

# Street vote development orders

POS response to consultation

January 2024

# 1 Planning Officers Society

1.1 POS is the single credible voice for public sector planners, pursuing good quality and effective planning practice. The Society's aim is to ensure that planning makes a major contribution to achieving sustainable development in ways that are fair and equitable and achieve the social, economic, and environmental aspirations of the community.

1.2 We operate in three main ways:

- As a support network for planners in the public sector
- As promoters of best practise in planning
- As a think tank and lobbying organisation for excellence in planning practice

1.3 Where we can, we will work across the sector to craft proposals that have widespread support from the people who operate the planning system at the coalface: landowners, developers, agents, legal, local authorities, and politicians. We will be both radical and practical as we look for solutions to tangible problems that will make a real difference to crucial areas. Our objective is to improve the planning system to enable it to deliver its key aim of sustainable development. It is within this context that we have set out this advice to Government so we can plan together for a better future.

## 2 Key Messages

2.1 There are many details which have not been considered as part of this consultation. Pos Has the following technical questions;

- Will these be allowed in areas where PD rights withdrawn?
- LPAs should have an opportunity to input to the process before submitting representations to the Secretary of State. LPAs could have helpful evidence which the community may not be awarded until the examination process which may be in written representation format.

- How would that sit next to a site which submits for traditional PD instead of using street vote order?
- It is not clear how street votes could sit within the neighbourhood planning process? Is there the opportunity for communities to win track although the processes are very different? This should be considered.
- How would it work if all 10 homes and are in one land ownership. For example a new housing development for 1000 homes built out in phased delivery and a housebuilder or other agent looks to new occupiers for a street votes including rear dormer extensions, balconies, out buildings, upward extensions on blocks of flats. Any of these or a combination could change the nature of the original planning permission and importantly the overall number of homes could increase without the proportionate number of affordable homes and infrastructure. There is a risk that this process creates loopholes and need to be considered to avoid unintended consequences and tension in communities or between house builders and LPAs.

2.2 POS is concerned that this proposal undermines the value of strategic planning and conservation area management appraisals. It is unlikely to have the unintended consequence of reducing morale in LPAs as the consultation does not place any value on a professional planning assessments of the material balance of the proposals. The current Local Development Order process is based on evidence and engagement with the community and stakeholders. This process cherry picks throughout the process and is likely to lead to division. The government needs to consider how this would sit with the message that there should be a plan led system.

2.3 Any new burdens need to have a fee or income revenue to support the resources of consultation, administration, answering queries and complaints as well as supporting the community and politicians throughout the process. This seems to be underestimated that many in the community will go staring to the LA rather than the SoS with any questions concerns or complaints.

### 3 Questions

**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.**

A member of a qualifying group must be a landowner, preventing the possibility of tenants gaining planning permission via a Street Order consent without the land owner knowing.

Paragraph 14 sets out that LPAs can capture uplift in land value via CIL, presumably non CIL authorities could do this using Section 106 Legal agreements? This should be made clear in any future legislation for the avoidance of doubt.

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

Yes

**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?**

Whether a land occupier or land owner should be recognised and whether each property has one vote or each member of a household has one vote. It should be each property has one vote which prevents single people being out voted by properties with larger families and therefore more weight in a vote.

**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.**

Community Engagement will be critical to the success of this proposal and help to mitigate the risk of dividing communities. There should be minimum requirements of consultation similar to LPAs are required to set out in statement of community

involvement. This is in effect creating a Local Development order which requires consultation and engagement from the community

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

A letter, site notice and press notice are standard minimum forms of consultation.

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

A letter, site notice and press notice are standard forms of consultation. Above and beyond methods shoddy include engagement via community organisations, notice boards, newsletters and social media groups as well as utilising local government parish and town council networks.

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

Engagement with a community effectively costs money and needs resources. There will be no budget for these proposals. POS is concerned that the time and resource may be expected to sit with the Local Planning authority which cannot be the case. The LPAs cannot take on a new burden such as this without a fee enabling resources to be employed and this being cost recovery. The government has acknowledged that planning department have not been running at cost recover for a while and are working on rectifying this with planning fee increases, to see a new burden like this would have severe unintended consequences.

**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.**

The qualifying group must submit more than a declaration that they have engaged with the local community, they must include a consultation statement, setting out how they

consulted, responses received and how they took these into account. Similar to the requirements on a LPA.

They must consult the LPA as part of the process for feedback on the appropriateness of the proposal.

Drafting a design code would be an onerous task for a qualifying group and there is a risk that the intention of this is lost in bureaucracy. Furthermore in prescribing materials there is a risk that whole streets start to look the same, restricted by the palette of materials available.

**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.**

No

**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.**

Case studies and precedents may be helpful for lay people in the community to understand the intention of the street vote proposed.

Depending on resources available VR technology would be helpful to see how streets could look if all or some implemented the proposals and these could be produced as CGIs as well.

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

Yes

**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.**

The proposal should be thought through in rural areas where properties do not necessarily have boundaries running next to a highway apart from the entrance to a driveway which presumably would count? If this proposal is intended for more urban and suburban areas (as insinuated by word 'street') then that should be made clear perhaps using a formulae of density or housing typology. Although it would add complexity to the proposal.

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

No, Conservation areas should be included

**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.**

Conservation Areas need to be included. LPAs have a statutory responsibility to keep up to date Conservation Areas Management Plans and this propose; could undermine the character and appearance of etc Conservation Area

**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 agree it should not be used for change of use. It should not be used for creation of new dwellings.

**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, although this is an arbitrary number, there does not seem to be any evidence behind the decision?

**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.**

Conservation areas.

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

Supporting a gradual evolution in the character of neighbourhoods in conservation areas which undermines the value of conservation areas

Sustainable transport is likely to be challenging in some suburban areas where car ownership is high and access to public transport is low.

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

POS would consider the many street vote proposals would be similar to permitted development and is concerned that this will be an added burden onto LPAs with no additional resources. There is also a risk it will divide communities.

**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.**

None, this should be set in the street vote and an impact assessment be part of the evidence submitted to the secretary of state.

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

N/A

**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 the street order process should not go beyond local plans as the government is clear in the Levelling Up and Regeneration Act that planing should be based on a plan led system. The position in paragraph 37 would allowing street vote proposals to go beyond what is set out in the Local Plan would undermine this.

**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.**

There is a real risk of unintended consequences of a dividing a community. It could be the case the newer residents are keen to support a street vote, or that home owners are keen as opposed to tenants or that flats are keen as opposed to houses in an area. Or that a street vote is voted and approved with a very close majority which leaves resentment in the community. Inevitably at times like this many in the community will look to the LPA to mediate and come to a solution. Which the consultation gives the LPA no powers to intervene and this should be made clear to manage the communities expectations. It should be clear that tag secretary of state or PINS answers and appeals or complaints generated from this process.

**Question 24 – Do you agree that street votes must not be used to reduce the amount of residential development in a street area? If not, please provide details.**

Yes

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

A transport plan will be critical to the success or not of this proposal. It is likely that street votes will be used in urban and suburban areas including cities where many developments a for extension for new homes are secured by legal agreements to be car free and require cycle parking. The same should be for street vote proposals.

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

No, Conservation Areas should be excluded from street vote proposals. There are approx. 10,000 conservation areas in England according to Historic England and this proposal leaves them all vulnerable to change or 'gradual evolution in the character of neighbourhoods' as it is termed in the design requirements set out in paragraph 36 (1) of the consultation.

**Question 27 – Do you agree with our proposed approach to managing local impacts? If not, please provide details.**

**No, this should include conservation areas and maintain that planning system is a plan led system not trumped by a street vote proposal.**

**Question 28 - Do you have any suggestions on additional or alternative ways that could assess and provide assurance to ensure that street votes development does not lead to increased flood risk in the immediate and/or surrounding areas? If yes, please provide details.**

No the proposals shoddy have a flood risk assessment and perhaps should not be propped in flood risk areas.

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

An equalities assessment shovel be carried out to consider the impact on renters versus home owners who have a vested financial interest in the proposal. As well as those who have the resources to make this work in more affluent areas and those with the time and

money to compile the evidence required which will improve the values of their asset. There could be an unintended consequence that the wealthy in terms of time, money, education, confidence and assets benefit from this proposal. And the opposite do not.

**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.**

If a street vote proposal requires an EIA it should not be allowed a date proposals should seek full planning permission . Indeed it might be that proposals on individual properties who choose to implement do not trigger the need for EIA, as they avoid the cumulative impact on consider ing a street act once.

**Question 31 – Do you have any views on how the Environmental Impact Assessment regulations should be modified for street vote development orders? If yes, please provide details.**

**No - A street vote should not be possible if an EIA is required**

**Question 32 – Do you agree that the Secretary of State should be responsible for issuing screening decisions and advising qualifying groups on their scoping work prior to submitting their proposals? If not, please provide details.**

No - A street vote should not be possible if an EIA is required

**Question 33 – Do you have any views on the mechanisms for publicity and consultation for Environmental Impact Assessments for street vote development orders including who should be responsible for running the consultation? If yes, please provide details.**

No - A street vote should not be possible if an EIA is required

**Question 34 - Do you have any views on providing qualifying groups with more certainty around Environmental Impact Assessment screening? If yes, please provide details.**

No - A street vote should not be possible if an EIA is required

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

No - BNG should be required for street votes if more than one new dwelling is provided. Otherwise this approach could be seen as a loophole to avoid BNG which is a key part on the strategy to improving the biodiversity and having an impact on the climate emergency in England.

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

Yes however the Local aUthorities shovel be compensated for the resources in providing electoral role register details.

**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.**

The LPA should be updated air all key milestones an date process made clear how little involvement LPAs can have so elected members and senior leaders in LA are not lobbied unfairly and mis managing residents expectations if they are not happy with the proposal.

**Question 38 – Do you agree with our proposals on the examination process? If not, please provide details.**

Yes however the LA needs to have a budget to pay for staff and advertising costs associated with publication. These new burdens need to have the resource cover accompanying them. It is not appropriate to continue to ask more of LAs without the

equating resources. There will also be a lot of enquiries and about the process that the LA may be obliged to respond to as they will be the one advertising. This should be recognised as part of the whole lifecycle of the process and resourced appropriately. A suggestion would be that LAs submit timesheets and costs associated with the first 10 street votes and a fee and charges schedule is then agreed thereafter to make this street votes as many will require a budget to meet the requirements. The budget offer consultation, information sharing and managing through a political environment should also be charged.

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

All statutory bodies as acknowledged the street votes would not be available in HRA areas but may have an impact on them. This same point applies to all statutory consultees.

**Question 40 – For non-Environmental Impact Assessment development, what period of time should we allow for representations to be made? Please provide details if applicable.**

4-6 weeks in line with the local plan making process and what is set out in a LA statement of community involvement for a development consent order.

**Question 41 - Do you agree with our voter eligibility proposals? If not, please provide details.**

It does not seem sensible that absentee landlords cannot vote as it is their asset. It does also not seem right that a foreign national is excluded from having a say. There may be a risk of legal challenge on both points which should be explored.

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

Parish and Town Councils would be keen and arguably should have a vote. This would help to fit the street vote process into the existing local government governance structure and help mitigate possible community division.

**Question 43 - Do you agree that street vote development order referendums should be conducted via postal voting only? If not, please provide details.**

**Yes**

**Question 44 – Do you agree with our proposed referendum question? If not, please provide details.**

**Yes**

**Question 45 - Do you agree with the proposed approval thresholds? If not, please provide details.**

This process is open to lobbying by some out spoken neighbours on a neutral or objecting neighbour

**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 this should not be at the LAs discretion where they have little other involvement this is where Ward Members and senior council officials will be lobbied and bought into community disputes. This process should either include LPAs from the start or be separate. It cannot be the LAs have a deciding or impactful veto vote to apply discretion towards the end of the process and applying discretion on thresholds essentially to sway the decision. This is not fair on Local Authorities or the community.

**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.**

10 years - there are many material impacts that could change to the context of the street vote in this time, including material planning considerations and change in residents. The proposing group could seek to extend.

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

Yes and there should be a fee associated with this which recovers the costs of assessing the proposal.

**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.**

No, affordable housing should be a separate requirement to CIL.

It is unclear in the consultation what is meant by a simplified CIL route.

**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 but this would include affordable housing and car free development.

**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.**

Yes

**Question 52 – Do you agree that data standards and publication requirements should be implemented as part of the street vote development order process? If not, please provide details.**

**Yes**

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

No, POS would challenge if this is at the forefront of digital thinking in the planning system many internet banking sites, tax returns etc are completed digitally and this may be a good process to pilot digital voting.

**Question 54 - 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.**

It does not seem sensible that absentee landlords cannot vote as it is their asset. It does also not seem right that a foreign national is excluded from having a say. There may be a risk of legal challenge on both points which should be explored.