

# Neighbourhood Plans: Outline of the legal framework

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The Power of  
Neighbourhood  
Planning



# Overview



- **Legal Framework and Procedure**

- Town and Country Planning Act 1990
- Planning and Compulsory Purchase Act 2004
- Neighbourhood Planning (General) Regulations 2012
- Neighbourhood Planning (Referendums) Regulations 2012
- SEA Directive / Regs

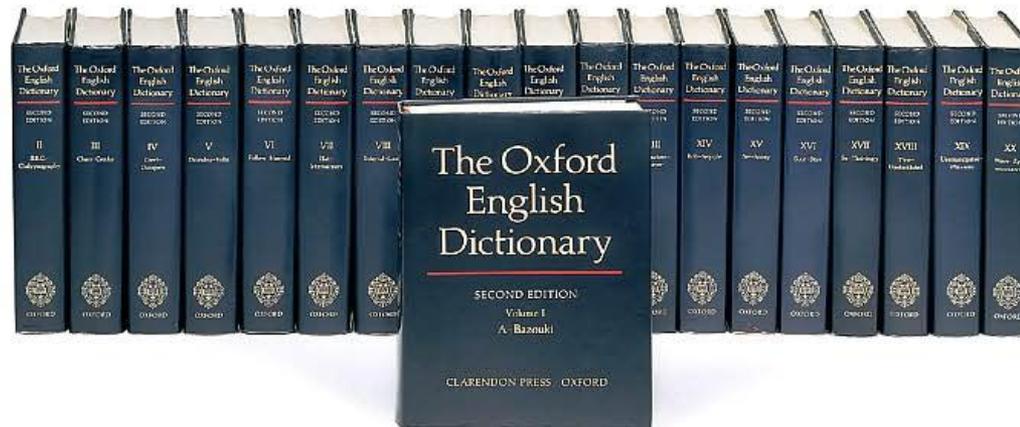
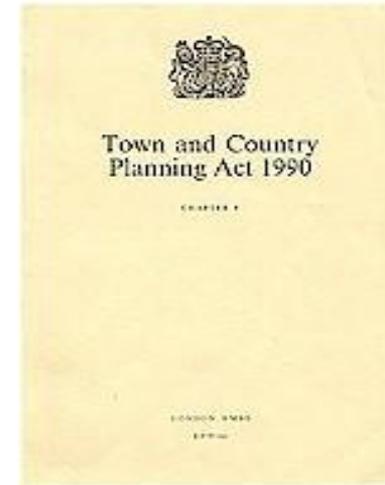
- **Policy and guidance**

- NPPF, esp paras 16 and 183-5.
- NPPG

# (1) Definitions



- Neighbourhood Plan defined at s.38A PCPA 2004
  - “Initiated” by qualifying bodies, “made” by the LPA
  - Cannot cover “excluded matters”
- What is a:
  - “Qualifying body”: s.61E TCPA 1990
  - “Neighbourhood forum”: s.61F TCPA 1990
  - “Neighbourhood area”: s.61G TCPA 1990



- Plans sets out policies “in relation to the development and use of land in the whole or any part of a neighbourhood area”: s. 38A
- Plans can allocate sites for development (additional and alternative to Local Plans)
- May not include provision for “excluded development”: s. 61K (county matters, waste development, Annex 1 EIA development, NSIPs)

## (2) Process



# Overarching points



- Process driven by qualifying body
- LPA takes decisions at key stages and must provide assistance and advice

# (i) Neighbourhood Area application



- Application accompanied by map and statement of reasons
- New time limits anchored by category:
  - a) If area crosses LPA boundary: 6 weeks of consultation + decision within 20 weeks of first publication
  - b) If coterminous with parish/town council area and applicant is parish/town council: 4 weeks of consultation + decision within 8 weeks;
  - c) In all other cases: 6 weeks of consultation + decision within 13 weeks.
- If necessary, designate neighbourhood forum

## (ii) Pre-examination



- See (a) *Schedule 4B of the TCPA 1990* & (b) *Part 5 of the Neighbourhood Planning (General) Regulations 2012*

Pre-app consultation by qualifying body – 6 weeks

Application – draft plan, map, consultation statement, SEA report or reasons for negative screening determination

LPA “*assists*”

LPA checks then publicises  Consultation - 6 weeks



If plan complies with requirements,  
LPA ***must*** submit for examination.

## (iii) Examination



- Generally written reps, but can be hearing.
- Examiner's considerations: (cf. § 8, Schedule 4B TCPA 1990)
  - National policy compliance
  - Compliance with legislation on listed buildings, heritage features and conservation areas
  - Contribution to achievement of sustainable development
  - General conformity with "strategic policy" – LPA must provide details
  - Compatible with EU obligations – esp. SEA



**NOT SOUNDNESS**



Planning  
Inspectorate

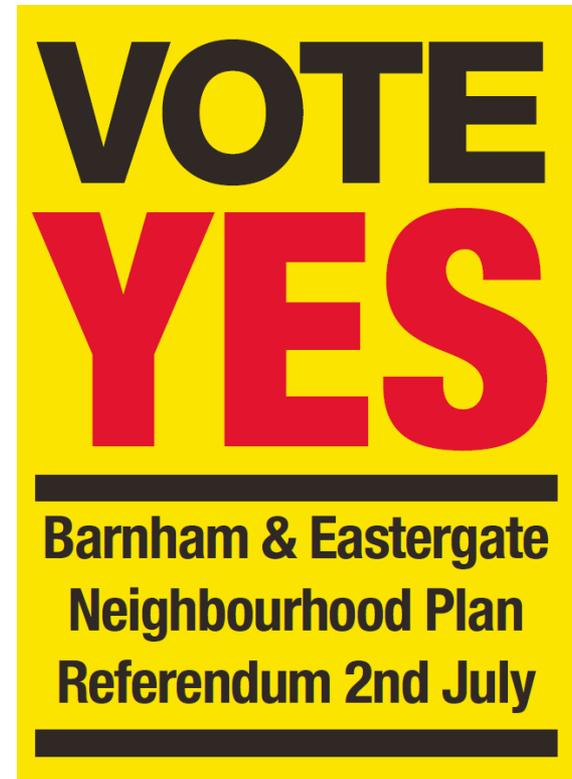
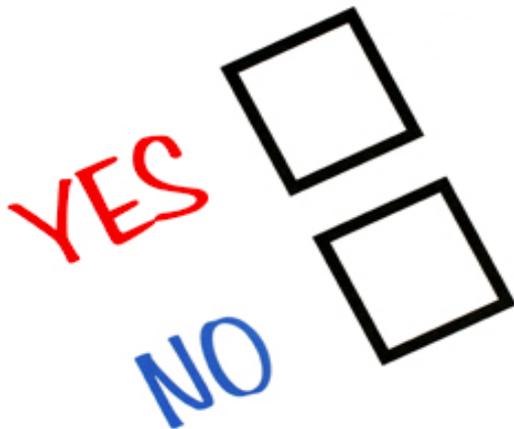
# (iv) Report



- Examiner must report recommending either that:
  - a) Draft plan be submitted to referendum,
  - b) Draft plan be modified as specified, or
  - c) Draft plan rejected.
- LPA considers Examiner's Report, decides what action in respect of each recommendation, may modify if necessary to meet basic conditions.
- If LPA agrees with report, and satisfied that compliant with EU law, then it *must* hold a referendum:
  - § 14, Schedule 4B TCPA 1990
  - Neighbourhood Planning (Referendums) Regulations 2012

## (v) Referendum

- Referendum area is for LPA to determine, minimum is the NP area.
- 50% threshold.
- Then, unless LPA considers breach of EU law, it *must* “make” the plan.



# (3) Key Policy Statements



- Paras 183-185 NPPF:

*184. Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.*

*“185. Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict. Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.”*

- The express reference to NPs as a factor shaping and directing sustainable development means that they have weight in determining what *is* sustainable development – see decision in *Crane* (talk following)

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