

THE HANDY GUIDE TO

PLANNING

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Engaging Communities in Planning



Urban Forum is a national charity with members across England, typically small community groups in urban areas.

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Planning Aid England provides free, independent and professional planning advice to communities and individuals who cannot afford to pay professional fees. It is part of the Royal Town and Planning Institute (RTPI), the leading professional body representing planners.

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THE HANDY GUIDE TO PLANNING

A Handy Guide to the English Planning System
by Rachel Newton with Planning Aid England

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Handy Guide to Planning

What the Handy Guide to Planning is for

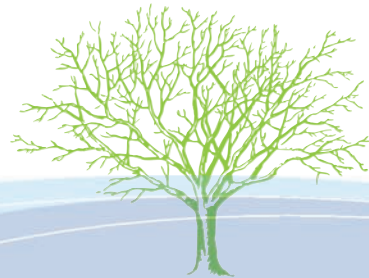
Every day, decisions are made about our surroundings: what homes, roads, offices, and shops are built and where, and what public spaces will be created and protected.

These decisions affect us all. They affect where our children can live when they leave home, how we spend our leisure time, what jobs there are in our neighbourhoods, and how we feel about our surroundings.

But while we know decisions about planning are important to us, the planning system can be hard to get to grips with. Every day, residents, community groups and activists are successful in influencing planning for their area. The aim of this Handy Guide to Planning is to help more people to do this.

The guide covers the planning system in England only. Other parts of the UK have different planning systems. The guide provides an overview of the planning system in England at a local level, including:

- ◆ how plans are developed.
- ◆ how decisions on planning are made, and
- ◆ the points in the process at which it is possible for communities to influence what happens.





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At the back of this guide you will also find:

- ◆ A jargon buster – an explanation for all the terms **highlighted** throughout the guide.
- ◆ Information on organisations involved in plan making and planning decisions.
- ◆ A list of the main parts of law and regulation, and sources of further information.

In the last 30 or so years different governments have tried to change the planning system in two main ways. First is to make it easier for development to happen, and to speed up the process, emphasising the needs of the economy. Second is to get communities more involved in planning at the early, plan-making stage, as part of a broader emphasis on citizen involvement in local decision-making. The latest changes along these lines are contained in the Localism Act 2011. The purpose of this Guide is also to provide an update for local communities in light of these changes.

There are two areas of planning that this guide doesn't cover. The first of these is enforcement. This is where local authorities take action because developers have not done what they agreed to do, or where development has taken place without planning permission. The second is those planning decisions that are made nationally, for example national programmes for power stations, train lines and motorways. You will find out some places to go to for information on both these subjects in the sources listed on page 33.

More detailed information on all aspects of planning can be found in the Planning Pack produced by Planning Aid (www.rtpi.org.uk/planningaid). The Planning Pack is made up of separate sheets. Details about which sheet to go to for more information is included throughout the guide. The Handy Guide to Planning and the Planning Pack are both endorsed by the Royal Town Planning Institute.

What is Planning?

The planning system in the UK manages the use and development of land and buildings. The aim of the system is to create better places for people to live, work and play in. It is how we as a society strike a balance between allowing development of land and buildings to support economic development, and provide the things we need (like homes, jobs, shops and transport), and improving and conserving public spaces, heritage, amenities and the environment, and help to tackle climate change.

The planning system has two main parts to it:

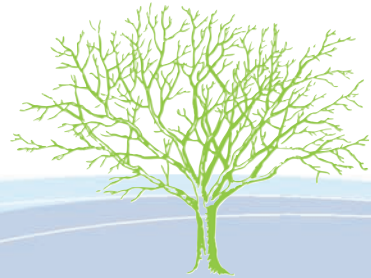
- ◆ **Plan making** – setting out a plan for how an area will develop over time as a guide to future development.
- ◆ **Managing development** – when development is agreed through planning permission.

PART ONE

PLAN-MAKING

Plan-making is sometimes called **Spatial Planning**. It is the pulling together of long-term plans (usually 15 years) for how an area will develop over time. It is intended to do a number of things:

- ◆ Provide a vision for the future of the area, based on evidence of what is needed and what makes the local area distinctive.
- ◆ Translate this vision into priorities and policies to guide future development, the allocation of land and resources, and investment.
- ◆ Support other priorities for the area – such as the local economy, improving transport, building more homes and action on climate change.





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How Local Plans are put together

Most **local authorities** (the main exception being county councils), are also known as Local Planning Authorities. Throughout this guide, where it says local authority, it means the **Local Planning Authority**.

Local authorities are required to produce a **Local Plan**. The Local Plan should set out priorities and policies for development in relation to housing, business, infrastructure (such as transport, waste, and telecoms), health, security, community facilities and services, and the environment. It should set out what are the opportunities for development in the area, and say what will and will not be permitted and where.

In the regulations for Local Plan-Making these are called **Local Development Documents**. They can also be called Local Development Frameworks. They can be one document, or more commonly several.

Whatever name they are given, Local Plans are critical in determining what will be developed, what will be protected and what will not be given permission to be built. The new **National Planning Policy Framework** says that if a Local Plan (or national policy) not clear or out-of-date on an issue there is then a presumption that a local authority will give permission for sustainable development. This is called 'the presumption in favour of sustainable development'. At the same time, the National Planning Policy Framework cannot override the Local Plan. This is 'the presumption in favour' of the local plan. This means that permission for development which is in line with the Local Plan should also normally be given, unless there is a good reason (that can be classed as a **material consideration**) that it shouldn't. A further reason why Local Plans are so important is that Neighbourhood Plans (see page 14) will only be agreed if they are in general conformity with the Local Plan.

Supplementary Planning Documents

In addition to the Local Plan, local authorities can agree **Supplementary Planning Documents** which developers have to take notice of. For example, many local authorities have Supplementary Planning Documents on the proportion of new housing that should be affordable.



Master Plans and Area Action Plans

Local authorities may also produce plans for specific areas, called **Master Plans**, or **Area Action Plans**. These form part of the Local Plan. These will be produced for large new developments (e.g. the Olympics Site, or a new area of development), for regenerating a specific area, or redeveloping a town centre.

All Local Plans should be based on evidence about the economic, social and environmental characteristics and prospects of the area. Local authorities gather this evidence through a number of assessments in relation to housing, social, economic, and environmental sustainability, and the environmental impact of development.

Plans must also be consistent with national policy and law. If Local Plans are produced which are not based on the required assessments, or are not consistent with national policy and the law, then it could give rise to the plan not being approved and to planning decisions being challenged.

Housing

Local authorities should make sure that Local Plans address the housing needs of the population, now and in the future. These can form the basis of locally set housing targets. To work out how much and what sort of housing is needed over the plan period, the authority should carry out a **Strategic Housing Market Assessment (SHMA)**. This should state the proportion of new housing that needs to be affordable (for households whose needs are not met by the market and which will stay at an affordable price in the future) and how much should be market housing (not subsidised or allocated based on need). What is economically feasible is sometimes an area of contention between local authorities and developers. For example a local authority may say, based on the SHMA, that all new housing developments must contain 50% affordable housing. But a developer, who makes less money from building affordable housing than market housing, may argue that this would mean a development was not economically viable. For this reason local authorities may set housing targets in the Local Plan which are less than the demand for housing they have identified.

Local planning authorities should also identify and maintain a rolling supply of specified sites to provide at least a supply of housing for five years, plus 5% and in some cases 20%. These are identified through **Strategic Housing Land Availability Assessments**.



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Considering environment, economic and social factors

When making Local Plans, local authorities are required to consider the environmental, economic and social needs of the area, in a **Sustainability Appraisal**. This provides evidence for the plan and the assessment of its likely impact.

In many cases local authorities will have to carry out other assessments of the environmental impact of plans and the programmes. The term ‘environmental impact’ covers a range of things, such as the effect that development will have on wildlife, on pollution (and on human health as a result), or carbon emissions.

There are a number of different sorts of assessment on environmental impact, both of plans and of specific development required by different UK regulations and EU directives. Since 2001 Sustainability Appraisals have had to be in conformity with the EU Directive on Strategic Environmental Assessment. This is a system of incorporating environmental considerations into policies, plans and strategies. Strategic Environmental Assessments are the more environmentally focused considerations. The sustainability appraisal goes beyond this as it also incorporates the wider social and economic effects of plans. If a Strategic Environmental Assessment has been incorporated into the Sustainability Appraisal then no separate Strategic Environmental Assessment is required.

An Environmental Impact Assessment is carried out where an Environmental Statement accompanies a planning application. This evaluates the likely environmental impacts of the development, together with an assessment of how the severity of the impacts could be reduced.





National policy

All Local Plans need to conform to national policy, otherwise they will not be approved and could be open to legal challenge. The national policies they must be in line with are:

- ◆ The **National Planning Policy Framework** – this lists the things Local Plans must consider, including policies on economic growth, housing, transport, community facilities and climate change.
- ◆ **Planning Policy Statements** – most PPS's were replaced by the National Planning Policy Framework. PPS 10 on waste remains.
- ◆ Legal requirements – for example the Equality Act 2010 and Human Rights legislation.

National low carbon policy

National planning policy is prepared by the Department for Communities and Local Government but is shaped by a broader policy context in the UK and in Europe. This is especially true of low carbon issues, which are driven by national and global concerns about climate change and energy security and not by traditional spatial planning priorities. There are for example legally binding targets for reductions in UK greenhouse gases, and the proportion of energy that should come from renewable sources.

Communities can use national policy to:

- ◆ Lobby for a stronger commitment to reducing carbon emissions within your council's Local Plan.
- ◆ Make a case for a low carbon project for which you are seeking planning permission.
- ◆ Argue for greater attention to low carbon issues when others' planning applications are being considered.



Getting involved in making Local Plans

Local Plans have to be widely consulted on, and there is a formal process of consultation and examination that all Local Plans need to go through, with fixed deadlines. There are many stages of Local Plan making, with different opportunities to have your say throughout. All together the process should take about three years.

Local authorities are required by law to publish a **Statement of Community Involvement** making clear how they will consult with the general public, and which groups they will be consulting specifically. It should say how they plan to inform and consult people - from adverts in local papers to holding public meetings.

Some of the groups that they will be consulting with specifically are a range of groups they call '**general consultation bodies**'. These will be voluntary groups benefiting the local area, groups representing different ethnic, national, or faith groups, businesses in the area, and groups representing the interests of local disabled people. The local authority can decide which organisations within these general categories it thinks are appropriate to consult.

They must also consult a range of groups called '**specific consultation bodies**' and these include a range of bodies with responsibilities for the environment, infrastructure, mining and neighbouring authorities. Consultation with this latter group is more tightly specified, and is also part of the **Duty to Cooperate** placed on local authorities.

The local authority should start the process of developing the Local Plan with evidence gathering – where they collect and prepare relevant reports and studies on planning issues for example on levels of housing need, and land availability. It is at this stage that they start carrying out the Sustainability Appraisal. The purpose of the sustainability appraisal process is to appraise the social, environmental and economic effects of a plan from the outset.

The evidence is gathered in order to assess and identify **issues and options** on how to address the needs of the area. During the evidence gathering stage members of the public are consulted and can give their view on the issues important to them in their area by telling the local authority what the local needs are, and what they think about which sites should be developed, and which should be protected.

The local authority will consider all the comments received during the early engagement stage and take into account the findings of the Sustainability Appraisal. From this will develop a draft **Local Plan Document** (known as the **pre-submission document**) which they will then publish for consultation. While the local authority can decide which local organisations and people they think it is appropriate to consult directly, anyone can send



in written comments. The pre-submission document being consulted on must therefore be publicly available (including on the council website) and be advertised during this consultation period, which lasts six weeks.

The submission draft document along with a summary of the main issues raised in the representations at the pre-submission stage is then submitted to the independent **Planning Inspectorate** to assess whether the document preparation and consultation procedures meet the requirements of the act and legislation.

Overall, the primary purpose for the Inspector is considering whether the plan is 'sound'. In local planning 'sound' means four things. First, is the plan positively prepared – this includes being based on an objective assessment of development and infrastructure requirements. Second, is the plan justified – this includes looking at the levels of consultation and participation, and the evidence that the plan is based on. Third, is it effective – this includes whether the plan is realistic, can it be delivered. And fourth is, is it consistent with national policy and legal requirements.

As part of their assessment, the Planning Inspectorate starts the process called an '**Examination**'. This is a review of the draft submission Local Plan Document and of a summary prepared by the local authority of the issues raised in the representations made in the consultation. The second part of the Examination can be run in four ways: written representation, a round table discussion, informal hearing and formal hearing. It is for the Inspector to decide on the procedure. One option is a formal hearing, called an **Examination in Public**, where the inspector listens to people giving evidence. Anyone can ask to speak at the Examination if they have made submitted written representations to change the Local Plan. For more information on the process of examination see Planning Pack Sheet 4.

After carrying out the Examination, the Planning Inspector may make suggestions for how the Local Plan should be changed. It is up to the local authority whether or not it makes these changes, but it is likely to agree the changes and adopt the plan. Alternatively, the Inspector may recommend that the Plan is not adopted, a recommendation that the Council has to abide by.



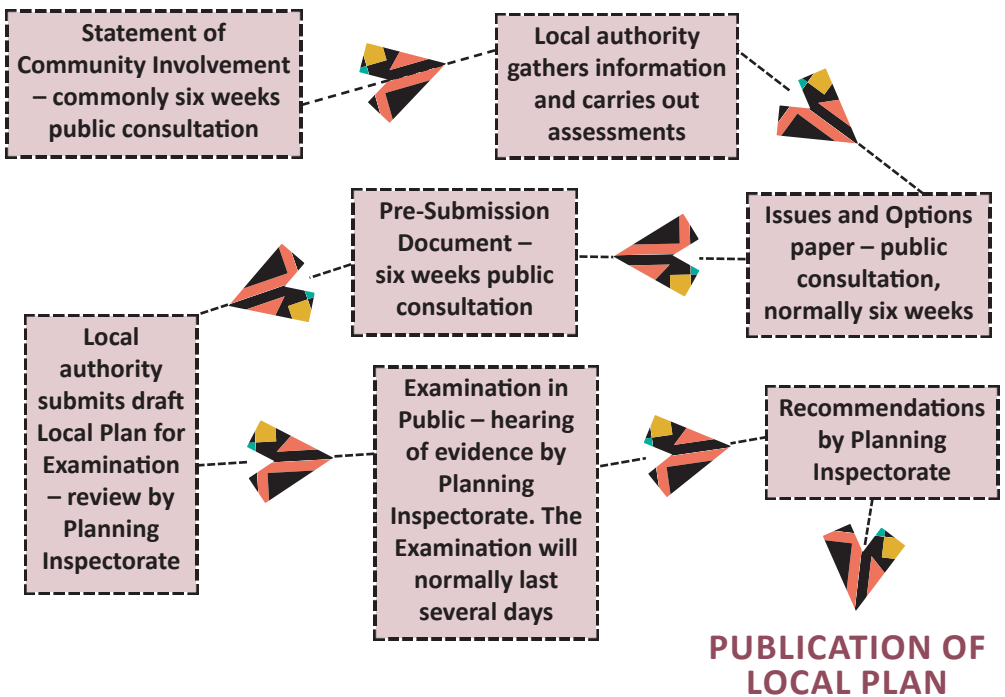
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What happens after Local Plans are agreed?

Local Plans are intended to be long term – typically to cover a 15- year period. However, either the whole or part of Local Plans can (and should) be reviewed to respond to changes. If this happens, they must again be open to public consultation.

Local authorities must also publish an Authorities’ Monitoring Report each year on progress made on developing and implementing the Local Plan. For more information about Annual Monitoring Reports see the Planning Pack Sheet 2

Local plan making



The whole process of local plan making normally takes three years from start to finish. You can get a timetable for local plan-making in your area from your local authority. The timetable information will normally be in the local council’s Authorities’ Monitoring Report.

In 2006 Kate Calvert, a resident in Archway Islington started a successful campaign to change the approach to regenerating her area



The original plan was for another big bang redevelopment which would have simply reproduced the current problems, but larger. We asked experts living locally to help us, and alternated meetings with them and public community planning afternoons. The evidence was clear that the organic and incremental approach we proposed would be much more effective in regenerating the economic and social life of the area than the original plan of a big scheme. That material convinced councillors, and they influenced the way the officers worded the local development plan.”

ANNOUNCE TIPS

- ◆ Influencing local plans is the best way of influencing what planning applications are approved or not in the future.
- ◆ Find out from your local authority planning department what stage the Local Plan is up to and what the timetable is for getting involved.
- ◆ All parts of the process have strict deadlines – find out what these are.
- ◆ If you want to influence the Local Plan, get involved at the earliest stage possible – don’t wait until the Examination to make your points.
- ◆ If you want to send written comments on the Local Plan, look up the tests of ‘soundness’ that the Planning Inspector will be using, and use these to formulate your points.
- ◆ If it’s been agreed already, find out when it will be reviewed, and look up the Authority’s Monitoring Reports reporting on progress.
- ◆ Think about whether you can get what you want from a neighbourhood plan and who else might be interested in working on this.



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Neighbourhood planning

The Localism Act 2011 introduces a new element to local plan-making called Neighbourhood Planning. The new law allows residents and businesses in a neighbourhood to do two things if they want to:

- ◆ Develop a plan for their neighbourhood.
- ◆ Propose that a particular development or sort of development should automatically get planning permission in their area.

Neighbourhood Plans

Some neighbourhoods already have plans, often called Parish Plans. What is different about Neighbourhood Plans from April 2012 is that they are part of the legal framework. This means that if they are agreed, planning decisions for that area have to be made in line with what they say, as well as the Local Plan for the whole area.

Neighbourhood Development Orders are a way that planning permission can be granted parish/town councils or neighbourhood forums for a specific development or type (class) of small scale development . These could include homes, shops, businesses, or community facilities.

Community Right to Build Orders are a type of neighbourhood development order. They allow community organisations in some cases to bring forward small scale development on specific sites without the need for planning permission.

All proposals for neighbourhood development orders, including community right to build orders, are subject to testing by an independent person and a community referendum.

Alan Brookes is a member of the Ingol Golf Village Residents Association. Alan is also on the steering group for the new Neighbourhood Council for Ingol and Tanterton which is now preparing to develop a neighbourhood plan through formal consultation with the local community.



By engaging positively with the Planning Officers and local councillors and with the help of Planning Aid, we got a clause incorporated into the Local Development Framework Core Strategy to protect a much loved recreational open space. In my experience the key is to influence the Planning Officer. It is their report that goes to the Planning Committee, and councillors will be wary about going against their advice."



Who can start a neighbourhood planning process?

The law says that neighbourhood plans and neighbourhood development orders can be initiated by either an existing **parish or town council**, or (where there is no parish or town council) by a group designated as a **neighbourhood forum**. Neighbourhood plans and neighbourhood development orders can be either resident led, or business led.

There are 8500 neighbourhoods that have parish or town councils, most commonly in rural areas. These are a type of local council at neighbourhood level who are elected and have limited powers to raise money. Most of these are represented by the National Association of Local Councils (see p34). Any area, rural or urban, may apply to have a parish council.

Parish and Town Councils are the only bodies who can lead on neighbourhood planning matters. However where no Parish or Town Council exist in an area then a neighbourhood forum can lead neighbourhood planning.

Neighbourhood forums must be set up to further the social, economic and environmental well-being of individuals living or working in that area. To be eligible, they must have at least 21 members, with membership open to all those who live, work or are elected members from that area, and they must have a written constitution.

Neighbourhood Forums should represent the character of the area, involving a range of people and groups. These should include local Councillors and local businesses if possible, as well as resident groups, community organisations, faith groups, and groups representing different sections of the community. Neighbourhood Planning is for all in the area, so it is important that everyone is included, and people's different interests are taken into account.

The group must ask the local authority for approval as a neighbourhood forum, based on whether it meets these conditions (if they are 'eligible').

What does Neighbourhood Planning look like?

Neighbourhood Plans can vary a great deal. They can set out a vision and a set of objectives for the future of the area, or they may be more detailed, setting out planning policies for the development and use of land in that neighbourhood. What geographical area the neighbourhood covers is largely up to the people applying to put together a Neighbourhood Plan or Neighbourhood Development Order. It could have the same boundaries as a ward, or be smaller than this, or contain parts of more than one ward.

Both Neighbourhood Plans and Neighbourhood Development Orders must conform to the Local Plan. So, for example, a Neighbourhood Plan cannot promote less housing than envisaged in the Local Plan, but may be able to say what sort of housing, and where it should be built, or say that more housing is required.



Getting Neighbourhood Planning agreed

The process for developing and agreeing a Neighbourhood Plan or Neighbourhood Development Order is as follows:

Local authorities need to agree the neighbourhood area, and will need to check that the boundaries proposed don't overlap with another. A neighbourhood area can cover more than one parish/town council, with one taking the lead with the agreement of the other. Where no parish/town council exists then a neighbourhood forum can take the lead. To become a neighbourhood forum the group must apply to the local authority who will check they meet the requirements (p15). Only one neighbourhood forum can exist in any designated neighbourhood area.

Then the parish/town council or neighbourhood forum will work up the details of the draft Neighbourhood Plan or Neighbourhood Development Order. They need to publicise and make available for comments to all people within the neighbourhood (within the area of the plan) for at least six weeks. During this time they must also consult **Statutory Consultees**. The next step is to formally submit the plan to the Local Authority for their consideration. They will check that all the relevant information that needs to accompany the Draft Plan or Order has been submitted.

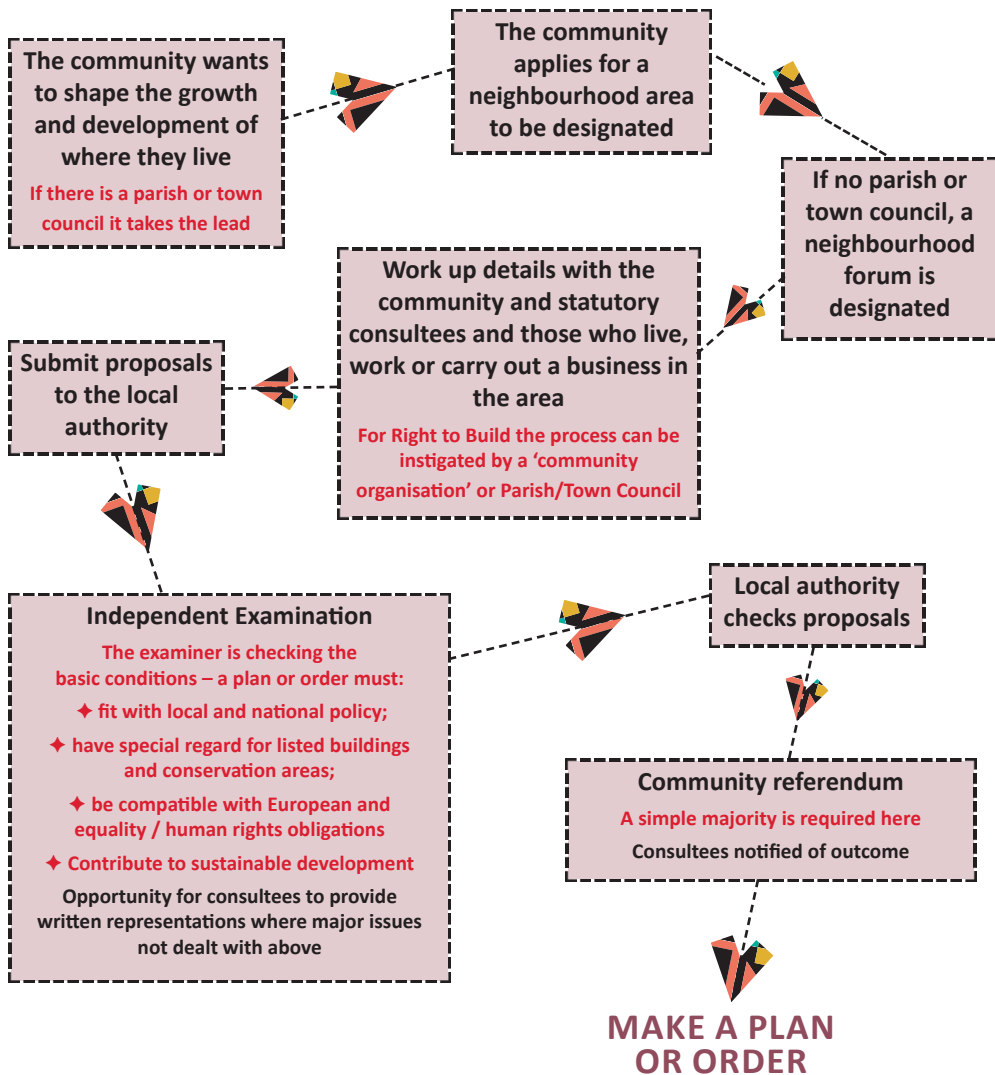
The Neighbourhood Plan and Development Orders are then submitted to an **independent qualified inspector** for Examination. The purpose of the Examination process is to check the Neighbourhood Plan and/or Neighbourhood Development Order is in line with local and national policy, that is has special regard for listed buildings and conservation areas, and is compatible with equalities, environmental and human rights legislation. It also takes written representations from **Statutory Consultees**.

Subject to the approval of the Examiner, the local authority then organises a community **referendum**.

All people living in the neighbourhood covered by the Neighbourhood Plan or Neighbourhood Development Order registered to vote in local elections will be entitled to vote. If it receives the majority of votes of those voting, the Neighbourhood Plan or Neighbourhood Development Order is passed, and incorporated into the Local Plan.

For business-led neighbourhood plans and neighbourhood development orders two referenda will need to be carried out, the first for residents and a second for businesses in the area. If both of these come to the same conclusion, that is the decision, if they differ, the local authority decides.

For more information about Neighbourhood Plans and Neighbourhood Development Orders see the Planning Pack sheet 5.



Money from New Development

Local authorities receive money for new development in three main ways: Community Infrastructure Levy, Planning Obligations and the New Homes Bonus. The Localism Act 2011 means that all local authorities will have to think about how they do this so that money from new development directly benefits residents where the development is. Further regulations are expected to follow. In many areas residents and community groups, parish councils and neighbourhood forums are already improving where they live by working with their local authority in deciding how money raised from these sources can best be spent.



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Community Infrastructure Levy

From April 2011, local authorities have been able to set a **Community Infrastructure Levy (CIL)**, which is a charge on developers to pay towards the cost of local **infrastructure** that the local authority, or local community, have identified. This could include things like roads, schools, health centres and parks. The Government has advised local authorities that a meaningful proportion of CIL must be used on local community priorities.

Local authorities will be able, though not required, to levy the charge on most new developments.

If the local authority decides to set a Community Infrastructure Levy it must take the form of a local development document and, be prepared, consulted upon and examined in the same way as other local plan documents.

Planning Obligations

Planning Obligations (also known as section 106 agreements) are agreements made between local authorities and developers. Local authorities can agree planning permission on the condition of these agreements. Their purpose is to make development acceptable when permission would otherwise be refused.

Planning Obligations can either be a sum of money or development. They are used for three main purposes: to prescribe the nature of the development (for example, requiring a proportion of housing to be affordable); to compensate for loss of damage (for example, loss of an open space) or to mitigate a development's impact (for example, improving local public transport).

Unlike the Community Infrastructure Levy, contributions raised through Planning Obligations must be directly related to the development.

The local authority can raise money from both the Community Infrastructure Levy and Planning Obligations. However they cannot raise money through Planning Obligations to fund the same things that it also plans to fund through the Community Infrastructure Levy.

Planning Obligations are not the same as **Planning Conditions**.

New Homes Bonus

The New Homes Bonus was introduced in 2010. It is money that the government pay to local authorities where for six years they will match the council tax raised from new homes, with a bonus if those homes are affordable. It is intended to provide an incentive for local communities and local authorities to support plans for new homes to be built.

For more information on Planning Obligations and the Community Infrastructure Levy see the Planning Pack, sheet 12.

PART TWO

HOW DEVELOPMENT IS MANAGED

New development and building work, and how land and buildings are used, are all managed through the process of planning permission. This is called **Development Control** or **Development Management**

The Local Plan is the most important consideration in deciding planning applications and is used as a guide to what will be given permission and what won't.

Planning Permission

Most new buildings, major alterations to existing buildings, and significant changes to the use of a building or piece of land need **planning permission** from the local authority.

There are two main sorts of planning application full and outline, usually on standard application forms. Full applications require full details of the proposed development, including access, layout and design. Outline

applications need less detail, and are used first to find out whether a development is acceptable in principle. There are also different application forms

for some specific applications, for example for an extension of a home, for work relating to a listed building, and for consent to develop in a conservation area. All applications must be submitted to the local authority. The local authority will also say what drawings of the site and the proposal are required.





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Whether planning permission is agreed or not will depend on whether the application is in line with the policies and proposals within the Local Plan unless other strong planning reasons or material considerations' dictate otherwise. For more information on applying for planning permission see the Planning Pack, sheet 6.

The things that don't need planning permission are called '**permitted development**'. What is defined as permitted development is set out in the Town and Country Planning (General Permitted Development Order) 1995.

Some minor building works – for example a low boundary wall, or some domestic building work on one's own home – is permitted development and doesn't need planning permission. Some changes in how a piece of land or building is used can also be made without planning permission. For more information on permitted development see the Planning Pack, sheet 6.

What is permitted development varies depending on where you live. For example, permitted development rights may be restricted in areas officially designated as Conservation Areas, Areas of Outstanding Natural Beauty, National Parks and World Heritage Sites. In some instances permitted development rights may also have been removed by the council (by issuing what is known as an Article 4 direction) or through a condition they place on planning permission being given.

To check if planning permission is needed for building works, or a change of use of an existing development, you should contact the planning department in your local authority. Any change in how building and land are used is called '**change of use**'. Different sorts or planning use are grouped together into categories, called '**use classes**'.

Whether a change of use needs planning permission or not will depend on whether the proposed use is in the same category as its current use. So for example there could be a change of use from a library to a community centre without planning permission because these are in the same category (non-residential institutions, which is use class D1). Or it could be the change of use from a bookshop to a hairdresser (both are shops so are in use class A1). But there would need to be planning permission for a change of use from a shop to a community centre, because they are in different classes.

Regardless of whether or not a change of use requires planning permission, if it involves building work to convert it for other use, it may still need planning permission for this work. Check with your local authority.

For details of all use classes and more information on change of use see the Planning Pack, sheet 11.

Note on Building Regulations

There is often confusion between planning permission and building regulations approval. These are two separate things for which someone carrying out building work may need to apply to the local authority.

Building Regulations set standards for the design and construction of buildings. They are concerned with health and safety, fuel and power facilities, conservation, and disabled access.

For many types of building work, both Planning Permission and separate Building Regulation approval will be necessary. For some small building work, such as most loft conversions, Building Regulations approval will be needed, but Planning Permission may not be.

Consultation

For some large proposals developers will consult with residents and affected groups before making an application to the local authority.

Once any planning application has been received and recorded, the local authority should take steps to publicise it, consult and invite comments.

Pre- application consultation

Many developers consult communities before submitting planning applications. From April 2012 they will be required to do this by law for certain applications.

In doing this they must:

- ◆ Consult the community, taking note of advice from the local authority on how to do this.
- ◆ Consider any responses before submitting an application.
- ◆ Show in their application how they have consulted the local community, what comments they have received, and how they have taken these into account.

Post –application consultation

All planning applications are added to a register, which is published by the local authority. This is often kept on a local authority's website, this can be viewed by the public.

In addition to keeping a register the local authority must notify immediate neighbours of any application that will affect them. This notification can be by letter, an advert or site



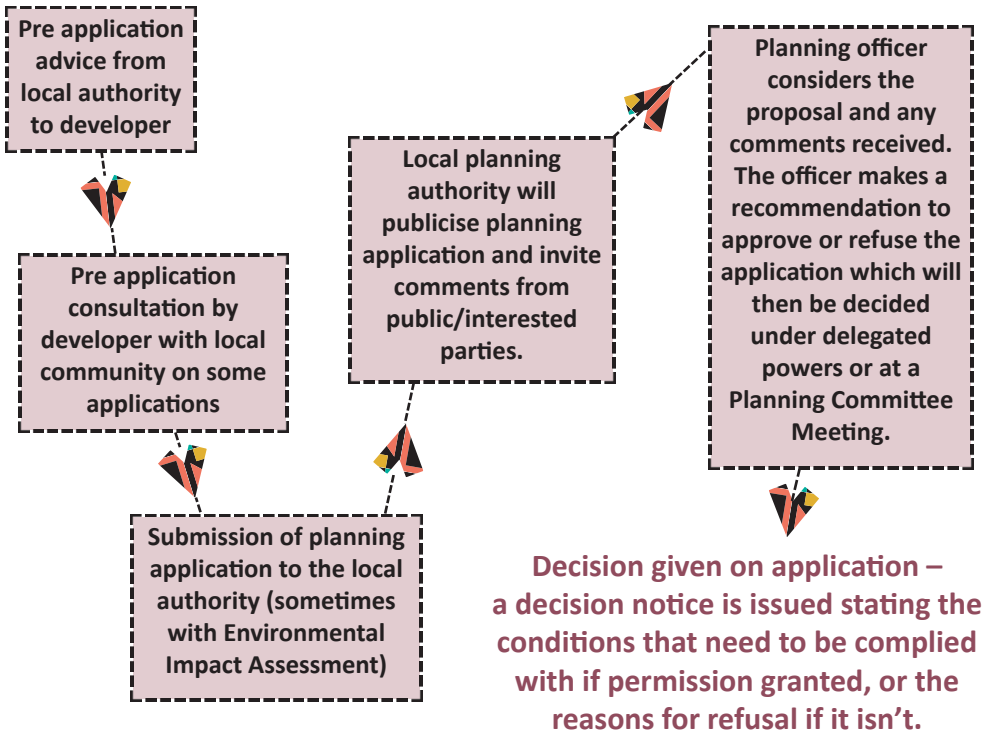
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notice – commonly attached to lampposts. For some applications (such as proposals that would affect the setting of a **listed building**), the local authority must place a public notice in the local press.

Anyone has a right to comment on any application. Comments must be in writing and received before the deadline given. Local authorities must publish specified information about all planning applications on their websites, including deadlines for submitting objections.

You can get more detailed information on a specific development and arrange to view the plans by contacting your local authority's planning department and asking to speak to the planning officer dealing with the application. For more information on how to comment on a planning application (post-application consultation) see the Planning Pack, sheet 7.

Planning Applications





There can be many different sorts of objections to planning applications, but they must always be related to planning. The phrase used for objections that can be considered is '**material planning considerations**'. A material planning consideration could be, for example, that the development is not in line with local plans or policies. It could also be that the development will have an impact on the area, such as increasing traffic, or loss of valued community space. It could be because of the impact upon neighbours, such as loss of light. Or it might be because it affects the character of a conservation area, or the setting of a listed building.

Matters that are not considered material planning considerations include the loss of a view, devaluation of local property, or who the applicant or intended occupant is. For more information about material planning considerations see the Planning Pack, sheet 7. All objections are made publicly available for others to see.

How are planning applications decided?

The decision may be taken either by the **Planning Committee**, which is made up of elected councillors, or through **delegated powers**.

Delegated powers are where the person in charge of planning at the local authority (the head of the planning department) is given the power to decide on applications on the Committee's behalf. Local planning authorities normally have a set of criteria, based on size and nature of development, to decide whether a decision will be made at council officer level (delegated), or if the planning application should be considered at Planning Committee.

When the decision is taken by the Planning Committee, councillors will hear the recommendations from planning officers.

If the decision is being made by the Planning Committee the applicant and/or those objecting to the application, may be able to register to speak at the Planning Committee meeting, to present the application or their objections. To do this you need to contact the local authority to confirm what the process is for speaking at meetings, as this will vary from authority to authority.

Members of the public are entitled to view background papers used in the preparation of planning committee reports. The planning committee agenda and accompanying reports are generally made available for members of the public to view five working days before the date of the meeting. This timeframe varies between local authorities, so you will need to contact your local authority to check.



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As an alternative to refusing an application, local authorities may grant permission, subject to **conditions** such as removing permitted development rights, or specifying that the materials to be used in the construction be of a similar appearance to those used in the exterior of the existing building. Or it might set out **obligations** (section 106 agreements) that would make the development acceptable. For more information on planning obligations see Planning Pack sheet 12.

Appeals

Most appeals are made because the local authority has refused planning permission. Appeals are generally made to the Planning Inspectorate. They are dealt with in one of three ways: written representations, a hearing where the merits of the appeal are discussed in front of the planning inspector, and a public inquiry where evidence is formally presented in front of an inspector. Members of public can speak at hearings and inquiries.

Only the person who made the planning application has the right to appeal to the Planning Inspectorate. If they aren't happy with their decision, and that person feels aggrieved by the Inspector's decision, they have the right to challenge the decision by making a claim for **Judicial Review** through a court.

Appeals by third parties (which could be an individual or group) can only be made to the court, by applying for a Judicial Review.

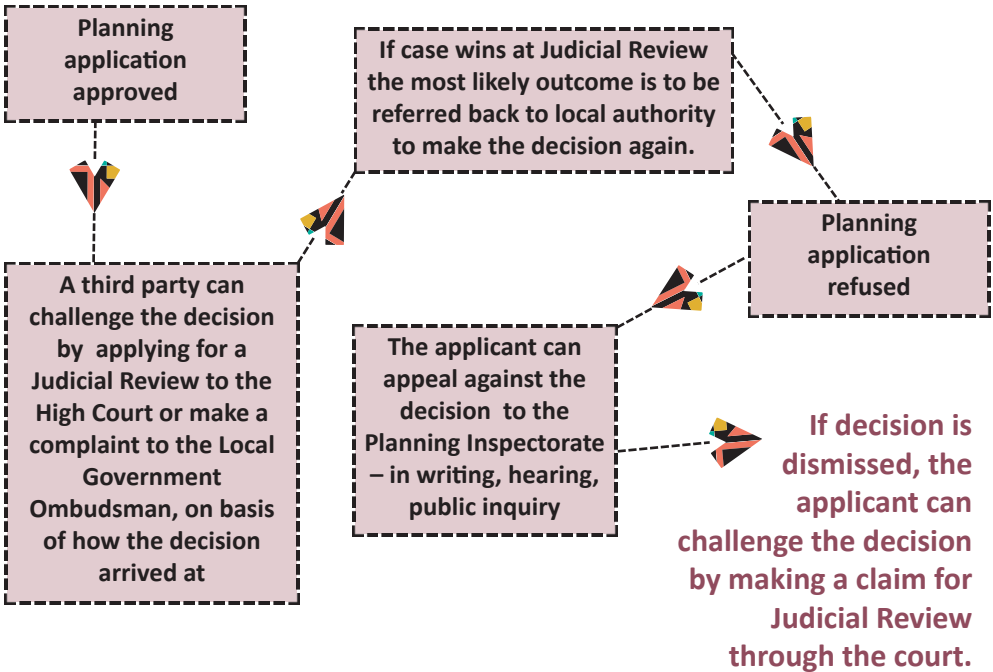
A Judicial Review can only look at whether the local authority's decision was made incorrectly; for example if it can be proved that they didn't follow the correct procedure, or didn't consider things that they are legally obliged to consider.

If an application for Judicial Review is successful it usually means that the decision has been '**quashed**'. This in turn can result in it being returned to the local authority to decide again. They could reach exactly the same decision being taken or it could have a different result – for example, as a result of having an environmental impact assessment completed.

Judicial Review is generally a costly business, so anyone considering it should get advice first. For more information on Judicial Reviews see the Planning Pack, sheet 13.

It is also possible to complain about how a decision was made to the **Local Government Ombudsman** who will investigate if the decision was fair and if there was **maladministration**. However, it cannot overturn a planning decision. Before taking a complaint to the Local Government Ombudsman the complainant needs to have exhausted the local authority's internal complaints procedure. For more information about how to complain about a local planning decision see the Planning Pack, sheet 13.

Appeals



HANDY TIPS

- ◆ Find out where your local authority publishes information about new applications- usually their website or the local press
- ◆ If you want to find out more about a particular application speak to the Planning Officer at the local authority responsible for it. You can also ask them to keep you informed of any changes.
- ◆ If you are applying for planning permission or objecting to a planning application look at how the Local Plan supports your case.
- ◆ Before applying for planning permission get advice first and talk to someone in the Planning Team in the local authority.



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PART THREE – QUICK REFERENCE

Jargon Buster

a- z of terms used in planning

Affordable housing: housing for sale or rent at below market prices (subsidised) such as social rented housing, or low cost home ownership schemes where housing will remain affordable for the future.

Area action plans: a type of development plan document focused on a specific location within a local authority area (e.g. an area for regeneration).

Authorities' Monitoring Report: annual report by local authority on progress on Local Plan.

Building Regulations: legal requirements that set standards for the design and construction of buildings.

Change of use: A change in the way that land or buildings are used, often requiring planning permission (see Use Classes).

Community Infrastructure Levy (CIL): a charge levied by local authorities on developers.

Community Right to Build Orders are a type of Neighbourhood Development Order. They allow community organisations in some cases to bring forward small scale development on specific sites without the need for planning permission.

Delegated powers: when the local authority officer in charge of planning (head of planning or chief planning officer) is given the power to make planning decisions on behalf of the Planning Committee.

Development Control: the process for a local authority to decide on planning applications.

Development Plan: another term for Local Plan.

Development Plan Document: any document that goes to form the Local Plan.

Development Management: the process for a local authority to decide on planning applications.

Duty to Co-operate: who local authorities have to co-operate with in plan making.

Enforcement: procedures by the local authority to make sure that the conditions on planning decision notices are carried out, or dealing with development without planning permission.

Examination: review of draft local plan by Planning Inspectorate.

Examination in Public: public hearing held by the Planning Inspectorate to look at the draft local plan.

General consultation bodies are types of bodies listed in the Town and Country Planning regulations 2004 that must be consulted by local authorities in developing Local Plans.



Infrastructure: services and developments necessary for other development to take place e.g. roads, trains, electricity, sewerage, water, education and health facilities.

Issues and Options stage: First stage in development of Local Plans.

Judicial review: Legal process in the court to challenge the process of a planning decision.

Listed building: a building or structure which is considered by English Heritage, to be of 'special architectural or historic interest.'

Local authority: your local council (the one you pay council tax to).

Local Plan: plans for development in a local authority area, usually for 15 years

Local Development Documents: the term for Local Plans used in the regulations.

Local Development Framework: the old term used for Local Plans.

Local Government Ombudsman: official body who investigates complaints against local authorities.

Local Planning Authority: another term for local authority when talking about their responsibility for planning.

Maladministration: when government (including local authorities) doesn't follow proper process and procedures.

Material Planning Considerations: things that will be taken into account in an appeal against a planning decision, including developments not being in line with the local plan or the impact on the area/neighbours.

Masterplan: a detailed plan for an area of development or regeneration not necessarily being a development plan document.

Market housing: housing for sale or rent at market value (not subsidised).

National Planning Policy Framework: document setting out the national government's main policies on planning.

Neighbourhood Plans: Plans for an area within a local authority, proposed by either a Town or Parish Council or neighbourhood forum, voted on by the community.

Neighbourhood Development Orders: development permitted to take place in a neighbourhood, proposed by either a Town or Parish Council or neighbourhood forum, voted on by the community.

Neighbourhood forum: a group of local residents/businesses involved in neighbourhood planning.

New Homes Bonus: money from national Government to local authorities to match money raised in council tax from new homes built or brought back into use.

Parish councils: a type of local authority in England, representing parishes, a smaller geographical area than a main local authority, elected with some tax raising powers.



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Permitted development: development that is allowed to take place without having planning permission.

Planning conditions: Requirements attached to planning permission to limit, control or direct the manner in which the development is carried out.

Planning Control: another term for Development Management.

Planning Inspectorate: a government body.

Planning obligations: money or development required from the developer if planning permission granted.

Planning permission: permission given for development to go ahead, sometimes on the basis of certain conditions and obligations.

Planning Policy Statements: more detailed legal guidance from national government on specific aspects of planning policy such as waste (PPS10).

Referenda (or community referenda): a vote by those eligible to vote in elections, within the area designated as a neighbourhood for the purposes of neighbourhood planning.

Quashed: a ruling from the court that makes a previous decision void and usually the decision has to be made again.

Section 106 agreements: same as Planning Obligations.

Spatial Planning: the process of plan making.

Statement of Community Involvement: a document in which local authorities say how they will involve the community in

local plan making.

Submission document: a draft version of the Local Plan.

Supplementary Planning documents: additional guidance produced by local authorities for developers, which form part of Local Plan.

Strategic Housing Market Assessment: assessment of number and types of homes needed for the area by the local authority as part of local plan making.

Strategic Housing Land Availability Assessments: identification of land supply to build homes on by local authorities as part of local plan making.

Specific consultation bodies: the organisations who must be consulted by local authorities in developing Local Plans, generally specific parts of Government and those responsible for utilities and infrastructure.

Statutory Consultees: another name for specific consultation bodies.

Sustainability Appraisal: assessment of environmental, social and economic needs of the area to be addressed in a Local Plan.

Town council: same as a parish council.

Use Classes: in law uses of land and buildings are put into various categories. Planning permission is not needed for changes of use within the same use class.

WHO DECIDES?

What?	Who?	How?
National policy	Department of Communities and Local Government (DCLG)	Through the National Planning Policy Framework
Local Plans	local authority	Lead by Chief Planning Officer, agreed by Planning Committee
Assessment of Local Plans	Planning Inspectorate	a Government body, Examination process
Decisions on local planning applications	Local authority	Decision by Planning Committee, or Planning Officer on its behalf
Neighbourhood Plans	Parish/town council or neighbourhood forum, local authority, independent inspector and votes	Developed by parish council or neighbourhood forum. Accepted as in line with Local Plan by local authority and independent inspector and voted on by at least 50% in a local ballot
Neighbourhood Development Orders	Parish/town council or neighbourhood forum	As above
Assessment of Neighbourhood Plans	Independent qualified Inspector	Inspector appointed by the local authority will carry out a public Examination. Will recommend if can be put to a local ballot.
Setting of Community Infrastructure Levy (CIL)	local authority	If a local authority decide to set a levy then it must be in line with CIL regulations
Assessment of CIL	Planning Inspectorate	All CIL must be signed off by an independent planning inspector following a public Examination
Appeals against process of planning decisions by applicant	Planning Inspectorate	By written appeal, hearing or public inquiry
Appeals against appeal decisions by applicant	High Court	Judicial Review, which can quash, prevent or require a decision, clarify the law or compensate the applicant
Appeals against planning decisions by third party	High Court	Judicial Review as above
Challenge to Inspectorate or Secretary of State decision by applicant	High Court	Judicial Review as above
Appeals against planning decisions by third party	Local Government Ombudsman	Government body that investigates complaints about local authorities in England



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WHO DECIDES? continued

Which local authority?

Planning matters are the responsibility of the local authority. When dealing with planning, whatever sort of local authority it is, it is known as the local planning authority (LPA).

If your local authority (the one you pay council tax to) is a district council, or unitary authority then they are the local planning authority, and will be responsible for producing Local Plans, and for making most planning decisions.

If you are in a two-tiered authority (with district and county councils) then although the district is the main council responsible for planning, the county council will have responsibility for certain things, such as minerals and waste issues, education and highways.

What's different about London?

In London the planning system is different from the rest of the country. As well as adhering to national policy, Local Plans in London have to be in line with the London Plan, prepared by the Greater London Authority (GLA).

The London Mayor can get involved in planning applications, and must be consulted on applications that are considered to be of wider importance to London.

Another difference in London is that Mayor of London can set a London wide Community Infrastructure Levy for strategic infrastructure in London.

When and how national government can get involved in local planning decisions

The Secretary of State for Communities and Local Government is the Minister in Government who runs the Department of Communities and Local Government.

In a small number of cases the Secretary of State will make the decisions on a planning applications or an appeal. The Secretary of State has the power to ‘call-in’ planning applications for him or her to decide, rather than letting the local authority decide (for example, if they conflict with national policies, or raise issues of regional or national importance). Planning appeals can also be ‘recovered’ for decision by Ministers rather than Inspectors for similar reasons.

The decision of the Secretary of State on whether to grant planning permission following an appeal or the call-in of an application is informed by the report of an Inspector from the Planning Inspectorate. They will nearly always hold a public inquiry into the proposal. For more information on how the Secretary of State can intervene see the Planning Pack, sheet 8.

Example of national government intervening in local planning decision

Communities Secretary, Eric Pickles MP, called in an application by Liverpool City Council to demolish 200 -300 homes on the Welsh Streets in Liverpool as part of its regeneration plans. His ruling has resulted in demolition being halted, and the council being required to submit a new, full planning application for demolition, with plans subject to an Environment Impact Assessment, and the council required to examine alternatives to demolition, including renovation and refurbishment.



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Important parts of law and regulations referred to in this guide

All planning has to be in line with the law (Acts of Parliament), and national policy documents. Regulations and guidance, often in the form of Government Circulars to Local Authority Planning Departments say how the law and national policy should be interpreted and carried out.

Laws

A number of Acts of Parliament in the UK were passed in 1990 to reform the planning system in England and Wales and consolidate previous legislation. The main one of these is **Town and Country Planning Act 1990**

www.legislation.gov.uk/ukpga/1990/8/contents

Some of this legislation has been replaced or amended by the **Planning and Compulsory Purchase Act 2004** and the **Localism Act 2011**

www.legislation.gov.uk/ukpga/2004/5/contents

The **Planning Act 2008** relates to national planning permission for major new infrastructure projects such as airports, roads, nuclear power and waste facilities. It too was amended by the **Localism Act 2011**.

www.communities.gov.uk/publications/planningandbuilding/planningguidancelocal

Localism Act 2011

The **Localism Act 2011** amends planning legislation, and introduces Neighbourhood Planning, and the Duty to Cooperate.

www.legislation.gov.uk/ukpga/2011/20/contents/enacted

www.legislation.gov.uk/ukpga/2011/20/schedule/9/part/1/enacted?view=plain

National Policy

The **National Planning Policy Framework** was published by the government in March 2012.

www.communities.gov.uk/publications/planningandbuilding/nppf

Regulations

The **Town and Country Planning (Local Planning) (England) Regulations 2012** gives details of how local planning should be done including: who should be consulted (general and specific consultation bodies), bodies who should work together in the 'Duty to Cooperate', the form and content of Local Plans, how they should be prepared, their examination, the form and content of annual monitoring reports.

www.legislation.gov.uk/uksi/2012/767/contents/made



The **Neighbourhood Planning (General) Regulations 2012** gives details of how neighbourhood planning, introduced with the **Localism Act 2011**, should be implemented.

www.legislation.gov.uk/uksi/2012/637/pdfs/uksi_20120637_en.pdf

Guidance

Some guidance to local authorities comes in the form of circulars from the Secretary of State. These are published on the Department of Communities and Local Government website.

www.communities.gov.uk/planningandbuilding/planningsystem/circulars/

For a full list of relevant legislation, regulation and legal guidance see Planning Pack sheet 16.

Sources of further information and advice

More detailed guidance on all of the areas covered in this guide can be found on the Planning Aid Planning Pack, the sheets for different topics are referenced throughout this guide. In addition to this, information and advice can be obtained from the following sources.

ACRE

Action with Communities in Rural England is the national umbrella body of the Rural Community Action Network (RCAN), which supports rural communities across the country. ACRE can advise on the development of neighbourhood plans, and the process of community led planning.

www.acre.org.uk/

Asset Transfer Unit

The Asset Transfer Unit is run by Locality with Community Matters and the Local Government Association, and advise on the transfer of assets from the public or private sector to the community, including on planning permission for change of use.

<http://atu.org.uk/>

Campaign for the Protection of Rural England (CPRE)

CPRE is a campaigning organisation with local groups. They provide advice on planning matters, including a guide to object to a planning application.

www.planninghelp.org.uk/what-were-doing/supporting-communities-and-neighbourhoods-in-planning/advice

Centre for Sustainable Energy (CSE)

CSE is a national environmental charity. Through PlanLocal, they work with communities and local authorities to plan for a low carbon future.

www.cse.org.uk

www.planlocal.org.uk



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Civic Voice

Civic Voice is a national charity that provide support to local civic societies and have produced briefings and material on getting involved in local planning as part of their Planning for People campaign. www.civicvoice.org.uk/campaigns/planning-for-people/

Environmental Law Foundation

Environmental Law Foundation is a national charity which provides advice on environmental matters, who offer free initial advice to individuals and communities suffering from environmental harm or threats to their local environment as a consequence of local decisions. www.elflaw.org/

Locality

Locality provide various materials and help for community groups around neighbourhood planning and asset transfer. They lead the Building Communities project which provides help to people getting involved in neighbourhood planning. <http://locality.org.uk/projects/building-community/>

National Association of Local Councils (NALC)

Provides materials, help and advice on all aspects of neighbourhood governance. With the Campaign for the Protection of Rural England they have also developed some support services for people wanting to get involved in neighbourhood planning. www.nalc.gov.uk/About_NALC/About_NALC.aspx
www.nalc.gov.uk/Training/CPRE_NALC_Neighbourhood_planning_project.aspx

Planning Aid

Planning Aid is part of the Royal Town and Planning Institute (RTPI), the leading professional body representing planners. In addition to the Planning Pack, Planning Aid provides the Planning Aid Adviceline and an email advice service, giving fifteen minutes of free professional advice. Eligible callers may then receive further professional advice through a network of professional volunteers, who give their services free of charge to individuals and groups who are unable to afford professional fees.

www.rtpi.org.uk/planningaid/

Planning Aid Adviceline: 0330 123 9244

Planning Aid email advice:
advice@planningaid.rtpi.org.uk

Planning Aid for London

Planning Aid for London (PAL) provides free, independent or affordable professional town planning advice to individuals and groups who do not have the means to pay professional planning fees in London (Greater London, including all outer London boroughs

Tel: 020 7401 8046

info@planningaidforlondon.org.uk

www.planningaidforlondon.org.uk

Planning Portal

The Planning Portal: a Government website for the Planning Inspectorate with resources and information on all aspects of planning, links to relevant guidance and legislation, as well as the facility to make online applications to local authorities.

www.planningportal.gov.uk

Planning Advice Service (PAS)

PAS is part of the Local Government Association (LGA) and provides support to local authorities to understand and respond to changes in the planning system.

www.pas.gov.uk/pas/core/page.do?pageId=102561

Urban Forum

Urban Forum is a national membership charity. As well as research and policy work they provide resources to support community led action and to explain Government policies and laws.

www.urbanforum.org.uk

Prince's Foundation

The Prince's Foundation brings together planners, designers, buildings, local authorities, community groups and governments together to help create sustainable communities and development. They provide services to support people and groups getting involved in neighbourhood planning.

Tel 0207 613 8500

enquiry@princes-foundation.org

www.princes-foundation.org/what-we-do/projects/engage/clg-planning-scheme/supporting-communities-and-neighbourhoods-planning

UK Environmental Law Association

UKELA is a membership organisation of lawyers and non lawyers with a website that has guidance on planning and environmental law.

www.environmentallaw.org.uk/rte.asp?id=129

Disclaimer

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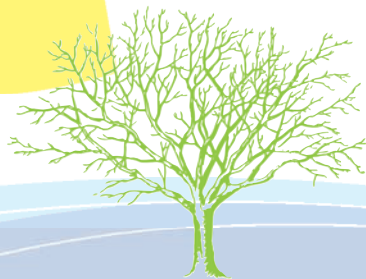
Planning Aid

www.rtpi.org.uk/planningaid/

Planning Aid Adviceline: 0330 123 9244

Planning Aid email advice:

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A HANDY GUIDE TO THE ENGLISH PLANNING SYSTEM

