

NEIGHBOURHOOD DEVELOPMENT ORDERS

WHAT IS A NEIGHBOURHOOD DEVELOPMENT ORDER?

Neighbourhood planning offers local people a fantastic opportunity to get involved in building and shaping their communities. The Localism Act 2011 has brought about reforms to the planning system in England which gives communities more control and influence over their area and how it should develop. The main tool for doing this is the community-led Neighbourhood Plan. The Act also introduced two other tools for neighbourhood planning – the Neighbourhood Development Order (NDO) and the Community Right to Build Order (CRBO).

WHAT DOES A NEIGHBOURHOOD DEVELOPMENT ORDER DO?

A Neighbourhood Development Order allows communities to grant planning permission for all or certain uses within their neighbourhood area. The exact types of development and/or uses permitted in the order will need to reflect local circumstances at the time of drafting. An order could be used for a development on a specific site or for particular classes of development such as homes or offices. Essentially, it will remove the need for developers to apply separately for planning permission to the council for the types of development set out in the order.

There are certain types of development that cannot be covered by a Neighbourhood Development Order. These are known as “excluded development”. In simple terms, this is any development connected with minerals or waste, a nationally significant infrastructure project including any power station or wind farm over 50MW, and major projects requiring Environmental Impact Assessment under EU law.

Neighbourhood Development Orders must also follow some ground rules. Firstly, they must be generally in line with local and national planning policies and other appropriate laws. Secondly, they cannot be used to block development, if the council’s local plan considers that an area needs to grow, but they can influence the type, design, location and mix of new development.

WHO CAN PREPARE A NEIGHBOURHOOD DEVELOPMENT ORDER?

A Neighbourhood Development Order can be prepared by either a town/parish council or a designated Neighbourhood Forum. Before preparing an order, you must ensure that your organisation or group meets the appropriate conditions to be classed as the neighbourhood planning body for your area and have a neighbourhood area designated.

HOW LONG WILL IT TAKE TO PREPARE A NEIGHBOURHOOD DEVELOPMENT ORDER?

It will be up to individual areas to decide on the pace at which they wish to progress their Neighbourhood Development Orders. It will depend on the level of work required to prepare the order including time needed for evidence gathering and consultation as well as whether or not an Environmental Impact Assessment is needed. It is suggested that the process might take between 12 and 24 months.

WHAT AREA CAN A NEIGHBOURHOOD DEVELOPMENT ORDER COVER?

There is no strict definition of the area that a Neighbourhood Development Order should cover. It is for the community preparing the order to decide what area should be covered depending on their circumstances. It could cover all or part of your neighbourhood area.

CAN THERE BE MORE THAN ONE NEIGHBOURHOOD DEVELOPMENT ORDER?

No. Only one Neighbourhood Development Order can be promoted in a neighbourhood area at any given time.

DOES A NEIGHBOURHOOD DEVELOPMENT ORDER HAVE TO RELATE TO A NEIGHBOURHOOD PLAN?

Not necessarily. Local communities can prepare a Neighbourhood Development Order as a stand alone entity if they wish. However, it is often a good idea to link a Neighbourhood Development Order with a Neighbourhood Plan. For example, the plan could identify the need for a local shop and a broad location. The Neighbourhood Development Order could then apply a planning permission to a particular site or existing building where the shop will be built.

WHAT WEIGHT WILL BE GIVEN TO THE NEIGHBOURHOOD DEVELOPMENT ORDER?

Once adopted a Neighbourhood Development Order will be part of the development plan for North Lincolnshire and will be used to allow certain types of development in your area.

HOW DOES THE PROCESS OF PREPARING A NEIGHBOURHOOD DEVELOPMENT ORDER WORK?

There are Government regulations that set out the key stages to be followed. The process will include a number of stages including community engagement and consultation on the draft document. Given that a Neighbourhood Development Order, once adopted, will grant planning permission, it is also subject to an examination and a community referendum. More details are set out on the next page.

WHO WILL PAY FOR THE NEIGHBOURHOOD DEVELOPMENT ORDER?

It will be up to the town/parish council or Neighbourhood Forum to pay for the preparation of a Neighbourhood Development Order. The Council will only pay for the independent examination and the referendum, as well as provide technical advice and practical support.

WHAT IS THE ROLE OF NORTH LINCOLNSHIRE COUNCIL?

We have a duty to provide technical advice and support to communities producing a Neighbourhood Development Orders. It also has to:

- Agree the composition of, and formally designate, neighbourhood forums (where appropriate);
- Agree the boundary of the area to be covered by the neighbourhood area designation;
- Check the contents of the order against the policies of the council's local plan;
- Organise the check by an independent examiner into a neighbourhood development order before it can be voted on in a local referendum;
- Organise the referendum; the order will need to get majority support;
- Adopt the neighbourhood development order and bring it into force.

PREPARING A NEIGHBOURHOOD DEVELOPMENT ORDER - PROCESS

Step 1: Getting Started - the first thing you need to do is to get your area designated as a neighbourhood area for the purposes of neighbourhood planning or attain neighbourhood forum status. You will need to apply to the council for either. Once your application is received, we will publish it for a six week period to allow comments to be made and alternatives suggested. Once the consultation is completed we will consider all responses and make a decision. All decisions will be published. Once this process has happened, you can then start to prepare a Neighbourhood Development Order.

Step 2: Preparing the Neighbourhood Development Order - the town/parish council or Neighbourhood Forum prepares a draft version of their Neighbourhood Development Order.

Step 3: Consultation on Draft Neighbourhood Development Order - the town/parish council or neighbourhood forum should undertake extensive consultations on the draft order with their community and the wider area. The draft order should be publicised and consulted upon in a way that brings it to the attention of those living, working or running a business in the neighbourhood area. The consultation period for people to make comments on the draft order should last for

a period of six weeks, starting on the day that it is first publicised.

A number of other bodies must also be consulted including the Historic Buildings and Monuments Commission for England (English Heritage), anyone who would normally be consulted on a planning application, any statutory consultee, North Lincolnshire Council, any adjoining town/parish council, and any neighbourhood forum. A list of the statutory consultees is set out in Annex 1 of the council's guide to developing neighbourhood plans. This list also includes voluntary bodies whose activities benefit all or any part of the relevant area and bodies representing the following interests in the relevant area: racial, ethnic or national groups, religious groups as well as bodies representing disabled persons.

Step 4: Environmental Assessment - the draft Order will also have to conform with the EU Directive on Strategic Environmental Assessments (SEA). It is anticipated that a screening procedure to determine whether the proposals in Neighbourhood Order are likely to have an environmental impact upon the environment. If the answer is 'Yes' then a minimum SEA will be needed. The cost of which will fall to the Parish Council/ Neighbourhood Forum.

Step 5: Submission & Consideration by Council - the draft Order is then considered by the council to satisfy that it is suitable to go forward to independent examination. This is primarily to do with legal compliance matters, e.g. that the body putting the plan forward is a qualifying body, the plan is consistent with the designated area and is in general conformity with the Development Plan.

Step 6: Examination - subject to the council's agreement, the draft Order will then be subject to independent examination. It is anticipated that the town/parish or Neighbourhood Forum will nominate a suitably qualified independent examiner which has to be agreed by the council. The cost of the examination will fall to council. The Examiner will consider whether the order is appropriate having regard to national policy and whether it is in general conformity with the Development Plan for the area.

Step 7: Receipt of Examiner's Report - the Examiner's report will not be binding. They will be able to recommend that the Order is put forward for a referendum, or that it should be modified or that the proposal should be refused. The council will then decide what should be done in light of the Examiner's report. Where the report recommends modifications to the Order the council will invite the town/parish council or Neighbourhood Forum to make modifications to the Order. Where the report recommends that the proposal is to be refused, the council will do so.

Step 8: Referendum - where the examination is favourable, the draft Order will then be subject to a referendum, organised and paid for by the council. If more than 50% of those who vote (not those who are eligible to vote) agree with the Order, then it will be passed to the council with a request it is adopted.

Step 9: Adoption - once adopted the Neighbourhood Development Order becomes part of the Development Plan for the area. There is a presumption that councils will adopt Orders provided they are in conformity with the Development Plan. There is no formal recourse for communities (apart from a Judicial Review) should the council refuse to adopt the Order.