



Ann Rhodes (Policy Officer)
The Deane House, Belvedere
Road, Taunton TA1 1HE
01823 219522
a.rhodes@tauntondeane.gov.uk

Neighbourhood Development Plan Legalities

1. Responsibilities

The legislation clearly sets out that a Neighbourhood Development Plan (NDP) is a Community Led planning policy document. As such its policies must be about development and the use of land.

In Parished areas the Parish Council are the relevant body (also referred to as the Qualifying Body) under the legislation who are able to take up the opportunity to produce a neighbourhood plan. A parish council may choose to establish an advisory committee or sub-committee to devolve the work to and appoint local people (who need not be parish councillors) to those bodies. Under these circumstances the terms of reference for a steering group or other body should be published and the minutes of meetings made available to the public. Rules regarding advisory committee or sub-committees for Parish Councils can be found at:

- [section 102\(4\) of the Local Government Act 1972](#); and
- [13\(3\), \(4\)\(e\) or \(4\)\(h\) of the Local Government and Housing Act 1989](#).

The Qualifying Body are responsible for making sure that the Plan is robust and fit-for-purpose. This includes: applying for the neighbourhood area to be designated, having a plan which would pass the Basic Conditions (appropriate locally specific detailed evidence base, relevant inclusive consultation, being in conformity with European legislation (Habitats and Equalities) national planning policy (National Planning Policy Framework, advice issued by the Secretary of State, relevant Regulations) and Local planning policy (West Somerset Local Plan).

The Local Planning Authority (West Somerset Council) is responsible for specific legal elements of the process: the designation of the neighbourhood plan area, checking documents submitted to West Somerset as the Local Planning Authority (LPA) under Regulation 15, and invitation for representations under Regulation 16, Independent Examination, Referendum and that legislative compliant NDP's are "made".

2. Registering your intentions with the District Council

If you wish to undertake a NDP for your area, under the regulations you need to write to the Council setting out your intention to produce a Neighbourhood Plan and a map of the area you would like the NDP to cover.

There are a number of examples on the internet of designation request letters, and I would recommend that you look at these. At the very least it would help to have the following:

- **About your Village and Community** (i.e. where is it, what's its population, how does it relate to surrounding settlements, what businesses does it have, what services and facilities are there)

- **Relationship between your Village and the West Somerset Local Plan**
Bicknoller is a rural Parish in West Somerset. Its principle settlement, Bicknoller, is defined as a Primary Village in policy SC1 of West Somerset Local Plan. As such limited development of individual schemes of up to ten dwellings providing about a 10% increase in a settlement's total dwelling number (c.12 dwellings) during the Local Plan period, limited to about 30% of this increase in any five year period. It is expected that development will contribute to wider sustainable benefits for the area. Local Plan policy CV1 requires that development be designed to form an integral, harmonious addition to the settlements existing character, and help to maintain or enhance the level of service provision, balanced community, appropriate to the settlements role and function. Outside of this village development is classes as being on the open countryside and is therefore subject to policy OC1. OC1 states that development will only be permitted where it can be demonstrated that: it is essential for rural workers, for employment or tourism purposes, local needs or exceptions site affordable housing.
- **Status and Adoption of Neighbourhood Plan** (i.e. subject to successful outcome of a local referendum the Plan will be "made" by WSC as a Statutory Development Plan Document)
- **Neighbourhood Plan Timetable** (i.e. set out the structure of the preparation of the plan; including key elements such as formation of the steering group, application for designation, community consultation, scope of works, timetable for each element – DCLG are estimating plans are taking around 2 years to complete);
- **Scope of Neighbourhood Plan** (i.e. The geographical area that you want the plan to cover and why, what is the likely scope, form and content of the Plan determined through stakeholder and public engagement, it may address: identification of smaller scale allocations as appropriate, affordable housing, employment, protection of recreational open space, protection of community assets, small scale employment, etc)
- **Examination and Referendum** (i.e. With WSC we propose to engage an appropriately qualified independent inspector who will undertake a public examination into the soundness of the Plan; within the existing and emerging statutory planning framework. The output of the examination would be a report on the plans compliance with the legislation and a recommendation on whether it should progress to local referendum. Following any amendments deemed necessary, the Plan would then be put to a local public referendum. If over 50% of those voting vote in favour of the Plan the LPA will have the NDP made to a Development Plan Document, and used in planning application decisions for the neighbourhood area.
- **The decision to undertake a Neighbourhood Plan** (i.e. the Parish Council voted at their March 2017 meeting to support this application to WSC and is fully committed to the work it requires).

A map of the Neighbourhood Area should be included with the letter. The map should have a red line boundary which denoted the extent of the Neighbourhood Plan Area. WSC can assist with the creation of the map.

WSC will advertise the request for designation, details of which will be on its website and open for six weeks consultation. Following this the Council will rule on whether the nominated neighbourhood area and relevant body is permitted to progress a

neighbourhood plan and if nominated neighbourhood plan area conforms to the legislation and is supported. The Council will then publish its decision.

3. Neighbourhood Plan Group

It's important that you secure a broad membership for the Neighbourhood Plan Group. The more people you have, the more the work load is shared, and the wider the range of community are represented. Documenting who is on the group and why establishes transparency and will help prove that the steering group is representative of the community. Who has: a broad range of contacts in your community, specific interests or skills which can help with your Neighbourhood Plan: who is good at graphic design, who is good at updating the Parish website, who can make engagement with the community fun, who interested in policy writing?

4. The development of a Neighbourhood Plan

The relevant body (in this case the Parish Council) is responsible for the development of a NDP, including ensuring it meets the Basic Conditions (such as the locally specific, robust supporting evidence to support the policies), for Examination.

The scope and complexity of the NDP is determined by its content. There is no minimum number of policies, a NDP can have 1 or 10 or 100. These must all be supported by both subjective (community engagement) and objective (data, studies, assessments) evidence. WSC is happy to share any relevant evidence base it has with you (i.e. growth forecasts, habitats data, employment land review, landscape character area appraisals, flood risk data, etc.). Depending on the type of policies in the NDP the Qualifying Body may also be required to produce additional technical documents such as a Sustainability Appraisal, viability assessment, Strategic Environmental Assessment, Habitat Regulation Assessment, etc. The Council can advise on what may be required as the NDP develops.

As well as objective quantitative and subjective qualitative evidence it is important that the relevant body undertake consultation on their emerging Plan. There is no limit on the number of consultations you undertake. There is one specific consultation that must be undertaken before your NDP is submitted to WSC.

5. Regulation 14 consultation (also referred to as pre-submission)

When the relevant body is satisfied that it has a final NDP they need to undertake statutory consultation on it. That consultation must include statutory consultees, people who live, work and undertake business in the NDP area and anyone who has an interest in that NDP. WSC can provide information on the statutory consultees and how this consultation must be conducted.

6. Submission of the NDP to the LPA

When the relevant body is ready to submit their NDP to the Council it must be accompanied by:

- Map of the Neighbourhood Plan Area;
- Consultation Statement;
- Statement of Compliance with the Basic Conditions;
- Statement of its impact in terms of Habitat Regulations and Environmental Impact.

WSC will check that the relevant supporting documents are included and host the statutory consultation (Regulation 16) seeking representations on the NDP before it is passed to an Independent Examiner for Examination.

7. Examination

The Independent Examiner is jointly appointed by the Qualifying Body and WSC. The independent examiner will set the length and scope of the examination and decide if it will be done through written representations and/or public hearings. All the documents and any representations received as part of Regulation 16 are passed to the Examiner. The examination takes between four to five weeks, depending on the complexity of the Neighbourhood Plan. The Examiner will issue a report on the NDP's legal compliance, whether it can progress to a referendum, and if there should be changes to it prior to that.

WSC is responsible for organising, coordinating and paying for the examination.

8. Referendum

A compliant NDP is subject to a local referendum. A person is entitled to vote in the referendum if they reside in the NDP area, are on the electoral role, and eligible to vote in a District Council election. If more than half of those voting have voted in favour of the plan it can progress to be "made". If in the case of an area covering both neighbourhood and business area in only one of the referenda returns a vote of more than half of those voting in favour of the plan, it is the authorities discretion as to whether the Plan is adopted. WSC is responsible for organising and co-ordinating the referendum.

If your Neighbourhood Plan is a "Business Area Plan" the rules are slightly different.

9. A NDP being "made"

Unless WSC believes that the Neighbourhood Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights it must have the NDP "made" within eight weeks. It then forms part of the Development Plan Document and is used to determine planning applications in the neighbourhood area.

10. Support from WSC

Under the regulations WSC is obliged to assist with technical documentation, advise on compliance and the statutory procedures associated with: Neighbourhood Plan Area Designation, inspecting documents submitted, the Examination and Referendum. The Council will help, beyond the statutory minimum, where we can but communities must be realistic about the type and amount of support officers can provide.

Central Government currently has two funding streams open; a grant and direct support scheme. This is being delivered through Locality and details of the scheme can be found at: <http://mycommunityrights.org.uk/neighbourhood-planning>

11. Links to Additional Information

Useful links to information, good practice, and advice Planning Advisory Service website: <http://www.ourneighbourhoodplanning.org.uk/> and <http://www.pas.gov.uk/neighbourhood-planning;jsessionid=CB9679564E72EEB2F4211B82C98E8619.tomcat2>

Matters covered include; Guidance for Qualifying Bodies, Community Led Planning – alternatives to NPlans, Building Working Relationships, Early Engagement, Different Approaches to NPlanning, Councillor involvement and Community Impact.

Grants for Neighbourhood Planning - Details on application process are available on the My Community Rights web site: <http://mycommunityrights.org.uk/neighbourhood-planning/>

<http://www.cpre.org.uk/magazine/features/item/2350-planning-help-supporting-communities-and-neighbourhoods-in-planning>

Locality Road Map for Neighbourhood Planning - <http://locality.org.uk/resources/neighbourhood-planning-roadmap-guide/>

RTPI Planning Aid - <http://www.rtpi.org.uk/planningaid/>

Planning Advisory Service – www.pas.gov.uk and Neighbourhood Planning <http://www.pas.gov.uk/pas/core/page.do?pageId=1175309>

Localism Act, Housing and Planning Act, and Regulations - <http://www.legislation.gov.uk/all?title=neighbourhood%20planning>

Somerset Intelligence Network web site holds a range of statistical data and intelligence from a range of organisations. There is a significant amount of Ward and Parish data in the Neighbourhood Profile sections - <http://www.sine.org.uk/>

Census 2011 data <http://www.ons.gov.uk/ons/guide-method/census/2011/index.html>

I hope the above proves useful to Bicknoller Parish Council. If you wish to discuss it or would like me to clarify anything please don't hesitate to contact me.

Ann Rhodes

18th September 2017