

Basic Conditions

What are the basic conditions that a draft neighbourhood plan must meet if it is to proceed to referendum?

In order to meet the basic conditions¹, your neighbourhood plan must:

- have regard to national policies (including the National Planning Policy Framework) and advice contained in guidance issued by the Secretary of State. A neighbourhood plan must not constrain the delivery of important national policy objectives.
- be in general conformity with the strategic policies contained in the adopted development plan for Maidstone Borough.
- contribute to the achievement of sustainable development. Whilst there is no legal requirement to produce a sustainability appraisal with a neighbourhood plan, in its absence you must demonstrate how your plan will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures)
- have regard to and be based on up-to-date evidence supporting emerging development plans, especially in regard to housing need
- not breach, and be otherwise compatible with, EU obligations. This section needs to confirm that the neighbourhood plan is compatible with EU obligations around human rights, habitat protection and environmental impacts. There are four directives that may be of particular relevance to neighbourhood planning:
 - *Directive 2001/42/EC* on the assessment of the effects of certain plans and programmes on the environment (often referred to as the Strategic Environmental Assessment (SEA) Directive). This seeks to provide a high level of protection of the environment by integrating environmental considerations into the process of preparing plans and programmes. It may be of relevance to neighbourhood plans and the Borough Council (in consultation with statutory consultees) will provide a screening opinion of whether a SEA is required with your plan on request.
 - *Directive 2011/92/EU* on the assessment of the effects of certain public and private projects on the environment (often referred to as the Environmental Impact Assessment (EIA) Directive). Environmental Impact Assessment is a procedure to be followed for certain types of proposed development. This is to ensure that decisions are made in full knowledge of any likely significant effects on the environment and that the public are given early and effective opportunities to participate in the decision making procedures. It may be of relevance to Neighbourhood Development Orders.
 - *Directive 92/43/EEC* on the conservation of natural habitats and of wild fauna and flora and *Directive 2009/147/EC* on the conservation of wild birds (often referred to as

¹ set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004

the Habitats and Wild Birds Directives respectively). These aim to protect and improve Europe's most important habitats and species. They may be of relevance to both neighbourhood plans and the Borough Council (in consultation with statutory consultees) will provide a screening opinion of whether a Habitat Regulations Assessment is required with your plan on request.

- Other European directives, such as the Waste Framework Directive (2008/98/EC), Air Quality Directive (2008/50/EC) or the Water Framework Directive (2000/60/EC) may apply to the particular circumstances of a draft neighbourhood plan

In relation to Neighbourhood Plans, Regulations 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in the primary legislation:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).

When should a qualifying body consider the basic conditions that a neighbourhood plan needs to meet?

Throughout the process of developing a neighbourhood plan you should consider how it will demonstrate that your neighbourhood plan will meet the basic conditions that must be met if the plan is to be successful at independent examination. You are advised to discuss meeting the basic conditions with the Borough Council. We will, on request, provide constructive comments on whether the emerging neighbourhood plan is likely to meet the basic conditions prior to submission.

What must a qualifying body do to demonstrate that its neighbourhood plan meets the basic conditions?

A statement (a basic conditions statement) setting out how a draft neighbourhood plan meets the basic conditions must accompany the draft neighbourhood plan when it is submitted to the local planning authority².

The basic conditions statement is prepared by the Parish Council or Neighbourhood Forum and is likely to be the main way that you can demonstrate to the examiner that your draft neighbourhood plan meets the basic conditions.

A draft neighbourhood plan must meet all basic conditions if it is to proceed to referendum.

Further Information

In addition, the basic conditions statement needs to confirm that the neighbourhood plan meets other legal requirements, as follows:

² Regulation 15(1)(d) and Regulation 22(1)(e) of the Neighbourhood Planning (General) Regulations 2012 (as amended)

- The draft plan is being submitted by a qualifying body (as defined by the Act).
- What is being proposed is a Neighbourhood Development Plan (as defined in the Act). The plan proposals relate to planning matters (the use and development of land) and has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning Regulations 2012.
- The proposed Neighbourhood Development Plan states the period for which it is to have effect.
- Confirmation that the policies do not relate to 'excluded development'. The neighbourhood plan proposal does not deal with county matters (mineral extraction and waste development), nationally significant infrastructure or any other matters set out in Section 61K of the Town and Country Planning Act 1990.
- Confirmation that the proposed Neighbourhood Development Plan does not relate to more than one neighbourhood area.
- Confirmation that there are no other Neighbourhood Development Plan in place within the Neighbourhood Area.

It might be sensible to include supporting material such as the applications and designations of the neighbourhood area (and forum where relevant).

Further Advice

Further advice is available in

- National Planning Policy Guidance
<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/the-basic-conditions-that-a-draft-neighbourhood-plan-or-order-must-meet-if-it-is-to-proceed-to-referendum/>
- Locality's Neighbourhood Plans Roadmap Guide
<http://locality.org.uk/wp-content/uploads/Roadmap-worksheets-map-May-13.pdf>