



Department for
Communities and
Local Government

**Department for Communities and Local
Government**

**Post Implementation Review of the
Neighbourhood Planning (General)
Regulations 2012
SI 2012/637**

**Presented to Parliament by
Command of Her Majesty**

December 2017

POST IMPLEMENTATION REVIEW

Neighbourhood Planning (General) Regulations 2012

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Introduction

1. This document provides a Post Implementation Review (PIR) of the *Neighbourhood Planning (General) Regulations 2012*, as required by regulation 2 of the Regulations. The Regulations are made by the Secretary of State for Communities and Local Government in exercise of the powers conferred by sections 61E, 61F, 61G, 61K, 61L, 61M and 71A of, and paragraphs 1, 4, 7, 8, 10, 11, 12 and 15 of Schedule 4B and paragraphs 3 and 11 of Schedule 4C to, the Town and Country Planning Act 1990, and sections 38A, 38B and 122(1) of the Planning and Compulsory Purchase Act 2004, and being a designated Minister for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment.

Background

2. The Localism Act 2011 introduced neighbourhood planning to give communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided, and grant planning permission for the new buildings they want to see go ahead. Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Objectives of the Regulations

3. The Neighbourhood Planning (General) Regulations 2012 (the Regulations) set out a light touch approach to regulating the way in which local communities should prepare neighbourhood plans, working with their relevant local planning authority. Consistent with the Government's localism agenda, take up of neighbourhood plans is voluntary and at the discretion of neighbourhoods and communities.
4. This measure forms part of the regulatory framework for preparing neighbourhood plans, neighbourhood orders and community right to build orders. It supports the policy objectives to:

- Give people greater ownership of plans and policies that affect their local area
 - Strengthen the plan-led approach to development by allowing communities to develop neighbourhood plans
 - Support the rate of growth of housing and economic development in England through a simplified planning process.
5. To further develop these policy objectives, we undertook three public consultations in 2014, 2015 and 2016 with the intention of simplifying the process of preparing neighbourhood plans and Orders whilst providing greater certainty in terms of development for those applying for planning permission. Further details of the consultations are set out below.

Evidence

6. The 2012 Regulatory Impact Assessment estimated that the full benefits of neighbourhood planning were only anticipated to materialise by 2022. We have drawn evidence from the three consultations (set out below) and subsequent revisions to the 2012 Regulations which are intended to further simplify and streamline the approach to neighbourhood planning. Details of the consultation proposals and revisions are set out in Annex A.
7. The Government consulted on proposed regulatory reforms to the 2012 regulations from 31 July 2014 to 29 September 2014¹. The consultation response² revealed broad support for the new proposal to set a time period within which decisions on designating a neighbourhood area (i.e. the basis for a neighbourhood plan) should be made. Respondents also emphasised the need for more effective engagement with local communities when preparing neighbourhood plans and Orders. In response, the Government decided not to take forward the proposal to remove the statutory requirement for a minimum of six weeks of consultation and publicity for neighbourhood plans and instead reduced the minimum period to four weeks. Accordingly, the proposals to test the extent of consultation and consult landowners (as part of a plan's site selection process) were not taken forward. Both of the above changes were made through the Neighbourhood Planning (General) Amendment Regulations 2015.

¹ <https://www.gov.uk/government/consultations/technical-consultation-on-planning>

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/339528/Technical_consultation_on_planning.pdf

8. The Government consulted on further regulatory reforms from 18 February 2016 to 15 April 2016³. This consultation was informed by the analysis of responses to the 2014 consultation, which revealed that respondents wished to see further changes to the neighbourhood planning process in addition to those proposed. Specifically, these were to prescribe time periods: i) by which a local planning authority should formally make a neighbourhood plan or Order following a successful referendum ii), by which plan or Order is sent to referendum following examination and iii) for decision making by a local authority when designating a neighbourhood forum. Consequently all three suggestions were included as proposals in the 2016 consultation. The consultation revealed strong support⁴ for all of these proposals, which were subsequently brought forward through the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016.
9. The Government consulted on further reforms from 7 September 2016 to 19 October 2016⁵ as part of the Neighbourhood Planning Act 2017. The consultation sought views on detailed regulations to implement the neighbourhood planning provisions in the Act, including the detailed procedures for modifying neighbourhood plans and Orders and the examination of a neighbourhood plan proposal where a neighbourhood area has been modified and a neighbourhood plan has already been made in relation to that area.
10. The consultation revealed strong support from respondents for the regulatory reforms proposed and amendments were made through the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017.
11. Details of the neighbourhood planning elements of two further planning policy consultations are set out in Annex A. The Housing White Paper consultation⁶ closed on 2 May 2017 and Planning for the Right Homes in the Right Places consultation⁷ closed on 9 November 2017.

³ <https://www.gov.uk/government/consultations/implementation-of-planning-changes-technical-consultation>

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/550049/Neighbourhood_planning_-_Gov_response_to_consultation.pdf

⁵ <https://www.gov.uk/government/consultations/implementation-of-neighbourhood-planning-provisions-in-the-neighbourhood-planning-bill>

⁶ <https://www.gov.uk/government/consultations/fixing-our-broken-housing-market-consultation>

⁷ <https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals>

Achievement of objectives

12. We cannot meaningfully assess the extent to which the objectives have been achieved as neighbourhood planning is still at an early stage of development, for the reasons set out above.
13. However, as an indicator of progress toward the policy objectives, neighbourhood planning has grown and evolved over the past five years. Since 2012, over 2,200 groups have taken up the neighbourhood planning process with over 13 million people living in a designated neighbourhood planning area. There have been over 470 successful referendums held with 88% of people voting yes on average; nearly 600,000 votes have been cast with an average turnout of 33%.
14. We believe that the current regulations, together with the proposals in recent consultations) will further strengthen and simplify the process for preparing neighbourhood plans, and represent an appropriate approach. Given consultees' requests for greater clarity in terms of the process of preparing plans (as reflected in the 2015 and 2016 regulations), we do not believe that now is an appropriate time to consider the case for less regulation.
15. Analysis published in October 2016 suggests that neighbourhood plans in force that provide a housing number have on average planned for approximately 10% more homes than the number for that area set out by the relevant local planning authority. Further information can be found at: <http://mycommunity.org.uk/resources/progress-on-housing-delivery-through-neighbourhood-planning/>

Original assumptions

16. The 2012 neighbourhood planning Impact Assessment identified the measure as "IN" under the One-In One-Out methodology but with zero net cost, as the measures do not impact on business. As with any policy which is voluntary it is impossible to predict the actual level of take up.
17. The 2012 Impact Assessment estimated a total take-up rate of 55% after 11 years – this is defined for the purposes of this assessment as areas applying to be designated for neighbourhood planning. The estimated take up rate is based on the "Neighbourhood Planning Front Runners" scheme, where 243 applications (as at November 2011) were received representing 3% of the approximate number of neighbourhoods, as a result the illustrative scenario assumes neighbourhood planning take up of 5% per annum. See table 1 below:

Table 1: On-going forecast - Illustration of proportion of take up by neighbourhood (defined as neighbourhood planning areas applied for designation)

Year	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
take up rate	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%
Cumulative take-up rates	5%	10%	55%	20%	25%	30%	35%	40%	45%	50%	55%
Cumulative number of areas applied for designation	381	762	1143	1524	1905	2285	2666	3047	3428	3809	4190

The actual take up of neighbourhood planning is set out below:

Table 2: Actual areas that have been applied for designation for neighbourhood planning

Year	March 2013	March 2014	March 2015	March 2016	March 2017
Neighbourhood planning areas applied for designation	413	984	1400	1814	2060

18. Tables 1 and 2 above shows that the number of neighbourhood plan areas that have applied for designation in year 5, in this case 2060, is consistent with the estimated forecast number of 1905 set out in table 1 for year 5.

19. The department has directly supported communities to undertake neighbourhood planning. The current neighbourhood planning support programme made available £22.5m from 2015-18. A £22.8m⁸ 2018-22 support programme was announced in September 2017. In addition neighbourhood planning groups have funded the neighbourhood planning process via their own resources.

20. The department has also funded local planning authorities under the new burdens principles. Since 2012, around £19m has been paid out to councils via a claims-based process.

21. For the reasons given above, this PIR cannot quantify whether the benefits have been achieved given the early stage we are at in terms of neighbourhood plan development. However, take-up so far has been

⁸ <https://www.gov.uk/government/news/228-million-boost-to-give-power-back-to-communities>

positive, with hundreds of new groups coming forward each year to shape the future their area through neighbourhood planning.

Unintended consequences

22. It is too early to draw any clear conclusions in respect to unintended consequences. The Government has taken a pro-active approach to emerging concerns regarding the time taken to produce neighbourhood plans through the regulatory reforms set out above.

Opportunities for reducing the burden on business

23. One of the key objectives underpinning neighbourhood planning is to provide more certainty for applicants and the commercial market as to where development will occur. The Government's intention behind the amendments of the 2012 Regulations has been to place the minimum regulatory burden upon those involved so that they have both a voice in the planning system and greater certainty as to where development will occur.

UK's implementation in comparison with that in other EU member states

24. Not applicable.

Annex A

The Neighbourhood Planning (General) (Amendment) Regulations 2015

Following the 2014 consultation, the amendments to the Regulations are set out below:

- i. Set a prescribed date by which a local planning authority must determine applications for the designation of a neighbourhood area.
- ii. 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 designation of the area of the parish council (but does not fall within the areas of two or more local planning authorities).
- iii. Add an environmental report to the list of documents that a qualifying body must submit to a local planning authority with a proposal for a neighbourhood plan.

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016

The 2016 regulations implement neighbourhood planning reforms from the Housing and Planning Act 2016. The amendments to the Regulations are set out below:

- i. Prescribe two cases where a local planning authority must designate all of the neighbourhood area applied for:
 - a) Where a parish council applies for the whole area to be designated
 - b) Where the local authority has failed to meet the statutory timetable for decision-making (i.e. 13 weeks or 20 weeks for areas that cross LPA boundaries).
- i. Prescribe a date by which a local planning authority must decide an application from a group to become a neighbourhood forum.
- ii. Prescribe a date by which a neighbourhood development plan or Order must be made by a local planning authority after the proposal has been approved in each applicable referendum.

- iii. Prescribe a date which (where a local authority comes to a different view to the examiner) they must seek further representations and make a final decision.
- iv. Prescribe a date for the local planning authority to decide to send a neighbourhood development plan or Order to referendum and within which a referendum must be held.
- v. Prescribe the procedure to be followed where a qualifying body requests the Secretary of State to intervene to decide whether to put a neighbourhood development plan or Order to referendum.
- vi. Make provision for neighbourhood forums to be notified of planning applications in their areas and to make representations on applications they are notified of.

The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017

The 2017 regulations implement neighbourhood planning reforms from the Neighbourhood Planning Act 2017. The amendments to the Regulations are set out below:

- i. Consequential amendment to the Town and Country Planning (Development Management Procedure) (England) Order 2015, in order to support the implementation of section 2 of the Neighbourhood Planning 2017 Act, which puts beyond doubt that qualifying bodies (town or parish councils or designated neighbourhood forums in areas where there is no town or parish council) will be aware of future planning applications in their area.
- ii. Implement the new streamlined procedure for the modification of a neighbourhood development plan set out in section 4 of and Schedule 1 to the Neighbourhood Planning 2017 Act, to incentivise communities to keep their plans up-to-date.

The housing White Paper set out the following proposals to further support the neighbourhood planning process:

- i. What changes do you think would support more proportionate consultation and examination procedures for different types of plan and to ensure that different levels of plans work together?
- ii. Do you agree with the proposals to amend the National Planning Policy Framework to highlight the opportunities that neighbourhood plans present for identifying and allocating small sites that are suitable for housing?
- iii. Do you agree with the proposals to amend the National Planning Policy Framework to make clear that where a local or strategic plan has demonstrated the need for Green Belt boundaries to be amended, the detailed boundary may be determined through a neighbourhood plan (or plans) for the area in question?
- iv. Do you agree with the proposals to amend the National Planning Policy Framework to:
 - a) Indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure, where this is sought?;
 - b) make clear that local and neighbourhood plans (at the most appropriate level) and more detailed development plan documents (such as action area plans) are expected to set out clear design expectations; and that visual tools such as design codes can help provide a clear basis for making decisions on development proposals?
- v. In taking forward the protection for neighbourhood plans as set out in the Written Ministerial Statement of 12 December 2016 into the revised NPPF, do you agree that it should include the following amendments:
 - a) A requirement for the neighbourhood plan to meet its share of local housing need?
 - b) That it is subject to the local planning authority being able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area?
 - c) Should it remain a requirement to have site allocations in the plan or should the protection apply as long as housing supply policies will meet their share of local housing need?

Planning for the right homes in the right places 2017

The Planning for the right homes in the right places consultation on set out the following proposals to further support the neighbourhood planning process:

- i. Whether a local plan should set out the housing need for designated neighbourhood planning areas and parished areas within the area,
- ii. And proposals for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need.

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