



Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	OVERVIEW AND SCRUTINY –2 SEPTEMBER 2024
Subject	NEIGHBOURHOOD PLANNING
Wards affected	All
Accountable member	Juliet Layton, Cabinet Member for Planning and Regulatory Services Email: juliet.layton@cotswold.gov.uk
Accountable officer	Jon Dearing, Assistant Director Email: democratic@cotswold.gov.uk
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Summary/Purpose	To update Members of the Overview and Scrutiny Committee on the Council’s activity supporting parish-led neighbourhood plans across the district.
Annexes	Annex A1: Table of Plans Annex A2: Map of Neighbourhood Areas
Recommendation(s)	That Overview and Scrutiny: <ol style="list-style-type: none">1) Notes the update2) Agrees any recommendations it wishes to submit to Cabinet on 5 September.
Corporate priorities	Responding to the Climate Emergency Delivering Housing Supporting Communities Supporting the Economy
Key Decision	NO
Exempt	NO



COTSWOLD
DISTRICT COUNCIL

Consultees/ Consultation	Cabinet Member for Planning and Regulatory Services
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1. EXECUTIVE SUMMARY

- 1.1** This report updates members on the Council's activity, supporting parish-led neighbourhood development plans ('Plans'). Members will have seen numerous reports on emerging Plans, as there are quite a few decision points for the Council in the journey taken by a Plan. It is the purpose of this report to set the broader context for these individual decisions.

2. BACKGROUND

- 2.1** Since the Localism Act 2011, parish councils around the district have been empowered to bring forward their own planning policy documents, known as Neighbourhood Plans, which through due process can become part of the Local Development Framework, sitting alongside the Council's Local Plan. At the point of writing, there are 9 Plans made in the district, covering 10 parishes, and further Plans working their way through the statutory process.

3. MAIN POINTS

- 3.1** Over the 13 years since its introduction, Neighbourhood Planning has moved from a new 'disruptive' power to tackle planning status quo to being a well-established part of the English planning system, with extensive and growing coverage, particularly in parished areas but also in cities through Neighbourhood Forums. There are now 9 'made' neighbourhood plans in Cotswold District, following the Council's decision in March this year to make the Down Ampney Neighbourhood Plan following its support at referendum on 29 February. 'Made' is the official term for a plan entering into full legal effect, the equivalent of 'adopt' for the Local Plan. There are further Plans coming forward: Stow on the Wold and the Swells Neighbourhood Plan recently passed examination and is scheduled to go forward to referendum later in September; Chipping Campden and Cirencester Plans have both carried out consultation on their pre-submission drafts this year, with Moreton-in-Marsh likely to follow soon, and Bourton on the Water and Siddington have actively started work on a Plan. Across the district, further areas are designated as neighbourhood areas, but are not necessarily actively developing Plans. Please see Annex A1 and A2 to see status and coverage of neighbourhood areas and Plans.
- 3.2** Looking through a different lens, approximately 25% of the district's population live within an area with a made Plan, a number that is likely to increase to circa 50% with the next year or so, as Cirencester and other plans complete the process.

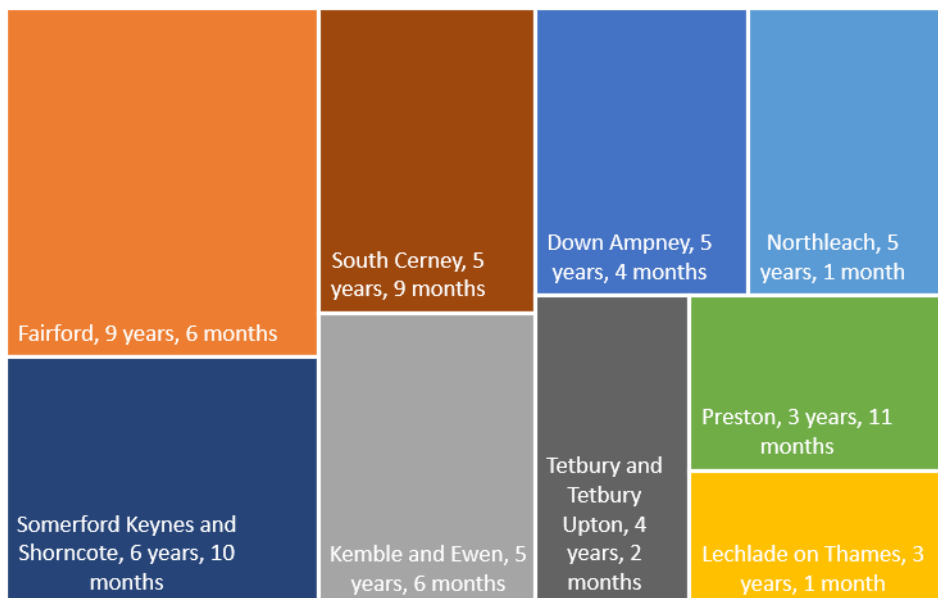


- 3.3** In Cotswold, Plans are brought forward by parish councils. In areas covered by a parish council, whether known as a parish or town council, the parish council must be the lead body. If one of the district's parish meetings sought to prepare a Plan, they would need to create a neighbourhood forum, a structure more typically associated with urban neighbourhood plans. Plan may be prepared either directly, through a working group, or frequently through an 'arm's length' steering group comprising of local volunteers, with sign-off through the parish.
- 3.4** The Council's role is to not to lead but to support neighbourhood planning – there is a legal duty to support, although this is not fully explored in legislation or guidance. The Planning Act 1990, Schedule 4B para 3 states: "A local planning authority must give such advice or assistance to qualifying bodies as, in all the circumstances, they consider appropriate for the purpose of, or in connection with, facilitating the making of proposals for NDPs in relation to neighbourhood areas within their area". This applies to NDP's through S38A of the Planning and Compulsory Purchase Act 2004. There is no requirement to give financial assistance. On this basis, the Council has not set performance targets or service metrics – the number of Plans, and the time it takes to develop a Plan is largely outside of Council control. It is noteworthy however that the stages that require Council involvement are set out in Regulation with specific timeframes which have been observed carefully.
- 3.5** At the beginning and the end of the statutory process, there are stages that require the Council's involvement, often referred to by the regulation number with the Neighbourhood Planning (General) Regulations 2012 (since modified). With the first parishes that embarked on this work, the Council had to run a designation process, with a statutory consultation period and decision. Since 2014, parishes proposing to designate their parish area still need to seek Council approval, but the Council has no discretion in the matter.
- 3.6** Outside of multi-parish/cross boundary proposals, the first decision point is usually to sign off the Council's representation to the pre-submission, 'Regulation 14' consultation – the statutory consultation all parishes must run on a complete draft of their Plan. This is followed up, sometimes quite quickly, with a decision on the submission draft to determine whether it meets the submission requirements set out in 'Regulation 15' to go forward to 'Regulation 16' publication and consultation – a consultation run by the Council where responses are sent directly to an Independent Examiner. There is a further decision to agree the Council's representation to this second 'Regulation 16' consultation. Following the conclusion of the Independent Examination, the Council must make a decision on the report, this 'Regulation 18' decision being the trigger for referendum. Finally, following a referendum, the Council needs to determine whether to make the Plan for it to enter into legal effect. Members of Overview and Scrutiny will have seen a number of reports covering these stages in recent months and years.



- 3.7** This process does mean that Plans are often relatively advanced before the Council has formal involvement. However, the Council regularly liaises with parish representatives interested in neighbourhood planning, and more frequently with those actively pursuing neighbourhood plans. Offering informal advice on emerging plans has a twofold benefit: it can help communities move from local fact finding through to presenting putative planning policies which may survive the process, and it can help the Council steer Plans to limit disagreement down the line.
- 3.8** The diagram below provides a visual indication of the time being taken to prepare Plans, focused solely on Plans which have been made. The average time taken to complete a NDP (from area designation to the plan passing referendum) goes well beyond 2 years as estimated by DCLG/MHCLG. It has also increased over time from the 29 months in 2016 to 39 months by 2019. Locally, Plans have been taking longer. One factor is Covid19, where lockdowns delayed formative work being led by communities, and directly affected the ability of Plans to move forward to referendum.

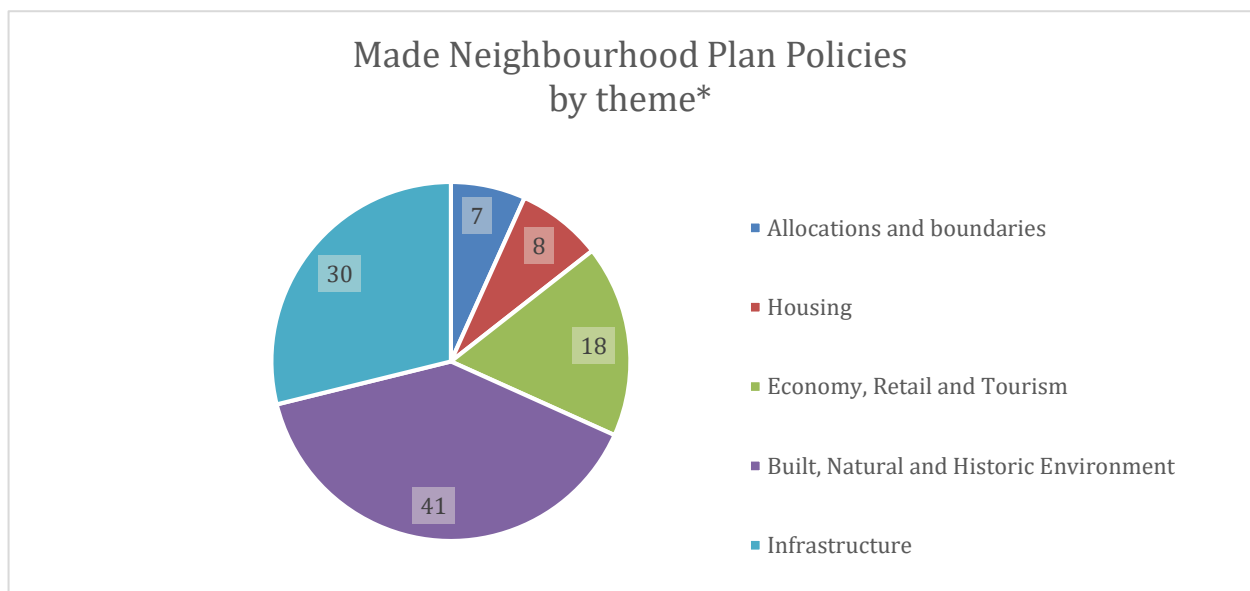
Time taken from designation to being Made



- 3.9** Plans in the district vary in terms of their ambition – in terms of the number of policies/breadth of policies, and in terms of the effect. Policies must be in ‘general conformity’ with the Local Plan; that is, they should not seek to undermine strategic policies, but can differ on issues of local impact. They should also have regard to national regulations and guidance. This includes an expectation that policies should not duplicate the NPPF or the Local Plan. Trying to find the space for distinctive policy, which has regard to national

policy and is in general conformity with the Local Plan, whilst not duplicating existing policy is far from an easy task, and often presents a steep learning curve for community volunteers. Neighbourhood Plan interviewees in a 2019–20 Government funded study frequently commented that the process was more difficult, convoluted and complicated than they had expected, with many reporting that, had they fully understood the scale of the task from the outset, they would have been much more reluctant to embark on the project.

- 3.10** Understandably, most parishes appoint consultancy support, sometime to provide start to finish support, or to support on the more technical parts of the process. There is a national support grant package, administered through ‘Locality’ which consists of a grant towards general costs and technical assistance packages for various technical studies that might be required. For a simple Plan, this grant may largely cover costs, but many parishes have also had to invest their own funds.
- 3.11** As neighbourhood plans are not compulsory, they are not required to have policies to address the totality of planning concerns - communities only present policies on areas that they wish to. A useful example, albeit outside Cotswold District, is Woodstock Neighbourhood Plan, which only includes one policy, designating Local Green Spaces. Within Cotswold, Northleach with Eastington has 6 policies, whereas Fairford has 19. Collectively, Made Plans add 104 policies.
- 3.12** The chart below provides a picture of the focus of policies within Made Plans, where policies have been grouped by the Chapters in the Local Plan.





** Neighbourhood Plans are by definition non-strategic, but can allocate sites and create 'green gaps' to protect settlement settings, akin to the Policy themes in the Local Plan 'DS' and 'S' policies.*

- 3.13** This chart shows that Neighbourhood Plans cover a wide range of spatial issues – but should not be read as indicative of the emphasis of Plans as a whole – the number of policies on a theme is not necessarily reflective of the local emphasis given to the topic. It does speak to the difficulty of creating new policy in particular areas, such as housing, and the opportunity that NDPs present to add local granularity, for example policies identifying Non-Designated Heritage Assets or community facilities. It should be noted that every Plan in Cotswold to date has designated Local Green Spaces – these policies are included in 'Built, Natural and Historic Environment' above, in line with the Local Plan layout, but such sites are often important local community infrastructure, and indeed often underpin the local tourism offer besides.
- 3.14** Plans have a limited lifetime. Typically, the plan period will date from its making to the end of the current Local Plan period, that being the period where there is a degree of certainty as to the strategic planning picture. As Cotswold heads towards the later years of the current Local Plan, and starts work on the vision for beyond 2031, emerging neighbourhood plans may start to stretch out their plan periods. For Plans already in place, there is an option to review, and a statutory process to enable this. The review process allows for some minor changes through a stripped back version of the process that is used to make a Plan. More ambitious updates will have to re-run a process very similar to their initial work, albeit usually with the advantage of having clearer parameters on community aspiration, and an existing evidence base (while this may need refreshing, a lot of the work on historic assets, landscape etc will remain current). To date, no Plan within Cotswold has formally started a review.
- 3.15** The Levelling Up and Regeneration Act 2023 introduces some changes which have not yet been enacted. Some of these changes are directed at neighbourhood planning, including changes to the Basic Conditions, and the introduction of a new neighbourhood planning power – the 'neighbourhood priorities statement' which doubtless will have some impact. Potentially, the biggest change could well be the introduction of National Development Management Policies, which could further constrain the space for neighbourhood plans to craft locally distinctive policies.
- 3.16** At the time of writing, a new draft of the National Planning Policy Framework has been released for consultation, until late September. Members may be aware of some of the significant changes this proposes, but sections dealing specifically with neighbourhood planning have not been altered. That said, should the increased housing numbers proposed

through the consultation be adopted, the added development pressure will no doubt impact on neighbourhood planning groups.

4. ALTERNATIVE OPTIONS

- 4.1** The Council has a statutory duty to support neighbourhood plans and neighbourhood planning, but the exact nature of this duty is ill-defined. As a minimum, the Council must process neighbourhood area designations, carry out environmental screenings, carry out the Regulation 16 consultation and commission independent examinations, run referendums and formally make plans. The Council has greater discretion in how actively it supports plans through this process. In theory, the Council could step back its advice and support outside of these statutory stages. However, without an open-door approach to offering advice, it is more likely emerging plans would reach these statutory stages with procedural shortcomings to correct, necessitating remedial work, and impacting negatively on work with parish councils.

5. CONCLUSIONS

- 5.1** The Council's neighbourhood planning function seeks to fulfil the Council's duty to support neighbourhood planning positively, and to maintain working relations with emerging neighbourhood plans to help them frame their ambitions and meet their objectives through presented plans. Work continues to support communities already underway with Plans, and those still exploring their options. The Local Plan refresh, the next Local Plan period and new legislation and policy direction nationally are likely to spark review of made Plans or new activity.

6. FINANCIAL IMPLICATIONS

- 6.1** From 2012 up until end of March 2024, the Council benefited from a grant programme, set up under the 'New Burdens' doctrine to meet the extra costs of supporting specific neighbourhood plans. In recent years, this has taken the form of a £20,000 grant triggered by the decision to send a Plan to referendum – thus 'at risk' for the cost of any technical studies and the independent examination, and as a known resource to support the referendum. Costs vary, depending upon the complexity of the Plan being examined, and the size of the neighbourhood area subject to referendum, but to date, this payment has covered the cash costs to the Council. At the time of writing, no successor scheme has been launched, leaving the Council without funding towards this statutory duty.



- 6.2** It should also be noted that the national support grant for communities developing neighbourhood plans also closed at the end of the financial year and was not confirmed for 2024-25 until late May – this may well have stalled, albeit temporarily, community endeavour.

7. LEGAL IMPLICATIONS

- 7.1** As noted above, the Council has a duty to support neighbourhood plans. As the body that gives legal force to Plans prepared, and examined by third parties, there is an element of legal risk associated with this role: should a neighbourhood plan be challenged in the final stages, the challenge would be through judicial review of the Council. Please note commentary on risk below.

8. RISK ASSESSMENT

- 8.1** Across the neighbourhood planning function, there are two principal risks: first, a risk to Council service delivery, if ill-expressed or undeliverable policies are enacted through neighbourhood plans to the detriment of Council Development Management or Planning Policy functions, and; second, that Plans do not deliver for the parish that has put them forward, undermining the community effort, and at some reputational impact on the Council. Upon occasion, these two risks are counterposed – an emphasis on quality and implementation may impact negatively on the community aspiration.
- 8.2** The risk to the Council from poorly expressed or undeliverable policies is mitigated to a high degree, through full engagement in the consultation on Plans, from the formative pre-submission consultation, through to the publication stage, where representations then go to the independent examiner to review. This ensures that where the Council has concerns over emerging policy, it seeks to first address these with the community bringing it forward, and failing that, ensures the Examiner is aware of its concerns. Diligence at this stage mitigates the risk of poor policy being made, and also mitigates the risk of legal challenge from other interested parties.
- 8.3** Of course, changes to proposed policies in the final stages will mean the modification of community proposals, at risk to communities achieving their ambitions. The Council seeks to mitigate this risk through early engagement, to try to avoid policies being presented which will not meet the necessary standards, or to ensure that communities realise where policies are trying to push the envelope of accepted policy.



8.4 As noted above, there is currently a risk that neighbourhood planning is underfunded, pending certainty over grant funding to the Council, and the stop-start pattern of funding for communities.

9. EQUALITIES IMPACT

9.1 Neighbourhood Plans are independently examined prior to referendum and entering into legal force. There is not a specific equalities impact as such, but Plans are examined against Human Rights legislation, and need to have regard to national planning legislation and guidance.

10. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

10.1 Neighbourhood Plans are examined against the Basic Conditions, which includes meeting environmental requirements. Neighbourhood Plans also need to be in general conformity with the Local Plan, which means as the requirements of the Local Plan become stricter, there will be stronger direction to neighbourhood plans. In the meantime, many Cotswold communities seek to promote climate change policies which go beyond the extant Local Plan; Fairford Neighbourhood Plan presents an example of a 'made' policy, and the climate change policy in the post-examination Stow and the Swells Neighbourhood Plan, will be the most ambitious yet.

11. BACKGROUND PAPERS

11.1 None

(END)