

East Devon District Council

Protocol for Dealing with Neighbourhood Plans

September 2016

1 Introduction

- 1.1 This Protocol sets out the role that East Devon District Council (“the Council”), primarily through the Planning Policy Team (“the Policy Team”), will play in assisting a local Community in preparing Neighbourhood Plans. The accompanying flowchart identifies the steps that occur throughout the process. While the two should be read together, it is often easiest to refer to the flowchart first to find the correct step and then read the corresponding step in the Protocol.
- 1.2 The Policy Team will seek to assist a Community with production of Neighbourhood Plans but it must be recognised, and any Community embarking on plan production should be aware, that Neighbourhood Plans are ‘owned by’, and production of them, rests with the Community preparing the plan.

2 The Parishes of East Devon

- 2.1 In East Devon there are Parishes covering all parts of the District and the vast majority of the Parishes have formally constituted Parish Council’s (this includes Town Councils and all references to ‘Parish Council’ in this document should also be taken to read ‘Town Council’). Under the Neighbourhood Plan making regulations where there is a Parish Council in existence any Neighbourhood Area designation and subsequently any Plan must be formally endorsed by the Parish Council in whose land it in part or whole falls. In practice this means, that at the outset and during production, the Parish Council should formally endorse any proposals for plans. A Neighbourhood Plan can be produced by a group endorsed or established by the Parish Council and that provides feedback to the Parish Council or explicitly by the Parish Council themselves. A Neighbourhood Plan can cover all of a Parish, part of a Parish or all or parts of more than one Parish. In this Protocol reference to Parish Council should be read to also include any group that is approved by a Parish Council or Parish Councils to produce a plan.

3 Areas in East Devon without a Parish Council

- 3.1 In very limited parts of East Devon the situation could arise where there is no operational Parish Council. If this case arises, and there is a Community desire to produce a Neighbourhood Plan, then there would be a need for the establishment of a Neighbourhood Forum. The regulations cover establishment of such a forum and under these circumstances we would encourage early contact with the Policy Team who will be happy to provide specifically tailored advice. However, on a general level (and as a general guide) Neighbourhood Forums will need to operate in similar ways to any Parish Council producing or supporting production of a plan (although a Neighbourhood Forum cannot cover any area which is within the administrative area of a Parish Council). The Neighbourhood Forum can be established at the same time as the Neighbourhood Area to which it relates or after the designation of the Neighbourhood Area, although it is important to bear in mind that actual plan preparation should not commence until the Neighbourhood Forum has been designated.

4 General Support

- 4.1 To assist those involved in considering applying for designation as a Neighbourhood Area, Neighbourhood Forum and producing a Neighbourhood Plan, the Policy Team of the Council will:
- a) Maintain an up to date Neighbourhood Planning webpage on the Council's website that summarises the powers available under the Neighbourhood Planning regime and the key stages to developing a Neighbourhood Plan;
 - b) Provide contact details of key officers in the Council that will be dealing with Neighbourhood Planning;
 - c) Make available information on local and wider case studies as they emerge;
 - d) Provide information relating to funding and resources;
 - e) Offer explanation and advice to help a Community understand Neighbourhood Planning and whether it is the right approach for them;
 - f) Be available to attend inaugural meetings of groups wishing to apply for designation as a Neighbourhood Forum and / or Neighbourhood Areas and who wish to produce Neighbourhood Plans;
 - g) Hold an annual meeting open to all Parish Councils and other bodies and organisations to discuss and invite presentations on general Neighbourhood Plan matters;
 - h) Provide general advice about the need for the Neighbourhood Plan to be in conformity with the Development Plan

5 Inputs from the Planning Policy team at East Devon District Council

- 5.1 The Policy Team will be the primary point of contact for Neighbourhood Planning work. The inputs of the Policy Team will include preparing formal reports and undertaking formal assessment process in respect to Neighbourhood Plans as well as providing informal advice.
- 5.2 **It is stressed that any advice, comment or assistance provided by the Policy Team (or any other officers of the Council) will be the opinion of any particular officer at that point in time. Opinion expressed is in no way binding on the Council (be that any subsequent consideration by that officer or any other officer or formal recommendations to or decisions taken by the Council).** Generally officers will not offer advice or comment on what the policies or proposals in a Neighbourhood Plan should say, or for example what areas of land should be allocated for development. But officers will offer comment, guidance and advice on the types of issues that could be appropriate to take into account in terms of a group thinking about Neighbourhood Plan format, structure or more detailed content.

6 The stages in producing a Neighbourhood Plan

- 6.1 The key stages in producing a Neighbourhood Plan are set out in the attached flowchart and correspond to the table on the following pages. We have set out what we believe would be sound practice that anybody producing a Neighbourhood Plan could follow and we have also set out the help we will be able to provide and the legal responsibility that falls on the Council at the differing steps.
- 6.2 **It is stressed that relevant legislation and regulations should be consulted to see the full legal procedures. This table should, in no way, be seen as superseding formal legislation or regulations. Anybody involved in Neighbourhood Plan work or related tasks should satisfy themselves that they are acting in accordance with relevant legislation and regulations.** Neighbourhood Plan regulations can be viewed at:

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

7 Contact Details

- 7.1 Any enquiries relating to Neighbourhood Plan production should be forwarded to:
Neighbourhood Plans, Planning Policy Team
Economy Directorate
East Devon District Council
Knowle
Station Road
Sidmouth
Devon
EX10 9HL
- ptwamley@eastdevon.gov.uk
crodway@eastdevon.gov.uk

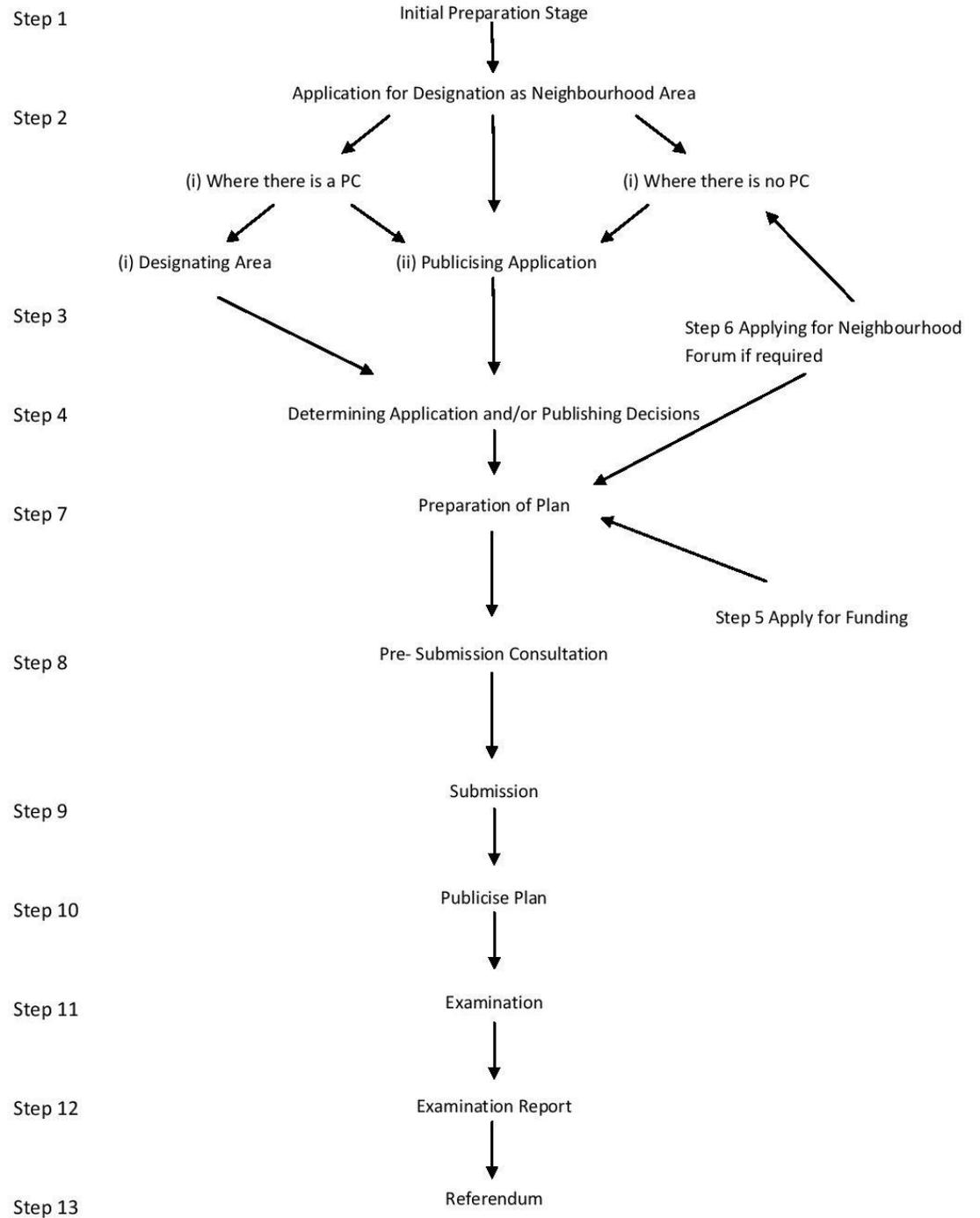
8 Publication of Documents

- 8.1 The Council, on its web pages, will publish copies of all formal communication between the Council and the producers of a Neighbourhood Plan.

Neighbourhood Planning Protocol

Flowchart

The Steps in this flowchart relate to the table on the following pages. Find the stage in the process that your community has reached and refer to the table for a detailed explanation of the tasks which need to be undertaken and the role of the people involved.



Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
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STEP 1 - Initial Preparation Stage

Before embarking on the formal stages of NP production any interested group should consider if they wish to produce a plan and if so what sort of issues they may wish to address through it. NPs may be a good or right thing for one Community but not for others. It will be for the local Community to decide.

<p>1a - Initial Discussions</p> <p>Determining if NP production would be appropriate.</p>	<p>The group will need to take the initiative and give consideration to the type of plan they may want to produce and the types of issues they may want to address.</p>	<p>Simple informal enquiries will be responded to by the Policy Team</p>	<p>There will be limited role for involvement of other teams at the Council at this stage.</p>
<p>1b – Gain Endorsement from the P C (if appropriate)</p> <p>If there is a PC in existence they must endorse the proposals to produce a NP.</p>	<p>The PC will need to formally endorse proposals.</p>	<p>No specific role.</p>	<p>No specific role.</p>

STEP 2 – Application for designating the Neighbourhood Area The first formal procedural stage towards production of a NP is defining the area the NP is proposed to cover and to set out formal reasons for the proposed extent of the area.

(i) WHERE THERE IS A PC

<p>2(i)a - Complete and Submit Application Form (Regulation 5)</p> <p>For the Council to consider an application a standard form should be submitted.</p>	<p>It will be the responsibility of the PC to complete the application form and seek agreement from adjoining parishes if the proposed area extends into them.</p>	<p>We can provide basic comment and a relevant map and the standard application form can be downloaded from the NP section of our web site. http://www.eastdevon.gov.uk/planning-neighbourhood_plans</p>	<p>There will be limited role for involvement of other teams at the Council at this stage.</p>
<p>2(i)b - Checking Submitted Application Form (Regulation 5)</p> <p>The Council will log it and check details. The application will need to contain:</p> <ol style="list-style-type: none"> 1. A map identifying the area 2. Statement explaining why it is considered an appropriate NA 	<p>No action needed.</p>	<p>On receipt of the application we will ensure the required information, in appropriate form, has been submitted. We will also check the PC has not already submitted an application that has not yet been determined as this may mean that we decline to consider the application. If the application includes areas beyond the PC boundary then we will check that adjoining PCs are in agreement with the</p>	<p>The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.</p>

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>3. Statement that the organisation making the application is a 'relevant body' as defined in Section 61G(2) of the TCPA 90 (which means a PC).</p> <p>If these matters are not complied with the application will be returned.</p>		application.	
(ii) WHERE THERE IS <u>NO PC AND / OR THERE IS A NEIGHBOURHOOD FORUM</u>			
<p>2(ii)a - Complete and Submit Application Form (Regulation 5)</p> <p>For us to consider an application a standard form should be submitted.</p>	It will be the responsibility of the group (or NF if designated) to complete the application form	We can provide basic comment and a relevant map and the standard application form can be downloaded from the NP section of our web site. http://www.eastdevon.gov.uk/planning-neighbourhood_plans	There will be limited role for involvement of other teams at the Council at this stage.
<p>2(ii)b - Checking Submitted Application Form (Regulation 5)</p> <p>We will log it and check details. The application will need to contain:</p> <ol style="list-style-type: none"> 1. A map identifying the area (which <u>cannot</u> include any area of a PC) 2. Statement explaining why it is considered an appropriate NA 3. Statement that the organisation making the application is a 'relevant body' as defined in Section 61G(2) of the TCPA 90 (which means either a designated NF or body that is capable of designation as such). <p>If the organisation is not yet designated as a NF it will need to provide evidence that it could be so designated in accordance with the requirements of Section 61(F)(5) of the TCPA 90</p>	No action needed.	On receipt of the application we will ensure the required information, in appropriate form, has been submitted. We will check whether the organisation is, or could be, designated as a NF. We will also check that the organisation has not already submitted an application that has not yet been determined as this may mean that we decline to consider the application. We will check that the proposed area does not include any area of a PC.	The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.

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If these matters are not complied with the application will be returned.			
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STEP 3 - Designate the area or advertise the proposal
 In certain circumstances the regulations require that a proposed area is immediately designated, while in others there is a requirement for it to be advertised and made available for people to comment on.

(i) IMMEDIATE DESIGNATION (then move to Step 4(b))
(where the application is (i) from a PC, (ii) covers the whole of the PC's area and (iii) any neighbourhood area already designated does not extend outside of the PC's area)

<p>Designate the Neighbourhood Area (Regulation 5A)</p> <p>Where the above conditions have been met, the Local Authority must exercise their powers under section 61G of the 1990 Act to designate the specified area as a neighbourhood area</p>	No action needed	The Policy Team will need to satisfy themselves that the above conditions have been satisfactorily met as per the regulations	The Policy Team will consult Legal Services in respect of any legal issues or concerns arising
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(ii) ADVERTISING IN ALL OTHER CASES (then move to Step 4(a))

<p>Advertise the proposal for 6 weeks (Regulation 6)</p> <p>The regulations require that an application for NA designation is advertised for a period of not less 6 weeks. The information to be publicised is:</p> <ol style="list-style-type: none"> 1. A copy of the NA application; 2. Details of how to make representations; and 3. Details of the deadline for representations <p>This should be publicised (through a 'Publicity Notice') on websites and in such other manners</p>	<p>The Parish Clerk (or other nominated person) will publicise the Publicity Notice. As a minimum the Publicity Notice should be displayed on the</p> <ul style="list-style-type: none"> • Parish website*; • Parish Notice board/s; and • Local Newsletter/magazine*. <p>(* - if/where there is one).</p>	<p>We will prepare a Publicity Notice for the proposed NA and copy it to the Parish Clerk (and the Ward Member/s for the proposed area and adjoining Ward members). The notice will be publicised on the NP pages of our website and on our noticeboard.</p> <p>Depending on the local circumstances, we may also send the publicity notice to other local authorities and statutory consultees</p> <p>We will also supply copies of the Publicity Notice to any public library falling in the proposed area or the</p>	The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.
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Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>as is considered likely to bring the area application to the attention of people who live, work or carry on business in the area to which the area application relates.</p>	<p>The PC may also choose to do wider consultation.</p> <p>Any comments received by the PC should be acknowledged and forwarded to the Policy Team</p>	<p>closest library to the proposed area (and we may choose to also send copies to other public libraries).</p> <p>All Comments should be made directly to the Policy Team who will acknowledge receipt and collate them.</p>	
<p>STEP 4 – Determining the NA application Having collated any responses to the publicising of the NA application, the Council will determine the application and publicise their decision.</p>			
<p>4a – Following Step 3(ii) only, consider responses and determine the application for designation <i>(Section 61G & H of the TCPA 90 and Regulation 6A)</i></p> <p>In determining the application the following must be considered:</p> <ol style="list-style-type: none"> 1. how desirable it is to designate the whole of the parish area as a NA, and 2. how desirable it is to maintain the existing boundaries of areas already designated as NAs (as areas designated as NAs must not overlap), as well as 3. whether the area should be designated as a Business Area. <p>A check needs to be made to see if it is necessary to modify an existing NA. In designating a NA or making any modification to a designated area, consideration should be given as to whether the</p>	<p>Before being reported to the Determining Committee the applicant for the area will be able to respond to any representations that have been received by us during the publicity period. Any comments received from the PC will be reported to the Determining Committee. This may be reported verbally due to the tight timescale constraints.</p>	<p>Following the end of the consultation any responses received by us will be copied to the PC.</p> <p>We will consider all representations received and prepare a report to the Determining Committee (or follow the delegated authority procedures for non-contentious proposals). All representations and comments received will be available to view at the Council Offices and may be placed on the NP pages of our website and the committee report will either include them or there will be web links to them in the report.</p> <p>The Determining Committee may choose to reject a proposed NA. If this happens we will set out the reasons for doing so and we will secure that some or all of the area applied for becomes a NA either (1) by designating a smaller area that is considered more appropriate, or (2) by incorporating some or all of the area into an existing NA by modifying its boundaries (provided that the PC(s) for the area covered consent</p>	<p>The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.</p>

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<p>area should be designated as a Business Area. Determination should be made within 13 weeks of when the application was first published (under Step 3(ii)) unless the area requested falls within the areas of two or more local planning authorities, in which case it is 20 weeks.</p>		<p>to this).</p> <p>In all cases of designating a NA or modifying an already designated area, we are obliged to consider whether or not it should be designated as a business area.</p>	
<p>4b - Publishing the decision (Regulation 7)</p> <p>If the NA application is approved or refused the decision notice ('Decision Notice') must be publicised.</p> <p>If approved the following details should be provided:</p> <ol style="list-style-type: none"> 1. the name of the NA 2. a map identifying the area 3. the name of the 'relevant body' (being either the PC or NF (or organisation who could be designated as a NF) who applied <p>If the application is refused the publication must include:</p> <ol style="list-style-type: none"> 1. the decision and statement of reasons 2. the details of where and when the decision document can be inspected) <p>A map setting out all the current NAs designated must be published and the map should indicate those which are business areas.</p>	<p>The PC will receive the Decision Notice and will need to publicise it in the same way as for the Publicity Notice for the application, so on their website, newsletter / magazine and noticeboard(s) as appropriate.</p>	<p>After the Determining Committee's decision we will prepare a Decision Notice and publicise the decision on the NP pages of our website and on our noticeboards. We will also publicise the Decision Notice in the same way as for the Publicity Notice for the application.</p> <p>The Policy Team will produce and update a map of NAs on the NP pages of our website.</p>	<p>The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.</p>

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STEP 5 – Funding for NPs

NPs are local plans produced by and for a local Community and work on their production (whether paid or unpaid) will primarily rest with the Community producing the plan and anyone they commission to help. However, at the present time (September 2016) there is Government grant aid available to support NP work and there may also be other funding sources that can support plans.

Apply for funding to support NP production

Seek funding from relevant bodies to finance involvement in NP production.

STEP 6 – Designation of Neighbourhood Forum

This stage can occur at the same time as the application to designate a NA or, having had the NA designated, prior to commencing work on the preparation of the NP.

6a - Complete and Submit Application Form (Regulation 8)

For us to consider an application a standard form should be submitted.

It will be the responsibility of the organisation to complete the application form and seek agreement.

We can provide basic comment and a relevant map and the standard application form can be downloaded from the NP section of our web site.

There will be limited role for involvement of other teams at the Council at this stage.

6b - Checking Submitted Application Form (Regulation 9)

We will log it and check details. The application will need to contain:

1. The name of the proposed NF
2. a copy of the written constitution of the proposed NF
3. the name of the NA to which the application relates with a map identifying the area (which cannot include any area of a PC)
4. the contact details of at least one member of the proposed NF to be made public under Regulations 9 & 10
5. Statement which explains how the proposed NF meets the conditions set out in Section 61F(5) of the TCPA 90

No action needed.

On receipt of the application we will ensure the required information, in appropriate form, has been submitted. We will check whether the organisation is, or could be, designated as a NF. We will check that a NF has not already been designated in relation to the NA as this may mean that we decline to consider the application. We will check that the proposed area does not include any area of a PC.

The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.

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If these matters are not complied with the application will be returned.			
<p>6c - Advertise the application for 6 weeks (Regulation 9)</p> <p>The Regulations require that an application for NF designation is advertised for a period of not less than 6 weeks. The information to be publicised is:</p> <ol style="list-style-type: none"> 1. A copy of the application; 2. a statement that if the designation is made, no other organisation or body may be designated for that area (until the designation is withdrawn or expires) 3. Details of how to make representations; and 4. Details of the deadline for representations <p>This should be publicised on websites and in such other manners as is considered likely to bring the area application to the attention of people who live, work or carry on business in the area to which the area application relates.</p>	<p>The named applicant (or other nominated person) will publicise the Publicity Notice. As a minimum the Publicity Notice should be displayed on the</p> <ul style="list-style-type: none"> • Community website*; • Any Community notice board/s; and • A Local Newsletter / magazine*. <p>(* - if/where there is one).</p> <p>The organisation may also choose to do wider consultation.</p> <p>Any comments received by the organisation should be acknowledged and forwarded to the Policy Team</p>	<p>We will prepare a Publicity Notice for the proposed NF and copy it to the named applicant (or other nominated person) and the Ward Member/s for the proposed area and adjoining Ward members. The Publicity Notice will be publicised on the NP pages of our website and on our noticeboard.</p> <p>Depending on the local circumstances, we may also send the Publicity Notice to other local authorities and statutory consultees</p> <p>We will also supply copies of the Publicity Notice to any public library falling in the proposed area or the closest library to the proposed area (and we may choose to also send copies to other public libraries).</p> <p>All comments should be made directly to the Policy Team who will acknowledge receipt and collate them.</p>	<p>The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.</p>
<p>6d - Consider responses and determine the application for designation (Section 61F(5) & (7) of the TCPA 90 and Regulation 9A)</p> <p>In determining the application we may only approve the application if the following are satisfied:</p> <ol style="list-style-type: none"> 1. it is established for the express purpose of promoting or improving the social, economic and environmental wellbeing of an area that consists 	<p>Before being reported to the Determining Committee the applicant for the designation will be allowed four weeks to respond to any representations that have been received by us during the 6 week (or more) publicity period. Any comments received from the applicant will be reported to the Determining Committee</p>	<p>Following the end of the consultation any responses received by us will be copied to the applicant organisation.</p> <p>We will consider all representations received and any comments made on them by the applicant and prepare a report to the Determining Committee. All representations and comments received will be placed on the NP pages of our website and the committee report will either include them or there will be web links to them in the report.</p>	<p>The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.</p>

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>of or includes the NA concerned</p> <p>2. its membership is open to—</p> <p>(i) individuals who live in the NA concerned</p> <p>(ii) individuals who work there (whether for businesses carried on there or otherwise), and</p> <p>(iii) individuals who are elected members of the county council and / or district council within the NA concerned,</p> <p>3. its membership includes a minimum of 21 individuals each of whom—</p> <p>(i) lives in the NA concerned,</p> <p>(ii) works there (whether for a business carried on there or otherwise), or</p> <p>(iii) is an elected member of the county council or district council for any area falling within the NA concerned,</p> <p>4. it has a written constitution</p> <p>Further we have to have regard to the desirability of designating an organisation;</p> <ul style="list-style-type: none"> - which has secured (or taken reasonable steps to attempt to secure) that its membership includes at least one individual in the categories set out in bullet point 2 above. - whose membership is drawn from different places in the NA concerned and from different sections of the Ccommunity - whose purpose reflects (in general terms) the character of that area <p>Determination should be made within 13 weeks of when the application was first published (under Step 6c unless the area requested falls within the areas of two or more local planning authorities, in which case it is 20 weeks.</p>		<p>The Determining Committee may choose to reject a proposed NF. If this happens we will set out the reasons for doing so.</p>	

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>6e - Publishing the decision (Regulation 10)</p> <p>If the NF designation is approved or refused the decision must be publicised (the 'Decision Notice').</p> <p>If it is approved the following details must be provided:</p> <ol style="list-style-type: none"> 1. the name of the NF 2. a copy of the written constitution of the NF 3. the name of the NA to which it relates 4. the contact details of at least one member of the NF <p>If the application is refused it must include:</p> <ol style="list-style-type: none"> 1. the decision and statement of reasons 2. the details of where and when the Decision Notice can be inspected 	<p>The applicant will receive the Decision Notice and will need to publicise it in the same way as for the Publicity Notice for the application, so on their website, newsletter / magazine and noticeboard(s) as appropriate.</p>	<p>After the Determining Committee's decision we will prepare a Decision Notice and publicise the decision on the NP pages of our website and on our noticeboards. We will also publicise the Decision Notice in the same way as for the Publicity Notice for the application.</p>	<p>The Policy Team will consult Legal Services in respect of any legal issues or concerns arising.</p>

STEP 7 - Preparation of the NP			
<p>This stage will form the bulk of the work and is concerned with production of the emerging NP and is where the draft NP is produced which will then be subject to Consultation</p>			
<p>Undertake Research, assessment, exploration of options and alternatives and Consultation.</p> <p>This stage is concerned with the drawing up of draft proposals, policies and content of the NP. Production of any plan can be expected to be an ongoing process of to include such matters :</p> <ol style="list-style-type: none"> a) collecting evidence; b) defining key issues; c) Considering alternative approaches; 	<p>This is the stage at which the NP producers will need to put the greatest level of work and effort into production of a sound and robust plan.</p> <p>General advice from the Council, which includes links to web pages of other organisations, on this stage of</p>	<p>The Policy Team, subject to staff resources, may offer some or all of the following support:</p> <ol style="list-style-type: none"> a) attending meetings with the Plan Producer (this could include evening/weekend meetings depending on the Policy Teams' availability); b) making data available and helping with evidence requirements. c) advising on our policies. d) advising on national and other policies that may need to be considered; 	<p>Other services will be called upon as required. This could include:</p> <ul style="list-style-type: none"> • the Engagement and Funding Officer, particularly with regard to public Consultation and completion of funding applications. • IT support - with

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<p>d) Establishing strategies; e) Defining and refining choices and specific wording of policies; f) Undertaking Consultation;</p> <p>Once the NA is approved, the Council is legally required to advise or assist those bodies producing a NP.</p> <p>For more help and advice see the http://mycommunityrights.org.uk/my-community-rights/ http://locality.org.uk/resources/neighbourhood-planning-roadmap-guide/</p>	<p>work can be accessed through the NP pages of the Council web site at: http://www.eastdevon.gov.uk/planning-neighbourhood_plans</p> <p>Particular attention is draw to the possible needs for:</p> <p>a) Strategic Environmental Impact Assessment; b) Appropriate Assessments under the Habitat Regulations. c) Possible other statutory regulatory assessments. d) The need to comply with Section 38B of the TCPA 90</p> <p>NPs will often, to meet legal requirements, need to be subject to formal assessment processes. Whilst these may not legally needed to be produced, completed or undertaken until later in the process of plan production anyone producing a NP is strongly encouraged to establish potential need for any assessment at the outset/an early stage and to start assessment as soon as possible. This will allow them to use emerging findings to</p>	<p>e) providing advice on the legal requirements for NP under the Localism Act; f) providing advice on general planning matters; g) sharing information on key contacts and stakeholders; h) helping to arrange community engagement activities; i) providing advice on who needs to be consulted, especially in order to help the draft proposals meet the basic conditions (such as compatibility with EU obligations); j) providing technical support, such as assistance in laying out and illustrating a plan; k) identifying any need for and undertaking Strategic Environmental Impact Assessment or Appropriate Assessments under the Habitat Regulations.</p> <p>It is stressed that any assistance provided by the Policy Team (or any other officers of the Council) at this stage or other stages of NP preparation will be opinion of any particular officer at that point in time. Opinion expressed is in no way binding on any subsequent consideration by that officer or any other officer and has no bearing on formal recommendations to, or decisions taken by, the Council.</p>	<p>technical mapping issues.</p> <ul style="list-style-type: none"> • Legal advice - on the requirements of the Localism Act and the need for technical assessments to include Strategic Environmental Impact Assessment and Appropriate Assessments under the Habitat Regulations. • DM support in guiding and commenting on suitability/ appropriateness of policies and sites. • Printing and Publication support, with producing documents.

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
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	inform the evolution and refinement of the NP.		
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STEP 8 - Pre-submission Consultation

Prior to formal submission of the NP to the Council the Regulations require that the Plan Producers undertake their own Consultation.

<p>8a – Preparing for Pre-Submission Consultation</p>	<p>The Plan Producer should advise the Council of their proposed strategy for Consultation and receive feedback as to its appropriateness.</p>	<p>We have produced a guidance note that sets out a suggested (minimum) standard and approach to Consultation and also advises how minimum standards could be exceeded. It is not be a definitive guide but will form a starting point for the Plan Producers to consider what consultation they will carry out. We have also established a database of contacts that Plan Producers should consider as consultees.</p>	<p>Limited likelihood of need for others to input.</p>
<p>8b – Undertaking Pre-Submission Consultation (Regulation 14)</p> <p>At this stage of plan making, and prior to submitting the proposed NP to the Council, the plan will need to be subject to formal public Consultation.</p>	<p>The Plan Producers will be responsible for preparing and undertaking Consultation on the plan and they should ensure that notification of the pre-submission draft of the NP is given to:</p> <ul style="list-style-type: none"> • Any relevant ‘consultation body’ (as defined in Schedule 1 of the Regulations). • Those who live, work or carry on business in the NA to which the NP relates • The Policy Team at the Council and other interested parties. 	<p>On receipt the Consultation draft of the NP will be placed on the NP of the Council’s web site and officers of the Council will prepare a draft feedback report on the NP that will also be available online. This feedback report will be sent to Ward members covering any part of the NA. If a Ward member requests formal consideration of the Council’s feedback report, will an officer report be prepared and the matter considered by the Cabinet of the Council.</p> <p>Officer comment will relate to both plan content and Conformity with relevant legislation, the Council’s Development Plan and national policy.</p>	<p>Other services will be called upon as required. This could include:</p> <ul style="list-style-type: none"> • the Engagement and Funding Officer advising on the consultation process and use of plain English • IT support - with technical mapping issues • Legal advice- on any aspect of the NP • DMsupport in commenting on suitability/ appropriateness of policies and sites
<p>8c – Feedback Report on Consultation Responses</p>	<p>Following completion of Consultation the Plan Producers should collect and</p>	<p>The Council will receive paperwork and record this and place copies on the NP pages of the Council web site.</p>	<p>No additional inputs are expected.</p>

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
	collate comments made, summarise comments and produce a response to comments. Full copies of comments and response report should be sent to the Council.		
8d – Amending the plan in response to comments received <i>(Regulation 14)</i>	The Plan Producers have the ability to amend the plan in response to any comments made or new issues or circumstances arising out of Consultation. If changes are significant, however, it may be considered desirable to undertake a further round of Consultation before submission (and restart Step 8 (or earlier stages) of work).	It is not envisaged that the Council officers will comment at this stage unless explicitly requested to do so.	The Policy Team may deem it appropriate to liaise with Legal Services or other services of the Council at this stage in time.

STEP 9- Submission to the Council and assessment for Soundness			
At this stage in the work the plan is formally submitted to the Council			
9a - The draft NP is submitted to the Council and assessed for legal compliance <i>(Regulation 15& paragraph 6 of Schedule 4B TCPA 90)</i> This stage is not specifically concerned with details of plan wording or policy or sites. But it is a legal compliance checking exercise.	The Plan Producers will be responsible for submitting the plan to the Council.	We will check whether the plan is legally compliant, in that it meets the requirements of Sections 38A, 38B & 38C TCPA 90, Regulations 14 & 15 and Schedule 4B TCPA 90. We will check; <ul style="list-style-type: none"> - That the Plan Producer is authorised to act - Whether the draft NP is a 'repeat' proposal. - Whether there is another NP already in place in respect of the NA - that the regulations have been complied with including the minimum 6 week pre-submission Consultation 	We may consult Legal Services at this stage of work. Legal Services may need to explain to/discuss with the Plan Producer and determine what actions would meet the requirements of the Regulations and legislation.

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
		<p>We will check that the draft plan submitted includes:</p> <ol style="list-style-type: none"> 1. a map or statement identifying the area to which the plan relates, 2. the consultation statement - which contains details of those consulted (how they were consulted, summarises the main issues and concerns raised and how these have been considered, and where relevant addressed in the proposed NP) 3. the proposed NP, 4. a statement explaining how the NP meets the 'basic conditions' (being the requirements of para 8 schedule 4B TCPA 90 <i>which also includes that the making of the NP will not have a likely significant effect on a European Site (see further Schedule 2 to the Regulations)</i>) 5. Either an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 (a); or a statement of reasons for the determination of why the plan proposal is unlikely to have significant environmental effects. <p>If the opinion of the Policy Team, having consulted with Legal Services, the relevant legal tests have not been met we will firstly inform the Plan Producers and seek to resolve any outstanding matters as far as we are capable of so doing.</p>	
<p>9b – Notifying the Plan Producer of the Decision <i>(Regulation 18 and paragraph 6 of Schedule 4B to TCPA 90)</i></p>			

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
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At this stage the Council notify the Plan Producer if the legal requirements have been met. If it does not we can either (depending on why it is not compliant) decline to consider the plan or refuse the proposal giving reasons, in either case issuing a decision notice which must give reasons for our decision.			
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STEP 10 - Publicise the Plan and Undertake Consultation			
The NP, at this stage, now needs to go out for formal Consultation. It is the plan, the evidence behind the plan and the representations received at this stage that will form the core matters that are taken forward to and considered at Examination.			
<p>10a - Publicise the Plan for 6 weeks (Regulation 16)</p> <p>The plan is publicised and made available for public comment by the Council for (at least) a six week period.</p>	No action required	<p>The Council will publicise the details of the NP and make it available for public comment for (at least) a six week period. This will include:</p> <ul style="list-style-type: none"> • publicising it on the NP pages of our website and in the Knowledge • Requesting that the Plan Producer notifies those persons who live, work or carry on business in the NA to which the plan relates in the same way as they did for Step 8b • issuing a press release • notifying those 'consultation bodies' referred to in the consultation statement • advising adjoining authorities (which could include the County Council, other District and PCs) <p>The notification will give;</p> <ul style="list-style-type: none"> - details about the plan proposal - details of where and when the plan may be inspected - details of how to make representations - details that those making representations may request notification of our decision - the date by which representations should be 	We will consult Legal Services in respect of any report produced by the Policy Team.

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
		<p>received (being no less than 6 weeks)</p> <p>Representations will then be recorded electronically and made available on the NPng pages or our website.</p> <p>Following publication we will assess the emerging NP against the (adopted) Development Plan and a report will be taken to Cabinet notifying members of the plan and of any recommended formal comment on the NP by the Council.</p>	
10b – Consider Representations			

STEP 11 - Examination At this stage of work the plan is subject to formal examination by an independent Examiner.			
11a - Appoint the Examiner <i>(Paragraph 7 of Schedule 4B TCPA 90)</i>	The Plan Producer should provide formal agreement of the appointed examiner.	<p>If satisfied that the plan meets the legal requirements we must appoint a suitable examiner (being someone independent of the parties, with no land interest in the area concerned and has the relevant experience) and agree the appointment with the Plan Producer.</p> <p>In discussion with the Plan Producer we will appoint an experienced examiner or will use the RICS/RTPI service. The cost of the Examination will be met by the Council.</p> <p>If the Plan Producer doesn't agree the appointment then the Secretary of State will appoint an appropriate Independent Examiner</p>	<p>Finance Services will arrange payment of the examiner and any associated room hire, accommodation, travelling costs.</p> <p>Other services will be called upon as required.</p>
11b – Submit the Plan <i>(Regulation 17)</i> Submit the draft NP, supporting documents and any representations to the Independent Examiner	No action required.	<p>We will submit the draft NP, supporting documents submitted with the plan and any representations to the Independent Examiner as soon as possible.</p> <p>If relevant we will also submit any appropriate</p>	

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
as soon as possible in accordance with Regulation 17 (and Regulation 102A of the Habitats Regulations).		assessments under Regulation 102A of the Habitats Regulations	
11c – Arrange Examination Venue Consideration of the plan is normally by written representations but the Examiner may request oral hearings	No action required.	We will arrange a suitable venue for any hearing sessions, if required, and notify all participants of the arrangements. We will aim to find a venue within the area the plan covers but will default to the Council Offices if no suitable alternative exists.	We may call on the help of Democratic Services to arrange room availability at Knowle eg Council Chamber.
11d – The Examination and Hearing Sessions (Paragraph 9 of Schedule 4B TCPA 90) Coordinate the arrangements for the examination in consultation with the Examiner.			

STEP 12 – The Report of Examination The examiner will issue their report and the Council needs to be satisfied that it meets prescribed considerations. It is stressed that this stage of work is not concerned with considering the desirability of proposals or policies but is concerned with explicit legal requirements the report needs to meet.			
12a – Receiving and Publishing the Examiners Report When the Examiner’s Report is received the Council will check that it complies with the legal requirements and will then arrange for publication as soon as possible. The report can recommend; <ul style="list-style-type: none"> a) the draft plan is submitted for referendum b) that modifications are made to make the draft plan legally compliant and that with those modifications made the draft plan is submitted for referendum, or c) the proposal for the plan is refused 	No action required.	The Council will check that the Examiner’s report complies with the requirements of paragraph 10 of Schedule 4B TCPA 90. If we have concerns about whether the requirements have been met we will raise this with the Examiner. Once we are satisfied that the Examiner’s report meets the legal requirements we will then publish the report on the NP pages of our website, send a copy to the plan publisher and write or email everyone who made formal comment on the plan.	

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>If the recommendation is to submit for referendum then the report must also indicate whether the referendum area should extend beyond the area to which the plan relates and if so what that area should be.</p>			
<p>12b – Consideration of and response to the Examiner’s Report <i>(Paragraph 12 and 13 of Schedule 4B of TCPA 90 and Regulation 17A)</i></p> <p>The legislation requires the Council to consider and respond to the Examiner’s recommendations.</p> <p>In addition, and before moving on to the next stage, the Council must be satisfied that the draft plan;</p> <p>(1) meets the ‘basic conditions’ being,</p> <ul style="list-style-type: none"> -Complies with national policy and guidance from SoS -Contributes to sustainable development -General Conformity with the strategic policy of the Development Plan for the area or any part of that area -Doesn’t breach or is otherwise compatible with EU obligations – this includes the Strategic Environmental Assessment Directive of 2001/42/EC -The making of the NP is not likely to have a significant effect on a European site (as defined in the Habitats Regulations or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats &c) regulations 2007 9(e) (either alone or in combination with other plans or projects))” 	<p>No action required.</p>	<p>Consider each of the Examiner’s recommendations and decide what action to take in response.</p> <p>This could be to accept the Examiner’s recommendations to progress to a referendum or to refuse the proposal. It could be to accept recommendations to make modifications or make our own modifications, so as to make the NP meet the ‘basic conditions’, Convention rights or other legal requirements. It could also be to extend the area for the referendum. We could also decide we are not satisfied that the plan meets the minimum requirements notwithstanding the Examiner’s view.</p> <p>We will need to consider if our proposed decision differs from the Examiner’s recommendations and whether this is as a result of new evidence or new fact. If so, and prior to making the decision, we will notify the plan producers and those making representations on the NP and invite further representations for a period of 6 weeks. This may entail referring this matter back to the Examiner. Should further representations be necessary, a decision on the actions to take in response to the examiners report is required within 5 weeks from either the day after the conclusion of the 6 week consultation period or the day after the receipt of the Examiner’s recommendations should the matter have been referred to the Examiner for further</p>	<p>The Policy Team & Legal Services will assess each of the Examiner’s recommendations and decide what action to take in response.</p> <p>Legal Services will advise whether they are satisfied that the draft plan meets the basic conditions, is compatible with the Convention rights and complies with the other legal requirements</p>

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>(2)is compatible with the Convention rights, and (3)complies with the other legal requirements set out in Sections 38A & 38B of the TCPA 90</p> <p>A local authority must decide on the action to take in response to the Examiner’s recommendations within stipulated time periods as follows;</p> <ul style="list-style-type: none"> - 5 weeks of the Examiner’s report being received, or - where the authority is to make a decision which is different from the Examiner’s recommendation and this is due to new evidence or facts (or a different view taken on a particular fact) then 5 weeks after either the required consultation period or receipt of a further report from the Examiner on the particular issue. <p>The above dates don’t have to be followed where the authority and qualifying body agree alternative time periods.</p>		<p>consideration.</p> <p>A report will be taken to the Determining Committee notifying members of the findings and recommendations of the Examiner and how the Council proposes to respond to the recommendations. In the event of the Officers recommending refusal of the proposal it will not be necessary for the matter to be considered by the Determining Committee unless a Ward Member requests the committee consider the matter.</p>	
<p>12c - Produce and publish a Decision Statement <i>(Regulation 18)</i></p>			

STEP 13 – Referendum			
Once the examination stage is successfully completed the plan goes to referendum.			
<p>13a - Referendum Arrangements <i>(Paragraph 14 of Schedule 4B TCPA 90 & Reg 4 of the Neighbourhood Plan (Referendum) Regulations 2012)</i></p>	No action required.	<p>Liaise with Electoral Services to co-ordinate the Referendum arrangements.</p> <p>It is likely that the Planning Department will be asked by Electoral Services to contribute to the drafting of</p>	The Electoral Services Manager will arrange a referendum and will liaise with the Policy Team to produce an ‘Information

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<p>The procedure for carrying out the referendum is contained in the Neighbourhood Plan (Referendum) Regulations 2012. The Council will need to comply with the requirements of these regulations when carrying out the referendum.</p> <p>In most instances, a referendum will need to be held within 56 days, beginning with the day immediately following the day on which the decision notice is published stating that the plan should proceed to referendum.</p>		<p>an 'Information Statement' (in accordance with Reg 4 of the NP (Referendum) Regulations 2012. This must include a statement that sets out general information on town and country planning (and NP).</p> <ul style="list-style-type: none"> We will ensure that the referendum is carried out in accordance with the relevant regulations. 	<p>Statement'.</p> <p>At least 28 days before the referendum, electoral services must publish the information statement and specified documents on the Council website and make it available for inspection at the main offices of the Council and at least one other premises open to the public (Reg 4 of the NP (Referendum) Regulations 2012.</p>
<p>13b - Publicise the Referendum result (Section 38A(4) TCPA 90)</p>	<p>No action required.</p>	<p>We will publicise the outcome of the referendum :</p> <ul style="list-style-type: none"> on the NP pages of our website by sending a copy to the Plan Producer by issuing a press release 	<p>Legal advice may be required as to the content of this statement</p>
<p>13c – Decision on whether to make the Plan (Section 38A(4)& (6), Regulation 18, 18A, 19 & 20)</p> <p>If the Referendum results in a 'yes' vote (i.e more than half of those voting have voted in favour), the Council must make the NP, unless to do so would be cause a breach of an EU obligation or Convention rights.</p> <p>The Neighbourhood Plan must then be made within 8 weeks from the day after the date of the referendum. Once duly made the Council must publicise the decision and reasons for it</p> <p>In a designated Business Area where two</p>	<p>Following the making of the plan, it now formally becomes the NP for the Community that produced it.</p>	<p>If the referendum results in a 'yes' vote, we will produce a report to take to the Committee in order to determine whether the NP can be duly made. The only reason for the NP not to be made now is if the Council consider that to do so would breach an EU obligation or Convention right.</p> <p>Following the decision whether or not to make the NP (or where the referendum results in a 'no' vote or the NP is refused as it would cause a breach of an EU obligation or Convention right), we will produce a decision notice (detailing the decision and reasons for it and where it may be viewed) and publish it;</p> <ul style="list-style-type: none"> on the NP pages of our website by sending a copy to the plan producer and requesting that the Plan Producer notifies 	

Task in NP Production, Commentary and Formal Processes	Role of the PC, NF and/or NP Group	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>referenda are held, if in one but not the other more than half of those voting have voted in favour of the NP a decision must be made by the Council as to whether to accept the NP proposal. The decision statement setting out whether the NP proposal is accepted must be publicised (reg 18 and 19).</p> <p>If there is a 'No' vote and the NP proposal is declined the decision statement (reg 18) must be publicised on the website</p>		<p>those persons who live, work or carry on business in the NA to which the NP relates in the same way as they did for Step 8b</p> <ul style="list-style-type: none"> • by notifying the 'consultation bodies' referred to in the consultation statement • by advising those adjoining authorities notified in Step 10a. • Anyone who asked to be notified of a copy of the decision • All those who made representations on the plan during Step 10. <p>setting out when and where the NP can be viewed and will publicise it:</p> <ul style="list-style-type: none"> • on the NP pages of our website <p>by sending a copy to the PC</p>	

Glossary and Abbreviations

Please note that the glossary relates to terms used in the Protocol. A comprehensive guide to Neighbourhood Planning terms is available, upon request, from the Planning Policy Team. [Abbreviations used in the protocol are indicated in blue text.](#)

Appropriate Assessment – A legal requirement of the Habitats Regulations 1994 focussing mainly on assessing and mitigating the impacts of change on protected European habitats and species

Business Area – An area covered by a Neighbourhood Plan which is wholly or predominantly business in nature. The designation of a business area allows businesses to vote in the referendum, in addition to those living in the area.

Community – A group of people that hold something in common. In East Devon, most Neighbourhood Planning communities will be those people who live, work or do business in a particular Parish.

Consultation– A communication process with the local Community that informs planning decision-making

Conformity – One of the basic conditions for neighbourhood plans is that they be in general conformity with strategic local policy.

Council – means East Devon District Council

(DCLG) DCLG/Department for Communities and Local Government – Government department that has responsibility for areas such as local government, housing, planning, community cohesion, empowerment and regeneration.

Determining Committee – means a committee of the Council which formally makes decisions on applications submitted in respect of Neighbourhood Areas / Forums and Plans

(DM) Development Management – The process of administering and making decisions on different kinds of planning application.

Development Plan – A document setting out the local planning authority's policies and proposals for the development and use of land in the area.

Environmental Impact Assessment – Evaluates the likely environmental impacts of the development, together with an assessment of how these impacts could be reduced.

Habitats Regulations – means the Conservation (Natural Habitats, &c.) Regulations 1994 and the subsequent 2010 Regulations

Independent Examination – An examination of a proposed Neighbourhood Plan, carried out by an independent person, set up to consider whether a Neighbourhood Plan meets the basic conditions required.

(NA) Neighbourhood Area – The local area in which a Neighbourhood Plan can be introduced.

(NP) Neighbourhood Plan – A planning document created by a parish or town council or a neighbourhood forum, which sets out a vision for the neighbourhood area, and contains policies for the development and use of land in the area. **(NF) Neighbourhood Forum** – Designated by the Council in non-parished areas, an organisation established for the purpose of Neighbourhood Planning to further the social, economic and environmental well being of the neighbourhood area. There can only be one forum in an area.

Policy Team – the Planning Policy Department at the Council

Plan Producer- Generic term for the Qualifying Body producing a Neighbourhood Plan in East Devon.

Qualifying Body – Either a parish/town council or neighbourhood forum, which can initiate the process of Neighbourhood Planning.

Referendum – A vote in which the eligible population of an electoral area will be asked to either accept or reject a particular proposal. Neighbourhood Plans and Neighbourhood Development Orders are made by a referendum of the eligible voters within a neighbourhood area.

Regulation – refers to a particular regulation in the Neighbourhood Planning (General) Regulations 2012 or subsequent amendments

(SEA) Strategic Environmental Impact Assessment – Environmental assessment as applied to policies, plans and programmes. Has been in place since the European SEA directive (2001/42/EC).

(TCPA 90) Town and Country Planning Act 1990 – Currently the main planning legislation for England and Wales is consolidated in the Town and Country Planning Act 1990; this is regarded as the 'principal act'.