

## **General Information about Town and Country Planning and Neighbourhood Plans**

### **Background**

The Town and Country Planning system exists to protect and promote the public interest in the way land is used and developed. The current planning system was established in 1947, as a result of concerns about the adverse impacts on health, economic efficiency, quality of life, and the environment. Owners of property do not have a right to build or change the use of land as they please, but usually require planning permission. Some development does not require planning permission as it is classed as “permitted development” meaning no permission is required.

The planning system seeks to;

- Coordinate the activities of different developers and agencies,
- Protect features and qualities of acknowledged public interest
- Provide a degree of certainty for investors, landowners, residents and other stakeholders, and
- Co-ordinate the provision of infrastructure and other facilities.

The system also aims to balance the needs and aspirations of the immediate site or locality with those of the wider area, and to balance them with longer term interests.

These aims and considerations often clash, and so there are difficult and controversial decisions to be made in balancing them when considering whether to grant planning permission or to include something within a Local or Neighbourhood Plan.

### **Local Planning Decisions**

The responsibility for making these decisions is that of the Local Planning Authority Braintree District Council.

Consultation is required in most cases, and decisions on planning applications must be made in accordance with the adopted development plan, unless material considerations indicate otherwise.

One of the important considerations which must be taken into account is national (Government) planning policy, including the National Planning Policy Framework (2019). This tells local planning authorities which issues they should consider most important, how decisions should be reached, how plans should be prepared and what they should contain, etc.

Decisions are made by elected councillors, advised by specialist planning officers, though routine decisions (e.g. planning applications clearly in accordance with, or contrary to, adopted plans) will often be delegated by councillors to senior officers.

There is limited provision for the planning decisions of the local planning authority to be challenged and reviewed by an independent planning inspector via the planning appeals process, although this relates only to an appeal against a refusal of planning permission. There is no third party right of appeal, and there is no mechanism to lodge an appeal against the granting of planning permission although the legality of the decision or the way it was reached, can be challenged by third parties via a Judicial Review through the courts.

## **Local Plans**

The Local Planning Authority has to produce local plans to shape the future development of the area. Local plans may consist of one or more separate plans or documents which set out the overall scale and broad location of development, and can allocate specific sites and the type and amount of development sought in each area.

Local Plans must provide for enough housing and employment development to meet the anticipated growth in the area over the plan period. Options for how this might be done are refined and reconsidered through successive rounds of consultation and discussion, and often takes several years to complete. Local Planning Authorities must often make difficult choices between competing views and proposals, and it is rare that a consensus can be reached which satisfies all interested parties. Once the Local Planning Authority has decided on the plan it wishes to adopt, it is tested against legal requirements and national policy by an independent planning inspector, who will consider the views of those who oppose or support the plan, and decide whether it can be adopted.

Under current national policy if local plans are not up-to-date and adopted, or less housing development than required takes place, a presumption in favour of sustainable development is applied. This makes it more difficult for planning applications which do not accord with the development plan for the area, to be refused, as a tilted balance in favour of granting planning permission has to be applied. The benefits of new housing proposals in providing new housing to meet the required need, often therefore outweighs other planning considerations such as a proposal being contrary to a Local Plan.

## **Neighbourhood Planning**

The 2011 Localism Act gave communities new planning powers to produce neighbourhood development plans, or to grant planning permission for specified developments or types of development (Neighbourhood development orders and community right to build orders).

If a neighbourhood plan is successful and passes all necessary stages of production including public consultation, examination and a referendum, it can become part of the official "Development Plan" for the neighbourhood area, alongside the District Council's Local Plan. It then must be taken into account when the District Council, or a planning inspector, is deciding planning applications in the area.

### **Who can prepare a Neighbourhood Plan?**

In areas with a parish or town council, a neighbourhood plan is prepared by the relevant town or parish council. If an area does not have a town or parish council, a neighbourhood forum can be formed to prepare a plan for a specific area.

### **What can be in a Neighbourhood Plan?**

Neighbourhood plans are about "development" (such as building construction and changes in the use of land or buildings). A neighbourhood plan can help to shape the type of development in an area in future, but it cannot stop all development, or plan for less than the District's Local Plan has determined.

A neighbourhood plan must:

- Have regard to national planning policy and advice contained in guidance issued by the Secretary of State (e.g. National Planning Policy Framework, and the National Planning Policy Guidance);
- Contribute to the achievement of sustainable development;

- Be in general conformity with strategic policies in the development plan for the local area; and
- Be compatible with EU obligations and human rights requirements.

While a neighbourhood plan must be in “general conformity” with the local plan’s strategic policies for the area (i.e. general scale and type of development planned), it can vary in detail from the local plan. This could include additional or alternative allocations of land for development, different design and other criteria to be applied in the area. Where there is a contradiction between a neighbourhood plan and the local plan, it is the most recent document that counts.

Neighbourhood plans often contain policies to reinforce the local character of the area, to protect local green spaces and other features of particular local importance, and measures to address local problems or shortfalls.

There is no set format for a neighbourhood plan, and they can vary from being brief and focused or more comprehensive in nature. It can often depend on how much interest there is local and what resources, and skills are available within the community. Local authorities have a duty to support groups undertaking neighbourhood planning. In Braintree this support is provided through the Rural Communities Council of Essex, and once a document is prepared, the Local Authorities will provide advice on its contents, as well as more general assistance such as that relating to mapping.

### **How is a neighbourhood plan prepared?**

Neighbourhood Plans have an impact on what may or may not get planning permission, as such they have to go through formal stages of consultation, to ensure everyone has had the opportunity to comment on the contents of the document, and to help make sure that the plan meets what is known as the “basic conditions”. This process includes an independent examination who will decide whether or not a plan meets the basic conditions and other legal tests, and whether the plan should proceed to referendum.

Once the neighbourhood plan is submitted to the local authority it becomes their responsibility to conduct further consultation, organise an examination, and assuming a successful examination followed by a referendum, the local authority will “adopt” the neighbourhood plan as part of the development plan and it can then have full weight in the determination of planning applications.

The majority of work on a neighbourhood plan is however undertaken by the local community.

For more information on neighbourhood planning please visit Braintree District Council’s website at [www.braintree.gov.uk](http://www.braintree.gov.uk)