

Briefing note: Weight of emerging Neighbourhood Plans

Communities preparing neighbourhood plans will want to know when their draft plans can be taken into account in planning decisions, especially if planning applications are submitted while the community is in the process of preparing a neighbourhood plan.

Valid planning applications have to be determined – the Local Planning Authority cannot refuse to consider, or delay a decision on a planning application because a community is preparing a neighbourhood plan. However, like all planning policy documents, neighbourhood plans will gather increasing weight as a material consideration, the further they get through the process.

For all Plans the National Planning Policy Framework says:

From the day of publication, decision-takers may also give weight (unless other material considerations indicate otherwise) to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given). (NPPF Annex 1 - para 216)

National Planning Policy Guidance says:

‘An emerging neighbourhood plan may be a material consideration.Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies....Decision makers should respect evidence of local support prior to referendum when seeking to apply weight to an emerging neighbourhood plan.’ (NPPG Neighbourhood Planning para 07)

A Written Ministerial Statement of the 10th of July 2014, <https://www.gov.uk/government/speeches/neighbourhood-planning> is considered to have reinforced the NPPG to make it clear that, once a neighbourhood plan has been submitted formally to the local authority for examination, it (and its policies) represent a material consideration to which weight can be given in considering the planning balance when determining any particular planning application or appeal.

The Neighbourhood Planning Act 2017 amends Section 70(2) of the Town and Country Planning Act 1990 and requires the Local Planning Authority (LPA) to have regard to a post examination draft neighbourhood plan prior to the referendum being held until such time as the neighbourhood plan forms part of the development plan or until the LPA decide not to make the neighbourhood plan.

The Act amends Section 38 of the Planning and Compulsory Purchase Act (2004) to say that a neighbourhood plan that is successful at referendum plan automatically becomes part of the development plan. If the Local Authority decides not to 'make' the plan the post referendum plan will then cease to be part of the development plan.

The NPPG also refers to circumstances in which it might be justifiable to refuse planning permission on the grounds of prematurity:

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans as set out above. However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the Council as local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process. (NPPG – Neighbourhood Planning – para 08)

Stage of plan preparation:

The regulated stages of neighbourhood plan preparation are:

Area Designation	All that is really known is the intention of a community to prepare a plan – there is likely to be little content to take into consideration and, importantly, detailed proposals have not been widely consulted on and endorsed by the community	No to little weight can be given.
Pre-submission Consultation	Following this 6 week consultation the steering group will have evidence of community support for the plan – and if any policies are not supported or need to be changed. However the plan might not be legally compliant.	Some weight could be given to aspects where clear community support can be demonstrated. The decision maker will have to assess the quality of consultation, level of support and the general conformity of proposed policies.
Submission/Legal Compliance	The plan is formally submitted to Cornwall Council, checked for legal compliance and endorsed by members.	Increasing weight can be given, again subject to evidence of support. This is dependent on the Council being of the opinion that the plan is legally compliant (but the Examiner must confirm this).
Publication Consultation	This 6 week consultation confirms that Cornwall Council endorses the plan as legally compliant. Further comments made at this stage will be assessed by the Examiner.	Increasing weight can be given – taking into account any comments received during the consultation and with the knowledge that the examiner can require changes to the plan.
Examination	The Examiner determines whether the plan meets the basic conditions and recommends whether it proceeds to referendum or not. He may also require changes to be made to the plan. The Council decides whether the plan will proceed to referendum	A successful plan carries considerable weight. It has now been confirmed that the plan is legally compliant and meets the Basic Conditions, one of which is general conformity with the NPPF. Planning decisions should have regard to the provisions of the

		development plan including a post-examination Neighbourhood Plan, so far as material to the application.
Referendum	Those on the Electoral Register within the plan area vote in a referendum, in a Yes/No vote on whether the plan should be adopted. A simple majority, regardless of turnout, means that the Plan can be adopted.	A neighbourhood plan that is successful at referendum automatically becomes part of the development plan and carries full weight .
Adoption	After a Neighbourhood Plan has been successful at referendum, it will automatically form part of the development plan unless the Council specifically makes a decision not to adopt it.	A Post referendum plan carries full weight and will do so unless the Council make a subsequent decision not to adopt it.

Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force subject to the decision of the Council, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals. (NPPG Neighbourhood Planning – para 07)

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