

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 British planning system was established in 1947, and grew out of concern that uncoordinated development in the 19th and early 20th century had resulted in severe adverse impacts on health, economic efficiency, quality of life and the environment. Owners of property in Britain do not have a right to build or change the use of land as they please, but must obtain planning permission to do so. (Some development, typically minor changes, is classed as 'permitted development', which means no permission has to be sought).

The planning system endeavours 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.

More broadly the system aims to balance the needs and aspirations of the immediate site or locality with those for the wider area and country within which it sits, and to balance current concerns against longer term interests.

Inevitably these different aims and considerations are often in tension, and so there are difficult and controversial decisions to be made in balancing them when considering whether to grant planning permission or include something in a plan.

Local Planning Decisions

The responsibility for making most of these difficult decisions is given by Parliament to the local planning authority which, in this area, is Cotswold District Council.

Planning authorities cannot, however, make a decision any way they may please. Prior public consultation is required in most cases. Decisions on applications must be made in accordance with the adopted development plan, unless there are proper planning considerations suggesting otherwise.

One of the important considerations which must be taken into account is national (government) planning policy, including the National Planning Policy Framework. 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 provision for the planning decisions of the local planning authority to be challenged and reviewed by an independent planning inspector (or, if the issue is the legality of the decision or the way it was reached, 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 on each area.

Local plans must provide for enough housing and employment development to meet the anticipated growth in the area over the plan period (20 years in Cotswold District. Options for how this might be done are refined and reconsidered through successive rounds of consultation and discussion, often over a period of several years, but rarely is consensus reached; so the local planning authority must make difficult choices between competing views and proposals. 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 and brought into force.

Under current national policy if local plans are not successfully brought up-to-date and adopted, or less housing development than needed actually takes place, it will be difficult for the local planning authority to refuse a planning application for housing development unless it seriously contravenes national policy, even if it contravenes the local or neighbourhood 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). Of these, neighbourhood plans have been by far the most popular.

If it successfully passes all the stages (including being supported by a majority of votes in a referendum) the neighbourhood plan will become part of the official 'development plan' for the 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 parished areas such as Cotswold District, a neighbourhood plan is prepared by the relevant parish/town council. Where there is no parish council a neighbourhood forum can be brought together to prepare a plan.

What can be in a Neighbourhood Plan?

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

A neighbourhood plan must meet the following 'Basic Conditions':

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
- The making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
- The making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- The making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations*.

- Prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

**Primarily environmental obligations, which retain legal force after the UK has left the EU*

While a neighbourhood plan must be in 'general conformity' with the local plan's strategic policies for the area (e.g. the overall role of the area, the general scale and type of development planned), it can vary in detail from the local plan. This may involve additional or alternative allocations of land for development, different development boundaries, different design and other criteria to be applied in the area, etc. Where there is a contradiction between a neighbourhood plan and the local plan, it is the most recent one 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, plus measures to address particular local problems or shortages.

There is no set format for a neighbourhood plan. It could be very brief and focused (perhaps just one policy) or very long and complex. Much will depend on what are the agreed local priorities, and what resources, interests and skills are available in the local community who prepare it.

How is a Neighbourhood Plan prepared?

Because neighbourhood plans will affect what may, or may not, receive planning permission they must go through stages of formal consultation to make sure everyone has an opportunity to comment on them, and that they meet tests laid down in legislation. These procedures include examination by an independent expert, to decide whether the plan meets the legal tests mentioned above, and a referendum to gauge the level of local support for the plan.

The District Council (as local planning authority) has to administer key parts of this process. The decisions it has to make in this process are not whether the District Council agrees with or supports the content of the neighbourhood plan, but whether the plan complies with nationally laid down rules and policies.

It is the local community's plan, and it is they who will have to do most of the work (or commission consultants to do this for them) and make the decisions on what they want in their plan, although the District Council will provide advice and assistance.

For more information on Neighbourhood Plans in Cotswold District, please see:
<https://www.cotswold.gov.uk/planning-and-building/planning-policy/neighbourhood-planning/>