nearby elections, six months would be an unreasonably long time to wait for the go-ahead for proposals for communities that have gone to the effort of creating plans and want to see the benefits in as short a time frame as possible

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:

The Government should prepare an accompanying "Made Simple" Guide for these issues. Copies could be distributed to/ or at least highlighted to where it can be downloaded, to all Local Authorities and Town/Parish Councils, who can then publicise this at their local level (see Q4 below).

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:

Q3. In addition, further advice could be provided via the Planning Advisory Service website and their staff perhaps could be trained up to answer specific technical and general queries.