

# Neighbourhood Plans - Guide to Basic Conditions and making Representations

This note provides support in making representations on a Submission Neighbourhood Plan.

Representations made on a Submission Plan are sent to an independent Examiner for consideration. The Examiner is only testing whether the Plan meets the 'Basic Conditions' and other relevant legal requirements set out in the Localism Act as set out later in this note.

## Making Representations

Your representation should succinctly cover all the information, evidence and supporting information necessary to support/justify your representation and outline any suggested changes. It is unlikely that you will have a subsequent opportunity to make further representations. All comments received will be sent to the Examiner as part of his/her consideration as part of the Examination.

## Basic Conditions

The 'Basic Conditions' (legal requirements) are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. Neighbourhood plans need to meet the following Basic Conditions which the independent Examiner will assess the proposed neighbourhood plan against:

- must be appropriate having regard to national policy and guidance;
- must contribute to the achievement of sustainable development;
- must be in general conformity with the strategic policies in the Development Plan of the local area;
- must not breach, and otherwise be compatible with EU regulations; and,
- must meet and comply with prescribed conditions e.g. whether or not it has a significant effect on European sites.

Further background to these Basic Conditions is provided below. You can also read more about these Basic Conditions in the National Planning Practice Guidance:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/the-basic-conditions-that-a-draft-neighbourhood-plan-or-order-must-meet-if-it-is-to-proceed-to-referendum/>

All submitted neighbourhood plans have to include a Basic Conditions Statement which sets out how the Plan meets the basic conditions set out below. This will be available on our website along with other consultation documents during a Submission consultation.

## Regard to National Policy

A neighbourhood plan must have regard to the National Planning Policy Framework<sup>1</sup> (NPPF) and associated guidance.

The National Planning Practice Guidance states that 'regard to national policy' means that a neighbourhood plan or Order must not constrain the delivery of important national policy objectives".

Paragraph 18 of the NPPF makes it clear that neighbourhood plans should only contain non-strategic policies.

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<sup>1</sup> Available at <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

## **Contribution to the achievement of sustainable development**

All plan making should help contribute to and achieve sustainable development. Sustainable development encompasses three main objectives which are interdependent and need to be pursued in mutually supportive ways (environmental, economic and social). The neighbourhood plan should demonstrate how it will contribute to improvements in environmental, economic and social conditions or show 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).

National Planning Practice Guidance states that evidence should be presented on how the plan guides development to sustainable solutions. There is no legal requirement for a neighbourhood plan to have a sustainability appraisal, but it can be a way of demonstrating this Basic Condition is met.

## **Conformity with the strategic policies in the Development Plan for the local area**

Paragraph 29 of the NPPF states that neighbourhood plans should be in general conformity with the strategic policies of the Development Plan and that they should plan positively to support them. The Examiner will consider the following:

- whether the Neighbourhood Plan supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the Neighbourhood Plan and any strategic policy;
- whether the Neighbourhood Plan provides an additional level of detail and/or a distinct local approach to that set out in strategic policy without undermining that policy, and
- the rationale for the approach taken and the evidence to justify the approach.

## **Compatibility with EU regulations and prescribed conditions**

Neighbourhood plans must not breach and must be compatible with EU obligations, including the Strategic Environment Assessment (SEA) Directive. SEA is a procedure (set out in The Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.

Neighbourhood plans should be screened at an early stage to ascertain whether they are likely to trigger significant environmental effects and thus whether an SEA needs to be carried out. Neighbourhood Plan SEA Screenings are available on the relevant Town or Parish webpage on the District Councils website.

Neighbourhood plan areas that are in close proximity to or, that may lead to adverse effects on a wildlife site that has been designated under the EU Habitats Directive or the EU Wild Birds Directive, may have to undertake a Habitats Regulation Assessment (HRA). A HRA is required to determine whether a plan or project would have 'likely significant effects' upon the integrity of these internationally designated sites of nature conservation importance. Undertaking a HRA screening will ensure that neighbourhood plans meet the requirements of the Directives and help to meet the Basic Condition to be in line with requirements.

In December 2018, the Basic Condition relating to protected habitats was amended to read:

'The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (7)<sup>2</sup>.

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<sup>2</sup> Can be viewed at <http://www.legislation.gov.uk/ukxi/2018/1307/made>