

# An Introduction to Neighbourhood Planning

**Welcome**

**The webinar will start shortly**

- **Your microphone and video are turned off automatically**
- **Please ask questions – using the Q&A box provided**
- **Questions will be answered at the end**
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# An Introduction to Neighbourhood Planning

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**DLP Planning Limited**

**Harriet Townsend**  
**Cornerstone Barristers**

# What stage of the neighbourhood plan-making process is your group currently at?

1. We already have a neighbourhood plan adopted
2. We have a neighbourhood area designated and are currently drafting our plan
3. We have a neighbourhood area designated but haven't yet started drafting our plan
4. We don't have a neighbourhood area designated but we are considering starting the process of preparing a neighbourhood plan
5. None of the above





# Introduction

- What is a Neighbourhood Plan?
- Why Neighbourhood Planning?
- Getting started
- The Neighbourhood Planning process
- Grant funding
- Neighbourhood Planning – a legal perspective



# Alex Roberts – Neighbourhood Plans

- What is a Neighbourhood Plan?
- Why Neighbourhood Planning?
- Getting started
- The Neighbourhood Planning process
  - Evidence-Gathering
  - Policy Writing
  - Public Consultation



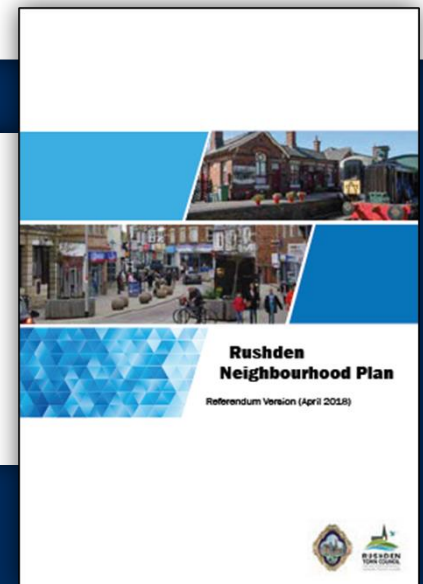


# What is a Neighbourhood Plan?

- A document that sets out planning policies to be used when considering planning applications
- Prepared by the local community not the Local Planning Authority
- Right type of development in the right location
- Sets the priorities for the local area
- Must be in general conformity with strategic adopted local plan policies



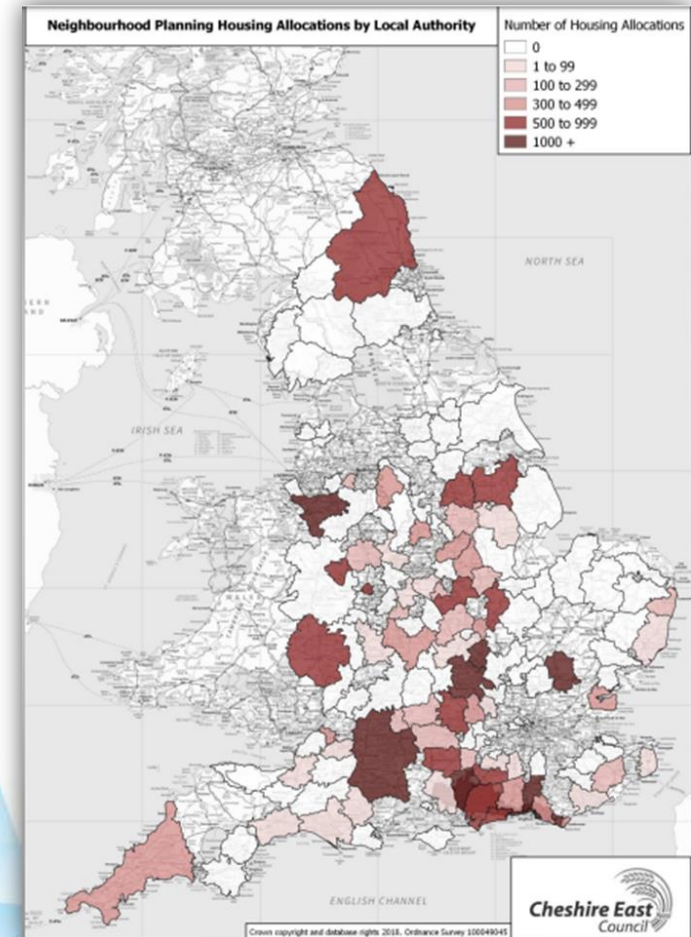
Neighbourhood  
Planning Act 2017



# Overview of Neighbourhood Planning in England

As at July 2018:

- Over 542 plans 'made'
- Over 31,000 homes allocated by Neighbourhood Plans
- 167 Neighbourhood Plans allocate development sites
- Of those plans that allocate sites for housing, 18% allocate sites for under 100 homes, 16% allocate sites for between 100 and 299 homes



Source: <https://www.cheshireeast.gov.uk/pdf/planning/neighbourhood-plan/np-housing-allocations-infographic-july-2018.pdf>



# Why Neighbourhood Planning?

- Identify a Vision and priorities for the area
- Benefits the local community e.g. through Community Infrastructure Levy (CIL) receipts
- Designate and protect Local Green Spaces
- Control allocations of land for development
- Housing Land Supply protection (3 not 5 years - where the Plan allocates sites for housing)
- Promote regeneration and mixtures of uses
- Establish design principles
- What a Neighbourhood Plan **can't** do





# Getting Started

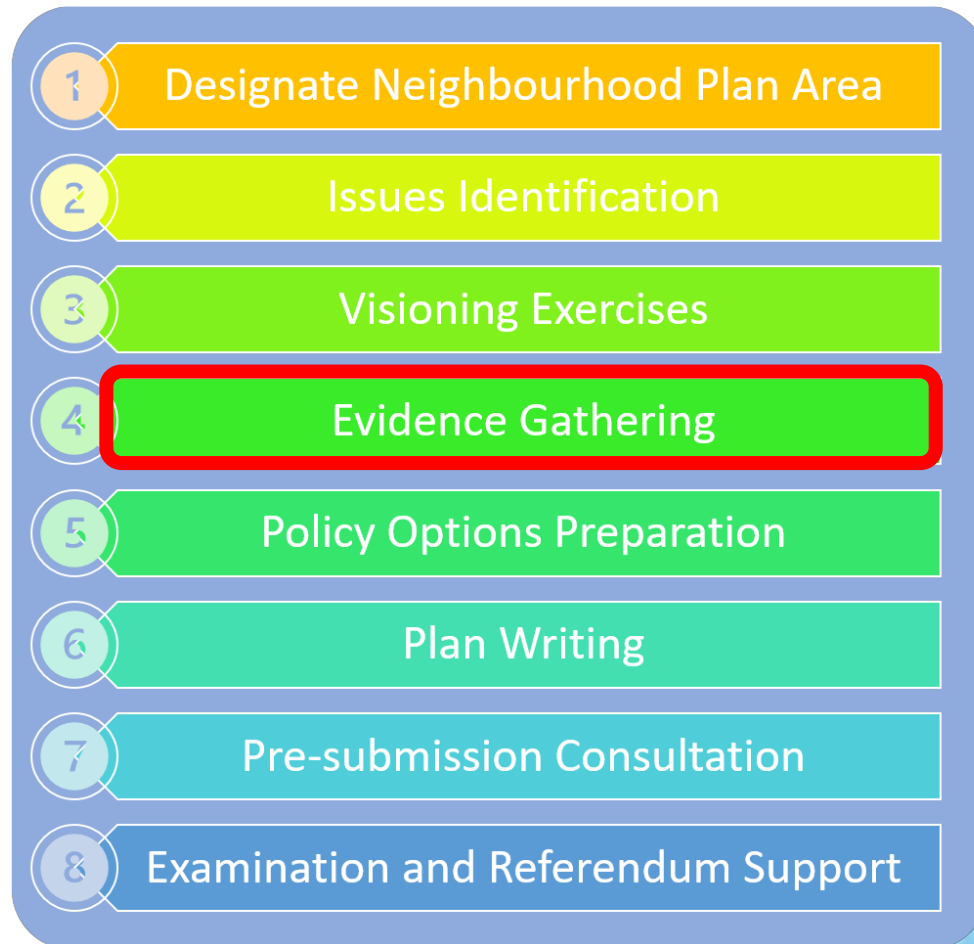
- Gather support from local community and Town/Parish Council
- Establish a Steering Group
- Prepare and submit Neighbourhood Plan Area designation request to Local Authority
- Neighbourhood Plan areas usually reflect the Parish boundary
- Only one Neighbourhood Plan is allowed per Neighbourhood Area. Areas cannot overlap.



# Neighbourhood Plan-making Process



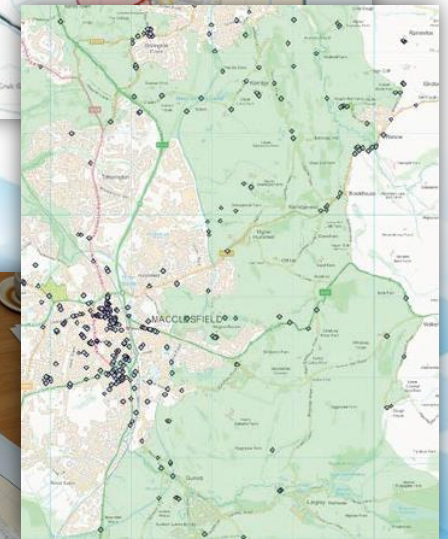
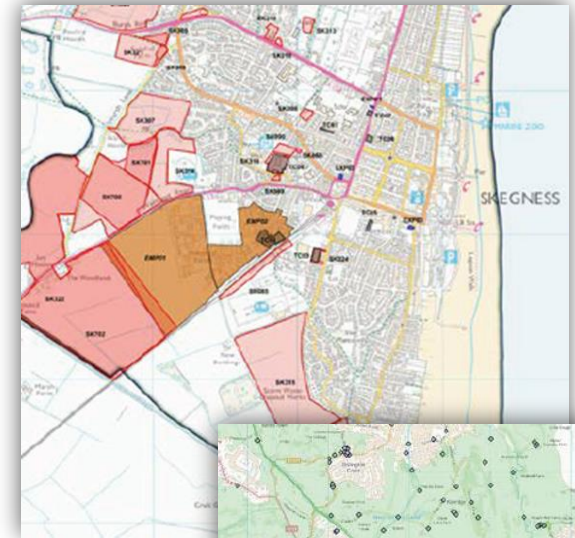
# Neighbourhood Plan-making Process





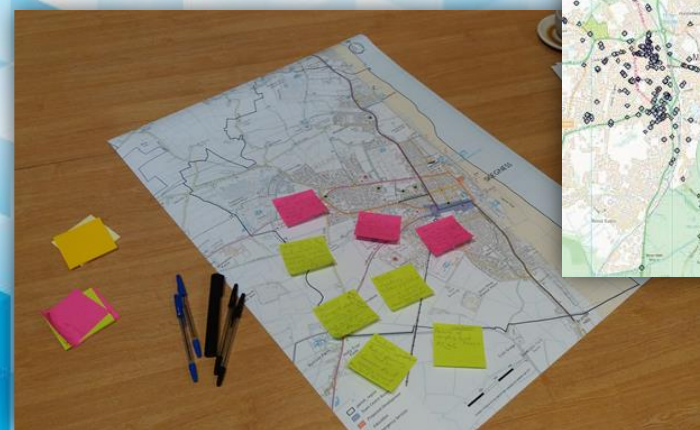
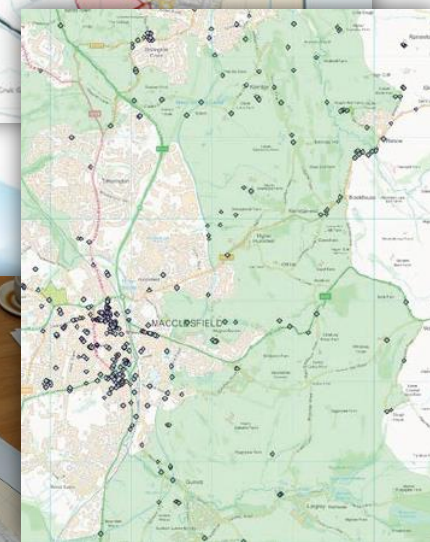
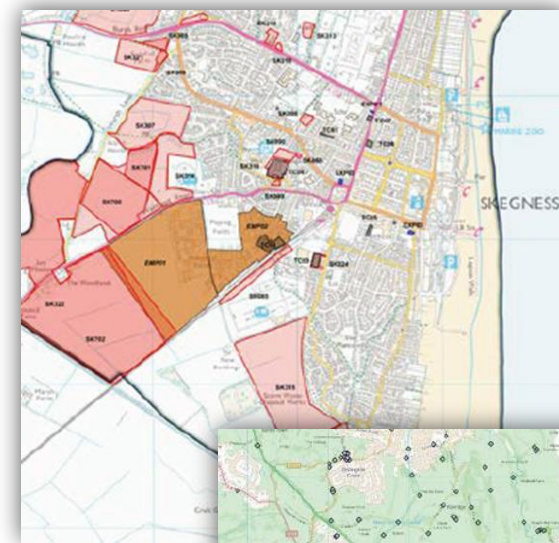
# Evidence Gathering

- Initial policy scoping – what do we want our Neighbourhood Plan to 'do'/achieve?
- Baseline evidence gathering – What's missing? What evidence do we need? How can we get it? What support do we need?



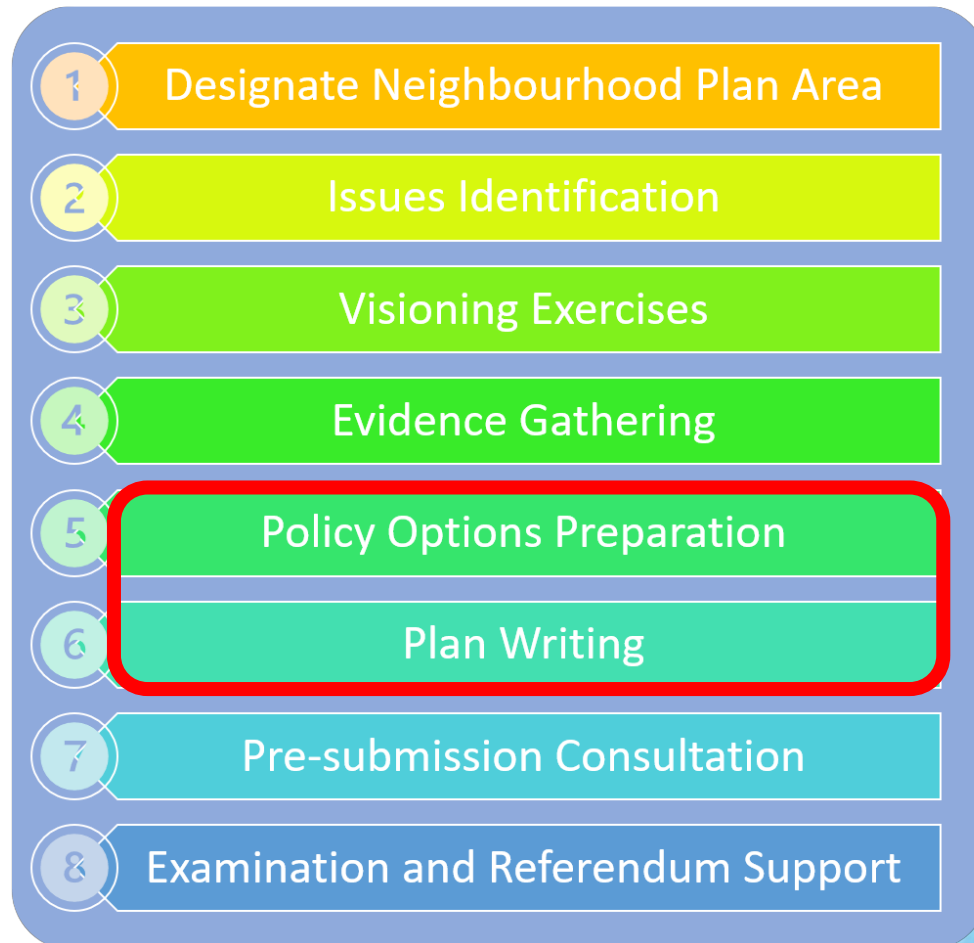
# Evidence Gathering

- Assessments might include:
  - Local Housing Needs Assessments and Surveys
  - Economic and Employment Needs Assessments
  - Green Belt Assessments
  - Site Identification and Assessment
  - Economic Development Opportunities Studies
  - Open Space, Sport and Leisure Assessments
  - Local Green Space Studies
  - Local Heritage Asset Studies
  - Parking and Transport Studies





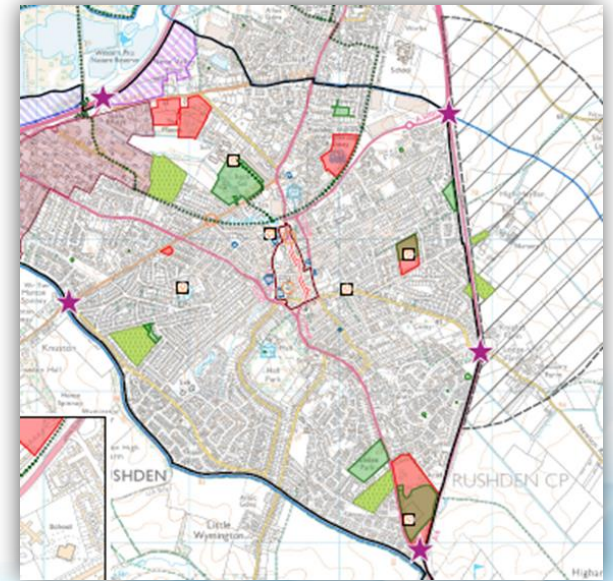
# Neighbourhood Plan-making Process





# Preparing and Writing Policies

- Identify policy themes
- Do we want to allocate sites or define boundaries for development? (If so, a Sustainability Appraisal may be required)
- Prepare draft policies – clearly worded with supporting text
- Ensure the basic conditions are met

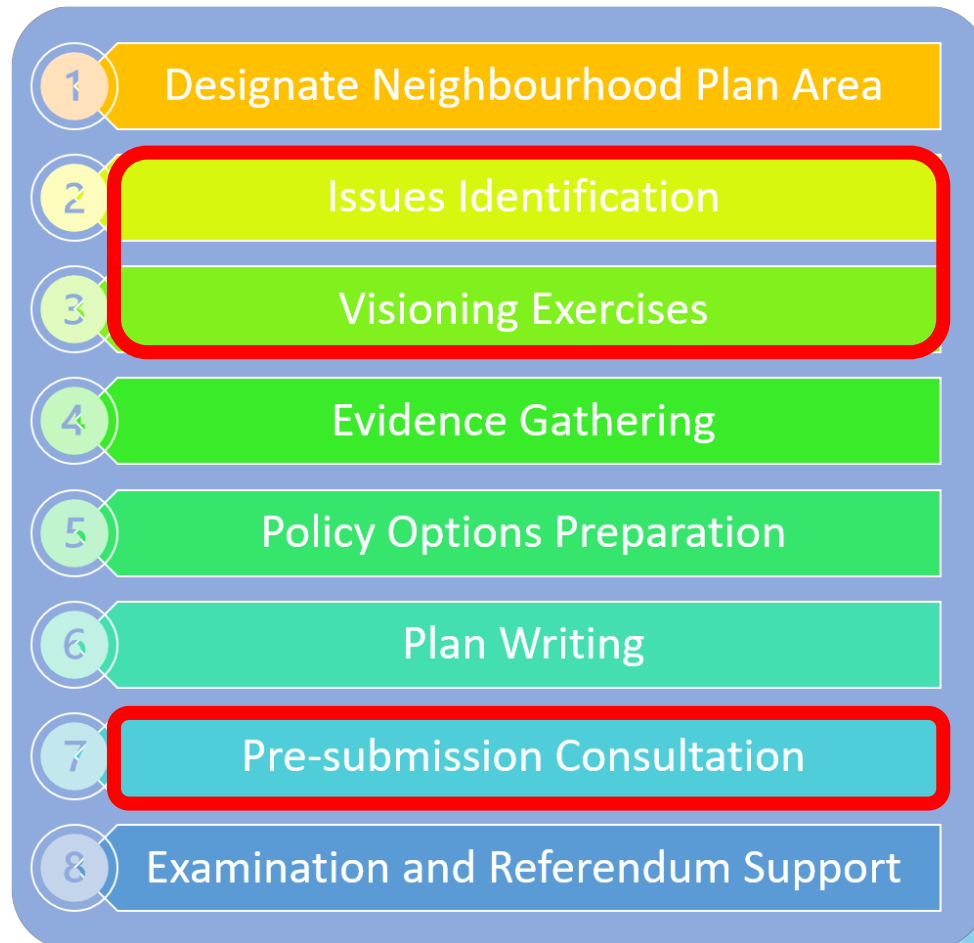


# Basic Conditions & Soundness

<b>Basic Conditions (applied to Neighbourhood Plans)</b>
Have regard to national policy
Contribute to the achievement of sustainable development
General conformity with the strategic policies in the development plan for the local area
Compatible with EU obligations.

<b>Tests of Soundness (applied to Local Plans)</b>
Positively prepared
Justified
Effective
Consistent with national policy

# Neighbourhood Plan-making Process





# Public Consultation

- Decide on consultation stages, usually:
  - Initial consultation – identify key issues and vision
  - Policy scoping / options
  - Pre-submission consultation (Reg.14)
- Identify key stakeholders / groups
- Plan engagement activities:
  - Online/postal surveys
  - Online webinars (like this one!)
  - Online meetings/workshops

<b>STRENGTHS</b> <ul style="list-style-type: none"><li>• entrepreneurial / work ethos</li><li>• locally owned / small businesses</li><li>• balanced demographic</li><li>• lots of opportunities for young ppl</li><li>• affordable housing / living costs</li><li>• tourist destination (attracting)</li><li>• care provision (nursing, elderly, etc)</li><li>• land availability</li><li>• green space + areas / coast</li><li>• accessible beach (easy parking)</li><li>• topography helps accessibility</li></ul>	<b>WEAKNESSES</b> <ul style="list-style-type: none"><li>• seasonal opening restrictions</li><li>• brain drain - further education</li><li>• transport links</li><li>• lack of employment opps</li><li>• diversity of amenities</li><li>• Roman Bank, Grosvenor Rd - run down</li><li>• derelict parkland (tower garden)</li><li>• HMDS concentration - social problems</li><li>• quiet houses for sale</li><li>• shortage of healthcare professionals</li><li>• poor infrastructure (water - drainage)</li><li>• District &amp; County Council - services going</li><li>• higher education + college</li></ul>
<b>OPPORTUNITIES</b> <ul style="list-style-type: none"><li>• quiet (side) lane</li><li>• new business park</li><li>• Business Improvement District</li><li>• arts / cultural events</li><li>• coastal path</li><li>• national chain hotel</li><li>• services run more local</li><li>• technology</li><li>• beach</li><li>• leisure spending</li><li>• Towler Gardens</li><li>• gyms - M</li></ul>	<b>THREATS</b> <ul style="list-style-type: none"><li>• EA</li><li>• flood risk restriction - limit housing</li><li>• growth - limits economic growth</li><li>• demographic imbalance - relies on young</li><li>• lack of local housing for employees</li></ul>



# What financial support is available?

- All groups eligible for £10,000 **basic grant funding** through Locality ([www.neighbourhoodplanning.org](http://www.neighbourhoodplanning.org))
- **Additional grant funding** of £8,000 available for groups that are:
  - Allocating sites for housing
  - Including design codes in your plan
  - A designated business neighbourhood plan
  - A cluster of three or more parishes writing a single plan
  - A Neighbourhood Area with a population of over 25,000



# What financial support is available?

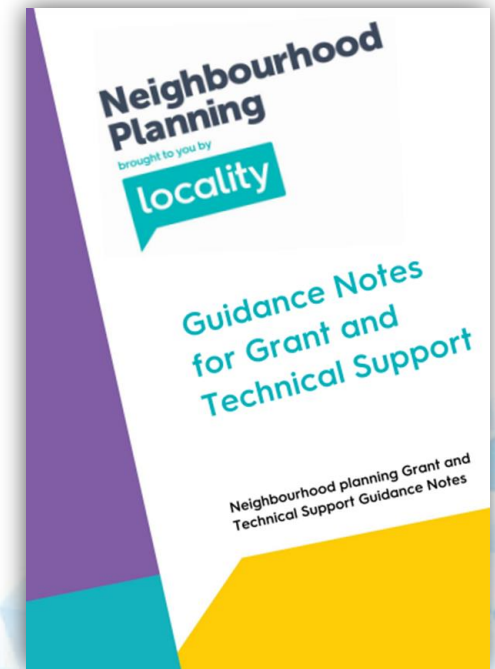
- **Housing for Sale Grant Funding** of up to £10,000 where you are:
  - Seeking to allocate sites for affordable housing for sale **or**
  - at an early stage and not yet sure if you are allocating sites for housing but are considering bringing forward affordable housing for sale and are investigating the need by undertaking housing needs assessments and other relevant studies
- **Technical Support Grant Funding**





# Accessing grant funding

- Read **Guidance Notes** and check eligibility criteria
- Submit online **Expression of Interest Form**
- Complete and submit **Application Form** within 15 days
- Application will be assessed within **15-20 working days**
- **Maximum of £10,000** grant value in progress at any one time
- All funds must be spent within the financial year i.e. by 31<sup>st</sup> March 2021





cornerstone



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# Neighbourhood Plans - a legal perspective

Harriet Townsend

And now for something completely different?





# Key Messages



1. The Development Plan is the Gov's preferred way of delivering sustainable development.
2. SoS has a track record of giving NP policies particular weight if it forms part of a positive plan for the area.
3. If it is to act as a constraint on development, the aims of a plan need to be reflected within its policies.
4. The N Plan must meet the "basic conditions" and relevant legal requirements. These provide considerable scope to promote the local community's vision for the area.

# NPs and decision making



- Very strong support for up to date NP policies in the NPPF.
  - Paras 12-14, 29-30
- Recent SoS appeal decisions– NP decisive
  - Hawthorns, Farnham NP, 14-5-2020 dismiss
  - Oxford Brookes, Holton NP (dr), 23-4-2020 allow
  - Darnhall School Lane, Winsford NP, 4-11-2019 dismiss
- Recent Insp decisions more mixed
  - Purton Rd 6-4-2020 dismiss
  - Persimmon (Morpeth NP) 9-9-2019 allow

## Lessons from these decisions



- An up to date NP which allocates sufficient land to meet its housing targets may be the key to refusal of non-compliant development, even where there is no 5 year supply and the “tilted balance” applies. See Hawthorns, and Purton Road (para 14 of NPPF).
- Where a LPA can demonstrate 5 year land supply, conflict with NP policy about where development should be located may lead to the conclusion that the proposal does not accord with the development plan and should be refused. Darnhall School Lane .



## Lessons from these decisions



- The Inspector deciding against development which conflicted with the Purton NP made Nov 2018, noted the effort to which the local community had gone in order to plan positively for its neighbourhood area – and took that effort into account when undertaking the planning balance. [15-17, 28 and 53].
- Covid 19 implications: referendums are not possible. Meanwhile the Holton PC emerging neighbourhood plan awaiting referendum was given significant weight in accordance with PPG revisions introduced on 7 April 2020. See Oxford Brookes.

## Lessons from these decisions



- It is the NP's policies which count when deciding whether or not a proposal accords with the development plan (as required by the s 38(6) duty). If there is no conflict with the policies of the NP it will be difficult to find a failure to accord with the NP.
  - See DL at Morpeth – site considered and rejected in preparation of NP – but still held to accord with the NP.
  - *See Chichester v SSHCLG* [2018] EWHC 2386 (Admin) upheld in CA [2019] EWCA Civ 1640
- Supporting text is an aid to interpretation of policy but cannot fill a gap left by policy.

## What happened in *Chichester*



- Insp noted, the proposals' failure to accord with the strategy of the Southbourne NP and dev plan for the location of new housing [DL18]
- The challenge concerned the Insp's interpretation / lawful application of NPPF 2012 policy, not the NP.
- The Insp's analysis was lawful. There was no conflict with any policy of the NP and he did not ignore the conflict with the development plan strategy: this, for reasons related to the specific development, was found to be limited.
- This Judgment is not a precedent for dev in Southbourne – it endorses the specific balance undertaken by that Insp.



## *Lochailort v Mendip DC*



- Norton St Philip NP – challenge to the LPA’s decision to take a neighbourhood plan to referendum.
- The plan proposed designating ten sites as Local Green Spaces. Grounds
  - Ignored fundamental requirements of LGS policy,
  - Misunderstood strategic policies of the dev plan
  - Irrational conclusions about 2 of the LGS sites
  - Inadequate reasoning in the report
- Rejected by Lang J.
- Useful summary of NP principles and recent cases.

# Preparation of NP - timing



- There is nothing to prevent an NP moving ahead of the related LP – *DLA Delivery* (2017).
- NB to liaise with the LPA to ensure a later LP does not undo the good work (s38(5) PCPA 2004).



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## The basic conditions

- Usually undertaken by written representations, the examiner is limited to consideration whether the Plan meets the basic conditions and other matters set out in para 8 Sch4B TCPA.
- Key to the NP's success is the basic conditions statement submitted with the plan which sets out how a draft NP meets the basic conditions.
- The QB is encouraged to liaise closely with the LPA over this statement.
- The LPA does not have to reach a judgment whether the BCs are met - it's a matter for the Insp.





# The basic conditions

## TCPA 1990 Schedule 4B para 8

An NP meets the basic conditions

- If It is appropriate to make the plan in the light of :
  - National policies and SoS advice;
  - Section 66 of the LBA 1990 (duty to pay special regard: listed buildings and their settings);
  - Section 72 of the LBA 1990 (duty to pay special regard: CAs)
- If it contributes to the achievement of sustainable development;
- If it is in general conformity with the strategic policies in the development plan for the LPA's area;
- If it does not breach retained EU obligations.
- If it meets prescribed requirements.

## Conformity with strategic policies of the development plan



- The NP does not contain strategic policies and must be in “general conformity” with those of the LPA.
- The LP, if there is one, should make it clear which are the strategic policies of the Plan.
- PPG para 74 sets out what the examiner should consider – judgments as to degree of any conflict and rationale for any conflict are key.

## Preparation of NP – SEA



- Strategic Environmental Assessment is a legal obligation if NP is likely to have a significant environmental effect .
- The s.e.e. can be +ve or –ve.
- The PPG states (para 73)
  - Seek the advice of the LPA at an early stage
  - Consider whether Habitats Assessment required – this will trigger the need for SEA.
- If allocations are proposed, SEA is likely to be necessary, but not inevitable – *Larkfleet Homes v Rutland CC*.



# Preparation of NP – consultation



- The NPGR 2012 require publicity of proposals and consultation. With “consultation bodies” defined at Sch1.
- The PPG states (para 47) the QB should ensure that the wider community:
  - Is fully informed of what is being proposed;
  - Is able to make their views known throughout the process;
  - Has opportunities to be actively involved in shaping the plan;
  - Is aware their views have informed the plan/order.
- Coronavirus has implications for achieving these requirements. Adopt a reasoned approach tailored to local circumstances (see PPG update 13/5/2020)

# Preparation of NP – consultation



- **PPG para 107 13-5-2020:-**

“It is not mandatory that engagement is undertaken using face-to-face methods. However, to demonstrate that all groups in the community have been sufficiently engaged, such as with those without internet access, more targeted methods may be needed including by telephone or in writing. LPAs may be able to advise neighbourhood planning groups on suitable methods and how to reach certain groups in the community.”

- Note in particular the role of the LPA and that it is not inevitable that “more targeted methods” are needed – provided publicity achieves its aims.

## The approach of the courts to NP issues



- Holgate J summarised the relevant legal principles applying to the making and content of NP in two notable cases, both noting the comparatively narrow scope of a NP examination - *Woodcock Holdings* (2015), and *Crownhall Estates v Chichester CC* (2016).
- Courts will start from the presumption that the Examiner has understood the policy framework correctly *Lochailort v Mendip* (2020).
- The LPA is entitled to rely on the reasons given by an Examiner *Kebbell Developments v Leeds City Council* (2018).

## Back to the key messages



1. The Development Plan is the Gov's preferred way of delivering sustainable development.
2. The SoS has a track record of giving NP policies particular weight if it forms part of a positive plan for the area.
3. If it is to act as a constraint on development, the aims of a plan need to be reflected within its policies.
4. The N Plan must meet the "basic conditions" and relevant legal requirements, but there is considerable scope to promote the local community's vision for the area.





# References

## Cases in Court



*Chichester v SSHCLG* [2018] EWHC 2386 (Admin) upheld in CA [2019] EWCA Civ 1640

*Crownhall Estates Ltd v Chichester City Council* [2016] EWHC

*R (DLA Delivery Ltd) v Lewes DC* [2017] EWCA Civ 58

*R (Kebbell Developments Ltd) v Leeds City Council* [2018] EWCA Civ 450

*Larkfleet Homes v Rutland CC* [2015] EWCA Civ 597

*Lochailort v Mendip District council* [2020] EWHC 1146 (Admin)

*Woodcock Holdings v SSCLG* [2015] EWHC 1173 (Admin)

# Appeal decisions



- Hawthorns: Stax Developments Ltd v Waverley DC 14-5-2020  
APP/R3650/W/18/3211033
- Oxford Brookes University v South Oxfordshire DC 23-4-2020  
APP/Q3115/W/19/3230827
- Purton Rd: Beechcroft Land Ltd v Wiltshire Council 6-4-2020  
APP/Y3940/W/18/3202551
- Persimmon Homes v Northumberland Council 9-9-2019  
allowAPP/P2935/W/18/3210193
- Darnhall School Lane: Darnhall Estate v Cheshire West and Chester DC 4-11-2019  
APP/A0665/W/14/2212671



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  - Site identification and assessment
  - Open space, Green Belt, transport and heritage assessments

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