

The Protocol for Neighbourhood Planning in Birmingham

Introduction

Birmingham City Council is committed to localisation and devolution so that people have a greater say over local services. We want people to be engaged in improving the quality of their neighbourhoods and creating more prosperous local economies. The Localism Act 2011 introduced a number of “rights” to empower communities. This includes Neighbourhood Planning as one way for communities to influence and shape development in their area.

The regime brought in by the Localism Act and the Neighbourhood Planning (General) Regulations 2012 offers a new opportunity for local communities to lead and prepare statutory plans for their localities and to prepare Orders giving planning permission for specific development. This opportunity requires communities taking on new roles and responsibilities for preparing statutory planning documents that will be subject to an independent examination and referendum.

To support communities in this new role the City Council has produced a Protocol for Neighbourhood Planning in Birmingham. This is intended to;

- provide general overview and advice to interested local community groups on the Neighbourhood Planning process,
- ensure there is clarity and transparency for local communities in terms of Council support,
- provide a coordinated approach within the Council in relation to Neighbourhood Planning.

The Protocol will be kept under review in light of experience of Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders coming forward

What is Neighbourhood Planning

Neighbourhood Planning offers three new planning tools, all are intended to be community-led and pro-growth, encouraging development.

Neighbourhood Development Plans	These Plans can allow communities to establish general planning policies for the development and use of land within a defined neighbourhood area and so influence the type, design, location and mix of new development.
Neighbourhood Development Orders	This is a community led “order” that grants planning permission in relation to a Neighbourhood Area for development specified in the Order. An order cannot relate to ‘excluded’ development and does not grant building regulations approval.
Community Right to Build Orders	This is a particular type of Neighbourhood Development Order that grants planning permission for small-scale, site-specific, community-led developments. It does not remove the need for Building Regulations approval

The principle of the Neighbourhood Planning tools is based on community led proposals being subject to an independent examination, and if approved by the Examiner a local referendum, in which residents on the electoral register within a set boundary can vote. If the Plan or Order is supported by over 50% of the turnout, the local authority in the case of a Plan must adopt it into its Local Development Framework, thereby representing a material consideration in the determination of planning applications, or “make” the Order so removing the need for separate planning permission.

Neighbourhood Planning proposals must be;

- In line with local and national planning policies
- In line with other laws
- In accordance with the local planning authority plans for growth.

Birmingham’s plans for growth are included in the emerging Birmingham Development Plan (formerly called the Core Strategy) with which all statutory planning documents for the city including Neighbourhood Development Plans must be consistent.

There is no requirement for communities to undertake neighbourhood planning. For groups interested in using these new planning tools there are a number of publications from organisations funded by government to assist communities in neighbourhood planning. These details are given at the end of this document. It is important to understand how Neighbourhood Planning tools can and cannot be used.

The Role of the Local Planning Authority

For Birmingham this is the City Council. In summary the local planning authority is required to;

- Accept, publicise and determine applications for the designation of Neighbourhood Forums and Neighbourhood Areas.
- Publish a map of all its designated Neighbourhood Areas.
- Publicise at key stages a Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order.
- Provide technical support for the Plan or Order.
- At submission check that a submitted Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order meets the basic requirements.
- Arrange and fund an independent examination and publish the Examiner’s decision.
- Decide whether to submit for referendum and the referendum boundary (taking into account the recommendation of the Examiner) and arrange and fund a referendum in accordance with the Neighbourhood Planning (Referendum) Regulations 2012.
- Bring the Plan or Order into force i.e. adopt the Plan into the Local Development Framework or make the Order, subject to a positive referendum result.

The Role of the Community

For the community as plan maker or order promoter the responsibilities include;

- Forming a group defined as a Neighbourhood Forum that meets the Regulations.
- Making an application to the LPA for designation as the Neighbourhood Forum.
- Making application for the Neighbourhood Area.
- Preparing the draft Plan or Order in accordance with the Localism Act, the Regulations and national and local planning policy.

- Consulting in accordance with the Regulations.
- Resourcing the work.
- Submission of a draft Plan or Order in accordance with the above to the local planning authority that has been prepared in accordance with the Regulations.

Establishing a Neighbourhood Forum for Neighbourhood Planning

For non parished areas such as Birmingham (apart from Frankley), the Regulations require that Neighbourhood Development Plans and Orders are prepared by designated Neighbourhood Forums for a defined Neighbourhood Area. It should be noted that these are not the same as existing Neighbourhood Forums in Birmingham. To avoid confusion, in Birmingham we are calling groups formed for the purpose to use the Neighbourhood Planning tools set out in the Neighbourhood Planning Regulations, ***Neighbourhood Planning Forums***. In summary the Regulations requirements to be met for a designated Forum are;

- It is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists of or includes the neighbourhood area concerned (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area),
- Its membership is open to; individuals who live in the neighbourhood area concerned, those who work there and elected members for the area,
- Its membership includes a minimum of 21 individuals each of whom live or work in the area or are an elected ward member for the area,
- It has a written constitution.

In reviewing an application the City Council will be seeking to ensure;

- That the group is open to all people living and working in the neighbourhood area,
- That no parts of the community or neighbourhood area are excluded,
- It has the support of local ward members,
- It has attempted to engage local stakeholders including existing neighbourhood forums and residents groups and local businesses.

It is anticipated that a new *Neighbourhood Planning Forum* is constituted specifically to use the Neighbourhood Planning tools. This could be an existing Birmingham Neighbourhood Forum or bringing together a number of local groups appropriate to the Neighbourhood Area.

In making the application for a Neighbourhood Area the reasoning for the boundary needs to be given.

Birmingham City Council will accept applications for designation of a Neighbourhood Planning Forum and a Neighbourhood Area at the same time. However in accordance with the Regulations there cannot be more than one designated group for a Neighbourhood Area. Where two applications for designation of Neighbourhood Planning Forums for the same Neighbourhood Area are received, the Director of Planning & Regeneration will seek the views of the Cabinet Member for Development, Jobs and Skills, the Executive Members for Local Services and local ward member for the areas concerned in making a decision.

The designation is valid for 5 years from the date it was made and ceases after that. This does not affect the validity of a Plan or Order brought into force within the five year period. The City Council may also withdraw a designation before this time if the designated group no longer meets or does not follow conditions attached to the designation.

Preparing a Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order

In preparing the Plan or Order the designated Forum should have regard to;

- That the Plan or Order should set out policies in relation to the development and use of land within the neighbourhood area;
- The Plan should have regard to the National Planning Policy Framework and Secretary of State Guidance,
- Proposals must be in general conformity with the strategic policies contained within the City's Local Development Plan (the Birmingham Development Plan) and other key policy documents noted in the references section,
- Proposals must be compatible with EU obligations and the Human Rights Act,
- Neighbourhood Planning is intended as a tool for communities to promote and unlock development,
- The specific requirements of the Localism Act Neighbourhood Planning (General) Regulations 2012.

Resources

There is no requirement or expectation by Government for local authorities to fund communities to undertake Neighbourhood Planning. The City Council does not have a budget to fund Neighbourhood Planning, and any funding from Government to local planning authorities to support Neighbourhood Planning will be required to contribute to the cost of the required independent examination and referendum.

Funding has been provided by Government to a number of organisations to support community groups in Neighbourhood Planning. The City Council provides signposting to these organisations via its Neighbourhood Planning webpage.

Council officer support will be prioritised for areas where there are opportunities for new development in support of the Local Development Framework, and in particular where these areas are within Priority Neighbourhoods identified within the Council's District Plans.

Protocol Principles

The following principles provide clarity on the support that can be offered by the City Council and the expectations on designated Neighbourhood Planning Forums.

Council Support for Neighbourhood Planning Generally

- A dedicated Birmingham City Council Neighbourhood Planning webpage with necessary guidance.
- Webpage also used to advise on applications for designations and position of any Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders.
- Where requested Planning Officers will meet local groups to discuss and advise on appropriateness of using the Neighbourhood Planning tools.
- Discussions ahead of applications are encouraged and a meeting with a Planning Officer covering the area in question will be arranged.
- Signposting to organisations funded by government to support Neighbourhood Planning.
- Use of standard forms to assist applications and ensure the required information is provided.

Recording Enquiries and Applications and Publicising by the Council

- Use of the existing planning systems that record planning enquiries, responses and applications.
- Applications to be posted on the Neighbourhood Planning webpage.
- Cabinet Member for Development, Jobs and Skills, the Executive Members for Local Services and local ward member for the areas concerned to be advised.
- Lead District Officer notified and application reported to the relevant ward committee.
- Applications publicised at local library and Neighbourhood Office.
- Any known major stakeholders/landowners notified.
- Elections Office notified.

Council Decision Process for Designations

- Decision on applications for designation on Neighbourhood Planning Forum/Neighbourhood Areas, on submission of Neighbourhood Plans and Orders for examination, and on submission for referendum and referendum boundary made by the Director of Planning and Regeneration after consultation with the Cabinet Member for Development, Jobs and Skills.
- Decisions to adopt Neighbourhood Development Plan made by Cabinet and decision to make Neighbourhood Development Order/CRBO made by Planning Committee.
- In cases where the Neighbourhood Area affects two or more wards all of the above Neighbourhood Planning decisions to be made by Cabinet.
- Decisions to modify or revoke existing Neighbourhood Development Plans/Orders or to de-designate existing Neighbourhood Planning Forums to be made by Cabinet.
- Where there are competing applications for designation of a Neighbourhood Planning Forum/Neighbourhood Area the views of the Cabinet Member for Development, Jobs and Skills, the Executive Members for Local Services and local ward member for the areas concerned will be sought in making the decision.
- Decisions reported to the Cabinet Member for Development, Jobs and Skills, the Executive Members for Local Services and local ward members for the areas concerned, Chair of Planning Committee and any objectors.
- Key Officers in the City Council notified of decisions including Elections Office.

Council support for groups approved to progress Neighbourhood Development Plans and Orders

- A lead officer from Planning and Regeneration will act as the Council's main point of contact.
- The Council will provide technical advice on the Neighbourhood Planning processes and planning and transportation issues.
- Provide available baseline data and make contacts with other parts of the Council as necessary.
- Provide advice on what supporting information will be required.
- Provide feedback on draft reports etc within an agreed timeframe.
- Advise on consultation requirements.

Designated Neighbourhood Planning Forums will be expected to;

- Form a steering group with terms of reference and representative stakeholder engagement.
- Set out a programme to undertake the Plan including date of submission to the City Council.
- Seek support of the organisations funded by government to support Neighbourhood Planning.
- Seek opportunities for widespread stakeholder engagement.

- Create and maintain a website for the Plan or Order.
- Maintain contact with the Council at key stages in drafting the Plan and advise of changes to programme.
- Engage local governance structures such as ward committees.
- Follow the Neighbourhood Planning Regulations.
- Maintain the principle of Neighbourhood Planning as a tool to promote growth.
- If appropriate undertake a Sustainability Appraisal of the Plan to assess its viability.
- If appropriate undertake a Transport Impact Assessment.
- Complete an Equality Assessment of the Plan.
- Demonstrate consultation on the draft plan through consultation plan and consultation record
- Following consultation to submit draft Plan and supporting information to the City Council.
- To advise the City Council if at any stage a decision is taken not to continue with the Plan and designation to be withdrawn.

Before a community group decides to embark on a Neighbourhood Planning process it should be understood that it can be a very intensive and long process (approximately 2 years) and requires considerable commitment and resourcing from the community. It is also useful to consider;

- what plans and programmes already exist?
- what more a Neighbourhood Development Plan, Neighbourhood Development Order, Community Right to Build Order could achieve for an area?
- what are the issues in your neighbourhood you want to address and are they planning issues?
- are you interested in planning for new housing development?
- for non planning issues could these be addressed in future plans such as the Council's District Plans being produced for each of the City's Constituency areas?

Contacts

If you would like to make contact with us and discuss Neighbourhood Planning email planningandregenerationenquiries@birmingham.gov.uk

If you would like to find out about Neighbourhood Planning in Birmingham visit www.birmingham.gov.uk/neighbourhoodplanning

Useful Websites

To find out more on Neighbourhood Planning generally visit www.gov.uk/neighbourhood-planning

To find out about the support being offered by Government for Neighbourhood Planning visit <http://mycommunityrights.org.uk/>

To find out about Birmingham's Planning Policies visit www.birmingham.gov.uk/planningpolicy

If you would like to find out more on National Planning Policies visit www.planningportal.gov.uk/planning/planningpolicyandlegislation

To find out about Birmingham's Districts visit
www.birmingham.gov.uk/constituencies

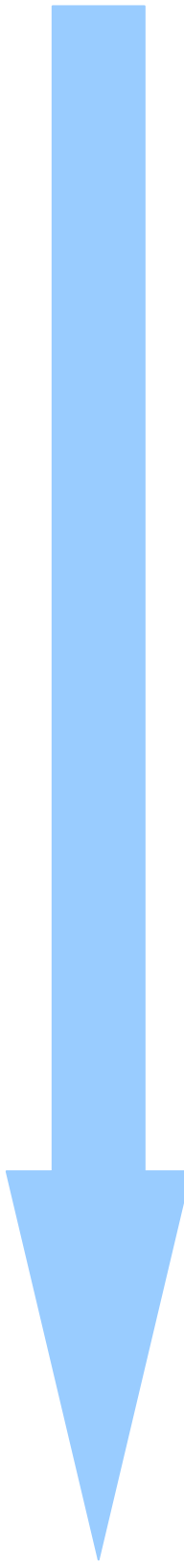
This provides information on;

- District Committees and the local services they have responsibility for
- Ward Committees working alongside the District and the decisions they make around local funding
- Local teams responsible for managing local services and how to share your views.

Useful Documents

The Neighbourhood Plans Road Map Guides produced by Locality, an organisation funded by the Government to support Neighbourhood Planning can be downloaded from
<http://planning.communityknowledgehub.org.uk/resource/neighbourhood-plans-roadmap-guide>

The Neighbourhood Planning Process



Stage 1
Designation of Neighbourhood Forum and Neighbourhood Area by the Local Planning Authority

Application by community group to the Local Planning Authority for Neighbourhood Forum status to undertake a Neighbourhood Planning exercise for defined area.

Applications publicised for 6 weeks.

Local Planning Authority agrees/rejects application, decision publicised.

Stage 2
Preparation of draft Neighbourhood Development Plan or Order by the Neighbourhood Forum with technical advice from the Local Planning Authority

Neighbourhood Forum prepares draft Neighbourhood Development Plan or Order with background documents, studies and assessments as required to support the Plan.

Undertake extensive consultation with local stakeholders/ community.

Submit draft Plan or Order to the Local Planning Authority.

Stage 3
Independent Examination

Local Planning Authority validates that the submitted draft Neighbourhood Development Plan or Order meets procedural requirements e.g. consultation.

Independent Examiner agreed by the Forum and appointed by the Local Planning Authority.

Report of the Examiner published, approves or rejects the Plan or Order for referendum. Final decision made by the Local Planning Authority.

Stage 4
Local Referendum*

Referendum; open to those on the electoral register within the Plan boundary. A wider referendum area may be used if deemed necessary by the Local Planning Authority taking into account the recommendations of the Examiner.

Stage 5
Adoption*

If more than 50% of the votes support the Plan or Order, it is *adopted* or *made* by the Local Planning Authority. Adopted Neighbourhood Development Plans form part of the Local Development Framework and will represent a material consideration in the determination of planning applications.

- Stages marked with an asterisk are statutory
- ** the process for Community Right to Build Orders is the same as above however they can only be promoted by Community Organisations as defined in the Localism Act 2011