

Neighbourhood Development Order Guidance Note 2

A guide to procedures

August 2013



This guide has been produced with reference to the Neighbourhood Planning (General) Regulations 2012. It outlines the stages you will need to address in order to meet the regulation requirements during the production of your Neighbourhood Development Order.

This guidance is only concerned with the regulations and procedures a Neighbourhood Development Order is required to meet in order to reach adoption. Additional guidance notes are available to support and guide you through the various stages of producing a Neighbourhood Development Order.

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The procedure that will lead to Herefordshire Council making a Neighbourhood Development Order (NDO) is in many respects identical to that for making a Neighbourhood Development Plan, including independent examination, consultation with and participation by the public, the holding of a referendum, voting rights and the obligation to make the order if more than half the people voting are in favour.

Stage 1 – Defining the ‘Neighbourhood Area’. (Regulation 5)

A Neighbourhood Area will define the area covered by the proposed NDO. You are encouraged to define your Neighbourhood Area in line with your parish boundary, however part of the parish could be considered if this can be justified as reasonable. Alternatively, you may wish to join with your neighbouring parishes to prepare a joint order. There can be more than one order per Neighbourhood Area and they may make provisions in relation to all land in the Neighbourhood Area, or any part of land, or a site in that area specified by the order.

Within Herefordshire, only parish and town councils can apply to produce Neighbourhood Development Plans and NDOs

- Proposals for a Neighbourhood Area will need to be accepted by Herefordshire Council before the order can move to the next stage;
- Parishes can make an application to designate a ‘Neighbourhood Area’;
- An application form is available to make this process simple. Applications should include an OS plan of the area to be included and a statement explaining why this area is considered appropriate;
- Herefordshire Council will publicise the application for a period of 6 weeks and outline how to make representations; (Reg 6)
- Following consideration of any representations received and consultation with the ward member, the decision on designating a Neighbourhood Area will be made at officer level by the Assistant Director (Economic, Environment and Cultural Services);

- Following the decision, Herefordshire Council will inform the parish/town council(s) and publicise Neighbourhood Areas on their website and within the Neighbourhood Area. This report will form the ‘Decision Document’ (Reg 7);
- If the Neighbourhood Area is refused, Herefordshire Council will publish ‘the Decision Document’ outlining its reasons.

N.B. It is important to note that Neighbourhood Development Plans may designate areas where NDOs will apply. Therefore Parish Councils who have already applied to designate their parish as a Neighbourhood Area need not make a subsequent application, but will need to inform the Neighbourhood Planning team of their intention to produce a NDO

Stage 2 – Preparing the Neighbourhood Development Order

To ensure that the preparation of your NDO meets the required regulations, the parish council should:

- Consult with the local community, affected landowners and tenants, and demonstrate views have been taken into account; a Consultation Statement detailing this will form part of the final submission. (Reg 22(2) - see guidance note 14: writing a Consultation Statement).
- Involve the ward member. Your ward member will be able to provide an understanding of Herefordshire Council policy and resources, as well as existing issues within the community.
- Liaise with the Neighbourhood Planning team for guidance and advice. This will ensure your order is in line with the regulations and legislative requirements and conformity with planning policies.
- Develop a robust evidence base to support the objectives and to build a monitoring framework for feedback and future enforcement. This could be drawn from existing documents, but parishes may need to prepare/provide any new evidence which is specific to their parish.
- Write and publicise the draft order. (Reg 21)
 - The draft order should be available locally for representations for 6 weeks. A checklist

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is provided to assist compliance with this regulation.

- Consultation should take place with consultation bodies as listed in schedule 1 of the regulation.
 - It is suggested that a copy is sent to the Neighbourhood Planning team at this point. The team will check the order is compliant with any legislative requirements and in general conformity with national planning policy and the Core Strategy and/or any other relevant Development Plan Documents.
- Any amendments required to the order should be made based on representations received during this 6 week consultation.

State 3 – Submission of the final order

The final order proposal should be submitted to Herefordshire Council - Neighbourhood Planning team.

The submission should consist of (Reg 22).

- A map showing the area in which the NDO covers;
- The proposed NDO;
- A Consultation Statement. Guidance is available to assist parishes on the requirements;
- A written statement explaining how the NDO meets all the relevant legal and procedural requirements including a HRA/EIA (if applicable) a checklist is available to assist parishes;
- Where the qualifying body considers it appropriate, following consultation with English Heritage, an archaeology statement. Further guidance on this will be made available to assist parishes.

The order will then be published for 6 weeks for representations and the consultation bodies will be informed that the plan has been submitted (Reg 23). This will be undertaken by the Neighbourhood Planning team, who will check all these requirements have been met and recommend that the order go forward to the

examination stage, with final approval being given by the Director of Places and Communities or the Assistant Director (Economic, Environment and Cultural Services).

Stage 4 – Independent examination

Herefordshire Council will arrange and pay for an independent examination of the NDO and supply the relevant documents to the examiner (Reg 24). The arrangements for appointing an examiner and holding the examination, and the scope of the matters to be considered by the examiner, are exactly the same as for Neighbourhood Development Plans except that, in addition, they must consider whether any period specified as that within which an application must be made for the approval of the authority of any matter, or the period specified as that within which the development must be commenced, are appropriate.

It is anticipated that many examinations will be dealt with by written representation but some may be via hearing or public examination depending on the circumstances. The examiner will be appointed by the council.

Documentation will be supplied by the Neighbourhood Planning team to the examination including the draft order proposal, any documents included within the submission from the parish council and a copy of any representations received during the publicity period.

The examiner will recommend either;

- The order should move to a referendum
- The order should proceed to referendum following some minor amendments
- The order should be refused

The examiner's report will not be binding and Herefordshire Council's Director of Places and Communities or the Assistance Director (Economic, Environment and Cultural Services) will decide whether to proceed with the examiner's recommendation and notify the parish council.

The report and Herefordshire Council's Decision Statement will be published on the website and within the Neighbourhood Area.

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Stage 5 – Referendum

Once the order is finalised and any suggested amendments have been made, Herefordshire Council will arrange and pay for a referendum of all those on the electoral roll within the area covered by the NDO. These could also include those within neighbouring parishes if it is deemed appropriate where proposals will directly affect them, this recommendation will be made to the council by the examiner within their report.

Should the referendum result in more than 50% in favour (of those who turned out to vote) then the order can move towards the next stage.

Stage 6 – Adoption of the Neighbourhood Development Order

Recommendation to Herefordshire Council's Cabinet will be made to adopt the final agreed NDO. Following adoption, the NDO will form part of the Local Development Framework (the statutory development plan) and grant planning permission in relation to the designated Neighbourhood Area for development specified in the order or for development of any class specified in the order.

Adopted orders will be published on the Herefordshire Council website and made available at Info centres.

Copies of the decision to adopt will be sent to the parish(es) and any person who asked to be notified (Reg 26/27).

Neighbourhood Development Order guidance notes available:

1. What is a Neighbourhood Development Order
2. A guide to procedures
3. Getting started
4. Neighbourhood Development Order project ideas
5. Funding your Neighbourhood Development Order
6. Glossary of Terms