

A statement explaining how the proposed plan meets the legislative requirements (March 2015):

The legislative requirements are set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990. They are understood to be as follows (having taken into account 38C (5)):

8 (1) The examiner must consider the following -

- whether the draft neighbourhood development plan meets the basic conditions (see sub-paragraph (2) below),
- whether the draft plan complies with the provision made by or under sections 38A and 38B (see below),
- whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates, and
- such other matters as may be prescribed.

(2)

A draft plan meets the basic conditions if—

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
- the making of the plan contributes to the achievement of sustainable development,
- the making of the 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 plan does not breach, and is otherwise compatible with, EU obligations, and
- prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.

The examiner is not to consider any matter that does not fall within sub-paragraph (1) (apart from considering whether the draft plan is compatible with the Convention rights).

Sections 38a and 38B state:

38A Meaning of “neighbourhood development plan”

(1) Any qualifying body is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan.

(2) A “neighbourhood development plan” is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.

(3) Schedule 4B to the principal Act, which makes provision about the process for the making of neighbourhood development orders, including—

(a) provision for independent examination of orders proposed by qualifying bodies, and

(b) provision for the holding of referendums on orders proposed by those bodies,

is to apply in relation to neighbourhood development plans (subject to the modifications set out in section 38C(5) of this Act).

(4) A local planning authority to whom a proposal for the making of a neighbourhood development plan has been made—

(a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan, and

(b) if paragraph (a) applies, must make the plan as soon as reasonably practicable after the referendum is held.

(5) If—

(a) there are two applicable referendums under that Schedule as so applied (because the plan relates to a neighbourhood area designated as a business area under section 61H of the principal Act), and

(b) in one of those referendums (but not the other) more than half of those voting have voted in favour of the plan,

the authority may (but need not) make a neighbourhood development plan to which the proposal relates.

(6) The authority are not to be subject to the duty under subsection (4)(a) if they consider that the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

(7) Regulations made by the Secretary of State may make provision as to the procedure to be followed by local planning authorities in cases where they act under subsection (6).

(8) The regulations may in particular make provision—

(a) for the holding of an examination,

(b) as to the payment by a local planning authority of remuneration and expenses of the examiner,

(c) as to the award of costs by the examiner,

(d) as to the giving of notice and publicity,

(e) as to the information and documents that are to be made available to the public,

(f) as to the making of reasonable charges for anything provided as a result of the regulations,

(g) as to consultation with and participation by the public, and

- (h) as to the making and consideration of representations (including the time by which representations must be made).
- (9) The authority must publish in such manner as may be prescribed—
- (a) their decision to act under subsection (4) or (6),
 - (b) their reasons for making that decision, and
 - (c) such other matters relating to that decision as may be prescribed.
- (10) The authority must send a copy of the matters required to be published to—
- (a) the qualifying body that initiated the process for the making of the plan, and
 - (b) such other persons as may be prescribed.
- (11) If a neighbourhood development plan is in force in relation to a neighbourhood area—
- (a) a qualifying body may make a proposal for the existing plan to be replaced by a new one, and
 - (b) the process for the making of the replacement plan is the same as the process for the making of the existing plan.
- (12) For the purposes of this section—
- “local planning authority” has the same meaning as it has in Part 2 (see section 37), but the Broads Authority are to be the only local planning authority for the Broads,
 - “neighbourhood area” has the meaning given by sections 61G and 61I(1) of the principal Act,
 - “prescribed” means prescribed by regulations made by the Secretary of State, and
 - “qualifying body” means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of section 61F of the principal Act, as applied by section 38C of this Act.

38B Provision that may be made by neighbourhood development plans

- (1) A neighbourhood development plan—
- (a) must specify the period for which it is to have effect,
 - (b) may not include provision about development that is excluded development, and
 - (c) may not relate to more than one neighbourhood area.

- (2) Only one neighbourhood development plan may be made for each neighbourhood area.
- (3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.
- (4) Regulations made by the Secretary of State may make provision—
- (a) restricting the provision that may be included in neighbourhood development plans about the use of land,
 - (b) requiring neighbourhood development plans to include such matters as are prescribed in the regulations, and
 - (c) prescribing the form of neighbourhood development plans.
- (5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.
- (6) Section [61K](#) (see below) of the principal Act (meaning of “excluded development”) is to apply for the purposes of subsection [\(1\)\(b\)](#).

Section 61K

61K Meaning of “excluded development”

The following development is excluded development for the purposes of section [61J](#)—

- (a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,
- (b) development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description,
- (c) development that falls within Annex 1 to Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment (as amended from time to time),
- (d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008),
- (e) prescribed development or development of a prescribed description, and
- (f) development in a prescribed area or an area of a prescribed description.