

WHO CAN UNDERTAKE A NEIGHBOURHOOD DEVELOPMENT PLAN? GRCC provided wording in response to an enquiry from a parish clerk as people in the parish were stating that anyone can bring forward a NDP:

Dear ..

Your understanding is correct and the confusion for the group must be coming from the fact that the Localism Act talks about parished and non parished (ie urban) areas together when discussing 'relevant bodies/ qualifying bodies' to assign a Neighbourhood Development Area and hence take forward a Neighbourhood Development Plan. Also, many of the definitions are contained in the section of the Localism Act describing Neighbourhood Development Orders.

Where an area is parished (ie has a parish or a town council) it is only the parish / town council that can bring forward an application for a Designated Neighbourhood Area (and hence the Neighbourhood Development Plan (or Neighbourhood Development Order)), whereas in a non parished area a Neighbourhood Forum must be set up and approved by the Local Authority in order to set the Neighbourhood D Area and thereby carry forward the Neighbourhood D Plan/ Order. There is a note at the base about Community Right to Build which adds another dimension and may also have contributed to the confusion.

Having said this it is good practice to have a steering group that represents the whole community – not just the parish council. The parish council may just be the conduit of information to the District Council.

I have provided 3 texts below to explain – all from national government. The first is a very easy read from a Localism leaflet about Neighbourhood Plans. The second is from explanatory text about the Localism Act – again from national government. The third version is from the Neighbourhood Planning Regulations and Localism Act and the relevant sections are shown in red font. I have provided the original links as well as the extracts.

Version 1 – from government leaflet – An introduction to Neighbourhood Planning
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1985896.pdf> (top of page 2)

“ In areas with a parish or town council, the parish or town council will take the lead on neighbourhood planning. They have long experience of working with and representing local communities.

In areas without a parish or town council, local people will need to decide which organisation should lead on coordinating the local debate. In some places, existing community groups may want to put themselves forward. In other places, local people might want to form a new group. In both cases, the group must meet some basic standards. It must, for example, have at least 21 members, and it must be open to new members.

Town and parish councils and community groups will then need to apply to the local planning authority (usually the borough or district council). “

Version 2 – from government explanatory notes on the Localism Act section regarding those authorised to bring forward Neighbourhood Development Areas (for Neighbourhood D Plans and Neighbourhood D Orders)

<http://www.legislation.gov.uk/ukpga/2011/20/section/116/notes> Section 266

266. New section 61F (which will also apply in relation to neighbourhood development plans) sets out the circumstances in which qualifying bodies are authorised to bring forward proposals for neighbourhood development orders. *In relation to any neighbourhood area (see new section 61G) which has a parish council, only a parish council (all or part of whose area is within the neighbourhood area) may make proposals for a plan or order.* These proposals must be made with the consent of any other parish council for the area and proposals must be made one at a time (see new sections 61F(1), (2) and (10)). In relation to neighbourhood areas without a parish council, only a person or body which has been designated as a “neighbourhood forum” for the particular neighbourhood area by the local planning authority may bring forward proposals (see new section 61F(3) to (7)). The conditions that must be met by an organisation seeking to be designated as a neighbourhood forum are set out in subsection new section 61F(5), though regulations may either add to those conditions or specify other categories of organisations that can become neighbourhood forums. Existing residents associations or civic groups may become neighbourhood forums. New section 61F(7) requires local planning authorities to have regard to the desirability of designating forums which meet certain criteria relating to the membership and purpose of the forum. New section 61F(8) empowers a local planning authority to withdraw a forum’s designation in certain circumstances.

Version 3 – extracts from The Neighbourhood Planning regulations and related Localism Act sections: The Neighbourhood Planning regulations can be found in http://www.legislation.gov.uk/ukxi/2012/637/pdfs/ukxi_20120637_en.pdf (All page numbers refer to the ones printed at the top of the page).

On the bottom of Page 2 it mentions ...

“plan proposal” means a proposal for a neighbourhood development plan submitted by a qualifying body(f) under paragraph 1 of Schedule 4B to the 1990 Act (as applied, with modifications, by section 38A of the 2004 Act).

The footnote (f) states:

For the purposes of neighbourhood development plans the definition of “qualifying body” is in section 38A(12) of the 2004 Act (as inserted by paragraph 7 of the Localism Act 2011).

Also in Part 2.5, under neighbourhood areas (page 3) it states:

Application for designation of a neighbourhood area

5.—(1) Where a relevant body(b) submits an area application to the local planning authority it must include—

The footnote (b) states:

For the definition of “relevant body” see section 61G(2) of the 1990 Act (inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c.20).

So – there are 2 key definitions: Qualifying body and Relevant body

These definitions can be found in the Localism Act
http://www.legislation.gov.uk/ukpga/2011/20/pdfs/ukpga_20110020_en.pdf (All page numbers refer to the ones printed at the top of the page).

Qualifying body:

This is the definition of a ‘qualifying body’ –Schedule 9 – Neighbourhood Planning Section 12 – top of page 362 of the Localism Act

“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.

Then cross check against Section 61F which is in the Neighbourhood Development Orders section – p 362

61F Authorisation to act in relation to neighbourhood areas

- 1) *For the purposes of a neighbourhood development order, a parish council are authorised to act in relation to a neighbourhood area if that area consists of or includes the whole or any part of the area of the council.*
- 2) *If that neighbourhood area also includes the whole or any part of the area of another parish council, the parish council is authorised for those purposes to act in relation to that neighbourhood area only if the other parish council have given their consent.*
- 3) *For the purposes of a neighbourhood development order, an organisation or body is authorised to act in relation to a neighbourhood area if it is designated by a local planning authority as a neighbourhood forum for that area.*
- 4) *An organisation or body may be designated for a neighbourhood area only if that area does not consist of or include the whole or any part of the area of a parish council.*

This is re-iterated in 61G (referred to in the footnote b above)– on p 353-354, where a ‘relevant body’ is defined.

61G Meaning of “neighbourhood area”

- (1) A “neighbourhood area” means an area within the area of a local planning authority in England which has been designated by the authority as a neighbourhood area; but that power to designate is exercisable only where—
 - (a) a relevant body has applied to the authority for an area specified in the application to be designated by the authority as a neighbourhood area, and
 - (b) the authority are determining the application (but see subsection (5)).

(2) A “relevant body” means—

(a) a parish council, or

(b) an organisation or body which is, or is capable of being, designated as a neighbourhood forum (on the assumption that, for this purpose, the specified area is designated as a neighbourhood area).

(3) The specified area—

(a) in the case of an application by a parish council, must be one that consists of or includes the whole or any part of the area of the council, and

(b) in the case of an application by an organisation or body, must not be one that consists of or includes the whole or any part of the area of a parish council.

Community Right to Build – Some of the confusion about who can establish and move forward a Neighbourhood D Plan may have come from the Community Right to Build sections of the legislation. This is a type of Neighbourhood Development Order where an area is designated but this time the organisation which moves it forward can be either the parish/town council or a community organisation such as a Community Land Trust.

I hope this answers your query but please do get in touch if you would like further clarification.

Regards

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