

Neighbourhood Planning Guidance Note 33

Neighbourhood Development Plans Referendums

September 2013 - Revised June 2015



This guidance note will set out Herefordshire Council's role in the process for holding referendums on whether a Neighbourhood Development Plan, Neighbourhood Development Order or Community Right to Build Order should come into force. As well as setting out advice in respect of how to gain support in referendums.

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Introduction

The referendum is the final key stage in the process for your Neighbourhood Development Plan. Without a successful 'yes' vote, your plan cannot be adopted as statutory planning policy by Herefordshire Council, so preparing for the referendum is an important part of the process.

The referendum will be asking; 'Do you want Herefordshire Council to use the Neighbourhood Development Plan for (*Neighbourhood Area name*) to help it decide planning applications in the Neighbourhood Area?'

Therefore the referendum will be about the acceptance of the whole plan. If your plan has been community led throughout the process and you have undertaken early community engagement, your plan will be more likely to be successful at the referendum.

This guidance note will set out the process in accordance with the Neighbourhood Planning (Referendum) Regulations 2012 and the subsequent amendments as made by the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 and 2014. The latter came into force on 6 April 2014 and copy electoral conduct provisions in the Electoral Registration and Administration Act 2013 for the purposes of residential neighbourhood planning referendums.

The referendum process

A Neighbourhood Planning referendum will be undertaken in a very similar way to those for local elections and will be organised by Herefordshire Council's Electoral Registration team.

What area will be covered?

As a rule the referendum area will mirror your Neighbourhood Area boundary. However, the examiner will consider whether to extend the referendum area, especially if it is considered that some of the proposals/policies within your plan will have a direct impact on those living within the adjacent parish. For example, allocation sites on the boundary of the Neighbourhood Area. If this is the case, the referendum area will be extended to include those areas it is considered will be affected.

It will therefore be important to consider this possibility during the early stages for your plan production. Consultation with your neighbouring parish councils will be vital if proposals are close to your parish boundary.

Who can vote?

Everyone on Herefordshire Council's electoral register (at the date of the vote) within the referendum area is entitled to vote. All those entitled to vote will receive a poll card informing them when and where to vote.

Due to the nature of the majority of the parishes, it is unlikely that any business areas will be designated within Herefordshire, though further guidance on these is included at Appendix 2. This means that the referendum will be focussed on those residents who live within the parish only. However, it will be important during the consultation stage of your plan to involve all sections of the community, including the businesses within your parish. The level and range of consultation undertaken should be reflected within your 'Consultation Statement'.

What will the required outcome be?

Your plan is required to obtain 50% plus 1 of those turning out to vote in the referendum to vote 'yes' in order for the plan to be adopted by Herefordshire Council. It is important to note that there is no minimum turnout for the referendum to be valid.

How will the referendum be organised?

Your Service Level Agreement indicates that the referendum will usually take place within 60 days of you receiving your 'Decision Statement'. The Electoral Registration team will organise the referendum on your behalf and Herefordshire Council will be responsible for meeting the costs. The referendum will be run in the same way as Herefordshire Council conduct local elections, therefore the option for postal voting will be made available, as well as the ability to vote in person. A sample ballot paper can be seen in Appendix 1. All referendums will be advertised no later than 25 days before the poll is due to take place indicating the referendum, location and the date.

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You will need to ensure that your Neighbourhood Development Plan project programme/timetable for the delivery of your plan, reflects the necessary lead in times for the referendum.

How will the referendum be advertised?

Information regarding any Neighbourhood Planning referendums will be made available on the Neighbourhood Planning webpages, Herefordshire Council's Info Centres, local libraries and where appropriate Council owned publicly accessible buildings within the referendum area at least 28 days before the date of the referendum. This will include an Information Statement and the following documents.

The Information Statement will specify:

- That a referendum will be held and on what date;
- Schedule 1 of the Regulations sets out the referendum questions. The question for a NDP is: *Do you want Herefordshire Council to use the neighbourhood plan (insert name of Neighbourhood Area) to help it decide planning applications in the Neighbourhood Area?* The Neighbourhood Planning (Referendums) (Amendment) Regulations 2014 includes template forms for residential neighbourhood planning referendums when held alone or in combination with other polls;
- A map of the referendum area;
- An additional map where the referendum area differs to the Neighbourhood Area;
- State who is entitled to vote;
- The referendum expenses limit applicable (this is the amount your parish council can spend on campaigning during the referendum period) and the number of people identified as entitled to vote on which the limit was calculated;
- That the referendum will be conducted in accordance with procedures similar to those for local government elections;

- The address and times at which a copy of the published documents can be inspected.

The specified documents are:

- The Draft Neighbourhood Development Plan;
- The independent examiners report;
- A summary of representations submitted to the examiner;
- A statement that Herefordshire Council is satisfied that the plan meets the basic conditions;
- General information on town and country planning, including Neighbourhood Planning to ensure voters have sufficient knowledge to make an informed decision.

How to gain support for your referendum

The referendum is the important last step before your Neighbourhood Development Plan can be adopted. Gaining support for your plan will be the key to a successful result. It could be possible for you to have a plan which meets all the basic conditions and a positive examiner's report, but if it does not gain the majority support at the referendum, Herefordshire Council would be unable to adopt it.

So here are a few tips to improve the chances of success at the referendum:

- Ensure adequate publicity is given to your Neighbourhood Development Plan throughout the process. If people understand the importance of the document and have had a chance to be involved they are more likely to vote;
- Involve a wide range of local residents, businesses and organisations in all stages of your plan. Anyone feeling they have been left out of the process or unable to give their comments may be more inclined to vote against the plan;
- Ensure wide ranging and robust community involvement from the outset. These methods are highlighted within Neighbourhood Planning Guidance Note 12: Best Practice Community

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Engagement Techniques. Record all the details within your 'Consultation Statement';

- Ensure that the full range of issues are covered within your plan. This will ensure that everybody's suggestions have been considered;
- Ensure openness and transparency in all decision making and these are recorded within parish council minutes;
- Base decisions and the content of your plan on robust evidence, consultation and feedback;
- Explain decision making and options at regular meetings.

Following a successful referendum

Following a positive referendum, your Neighbourhood Development Plan will be recommended to Cabinet and Full Council for adoption. This will be at the first available meeting of Cabinet/Council possible following the referendum. Once your plan is adopted it will become part of the Statutory Development Plan for the area and will be used by Planning Officers and Planning committee at Herefordshire Council to approve or refuse planning applications in your Neighbourhood Area.

Herefordshire Council can only decline to adopt the plan if:

- Cabinet/Council consider it would breach any EU obligations (the Habitat Regulations Assessment and/or Strategic Environmental Assessment) or any Convention rights (The Human Rights Act); or
- If there is a majority 'no' vote or a tied vote then the Neighbourhood Development Plan will not come into legal force.

Publication of the Neighbourhood Development Plan

Once your plan has been adopted, your Parish Clerk will be sent a copy of the Decision Statement and accompanying Cabinet Report. Copies will also be placed on Herefordshire Councils website and notification given to everyone who has previously requested to be informed. Site notices will also be placed within

the Neighbourhood Area publicising the adoption of your Neighbourhood Development Plan. A copy of your adopted Neighbourhood Development Plan will also be placed on our webpages, as well as in Info Centres and libraries.

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Appendix 1

Front of ballot paper:

Referendum on the Neighbourhood Plan for <i>(insert name of Neighbourhood Area)</i>	
Do you want Herefordshire Council to use the Neighbourhood Plan for <i>(name of neighbourhood area)</i> to help it decide planning applications in the Neighbourhood Area?	
Vote only ONCE by marking a cross (X) in the box next to your choice	
	Yes
	No

Back of ballot paper:

Ballot paper number:
Other unique identifying mark
Referendum on the Neighbourhood Development Plan for <i>(insert name of Neighbourhood Area)</i> on <i>(insert date)</i>

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Appendix 2

Business Referendums

Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 make provision for the conduct of additional business referendums. These additional referendums are required for a Neighbourhood Area which has been designated as a Business Area and are in addition to the residential referendum for the area.

The rules for these are contained in the Neighbourhood Planning (Referendums) Regulations 2012 as amended by the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 and 2014, and the Neighbourhood Planning (Prescribed Dates) Regulations 2012. The Neighbourhood Planning (Referendums) (Amendment) Regulations 2014 includes template forms for business neighbourhood planning referendums and invitations to register to vote at business referendums.

In Business Areas two separate referendums will be held in parallel. The first will be for residents and a second referendum will be held for businesses (or more specifically non-domestic rate payers). The two referendums must be held on the same day.

Anyone who is a non domestic ratepayer in the referendum area recorded on the business voting register compiled by the Council using the business rate billing information it holds is entitled to vote.

Schedule 6 of the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 sets out the rules for the business voting register. In particular the Schedule makes provision for obtaining data from the business rates records held by local authorities, sending out invitations to register, compilation, publication and supply of the business voting register, alteration of the business voting register and appeals.

The rules for the business referendum are set out in Schedule 7 of the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 and are based closely on the rules for conduct of residential referendums as described above.

In this instance the outcome of the business and residents' referendums will be considered separately. If both are in favour of the Neighbourhood Plan it will be adopted. If both reject the Neighbourhood Plan it won't be adopted. Where the two outcomes conflict with each other the decision about whether or not to adopt the Neighbourhood Plan will rest with the local planning authority.

Neighbourhood Development Plans Referendums

Neighbourhood Planning guidance notes available:

Deciding to produce a Neighbourhood Development Plan

1. Which is the right tool for your parish
2. What is a Neighbourhood Development Plan
3. Getting started
4. A guide to procedures
5. Funding

Plan Production

6. Developing a Vision and Objectives
7. Generating options
8. Writing planning policies
9. Environmental Assessment
10. Evidence base and information requirements
11. Implementation and Monitoring
12. Best practice community engagement techniques
13. Statutory consultees
14. Writing a consultation statement
15. Planning and other legislation
16. Web enabling your plan
17. Using OS based mapping
18. Glossary of planning terms

Topics

19. Sustainable Water Management in Herefordshire
20. Guide to settlement boundaries
21. Guide to site assessment and choosing allocation sites
22. Meeting your housing requirements
23. Conservation issues
24. Recreational areas
25. Renewable energy
26. Transport issues
27. Community Infrastructure Levy

Additional Guidance

28. Setting up a steering group
29. Creating a questionnaire
30. Community facilities
31. Conformity with the Local Plan (Core Strategy)
32. Examinations of Neighbourhood Development Plans
33. Guide to Neighbourhood Development Plan Referendums
34. Tourism
35. Basic Conditions
36. Your plan - Contributing to sustainable development