

**EXPLANATORY MEMORANDUM TO**  
**THE NEIGHBOURHOOD PLANNING (GENERAL) (AMENDMENT) REGULATIONS**  
**2015**

**2015 No. 20**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The Localism Act 2011 provided a statutory regime for neighbourhood planning. The Neighbourhood Planning (General) Regulations 2012 (“the 2012 Regulations”) make provision in relation to that regime. These Regulations amend the 2012 Regulations to make further provision in relation to the designation of neighbourhood areas and the submission of neighbourhood development plan proposals to local planning authorities.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 The Regulations are the first exercise of the powers in section 61G(11)(f) of the Town and Country Planning Act 1990 (“the 1990 Act”).
4. **Legislative Context**
  - 4.1 Chapter 3 of Part 6 of the Localism Act 2011 created the neighbourhood planning regime in England mainly by inserting new provisions into the 1990 Act and the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) (*see* Part 1 of Schedule 9, and Schedules 10 and 11, for the provisions inserted into the 1990 Act, and Part 2 of Schedule 9 for the provisions inserted into the 2004 Act).
  - 4.2 The 2012 Regulations built on the statutory frameworks in the 1990 Act and the 2004 Act in relation to the process for designating neighbourhood areas and neighbourhood forums and the preparation of neighbourhood development plans and neighbourhood development orders. These Regulations amend the 2012 Regulations to make further provision in relation to the designation of neighbourhood areas and the submission of neighbourhood development plan proposals to local planning authorities.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
  - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

### What is being done and why

- 7.1 The first step for a community wanting to produce a neighbourhood development plan or neighbourhood development order is to apply to their local planning authority to designate a neighbourhood area. There is considerable variation in the time local planning authorities take to designate neighbourhood areas. While some authorities have taken only 45 days to reach a decision on neighbourhood area applications, some communities have had to wait over six months for a decision on whether the neighbourhood area they wish to plan for will be designated, with some waiting over a year. The Government is concerned that slow decision taking by local planning authorities, particularly at the start of the process, is one of the things that can discourage communities taking up their right to produce a neighbourhood plan or an order.
- 7.2 Section 61G(11)(f) of the 1990 Act makes provision for the making of regulations requiring an application for a designation to be determined by a prescribed date. Part 2 of the 2012 Regulations makes provision for the designation of a neighbourhood area. Regulation 2(3) of these Regulations inserts a new regulation 6A into the 2012 Regulations to prescribe the date by which a local planning authority must determine applications for designation of a neighbourhood area. Where the area to which the application relates falls within the areas of two or more local planning authorities, the prescribed date is the date 20 weeks from the date immediately following that on which the application is first publicised. In other cases, the prescribed date is the date 13 weeks from the date immediately following that on which the application is first publicised by the local planning authority, or eight weeks where the application is from a parish council and the area to which the application relates is the whole of the area of the parish council. Different time periods are set to reflect the fact that some applications for a neighbourhood area to be designated are likely to generate a larger number of representations and/or require negotiation and agreement between local planning authorities.
- 7.3 Regulation 6 of the 2012 Regulations requires a local planning authority to publicise an area application and invite representations. A minimum of 6 weeks must be allowed for those representations to be received. Regulation 2(2) of these Regulations amends regulation 6 of the 2012 Regulations to reduce the minimum period that the local planning authority must allow for representations from six weeks to four weeks where the application is from a parish council and the area to which the application relates is the whole of the area of the parish council (but does not fall within the areas of two or more local planning authorities). The amendments made by regulations 2(2) and (3) do not apply in relation to an area application first publicised before these Regulations come into force.
- 7.4 Regulation 15 of the 2012 Regulations sets out the information that must accompany a neighbourhood development plan proposal when submitted to the local planning authority. Regulation 2(4) of these Regulations adds to the list of documents that a qualifying body must submit to a local planning authority with a proposal for a neighbourhood plan. The additional document which must be submitted is either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an

environmental assessment is not required. The amendment is intended to ensure that the public can make informed representations and that independent examiners are confident that they have sufficient information before them to determine whether a neighbourhood plan is likely to have significant environmental effects. The amendment does not apply in relation to a plan proposal submitted to the local planning authority before these Regulations come into force.

## Consolidation

7.5 Not applicable.

## **8. Consultation outcome**

- 8.1 The Department formally consulted on the regulatory reforms from 31 July 2014 to 29 September 2014. There were 467 responses to the consultation of which 137 were from individuals and 330 were from organisations. Of the organisations responding, 42 per cent were from the public sector. Local planning authorities made up 30 per cent of respondents. Just fewer than 10% of responses were made on behalf of parish and town councils and designated neighbourhood forums; and 18% of respondents represented the development industry, professional bodies and trade associations. A report of the consultation has been placed in the Library of each House of Parliament and can be found on the Department for Communities and Local Government website (<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>).
- 8.2 The Department consulted on proposals to introduce a time limit for taking decisions on the designation of a neighbourhood area. The consultation document proposed that time limits would only apply where the boundaries of the neighbourhood area applied for coincide with those of an existing parish or electoral ward; and there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought. There was strong in principle support (over 70% of respondents) for introducing a time period within which a decision on designating certain types of neighbourhood area should be made. The Regulations require local planning authorities to take decisions on all applications for the designation of a neighbourhood area within a set time period. This does depart from the proposals on which the Government consulted but anecdotal evidence from communities is that slow decisions by local planning authorities, particularly at the start of the process, is a frustration and something that can discourage them taking up the new right.
- 8.3 A clear majority (over 80 %) of respondents supported the proposal to require documents to be submitted with a neighbourhood plan proposal in order to demonstrate that a land use plan or programme is compatible with obligations under the Environmental Assessment of Plans and Programmes Regulations 2004 (which implement Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment). A number of the respondents to the consultation referred to the changes as a useful clarification.

## **9. Guidance**

- 9.1 On 6 March 2014 the Department for Communities and Local Government launched the planning practice guidance web-based resource (available at: <http://planningguidance.planningportal.gov.uk/>). This includes guidance on neighbourhood planning. The Department intends to update the guidance to reflect the changes made by these Regulations.

## **10. Impact**

- 10.1 Neighbourhood planning is a voluntary activity, it is for individual organisations – parish councils or community organisations or businesses – to choose to produce, lead or participate in the production of a neighbourhood development plan or a neighbourhood development order or a community right to build order. There is no new additional direct cost to businesses or civil society organisations arising from the reforms.
- 10.2 Funding has been identified to support those local authorities who incur additional burdens as a result of the duties imposed under the 1990 Act and 2004 Act in relation to neighbourhood planning. We do not consider that our reforms are introducing a requirement for additional administration or expenditure by local authorities. Therefore our current arrangements for meeting any new burdens are sufficient.
- 10.3 An Impact Assessment of the effect that the Regulation will have on the costs of business and the public sector is available from the Department and is annexed to this Explanatory Memorandum.

## **11. Regulating small business**

- 11.1 Neighbourhood planning is entirely voluntary and is not a mandated process. It is for individual businesses and employees to choose whether or not they wish to participate they choose their involvement and the level of it freely. The proposals do not give rise to any additional requirements or costs on business.

## **12. Monitoring & review**

- 12.1 Regulation 2 of the 2012 Regulations requires the Secretary of State to carry out a review of the Regulations (except for regulations 32 and 33 and Schedules 2 and 3), set out the conclusions of the review and publish that report within five years after they come into force and every five years after that.

## **13. Contact**

Miranda Pearce at the Department for Communities and Local Government Tel: 0303 444 1309 or email: [miranda.pearce@communities.gsi.gov.uk](mailto:miranda.pearce@communities.gsi.gov.uk) can answer any queries regarding the instrument.