

Neighbourhood Plans

General Conformity with Strategic Local Policy

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Introduction

This guidance note deals with the need for neighbourhood plans to be in general conformity with strategic local planning policies. This is one of the ‘basic conditions’ that all neighbourhood plans and neighbourhood development orders (NDOs) must meet.

The guidance deals with how to identify strategic local policies, how to consider general conformity and the implications of having local plans of varying ages or stages of preparation.

Legal Requirements for Neighbourhood Plans

The Basic Conditions

All neighbourhood plans and NDOs must meet the ‘basic conditions’ before they can proceed to referendum and this is tested by the independent examination.

The basic conditions are set out in planning legislation. They deal with matters such as:

- general conformity with strategic local policy
- regard to national policy
- contributing to achievement of sustainable development
- compatibility with EU Obligations.

NDOs must meet additional basic conditions requiring having special regard to listed buildings and conservation areas.

In addition, neighbourhood plans and NDOs must be compatible with Human Rights requirements.

The Independent Examination

The local planning authority will appoint an independent examiner, with the agreement of the neighbourhood planning body (i.e. the parish council or neighbourhood forum).

The independent examiner will prepare a report, assessing whether the plan meets the basic conditions and recommending whether or not the plan should proceed to referendum. Only if a neighbourhood plan meets the basic conditions can it proceed to referendum. The examiner may recommend modifications that are necessary to ensure that the plan meets the basic conditions, before proceeding to referendum.

The examiner's report carries considerable weight, but it is not binding. The local authority has the final responsibility for determining whether the plan meets the basic conditions, whether any modifications are necessary and should be consulted on, and consequently whether to proceed to the referendum stage.

Significant modifications may trigger a need to return the plan to an earlier stage.

If a neighbourhood plan (with modifications if necessary) meets the basic conditions and is compatible with human rights requirements, then the local authority must organise the referendum.

Identifying Strategic Local Policies

Strategic local policies should be identified at the earliest stage possible. Together with national policies, they provide a context for neighbourhood plan policies. The neighbourhood plan will need to be in general conformity with strategic local policies and have regard to national policies and guidance. The neighbourhood plan can include policies that differ from non-strategic local planning policies or introduce new policies (providing they are in general conformity with strategic local planning policies).

Paragraph 184 of the National Planning Policy Framework (NPPF) states:

Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible.

Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

Strategic local planning policies will be found in adopted development plan documents for the area (for example the Core Strategy or Local Plan). In Greater London, policies in the Mayor of London's Spatial Strategy (the London Plan) are also part of the development plan for each London borough.

The local planning authority (LPA) should advise neighbourhood planning bodies which of the policies in the Local Plan are considered to be strategic, so that there is a clear and mutual understanding.

It is advisable for neighbourhood planning groups to meet with the local planning authority at the earliest opportunity to discuss and identify strategic local planning policies. Indeed, regular meetings are advisable throughout the neighbourhood planning process to ensure close liaison, cooperative working and smooth progress.

The National Planning Practice Guidance (NPPG) includes advice on identifying strategic local policies and sets out useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic

It is also useful to consider the advice in Paragraph 156 of the NPPF, which sets out what strategic policies in a local plan must deliver. This includes:

- the provision of retail, leisure and other commercial development;

- the homes and jobs needed in the area;
- the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- the provision of health, security, community and cultural infrastructure and other local facilities; and
- climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.

There should be strategic policies addressing all of these issues in any local plan, if prepared since the publication of the NPPF.

Against the context of this policy and guidance, a judgment needs to be made on which local planning policies are strategic in nature. Such policies are likely to be those that deal with key principles and relate to the overall development and growth of an area.

Green belt policy would certainly be strategic, as it sets out fundamental principles for growth and containment of urban areas. Also, the NPPF states ‘Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan’. This would leave very little or no scope for a neighbourhood plan to make modifications to green belt policy, whilst meeting the basic conditions.

Some policy areas may include strategic and non-strategic elements. For example, a general design policy may be strategic, as it is related to things like economic development, quality of life, movement and safety. However, more detailed design requirements may be non-strategic or, even if strategic, may be capable of modification whilst still being in general conformity. Again, this comes down to judgment and liaison with the local planning authority.

Some local plans include higher-level and more strategic matters separately to detailed development management policies. Whilst strategic local policies are more likely to be those in the strategic section, the NPPG makes clear that:

The basic condition addresses strategic policies no matter where they appear in the development plan. It does not presume that every policy in a Local Plan is strategic or that the only policies that are strategic are labelled as such.

Local Plans

Adopted Local Plans

As stated earlier, strategic local planning policies will be found in the adopted development plan documents adopted or approved for an area (and in Greater London in the London Plan). It will be helpful to speak with the local planning authority at an early stage to identify which local planning local policies the authority considers to be strategic in nature.

Older Local Plans

Strategic local policies can only be in adopted or approved development plan documents. In some cases this will mean considering strategic local policies in quite old planning documents that were ‘saved’ after the introduction of a new regime for planning documents under the Planning and Compulsory Purchase Act 2004. The longer a planning policy has been in place, the more likely it is to have content that is out-of-date. The extent of this may differ in

different policy areas. In particular, policies in documents that precede the publication of the NPPF may contain policies that are now at odds with national policy, at least to some extent.

The NPPF makes clear that neighbourhood plans should be evidence based. Recent evidence may point to different needs than those set out in the policies of older local plans. Evidence underpinning a recent or emerging local plan or evidence developed specifically for a neighbourhood plan may point to different needs than those addressed in older strategic local policies.

This will require a pragmatic approach to be adopted at the independent examination stage. The independent examination will consider whether a neighbourhood plan meets the basic conditions. Where strategic local planning policies in an old document are in contradiction with current national policies or with more recent evidence, an independent examiner and local planning authority will take this into account in deciding whether making the neighbourhood plan or NDO is in general conformity with strategic local planning policies.

Emerging Local Plans

An emerging local plan would not constitute part of the statutory development plan. However, it still needs to be considered by neighbourhood planning bodies for two primary reasons.

First, the evidence base behind an emerging local plan is also likely to form part of the evidence base for any neighbourhood plans within the local plan area. The NPPG highlights that neighbourhood plans and NDOs are not tested against the policies in emerging Local Plans, but that the reasoning and evidence informing the emerging Local Plan may be relevant.

Second, where local and neighbourhood plans have conflicting policies, the later plan will carry more weight. To avoid the risk of policies in a neighbourhood plan being superseded by a later local plan, it is necessary for the two plans to work in a complementary way.

In some respects, it is beneficial for a local plan and neighbourhood plan to be prepared in parallel, where the local planning authority and the neighbourhood planning body are working together closely. This allows coordination between the plans in terms of their policies and deciding the level at which site allocations are made. A neighbourhood plan can help to provide clarity for developers where there is an absence of an up-to-date local plan.

“Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- *the emerging neighbourhood plan*
- *the emerging Local Plan*
- *the adopted development plan*

with appropriate regard to national policy and guidance”.

National Planning Practice Guidance (NPPG)

Site Allocations

Local plans and neighbourhood plans may allocate sites for different kinds of development. Normally, local plans would make allocations for larger, more strategic sites. There should be a high level of cooperative working between LPAs and neighbourhood plan bodies, to ensure that site allocations in both plans complement each other to create a coherent growth strategy for the area.

Development plan documents making site allocations provide a clear context for the neighbourhood plan to work with. A neighbourhood plan may make its own site allocations.

Neighbourhood Plan policies may help to shape development on sites allocated in the Local Plan, for example by putting in place policies on things like design or housing mix. However, there could be difficulties in achieving general conformity with strategic local policies if a neighbourhood plan's policies restricted development to a degree that undermined a strategic site allocation in a local plan. A neighbourhood plan may allocate more growth or sites than set out in a Local Plan. Neighbourhood planning groups may decide to do this once the strategic growth of an area has been considered. The NPPF says: "Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area" (paragraph 185).

General Conformity

Making Judgements on General Conformity

The neighbourhood plan will need to be in *general* conformity with strategic local policies. This suggests that a neighbourhood plan may differ to some extent even from strategic local policies, yet still meet the basic conditions. However, this has not been tested through the courts yet. Caution is necessary, therefore.

The local planning authority may make representations to the independent examiner during the statutory publicity period. Also, the final determination of whether the plan meets the basic conditions, including being in general conformity with strategic local policies, lies with the local planning authority.

The NPPG sets out considerations for the independent examiner and local planning authority:

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach*

A pragmatic approach would be to discuss with the LPA any policies that may be contentious in terms of being in general conformity with strategic local policy. There are less likely to be problems at the independent examination stage if both the local planning authority and neighbourhood planning body are in agreement that a plan is in general conformity.

“The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan”.

National Planning Practice Guidance

Not all strategic local policies will be relevant to all neighbourhood plans. Unlike local plans, neighbourhood plans can deal with a narrow range of specific policy areas, whilst leaving other policy areas to local plans and national policy. However, just because a neighbourhood plan does not contain policies on a certain issue, that does not

mean necessarily that it will not impact on that issue indirectly.

Considerations of general conformity may therefore involve consideration of strategic local plan policies, even where a neighbourhood plan has no policies on that policy issue. For example, if a neighbourhood plan relaxed urban design standards, that could undermine a local plan's economic development policies.

Augmenting Strategic Local Policies

There is an opportunity for the neighbourhood plan to interpret or augment strategic local policies, providing they are in general conformity with the requirements of that policy.

For example, a strategic level policy could set out the need for balanced transport provision, perhaps based on the submission of green travel plans. The neighbourhood plan could set out more specific requirements, for example relating to cycle storage or providing pedestrian links.

Meeting the Basic Conditions

As suggested previously, sometimes it may appear difficult to reconcile strategic local policy, national policy, new evidence and other factors. Reconciling these apparent contradictions in a pragmatic way, while still ensuring that legal requirements are met, is the task of the independent examiner and local planning authority. Similarly, neighbourhood planning bodies should recognise that slavishly applying strategic local policies may not lead to good outcomes where national policies and new evidence suggest a different approach is appropriate.

Conclusions

A neighbourhood plan or NDO must be in general conformity with strategic local planning policies. However, it is also necessary to consider emerging local policies, their evidence base and any other evidence in order to meet other basic conditions. National policies must also be considered.

As with all aspects of neighbourhood planning, close liaison between the neighbourhood planning body and the local planning authority is highly desirable to ensuring a smooth passage through the statutory process.

The basic conditions are set out in Section 61E of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and in Schedule 2(1) and Schedule 3(2) of the Neighbourhood Planning (General) Regulations 2012.

National policy is set out primarily in the National Planning Policy Framework 2012.

The main planning guidance document is the National Planning Practice Guidance 2013 (with subsequent amendments).

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