

Neighbourhood Planning Guidance Note

Review of Made Neighbourhood Development Plans



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Introduction

The district of East Suffolk now has several made neighbourhood plans which form part of the statutory development plan with many more being prepared. Legislation via the Neighbourhood Planning Act 2017 and the Planning and Compulsory Purchase Act 2004 allow for and outline the parameters for a review and allows for plans to be updated.

Links to the relevant legislation and Government guidance are below:

Neighbourhood planning Act 2017

<https://www.legislation.gov.uk/ukpga/2017/20/contents/enacted>

Planning and Compulsory Purchase Act 2004

<https://www.legislation.gov.uk/ukpga/2004/5/schedule/a2>

National Planning Practice Guidance – Updating a Neighbourhood Plan

<https://www.gov.uk/guidance/neighbourhood-planning--2#updating-neighbourhood-plan>

Reviewing a Neighbourhood Plan can be finely balanced, and what may, at first, appear to be a simple review could lead to a more in-depth review, and it is important at the outset to ensure that you have considered the resources you may need. It is recommended that you contact Planning Policy and Delivery Officers at the earliest possible stage to discuss your proposed review.

Review of made Neighbourhood Plans

This Guidance Note provides information for communities who may be considering whether to review their Neighbourhood Plan or who have already embarked on a review. It should be read alongside the Council's document '**Neighbourhood Planning – How to go about it**' which provides advice on preparing a Neighbourhood Plan. This document can be found via the following link: <https://www.eastsuffolk.gov.uk/assets/Planning/Neighbourhood-Planning/Preparing-a-Neighbourhood-Plan/Neighbourhood-Planning-guidance.pdf>

There is no requirement for Neighbourhood Plans to be reviewed. However, there are some circumstances that may mean you want to consider a review:

- A change in local circumstances.
- Monitoring of your plan reveals an issue with policy implementation.
- A review of the Local Plan.
- Changes to national planning policy or guidance.
- A change in the evidence base.

There is no specific criteria or formula for judging when a Neighbourhood Plan should be revised, and the collective consideration of information gained through monitoring and use of your plan will help you to decide at what point revision becomes desirable. The aim of this guidance is to give you some overarching general principles for reviewing your plan.

The Qualifying Body (the organisation which can take forward a Neighbourhood Plan in the defined Neighbourhood Area, usually the Town or Parish Council) will need to sign a new Service Level Agreement (SLA) which will outline the roles of East Suffolk Council and the neighbourhood plan group, and the support we are able to provide. This will be determined following discussions between the Qualifying Body and the Planning Policy and Delivery Team. The Council has a model SLA which can be adapted as required following these discussions.

Furthermore, you may wish to contact the Communities team who can offer a range of support for your neighbourhood plan such as setting up your working group and connecting you to funding.

If you want to discuss a review of your plan, the Planning Policy and Delivery Team can be contacted via email on: planningpolicy@eastsoffolk.gov.uk. You can also contact the Communities Team on Communities@eastsoffolk.gov.uk.

Deciding whether to review your plan

The following list gives you a summary of factors to consider. This is not an exhaustive list, but it is intended as a broad guide that you can apply when considering a review.

Effectiveness: The Qualifying Body can consider the effectiveness of the existing plan via the assessment and monitoring of planning decisions within the neighbourhood area. Where it is found that a neighbourhood plan policy is not having the anticipated outcome then this may indicate that there is a need for the policies to be reviewed or it may indicate that there is a need for additional policies.

Where the Neighbourhood Plan plans for growth, monitoring will identify whether the planned growth is being delivered. Housing monitoring data is published on the Council's open data portal annually and shows completions and commitments by Parish. The Council also publishes annually a Five-Year Housing Land Supply Statement which reports on the anticipated delivery of sites with planning permission and allocated sites without permission over a five-year period. Monitoring information is published on the Council's website at www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/open-data/. The Council can also provide support in considering whether the data would suggest a review might be appropriate.

Consequently, it is crucial to understand how policies are being implemented when it comes to determining planning applications. The questions below may help to guide you towards assessing and deciding whether a review is needed:

- Are your policies being interpreted by the relevant people (i.e. the applicant/agent, Development Management officers and Planning Committee) how you anticipated?
- Are there any issues in the interpretation of the wording and meaning behind the policy?
- Are there any gaps in the plan or policies missing?
- Have your policies ever been tested at a planning appeal? If so, what was the outcome?
- Have any issues been highlighted with the interpretation of policy wording and the overall neighbourhood plan strategy?
- Have there been any changes in circumstances which means that your plan is not as responsive as it previously was?

National Legislation and Policy: Amendments to planning practice guidance, policy or legislation have the potential to impact on your Neighbourhood Plan. Furthermore, case law and appeal decisions can be a material consideration in policy interpretation. Changes in national policy could potentially conflict with the Neighbourhood Plan. These changes could be a 'material consideration' and may justify a departure from some Neighbourhood Plan policies when determining a planning application.

Local Policy: As with changes to national policy, as noted above, changes to local planning policy through the revision of the Local Plan could have an impact on certain neighbourhood plan policies. Where local plan and Neighbourhood Plan policies are in conflict, [section 38\(5\) of the Planning and Compulsory Purchase Act 2004](#)¹ requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. The impact of adoption of a local plan after the making of a neighbourhood plan may need to be carefully considered.²

The National Planning Policy Framework (NPPF) indicates a requirement for a review of local plans to be undertaken at least every five years in order to determine whether its policies and strategy are in need of updating. The East Suffolk Council – Waveney Local Plan was adopted in March 2019 and the East Suffolk Council - Suffolk Coastal Local Plan was adopted in September 2020.

Local Circumstance and Evidence: Changes in local circumstances could include economic, social or environmental changes (i.e. following completion of development). New evidence and/or additional surveys should be taken into account to identify and assess the impact of these local changes on the Neighbourhood Plan policies.

¹ <https://www.legislation.gov.uk/ukpga/2004/5/section/38>

² <https://www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/local-plans/>

Local Opinion: Community and stakeholder engagement may highlight additional or new local issues or concerns that may have arisen since the Neighbourhood Plan was made. These engagements could influence a decision on whether or not to revise the Neighbourhood Plan. The Council can provide you with information on how your plan is being applied. This can include how much your policies have been applied, and also feedback on any policies that are performing particularly well or poorly (where we are aware of this).

Scope of the review

As indicated above, the need and level of review will vary from Neighbourhood Plan to Neighbourhood Plan. There is no one size fits all approach to reviewing your plan, and you may wish to carry out additional surveys to give you an update on the needs of the community and this may influence your review and the route to take (see information above: Deciding whether to review your plan). Furthermore, resource implications for a Neighbourhood Plan review will need careful consideration: do you have enough members of the group to proceed with a review, do you need outside help and funding etc.?

The review process

Statutory process - options

Where a Neighbourhood Plan group is proposing to revise their plan, there are different statutory processes, depending on the extent of that revision. The process will be informed by the scope of the review. In the case of a minor update this will need to be agreed with the Council. Where a material modification is involved, an independent Examiner will make the decision over whether a referendum is required.

National guidance on statutory provisions can be found via the following link:

<https://www.gov.uk/guidance/neighbourhood-planning--2#updating-neighbourhood-plan>

Guidance on each of the processes is set out in further detail below however there are three main routes – minor modifications; material modifications (that do not change the nature of the plan); and material modifications that change the nature of the plan. The table below gives some examples of changes and an overview of the processes involved. Officers will be able to discuss these changes with you and advise which bracket they would fall into. A template is included in Annexe 1 to assist with documenting the proposed revisions and to consider the types of modifications these constitute

	Minor (non-material) updates	Material Modifications (that do not change the nature of the plan)	Material Modifications (that change the nature of the plan)
Nature of changes	Could include: <ul style="list-style-type: none"> ▶ correcting errors ▶ updating references 	Could include: <ul style="list-style-type: none"> ▶ additional detail to existing policy e.g adding a design code ▶ new allocations if these won't change the nature of the plan 	Could include: <ul style="list-style-type: none"> ▶ new allocations (although there may be some instances where these wouldn't change the nature of the plan) ▶ changes to settlement boundary ▶ changes to Plan area ▶ new policies
Overview of process	<ul style="list-style-type: none"> ▶ Agree change with Council ▶ No consultation ▶ No Examination ▶ No Referendum 	<ul style="list-style-type: none"> ▶ Regulation 14 consultation ▶ Regulation 16 publication ▶ Examination 	<ul style="list-style-type: none"> ▶ Regulation 14 consultation ▶ Regulation 16 publication ▶ Examination ▶ Referendum

The two review methods for material modifications follow similar routes during the review process with the independent examiner determining the final process. The main difference being the need for a referendum where the modifications change the nature of the plan. At the time of writing this guidance, there is very limited experience of reviews, examinations, or examples of second-generation plans, and it is anticipated that where the line is between material modifications which do not change the nature of the plan and modifications which do change the nature of the plan, will become clearer over time.

Minor (Non-material) updates

This is essentially for issues such as minor typographical errors, updating inconsistencies and adding information for clarification. This would not result in any changes to the policies stance or interpretation.

These changes are generally so minor in nature that no consultation needs to be undertaken and as such there would be no requirement for an examination or referendum. Non-material updates can be agreed between the Qualifying Body and East Suffolk Council and these changes must be made by the Local Planning Authority following consent from the Qualifying Body. This route would not result in the 'remaking' of the Neighbourhood Plan and therefore the made date of the original plan would still apply.

Material modifications which do not change the nature of the plan

These modifications may result in the addition of a design code, for example, which builds on an existing design policy, or for the addition of a development site or sites, that are not so significant or substantial as to change the nature of the plan, subject to the findings and decision of the examiner. A material modification would be considered as a change which does not alter the overall strategy of the plan but adds additional details to the existing policies.

This method would require a Regulation 14 consultation on the draft revisions to the plan. A regulation 14 consultation is also known as a pre-submission consultation. It is carried out by the Qualifying Body before submitting the modified plan and supporting documents to the Council. The Regulation 14 consultation is the responsibility of the Qualifying Body. See link below for further information:

<https://www.legislation.gov.uk/uksi/2012/637/regulation/14/made>

As noted above the Regulation 14 consultation is carried out by the Qualifying Body under Regulation 14 of the Neighbourhood Planning Regulations, which is the same regulation followed when you carried out the first preparation of the Neighbourhood Plan and requires a minimum 6-week consultation period. However, there may be new methods of consultation and new groups who will need to be consulted so you will need to think about the best way to carry out the consultation.

You will consult with the Local Planning Authority, Consultation Bodies³, landowners, local residents and anyone else considered appropriate. Further information and guidance can be found at The Neighbourhood Planning (General) Regulations 2012

<https://www.legislation.gov.uk/uksi/2012/637/contents/made>

The Qualifying Body must state whether they consider that the proposed modifications change the nature of the plan at the Regulation 14 consultation stage and subsequently at Submission to the Council. Following Submission of the relevant documents, a Regulation 16 publication is run by the Council over a period of usually 6-weeks. We will consult all the relevant statutory bodies and anyone else mentioned in the submitted Consultation Statement and collate their responses. This is carried out prior to examination. Further information on Regulation 16 processes can be found here:

<https://www.legislation.gov.uk/uksi/2012/637/regulation/16/made>

³ Further information on consultation bodies can be found here:
<https://www.legislation.gov.uk/uksi/2012/637/schedule/1/made>

The Qualifying Body will submit a 'modification statement' with their submission documents (see below). This modification statement will contain a summary of the proposals and sets out your reasons why the plan should be modified as proposed⁴. The Local Planning Authority will provide a statement when sending documents to the examiner along with a copy of the original plan, indicating whether they consider the modifications to be of a material or substantial nature. The Qualifying Body can decide whether to proceed with the examination after the examiner has decided whether the modifications change the nature of the plan and therefore require a referendum.⁵

The Planning and Compulsory Purchase act 2004⁶ states that when you submit your Neighbourhood Plan to the Council for consultation and publication your plan must be accompanied by other documents and information of a prescribed description. These documents may include, if appropriate, the following documents:⁷

- Consultation Statement
- Basic Conditions Statement
- A version of the plan showing tracked changes including any proposed modifications to policy and associated supporting text
- Strategic Environmental Assessment Screening Report (SEA)
- Habitats Regulation Assessment

Material modifications that change the nature of the plan

The process for material modifications that change the nature of the plan is the same as for material modifications that do not change the nature of the plan as set out above however a referendum will be required. The examiner will assess the modified plan following the Regulation 16 consultation. A copy of the original plan must also be submitted to the independent examiner. The Qualifying Body must decide whether they are going to proceed with the examination after they have received the examiners recommendations and whether they consider the proposed modifications change the nature of the plan⁸.

⁴ <https://www.legislation.gov.uk/ukpga/2004/5/schedule/a2>

Schedule A2 Section 38A (11A) Proposals for the modification of a Neighbourhood Development Plan (3) (b)

⁵ <https://www.gov.uk/guidance/neighbourhood-planning--2#updating-neighbourhood-plan> Paragraph: 085 Reference ID: 41-085-20180222 (Revision date: 22.02.2018)

⁶ Schedule A2 Section 38A (11A) Proposals for the modification of a Neighbourhood Development Plan (4) (b) <https://www.legislation.gov.uk/ukpga/2004/5/contents>

⁷ Subject to discussions and agreement with Planning Policy and Development Officers as this will depend on the nature of the review.

⁸ NPPG Neighbourhood Planning Paragraph 085 ID: 41-085-20180222 (Revision date 22.02.2018)

Examples of modifications to a Neighbourhood Plan that may change its nature could be new site allocations, changes to a settlement boundary, or new policy topics.

If the examiner concludes that the proposed modifications change the nature of the plan, the Local Planning Authority will need to publicise and consider the examiner's report in the same way as they would for a new neighbourhood plan⁹ and a referendum would be required.

Further information regarding the primary legislation for the making and review of made plans can be found here: <https://www.legislation.gov.uk/ukpga/2017/20/contents/enacted>

Amending your Neighbourhood Plan Area

You should consider if your plan area is still appropriate or whether it should be altered. If it does need amending, then an application would be needed to re-designate the area prior to the review.¹⁰ The following advice regarding a new Neighbourhood Plan area is taken from the National Planning Policy Guidance Neighbourhood Planning¹¹.

“A local planning authority can amend the boundary of a neighbourhood area after it has been designated, but only if the local planning authority is responding to a new application for a neighbourhood area to be designated”.

Section 5 of the Neighbourhood Planning Act 2017 (which amends the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004) facilitates the amendment of neighbourhood areas and provides for what is to happen to the neighbourhood plan or Order that has already been made in relation to that area.¹²

Should the Qualifying Body seek to amend a designated area as part of the process of updating a neighbourhood plan that is in force, they should ensure their neighbourhood area application considers any potentially adverse consequences on the existing plan which would remain in force for any area excluded from the amended boundary. If any such adverse consequences are identified, qualifying bodies should set out appropriate mitigation measures in the basic conditions statement¹³.”

⁹ <https://www.legislation.gov.uk/uksi/2012/637/regulation/18/made>

¹⁰ Neighbourhood Planning Act 2017 Section 5: <https://www.legislation.gov.uk/ukpga/2017/20/section/5>

¹¹ NPPG Neighbourhood Planning Paragraph: 037 Reference ID: 41-037-20180222 (Revision date: 22.02.2018)

¹² Neighbourhood Planning Act 2017 Section 5: <https://www.legislation.gov.uk/ukpga/2017/20/section/5>

¹³ NPPG Neighbourhood Planning Paragraph 037 ID: 41-037-20180222 (Revision date 22.02.2018)

Further Guidance

Locality funding and technical support can be available for Qualifying Bodies seeking to review and update their made neighbourhood plan:

<https://neighbourhoodplanning.org/about/grant-funding/>

<https://neighbourhoodplanning.org/toolkits-and-guidance/neighbourhood-planning-grant-technical-support-guidance-notes/>

General guidance relevant to modifying a neighbourhood plan:

<https://neighbourhoodplanning.org/>

<https://neighbourhoodplanning.org/toolkits-and-guidance/how-to-implement-monitor-and-review-your-made-neighbourhood-plan/>

Information on designating a neighbourhood area:

<https://www.gov.uk/guidance/neighbourhood-planning--2#designating-a-neighbourhood-area>

Legislation concerning the modification of neighbourhood development plans:

Planning and Compulsory Purchase Act 2004:

<https://www.legislation.gov.uk/ukpga/2004/5/schedule/a2>

Neighbourhood Planning Act 2017:

<https://www.legislation.gov.uk/ukpga/2017/20/contents/enacted>

Annexe 1: Example of table for proposed changes and modifications

The template table is provided to assist with considering and documenting proposed modifications. The Council can provide support on the relevant processes and in particular can assist in considering whether the modifications constitute minor or material modifications and, if material, whether they are considered to be so significant or substantial that they change the nature of the plan (the right-hand columns shown in the table).

This table is provided as an aid and is not compulsory, and you may wish to develop your own way of documenting modifications. The template can become part of the statement of modifications that will be published by the Qualifying Body at the Regulation 14 consultation stage and that is required for Submission under Regulation 15.

Proposed modifications
xxxx Neighbourhood Plan

Made Plan para/policy ref	Review Plan para/policy ref	Proposed modifications (show in track changes)	Are the modifications material (Y/N)? Provide reasoning	If the modifications are Material do they change the nature of the plan (Y/N)? Provide reasoning