

## “MY NEIGHBOURHOOD”

# A NEIGHBOURHOOD PLANNING PROTOCOL FOR BATH & NORTH EAST SOMERSET

DRAFT March 2012

*This is the text format only – design version will be printed following  
Cabinet in order to reflect any changes that may be required before  
public consultation*

# Chapter 1 Introduction

Bath & North East Somerset Council want to ensure that all people who live or work in the area or who have an interest in our area the opportunity to be involved in the planning process if they want to. We want to encourage more people to be involved and to make this involvement as easy as possible.

It is important that we involve the wider community at an early stage in the decision-making processes, when it is possible to make a difference. There are a range of tried and tested ways in which you can get involved in planning issues.

With the introduction of the Localism Act and the new Neighbourhood Planning duties a new tier of planning has been introduced which will empower communities more than ever before to shape the future of development in their neighbourhoods.

This *My Neighbourhood* Guide is a Neighbourhood Planning Protocol for Bath & North East Somerset outlines all of the ways and details the processes so that it is clear how you can get involved in planning issues in your neighbourhood. This includes:

- How to have your say on planning applications
- How to get involved with local planning policy development
- How to do your own Neighbourhood Planning
- How to your protect trees
- Other tips and tools for communities

It will eventually replace the Council's Statement of Community Involvement in Planning (2007) and is being published for a six-week period of public consultation before being adopted later in 2012.

## DIAGRAM/BOX

This neighbourhood Planning Protocol supports the Councils 2012 vision and values:

- Promoting independence and positive lives for everyone
- Creating neighbourhoods where people are proud to live
- Building a stronger economy

## SOUNDBITES;

Localism in planning will create the freedom and the incentives for those places that want to grow to do so – Greg Clark Minister for Planning

Participative planning with local communities can help deliver better quality design and better places - Design Council

Grassroots democracy is key to changing lives and improving neighbourhoods -  
National Association of Local Councils

Local people should be at the heart of changes to their neighbourhoods - The Glasshouse

## Chapter 2 Have your say on planning applications

***NB: This section will need to be reviewed before final publication to reflect the West of England Partnerships' Planning Toolkit(March 2012) for dealing with Major Planning applications in full.***

### Introduction

**Key fact in bubble:** The process of deciding planning applications is called Development Management.

The Development Management department deal with all planning applications in Bath & North East Somerset. There are currently three teams in this department: two teams dealing with all types of planning applications and one team dealing with listed buildings and conservation area applications.

All planning applications must be decided in accordance with Bath & North East Somerset's Local Development Framework (LDF), National policy and adopted Neighbourhood Plans. It is possible for anyone to comment on a planning application.

The majority of planning applications considered by the Council are small scale e.g. householder applications or applications for development which will affect a relatively small area. **Figure 6** is a summary diagram outlining the process of determining a planning application. The Council aims to determine planning applications within 8 weeks of validation.

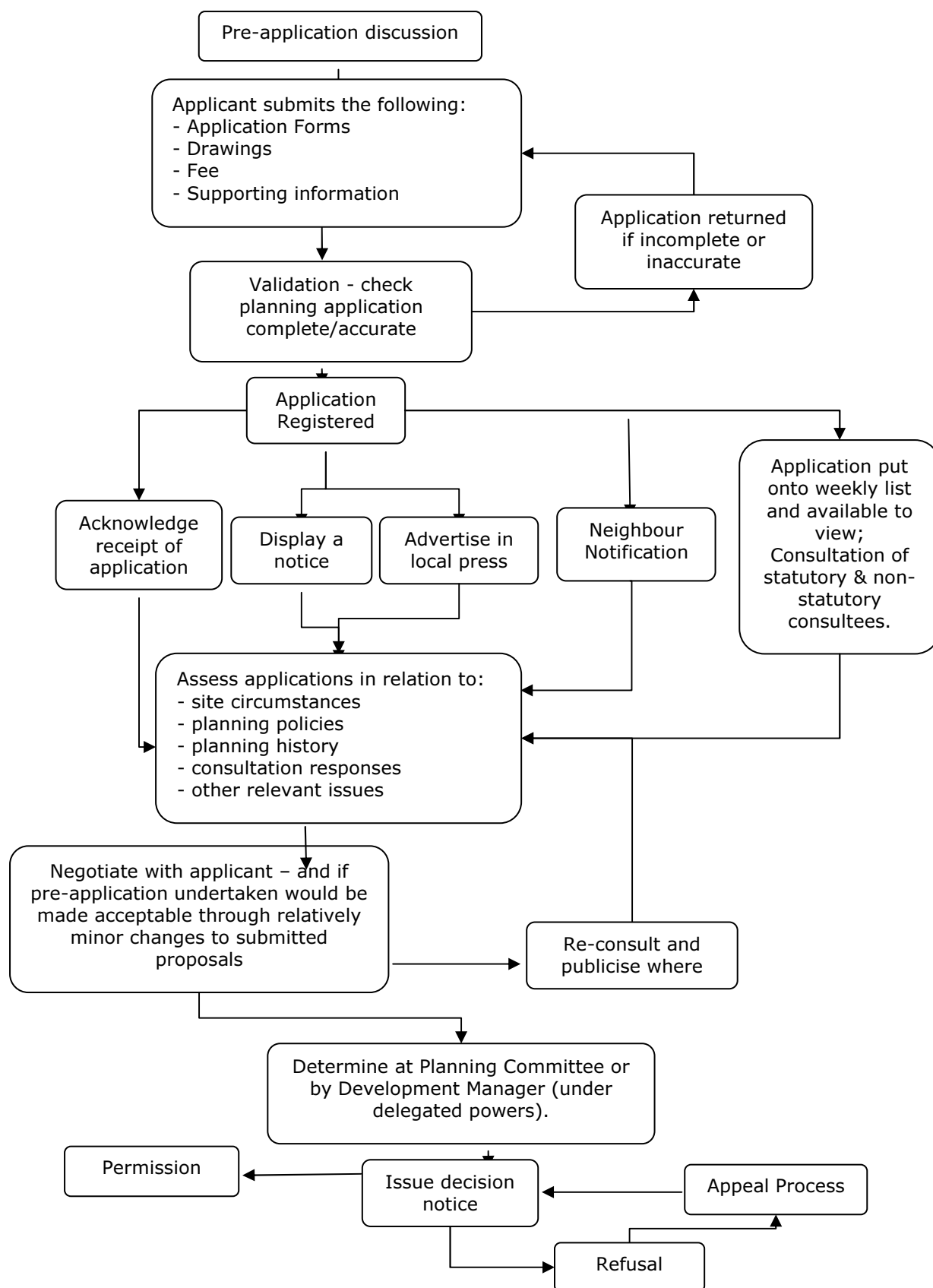
Planning applications for major development in Bath & North East Somerset require wider community consultation and a greater degree of community involvement. For major development it is advisable for community involvement to be initiated at the pre-application stage.

#### **What is a Major Development?**

- Housing developments of more than 10 dwellings
- Housing development on a site of 0.5 hectares or more
- Any other development with a floor area of 1000m<sup>2</sup>
- Any other development on a site of 1 hectare or more
- Waste development or mineral working

The process for applying for planning permission for major development is more complex and the applicant is required to submit more documentary evidence (e.g. an environmental statement, transport study, design & access statement etc). Planning obligations (section 106 agreements) are also likely to be negotiated with applicants for this scale of development. The Council aims to determine major applications within 13 weeks of validation.

**Figure 6: Summary diagram to show how a planning application is decided**



For some development areas the Council will produce Supplementary Planning Documents (e.g. Bath Western Riverside SPD), which outline the development requirements of the site in more detail. SPDs require community involvement as outlined earlier in the SCI.

The opportunities for community involvement at each stage in the Development Management process will be outlined in this section of the SCI. The key stages are:

- Pre-application;
- Submission of an application;
- Considering an application;
- Determination of an application;
- Post-determination;
- Enforcement Action.

## **Pre-application**

### ***Large or Sensitive Sites***

It is widely recognised that investing time with the local community and the Council to exchange information and solve problems when a development proposal is capable of adaptation, prior to the submission of a planning application is at the heart of a positive and proactive planning system. It reduces the risk of wasted time and cost and enhances quality, clarity and certainty for both applicant and the community.

An appropriate and well executed early engagement process that demonstrates how engagement has helped understand and address the aspirations and concerns of communities and key stakeholders should help to ensure greater buy-in to development proposals, and a smooth the more formal planning application process.

The Localism Act now places a national expectation that meaningful pre-application engagement with communities is undertaken on development schemes of above 200 homes and 10,000sqm of floorspace.

Bath and North East Somerset contains some of the nation's outstanding and valued environments. It is home to engaged people with a passion for their communities. Experience has shown development proposals are likely to generate significant community and stakeholder interest.

Bath and North East Somerset Council supports a collaborative process of scheme development. It advocates the use of Masterplans and Design Codes, and other planning tools as appropriate. To assist applicants engage effectively in pre-application engagement with communities and the Council, it encourages applicants to use its discretionary pre-application services including The Development Team and access to the Urban Regeneration Panel and other groups such as the South West Design Review Panel

Developers of large or sensitive sites are also encouraged to enter into a Planning Performance Agreement (PPA) with the Local Planning Authority that sets out an agreed process as well as the key stages that work towards the submission of planning application(s). This will include agreeing on the approach to community engagement.

Early discussion with the Planning Service can help plot the best route for your application.

### **Info Box:**

**Planning Performance Agreements:** These are normally signed up to by a local authority and a developer to guide all aspects of project development, including community engagement. The Agreement outlines clear procedures and responsibilities for all parties and includes an agreed timetable.

### ***Pre-application Advice***

It is recognised that it is beneficial to all parties if applications are discussed prior to the submission of a formal application. The Council offers a pre-application service for all those wishing to make a planning application. All meetings and correspondence prior to the registering of an application will be treated as confidential, although it should be noted that the Council cannot guarantee that it will not have to release information if a Freedom of Information Request is received.

The Pre-application Service is available to customers at a charge, which assist the department in covering the costs of the service. All pre-application requests must be submitted in writing. Details of the Pre-application Service and its related fees can be found on the Council's website. Those who wish further guidance on the pre-application should contact Council Connect in the first instance.

Pre-application dialogue in relation to proposals for major development is also undertaken by the Council. A productive dialogue at this stage can resolve issues and help ensure that the application submitted is well presented and includes the appropriate information to enable the proposal to be assessed and understood by the Local Authority, consultees and stakeholders. This dialogue should take place through the Council's multi-disciplinary development team approach. More detail about this service can be found on the Council's website and in the leaflet entitled *Planning Delivery Agreements for Major Development Proposals* (available on request from Council Connect).

### ***Pre-application consultation***

The Council actively encourages applicants to engage the community in pre-application consultation. Advice on appropriate methods for community involvement will also be suggested. Pre-application consultation should allow those affected or concerned by a proposal to discuss their concerns before any

key decisions have been made. It should also help resolve or identify areas of concern earlier in the process and avoid unnecessary objections at a later stage.

To ensure that a developer undertakes pre-application community involvement that is suitable for the size and type of development proposed, guidelines for the level of community involvement that will be encouraged have been produced. **Figure 7** illustrates the types of community involvement which will be encouraged by the Council for significant developments of varying scales and sizes. Examples of applications which could fall into each level are summarised in **Figure 8**.

When undertaking consultation applicants should ensure that involvement is inclusive and that efforts are made to include all sections of the community.

Details of any pre-application public consultation undertaken by developers should be outlined alongside the planning application in the form of a consultation statement. The pre-application consultation will be organised, managed and funded by the potential developer.

It must be noted that the Council cannot refuse planning permission because pre-application consultation has not taken place. However, failure to carry out suitable consultation activities could result in objections being made which lead to the refusal of the planning application.

<b>Figure 7: Community involvement in planning application</b>			
<b>Approach</b>	<b>Level 1</b> Applications where there are issues of scale and controversy or which are contrary to local development framework policy	<b>Level 2</b> Applications broadly in accordance with the local development framework but raising a controversial issue or detail.	<b>Level 3</b> Applications of a scale or on a site for which authorities require wider community involvement. Also, applications that fall within sites that are 'sensitive' to development pressures.
Public Meetings	✓		
Public Exhibition	✓	✓	
Surgeries	✓	✓	
Development briefs	✓		
Workshops	✓		
Workshops and other interactive events	✓	✓	
Citizen Panel	✓	✓	✓
Consultation Panel	✓		
Town/parish councils	✓	✓	✓
Media	✓		



Website	✓	✓	✓
Planning Aid	✓	✓	✓
Local Architectural or design panel	✓	✓	
Letter/Leaflet	✓	✓	✓

This figure is adapted from *Creating Local Development Frameworks: The Companion Guide to PPS12* (ODPM, 2004: page 84).

<b>Figure 8: Definitions of different levels of Major Planning Application</b>
<p><b>Level 1:</b> This could include major infrastructure projects and developments which depart from the development plan and are referred to the Secretary of State.</p>
<p><b>Level 2:</b> This could include:</p> <ul style="list-style-type: none"> <li>• Schedule 2 developments as defined by Environmental Impact Assessment Regulations as requiring an EIA.</li> <li>• Development proposals which fall within the Town &amp; Country Planning (Residential Development on Greenfield Land) (England) Direction 2000 i.e. applications that relate to 5 hectares or more of Greenfield land, or comprise of 150 dwellings or more regardless of the size of the site, and which the council resolve to approve.</li> <li>• Development proposed on playing fields as set out in the Town &amp; Country Planning (Playing Fields) (England) Direction 1998. This applies to any playing fields owned by the Council or used by an educational institution.</li> <li>• Applications which require a Full Transport Assessment (to reflect the scale of development and the extent of the transport implications of the proposal).</li> </ul>
<p><b>Level 3:</b> Applications of local significance that the Council considers to require wider community involvement will be determined on a site by site basis and include those which:</p> <ul style="list-style-type: none"> <li>• Fall marginally below the thresholds for Tier 2 and 3;</li> <li>• Involve the provision of affordable housing; and</li> <li>• Involve the requirement to contribute towards school places.</li> </ul> <p>Applications that are 'sensitive' to development pressures may include:</p> <ul style="list-style-type: none"> <li>• Development adjoining a listed building;</li> <li>• Substantial demolition of in a Conservation Area;</li> <li>• Loss of allotment land;</li> <li>• Loss of employment land for housing.</li> </ul>

This figure is adapted from the guidelines in *Statements of Community Involvement in Planning Applications* (DCLG, 2004: pages 33-37)

### Submission of application

After a planning application has been submitted and validated, details of the application are publicly available and details of the application are publicised. Planning applications are available to view on the Council's website 2-3 days after validation. The Council's website can also be accessed at Council Connect offices. Council Connect Officers are available to assist those wishing to use this service. For large scale major applications a hard copy summary document may also be requested at Council Connect offices.

Where there are significant changes to any planning application, which are material (relevant) in planning terms, we will re-notify relevant neighbours, Parish and Town Councils, consultees and those who have commented on the application, allowing a further 14 days for comments.

The methods used to publicise planning applications are outlined in **Figure 9**.

Method	Description of how this will be used
Weekly list of applications	<p>A list of planning applications validated by the Council for a specified date range can be produced using the Council's website.</p> <p>We send all Councillors, Parish and Town Councils a list of new applications validated on a weekly basis and inform them of all items to be considered by committee.</p>
Council website	All applications are available to view on the Council's website. There are a number of ways to search for applications including a map search facility. Applications of special interest are also highlighted on the "Specials Interests" page during their consultation period.
Neighbour notification letter	Adjoining owners or occupiers will continue to be notified by letter for all planning applications.
Display a site notice	<p>A site notice on a laminated A4 sheet, which briefly outlines the planning application, is displayed in a prominent place on or near the site. Site notices are used when a planning application:</p> <ul style="list-style-type: none"> <li>• relates to Listed Building consent;</li> <li>• affects the setting of a Listed Building;</li> <li>• affects a Conservation Area;</li> <li>• relates to a Conservation Area consent;</li> <li>• where the proposed development is a departure from the Development Plan (i.e. it is not in agreement with Local Development Framework);</li> <li>• is subject to an Environmental Impact Assessment;</li> <li>• affects a public right of way;</li> <li>• where the development constitutes a major development as defined by the GPDO.</li> </ul> <p>The use of site notices is in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010</p>
Consult statutory organisations	In accordance with the nature of the proposed development the Council must consult statutory consultees. Statutory consultees are listed in <b>Appendix C</b> .
Consult Town or Parish Councils	Town and Parish Council's will be consulted on all planning applications made within their administrative boundary (copies of these applications will be provided). Town and Parish Councils that will be consulted are

	listed in <b>Appendix C</b> . Members of the community may be able to view planning applications at Parish and Town Council offices by prior appointment. Consultation with adjoining Parish and Town Councils is also encouraged where the proposal is considered to be significant.
Consult other consultees	Special interest groups or community groups will be encouraged to be consulted where there are planning applications of particular interest, at the discretion of the Case Officer. Specialist teams within the Council will also be consulted on Planning Applications e.g. Historic Environment, Trees & Woodland who will in turn consult other consultees as appropriate.
Local Advertisement	Applications are advertised in the local press as required by the Town and Country Planning (Development Management Procedure) Order 2010.
Contact Council Connect	Members of the public can contact Council Connect with general enquiries about current planning applications. Contact details can be found at the back of this SCI.

## Considering an application

Planning applications are considered and determined either by a Committee (made up of elected Councillors) or under delegated powers by nominated officers. The Council's delegation scheme explains how it is decided whether a planning application will be determined at Committee or under delegated powers.

Approximately 5% of all planning applications are determined by Committee. There is a dedicated **Development Control Committee** which meets monthly.

Development Control committee meetings are open to the public. All committee papers and minutes of committee meetings are available on the Council website 5 days before the meeting or on request 5 days before the meeting, from the following Public Access Points: the Guildhall, Bath; The Hollies, Midsomer Norton; Riverside, Keynsham; Bath Central Library; Keynsham Library; Midsomer Norton Library. See the Council website or contact Council Connect for details.

Members of the community can comment on a planning application either by:

- submitting a written statement (known as a representation); and/or
- speaking at a planning committee meeting.

### ***Submitting a representation***

Comments on planning applications should be made in writing and sent by post or emailed to the Development Management team. Please remember to quote either the planning application number or location details for the site in any correspondence. The Council will accept petitions and pro-forma letters as representations however due to the volume of individual addresses contained in representations of this kind it may not be possible to write to all involved separately with updates on the progress of the related applications. The Council

will however write to the owner of the petition/pro-forma letter where possible or seek alternative methods of communication.

Comments on planning applications must be made within a minimum of 21 days (for first consultation) and 14 days for re-consultation. Due to the high volume of comments received, letters will not be acknowledged. Comments received after the deadlines are not required to be considered by the Council when determining the application. However, bodies such as Natural England will be allowed a longer period of time to comment on applications where this is prescribed by legislation.

The comments made on planning applications are placed on the electronic planning application file and the Council's website (hard copies are not retained). They are public information and copies can be made up until the point that a decision is made on the application at which point they are removed from the website. Any comments made will be summarised in the planning officer's report to the relevant committee and will be considered when applications are decided.

Current planning application files are available to view on Council's website. Archive applications from August 2005 onwards are also available on the website. To view applications prior to that date customers should contact Council Connect in the first instance so they can arrange them to be uploaded to the website where possible.

Only comments relating to **material considerations** (i.e. are relevant in planning terms) will be considered in the determination of a planning application. You should focus your comment on relevant planning issues. These include:

- suitability of the site for development (including conflicts with policies in Local Development Framework);
- design, appearance and layout issues;
- possible loss of light or overshadowing;
- highway safety and traffic issues;
- impact on residential amenity/trees/conservation area/listed buildings;
- possible noise, disturbance, pollution and smell nuisance;
- planning policies, government and planning case law including previous decisions of the Council.

There are a number of issues that are *not* generally material in planning terms, which will *not* be considered in the determination of a planning application. These include:

- Private property rights (boundary/access disputes, restrictive covenants etc.);
- effect on the value of property;
- matters covered by other laws;
- private disputes;
- competition with other businesses.

Applicants and those who have made a representation will be informed in writing if their application has been referred to Committee, this will include details of the venue and time of the meeting.

### ***Speaking at a Committee Meeting***

Under the Council's public participation scheme oral statements can be made by members of the public in respect of planning applications at committee meetings. For each planning application there is a maximum of nine minutes for comments for and against the application:

- 3 minutes are available for the relevant Town or Parish Council representatives to speak;
- 3 minutes for objectors to speak against the proposal;
- 3 minutes for an applicant, agent or supporters of the proposal to speak in favour of the proposal.
- Ward Members can attend any meeting and speak and there is no time limit in relation to any statements made.

Any person may indicate their wish to make a verbal statement to the Committee by contacting Democratic Services at least two days before the Committee meeting. If a member of the public has any particular needs or has concerns about speaking at the meeting, please discuss them with the relevant Committee Administrator, who can be contacted via Democratic Services.

#### **Contact Democratic Services**

☎(01225) 394452

✉[democratic\\_services@bathnes.gov.uk](mailto:democratic_services@bathnes.gov.uk)

Any verbal comments made at Committee will not be recorded in the Committee minutes, although any related comments made by Councillors in attendance will be recorded.

### **Determination of planning application**

Representations made and verbal comments made at Committee meetings (where relevant) will be carefully considered when deciding whether planning permission should be granted.

Decision notices state the decision that has been taken in relation to a planning application and justify why this decision has been made. The Council will notify those who have made representations on applications where possible of when a decision has been made. Decision notices can be viewed on the Council's website and enquiries into decisions can be made via Council Connect.

### **Post determination**

Once a planning application has been determined there are a number of actions that can be taken by aggrieved parties.

### ***Appeal to the Secretary of State***

There is no right of appeal for third parties. However, if an applicant is aggrieved by the decision of the Council to refuse an application or to grant it subject to conditions, they can appeal to the First Secretary of State under the provisions of

the *Town & Country Planning Act 1990* or the *Planning (Listed Buildings & Conservation Areas) Act 1990*. Appeals must generally be made within 6 months of the date of the determination of the planning application, using a form which can be requested from the Planning Inspectorate. Details about how to appeal are sent to the applicant alongside the decision notice.

Appeals are intended as a last resort and they can take several months to decide. It is often quicker to discuss with the Council whether changes to your proposal would make it more acceptable.

#### **Contact the Planning Inspectorate**

✉ TempleQuay House, 2 The Square, TempleQuay, Bristol, BS1 6PN  
📄 Look at the Appeals web page [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs)

#### ***Make a complaint about the process of considering the Planning Applications***

Any complaints about community involvement activities in relation to planning applications can be reported to the Planning Services Complaints Officer in the first instance. Please note the complaints procedure is not intended to deal with the merits of planning decisions.

#### **Enforcement Action**

Contact the enforcement team if you consider a breach of planning control has occurred.

## Chapter 3: Get involved in Local Planning Policy

**Info bubble:** A National Planning Policy Framework came into force in 2012. This will supersede a range of national policies previously included in a range of Planning Policy Statements and Circulars.

### Introduction

In addition to national level planning policy Local Authorities have to produce local planning policies, which must conform with national policies.

Through the recent Localism Act, a new tier of Neighbourhood Planning has been introduced. More information on this can be found in Chapter 4. There is no longer a tier of regional planning, although local authorities have a duty to cooperate with adjoining authorities on a sub-regional basis.

There are two different types of local policies:

**Development Plan Documents** – These are policy documents whose preparation is controlled through statutory processes and which are subject to independent examination by the Secretary of State for their “soundness”.

**Supplementary Planning Documents** – These policy document add detail to policies contained within Development Plan Documents. They must also follow a statutory process but are not subject to formal examination. They can be prepared quickly and must be endorsed by the Council.

**Info bubble:** A programme of all of the local policy documents under production can be found in the Council’s Local Development Scheme. <http://www.bathnes.gov.uk/SiteCollectionDocuments/Environment%20and%20Planning/Planning/planning%20policy/BathNES%20LDS%202011-2014.pdf>

### Who will we engage with?

Appendix B lists the types local and national consultees that the Council will engage with. If you are interested in local planning policies get in touch and we can add you to our mailing list and tell you about opportunities to get involved.

**Info bubble:**  
contact us at  
[Planning\\_policy@bathnes.gov.uk](mailto:Planning_policy@bathnes.gov.uk)  
Tel: 01225 477548

We have identified a range of target groups we need to make extra effort to engage, as illustrated in figure 3. Engagement with these groups will be targeted depending on the nature of the local policy.

**Figure 3: Target groups we need to involve in the preparation of the LDF**

<b>Young people</b>	<p>Children and young people have not traditionally been involved in planning issues. However, we will seek to involve young people through existing initiatives within the Council led by Youth Services (such as DAFBY - the Democratic Action for Bath &amp; North East Somerset Youth initiative).</p> <p>Involvement will also be encouraged through initiatives linked to local universities, colleges, schools and youth groups. To effectively engage young people we will need to provide information which is accessible, relevant and engaging. Interactive workshops and the use of models and diagrams would be appropriate.</p> <p>We will seek to secure the support of youth workers, teachers and play workers to assist us in developing and delivering appropriate activities.</p>
<b>Faith, Ethnic and Language groups</b>	<p>Further work needs to be done to ensure that faith, ethnic and language groups are engaged and informed in the planning process. Many organisations representing faith, ethnic and language groups will be routinely consulted. Information might also be disseminated through community newsletters or at community events. Work undertaken by other initiatives within the Council will also be taken on board</p>
<b>Disabled People</b>	<p>We will seek ideas and feedback from disabled individuals as well as local and national organisations representing disabled people to ensure that community consultation is inclusive. We will ensure that all community involvement events are fully accessible, and will always respond to any accessibility requests in a positive way.</p>
<b>Gypsies and Travellers</b>	<p>We will involve gypsy and traveller groups, particularly as part of the policy evidence gathering process. We will consult members of the gypsy and traveller communities, particularly where issues are of direct relevance.</p>
<b>People living in rural areas</b>	<p>Residents in rural areas may not have easy access to council offices and may have less access to community events depending on where these are held. We aim to build on established Parish Council networks in order to disseminate information and attain feedback at the most local level possible. We will also make links with the creation of Parish plans, working with bodies who are helping to support the development of these Plans. The development of e-consultation within the Council will ensure that consultation reaches a wider audience. Information, posters and leaflets will be provided for display on village notice boards and in mobile libraries.</p>
<b>Small business owners</b>	<p>Small businesses have an important role in the local economy. However, there is evidence that small business owners often do not have the time or resources to spare to become involved in planning issues. To overcome this, organisations representing small businesses will be consulted. The Economic Partnership currently links to the LSP and contains business representation, whilst Business West is directly represented on the LSP – links to the LSP will therefore be important. In addition, direct links will be made with local Chambers and with the local representatives of the Federation of Small Businesses.</p>
<b>Residents</b>	<p>We acknowledge that we need to ensure that all residents in the district have opportunities to be involved in planning issues.</p> <p>Information about a variety of opportunities to be involved in the preparation of the LDF will need to be disseminated widely, and advertised in good time. Residents Associations will also be utilised as a way of disseminating information where they are established. It is noted that unlike residents in the rest of the district, residents of Bath are not represented by either Town or Parish Councils, and that extra effort is needed to reach these residents.</p>

## How will we engage you?



We always aim to improve the way that we communicate and are committed to making sure that all consultations are accessible and that documents produced are available in a variety of formats.

The involvement techniques that we will use can be classified into three broad categories:

- **Information** – Providing information through the internet, local media and local publicity.
- **Consultation** – Finding out the views of the community through meetings, exhibitions, qualitative research surveys and questionnaires. Documents will be produced to generate discussion.
- **Participation** – Involvement which actively identifies needs and priorities, methods include workshops, discussion, focus groups and linking with existing community involvement initiatives.

**Appendix B** presents a toolbox of methods which the Council will use to encourage community involvement in the creation of the LDF and go beyond the statutory minimum requirements.

## **When can you get involved?**

The earlier you get involved in local policy development the better as you can help shape its contents.

### **Key opportunities for community involvement in the preparation of Development Plan Documents**

#### **Stage 1 Pre-production consultation to establish issues and options**

'Issues and options' and evidence gathering consultation. Early community involvement using a wide range of methods (as outlined in **Appendix B**).

There will be more than one specific consultation carried out at this stage and consultations will be targeted at a range of consultees.

Statutory and non-statutory consultees will be consulted and efforts will be made to secure the involvement of the target groups outlined in this SCI.

*Statutory consultees (and other relevant consultees where identified) will be consulted on the Sustainability Appraisal Scoping Report.*



#### **Stage 2 Preferred Options consultation**

The Council's options and emerging preferred options will be presented for a statutory consultation period of 6 weeks. Comments made will be considered and feedback given as outlined in this SCI. Community Involvement opportunity will be provided using a wide range of methods (as outlined in **Appendix B**).

Statutory and non-statutory consultees will be consulted and efforts will be made to secure the involvement of the target groups outlined in this SCI.

*Consultation on the associated Sustainability Appraisal will also occur alongside this.*



### **Stage 3 Draft DPD Submitted to the Secretary of State with 6 week statutory consultation**

Taking into account representations from Stage 2, the proposed submission DPD is prepared. Before the DPD is submitted to the Secretary of State for examination it will be published for a period of 6 weeks and representations invited on the 'soundness' of the document.

Statutory and non-statutory consultees will be consulted and efforts will be made to secure the involvement of the target groups outlined in this SCI.

The Council will consider these responses and if changes are necessary (and in exceptional cases only) an addendum to the DPD will be submitted with the DPD for examination by the Planning Inspector.



### **Stage 4 Examination by Planning Inspector**

The Planning Inspector considers the DPD and the representations submitted at the proposed submission version stage. If the Inspector finds the DPD 'sound' then the Council will alter the DPD in line with the Inspector's recommendations and adopt the Plan. All those who registered an interest in the DPD or who made written comments during the consultation period will be notified.

*\* Details of the minimum statutory requirements for community consultation in the preparation of DPDs can be found in the Town & Country Planning (Local Development) (England) Regulations 2008 – Regulations 25, 27 & 28. This is due to be replaced by new Local Planning Regulations in 2012.*

## key opportunities for community involvement in the preparation of Supplementary Planning Documents \*

### Stage 1 Informal community involvement in the preparation of draft Supplementary Planning Document

Evidence gathering consultation. Early community involvement using a range of methods (as outlined in **Appendix B**).

Statutory consultees and other relevant local consultees (as relevant) will be consulted and efforts will be made to secure the involvement of the target groups outlined in this SCI (as appropriate).



### Stage 2 Formal consultation on SPD

The draft SPD will be published for a formal six week period of consultation. A range of methods community involvement methods will be used depending on the nature of the document (e.g. whether the SPD is topic based or area based). A report will be published at this stage of the consultation summarising the main issues identified through the informal consultation and the Council's response to these.



### Stage 3 Adoption by the Council

All those who registered an interest in the Supplementary Planning Document or who made written comments during the consultation period will be notified.

*\* Details of the minimum statutory requirements for community consultation in the preparation of SPDs can be found in the Town & Country Planning (Local Development) (England) Regulations 2004 – Regulation 17. This is due to be replaced by new Local Planning Regulations in 2012.*

## What will happen to your views and comments?

When undertaking community involvement on planning issues it is crucial that the purpose and parameters of particular consultations are clear. We are aware of the importance of providing feedback and the need to show the community how their views have been taken into account.

Three key documents will be produced alongside each consultation, which will be made publicly available:

- A **schedule of comments** made during the consultation will be available for public inspection, together with the Council's response to the comments made. The comments and responses will be agreed by the Council, Cabinet or

Cabinet member as appropriate. Please note we cannot treat any comments made as confidential.

- A **consultation report**, for each key stage in the preparation local policy document which sets out who was consulted, how they were consulted, a summary of the main comments received and how these have been addressed. For Development Plan Documents this will be submitted to the Secretary of State. For Supplementary Planning Documents this will be presented to the Council, Cabinet or Cabinet member as appropriate. These reports will be made available on our website, [www.bathnes.gov.uk](http://www.bathnes.gov.uk) and in paper copy at the deposit stations used during the consultations (see Appendix C for details).
- A **statement of compliance to the Neighbourhood Planning Protocol** will be produced. This "Statement of Community Involvement" will outline how the Local Authority has complied with the Neighbourhood Planning Protocol. For Development Plan Documents this will be submitted to the Secretary of State. For Supplementary Planning Documents this will be presented to the Council, Cabinet or Cabinet member as appropriate.

## Chapter 4: How to do your own Neighbourhood Planning

**Info bubble:** The Council has a Neighbourhood Planning webpage with links to a range of resources, funding opportunities and events

[www.bathnes.gov.uk/neighbourhoodplanning](http://www.bathnes.gov.uk/neighbourhoodplanning)

### Introduction

The Localism Act received Royal Assent in November 2011 and has introduced a new tier of Neighbourhood Planning which came into effect on 1<sup>st</sup> April 2012.

The Act seeks to facilitate community-led planning in the form of Neighbourhood Plans, Neighbourhood Development Orders and the Community Right to Build and requires Local Authorities to resource and support Neighbourhood Planning.

This is widely seen as one of the most fundamental changes to the UK planning system since its inception in 1948.

**Info bubble:** Draft Regulations for Neighbourhood Planning – final version due to be published on 1<sup>st</sup> April 2012

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1985878.pdf>

Alongside the Localism Act, the government has also published draft Neighbourhood Planning Regulations, establishing a level of national consistency in the approach. However, according to the draft regulations there is the potential to set out local detail to suit local circumstances. This chapter aims to set out the local detail alongside the national proposals, but it may be subject to change until the national regulations are established.

### The new powers

Three neighbourhood planning powers have been introduced by the Localism Act. These are all permissive, pro-development tools which allow communities to shape and influence new development. Neighbourhood Planning activities must be in general conformity with national planning policy and local planning policies.

<b>Neighbourhood Plan</b>	<p>A Neighbourhood Plan is a neighbourhood level development plan for all or parts of a defined neighbourhood area. The content can be locally defined, but it is likely to include a vision statement or diagram, and locally derived planning policies or site briefs.</p> <p>Neighbourhood Plans can influence where new homes and offices should be built and what they should look like. It can be detailed, or general, depending on what local people want. They can be less restrictive than the Local Authorities policies but not more restrictive.</p>
<b>Neighbourhood Development</b>	<p>A Neighbourhood Development Order is a legal document which permits development that a community wants to see in their area – either in full or outline, so</p>

<b>Orders (NDO)</b>	<p>that it does not require a full planning application or for planning permission to be granted for the local planning authority. Essentially this tool extends existing permitted development rights for specific types of development.</p> <p>In terms of process the process for producing a Neighbourhood Plan is much the same as preparing a Neighbourhood Development Order.</p> <p>Orders might allow extensions to community buildings, affordable housing or local scale renewable energy installations.</p> <p>All other consent regimes will still apply e.g. Building Regulations or Listed Building consent.</p>
<b>Community Right to Build</b>	<p>Is a type of NDO for a particular scheme. It will be for community and voluntary groups only (as defined in the regulations) to identify suitable land, sources of finance and secure support for their proposals. It requires agreement through a 'community referendum'. - Such schemes will not need to go through the normal planning application process.</p>

**Info Box:** The Localism Act also introduces other community rights not relating to planning: the community right to bid (assets of community value) and the community right to challenge

Diagram-----

### **Thinking about preparing a Neighbourhood Plan or a Neighbourhood Development Order?**

Do you need these?

- Neighbourhood Planning is optional
- Do you know what the planning issues are in your neighbourhood?
- Is there an easier way to address these issues?
  - Can you influence local policy (e.g the B&NES Placemaking Plan) instead or does it already support your aspirations?
  - Do you actually need planning permission?
  - Are they actually listed buildings or highways issues and therefore outside the scope of a Neighbourhood Plan?

Do you want either of these?

- Are you seeking to be pro-development or more permissive towards certain types of development in your neighbourhood?

- Are you aware of the process that you will need to go through?
- Is there another tool you can use that is quicker and easier (see other chapters of this document)?
- It is estimated that the Neighbourhood Plan process will take approximately 1-2 years, does this match your timeframe?

#### Are you eligible to prepare these?

- In the rural areas of the district only Parish Councils can prepare Neighbourhood Plans
- In Keynsham, Midsomer Norton, Radstock and Westfield only the Town Councils can prepare Neighbourhood Plans
- In Bath, you must be designated as a Neighbourhood Forum in order to prepare a Neighbourhood Plan.

#### Do you have the resources to prepare these?

- Have you found out about what support the Council can offer?
- Do you have a budget and volunteers to help with consultation activities?
- Have you considered making use of any community funding opportunities?

#### Is a Neighbourhood Plan or Development Order the best option?

- Have you considered the other routes to meet the aspirations of your community and dismissed them?
- Have you sought advice from the Planning department?

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**Info bubble:** See CPRE's Guide to Neighbourhood Planning for practical advice and tips on Neighbourhood Planning <http://www.cpre.org.uk/resources/housing-and-planning/planning/item/2689-how-to-shape-where-you-live-a-guide-to-neighbourhood-planning>

### **A six step guide to producing a Neighbourhood Plan or a Neighbourhood Development Order**



**Info bubble:** If you already have a Parish or Town Plan that you still think is up to date you could skip to **step 3**. You will still need to go through the formal process of validation, examination and referendum to take forward the planning parts as a Neighbourhood Plan.

### More detail on the process

#### Step 1: Start the Process

If you are a Parish or Town Council you can start the process straight away.

If you are a Neighbourhood Group within Bath you will first need to establish yourself as a Neighbourhood Forum.

The Localism Act allows for Neighbourhood Planning to cross local planning authority boundaries and defers the decisions on how best to work these arrangements to local authorities to work on collaboratively.



#### Council Role: Approving Neighbourhood Forums in Bath

The Council will approve applications for the designation of a Neighbourhood Forum in Bath, this decision will be made by full Council.

The Council will work in collaboration with neighbouring authorities where a cross-border Neighbourhood Plan/Development Order is pursued to establish a process which all parties can agree to.

#### >> Neighbourhood Forum Applications

Table X outlines the proposed process for Neighbourhood Forum Applications in Bath.

**Table X: Process for Processing Applications for Neighbourhood Forum Designation in Bath**

National Requirements*	Suggested additional local response
<i>*Summary of draft Neighbourhood Planning Regulations October 2011</i>	

<p><b>Application</b></p> <p>An application to become a Neighbourhood Forum should be addressed to the local planning authority. It must consist of the following elements:</p> <ul style="list-style-type: none"> <li>(a) A plan or statement clearly showing the proposed neighbourhood area</li> <li>(b) A statement explaining why this area is appropriate to be designated as a neighbourhood area</li> <li>(c) The name of the proposed neighbourhood forum</li> <li>(d) A copy of the written constitution</li> <li>(e) The name of the relevant neighbourhood area</li> <li>(f) the contact details of at least one member of the Neighbourhood Forum</li> <li>(g) A written statement to explain how the proposed Neighbourhood Forum meets the following conditions:</li> </ul> <p>A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that it meets the following conditions—</p> <p>(a) it is 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 (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area),</p> <p>(b) its membership is open to—</p> <ul style="list-style-type: none"> <li>(i) individuals who live in the neighbourhood area concerned,</li> <li>(ii) individuals who work there (whether for businesses carried on there or otherwise), and</li> <li>(iii) individuals who are elected members of a county council, district council or London borough council any of whose</li> </ul>	<p>B&amp;NES Council will publish an application form on its website (and which can be made available in hard copy on request) which applicants will need to fill in and submit.</p> <p>While it does not appear that the it can be a requirement, B&amp;NES Council expresses a strong preference that:</p> <ul style="list-style-type: none"> <li>(1) a plan should be submitted showing the proposed Neighbourhood area with a red line boundary on an OS base map.</li> <li>(2) Contact details for all 21 named members of the Neighbourhood Forum are provided</li> <li>(3) That at least one Ward Councillor(s) for the ward(s) covered by the area in question are represented on the Neighbourhood Forum and support the application</li> <li>(4) That the aims, objectives, funding sources and working methods for the Forum are provided.</li> <li>(5) The Forum acknowledges the provisions of the Bribery Act 2010, section 3.</li> <li>(6) That the Forums has open public membership arrangements and is not dominated by any one organisation making up more that a third of its membership.</li> <li>(7) That the Forum is not dependent on any one interest group for funding.</li> <li>(8) That the boundaries of a neighbourhood area make sense in terms of community, communications, transport arrangements and services.</li> <li>(9) That the Forum signs up to the Council's Code of <b>Conduct for Neighbourhood Forums</b>.</li> </ul> <p>While it does not appear that the Council can refuse an application on the basis of these criteria. The Council will prioritise assistance to those Forums which meet these criteria.</p>
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<p>area falls within the neighbourhood area concerned,</p> <p>(c) its membership includes a minimum of 21 individuals each of whom—</p> <ul style="list-style-type: none"> <li>(i) lives in the neighbourhood area concerned,</li> <li>(ii) works there (whether for a business carried on there or otherwise), or</li> <li>(iii) is an elected member of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,</li> </ul> <p>(d) it has a written constitution, and</p> <p>(e) such other conditions as may be prescribed.</p> <p>The local planning authority can decline to consider an application if the applicant has already made an application and a decision has not been made on that application.</p> <p><i>[Draft Neighbourhood Planning Regulations Part 2 (5 &amp; 6) and Part 3 (9)]</i></p>	
<p><b>Publicising an application</b></p> <p>The local planning authority must publicise an application in such a manner as they consider is likely to bring the application to the attention of people who live, work or carry on business in the area to which the application relates.</p> <p>Any publicity must contain:</p> <ul style="list-style-type: none"> <li>(a) name of the proposed neighbourhood area</li> <li>(b) details of how to respond and make representations</li> <li>(c) deadline for responses (not less than 6 weeks following the date when first publicised)</li> </ul> <p><i>[Draft Neighbourhood Planning Regulations Part 2 (7)]</i></p>	<p>B&amp;NES Council will publish a link on its Neighbourhood Planning webpage <a href="http://www.bathnes.gov.uk/neighbourhoodplanning">www.bathnes.gov.uk/neighbourhoodplanning</a> to any application made and advertise a six week consultation.</p> <p>On advertising the consultation on the webpage the Council will also email all organisations registered on the LDF database by email (or letter where no email available) and will notify the ward Councillors who represent the areas covered by the proposed Neighbourhood area.</p>

### **Notice of accepted application**

When a local planning authority receive an application that meets the requirements, they must publish on their website:

- (a) the name of the proposed neighbourhood forum
- (b) the contact details of at least one member of the organisation or body making the representation
- (c) date on which the application was received
- (d) statement that any other application for the relevant neighbourhood area, after the first application to be accepted must be received by the LPA no later than 28 days after the date information published on website

*[Draft Neighbourhood Planning Regulations Part 3 (10 & 11)]*

### **Publicising the Decision**

The local planning authority must publish on their website details of their decisions on an application. These details must include:

- (a) name of neighbourhood forum
- (b) name of neighbourhood area
- (c) contact details for at least one member of the neighbourhood forum member

*[Draft Neighbourhood Planning Regulations Part 3 (12)]*

B&NES Council will also provide a link to the original application and the committee papers when the decision was made.

### **Code of Conduct for Neighbourhood Forums**

#### **Essential**

- 1 A single point of contact should be nominated for the Forum which must be provided to the Council and made publicly available. This contact should be kept up to date.
- 2 All Neighbourhood Forums should hold an open Annual General Meeting.
- 3 Agendas should be prepared for meetings of Neighbourhood Forums and the meetings should be minuted, both agendas and minutes should be made publicly available to the public in accordance with existing

arrangements for Parish Councils.

- 4 Members of the public may submit statements that relate to issues that are on the agenda for the meeting or any other issues, providing sufficient advance notice is given. These should be submitted to the nominated point of contact for the Forum.
- 5 Meetings should be Chaired, the arrangements for this are left to the Forum to decide.
- 6 Any financial contributions to the Forum from third parties must be declared.
- 7 Forums must be open to respond to potential concerns about their activities – any such complaints if considered to be justified may lead to a review of the designation of the forum.

#### **Desirable**

- 1 A Forum webpage is desirable.
- 2 The frequency of meetings of the Forum is to be determined locally. Quarterly meetings are suggested as a minimum.
- 3 It is desirable that a range of people from the area are represented and attention should be given to involving equalities groups and young people in the Forum.

#### **Review Process**

1. A breach of this Code of Conduct may lead to the Council re-considering the designation of a Neighbourhood Forum.
2. A decision will be made on a case by case basis, on the basis of evidence presented by both the complainant and the Forum.
3. Where issues can be satisfactorily resolved this will be preferable to further action such as the suspension of the Forum as a designated Neighbourhood Forum.
4. A new application would then need to be lodged to re-designate the Forum and this would be considered on its own merits.

### **Business Neighbourhoods**

*The Council will consider when designating the neighbourhood if it is wholly or predominantly business in nature. If it is the Council will decide whether the neighbourhood should also be specifically designated as a 'business neighbourhood'.*

#### **Step 2: Prepare your Plan**

The content of a Neighbourhood Plan is entirely up to you. However, it should be consistent with national and local planning policies. Only planning related

elements of a Neighbourhood Plan will need to go through an examination and referendum.

#### Council Role: Duty to provide advice and assistance

##### **General support**

- General guidance to be provided (this document)
- Provide a basic process checklist to make sure all regulations are being met for qualifying bodies undertaking Neighbourhood Planning to use which is downloadable from the website (or available on request)
- B&NES Neighbourhood Planning webpage
- Dissemination of information through briefings and workshops
- Disseminating information on local case studies (as these emerge)
- Information on funding and skills for Neighbourhood Planning

##### **Support to groups preparing Neighbourhood Plans**

The local planning authority will be able to provide the following in-kind assistance, this will be subject to demand:

- Electronic maps (pdf format) of your Neighbourhood area and relevant planning designations (print outs or GIS maps also available, although providing these will be charged at usual rates)
- Information on planning designations and planning policies
- Guidance in designing community consultation activities on planning issues
- Support for community planning events (e.g. facilitation, feedback, presentations)
- Provide advice on who to consult in relation to additional requirements for a Neighbourhood Development Order

Please give ample notice for us to respond to your requests in the most helpful way.

The local planning authority will not have any specific grant funding for Neighbourhood planning, however, we can advise you on any local or national community funding opportunities.

**Info bubble:** Did you know that the Council will be updating its Community Planning Toolkit in 2012 to take account of the Localism Act? This will be a self-help guide with advice and tips about how to engage with your community.

#### Step 3: Extensive community engagement

It's very important that you engage your community within the neighbourhood area from the outset as your plan or development order will be subject to a local referendum and needs strong buy-in from all parts of the community to get through this final stage. You should also make sure you engage with statutory consultees such as the Highways Agency and other local landowners and adjoining neighbourhood areas as you develop your ideas.

Make sure to keep a record of consultation activity that you run or organise as you will need to submit a "consultation statement" with your Neighbourhood Plan (the requirements of this are explained in step 4).

Before submitting your Neighbourhood Plan or Neighbourhood Development Order to the local planning authority, according to the Draft Neighbourhood Planning Regulations [Part 5 (15)] the qualifying body (i.e. Parish/Town Council or Neighbourhood Forum) must, publicise in a manner that is likely to bring it to the attention to people who live, work or carry on business in the relevant neighbourhood area:

- i) A draft of their Neighbourhood Plan/Neighbourhood Development Order
- ii) Details of how to make representations
- iii) Deadline for responses (minimum 6 weeks after the first publicised)

The qualifying body must also consult any statutory consultee whose interests it considered would be affected by the proposals and submit a draft of the proposal to the local planning authority [Draft Neighbourhood Planning Regulations Part 5 (15)].

The draft submitted to the local planning authority in writing and according to the Draft Neighbourhood Planning Regulations Part 5 (16) must be accompanied by:

- a) A plan or statement showing the area covered by the proposed Neighbourhood Plan/Development Order
- b) A consultation statement (including details of the persons and bodies consulted, how they were consulted, summarises main issues and concerns raised and describes how these issues have been addressed in the proposal)
- c) Title of the proposed Neighbourhood Plan/Development Order

### **Additional requirements for a Neighbourhood Development Order (and Community Right to Build)**

In addition for a Neighbourhood Development Order, before submitting to the local planning authority, should consult:

- the Historic Buildings and Monuments Commission for England
- Any person with whom the local planning authority would have to consult on an application for planning permission for the development proposed including any statutory consultee, any planning authority, any parish council and any neighbourhood forum (i.e. as outlined in part 15 and 21 of the draft regulations: Natural England, the Environment Agency, Network Rail, the Highways Agency, Primary Care Trust, Infrastructure Providers, voluntary bodies, bodies who represent racial, ethnic or national groups and groups representing disabled persons).

The qualifying body should approach the local planning authority for advice on who to consult.

When submitting a proposal to the local planning authority it must be in writing and accompanied by:

- A plan or statement identifying the land to which the proposal relates
- A consultation statement (as above)
- The title of the order
- A statement to explain how the proposal meets the basic conditions required

As appropriate, for a community right to build order this submission should also include:

- Details of any disenfranchisement rights which the qualifying body proposes should not be exercisable
- The relevant properties

The local planning authority has a duty to publicise this information and invite representations. Further to a decision by an Independent Inspector and a referendum in support, the local authority must then publicise the decision and adopt making details of the proposal available.

Specific requirement relating to disenfranchisement rights relate to community right to build orders as included in Part 7 of the Draft Neighbourhood Planning Regulations.

#### Council Role: Formal Validation

The local planning authority will validate your Neighbourhood Plan against national planning policy, local planning policy and can flag up any issues in relation to other legislation e.g. Habitat Regulations issues to make sure it is ready to go to Independent Examination. It is proposed that this is undertaken under delegated authority by the Divisional Director of Planning & Transport. It is best to approach the local planning authority at an early stage to flag up key policy issues before this formal validation process is triggered.

Please contact the planning policy team in good time to arrange a validation check: [planning\\_policy@bathnes.gov.uk](mailto:planning_policy@bathnes.gov.uk) or telephone 01225 477548

#### Step 4: Independent Examination

The qualifying body must organise the Independent Examination into the Neighbourhood Plan/Development Order and appoint a suitable Independent Examiner in liaison with the local planning authority. The Independent Inspector will decide if it is necessary to hold a public hearing into the Plan/Development Order although as a general rule the examination will take the form of consideration of written representations.

#### Council Role: Independent Examination

The local planning authority will publish the draft plan on their website. The local planning authority must publicise the Neighbourhood Plan/Development Order with details of how to respond to it in advance of the Independent Examination (in line with Draft Neighbourhood Planning Regulations Part 5 (17)).

The local planning authority will provide a list of potential Independent Examiners for the Neighbourhood Planning group to arrange an Inspector from.

The local planning authority will fund the Inspectors costs and will provide a Council venue for the examination as needed.

The local planning authority will consider the Inspector's recommendations.

#### Step 5: Referendum



A referendum at the end of the process will ensure that communities have the final say on whether a neighbourhood plan or development order comes into place in their area. A referendum is also required for a Community Right to Build Order.

The referendum will be held among the registered electors of the neighbourhood area and any adjoining neighbourhood area which might be affected. A positive result requires 51% of the turnout to vote in favour.

Within business neighbourhoods separate referendums will be held for residents and businesses to approve Neighbourhood Development Orders. A person is entitled to vote in the additional referendum for businesses if they are a non-domestic ratepayer in the referendum area. If both referendums approve the Order, it will be adopted. If both oppose it, the Order will not be adopted. If there is a split vote the LPA will seek to resolve differences.

#### Council Role: Referendum

The Council's Electoral Services team will administer and fund the local referendum on the Neighbourhood Plan. The details of how referendum are to be run are forthcoming, but are likely to involve a review of the *Local Authorities (Conduct of Referendums) (England) Regulations 2007*. This is proposed to include specification of the question(s) to be asked by the referendum.

The local planning authority will publish the results of the referendum on their website.

#### Step 6: Adoption

The Council will adopt the Neighbourhood Plan/Neighbourhood Development Order where it has successfully been through Stages 1- 5.

#### Council's Role: Adoption

Adoption of a Neighbourhood Plan/Development Order will require ratification by full Council.

Once adopted the Neighbourhood Plan/Neighbourhood Development Order will be published on the Council's website and hard copies will be available for inspection at the Guildhall, the Hollies and Riverside offices as well as at public libraries.

Once adopted the Neighbourhood Plan will form part of the Development Plan and will be used to determine planning applications within your Neighbourhood area.

#### Community Right to Build

The Localism Act introduces new powers to deliver development that a community wants in their area. This could be new homes, business premises, shops, playgrounds, community halls or small scale renewable energy installations.

This right is open to use by groups other than Parish/Town Councils or Neighbourhood Forums and can be exercised by a range of community organisations.

Further detail is outlined in the Localism Act section 3 (1) (b) of Schedule 4C, this can be summarised as follows:

What is a "community right to build order"?

- Order is made by a community organisation
- Order that grants planning permission for a specified development in relation to a specified site in a neighbourhood area
- There are limits in relation to the area where a development can take place and the type of operations or land uses (in line with Environmental regulations)

What is a "community organisation"?

- A body that is established with the express purpose of furthering the social, economic and environmental well-being of individuals living, or wanting to live in a particular area
- Meets conditions in relation to distribution of profits, membership and voting control (see details below from draft regulations)
- More than half of the members of the organisation must live in the neighbourhood area at the time of making the order

When can a local authority decline to consider a community right to build order?

- When another proposal has been made for another Neighbourhood Development Order or Community Right to Build Order and when the other proposal is outstanding and where the proposals are the same or substantially the same
- If the local authority considers that the specified development falls within Annex 2 to the Environmental Impact Assessment directive and is likely to have significant effects on the environment by virtue of factors such as its nature size or location.
- If the local authority considers the specified development is likely to have significant effects a qualifying European site (European site within the meaning of the Conservation of Habitats and Species Regulations 2010), whether on its own or in combination.
- If this happens the authority must notify the person making the proposal and outline their reasons for declining to consider

What is the examination process?

- An Independent Examiner must be appointed
- If the Independent Examiner recommends that the draft order is refused, the authority must refuse the proposal
- If the examiner recommends that the draft order is submitted for a referendum a referendum must be held by the local authority (subject to any modifications being made that the local authority consider appropriate to make sure there is not a breach of EU obligations and the Human Rights Act 1998.

In addition the Draft Neighbourhood Planning Regulations Part 4 (13) also specifies:

- i) Individuals who live in the particular area must have the opportunity to become members of the community organisation

- ii) The constitution of the community organisation must provide that:
- a. Individuals who live in the area must control 51% of the voting rights
  - b. One of the objectives is to provide benefit to the local community
  - c. Any assets of the community organisation cannot be sold or developed except in a manner that the trust's members considers benefits the local community
  - d. Any profits from its activities will be used to benefit the local community (otherwise than being paid directly to members)
  - e. In the event of the community organisation winding up or ceasing to exist, its assets must be transferred to another body which has similar objectives
  - f. The organisation has at least 5 members, who are not related to each other, who live in the particular area.

Community Right to Build Orders must meet these minimum criteria, be considered sound by an Independent Inspector and be supported through a local referendum. If all of these stages are fulfilled, the Order will be adopted by the local authority and the development will be able to go ahead without the need for a traditional planning application. Any financial benefit from this development must be returned to the community where the development has taken place.

#### Councils Role: Referendum & General Assistance

The Council's Electoral Services team will administer and fund the local referendum on the Community Right to build and the Council will decide on the area of coverage for the referendum in line with national guidance.

In addition, the local planning authority can provide advice to Community Groups seeking to use this right to establish if this is necessary to achieve their aims and to provide other planning guidance.

#### **There are some areas still to be clarified by the government:**

- Exact details of the Neighbourhood Planning Regulations will not be known until they are due to come into force on 1<sup>st</sup> April 2012
- Regulation making powers on charges that local planning authorities can levy on development under a Neighbourhood Development Order are still to be clarified. It is envisaged that this will enable some of the costs of Neighbourhood Planning to be recouped. This is due to be the subject of a separate consultation later in 2012.
- Provisions in relation to requirements to ensure compatibility with EU obligations are not yet finalised. These are likely to be resolved with amendments to relevant directives.
- The details on referendums are not yet clear, but are to be brought forward in separate regulations based on existing referendum legislation.

#### Extra detail

- Additional detail on revocation and modification of a Neighbourhood Development Order, a Community Right to Build order or a Neighbourhood Plan are outlined in Part 9 of the Draft Neighbourhood Planning regulations but have not been reproduced here.

### **Find out more:**

The Localism Act

<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

Neighbourhood Planning Regulations – Consultation Draft

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1985878.pdf>

New local regulations on Neighbourhood Planning are due to come into force in April 2012

## **Chapter 5: How to protect your trees**

### **Intro diagram**

Trees are an important part of our natural life support system and green infrastructure. They have a vital role to play in the sustainability of our urban and rural areas.

- Trees benefit the local economy by creating potential for employment, encouraging inward investment, bringing in tourism and adding value to property.
- Trees help conserve and enhance the quality and character of our built and natural heritage. They are an integral part of the green setting of the City and are referred to in the reasons for Bath's inscription as a World Heritage Site.
- Trees benefit the local environment by reducing the effects of air pollution and storm water run off, reducing energy consumption through moderation of the local climate, and providing a wide range of wildlife habitats;
- Trees contribute to the social fabric in terms of recreation and education.

### **New section**

#### **How can we protect trees?**

The importance of our trees is embedded in the Council's policy documents such as the Bath and North East Somerset Local Plan and Core Strategy.

**Key Fact in bubble:** Did you know Council is preparing a Green Infrastructure Strategy

Trees in the district can be protected by Tree Preservation Orders (TPO ) or by growing within a conservation area as designated under the Planning ( Listed Buildings and Conservation Areas ) Act 1990.

Trees can also be protected by virtue of landscape conditions attached to planning consents and, more unusually, by section 106 agreements attached to planning consents. Landscape conditions are not suitable for long term tree protection because they last for a finite period of time, normally 5 years following completion of a development.

### **What is a Tree Preservation Order?**

A Tree Preservation Order is made when trees are considered to be under threat and when an assessment determines that they are important trees.

A tree can be considered under threat for development or when a notification has been received for tree works in a conservation area for instance. More information regarding Tree Preservation Orders can be found at (Link - <http://www.environmentandplanning.naturalenvironment.gov.uk/Tree%20Preservation%20Orders.aspx>)

If a tree is protected by either a TPO or conservation area then an application or notification respectively must be sent to the Council for tree surgery or felling.

More general information can be found at <http://www.environmentandplanning.naturalenvironment.gov.uk/Tree%20Preservation%20Orders.aspx> for Tree Preservation Orders and at <http://www.environmentandplanning.naturalenvironment.gov.uk/Trees%20in%20Conservation%20Areas.aspx> for conservation areas:

**Key Fact in bubble:** Each year the Council receives approximately 700 applications and notifications to undertake works to protected trees.

### **Publicity (table)**

The Council publicises Tree Protection Order applications and notifications to undertake work to protected trees in the following ways:

All applications and notices are recorded on the public planning database and on the Council website.
Notify Town and Parish Councils of applications and notices within their area.
Placing applications and notices on the weekly lists - available to Ward Members and the public.
Advising applicants to contact their neighbours prior to carrying out any work.
Advising applicants to contact tree owners if the applications or notices relate to neighbouring trees and seek their consent if the work extends beyond the boundary.
Tree owners will be notified if they are not the applicant.

## Flow Diagram

### **How is an application for tree works application for trees protected by a Tree Preservation Order decided by the Council?**

Pre-application advice: owner advised to seek professional advice from an a tree specialist (known as an Arborist)>

Applicant submits the application form and any supporting documentation>

Application checked for completeness (validation) – applicant contacted if incomplete or vague>

Application registered>

Acknowledgement sent, application placed on weekly list and public web site, tree owners notified if application is made by a neighbour.>

Site visit undertaken – cards delivered where \* applies.

\* A site visit may reveal that major works which would have a significant impact on the visual amenity or health of a tree ( such as a crown reduction greater than 30% or felling ) relates to an important tree which is highly visible. Where sound arboricultural reasons support the proposal immediate neighbours will be notified by either cards or site notice and Ward Councillors or Parish and Town Councils notified.

Explanatory notes:

Important – in terms of biodiversity; historical or cultural ( where apparent )

Highly Visible - Tree clearly visible to the general public from major vantage points; for instance, main roads or heavily-used footpaths or where the tree is overlooked by many properties.

Works assessed in relation to the aim of the works and the affect on the health and visual appearance of the tree following the works>

Negotiations with applicant where minor changes would be acceptable and to provide opportunity to withdraw application >

Consider comments received >

Issue decision notice> if refusal or split decision > appeal process

## Flow Diagram

How is a tree works notification for trees protected by a conservation area processed?

Pre notification advice: owner advised to seek professional advice from an Arborist>

Owner or agent submits the notification ( known as a 'six week notice' ) >

Validation ( notification checked for completeness) – applicant contacted if incomplete or vague. FOOTNOTE: specific forms are not obligatory but a form has been developed to ensure the appropriate information is provided. There is no legal requirement to provide reasons for the work but this is encouraged>

Notification registered>

Acknowledgement sent, notification placed on weekly list and public web site, tree owners notified if notification is made by a neighbour.>

Site visit undertaken where tree felling or significant works proposed– cards delivered where \* applies. [See previous diagram](#)

Works assessed in relation to the aim of the works and the affect on the health and visual appearance of the tree following the works. Consideration for the making of a Tree Preservation Order >

Negotiate with applicant where minor changes would be acceptable and to provide opportunity to withdraw notification.>

Consider comments received and whether this alters the decision on whether or not to make a Tree Preservation Order or initiate further discussions with owner *if time permits. Note: notifications can not be refused or conditions attached*>

Serve Tree Preservation Order if deemed appropriate>

Issue final response

### Summary Diagram

#### **How is proposed tree felling to trees protected by landscape conditions or a section 106 agreement processed?**

Owner advised to seek professional advice from a tree specialist (known as an Arborist)>

Owner or agent submits their proposal.

Validation – wording of the planning consent and age of development completion checked. Reasons that conditions were applied checked. Wording for S106 agreement checked.

Site visit undertaken ( by TO ) to determine whether a Tree Preservation Order is appropriate.

Notify neighbours?

Serve Tree Preservation Order if deemed appropriate>

Issue final response



## Exceptions:

There are instances where work is exempt from the normal tree application or notification process. The Councils' permission is not required for cutting down or carrying out work on trees which are dead, dying or have become dangerous. Anyone who proposes to carry out work under this exemption is advised to give 5 days notice before carrying out the work, except in an emergency. Anyone who is not sure if their tree falls within this exemption should seek advice from an arboriculturalist since the burden of proof to show that the work was exempt rests with them.

5 day notices are not publicised, however, Town and Parish Councils are advised by e-mail. Relevant Councillors will be contacted.

If insufficient supporting evidence is provided for the work proposed within a 5 day notice then the Council will request an application ( in respect of a tree covered by a tree preservation order ) or 6 weeks notification ( in respect of trees within a conservation area).

## Interesting design format rather than just a list?

### Other community tools

If you are interested in trees and woodlands, in your area why not try:

- For tree care advice and finding an arborist or consultant Arboricultural Association - [www.trees.org.uk](http://www.trees.org.uk) and the International Society of Arboriculture – [www.isa-arboriculture.org](http://www.isa-arboriculture.org)
- **Ancient Tree Hunt** (<http://www.ancienttreehunt.org.uk/>) record and protect ancient and veteran trees.
- **WoodWatch** (<http://www.woodlandtrust.org.uk/en/campaigning/woodwatch/Pages/default.aspx>) is a web-based 'neighbourhood watch' for the protection of woods and trees that are important to communities.
- **Jubilee Woods project** (<http://www.woodlandtrust.org.uk/en/jubilee-woods/what-you-can-do/communities/Pages/communities.aspx>) a national tree planting campaign
- **Community Woodland Network** (<http://www.yourwoods.info/>) a network for community woodland groups to share information and resources.

- **A little rough guide around the hedges: why our hedgerows matter and how you can help** <http://www.cpre.org.uk/resources/countryside/hedgerows/item/2481-a-little-rough-guide-around-the-hedges> A pocket guide to hedgerows including a fun photo guide to hedgerow plants

**For more tree facts:**

- **A Guide to the benefits of urban trees** A fascinating 12 page guide to the positive impacts of trees on urban living  
[http://www.greenleaftrees.co.uk/article.php/6/new\\_guide\\_to\\_the\\_benefits\\_of\\_urban\\_trees](http://www.greenleaftrees.co.uk/article.php/6/new_guide_to_the_benefits_of_urban_trees)
- **No Trees, No Future: Trees in the urban realm** Explores why trees are so important to our cities  
<http://www.charteredforesters.org/upload/file%5CDownloads/No%20Trees%20No%20Future.pdf>

## Chapter 6: Other tools and tips for communities

There are so many tools you can use to engage local people in your local area. An extra 11 tools and tips are listed below.

**Info bubble:** See our Neighbourhood Planning website for the latest info on local grants, events and for other tips [www.bathnes.gov.uk/neighbourhoodplanning](http://www.bathnes.gov.uk/neighbourhoodplanning)

**Area-wide Landscape Character Assessment:** Starting from national level work some years ago, landscape character assessments have been produced at national, regional and local authority level, and for National Parks and Areas of Outstanding Natural Beauty (AONBs). They cover history, land use, form of the land, tree cover, views and many other aspects. They have always been a professionally-led process, although more recent work has included some level of community involvement.

**Concept Statements:** These are a form of development brief, outlining the key principles of content, layout, design and viability for a potential development. They are developed collaboratively with the local community, landowner, developer, other key bodies, elected members and planners and then endorsed by the local planning authority. Concept Statements bridge the gap between broad policy and site specific detail and, when done early, can affect land value and enable more locally relevant developments.

In 2012 the Council intends to develop concept statements for the Ministry of Defense sites in Bath – Foxhill, Warminster road and Ensleigh – working with the community.

**Conservation Area Character Appraisals:** Once a Conservation Area is formally designated a thorough Character Assessment has to be done to guide decisions about planning applications. Such studies are expensive and have usually been done entirely by specialists. As a result, many Conservation Areas do not yet have full assessments in place. Recent practice now includes varying degrees of community involvement in their preparation.

B&NES Council has produced a number of Conservation Area Character Assessments working with local communities.

**Find out about Funding:** Research funding opportunities for local groups to take direct action or to support community consultation or activities. There are often local small grants pots administered by B&NES Council and other agencies. There may also be innovative ways you can re-use existing budgets.

A number of local groups in B&NES have recently accessed this kind of funding for one off community projects.

**Local Distinctiveness Studies:** As design issues have increasingly become matters of concern for the planning system, so planners in some areas have started to develop approaches, often but not always called Local Distinctiveness Studies. Such

studies describe and evaluate key design features of a local area and produce guidelines in a way very similar to that in the more familiar Village Design Statements (see below), but across a broader canvas. To date all have been professionally-led, if sometimes with a degree of community involvement. As semi-formal documents they can carry some weight in decision-making on planning applications

**Local High Street Projects:** Lobby groups like the New Economics Foundation have a number of tools on available for communities focused around local high streets.

<http://www.neweconomics.org/programmes/connected-economies>

**Local Landscape Character Assessment:** Area-wide Landscape Character Assessment is balanced with this approach, its local equivalent. These assessments are very much a community-led approach through which local people assess the nature and significance of their local landscape. No national guidance exists but models of good practice are beginning to emerge.

**Parish Plans, Town Plans & other community plans:** Parish and Town Plans are produced primarily by local communities, albeit sometimes with procedural advice, sometimes technical advice. They generally cover almost everything except direct land use planning issues; for example open spaces, health, safety etc., but inevitably overlap at times with land use planning. They focus on generating local action plans and local projects, for example open space maintenance.

A number of communities in B&NES have developed these plans and have successfully met many of their actions. They are a good tool to focus action and establish local priorities.

**Transition movement:** Join the transition movement and start community-led local action in response to global challenges of climate change, economic hardship and energy. Typical project areas are around local food, transport, energy, education, housing, waste and art. There are a number of existing transition groups in B&NES.

For more information: <http://www.transitionnetwork.org/support/what-transition-initiative>

**Village and Town Design Statements:** Some 600 or so Statements have been produced to date for villages and small towns, mainly by local people themselves. A Statement includes description and analysis of the distinctive aspects of a village or town and ends with design guidelines. Though done by local people, they can be formally or informally adopted into the planning system. Many have been shown to have a positive impact on local design standards.

Some B&NES Parishes have already successfully developed village design statements, these can be used to guide public realm improvements (signage, street lights, green space maintenance) as well as being a first port of call for design teams working on development proposals for planning applications in your area.

**Heritage Projects:** A new community checklist developed by English Heritage with Civic Voice is designed to help local groups with an interest in their local history including historic buildings to get more people involved and generate ideas for projects <http://hc.english-heritage.org.uk/local-checklist/>