

Marchwood Parish Council

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27th January 2015

To: Members of the Planning Committee, remainder of Council for information.

Dear Councillor

A meeting of the Planning Committee will be held in the Pine Room, Marchwood Village Hall, on Monday 2nd February 2015 at 7.30pm, you are summoned to attend.

Yours sincerely

Clerk to the Council

AGENDA

1. **Apologies for absence**
2. **Public participation** - may speak for up to three minutes.
3. **Declarations of Interest**
4. **Chairman's report**
5. **Minutes:** To confirm the minutes of the meeting held on 1st December 2014
6. **Planning applications**
 - 14/11624 – **12 Reed Drive:** boundary fence
 - 14/11788 – **Copse View, Park Lane:** two storey dwelling; outbuilding; parking; demolition of existing.
7. **Bury Road cycle path**
8. **Department for Communities and Local Government:** Plain English guide to the Planning System.

Members of the public are welcome to attend meetings of the Parish Council. Copies of items referred to in the agenda are available from the Parish Council office on request.



Department for
Communities and
Local Government

Plain English guide to the Planning System



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Introduction- the purpose of the planning system

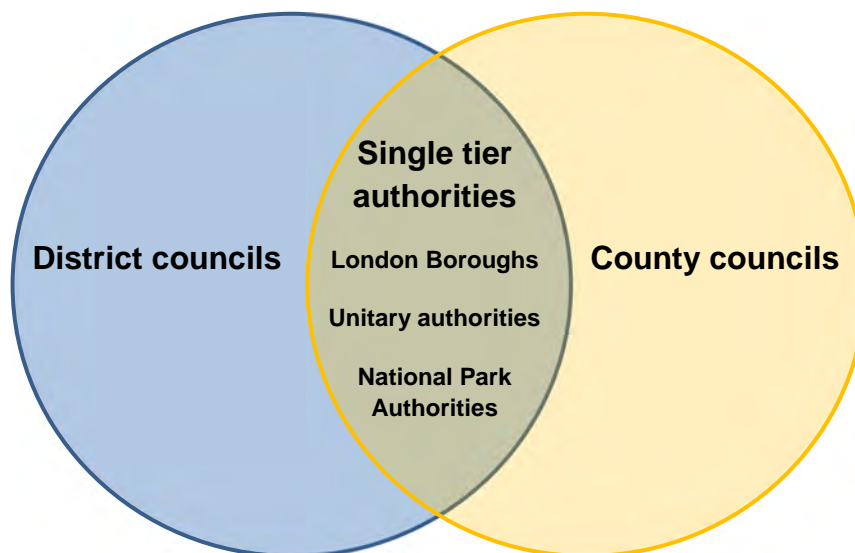
1. This guide explains how the planning system in England works. It is intended to give an overview only and does not set out new planning policy or guidance. We have done our best to ensure that the information in this guide is correct as of January 2015. It is possible that some of the information is oversimplified, or may become inaccurate over time, for example because of changes to the law. Planning Guidance can be accessed online via the [Planning Portal](#).
2. Planning ensures that the right development happens in the right place at the right time, benefitting communities and the economy. It plays a critical role in identifying what development is needed and where, what areas need to be protected or enhanced and in assessing whether proposed development is suitable.
3. This Government's planning reforms have:
 - ensured that planning enables sustainable development delivering the homes and jobs communities need
 - simplified the planning system
 - enabled planning decisions to be taken at the lowest possible level with the involvement of local people, and
 - ensured strong protections are in place to conserve and enhance our valuable natural and historic environment.

Key decision-takers in the planning system

Local planning authorities

4. The planning system is designed to be applied by local government and communities. Many parts of England have three tiers of local government:
 - County councils
 - District, borough or city councils
 - Parish or town councils

5. Local government administers much of the planning system, preparing Local Plans, determining planning applications and carrying out enforcement against unauthorised development.
6. District councils are responsible for most planning matters, other than transport and minerals and waste planning which are typically functions of the county council. In some areas of the country single tier authorities have responsibility for both district level and county level planning matters. In London the Mayor also has powers to determine certain planning applications of potential strategic importance. In a national park, planning functions are carried out by the park authority.



7. Where they exist, parish and town councils play an important role in commenting on planning applications that affect their area. The Government wants to see planning decisions taken at the lowest level possible and has introduced the ability for parish and town councils to produce neighbourhood plans which, once in force, will form part of the policies used to make decisions on applications, and neighbourhood development orders which grant permission for development directly. Where parish or town councils do not exist, representatives of the local community may apply to establish a neighbourhood forum to prepare a neighbourhood plan or order.

Councillors

8. Local people should take the lead in shaping their neighbourhoods and elected councillors have a key leadership role in this process. The role of councillors in district, county or single tier councils will vary depending on whether they sit on the planning committee (which makes decisions on planning applications) or not. However, all councillors have a role to play in representing the views and aspirations of residents in plan-making and when planning applications affecting their ward are being considered.
9. Changes in the Localism Act 2011 clarified the ability of councillors to be able to discuss matters which may relate to a planning application prior to voting on that application at committee, as long as they can show that they are going to make their judgement on the application with an open mind, listening to all the evidence and not having pre-determined their decision.
10. Further information on probity in planning can be found on the [Planning Advisory Service's website](#).

Officers

11. Local planning authorities appoint planning officers to assist with the operation of the planning system. Most minor and uncontroversial planning applications – around 90% received by most local planning authorities– will be decided through delegated decision-taking powers, which means they are dealt with by local planning authority officers. Larger and more controversial developments are often decided by planning committee, informed by officers' recommendations.

Secretary of State for Communities and Local Government

12. The Secretary of State oversees the planning system as a whole as well as having a more direct role in a small number of decisions through the appeals system, the call-in process and decisions on nationally significant infrastructure projects.

Planning Inspectorate

13. The Planning Inspectorate for England and Wales is an executive agency of the Department for Communities and Local Government. Planning inspectors are responsible for deciding most planning and enforcement appeals on behalf of the Secretary of State, and play a role in relation to Nationally Significant Infrastructure and plan-making as explained elsewhere in this guide.

National planning policy

14. In March 2012, the Government published the National Planning Policy Framework. This provides a balanced set of national planning policies for England covering the economic, social and environmental aspects of development. The policies in it must be taken into account in preparing Local Plans and neighbourhood plans and it is a 'material consideration' in deciding planning applications. However, it does not dictate how Local and neighbourhood plans should be written or planning outcomes but is rather a framework for producing distinctive Local and neighbourhood plans and development orders which meet local needs.

15. As well as making national planning policy easily accessible, the National Planning Policy Framework does a number of important things:

- It makes clear that Local and neighbourhood plans are central to the operation of the planning system, and emphasises the legal requirement that applications for planning permission must be decided in accordance with these plans unless there are other important factors (material considerations) which indicate otherwise;
- It introduced a 'presumption in favour of sustainable development' to ensure that local planning authorities identify and plan for the development which their areas need, and to make clear that applications that will deliver sustainable development should normally be allowed;
- It makes clear that it is the purpose of planning to help achieve sustainable development, not development at any cost. To this end it

contains strong safeguards to conserve and enhance our valuable natural and historic environment.

Nationally significant infrastructure projects

16. There is a separate planning policy framework and legislation for nationally significant infrastructure projects such as power stations and major transport schemes. The process aims to streamline the decision-taking process for these major and complex schemes, making it fairer and faster for communities and applicants alike.
17. A series of National Policy Statements set out national policy on different types of nationally significant infrastructure. There are thresholds above which certain types of infrastructure development are deemed to be nationally significant and will be examined as nationally significant infrastructure projects.
18. The Planning Inspectorate is responsible for the administration of applications for nationally significant infrastructure projects on behalf of the Secretary of State. A project application will be examined by the Planning Inspectorate and a recommendation will be made to the relevant Secretary of State, who will make the final decision on whether to grant or to refuse the application. An approval may grant consent for a number of related matters (such as environmental licenses).
19. Further information on nationally significant infrastructure projects can be accessed via the [Planning Portal](#).

Overhead power lines

20. Applications for the construction of overhead lines above 132kV are generally considered nationally significant infrastructure projects and dealt with using that process.
21. Other applications for overhead lines are determined under the provisions of the [Electricity Act 1989 as amended](#). Before development consent is

granted, applications will be submitted to the relevant local planning authority for review. If the local planning authority objects to a proposal, this would usually lead to a public inquiry by an independent inspector, with the Secretary of State for Energy and Climate Change making a final decision after considering the inspector's report. As part of the decision-taking process, the views of the local planning authority, local people, statutory bodies and other interested parties are able to be taken into account.

Strategic planning

22. Until recently strategic planning (planning across local planning authority boundaries to provide for the needs of larger than local areas) was done predominantly through Regional Strategies. These were plans which covered multiple local planning authority areas and imposed certain requirements on the local communities within those areas, for example the number of new houses they would need to accommodate.
23. However, planning is more effective when the people it affects are an integral part of the process. In order to return plan making to local communities, the Government abolished this regional planning tier through the Localism Act 2011.
24. Outside London, Regional Strategies no longer form part of the statutory development plan (apart from a very small number of residual policies which remain important); and unless these residual policies apply they are no longer relevant in determining planning applications.
25. In London the Mayor remains responsible for producing a strategic plan for the capital. Local Plans in London need to be in line with (in 'general conformity' with) the London Plan, which will continue to guide decisions on planning applications by London borough councils and the Mayor.

Duty to Cooperate

26. Many planning issues cross administrative boundaries and it is important that there is a mechanism that ensures this happens effectively. Therefore a 'Duty to Cooperate' was introduced by the Localism Act 2011, to ensure that local planning authorities and other public bodies work together in

relation to the planning of sustainable development that extends beyond their own administrative boundaries. Local planning authorities must demonstrate their compliance with the Duty to Cooperate when their Local Plan is examined.

Local Plans

27. Local Plans are the key documents through which local planning authorities can set out a vision and framework for the future development of the area, engaging with their communities in doing so. Local Plans address needs and opportunities in relation to housing, the local economy, community facilities and infrastructure. They should safeguard the environment, enable adaptation to climate change and help secure high quality accessible design. The Local Plan provides a degree of certainty for communities, businesses and investors, and a framework for guiding decisions on individual planning applications.
28. Producing the Local Plan should be a shared endeavour – led by the local planning authority but in collaboration with local communities, developers, landowners and other interested parties.
29. The Local Plan will be examined by an independent inspector whose role is to assess whether the plan has been prepared in line with the relevant legal requirements (including the Duty to Cooperate) and whether it is “sound”. The National Planning Policy Framework sets out four elements of soundness that Local Plans are considered against when they are examined. Local Plans must be:
- positively prepared
 - justified
 - effective
 - consistent with national policy
30. The Local Plan must be supported by a robust evidence base. For housing this means that it must plan to meet objectively assessed needs for market and affordable housing, as far as is consistent with national planning policy. This includes identifying a five year supply of specific deliverable sites that should be updated annually.

31. The five year land supply should always have a 5% buffer moved forward from later in the plan period to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, this buffer should be increased to 20%.
32. Local planning authorities' responsibility to meet the housing needs of their areas should be seen in the context of the other policies set out in National Planning Policy Framework. This means that the requirement to meet housing needs must be balanced against other important considerations, such as protecting the Green Belt or addressing climate change and flooding.
33. The main legislation that sets out the process for the preparation of Local Plans can be found in Part 2 of the *Planning and Compulsory Purchase Act 2004 as amended* and *The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended*. Further guidance is available in *Planning Guidance*.

Neighbourhood planning

34. Neighbourhood planning is a new right for communities and gives them direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. For the first time communities can prepare plans with real legal weight and can grant planning permission for the development they wish to see through a 'neighbourhood development order'.
35. Since neighbourhood planning was introduced by the Localism Act 2011 there has been a growing momentum behind it. There are an increasing number of communities across England undertaking neighbourhood planning and the first areas have completed the process with their plans now forming a formal part of the development plan for their areas. There is significant flexibility in what neighbourhood plans can include – they can involve, for example, just a few policies on design or retail uses or they can be comprehensive plans incorporating a diverse range of policies and site allocations for housing or other development.
36. All neighbourhood plans and orders are subject to an independent examination and a vote by the local community in a referendum. Only a neighbourhood plan or order that appropriately fits with local strategic and national policies and complies with important legal conditions may be put to a referendum.

37. When a neighbourhood plan has passed examination, achieved successful local support through referendum and is then formally 'made' by the Local Planning Authority, it will form part of the statutory 'development plan' which is used by the local planning authority in deciding planning applications. This status, the community-led nature of neighbourhood planning and extra funding that the community can access through the community infrastructure levy (see below) are real incentives for communities to take up this right.
38. The main legislation that sets out the neighbourhood planning system can be found in the *Localism Act 2011* and *The Neighbourhood Planning (General) Regulations 2012*. The *Localism Act 2011* amended existing planning legislation to introduce neighbourhood planning. Further guidance is available in *Planning Guidance*. A number of organisations have produced guides to neighbourhood planning.

Contributions and community benefits

39. Most development has an impact on or benefits from infrastructure such as roads, schools and open spaces. Therefore it is right that development should contribute towards the mitigation of its impact on such infrastructure. Local planning authorities can put in place a Community Infrastructure Levy- a charge which new developments pay, based on the size and type of development (although there are exemptions granted for certain categories of development). The money raised through the Levy can be used to fund a wide range of infrastructure needed to support the development of the area. Local planning authorities can, and do, set different rates for different areas, types and scales of development including low or zero levy rates, to ensure that the charge does not itself make development unviable. To charge the Levy, local planning authorities must first produce a 'charging schedule'. The charging schedule for the Levy is often developed alongside a Local Plan and will be independently examined.
40. To ensure that the benefits as well as the costs of development are shared by communities, 15% of the Levy must be passed to the parish council where the development took place. To encourage local communities to be proactive in planning for their area, 25% of the levy will be passed to the parish council where a neighbourhood plan or neighbourhood development order (including a community right to build order) is in place.

Where there is no parish council, the local planning authority will retain these funds to spend in consultation with the community.

41. Planning obligations are used to mitigate the impact of proposed developments. They are commonly secured under section 106 of the [Town and Country Planning Act 1990 \(as amended\)](#). A developer may be asked by a local planning authority to enter into an obligation to, for example, undertake works, provide affordable housing or provide additional funding for services. Any planning obligation must meet the tests of being:
- necessary to make the development acceptable in planning terms,
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
42. The Government is committed to tackling the pressing need for housing and has introduced a number of other measures to encourage developers, investors and councils to build new houses. The New Homes Bonus is a grant paid by central government to local planning authorities for providing homes in their area, whether through building new homes, converting existing buildings to residential uses or bringing long-term empty homes back into use. The money raised through the New Homes Bonus can be spent by the relevant local planning authority in any way they feel is appropriate to support services in their area. Further information is available on [the Government's website](#).

Permitted development rights

43. Some types of development may already be permitted nationally, and for these there is no need to apply for planning permission locally. Permitted development rights are, however, typically subject to conditions and limitations that control development impacts. These conditions and limitations must be met in bringing forward any development in order for it to be lawful. If development proposed does not meet with the conditions and limitations of permitted development then it is necessary to apply to the local planning authority for planning permission.
44. The Government has recently introduced a number of new permitted development rights in order to boost housing supply and enable appropriate development to take place more quickly. This includes introducing in May 2013 significantly greater freedom for homeowners to

improve and extend their properties without the need to apply for full planning permission (subject to appropriate engagement with neighbours).

45. Further information on permitted development rights can be obtained from the [Planning Guidance](#) and from the [Planning Portal](#). The Planning Portal also hosts an interactive house which householders can use to understand the types of development they can carry out without having to apply for planning permission.

Obtaining planning permission

46. A planning application is only required in certain circumstances. If a planning application is required, the local planning authority is generally responsible for making a decision on the proposal in the first instance.
47. Once the local planning authority has received a planning application it will publicise the proposal (using methods such as site notices and notifying neighbours and parish councils) so that people have a chance to express their views. The specific publicity requirements will depend on the type of application.
48. The formal consultation period will normally last for 21 days. Anyone may comment on a planning application during this period and details of how to do so will be available from the local planning authority. Written comments will be taken into account when the local planning authority makes a decision on the application, so long as they raise considerations which are relevant to the proposal and 'material' to planning.
49. Many issues are capable of being material considerations, but in broad terms should relate to the use and development of land. As a general principle, the planning system works in the public interest and matters that affect solely private interests are not usually material considerations in planning decisions. However, each application is considered on its merits.
50. A local planning authority usually has up to eight weeks to make a decision on minor applications, which include most householder cases and up to thirteen weeks for major development, such as large housing or business sites. Generally, once planning permission is granted, development must be started within three years. If work has not started by then, the applicant will probably need to reapply.

51. The National Planning Policy Framework places emphasis on the need for local planning authorities to approach decision-taking in a positive way to support the delivery of sustainable development. Local planning authorities should work with applicants to secure developments that improve the economic, social and environmental conditions of their area.
52. The planning system is plan-led and any planning application must be determined in line with the development plan (Local and neighbourhood plans and, where relevant, the London Plan) unless other material considerations indicate otherwise.
53. Local planning authorities can consider whether otherwise unacceptable development could be made acceptable through the use of conditions or a planning obligation attached to a planning decision.

Covenants

54. In some instances there may be a covenant on the land or building which restricts its future use. Covenants cannot be disregarded or removed unless this is done by agreement, discharged by the Lands Tribunal or the land comes into single ownership. This is a separate legal regime to planning. The existence of any planning permission does not remove this legal issue, and in some cases a planning permission may not be capable of being implemented without the removal of the covenant.

Planning enforcement

55. Local planning authorities provide planning enforcement services which are a vital part of the planning process. By identifying and tackling cases of unauthorised development, the enforcement process ensures fairness, stops unacceptable development and gives communities confidence in the system. The Localism Act 2011 gave new powers to local planning authorities by extending the time available to them to investigate cases where unauthorised development has been deliberately concealed.
56. Although effective planning enforcement is fundamental to the integrity of the system, responses to breaches of planning control should always be proportionate. Where work has been undertaken without the necessary

permission, there is scope to apply retrospectively for planning permission. These powers do not condone development being undertaken without the correct permissions, but they do enable local authorities to use their planning enforcement powers proportionately.

Planning appeals, 'recovery' and 'call-in'

Planning appeals

57. If a local planning authority refuses to give planning permission, or grants it subject to conditions, or fails to deal with an application within statutory time limits, the applicant has a right to appeal to the Secretary of State via the Planning Inspectorate.
58. An independent inspector is appointed by the Secretary of State to consider each appeal and they will make their decision in line with the plan for the area unless there are material considerations that justify taking a different view. The inspector may come to a different view from the local planning authority and decide that planning permission should be granted or subject to other conditions. This does not mean that they have disregarded the views of the local planning authority or local residents – rather that they have attributed different weight to the issues in coming to their decision.

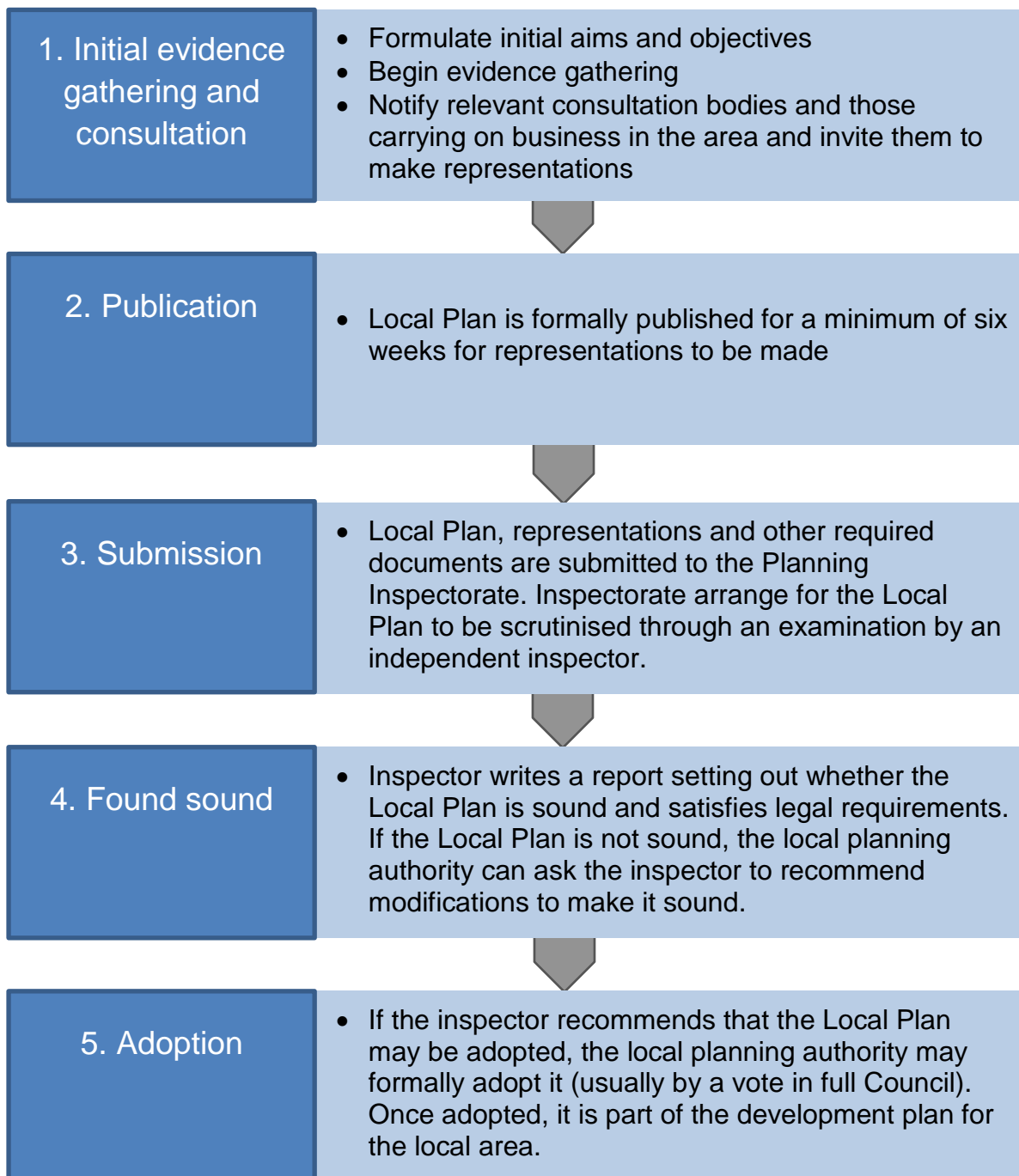
Recovery

59. Planning appeals can be 'recovered' from the Planning Inspectorate by the Secretary of State for his own determination, if the case raises particular issues that justify a Ministerial decision. In these cases a planning inspector will consider the issues before submitting a report and recommendation to the Secretary of State. The Secretary of State will then make a decision-taking into account the inspector's assessment of the proposals.

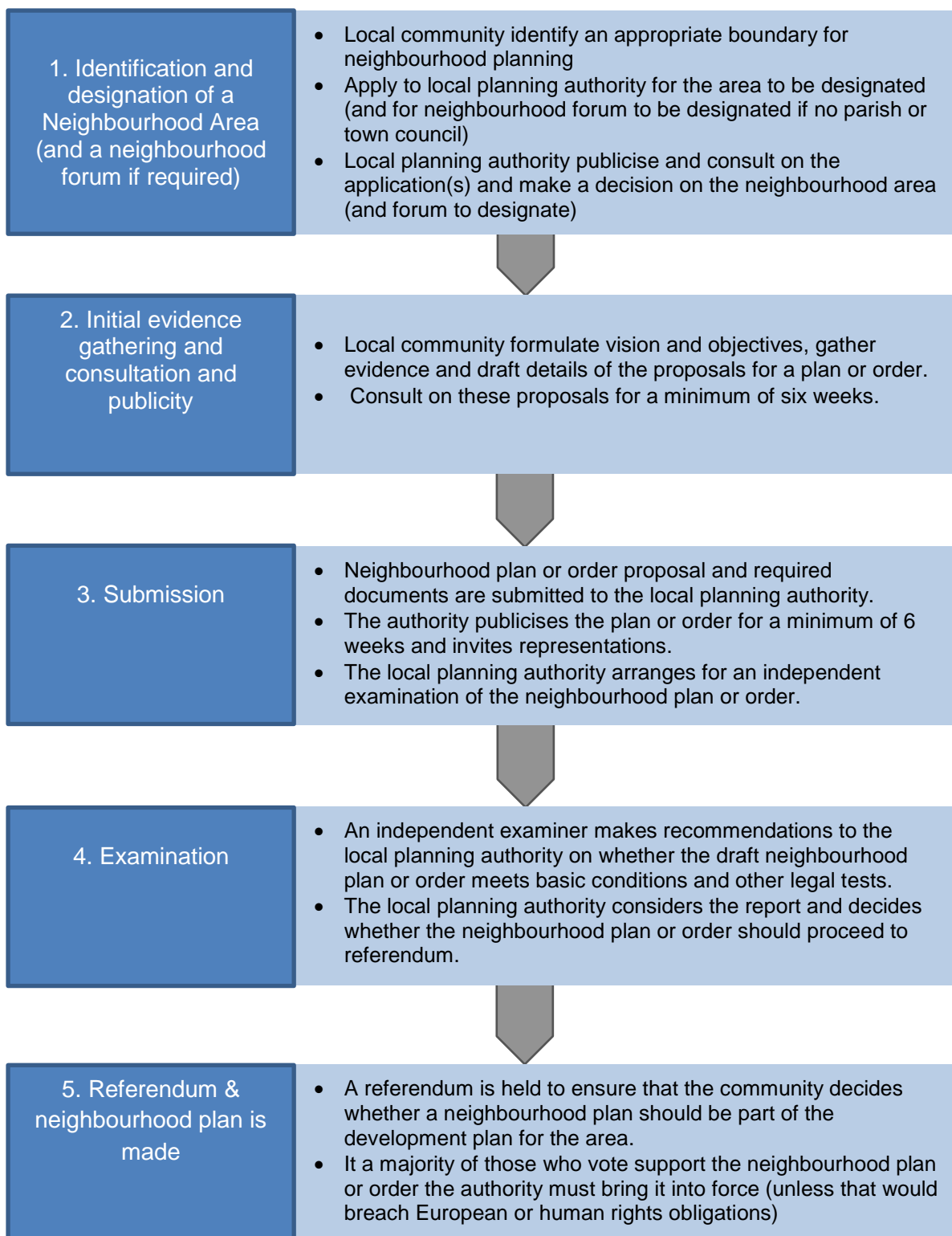
Call-in

60. The Secretary of State also has the power to take over particular planning applications rather than letting the local planning authority decide, which is known as 'call-in'. An application can be called-in whether or not there has been a request to do so. The Secretary of State uses these powers very sparingly, usually where planning issues of more than local importance are involved. If the Secretary of State decides to call-in a planning application, a planning inspector is appointed to carry out an inquiry into the proposal. The inspector will then report with their recommendation to the Secretary of State who will make a decision on the proposal, in much the same way as a recovered planning appeal.

Annex A, Stages in a Local Plan



Annex B, Stages in a neighbourhood plan or order



Annex C, Stages in the planning application process

