

(b) Consultation questions

Question 1:

Do you agree that the proposed approach is workable and proportionate, and strikes the right balance between standardising the approach for neighbourhood planning and providing for local flexibility on:

a) designating neighbourhood areas

Disagree

Explanation/Comment:

Whilst the regulations rely on Good Practice emerging there is insufficient detail in the regulations to clarify what reasoning LA's need to produce to refuse areas which it considers may prejudice a broader more sustainable neighbourhood plan (eg due to size or the specific nature of a single issue plan or being contrary to intentions of the Local Plan). There is no information regarding any right of appeal against a LA's decision to reject a plan. Working with neighbourhood forum groups to facilitate the development of appropriate areas will have resource implications.

b) designating neighbourhood forums

Neither agree nor disagree

Explanation/Comment:

Whilst not within the current regulations the supporting information provided with the consultation indicates that for "Future proofing" there are powers, within the Localism Bill, which enable the Government to set out other conditions for designating neighbourhood forums". LA's should be involved in any changes to the prescribed conditions as they are best placed to understand the representation of the local community.

The regulations do not indicate the circumstances in which a forum might not be accepted. Assuming they have met the constitutional requirements to make their application in the first instance, it appears the only on the basis for refusing a forum appears to be that the defined "neighbourhood area" is not accepted. The Local Authority should have sufficient flexibility to ensure that a forum is genuinely representative, rather than comprising of an engaged but unrepresentative minority.

c) Community Right to Build organisations

Neither agree nor disagree

Explanation/Comment:

The ability of all who live or work in the particular area to have the opportunity to become members is welcomed to ensure that all local people can be involved in the development of the proposals. This will be important to bear in mind when the extent of the area is defined.

d) preparing the neighbourhood plan

Neither agree nor disagree

Explanation/Comment:

LPA's are obliged to assist in the preparation, which has significant resource implication, however, there is insufficient detail about the extent of LA involvement to determine the likely costs and whether reasonable fees would be sufficient to recover costs.

e) preparing the neighbourhood development order

Disagree

Explanation/Comment

As the supporting information with the consultation indicates Neighbourhood Development Order can grant full planning permission. Whilst the regulations are intended to seek the "minimum information necessary". LA's will want to ensure that where the order is effectively seeking a full planning permission the LA should be able to require the same level of detail it would for a planning application, applying it's local list to ensure full consideration of the environmental, social and economic implications of the proposal. We would not wish to see any less stringent scrutiny of the proposal.

f) preparing the Community Right to Build order

Disagree

Explanation/Comment:

As a Community Right to Build Order is a form of Neighbourhood Development Order the same points for 1 e).

Additionally, should a Community Right to Build order be granted with the benefits to the community an important part of the consideration of the order, but the order is not carried forward, a precedent may be set for a scale of development which could be carried forward through a neighbourhood development order or planning application without the benefits

g) Community Right to Build disapplication of enfranchisement

Disagree

Explanation/Comment:

Should a Community Right to Build order be granted with a disapplication of enfranchisement (removal of right to buy) but not carried forward a precedent may be set for a scale of development which could be carried forward without the disapplication of enfranchisement.

h) independent examination

Neither agree nor disagree

Explanation/Comment:

Whilst not within the current regulations the supporting information provided with the consultation indicates that for "Future proofing" there are powers, within the Localism Bill, which enable the Government to require the examiner to look at additional matters during the independent examination. The examiner should not be required by central government to consider matters that neither the local neighbourhood forum nor the LA consider relevant to the consideration of a particular neighbourhood plan, as LA's are best placed to understand the issues to be addressed in their local communities.

i) referendum

Explanation/Comment:

There are concerns about the cost and practicality of referendum and discussions are underway with our Legal and Democratic Services Department.

Whilst these regulations do not cover the detail of the referenda the DCLG “Introduction to Neighbourhood Planning” indicates that people from other neighbourhoods may be allowed to vote. There will need to be clarity about how, and when, this flexibility is to operate.

j) making the plan or order

Disagree

Explanation/Comment:

There are concerns regarding the potentially significant resources required for consultation and publication of plans or orders. Concern that the Bill and regulations over simplify what will be required to meet local high standards of consultation with the public.

k) revoking or modifying the plan

Neither agree nor disagree

Explanation/Comment:

l) parish councils deciding conditions

n/a

Question 2:

Our proposition is that where possible referendums should be combined with other elections that are within three months (before or after) of the date the referendum could be held. We would welcome your views on whether this should be a longer period, for example six months.

Three months

Six months

A different period

Explanation/Comment:

There are concerns about the cost and practicality of referendum and discussions are underway with our Legal and Democratic Services Department.

Question 3:

The Bill is introducing a range of new community rights alongside neighbourhood planning – for example the Community Right to Buy and the Right to Challenge. To help communities make the most of this opportunity, we are considering what support measures could be made available. We are looking at how we could support people in communities, as well as local authorities, other public bodies, and private businesses to understand what each right can and cannot do, how they can be used together, and what further support could be made available for groups wanting to use them. We would welcome your views on what support could usefully be provided and what form that support should take.

Explanation/Comment:

Concern that the £50m set aside nationally to March 2015 may not be sufficient if there is wide uptake. Is work undertaken by LPA's to support neighbourhood forums chargeable?

Question 4:

Do you have any other comments on the proposals?

Explanation/Comment

Concerns regarding the cost as stated above. There are currently no regulations in respect of charges being applied by the LA to assist with developing the plans / orders or fees to determine plans / orders, however resources will be fundamental to the effective operation of the regulations currently being considered.

The Regulations are to be reviewed within 5 years to assess whether the objectives intended to be achieved by the regulations have been met, and whether less regulation would assist [See responses in relation to 1b) and 1h)]

Plans and orders will need to be recorded through Land Registry.