

2 February 2024

Sent by email to streetvotes@levellingup.gov.uk

Society of Local Council Clerks – Response to consultation on detailed operation of street vote development orders.

Dear Sir/Madam,

Thank you for giving the Society of Local Council Clerks ('SLCC') the opportunity to comment on this important consultation document.

The Society of Local Council Clerks is the professional body representing town and parish council clerks in England and Wales. More than 4,000 local council clerks are in membership serving over 6,000 town and parish councils throughout England and Wales. Influencing, shaping and guiding the planning system is a high priority for many of our members. This issue is, therefore, of special significance and importance to the Society and its members.

In formulating this response, we have consulted with our members. We have also asked them to respond individually to it.

In addition, we have worked closely with the National Association of Local Councils in preparing this response, with whom we share very similar comments and concerns about the proposed operation of Street Vote Development Orders.

We have concentrated on those questions that are of the greatest relevance and significance to the sector.

Question 1: Do you agree that to be a member of a qualifying group an individual must be registered at an address in the street area to vote in a local council election on the date the proposal is submitted for examination? If not, please provide details.

Yes, but with qualifications. In particular, and conditional on, that not only is a member of a qualifying group registered at an address but that they are also a permanent resident of the street (rather than say a second homeowner or a student). The proposals as they stand would allow, for example, students and owners of second properties in certain circumstances to vote in the referendum. Groups who may have differing and perhaps conflicting views than the wider local community on whether such development should be permitted or indeed the same level of interest in it.

Question 2: Do you agree with our proposed minimum thresholds for the size of a qualifying group? If not, please provide details.

No. Minimum thresholds for size of qualifying group seems arbitrary – a much less steep drop in percentages would be preferable. For example, for streets with 10 properties it states 100% of the households must have at least one person involved with the qualifying group, whereby for those with 25 properties, it only requires 25% (6 households) to be involved with the group. The proportion doesn't seem that fair.

Question 3: Are there any other factors that you feel should be considered when determining the minimum thresholds for the size of a qualifying group?

Yes. It should be noted that some groups especially young people that are ineligible to be added to the electoral register will be excluded from voting.

Question 4: Do you agree that qualifying groups (or those acting on their behalf) should be required to undertake community engagement, but have discretion on how they engage on their proposals? If not, please provide details.

No. While we agree that qualifying groups should be required to undertake community engagement we do not agree that they should have discretion on how they engage in their proposals. A minimum level of engagement should be required and this set out in planning legislation or guidance, similar to the level required at part of the preparation of Neighbourhood Plans ('Basic Conditions'). There should be a requirement to produce a consultation statement detailing the consultation undertaken with a particular focus on ensuring that it is open and inclusive. The adequacy of this engagement should be assessed at the examination stage.

We also note the emphasis on digital technology in community engagement. While broadly welcomed it should be noted that not everyone has similar access to this technology.

Where they exist, local councils are best placed to engage with their communities. It should be a statutory requirement for local councils to be consulted on a proposal.

Question 5: Which additional protections, such as notice, could be given to residents? Please provide details if applicable.

Residents should be given formal notice in writing of all proposals for street development orders in their immediate area as well as through a site notice. In parished areas, there should be a statutory

requirement that formal notice must be served on the local council in which the development is proposed to take place.

Residents should be given full and adequate notice at the earliest possible stage of all proposals for street development orders in their area and details on how to (including adequate timescales) for commenting.

Question 6: Do you have any views on what level of community engagement would be appropriate? If yes, please provide details.

As mentioned previously, the minimum level of engagement required should be set out in planning legislation or guidance, similar to the required at part of the preparation of Neighbourhood Plans (Basic Conditions). There should be a requirement to produce a consultation statement detailing the consultation undertaken and the adequacy of this engagement should be assessed at the examination stage.

Also, there should be a statutory or similar requirement to notify and consult with the affected parish council in the parished area.

Whether the impact of the proposal affects a wider area such as neighbouring dwellings or streets there should be a requirement to adequately engage with them as well.

Question 7: Do you have any further views on community engagement you feel should be considered? If yes, please provide details.

The SLCC supports and echoes the position of the National Association of Local Councils (NALC) that it will support changes to the planning system which it perceives will strengthen the system and the voice of democracy and lead to better quality, appropriately sited developments. It will not support planning changes which it perceives will work in the opposite direction. The ability for a community to shape its area through neighbourhood planning for instance, is an important part of the social role of planning.

Question 8: Do you agree with the government's proposals on what a street vote development order proposal must include? If not, please provide details.

No. The information listed is at best limited and lacks clarity and detail. Later in the consultation document reference is made to other information such as Habitat Regulations Assessments, Flood Risk and in relation to the Community Infrastructure Levy but these are not listed here.

Question 9: Do you consider that there is any further information or documents that should form part of a proposal? If not, please provide details.

Yes. An assessment of local infrastructure capacity (sewage network, schools, highways etc.) and flood risk.

Question 10: Do you have any views on what tools would help qualifying groups in preparing and submitting street vote development order proposals? If not, please provide details.

The document is very quiet on the support (financial and practical) that will be available to qualifying groups to prepare and submit an order. This is a serious omission. Our experience is that it is highly unlikely that most local authorities will be able to offer any significant support. The lack of any meaningful support, resources and grants to qualifying bodies is likely to be a major barrier to its up take, particularly in deprived areas.

Question 11: Do you agree with our proposed definition of a street area? If not, please provide details.

No. While the definition is fine in urban areas, it does not work well in rural areas where, for example, you might have a street with a 'pepper-potting' of housing or a street which goes on for quite a long distance, or a village with a green in the middle where half would be covered by the definition of a street area and the other half would not. Also, where a property does not have part of their property touching the highway.

Question 12: Do you have any views on the most appropriate definition of a street area that you feel should be considered? If yes, please provide details.

For many rural areas with a micro-parish council of up to 50 houses the civil parish boundary gives a clearer definition of the street area. Our proposal is for micro-parished to have the option to be the preferred vehicle for defining the street area as it offers a clearer option for many rural areas.

Question 13: Do you agree with our proposals for additional excluded areas? If not, please provide details?

Yes.

Question 14: Are there any categories of land or area that you think should be added to the list of excluded areas? If yes, please provide details.

Yes, common land, Conservation Areas and non-designated heritage assets (including those identified through 'Local List', character area appraisal or similar).

We also want to highlight that areas with a neighbourhood plan currently get extra protections which areas without a neighbourhood plan do not have.

Question 15: Do you agree that street vote development orders may only grant planning permission for residential development and cannot be used to permit changes of use? If not, please provide details.

Yes.

Question 16: Do you agree we should add development of buildings whose origins date before 1918 to the list of excluded development? If not, do you have any alternative suggestions for how the development of older buildings can be excluded?

Yes.

Question 17: Are there any further types of development you think should be added to the list of excluded development? If yes, please provide details.

Yes, non-designated heritage assets should be added to the list of excluded development.

Question 18: Do you agree with our proposed design principles? If not, please provide details.

Yes.

Question 19: Do you agree with the proposed design requirements? If not, please provide details.

Yes, though it is noted that some of the terminology and requirements are complex and open to interpretation. Some of the information requirements may also not be readily available (or indeed understandable) to the average person - for example, the requirement that "any property on the street falls within, or any MSOA within 200m of any point on the street in question". We also consider that specific mention and consideration should be made to renewable energy measures in the design requirements.

Question 20: What role, if any, should neighbours have in determining development that goes beyond the light planes, plot use limits, window rules and restrictions on developing semi-detached houses and spaces between detached properties? Please provide details if applicable.

Neighbours should be a consultee in the same way as with normal planning applications.

Question 21: Do you have any further views on design requirements that you think should be considered? If yes, please provide details.

We have no strong views on this question.

Question 22: Do you agree with our proposals on the role of the development plan in the street vote development order process? If not, please provide details.

No. Their relationship with the development plan (including design codes) is unclear and unsatisfactory. If there is conflict between the two which generally takes precedence or conflict resolved, for example.

We have concerns that there may be scenarios where the street vote development orders may have adverse impacts on the broader community as articulated through a neighbourhood or local plan. Whilst we appreciate that the Secretary of State has an overview of whether the proposals are broadly consistent with the local development plan, we are concerned that there is no clear mechanism for representations to be made about particular local circumstances. We are particularly concerned that where there is a neighbourhood plan (which has been through an extensive place making process, including referendum) they could be disregarded or undermined, by, in some instances, a small group of residents that do not reflect the wider views and may be driven by short term need rather than meeting the long term needs of the community.

Question 23: Do you have any further views on the role of the development plan in the street vote development order process that you feel should be considered? If yes, please provide details.

Yes. The group proposing a street vote development order should be required to submit a statement that demonstrates how their proposal is in accordance with the local development plan, including neighbourhood plans where relevant.

It is essential that where a street vote development order proposal go further than that permitted in the local development plan, including neighbourhood plan, there should be compelling evidence in support of this. This should include sound evidence of community engagement and support of the wider area not just the 'street' affected by the order.

Question 25: Do you have any views on our proposed approach to managing highways and transport impacts? If yes, please provide details.

Yes. It is imperative that the impact on the highways and transport system impacts are considered both in the short term and long term.

Question 26: Do you agree with our proposals to further safeguard the historic environment? If not, please provide details.

No. As previously mentioned, we would like to see Conservation Area and non designated heritage assets to the list of heritage areas that are safeguarded under the street vote development order process.

Question 29: Do you think any other impacts should be considered? If yes, please provide details.

Yes. Nearby flood plains should be taken into account and not just if the development is in a flood risk area. As mentioned previously, full account need to be made on the impact on the local infrastructure.

Question 30: What support should be provided to qualifying groups in order to make sure they can effectively discharge their obligations under the Environmental Impact Assessment regulations, if required? Please provide details if applicable.

In order to discharge their obligations effectively, qualifying groups will require funding and technical support. Alternatively, the Local Planning Authority or the Planning Inspectorate should be required to ensure that the order meets Environmental Impact Assessment regulations.

Question 35: Do you think that Biodiversity Net Gain should apply to street vote development in this way? If not, please provide details.

Yes, we do think that Biodiversity Net Gain should apply exactly in the same way to street vote development as all other development proposals.

Question 36: Do you agree with our proposals for a validation stage before proposals can be examined? If not, please provide details.

Yes.

Question 37: Do you have any further views on how the validation process should operate that you feel should be considered? If yes, please provide details.

As far as possible the examination process for street development orders should involve an equivalent level of rigour to that required for a neighbourhood plan.

Question 39: What (if any) statutory bodies do you think should be invited to make representations? Please provide details if applicable.

Yes, this should include the established and defined list of 'statutory bodies' as set out in Schedule 4 of the Town and Country Planning (Development Management Procedure) England Order 2015 (as amended). This includes local (parish and town) councils, which should be a specified statutory consultee at the examination stage.

Question 42: Do you think any other individuals should be eligible to vote in a referendum? Please provide details if applicable.

There should be scope to extend the referendum area in special specified circumstances, for example, where the scale and nature of the proposal affects a much wider area.

Question 46: Do you have any views on whether the 2nd threshold should be applied at the relevant local authority's discretion? If yes, please provide details.

No.

Question 47: Do you have any views on the potential options for when development granted planning permission through a street vote development order must be commenced? If yes, please provide details.

Option A: Development must be commenced within 10 years of the order being made.

Question 48: Do you agree with our proposed pre-commencement requirements? If not, please provide details.

Yes, it makes sense that details on matters required by any planning conditions attached to the order should be submitted to the local planning authority for approval prior to development.

Question 49: Do you agree that the setting of Community Infrastructure Levy (CIL) rates for street vote development should be simplified and streamlined, and that CIL should be the main route for the collection of developer contributions on street vote development orders, prior to the introduction of the Infrastructure Levy? If not, please provide details.

Unsure. CIL should apply to development brought under a street vote order in exactly the same way as all other development proposals.

Question 50: Do you agree that conditions requiring a s106 planning obligation should be limited to mitigations which cannot be achieved through condition alone, and which cannot be delivered through Community Infrastructure Levy? If not, please provide details.

Yes.

Question 51: Do you think the same approach should be taken for street vote development orders as for planning applications, that developments of 9 units or less should not have to make an affordable housing contribution via their Community Infrastructure Levy receipts? Please provide details if applicable.

We agree with the principle, but as currently phrased it would mean that areas which have not adopted the CIL may not receive a levy for affordable housing. Also, where a development plan covering a local area has a lower threshold size for CIL or other contributions the lower threshold contained in the development plan (including neighbourhood plans) should be used.

Question 53: Do you agree that the referendum should be paper-based and non-digital? If not, please provide details.

Yes, paper votes are more inclusive, though the aim should be to make both digital and paper based as soon as practical.

Q54: Do you have any comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document? If yes, please provide details.

Yes. It is imperative that the potential impact that may arise on deprived and other groups and individuals, that may especially face barriers in preparing and engaging in the street vote development order process, are fully considered and addressed.

Yours sincerely,

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