

<b>Title:</b> Neighbourhood Planning (General) (Amendment) Regulations 2015  <b>IA No:</b> RPC14-FT-CLG-2102(2)  <b>Lead department or agency:</b> DCLG  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 30/10/2014			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Secondary legislation			
	<b>Contact for enquiries:</b> Miranda Pearce 03034441309			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not Applicable
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?	
£m	£m	£m	Yes	Zero Net Cost

**What is the problem under consideration? Why is government intervention necessary?**

Neighbourhood planning enables residents and individuals in businesses to produce neighbourhood plans that have statutory weight in the planning system and to grant planning permission for development through Neighbourhood Development Orders (including Community Right to Build Orders). If communities have both a voice in decisions and a choice about development in their area they are likely to then become the proponents – rather than the opponents - of appropriate growth. The process of neighbourhood planning is perceived as quite time consuming. Government intervention is necessary to speed up the process, which in turn will encourage more communities to take up neighbourhood planning.

**What are the policy objectives and the intended effects?**

To streamline the neighbourhood planning process to make it as fast and straightforward as possible.  
 To encourage more communities to take forward neighbourhood plans and not to be deterred by an overly lengthy process.  
 To bring forward the benefits of neighbourhood plans and neighbourhood development orders by making the process of completing them faster.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1 (counterfactual): do nothing. Process continues as at present.  
 Option 2: (Preferred option): minor changes to the existing process that will speed up neighbourhood planning by: introducing time limits within which local planning authorities must take a decision on applications for a neighbourhood area to be designated; and clarify the documents that must accompany a neighbourhood plan proposal when submitted to a local planning authority.  
 We also consulted on a third policy option which included the minor reforms set out in option 2 plus additional changes to the pre-submission publicity and consultation process for neighbourhood plans and neighbourhood development orders (further details in evidence base).

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 04/2017

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>		<b>Non-traded:</b>

**I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.**

**Signed by the responsible Minister:** Brandon Lewis **Date:** 12 January 2015

# Summary: Analysis & Evidence

# Policy Option 1

Description: cv

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

### Description and scale of key monetised costs by 'main affected groups'

The preferred option presents no new additional direct costs or requirements on businesses or civil society organisations.

### Other key non-monetised costs by 'main affected groups'

The proposed reforms will require local planning authorities to take decisions on applications for a neighbourhood area to be designated within a certain timescale. There is no additional burden on local authorities. Authorities are already compensated for the costs of new duties under the Localism Act 2011 to support neighbourhood planning.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

### Description and scale of key monetised benefits by 'main affected groups'

The key benefits of this measure is the reduced uncertainty around the time taken for a local authority to take a decision on designating a neighbourhood area and clarification of the documents required to examine a neighbourhood plan. We have not monetised this benefit given the disproportionate cost involved in data gathering the range of decision times for all existing applications.

### Other key non-monetised benefits by 'main affected groups'

We anticipate the impact of the changes will be to speed up the time it takes to receive a decision on a neighbourhood area application for a significant number of groups, enabling groups to start the process sooner and to build momentum. An estimated 80% of neighbourhood areas that have been designated so far would fall within the category of applications to be determined within 8 weeks under the regulatory reforms.

Key assumptions/sensitivities/risks	Discount rate (%)	
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## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	Zero net cost

# Evidence Base (for summary sheets)

## Background

The Government is transforming the planning system into a simpler, more transparent and locally driven process. The reforms have given significant new power to communities through neighbourhood planning. Neighbourhood planning enables residents and individuals in businesses to produce neighbourhood plans that have statutory weight in the planning system and to grant planning permission for development through neighbourhood development orders (including community right to build orders).

It is clear that communities across England have come together to take up these new powers. Over 1,200 communities have applied for a neighbourhood area to be designated (as of October 2014).

Where a community wants to take up the opportunities offered by neighbourhood planning, the legislation enables three types of organisation, known as **qualifying bodies**, to lead it:

1. a parish or town council
2. a designated neighbourhood forum
3. a community organisation that meets specific requirements

Groups 2 and 3 above are classified as civil society organisations for the purposes of impact assessment. Individuals in businesses can choose to be active participants in neighbourhood planning. In some areas businesses are choosing to take the lead, most commonly in areas designated as a 'business area' of which there are currently 19.

## Policy objective

Neighbourhood planning, introduced in the Localism Act 2011, is a vital part of the Government's reforms to help local communities play a much stronger role in shaping the areas in which they live and work and in supporting new development proposals

Neighbourhood planning is intended to enable communities to find their own ways of overcoming the tensions between development and conservation, environmental quality and pressure on services. If communities have both a voice in decisions and a choice about development in their area they are likely to then become the proponents – rather than the opponents - of appropriate growth.

## Problem under consideration

While recent research found that those producing neighbourhood plans thought the regulations proportionate for a plan with statutory status, the process was seen as burdensome ('User Experience of Neighbourhood Planning in England', commissioned from the University of Reading by Locality 2014). This is likely to be both slowing down the progress of plans which are in the process, and discouraging some new communities from beginning a neighbourhood plan or an Order. Government intervention is necessary to speed up the process enabling more neighbourhood-led development to take place.

In terms of process, qualifying bodies (town or parish councils, or designated neighbourhood forums, or specific types of community organisations) apply to their local planning authority to have a neighbourhood area designated before beginning a consultation process with the local community and developing policies for their neighbourhood plan or Order proposals. Once the draft neighbourhood plan or Order is completed it is submitted to the local authority who will arrange for an independent examination. If the plan or Order passes examination and the local planning authority is satisfied that it meets the legal tests, then the local authority must arrange a referendum. A simple majority is required for the plan or Order to go forward (see summary process chart Annex A).

The Neighbourhood Planning (General) Regulations came into force on 6 April 2012. The Regulations set out the procedure for the designation of neighbourhood areas and neighbourhood forums and for the preparation of neighbourhood development plans and neighbourhood development orders (including community right to build orders).

## Rationale for intervention

The rationale for the amended Regulations is to speed up the process, reducing the amount of time needed to start the process and therefore the time it takes for a plan or an Order to be submitted for examination while ensuring that the process remains robust and transparent.

## **Description of options considered (including do nothing);**

Option 1 (counterfactual): do nothing. Process continues as at present.

Option 2: (**Preferred option**): minor changes to the existing process that will speed up neighbourhood planning so that it is as fast and straightforward as possible while ensuring the process remains robust and transparent.

Specific changes are to:

- introduce time limits within which local planning authorities must take a decision on applications for a neighbourhood area to be designated
- clarify the documents that must accompany a neighbourhood plan proposal when submitted to a local planning authority.

We also consulted on a third policy option which included the minor reforms set out in option 2 plus additional changes to the pre-submission publicity and consultation process for neighbourhood plans and neighbourhood development orders. The changes would give greater flexibility to those preparing a plan or an Order on when and how long to consult. In addition, an additional basic condition would be introduced to test the consultation process and those preparing a plan would be required to consult certain land owners on their proposals prior to their submission to the local planning authority.

## **The proposed reforms and their effect**

A core principle of neighbourhood planning is that it should be a relatively straightforward process that can be accessed by community groups and which is simpler than the process for the more strategic Local Plans. Neighbourhood planning is also entirely voluntary and is not a mandated process.

The minor and mechanical changes proposed will have the effect of making the process less uncertain so that it is faster and more straightforward without recourse to primary legislation. The intention is to encourage more communities to take forward neighbourhood planning and not to be deterred by an overly lengthy process. The net effect of the measures will be to reduce the time in which decisions are taken that allow the neighbourhood planning process to start. This will enable civil society groups and individuals in business to make more rapid early progress and build momentum. This will make neighbourhood planning more attractive to communities and business.

The reforms will speed up the existing neighbourhood planning process in two ways:

### **1) Introducing a time limit for taking decisions on the designation of a neighbourhood area**

A local planning authority must provide advice or assistance to those preparing a neighbourhood plan or Order and make decisions at key stages. Timely and well-considered decisions by local planning authorities are therefore a key part of delivering effective neighbourhood planning. The first step<sup>1</sup> for a community wanting to produce a neighbourhood plan or an Order is to apply to their local planning authority to designate the neighbourhood area that the group wish to plan for. There is considerable variation in the time local planning authorities take to designate neighbourhood areas. While some authorities have taken only 45 days (6 weeks) to reach a decision on neighbourhood area applications some communities have had to wait over 6 months for a decision on whether the neighbourhood area they wish to plan for will be designated, with some waiting over a year<sup>2</sup>. The most common applications for areas to be designated are for neighbourhood areas that follow parish boundaries. We estimate that in over 80% of the 922 (as at June 2014) neighbourhood areas that have been designated, the applicant was a parish or town council, and that in most cases the boundaries applied were the parish boundaries. For these applications the average time for taking a decision was 126 days (18 weeks) and the most common designation time is between 60 and 80 days (between eight and 11 weeks) as at May 2014.

The change we propose to bring forward is to require local planning authorities to take decisions on all applications for the designation of a neighbourhood area within a certain timescale. The time period will vary according to the complexity of the application.

We intend to set eight, 13 and 20 week periods to run from when an application for a neighbourhood area designation is first publicised. Eight weeks will apply in those cases where the neighbourhood area application follows a parish boundary. For area applications that are submitted to more than one local planning authority a decision must be made with 20 weeks (even where the application follows parish boundaries, this may apply for example in National Parks). This is because the authorities are likely to want to consult each other and coordinate

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<sup>1</sup> See Annex for a summary of the current neighbourhood planning process

<sup>2</sup> Figures for designation times use data sourced from local authority websites on designated areas together with application and designation dates. Sample size of 572 designated neighbourhood planning areas (May 2014).

their responses. For all other area applications a decision period of 13 weeks will apply. These time periods ensure timely decision taking while recognising that different types of area applications may have different levels of complexity. By way of comparison a 13 week period for taking decisions mirrors the time local planning authorities have to determine the more complex major planning applications, with 8 weeks for minor applications.

Local planning authorities will still be required to publicise relevant area designation applications and to invite representations for a minimum period. We intend reducing this period from a minimum of six weeks to a minimum of four weeks in the case of area applications that follow parish boundaries.

The impact of this change will therefore be to speed up the time it takes to receive a decision on a neighbourhood area application for a significant number of groups, enabling them to start preparing a neighbourhood plan or an Order sooner.

The key benefit of this measure is therefore reduced uncertainty (and therefore potentially cost) around when a community can start to prepare a neighbourhood plan or an Order. This reduced uncertainty is conducive to getting more communities taking up neighbourhood planning. However, we have not monetised this impact because while we anticipate the impact of the changes will be to speed up the time it takes to receive a decision on a neighbourhood area application, there is also a possibility that the publishing of a clear time limit may mean some local planning authorities who were making decisions well within this timeframe now feel they can take longer (though still within the permitted time frame). The counterfactual scenario is also unclear as it is possible that as neighbourhood planning increases, local planning authority decisions 'speed up' through 'learning by doing'. For these reasons, and given the disproportionate cost involved in data gathering given the range of decision times for all existing applications, we have not monetised this benefit.

## **2) Introduce greater certainty and reduce delays in the independent examination process by clarifying the information that should be submitted with a neighbourhood plan proposal in order that its compatibility with environmental assessment obligations can be assessed.**

The current regulations prescribe the documents that must be submitted to the local planning authority with a neighbourhood plan proposal. We intend adding to this requirement the documents that regulations require to be produced in order to demonstrate that a land use plan or programme is compatible with obligations under the Strategic Environmental Assessment Directive. While regulations already require these documents to be produced, evidence suggests that these have not always been made available to the independent examiner. This has caused some examinations to be delayed while documents are prepared and submitted. **The proposed clarification in regulations will remove uncertainty and potential delays.**

The proposal **brings no new burden to business or civil society organisations.** This is because regulations already require that, where it is determined that land use plan proposals are unlikely to have significant environmental effects (and, accordingly, do not require an environmental assessment), a statement of reasons for this determination must be prepared. Where a proposed land use plan is likely to have a significant effect on the environment, a Strategic Environmental Assessment must be carried out and an environmental report prepared. We intend to add these documents to the current list of prescribed documents that must be submitted to the local planning authority with a neighbourhood plan proposal. That is to say, the clarification in regulations merely requires these documents to be submitted with a neighbourhood plan proposal to remove uncertainty and potential delays to the examination process, or the possibility of a neighbourhood plan failing examination. **This clarification brings no change to the cost of neighbourhood planning or on whom any costs fall and therefore no additional impact on business and civil society organisations.**

### Familiarisation costs

We have assumed no additional familiarisation costs associated with this change. The reasoning for this is that there would be no difference between the familiarisation costs incurred in the counterfactual and with the suggested changes. The proposal simply involves the clarification of information required for an independent examiner to make recommendations on a neighbourhood plan and subsequently for a local planning authority to make a decision.

## **Consultation Response**

Consultation on the regulatory reforms opened on 31 July 2014 and closed on the 29 September 2014; there were 467 responses to the consultation by this date.

### **1) Time limit for taking decisions on the designation of a neighbourhood area**

There was broad in principle support (over 70% of respondents) for introducing a time period within which a decision on whether to designate certain types of neighbourhood area should be made. Support for the changes was high amongst organisations that are capable of being qualifying bodies i.e. parish and town councils and neighbourhood forums; there was also a high level of support from the development sector (over 80% in both cases). Those that did not support the principle were primarily concerned with the potential implications for local authority resourcing. The consultation specifically sought the views of local planning authorities on the impact the

proposals may have on them. A majority of local authorities responding supported the principle of introducing time limits. A number of authorities commented that the time limits could be achieved through the delegation of decisions. Common responses from those with concerns were: the need for clarification in regulations on when the time period would run from; and the need for local planning authorities to continue to receive funding to manage their responsibilities. The regulations will clarify the first of these concerns. Local planning authorities will be able to continue to claim funds to address the costs of designating neighbourhood areas. The Department provides £5,000 to local planning authorities for each neighbourhood area designation (up to a cap of 20 designations per year). The Department has now been providing funding to address new burdens for two years and there is no anecdotal evidence to suggest it is insufficient to cover the costs.

We consulted on setting a period of 10 weeks (70 days) for local planning authorities to take a decision on applications for a neighbourhood area to be designated where the area applied for coincides 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 the new designation is sought. A number of respondents did not support action that could encourage ward boundaries to become a default option as this could artificially distort the process of identifying boundaries felt to be genuinely appropriate as a neighbourhood, in order to achieve a faster decision on an area application. Over eighty per cent of those responding supported limiting the scope of the applications to which a 10 week time limit would apply. Respondents commonly referred to the need for any regulations to recognise that more complex cases may require more than 10 weeks to reach a decision. While not explicitly consulted upon, there is evidence in the responses of support for authorities being required to take a decision within a certain timescale for all types of area application but recognising that more complex cases may require longer than 10 weeks (10% of local authority respondents indicated support for decisions on all area applications being made within a set time period).

The reforms we intend to take forward will require local planning authorities to take decisions on all applications for the designation of a neighbourhood area within either an 8, 13 or 20 week time period (as set out above).

## **2) Pre-submission publicity and consultation period**

We consulted on removing the current requirement for a minimum of six weeks of pre-submission publicity and consultation by those preparing a neighbourhood plan or an Order.

To ensure that there remained confidence in the robustness of the consultation process underpinning proposals for neighbourhood plans and Orders we also consulted on introducing a new basic condition<sup>3</sup> that neighbourhood plan and Order proposals would be tested against. Our intention was to ensure that the scope and nature of the consultation had been adequate and that the results of the consultation had been considered in developing neighbourhood plan or Order proposals.

We recognised that by no longer prescribing a minimum period for pre-submission consultation and publicity there may be concerns that all those with an interest in a neighbourhood plan or neighbourhood development order would not have an opportunity to engage in the process. Therefore we consulted on requiring those preparing a neighbourhood plan that allocated sites for development to consult certain landowners.

Those responding to the consultation placed a high degree of importance on wide and robust consultation by those preparing a neighbourhood plan and an Order and wished to see no reduction in the requirements that encourage effective consultation. While there was strong support for introducing a new basic condition (75%) and a requirement to consult certain landowners (84%), there was clearly a high level of support (72%) for the current level of regulation.

To bring forward the new requirements without the proposed reforms to the six-week publicity and consultation requirement, would be adding to, rather than reducing, the burden on those preparing a neighbourhood plan or order. Therefore we do not intend to take forward the proposed reforms to the pre-submission consultation and publicity process, nor introduce a new basic condition or require certain land owners to be consulted on neighbourhood plan proposals.

**As we are not taking forward the proposal to require evidence that certain landowners had been consulted on neighbourhood plan proposals the potential additional costs identified in the triage assessment will not arise.**

## **3) Strategic Environmental Assessment**

The current regulations prescribe the documents that must be submitted to the local planning authority with a neighbourhood plan proposal. We consulted on adding to this requirement the documents that regulations currently require to be produced in order to demonstrate that a land use plan or programme is compatible with obligations under the Strategic Environmental Assessment Directive. A large majority (90%) of respondents to the consultation supported this change, with a number referring to the changes as a useful clarification. As noted above, this clarification brings no change to the cost of neighbourhood planning or on whom any costs fall and therefore no additional impact on business and civil society organisations.

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<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2011/20/schedule/10>

## Summary of Costs and Benefits

- **The reforms create no new additional direct cost to businesses or civil society organisations acting as qualifying bodies** (organisations carrying out neighbourhood planning). There may be benefits to communities of being able to start the process more quickly as a result of local planning authorities being required to take timely decisions. There may also be an efficiency saving to qualifying bodies of reducing the amount of work they carry out unnecessarily producing documentation which is not required by the independent examiner. It is extremely difficult to estimate the scale of this effect particularly for a change of this relatively small scale, and therefore these benefits have not been monetised.
- The proposed changes to the secondary legislation are minor and mechanical, clarifying the regulatory environment for community groups and business and speeding up an existing process.
- **On the 21 July the reforms were confirmed by the Regulatory Policy Committee as a low-cost regulatory measure and therefore a fast track. The policy has been developed subsequently in light of the consultation responses. We are not taking forward the proposal to require certain landowners to be consulted on neighbourhood plan proposals. The potential additional costs to some civil society organisations and business identified in the triage assessment will therefore not arise. This Impact Assessment confirms that the proposed regulatory changes introduce no costs to business and civil society organisations.**

## **Annex A: summary of the current neighbourhood planning process**

### **Step 1: Designating neighbourhood area and if appropriate neighbourhood forum**

Relevant body (parish / town council, prospective neighbourhood forum or community organisation) submits an application to the local planning authority (LPA) to designate a neighbourhood area

- local planning authority publicises and consults on the area application for minimum 6 weeks
- local planning authority designates a neighbourhood area
  
- In an area without a town or parish council a prospective neighbourhood forum submits an application to be the designated neighbourhood forum for a neighbourhood area
- local planning authority publicises and consults on the forum application for minimum 6 weeks
- local planning authority takes decision on whether to designate the neighbourhood forum

### **Step 2: Preparing a draft neighbourhood plan or order**

Qualifying body develops proposals (advised or assisted by the local planning authority)

- gather baseline information and evidence
- engage and consult those living and working in the neighbourhood area and those with an interest in or affected by the proposals (e.g. service providers)
- talk to land owners and the development industry
- identify and assess options
- determine whether European Directives might apply
- start to prepare proposals documents e.g. basic conditions statement

### **Step 3: Pre-submission publicity & consultation**

The qualifying body:

- publicises the draft plan or Order and invites representations for minimum of six weeks
- consults the consultation bodies as appropriate
- sends a copy of the draft plan or Order to the local planning authority
- where European Obligations apply, complies with relevant publicity and consultation requirements
- considers consultation responses and amends plan / Order if appropriate
- prepares consultation statement and other proposal documents

### **Step 4: Submission of a neighbourhood plan or Order proposal to the local planning authority**

- Qualifying body submits the plan or Order proposal to the local planning authority
- Local planning authority checks that submitted proposal complies with all relevant legislation
- If the local planning authority finds that the plan or order meets the legal requirements it:
  - publicises the proposal for minimum six weeks and invites representations
  - notifies consultation bodies referred to in the consultation statement
  - appoints an independent examiner (with the agreement of the qualifying body)

### **Step 5: Independent Examination**

- local planning authority sends plan / Order proposal and representation to the independent examiner
- independent examiner undertakes examination
- independent examiner issues a report to the local planning authority and qualifying body
- local planning authority publishes report
- local planning authority considers report and reaches own view (save in respect of community right to build orders where the report is binding)
- local planning authority takes the decision on whether to send the plan / Order to referendum

### **Steps 6 and 7: Referendum and Making the neighbourhood plan or Order (bringing it into force)**

- relevant council publishes information statement
- relevant council publishes notice of referendum/s
- polling takes place (in a business area an additional referendum is held)
- results declared
- subject to results local planning authority considers plan / order in relation to EU obligations and Convention rights
- If the plan / Order is compatible with EU obligations and does not breach Convention rights – local planning authority makes the plan or order.