



AGENDA ITEM (9)

NEIGHBOURHOOD PLANNING UPDATE

Accountable Member	Councillor Rachel Coxcoon Cabinet Member for Planning Policy, Climate Change and Energy
Accountable Officer	Joseph Walker Community Partnership Officer 01285 623146 joseph.walker@publicagroup.uk
Purpose of Report	To provide an update on Neighbourhood Planning activity within Cotswold District
Recommendation(s)	(a) That the Committee note the progress made by local communities; (b) that the Committee note the relationship of neighbourhood plans with the Local Plan, and the opportunities and challenges this creates.
Reason(s) for Recommendation(s)	To keep the Committee updated on progress and to provide an opportunity to discuss emerging issues and developments.
Ward(s) Affected	All
Key Decision	No
Recommendation to Council	No
Financial Implications	<p>(i) Neighbourhood planning could largely be considered a mainstream facet of planning policy. However, since its inception there has been a government grant scheme to support the Council to deliver its obligations. Under current arrangements, the Council is only grant funded where a neighbourhood plan is successful at examination, and the decision is made to proceed to referendum, at which point a £20,000 grant is payable.</p> <p>(ii) Where a plan is successful, the grant will generally cover the direct costs to the Council of procuring an independent examination and running a referendum. There is no set fee for these processes - a rough average for an examination is £7,500, whereas a referendum is wholly dependent on the size of the settlement, and whether it runs simultaneously with another ballot.</p>

Legal and Human Rights Implications	To be successful, neighbourhood plans need to follow a prescribed legal process, and take account of human rights. Once a neighbourhood plan has passed referendum and is 'made' by the district council, it forms part of the Council's development plan (local plan) which will be interpreted and implemented by the Council as Local Planning Authority.
Environmental and Sustainability Implications	<p>(i) To be successful, neighbourhood plans are required to follow a prescribed process and take account of environmental and sustainability implications. One of the Council's obligations under the 'duty to support' is to review the environmental implications of emerging neighbourhood plans.</p> <p>(ii) Although the direct impact of neighbourhood plans is confined by the ambit of the English planning system, they do have the ability to push environmental considerations to some extent, and can be particularly effective at giving voice to local concerns and ambitions.</p>
Human Resource Implications	The Council's response to neighbourhood planning has to date been resourced from existing staff, principally in Community Planning and Forward Planning, but with significant input from Housing Strategy and the Heritage and Design Manager – who has provided a Development Management perspective. As plans progress towards the later stages and more communities come forward, the additional neighbourhood planning workloads puts pressure on wider service delivery.
Key Risks	<p>(i) As development plan documents, neighbourhood plans influence how planning applications are determined. A key risk therefore would be that inappropriate development is enabled, but in practice the process mitigates effectively against this risk.</p> <p>(ii) The process of developing a neighbourhood plan is complex with a number of pitfalls along the way, which can result in more complex examinations, and occasionally judicial review and other legal challenges. There is a financial risk to the Council from this process, although it should be noted that the Courts have to date taken a dim view of developer challenges to neighbourhood planning.</p> <p>(iii) An individual neighbourhood plan may successfully navigate the process, but ultimately fail to have the effect which its proposing community hoped for. Significant effort can be invested in a plan which fails at examination, or struggles to reach that stage. The biggest risk to the community is therefore that a plan is in one way or another unsuccessful. The corollary of this is reputational risk to the Council, and a risk that the Council fails to achieve what it might through neighbourhood planning.</p>
Equalities Analysis	Individual plans need to take account of equalities issues. As noted elsewhere, once a neighbourhood plan passes referendum and is 'made' by the district council, it becomes Council policy, interpreted and implemented by the Council as Local Planning Authority.
Related Decisions	None
Background Documents	None

Appendices	Appendix 'A' - Map of neighbourhood areas on Cotswold District
Performance Management Follow Up	None
Options for Joint Working	The Council delivers its neighbourhood planning support through its contract with Publica, which enables officers to share expertise garnered from across Gloucestershire and Oxfordshire.

Background Information

1. Neighbourhood planning provides an opportunity for communities to influence the future of the places where they live and work, through the preparation of planning policy. The right to prepare a neighbourhood plan was introduced through the Localism Act in 2011.

There are actually three separate legal powers which are considered as 'neighbourhood planning'.

- Neighbourhood Development Plans

A Neighbourhood Development Plan is a plan developed by the community, which, once approved, becomes a part of the statutory development plan to be implemented by the Local Planning Authority (LPA).

- Neighbourhood Development Orders

A Neighbourhood Development Order delegates powers to a Parish Council or Neighbourhood Forum.

- Community Right to Build Orders

The third power is the Community Right to Build. The Community Right to Build is a set of proposals that gives communities some power to decide what is built in their area. Where small scale developments for new houses (e.g. 5-10 homes), community facilities or shops have the agreement of the local community, a Community Right to Build organisation can be set up and take a proposal forward through referendum. If this is successful, the development will not require planning permission.

2. The vast majority of neighbourhood planning activity nationally has been the preparation of neighbourhood development plans, also known as NDPs, and frequently contracted to 'neighbourhood plans'. In Cotswold District, to date no community has pursued the other powers mentioned above – while the other powers can be exercised independently of a neighbourhood development plan, they are more often used in conjunction to deliver on a particular aspiration within a neighbourhood plan. For the purpose of this report, the terms 'neighbourhood planning' and 'neighbourhood plan' will be used to reflect local activity, but do not necessarily exclude Community Right to Build or Neighbourhood Development Orders.

3. Process

3.1 The Localism Act and subsequent regulations define the process that must be followed in preparing a neighbourhood plan. Communities must also pay close attention to the National Planning Policy Framework and the National Planning Practice Guidance.

- Designating a neighbourhood area

Parish or Town Councils in Cotswold District will decide if and when they want to proceed with neighbourhood planning. The first formal stage is to make a submission for designation of Neighbourhood Area to the LPA. Usually the boundary will either be the individual parish boundary, or a combination of parishes, but other geographies are possible, where there is a planning rationale.

- Preparing the plan

Local people need to collect evidence and develop their ideas for what they want to see in their area. There is a limited official role for the Council at this stage, although in practice there tends to be extensive discussion over emerging policies and evidence, to try and smooth the path through examination. Once a plan is prepared it has to be put out to full consultation by the proposing body – this is known as Regulation 14 consultation.

Once the consultation has been completed, and the representations considered, the next stage is for the community to submit the plan to the LPA.

The LPA must then open a second full consultation, known as Regulation 16. Following this consultation, the plan – as submitted, and all representations received are passed on to the independent examiner.

- Independent Examination

Once a neighbourhood plan has been prepared, an independent examiner will check that it meets the legal requirements - the 'Basic Conditions' (these are described in further detail below, at section 3.2). The Council is responsible for appointing and paying the independent examiner. If the plan doesn't meet the Basic conditions, the examiner will recommend changes or can fail the plan. The planning authority will then need to consider the examiner's views and make a decision on the next steps.

- Community referendum

The Council is responsible for organising a referendum on any plan that passes examination. If more than 50 percent of people voting in the referendum support the plan, then the LPA must bring it into force.

- Legal Force

If the neighbourhood plan is supported by a referendum, it will be 'made' by Cotswold District Council to enter into legal force.

Once a neighbourhood plan is in force, it carries legal weight in planning decisions. The Local Planning Authority, and where applicable, the Planning Inspectorate and the Secretary of State will be obliged, by law, to take what it says into account when they consider proposals for development in the neighbourhood.

4. Scope and Influence of a neighbourhood plan

4.1 Once a neighbourhood plan has been through this process, it becomes part of the local development framework, and its policies together with the local plan become the starting point for determining planning applications, where planning applications must be in accordance with the development plan unless material considerations indicate otherwise. Therefore a neighbourhood plan is not an add-on or extra consideration, but provides planning policies that have the same legal standing as the Cotswold District Local Plan (adopted August 2018). While neighbourhood planning policies need to be in general conformity with the strategic policies of the Local Plan, where there is conflict on non-strategic issues they have precedence. It should be noted that following the overhaul of the NPPF in 2018, there is a greater expectation put on neighbourhood plans to give direction through non-strategic policies – and indeed a greater expectation that Local Plans provide this policy 'space'.

4.2 Given the significant influence that neighbourhood plans have, the examination process they undergo is relatively robust. Initially conceived of as light touch, it has progressively become more challenging in response to legal challenges and the increased expectations of housing delivery being placed upon neighbourhood plans. The independent examiner – a suitably qualified individual appointed by the LPA – must consider the proposed neighbourhood plan against the prescribed Basic Conditions which require that it must:-

- have regard to national policy;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies in the development plan for the local area; and

- be compatible with EU obligations [NB this largely refers to Environmental/ habitats screening procedures, that are enshrined in UK law, and will remain commitments post-Brexit, unless the UK legislation is reviewed].

4.3 It should be noted that while this is a robust test, it is different from the Local Plan examination – it is less burdensome in terms of the deliverability or test of ‘soundness’, and probably allows more deviation from national policy and guidance. There are examples of locally justifiable neighbourhood plan policies which would not have passed the Local Plan Examination in Public yet have become part of their respective LPA’s Local Development Framework, which have been challenged by developers and defended by the Courts.

4.4 It is important to stress that although neighbourhood plans can promote additional development to what might be proposed through the Local Plan, they cannot undercut the scale of development (objectively assessed needs and requirements) promoted by the Local Plan – this would fail to achieve sustainable development as defined by the NPPF, and would not be in ‘general conformity’.

4.5 As neighbourhood plans are supposed to be very place-specific, it can be hard to identify good policies and ideas that are easily transferable to another location – some of the most interesting policies could well be wholly inappropriate out of context. A good example is St Ives, which has a policy requiring new build housing to be the owner’s principal dwelling. This runs counter to the NPPF, which expects the variety of housing needs to be met, but is justifiable in the context of St Ives, where the neighbourhood plan could demonstrate sustainable development was being undermined.

4.6 However, other policies are more readily translatable to other settlements. Neighbourhood plans can designate ‘Local Green Space’, and have employed this countrywide to protect their most precious open spaces. A local example of a good policy that could be picked up in other Cotswold settlements is the excellent work Fairford have carried out researching and identifying non-designated heritage assets (structures that are not ‘listed’, but of heritage merit) developing a policy designed to feed directly into Policy EN12 of the adopted Local Plan.

5. Community Infrastructure Levy

5.1 The Community Infrastructure Levy (CIL) is in effect a tax on development to pay for infrastructure. Historically, such ‘planning gain’ was captured by Section 106, which is now limited to site specific requirements, such as affordable housing and site infrastructure directly related to the proposal and required to make the development acceptable in planning terms. While the process and details are beyond the remit of this paper, it does have a bearing on the value of a neighbourhood plan to the community. Ordinarily, a 15% share of CIL, capped at £100 per dwelling, is payable to the parish hosting CIL chargeable development. Where a parish has a made neighbourhood plan, it is due a 25% share of CIL, uncapped. While CIL is only payable where development comes forward, so is not necessarily financially significant in all settings, where a settlement takes a larger development, the difference between 15% capped and 25% uncapped could be substantial.

5.2 CDC implemented CIL on 1 June 2019, and was able to do so on the basis of an identified funding gap of £16 million. Over the plan period to 2031 the Council is expected to collect approx. £6M of which approx. £1M will be awarded to town and parish councils¹.

5.3 It should be noted that while a neighbourhood plan means the local community gets a larger share of the CIL ‘pot’, and has discretion over how this is spent, the pot itself is no bigger – this aspect of CIL means that should we have many more neighbourhood plans, there will be greater community spending power, but commensurately less available for the infrastructure strategic partners are expected to provide. The reality may be that such partners will only be able to deliver the critical and essential infrastructure needed and costed through the CIL process where communities are willing to co-fund, from their share of CIL, otherwise there will be a greater shortfall.

¹ <https://www.cotswold.gov.uk/media/1511806/Cotswold-DC-Infrastructure-Funding-Gap-Analysis-Amended-Issue-May-2017.pdf>

6. Support

6.1 To enable communities to navigate this process, and the complexities of the planning system underpinning neighbourhood planning, there is support available. First off, there is a 'duty to support' placed upon LPAs. This is not defined in the legislation, but as a minimum requires LPAs to carry out their statutory tasks as outlined in section 2.1, and to provide access to evidence and advice. Our approach has generally been a bit more involved than this – but in recognition of the community's ownership of their neighbourhood plans, is largely reactive to requests for advice and assistance.

6.2 There is a national support programme, financed by the Ministry of Housing Communities and Local Government. This takes the form of a contract with an organisation called Locality, that promotes neighbourhood planning and provides some basic support, a grants programme - currently set at £9,000 per area, with additional sums for certain qualifying areas and aspirations, and expert consultancy support for specific pieces of work from AECOM, an international consultancy firm. Many communities use the basic grant to procure the services of a planning consultant.

6.3 There is also support available from a number of not-for-profit organisations outside of this structure. Within Gloucestershire, GRCC offers a facilitated workshop to help communities determine whether they wish to develop a neighbourhood plan, and offers additional services that may be relevant, such as local housing needs surveys. The Centre for Sustainable Energy has published a toolkit for neighbourhood plans to consider green energy issues and sustainability, and has also offered workshop support. Some planning consultancies have also delivered training sessions pro bono on particular aspects.

7. Neighbourhood plans in Cotswold District

7.1 Sixteen neighbourhood areas have been designated (have defined their area boundaries) in Cotswold District, covering 18 parishes and approximately 30 towns, villages and hamlets, a total population of circa 50,000.

Blockley, Chipping Campden, Cirencester, Down Ampney, Ebrington, Fairford, Kemble and Ewen, Lechlade-on-Thames, Moreton-in-Marsh, Northleach with Eastington, Preston, Somerford Keynes, South Cerney, Stow-on-the-Wold and the Swells, Tetbury with Tetbury Upton, Upper Rissington.

7.2 Of the above, Lechlade-on-Thames, Tetbury with Tetbury Upton and Northleach with Eastington Neighbourhood Development Plans have all been made (the legal equivalent of being adopted). Fairford reached examination in 2017 and failed to meet the basic conditions at the first attempt, and will be resubmitting, hopefully later this year. Likewise we expect a submission from Somerford Keynes shortly. A number of plans are likely to launch consultation on their Regulation 14 draft plans this year. Some areas have designated, but are struggling to identify sufficient volunteer time to develop their plans.

7.3 While we have limited data to benchmark against other areas, this is not atypical. Some LPAs have deliberately set out to get full coverage – an example would be Herefordshire. At the other end of the spectrum, there are areas where there are no neighbourhood areas – many, but by no means all of these are urban areas, where generally there has been a lower take-up. In broad brush terms, take-up in Cotswold is similar to comparable rural districts.

7.4 Generally take up has been higher where LPAs have placed an expectation on communities to allocate sites for housing, or have set sub-area targets, in contrast to the full allocations approach taken with the adopted Cotswold District Local Plan. As is clear from this report, while neighbourhood planning is a powerful tool for communities, it takes commitment and resources. The Council's approach to date does enable communities to undertake neighbourhood plans, but not does require such commitment.

7.5 It should be noted that the revisions to the NPPF in 2018 strengthen the role of neighbourhood plans, and to an extent reinforce a role of delegating responsibility to neighbourhoods to plan for themselves. In areas with a higher initial take-up of neighbourhood planning, the first plans to reach examination are now being reviewed. While neighbourhood planning was initially conceived of as an add-on to the planning system, it is now viewed as a mainstream tool to deliver

local and national development priorities – particularly housing.

8. Decision on whether or not to prepare a neighbourhood plan

8.1 Given the time, effort and costs associated with developing a neighbourhood plan, the decision on whether or not to develop a neighbourhood plan is significant for any community. GRCC offers a workshop to assist with this, supported through a service level agreement with the Council, and officers have often attended parish meetings or open community meetings to provide a technical input. The following points are offered as reason to/not to make this decision, based on a reading of the current planning landscape – other factors may be more locally significant, or may have been critical to the decision to develop a neighbourhood plan made by the communities already following this path:

8.2 Reasons to develop a neighbourhood plan

To enable development: the Local Plan directs growth towards settlements seen as sustainable in accordance with national policy – however smaller communities may feel that some additional development will improve their settlement. E.g. enabling local families to stay in the village, developing a brownfield site, creating live work units to allow economic growth.

To recognise and protect local assets: e.g. To provide protection to a vital community space through Local Green Space designation, to recognise the value of non-designated heritage assets.

To encourage higher standards: Neighbourhood plans frequently seek to improve design standards or environmental standards. They can enable development that meets higher standards, but cannot necessarily require higher standards, and policy requirements will still need to be financially viable.

To influence and direct new development: e.g. to influence the location and layout of new development, to specify community infrastructure benefits such as a play area.

To create a shared vision: while the policies are the binding element of a neighbourhood plan, the process also creates a particular vision and expectations, which may empower a parish or town council in its planning representations, or lead to other projects or initiatives.

To direct CIL expenditure: A neighbourhood plan means the community receive a greater share of the total CIL pot, enabling infrastructure development prioritised by the community rather than other infrastructure providers.

To prepare non-strategic policies to complement the strategic policies of the Local Plan: effectively the role ascribed to neighbourhood plans by the NPPF 2018, reviewing the Local Plan and determining where it addresses local concerns, and where additional detail is beneficial is a good starting point.

Not reasons to develop a neighbourhood plan

To prevent development: A neighbourhood plan has to promote sustainable development – and has to be in general conformity with the Local Plan. It has to shape but not stop and/or frustrate development.

To make something happen: Planning policy enables, but it doesn't by itself deliver. It may be that a particular community aspiration does require a new policy, but often the barriers are practical or financial. E.g. Policies to limit change of use of retail premises won't make retail in a small settlement more viable.

To get a greater share of CIL: The community share of CIL comes from an equal reduction in the share available to other partners, so isn't additional investment as such. Moreover, the process of developing a neighbourhood plan will take significant effort and potentially some expense which should be set against the likely CIL take – if a settlement isn't receiving much development, it won't receive much CIL.

(END)