

# Neighbourhood Planning

## The basic conditions that a draft neighbourhood plan or Order must meet if it is to proceed to referendum

Paragraph: 065 Reference ID: 41-065-20140306

### What are the basic conditions that a draft neighbourhood plan or Order must meet if it is to proceed to referendum?

Only a draft neighbourhood Plan or Order that meets each of a set of basic conditions can be put to a referendum and be made. The basic conditions are set out in [paragraph 8\(2\) of Schedule 4B to the Town and Country Planning Act 1990](#) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan). [Click here for more details in this guidance.](#)
- b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders. [Click here for more details in this guidance.](#)
- c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders. [Click here for more details in this guidance.](#)
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development. [Click here for more details in this guidance.](#)
- e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). [Click here for more details in this guidance.](#)
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations. [Click here for more details in this guidance.](#)
- g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan). [Click here for more details in this guidance.](#)

*Revision date: 06 03 2014*

## A. National policy and advice

Paragraph: 069 Reference ID: 41-069-20140306

### What does having regard to national policy mean?

A neighbourhood plan or Order must not constrain the delivery of important national policy objectives. The [National Planning Policy Framework](#) is the main document setting out the Government's planning policies for England and how these are expected to be applied.

*Revision date: 06 03 2014*

Paragraph: 070 Reference ID: 41-070-20140306

### Which national policies are relevant to a neighbourhood plan or Order?

[Paragraph 16](#) of the National Planning Policy Framework is clear that those producing neighbourhood plans or Orders should support the strategic development needs set out in [Local Plans](#), including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. More specifically [paragraph 184](#) of the National Planning Policy Framework states that neighbourhood plans and Orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

The content of a draft neighbourhood plan or Order will dictate which additional national policy is or is not a relevant consideration to take into account. The basic condition allows qualifying bodies, the independent examiner and local planning authority to reach a view in those cases where different parts of national policy need to be balanced.

A qualifying body is advised to set out in its basic conditions statement how they have had regard to national policy and considered whether a particular policy is or is not relevant. A qualifying body is encouraged to set out the particular national policies that it has considered, and how the policies in a draft neighbourhood plan or the development proposals in an Order take account of national policy and advice.

*Revision date: 06 03 2014*

## **B / C.** Listed buildings and conservation areas

Paragraph: 071 Reference ID: 41-071-20140306

### When do the basic conditions relating to listed buildings and conservation areas apply?

Basic conditions (b) and (c) that relate to listed buildings and conservation areas apply to a draft neighbourhood Development Order or a Community Right to Build Order so that making the order will not weaken the statutory protections for listed buildings and conservation areas. Further information on conserving and enhancing the historic environment can be found in [paragraphs 126 – 141 of the National Planning Policy Framework](#) and [here](#).

*Revision date: 06 03 2014*

## **D.** Sustainable development

Paragraph: 072 Reference ID: 41-072-20140306

### What must a qualifying body do to demonstrate that a draft Neighbourhood Plan or Order contributes to sustainable development?

This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or Order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures).

In order to demonstrate that a draft neighbourhood plan or Order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or Order guides development to sustainable solutions. There is no legal requirement for a neighbourhood plan to have a [sustainability appraisal](#). However, qualifying bodies may find this a useful approach for demonstrating how their

draft plan or order meets the basic condition. Material produced as part of the Sustainability Appraisal of the [Local Plan](#) may be relevant to a neighbourhood plan.

*Revision date: 06 03 2014*

Paragraph: 073 Reference ID: 41-073-20140306

## Is an environmental assessment required of a neighbourhood plan?

A neighbourhood plan may require an [environmental assessment](#) if it is likely to have a significant effect on the environment. Where this is the case the draft neighbourhood plan may fall within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004. This may be the case, for example, where a neighbourhood plan allocates sites for development.

A qualifying body is strongly encouraged to consider the environmental implications of its proposals at an early stage, and to seek the advice of the local planning authority on whether the Environmental Assessment of Plans and Programmes Regulations 2004 are likely to apply.

*Revision date: 06 03 2014*

## E. General conformity with the strategic policies contained in the development plan

Paragraph: 074 Reference ID: 41-074-20140306

### What is meant by ‘general conformity’?

When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- 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

*Revision date: 06 03 2014*

Paragraph: 075 Reference ID: 41-075-20140306

## What is meant by strategic policies?

[Paragraph 156 of the National Planning Policy Framework](#) sets out the strategic matters about which local planning authorities are expected to include policies in their [Local Plans](#). 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.

*Revision date: 06 03 2014*

Paragraph: 076 Reference ID: 41-076-20140306

## How is a strategic policy determined?

Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are 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

Planning practice guidance on [Local Plans](#) provides further advice on strategic policies.

*Revision date: 06 03 2014*

Paragraph: 077 Reference ID: 41-077-20140306

## How does a qualifying body know what is a strategic policy?

A local planning authority should set out clearly its strategic policies in accordance with [paragraph 184 of the National Planning Policy Framework](#) and provide details of these to a qualifying body and to the independent examiner.

*Revision date: 06 03 2014*

## F. EU obligations

Paragraph: 078 Reference ID: 41-078-20140306

### What are the relevant EU obligations?

A neighbourhood plan or Order must be compatible with European Union obligations, as incorporated into UK law, in order to be legally compliant. There are four directives that may be of particular relevance to neighbourhood planning:

- *Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (often referred to as the Strategic Environmental Assessment (SEA) Directive).*

This seeks to provide a high level of protection of the environment by integrating [environmental considerations](#) into the process of preparing plans and programmes. It may be of relevance to neighbourhood plans.

- *Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (often referred to as the Environmental Impact Assessment (EIA) Directive).*

[Environmental Impact Assessment](#) is a procedure to be followed for certain types of proposed development. This is to ensure that decisions are made in full knowledge of any likely significant effects on the environment and that the public are given early and effective opportunities to participate in the decision making procedures. It may be of relevance to Neighbourhood Development Orders.

- *Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively). These aim to protect and improve*

Europe's most important habitats and species. They may be of relevance to both neighbourhood plans or Orders.

Other European directives, such as the Waste Framework Directive (2008/98/EC), Air Quality Directive (2008/50/EC) or the Water Framework Directive (2000/60/EC) may apply to the particular circumstances of a draft neighbourhood plan or Order.

*Revision date: 06 03 2014*

## **G.** Other basic conditions

Paragraph: 079 Reference ID: 41-079-20140306

Are there any other basic conditions that apply besides those set out in the primary legislation?

[Regulations 32 and 33 of the Neighbourhood Planning \(General\) Regulations 2012 \(as amended\)](#) set out two basic conditions in addition to those set out in the primary legislation. These are:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See [Schedule 2 to the Neighbourhood Planning \(General\) Regulations 2012 \(as amended\)](#) in relation to the examination of neighbourhood development plans.)
- having regard to all material considerations, it is appropriate that the Neighbourhood Development Order is made (see [Schedule 3 to the Neighbourhood Planning \(General\) Regulations 2012 \(as amended\)](#)), where the development described in an order proposal is [EIA development](#).

*Revision date: 06 03 2014*