

Neighbourhood planning

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About the author

Neil McDonald chose to leave the Department for Communities and Local Government (DCLG) at the end of March after 31 years as a policy civil servant, the last eight in director-level roles in housing and planning in DCLG and its predecessors. Amongst other projects he is currently involved in developing a neighbourhood plan for the community in which he lives.



Summary

- Neighbourhood plans are a new tier in the planning system, fitting beneath local authority plans. They are voluntary. They have to be 'in general conformity' with the strategic policies in the local authority's plan, but the intention is that there will still be scope for local communities to shape the development of their neighbourhoods. Planning decisions will then have to be taken in line with the neighbourhood plan, unless there is good reason for doing otherwise
- Aspects that local communities will be able to influence include where houses, shops, offices and businesses go, what type they are and what they look like
- The government hopes that, as a result of development being more in line with the community's wishes, local people will be more favourably disposed towards it – leading to increased housing and economic development
- Local communities won't be able to use neighbourhood plans to reduce the amount of development in the local authority's plan, but will they respond as the government hopes and want more development? Key factors will include whether local people understand and accept the need for more development; the impact of incentives like the New Homes Bonus and the Community Infrastructure Levy; and whether a substantial proportion of the money that these raise is actually spent in the local area on things the local community wants to see
- Ultimately, the success of neighbourhood planning depends on people being persuaded that the right development will make their community better. Greater involvement in the planning process and less of a sense of being 'done to' may ease opposition to development, but identifying options that communities will find positively attractive has to be the key.

Losing a tier and gaining a tier

We are about to lose the regional tier in our planning system, and gain a neighbourhood tier – at least where communities opt to produce a plan. Both could have significant implications for housing delivery.

Regional plans are, for all practical purposes, history. Ministers have argued that top-down housing targets have failed: that they caused resentment and entrenched opposition. They have blamed them for the lowest peace-time housebuilding figures since 1924.

Subject to the Localism Bill becoming law, we will soon have the option of a new tier below local authority plans: neighbourhood development plans (NDPs). According to the Decentralisation Minister, Greg Clark, neighbourhood planning will give local people “...a real voice in deciding the look and feel of development in their area... Communities will be able to shape their own vision for the future as they see fit. They will be able to protect what makes their town or village special, including green spaces, and have their say on the design and location of new homes.”¹

This briefing looks at what is involved and what the practical effect is likely to be.

“Regional plans are, for all practical purposes, history”

The mechanics of neighbourhood planning

There are a number of steps involved in producing an NDP:

- **First a local group needs to decide that it wants to produce an NDP.** NDPs are not compulsory. If they are not produced, the local authority's plans will apply as they do now. In areas in which there are parish or town councils, they will take the lead on producing an NDP. There are, however, large parts of the country that do not have parish or town councils. In those areas there will need to be a group to lead on co-ordinating the local debate and drafting the plan. This could be an existing group or a new group. In either case it would need to be designated by the local planning authority as a 'neighbourhood forum' – which means it would need to meet certain criteria (see section on 'democratic legitimacy' below)
- **The area to be covered by the NDP will need to be defined.** The government isn't being prescriptive about what would be an appropriate area for an NDP. It could be only part of a ward, two or more wards or it could even cross local authority boundaries. Deciding sensible neighbourhood planning areas may be reasonably straightforward in rural areas and small towns where fields separate clearly distinct communities – but that is not always the case in rural areas. In urban areas this will be a lot less clear-cut. It will be left to the relevant local authorities to decide whether a proposed area makes sense. They will, for example, check that neighbourhoods don't overlap or leave small areas not covered.

There is also a provision that allows a local authority to designate an area as a 'business area' if, and only if, the area is 'wholly or predominately business in nature'. This would allow businesses to produce a plan for the area. If the area includes residents they would need to be represented on the forum. If the plan impacts on neighbouring residential areas they would, at very least, need to be consulted:

- **The parish/town council or neighbourhood forum will then be able to begin the process of producing the plan.** Again the government isn't being prescriptive about the content. The plan could say where new homes and offices should go and what they should look like. It can be detailed or general depending on what local people think is appropriate, but it must be 'in general conformity' with the strategic policies in the local authority's plan and have regard to the National Planning

Policy Framework.² A key issue is what this means in practice – and hence how much scope there is for the local community to make a real difference. I'll return to this below.

Understanding what is happening in the local housing market and the local economy will be vital at this stage if the plan is to address the real issues in the community. Whilst local people will know their local area, they may not necessarily understand the scale of the issues or what the options for addressing them might be. Gathering together an evidence base to inform discussion will be important, and possibly quite challenging. Whilst a certain amount of data is available at ward level, much of the data about housing supply and demand is not disaggregated more finely than the local authority district/borough level. The local authority could be invaluable here, providing data from its own sources and any local surveys that it has conducted recently. The final plan does, of course, have to withstand scrutiny from an independent examiner:

- **Full engagement with the community will be important at this stage** if the proposals are to reflect what the community as a whole wants, not just what the members of the parish/town council or the forum want. The local authority will provide support and guidance to ensure that the plan is technically sound: this will be a legal obligation once the Localism Bill becomes law. The government has also funded four organisations to provide further support: the Prince's Foundation for the Built Environment; Locality (a new organisation formed by the merger of bassac and the Development Trusts Association, two leading networks of community-owned and led organisations); the Campaign to Protect Rural England (CPRE) with the National Association of Local Councils (NALC); and RTPI/Planning Aid
- **There will then be an independent examination of the plan** by a person appointed by the local authority. This will be the opportunity for any who want to object to elements of the plan to do so. It is envisaged that the examination will normally be by written submissions rather than at a public hearing, but examiners will be able to hold a public hearing if they think it is appropriate.

According to the draft National Planning Policy Framework (NPPF), to pass the independent examination the NDP must:

- Have regard to the policies in the NPPF
- Be in general conformity with the strategic policies in the Local Plan

- Be compatible with relevant EU obligations and human rights requirements.

If the plan doesn't pass muster the examiner will recommend changes. It will be for the local planning authority to consider whether to make those changes. If the examiner recommends significant changes, the parish/town council or forum may want to consult with the community again before pressing ahead.

- **Provided the plan meets the basic standards, the local authority will organise a 'community referendum'**. This will not be cheap. Steps will need to be taken to ensure that everyone has access to the draft plan. Anyone registered to vote in local elections will be able to vote. In some special cases, if the plan has significant implications for other people outside its area, people in adjoining neighbourhoods may be allowed to vote too. This raises all sort of practical issues which hopefully will be clarified when the Department for Communities and Local Government (DCLG) produce regulations on referenda
- **If 50% or more of those voting are in favour, the local authority has to bring the plan into force.** This means that planning applications have to be decided in line with the plan unless there are good reasons for doing otherwise.

Democratic legitimacy

The Opposition has made it clear that they support the principle of neighbourhood planning, but that has not stopped some fairly vigorous debate during the passage of the bill. One of the key issues has been the democratic legitimacy of the body developing the plan. Where that body is a parish or town council there shouldn't be too much of an issue, although statistics suggests that a large proportion of seats on parish councils are uncontested. That may, of course, change if parish councils are seen to be rather more important bodies with real influence over how the community develops. The bigger issue is those areas without parish or town councils who have to form a neighbourhood forum.

“When the Localism Bill was first introduced, it was proposed that neighbourhood forums need only have three people on them”

Incredibly, the proposal when the Localism Bill was first introduced was that neighbourhood forums need only have a minimum of three people on them. That caused some of the most entertaining exchanges in the bill committee that I have seen for some time. Jack Dromey lampooned the proposal as follows: “One could envisage Del Boy and Rodney sitting in the Nag’s Head when that pillar of Peckham society, Trigger, comes in and says: ‘Ere, Del, I hear that if the three of us get together we could form the Peckham neighbourhood forum.’ I suspect that Del’s initial reaction would be to say: ‘Rodney, Trigger, you plonkers. No one could be that daft’.”³

Needless to say that proposal was quickly amended. The minimum is now 21. The members must live in the neighbourhood, work there, or be elected members of a council which includes the neighbourhood. It is for the local planning authority to decide whether a body should be designated as a neighbourhood forum. In so doing it has to take into account how representative the organisation is of the area. This includes whether it includes those who live in, work in and represent the area, and whether the membership is drawn from different parts of the neighbourhood and from different sections of the community. How these tests (set out in Schedule 9 of the bill) will be applied in practice remains to be seen. There is undoubtedly a risk that a forum will be made up of the more articulate members of the community and those with time to devote to it, possibly leading to bodies dominated by retired homeowners who may be mainly concerned with preserving the community as it is. Real effort may be needed to persuade those from less well-off areas or in full-time jobs with heavy family commitments to get involved, but the amount and type of housing that is delivered could potentially have a much bigger impact on them than on retired homeowners.

At least one group seeking to set up a neighbourhood forum has taken the view that the way to have a forum that reflects the

community is to have a body with more than 40 members. Having such a large number makes it possible to ensure that all sections of the community are represented, including the different geographical areas, different age groups, women as well as men, the different tenures, households with and without children, ethnic minorities and those with disabilities – as well as businesses and interest groups. Trying to get a smaller group to reflect all of these aspects of a community can be near impossible. On the other hand, having such a large number may make it difficult to move quickly to take decisions about what the plan should say, but moving quickly and producing a plan that the community won't support in a referendum would be counter-productive. It should be noted here that there is no set timetable for producing an NDP: given that in many cases much of the work will be done by volunteers, the timescale could easily stretch into years.

“There will be a plethora of practical issues that will need to be resolved”

There will be a plethora of practical issues that will need to be resolved, including what happens if too many people from one section of the community volunteer to sit on the forum? Organising some kind of election would probably not be feasible, so unless those concerned can agree amongst themselves who should represent their section of the community, there would seem to be little option but to draw lots.

The ultimate guarantee of democratic legitimacy is the requirement that at least 50% of those voting in a referendum must support the plan. There is no minimum turn-out requirement, so a plan could be supported by only a minority of the community, but the same is true of a government elected after a general election. Those who do not bother to vote have only themselves to blame if they don't like the result, although there has to be a risk that those who oppose what is proposed will be motivated to turn out, while those who are content are more likely to stay at home.

How much scope will a community have to make a difference through its plan?

At a public meeting on one NDP a perceptive but sceptical member of the audience asked: “How much difference will we actually be able to make?” In effect, the question was: “Is it really going to be worth the effort involved in developing and gaining approval for a plan?”

Local communities will certainly not be able to start with a clean sheet of paper and it would be a nonsense if they could: the development that happens (or doesn't happen) in one area can have implications that stretch far beyond the boundaries of the area. The draft NPPF makes it clear that NDPs ‘must be in general conformity with the strategic policies of the Local Plan’. Those words are crucial. ‘General conformity’ provides a degree of flexibility. It is not strict conformity with every single policy in the local plan but overall conformity with the strategic policies in the plan. It will be for the independent examiner to decide whether this test has been satisfied.

The NPPF makes it clear that the government believes that there is scope for different approaches to be taken. It says: “When a neighbourhood plan is made, the policies it contains take precedence over existing policies in the Local Plan for that neighbourhood, where they are in conflict.” The NPPF also suggests that local authorities should avoid making non-strategic policies where an NDP is in preparation – in effect leaving the local detail to the local community.

The big question is what this amounts to in practice.

One area has been made very clear. As the NPPF says: “Neighbourhoods will have the power to promote more development than is set out in the strategic policies of the Local Plan.” It is equally clear that they won't be able to suggest fewer homes than are envisaged in the Local Plan. However, not all local authority plans set the number of homes to be delivered in each neighbourhood, so determining whether this test has been met won't be straightforward in all cases.

NDPs will be able to influence where the housing required in their area goes and what it looks like. They may also be able to influence the mix of housing – flats, attached or detached houses, number of bedrooms, etc – provided this doesn't cut across anything that is deemed to be strategic in the local plan. These could have a significant impact on the feel of the community and issues like the extent to which new development provides homes that younger people living in the community could afford when their families grow and they need to move to somewhere larger. Another key issue may be

“Plans will be able to influence where the housing required in their area goes and what it looks like”

providing homes in the community that older people would find attractive when they come to think about downsizing from their family-sized homes.

More controversially, potentially, might be whether a neighbourhood could introduce a policy to prevent or restrict 'garden grabbing' – the development of several homes or blocks of flats in the grounds of large properties. It would be consistent with the approach taken for this to be possible, provided, of course, sufficient land was included for the housing development that is needed. The ideal would perhaps be for a community to be able to debate, in an informed way, choices like allowing intensive development of larger plots as they become available – with the attendant consequences for the character of existing neighbourhoods – or allowing the release of greenfield sites to provide alternatives. This would be a very healthy development as many communities have so-called greenfield sites that are not attractive well-maintained fields and have little or no amenity value.

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Which way will communities jump?

Will communities seize the initiative, recognise the need for more housing and use NDPs to influence positively how their communities grow? Or will they use them to restrict development as much as possible, seeking to preserve what they have in aspic?

The theory is that if plans for the local area are developed by and with the local community, the local community will feel a sense of ownership of the plan for their area, development will be more in line with their wishes, and as a result they will be more inclined to accept development. Antagonism caused by what is seen as the top-down imposition of housing requirements will be reduced, leading, it is hoped, to an increase in development. Indeed DCLG has said that: “One of the principal objectives of neighbourhood planning is to increase the rate of growth of housing and economic development in England.”⁴

There can be no doubt that there is a considerable amount of antagonism to housebuilding, but will the introduction of neighbourhood planning really affect that significantly? The DCLG impact assessment quotes some research carried out for the National Housing and Planning Advice Unit (NHPAU) on Public Attitudes to Housing in 2010,⁵ which suggested that 73% would support more homes if they were well designed and in keeping with the local area. The suggestion here is that NDPs would enable communities to ensure that housing in their areas is in line with their wishes and that, as a consequence, they would be more supportive of it. However, that same research said that 76% would support more houses being built in their local area if the quality local services like GP surgeries, hospitals, and schools did not suffer, and 70% would also be in favour if homes were accompanied by the necessary infrastructure like roads and utilities. Those issues clearly also need to be addressed if opposition to housing is to ease.

This is where incentives might play a crucial role. I doubt whether many communities will ask explicitly ‘what’s in it for us if we accept more houses than the absolute minimum?’, but the thought won’t be far beneath the surface. The government has introduced the New Homes Bonus (NHB) explicitly to ensure that a benefit is seen from accepting new housing. A clear indication has also been given that for both the New Homes Bonus and the Community Infrastructure Levy (CIL) the areas that accept the development should see a substantial proportion of the benefit. The NPPF says: “The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful

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proportion of the funds raised with the neighbourhoods where development takes place.”⁶

I imagine that there will be some interesting discussions between neighbourhood forums and their local authorities about how large a ‘meaningful proportion’ might be. Indeed, for the incentive effect to work, something very clear would need to be said to the local community about the benefits they will see. Will we see councils offering road, parking and public transport improvements, doctors’ surgeries and schools in response to the understandable concerns of residents that more homes will mean more traffic congestion, greater difficulty parking, it becoming even harder to see the GP or get your children into the local school? Will we end up with negotiations between parish councils or neighbourhood forums and district councils about what is to be provided?

The ideal is that the debate moves on from: “How can we fit in the housing we are going to have to have with least damage to our area?” to: “How can we seize this opportunity to make our community a better place to live and work in?” Identifying positive possibilities – things that will excite the local community – is no small challenge. This is an opportunity for the planning profession to show how their craft can produce better places. Perhaps the government needs to find a little money to fund a few demonstration projects and then share good practice?

This leads naturally into the question ‘who should an NDP be for?’ Every local community will contain people approaching the issues from very different perspectives. Those who are comfortably housed are likely to see things very differently from those wanting to start out on their housing career and set up their first home (whether in the rented sector or through owner-occupation) or those in a small first-time buy who are keen to move somewhere larger as their family grows. These different perspectives can be taken into account by ensuring that a neighbourhood forum reflects the make-up of the community, not just those with the time and inclination to get involved.

“Every local community will contain people approaching issues from very different perspectives”

The bigger picture

That cannot, however, reflect the interests of those who might want to move to the area, who will be completely unrepresented. In high demand areas numbers of people migrating in and out of an area – mainly from other parts of the country – can dwarf ‘natural change’, ie, births less deaths. This does, of course, mean that neighbourhoods, and, indeed, local authorities as a whole, can conveniently assume that those who will not be accommodated by new housebuilding will go elsewhere. The issue here is who cries ‘foul’ if we end up with a situation in which every authority assumes that the surplus households will migrate somewhere else.

“Some authorities will argue that they haven’t land that isn’t green belt or otherwise protected”

The answer could, and perhaps should, be that local plans (which NDPs have to be in ‘general conformity’ with) should take into account likely migration flows. Indeed, the draft NPPF points in this direction when it says (repeatedly) that “...plans should be prepared on the basis that objectively assessed development needs should be met, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole”.

Most plans in the southern half of England don’t do that, but are based on housing numbers handed down from the old regional plans which did not provide for objectively assessed housing requirements. At best authorities which don’t plan to provide housing for the new households envisaged in household projections assume that net migration to other parts of the country will account for the difference. It remains to be seen whether the ‘new duty to co-operate’ will result in authorities consulting those areas to which they assume net migrants might go will check whether there is likely to be sufficient housing to accommodate them. If they don’t, will planning inspectors find their plans unsound?

Of course many authorities may seek to take advantage of the caveat ‘...unless the impacts of doing so would... outweigh the benefits’. Some will argue that they haven’t land that isn’t green belt or otherwise protected. The extent to which those arguments will stand up will depend on how hard those concerned search for those parcels of land that may be technically greenfield, or benefit from some other designation but have little or no amenity value. The test that the adverse impacts must ‘significantly and demonstrably’ outweigh the benefits is a high one – and needs to be if the NPPF is to result in the significant increase in housebuilding that is needed.

In theory this kind of approach could work but it would require some brave planning inspectors and would lead to significantly

higher levels of provision for housing in local plans. That in turn would need to feed back into NDPs. It is not clear what would happen if an NDP that had already been adopted didn't reflect an increased requirement for housing in a local authority plan. Would it be sacrosanct, or would the parish/town council or neighbourhood forum be required to produce a new plan in general conformity with the new local plan? The DCLG impact assessment of NDPs assumes that they are reviewed every ten years: that is quite a long time to wait if local plans are to be revised to reflect government aspirations to see a significant increase in housing development.

“DCLG's impact assessment of NDPs assumes that they are reviewed every ten years: quite a long time”

Neighbourhood development orders

The focus of this briefing is on NDPs, but it is worth noting that the Localism Bill also provides for neighbourhood development orders to be made by similar processes to those for NDPs. These will grant planning permission for development that complies with the order, potentially providing an easier and quicker way for development that is supported locally to be taken forward.

Conclusions

NDPs will not give local communities *carte blanche* to plan the development of their areas from scratch, but there should be scope to make a worthwhile difference. Benefit could also come from the process encouraging an informed debate about what the issues are in area – including how big they are – and what the options might be. Creating a sense of involvement in the plan-making process and ownership of the end result – rather than powerlessness and a sense of being ‘done to’ – could also help change attitudes.

NDPs won’t be allowed to cut housing development below the level envisaged in the local authority’s plan. Whether they will lead to more development will ultimately depend on whether local people see benefit in accepting more homes. A better understanding of the scale of the housing challenge and the money raised by the NHB and the CIL being used to deliver practical improvements that the community wants could both make a difference. However, changing entrenched attitudes – which tend to assume that development is bad – is a real challenge. Ways need to be found to show that bigger communities can be better ones.

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What local authorities and housing associations can do to support neighbourhood planning

Whilst a lot will depend on how local communities react to the opportunities offered by NDPs, local authorities and housing associations can also play significant roles which could help to ensure positive outcomes. In particular they could:

- **Support neighbourhood forums in understanding the key drivers of change in their communities.** There may well be something in the government's view that communities have in the past reacted badly to being told that they have to accept a given number of new homes. However, the idea that NDPs are developed solely on the 'gut feel' of community leaders on what development is required is surely neither what is intended, nor is it desirable. Local authorities and housing associations could help in presenting the facts about how a community has changed and is likely to change in the future so that community groups have an evidence base on which to decide what they want to see built
- **Help communities see the positive opportunities.** Too many people assume that development must be damaging to a community and should be kept to the unavoidable minimum. This need not be the case. The difference between well-planned, well-designed development and poorer schemes can be immense. Housing associations have delivered some first-rate developments in recent years and could take a role in showing neighbourhood forums what could be achieved if planning and development are approached in the right way
- **Engaging with the legitimate concerns of the community.** As the NHPAU research already quoted on Public Attitudes to Housing in 2010 showed, by no means all local opposition to housing is mindless nimbyism. There are legitimate concerns about the quality of design and how well a new development will fit in; communities are worried that more homes will mean more traffic, greater pressure on public transport and it becoming harder to get to see the GP or get your children into good local schools. NDPs ought to be an opportunity for a frank discussion of community concerns and what might be done about them
- **Making sure that the local community sees the benefit of the incentives the government has put in place.** The NHB is intended to create a positive financial incentive to accept more housing and the CIL could have

a similar impact if it is seen as addressing the local infrastructure issues that might otherwise be legitimate grounds for opposing new development. Neighbourhood planning will take decision-taking down to the very local level and it follows that, if the NHB and the CIL are to have the intended effect, they must be seen to be bringing about local improvements as a direct consequence of the community's decision to endorse a plan that builds more homes.

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- 1 DCLG Press Notice 13 October 2011:
<http://www.communities.gov.uk/news/corporate/2007557>
 - 2 <http://www.communities.gov.uk/publications/planningandbuilding/draftframework>
 - 3 Hansard, 1 March 2011 col. 674
 - 4 Drawn from DCLG's impact assessment of the neighbourhood plan proposals: <http://www.parliament.uk/documents/impact-assessments/IA11-010AY.pdf>
 - 5 Public Attitudes to Housing 2010:
<http://www.communities.gov.uk/documents/507390/nhpau/pdf/16127041.pdf>
 - 6 Paragraph 40 of NPPF -
<http://www.communities.gov.uk/publications/planningandbuilding/draftframework>