

Neighbourhood Planning Protocol

1.0 Introduction

The Localism Act and the Neighbourhood Planning (General) Regulations 2012 (as amended) offers a new opportunity for local communities to lead and prepare statutory plans for their localities and to prepare Orders giving planning permission for specific development. This opportunity requires communities to take on new roles and responsibilities for preparing statutory planning documents.

To support communities the Council has produced a Protocol for Neighbourhood Planning in Cheltenham. This is intended to:

- Provide general overview and advice to interested local community groups on the Neighbourhood Planning process;
- Provide guidance on how the Council will support and process neighbourhood plans and orders; and
- Provide a coordinated approach within the Council in relation to Neighbourhood Planning.

The Protocol will be kept under review.

2.0 What is Neighbourhood Planning?

Neighbourhood Planning offers three planning tools.

Neighbourhood Development Plans

These Plans allow communities to establish general planning policies for the development and use of land within a defined neighbourhood area and so influence the type, design, location and mix of new development. These plans must be in conformity with adopted district level plans and national planning policy and guidance. They should also support the strategic development needs set out in the Local Plan, plan positively to support local development and **should not promote less development** than set out in the Local Plan or undermine its strategic policies.¹²

Neighbourhood Development Orders

This is a community led “order” that grants planning permission in relation to a Neighbourhood Area for development specified in the Order. An order cannot relate to ‘excluded’ development (for example transport or road works) and does not grant building regulations approval.

Community Right to Build Orders

This is a particular type of Neighbourhood Development Order that grants planning permission for small-scale, site-specific, community-led developments. Building Regulations approval is still required.

¹ National Planning Policy Framework, Paragraph 16 and 184

² National Planning Practice Guidance [Paragraph: 044 Reference ID: 41-044-20140306](#)

The Neighbourhood Planning process is based on community led proposals being subject to an independent examination. Subject to the Examiner recommending approval a local referendum will then determine whether the plan or order should be used to help decide planning applications in the neighbourhood area. The local referendum will be open to residents on the electoral register within the designated neighbourhood area. If the Plan or Order is supported by over 50% of the turnout, the local authority must adopt the plan and include it within its suite of development plans³; or in the case of orders, “make” the Order so removing the need for separate planning permission.

Neighbourhood planning proposals must be:

- In line with local and national planning policies;
- In line with other laws (e.g. European obligations⁴); and
- In accordance with the local planning authority plans for growth.

Cheltenham’s plans for growth are included in the emerging Gloucester, Cheltenham and Tewkesbury Joint Core Strategy; all statutory planning documents for the area including Neighbourhood Development Plans must be consistent with this strategic plan.

There is no requirement for communities to undertake neighbourhood planning. For groups interested in using these planning tools there are a number of publications from organisations funded by government to assist communities in neighbourhood planning. These details are available in the Council’s Neighbourhood Planning webpage.

It is important for local communities to know what neighbourhood planning can and cannot do. A quick summary is provided below:

A Neighbourhood Plan can...	A Neighbourhood Plan cannot...
<ul style="list-style-type: none"> ✓ Decide where and what type of development should happen in the neighbourhood; ✓ Promote more development than is set out in the Joint Core Strategy and Cheltenham Plan; and ✓ Include policies that take precedence over policies in the adopted Local Plan (and in time the non-strategic parts of the Cheltenham Plan), provided the Neighbourhood Plan policies do not conflict with the Joint Core Strategy. 	<ul style="list-style-type: none"> ✗ Conflict with the strategic parts of the development plan (Joint Core Strategy and Cheltenham Plan) or supersede its policies; ✗ Be used to prevent development that has been identified in the Council’s adopted development plan; and ✗ Be prepared by a body other than a parish council or a neighbourhood forum.

³ Planning law requires that applications for planning permission must be determined in accordance with development plans (this includes local plans and neighbourhood plans), unless material considerations indicate otherwise (National Planning Policy Framework, paragraph 2).

⁴ National Planning Practice Guidance [Paragraph: 078 Reference ID: 41-078-20140306](#)

3.0 The Council's role as the local planning authority

Cheltenham Borough Council is the local planning authority and it is required to:

- Accept, publicise and determine applications for the designation of Neighbourhood Forums and Neighbourhood Areas;
- Publish a map of all its designated Neighbourhood Areas;
- Publicise at key stages a Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order;
- Provide technical support for the Plan or Order;
- At submission check that a submitted Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order meets the basic requirements;
- Arrange and fund an independent examination and publish the Examiner's decision;
- Decide whether to submit for referendum and the referendum boundary (taking into account the recommendation of the Examiner) and arrange and fund a referendum in accordance with the Neighbourhood Planning (Referendum) Regulations 2012 (as amended); and
- Bring the Plan or Order into force i.e. adopt the Plan and include it as part of the Council's statutory development plan⁵ or make the Order, subject to a positive referendum result.

4.0 The Role of the Community

Principally the community's role is plan maker or order promoter and their responsibilities include:

- Forming a group. The neighbourhood planning process recognises town and parish councils as 'relevant bodies'⁶ capable of carrying out neighbourhood planning. In non-parished areas Neighbourhood Forum can be formed, these are subject to strict regulations;
- Making an application to the Council for designation as the Neighbourhood Forum (This does not apply to parish councils wishing to designate their full parished area);
- Making application for the Neighbourhood Area;
- Preparing the draft Plan or Order in accordance with the Localism Act, the regulations and national planning policy and guidance and the Council's statutory development plan;
- Resource the drafting of plan and undertake public consultation in accordance with the Regulations; and
- Submit the draft Plan or Order, which has been prepared in accordance with the Regulations, to Cheltenham Borough Council.

5.0 Establishing a Neighbourhood Forum

For non-parished areas within Cheltenham the Regulations require that Neighbourhood Development Plans and Orders are prepared by designated Neighbourhood Forums for a defined Neighbourhood Area. It is anticipated that a new Neighbourhood Planning Forum is

⁵ The 'statutory development plan' can consist of more than one plan

⁶ Section 61G of the 1990 Town and Country Planning Act

constituted specifically to use the Neighbourhood Planning tools. Regulations require neighbourhood forums:

- To have a written constitution;
- To be established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists of or includes the neighbourhood area concerned;
- Ensure its membership is open to, individuals who live and/or work in the neighbourhood area;
- Its membership includes a minimum of 21 individuals each of whom live or work in the area; membership should include an elected ward member for the area;

The Council will use these regulations to help review applications seeking to establish a Neighbourhood Forum. The Council will require neighbourhood forums to provide evidence it has attempted to engage local stakeholders including existing community and residents groups, local businesses and local ward members. Local Member support for the Forum will be helpful in this process.

In making the application for a Neighbourhood Area the reasoning for the boundary needs to be given.

Cheltenham Borough Council will accept applications for designation of a Neighbourhood Forum and a Neighbourhood Area at the same time, however in accordance with the Regulations **there cannot be more than one designated group for a Neighbourhood Area**. Where two applications for designation of Neighbourhood Planning Forums for the same Neighbourhood Area are received, the applications will be determined by the Council's Cabinet.

The designation is valid for five years from the date it was made and ceases after that. This does not affect the validity of a Plan or Order brought into force within the five year period. The Council may also withdraw a designation before this time if the designated group no longer meets or does follow conditions attached to the designation.

6.0 Preparing a Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order

In preparing the Plan or Order the Parish Council and/or designated Neighbourhood Forum should have regard to the following:

- The Plan or Order should set out policies in relation to the development and use of land within the neighbourhood area;
- The Plan should have regard to the National Planning Policy Framework and national Planning Practice Guidance;
- Proposals must be in general conformity with the strategic policies contained within the Joint Core Strategy⁷, the Cheltenham Plan and other key policy documents;
- Proposals must be compatible with EU obligations and the Human Rights Act;

⁷ All policies in the Joint Core Strategy are strategic

- Neighbourhood Planning is intended as a tool for communities to promote and unlock development; and
- The specific requirements of the Localism Act Neighbourhood Planning (General) Regulations 2012 (as amended).

7.0 Resources

There is no requirement or expectation by Government for local authorities to fund communities to undertake Neighbourhood Planning. Cheltenham Borough Council does not have a budget to fund Neighbourhood Planning and it will not write the plan or order for the local community. Any funding the Government provides to the Council to support Neighbourhood Planning will be kept by the Council to support the cost of the required independent examination and referendum.

Government funding has been provided to a number of organisations to support community groups in Neighbourhood Planning. Where possible the Council provides signposting to Government funding these organisations via its Neighbourhood Planning webpage.

Council officer support will be prioritised for areas where there are opportunities for new development in support of the Joint Core Strategy and Cheltenham Plan aims and objectives.

The amount of support the Council is able to provide will be relative to the time the Parish Council or Neighbourhood Forum wish to achieve adoption; early engagement is vitally important in this regard. It allows the council to safeguard time and resources for a neighbourhood plan or order into its corporate project management systems.

The Council will use existing planning systems that record planning enquiries, responses and applications.

The Council will offer the following support to groups approved to progress Neighbourhood Development Plans and Orders:

- A lead officer from Planning will act as the Council's main point of contact;
- The Council will provide technical advice on the Neighbourhood Planning processes and planning issues;
- Provide available baseline data and make contacts with other parts of the Council as necessary;
- Provide advice on what supporting information will be required;
- Provide feedback on draft reports, etc. within an agreed timeframe; and
- Advise on consultation requirements.

8.0 The Council's Neighbourhood Planning Protocol

The following principles set out how the Council will manage the neighbourhood planning process at each stage. Supporting this protocol is a process checklist which is located in Appendix A.

Publicising Neighbourhood Areas and Neighbourhood Forums

- a) Applications will be publicised on the Council's Neighbourhood Planning webpage;
- b) **Cabinet Member for Plan Preparation, the Planning and Liaison Member working group and local ward members** for the areas concerned are to be notified;
- c) Any known major stakeholders/landowners notified; and
- d) Democracy and Elections Office notified.

Designating Neighbourhood Areas and Neighbourhood Forums

- a) Decision on applications for designation on Neighbourhood Areas/ Neighbourhood Planning Forum will be made by the **Cabinet**;
- b) Where there are competing applications for designation of a Forum/Neighbourhood Area the views of the **Cabinet and local ward members** for the areas concerned will be sought in making the decision;
- c) Decisions to de-designate existing Neighbourhood Planning Forums to be made by **Cabinet**; and
- d) Key Officers in the Council notified of decisions including Elections Office.

Pre-submission consultation and publicity

- a) The parish council, relevant organisation or neighbourhood forum is required to consult the Borough Council (along with other relevant consultation bodies), the Council will provide comments to this consultation in its capacity as the local planning authority; and
- b) Officers will provide comments and consideration of the plan/order will also be made via the **Planning and Liaison Member Working Group**.
- c) The council strongly encourages Parish Councils and Neighbourhood Forums to request the Planning Inspectorate to peer review pre-submission plans. This is not a free service and Parish Councils and Neighbourhood Forums will have to fund this.

Submission of Neighbourhood Development Plan

- a) The Council will validate Neighbourhood Plans against national planning policy, local planning policy and will flag up any issues in relation to other legislation e.g. Habitat Regulations in order to make sure it is ready to go to Independent Examination; and
- b) **Council** will determine whether the submitted Neighbourhood Plans and Orders should move to examination;

Independent Examination, Referendum and Adoption

- a) Independent Examiner agreed by the Parish Council/Forum and appointed by the Council;
- b) Report of the Examiner published, approves or rejects the Plan or Order for referendum;

- c) Subject to a positive examination the **Council** will determine whether the plan should progress to a referendum by publishing a decision statement;
- d) The council will run the referendum on behalf of the parish council/forum;
- e) Decisions to adopt a Neighbourhood Development Plan and a Neighbourhood Development Order are made by **Cabinet**;
- f) Decisions to modify or revoke existing Neighbourhood Development Plans/Orders to be made by **Council**; and
- g) Key Officers in the Council notified of decisions including Elections Office.

Parish Councils and Designated Neighbourhood Forums will be expected to:

- Form a steering group with terms of reference and representative stakeholder engagement;
- Set out a programme to undertake the Plan including date of submission to Cheltenham Borough Council. This should be discussed with the relevant officers to help the council safeguard time and resources⁸;
- Seek support from organisations funded by the Government to support Neighbourhood Planning;
- Seek opportunities for widespread stakeholder engagement;
- Create and maintain a website for the Plan or Order;
- Maintain contact with the Council at key stages in drafting the Plan and advise of changes to programme;
- Engage local governance structures such as the positive participation partnership and neighbourhood co-ordination groups;
- Adhere to the Neighbourhood Planning Regulations;
- If appropriate undertake a Sustainability Appraisal and a Habitats Assessment of the Plan to assess its viability*;
- If appropriate undertake a Transport Impact Assessment*;
- Demonstrate consultation on the draft plan through consultation plan and consultation record;
- To advise the Council if at any stage a decision is taken not to continue with the Plan and designation to be withdrawn; and
- Finally, maintain the principle of Neighbourhood Planning as a tool to promote growth.

* The Council supported by Government and non-Government organisations will provide advice where possible.

⁸ Progress on the Plan and Order can only be achieved in a timely manner with early engagement with the council

SIMPLIFIED NEIGHBOURHOOD PLANNING PROCESS

STAGE ONE:

The council designates:

- Neighbourhood Area;
- Neighbourhood Forum

Application submitted by community group and/or Parish Council to Cheltenham Borough Council.

Applications publicised in line with regulations (4 to 6 weeks). Cheltenham Borough Council agrees or rejects application and decision is publicised on Council's website.

STAGE TWO:

Community prepares draft Neighbourhood Plan or Order with technical advice from the Council

Community Group (Parish Council or Neighbourhood Forum) prepares draft Neighbourhood Development Plan or Order with Background documents, studies and assessments as required to support the Plan.

Undertake extensive consultation with local stakeholders, businesses and community.

Submit draft plan or Order to Cheltenham Borough Council

STAGE THREE:

Independent Examination

Cheltenham Borough Council validates (at its Council committee) that the submitted draft Neighbourhood Development Plan or Order meets procedural requirements

Independent Examiner agreed by the Forum and appointed by Cheltenham Borough Council.

Report of the Examiner published, approves or rejects the Plan or Order for referendum. Final decision made by the Local Planning Authority.

STAGE FOUR:

Local Referendum

Referendum must be open to those on the electoral register within the Plan Boundary. A wider Referendum area may be used if deemed necessary by Cheltenham Borough Council taking into account the recommendations of the Examiner.

STAGE FIVE:

Adoption

If more than 50% of the votes support the Plan or Order, it is adopted or made by Cheltenham Borough Council via its Cabinet. Adopted Neighbourhood Development Plans form part of the Councils statutory Development Plan, which is the starting point for determining planning applications.

APPENDIX A: Neighbourhood Planning Process Checklist

This checklist has been produced with reference to the Neighbourhood Planning (General) Regulations 2012 and should only be used as a guide, please refer to the regulations to ensure your plan is compliant.

This is a process checklist for those wishing to undertake neighbourhood planning to help ensure that the Regulations are met. The checklist focuses on those elements of the Regulations that need to be met.

1. Defining the Neighbourhood Area (Regulation 5)

The first step in the process is the designation of a Neighbourhood Area. The Neighbourhood Area will define the area covered by the proposed Neighbourhood Development Plan. Neighbourhood Areas cannot overlap and the local planning authority must have regard to the desirability of maintaining the boundaries of other Neighbourhood Areas that have already been designated. There is no minimum or maximum size for a Neighbourhood Area. It may be the area administered by the Parish Council or an area proposed by a Neighbourhood Forum. In the following paragraphs of this checklist references shall be made to Neighbourhood Forum on the basis that this shall include, where appropriate, the Parish Council. Applications for the designation of a Neighbourhood Area must be made to the Council and it must include the following information:

- An Ordnance Survey map of the area · A statement explaining why this area is considered appropriate
- A statement that the organisation or body making the application is a 'relevant body' (i.e. The body or organisation making the application is or is capable of being designated as a Neighbourhood Forum).

The Council will publicise the application (Regulation 6), determine, and publish the decision (Regulation 7) in accordance with the Regulations.

2. Designating the Neighbourhood Forum (Regulation 8)

The next step is to make an application for the designation of the Neighbourhood Forum. The application must include:

- The name of the proposed neighbourhood forum
- A copy of the written constitution of the proposed neighbourhood forum
- The name of neighbourhood area and a map identifying the area
- The contact details of at least one member of the proposed neighbourhood forum (these details will be made public);
- A statement that the organisation or body making the application is a 'relevant body' (To be a relevant body the Forum must be set up to promote or improve the social, economic and environmental well-being of the neighbourhood area; and must have at least 21 members, with membership open to all those who live, work or are local authority elected members for that area⁹)

⁹ Neighbourhood Forums should represent the character of the area, involving a range of people and groups. Ideally these should include local Councillors and local businesses, as well as resident groups, community

The Council will publicise the application (Regulation 9), determine and publish the decision (Regulation 10) in accordance with the Regulations.

3. Neighbourhood Development Plan

The Neighbourhood Forum is then able to start work on the neighbourhood development plan. A neighbourhood development plan is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any specified part of the neighbourhood area. Support is available from the Council.

Pre-submission consultation and publicity (Regulation 14)

Before submitting a Neighbourhood Plan to the Council the Neighbourhood Forum must publicise in an appropriate manner in the neighbourhood area:

- details of the proposals in a draft neighbourhood development plan
- details of where and when proposals for the neighbourhood development plan can be seen
- details of how to make representations
- the deadline for receipt of representations (minimum 6 week period)

The Neighbourhood Forum must also consult relevant consultation bodies that may be affected by neighbourhood development plan (a list of the relevant consultation bodies is attached as Appendix 1) and send a copy of proposals for the neighbourhood development plan to the Council.

Submission of Neighbourhood Development Plan (Regulation 15)

When a Neighbourhood Forum submits a Neighbourhood Development Plan to the Council it must include the following:

- a map or statement identifying the proposed neighbourhood plan area
- a consultation statement (which includes details of those persons and bodies consulted about the plan, explains how they were consulted, summarises the main issues raised by consultees and describes how issues have been considered and where relevant addressed in the proposed Neighbourhood Development Plan)
- the proposed Neighbourhood Development Plan; and
- a statement explaining how the proposed neighbourhood development plan meets the relevant legislation otherwise known as the Basic Conditions Statement.

The Council will, if satisfied that the above requirements have been met in accordance with the Regulations, then validate, publish the plan (Regulation 16), appoint an examiner, submit the plan for examination (Regulation 17), publish the examiner's report (Regulation 18), publish the decision (Regulation 19), conduct a referendum, and publicise the Neighbourhood Development Plan (Regulation 20) in accordance with the Regulations. The Plan then becomes part of the Statutory Development Plan.