

Initiator-led Participation within the Environment and Planning Act

Master's Thesis
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Initiator-led Participation within the Environment and Planning Act

Investigating municipal participation policy for
plans that fall outside of the physical
environment plan

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Reference cover image [72]

Abstract

The Environment and Planning Act (EPA) has increased the emphasis on decentralised policy and public participation in the Dutch built environment. One area where these two aspects come together is participation policy for BOPA applications. Non-governmental parties that want to commence a project that conflicts with the physical environment plan can apply for a BOPA (*vergunning voor Buitenplannelijke Omgevingsplanactiviteit*). Public participation is always advised, but not required for these applications, unless the municipality where the project is located specifically determines that participation is mandatory. If participation is mandatory, it is a compulsory application requirement; insufficient participation means the application is incomplete and will not be considered further. What counts as insufficient participation is difficult to determine exactly, because municipalities only check the completeness of the application. As long as the initiator provides a participation report that explains how participants were involved and what the outcome of the participation was, the application is complete. This research has analysed how different municipalities have shaped their policies on mandatory participation and how they take the participation report submitted by the initiators into account in their decision-making.

By analysing the policies of 50 representative municipalities, three categories emerge: all projects have mandatory participation (n=11), some specific projects have mandatory participation (n=36), and no projects have mandatory participation (n=3). Even within the largest category, the policies differ widely. This indicates how varied the different municipal policies are. Of these municipalities, four have been selected for further analysis, with each category represented. This analysis included their reasoning for choosing their policy, their evaluation of the policy, the way they evaluate the participation reports, and their success factors for participation.

This analysis highlighted varied reasons for choosing their policy, including minimising workload, maintaining a sense of community, and avoiding legal issues. All municipalities report tangible benefits of participation in the form of improved project designs, fewer official complaints, and better public acceptance. Still, the influence the participation reports have on the decision-making is minimal. Participation outcome is more important than the participation process, but neither is ever a decisive factor. The participation is mostly used as an instrument to determine what aspects lead to concerns with the public and what the public opinion is on the project. Lastly, municipal success factors mainly include good transparent collaboration between the initiator and participants and public acceptance.

The outcome of the research includes recommendations for both the national and local governments, as well as future research. The way the EPA is currently set up, the minimal required standard for participation is extremely minimal. Municipalities are not able to set any requirements for the participation, but are only able to check the completeness of the application. This system makes it impossible for municipalities to hold initiators accountable for failing to facilitate meaningful participation. This research suggests changing the EPA to make it possible for municipalities to set requirements for the projects that have mandatory participation. By communicating these requirements clearly with the initiators, it becomes possible to ensure a higher standard for participation in these projects through an objective evaluation system. Projects where participation was not mandatory are excluded to not discourage initiators from facilitating participation.

Additionally, municipalities are advised to increase their focus on educating initiators of the benefits of participation. By intrinsically motivating initiators to facilitate participation, they are more likely to facilitate participation that positively affects their project, instead of participation that only meets the minimal requirements.

Keywords: BOPA, Environment and Planning Act, Initiator-led participation, Decentralisation, Municipal policy

Abbreviations

Table 1: List of abbreviations

Abbreviation	Description
BA	Built-up area (<i>bebouwde kom</i>)
Bbl	Besluit bouwwerken leefomgeving (Decree on buildings in the living environment)
BKL	Besluit Kwaliteit Leefomgeving (Decree Quality Living Environment)
BOPA	Buitenplanse omgevingsplanactiviteit
EPA	Environment and Planning Act (<i>Omgevingswet</i>)
ETFAL	Evenwichtige toedeling van functies aan locaties (balanced allocation of functions to locations)
OPA	Binnenplanse omgevingsplanactiviteit
SPvE	Stedenbouwkundig Plan van Eisen
UPG	Utrechts Planproces Gebiedsontwikkeling
VNG	Vereniging van Nederlandse Gemeenten (Association of Dutch Municipalities)
VTH	Vergunningverlening, Toezicht en Handhaving (department of Permits, Supervision and Enforcement)

Contents

Abstract	i
Abbreviations	ii
1 Introduction	1
1.1 Importance of public participation	1
1.2 Successful participation	2
1.3 Public participation in the Netherlands	2
1.4 Introduction of the EPA	3
1.4.1 Initiator does not require a permit	3
1.4.2 Initiator requires an OPA	4
1.4.3 Initiator requires a BOPA	4
1.5 Research question	9
1.5.1 Analytical Framework	10
1.6 Research Objective	11
2 Methods	12
2.1 Sub-questions	12
2.1.1 Interviews	17
3 Results	18
3.1 Results sub-question 1	18
3.1.1 Policy comparison	18
3.1.2 Conclusion	22
3.2 Results sub-question 2	23
3.2.1 Municipality of Utrecht	23
3.2.2 Municipality of Hengelo	25
3.2.3 Municipality of Epe	26
3.2.4 Municipality of Vught	27
3.2.5 Main takeaways	27
3.3 Results sub-question 3	28
3.3.1 Municipality of Utrecht	28
3.3.2 Municipality of Hengelo	29
3.3.3 Municipality of Epe	29
3.3.4 Municipality of Vught	30
3.3.5 Main takeaways	30
3.4 Results sub-question 4	31
3.4.1 Case 1 - Redevelopment Van der Valk hotel - Vught	31
3.4.2 Case 2 - Redevelopment Emsterweg 18-20 - Vaassen	37
3.4.3 Case 3 - Redevelopment Hojel City Centre I - Utrecht	40
3.4.4 Case 4 - Development De Concurrent - Hengelo	44
3.4.5 Main takeaways	48
4 Conclusion & Discussion	50
4.1 Conclusion	50
4.1.1 SQ 1 - What policy have municipalities adopted around mandatory participation within BOPA applications?	50
4.1.2 SQ 2 - What considerations have shaped municipal policy around mandatory participation within BOPA applications, and how satisfied are the municipalities with their current policy?	51

4.1.3	SQ 3 - What makes participation reports be considered sufficient, and to what extent does the organised participation influence municipal BOPA decisions? . .	52
4.1.4	SQ 4 - What do municipalities regard as successful participation?	52
4.1.5	Conclusion main research question	53
4.2	Discussion	54
4.2.1	Ambitions of the EPA	54
4.2.2	Practical recommendations	54
4.2.3	Limitations	57
4.2.4	Future research	57
4.2.5	AI disclaimer	58
References		59
A Interview setup		67
A.1	Interview setup (NL)	67
A.1.1	Onderzoek achtergrond	67
A.1.2	Vragen interview	67
A.2	Interview setup (EN)	69
A.2.1	Research background	69
A.2.2	Interview questions	69
B Choosing Municipalities		71
C Chosen Municipalities		72
D Policy comparison		74

Introduction

In Europe, participatory planning has been around since the 1960s. In the United Kingdom, in 1968, the first legislation was introduced that mandated that the public should be consulted for the creation of development plans [14]. A year later, in 1969, the now-famous article on the ladder of participation was published by Sherry Arnstein. Arnstein's ladder describes the degrees of citizen participation, ranging from nonparticipation to citizen control Figure 1.1. This work highlighted the issues with current participation practices by demonstrating that participation at the time did not always involve consultation with citizens. Rather than genuine participation, she describes, public advisory committees were mainly used as a means to showcase participation and promote the officials' plans, while at the same time, they were educated, persuaded, and instructed by these same officials. This is an example of participation on the lowest rung of the ladder: manipulation. The work highlighted the need for improved participation practices and, in doing so, offered inspiration for a more successful participatory system where the public's opinion is more fully incorporated into the planning process [63]. This played a key role in forming the groundwork for public participation in planning and the way it is integrated into policy-making [3].

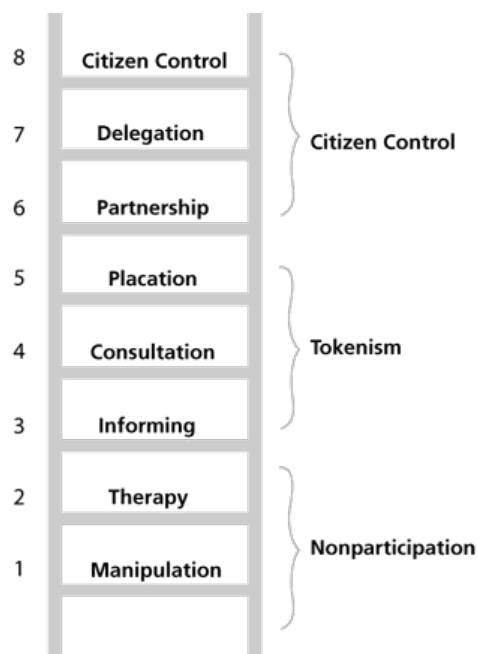


Figure 1.1: Arnstein's Ladder of Participation [23]

1.1. Importance of public participation

Public participation can be costly and time-consuming to facilitate, but it can be highly beneficial in urban planning. If executed well, public participation can not only increase the democratic validity of a decision-making process, as it allows the public to have a direct impact on their surroundings, but it also has a range of beneficial aspects [64]. Involving the public early in the planning process also makes

it possible to receive valuable input from people's day-to-day lives and use their lived experiences and preferences. These can lead to valuable insights and unique observations that otherwise could have been lost [131]. It also gives people the feeling of being heard, which can increase the public acceptance of a project and reduce the gap between citizens and the government [129, 128, 61]

1.2. Successful participation

It is important to keep in mind that these benefits can only be achieved through well-designed participation processes. Aspects such as when, who and how the public participates can strongly influence the success of the participation. What exactly 'successful participation' is, is also subjective. Different stakeholders have different stakes, goals, and agendas, which change their relative perspective of success.

Participation can happen in different contexts, but the context that will be the topic of this research is initiator-led participation for the application of a building permit. This is participation, facilitated by an individual or commercial party, with the goal of receiving a permit for their project. In this type of context, there are three main parties involved. The first party is the initiator, who is responsible for facilitating the participation and implementing the outcome of the participation. The second party consists of the participants. They are responsible for taking part in the participation and giving their input. The last party is the governmental body that has to grant or deny the permit. Each of these parties has different success factors for participation.

For the initiator, successful participation leads to a smooth collaboration with the governmental body and the participants, reduced building costs through a reduction in time-consuming complaints, improvements to the plan, and societal and governmental support for the plan [116].

For participants, successful participation makes them feel heard and gives them the idea that their input is taken seriously. Kreusslein and Günther [62] describe how the highest willingness to engage in future participation projects is reached by involving the public early in the process with a high degree of transparency. It is also important to give precise feedback on the outcome and results of the participation process. This ensures that participants still feel they are being taken seriously, even if their input cannot be implemented. This way, they feel like the participation was not just a bureaucratic check mark. But ideally, participants want to have a tangible impact on the project, improving it to their liking.

For a governmental party, success is partly dependent on the process and partly on the outcome. Successful participation ensures that the participants are representative of the public at stake and that the participants were able to give their input [82]. Ideally, successful participation lets the participants and initiator collaborate well, brings new insights to the table and increases public acceptance of the project. For a governmental party, its own vision is less important than having an outcome that pleases all other parties. Once the permit is applied for with the participation report, the governmental party is able to evaluate how the project fits into their own vision

1.3. Public participation in the Netherlands

In the Netherlands, participatory planning was first introduced in the 1970s. During the post-war 1950s and 1960s, a national 'blueprint' approach was successfully used to rebuild the country. This top-down system was based on holistic plans on a national scale, used to indicate what the country should look like. In the 1970s, during a time of increased social complexity, the demand for a new system with more public involvement grew. Led by the 'protest generation', who strived for a new approach to replace the uniform planning of the time, the planning process slowly shifted from a top-down approach to a more bottom-up approach where public participation was institutionalised [59]. The right to oppose plans through written objections was introduced to channel the voice of the protesting public. In the following decades, public participation was more and more seen as an important instrument for decision-making, although still mostly in cases where the public opposed the decisions of the government [18]. Participation finally shifted during the 1990s from participation in terms of outspoken opposition to more interactive policy-making. This came in the form of a new *Provinciewet* (Provincial law) and *Gemeentewet* (Municipal law), determining that provincial governments and municipalities must have a public participation regulation in place. This regulation made it clear in what way the public could participate, although it was still a one-directional conversation where the public could comment on

the governmental institute. For participatory planning, the 1990s were a step back. The power was shifted back to the national government through the Tracéwet, which gave the government the power to overrule the existing zoning plans to initiate infrastructure projects of national importance. This was a reaction to the nimby-movement where citizens used their right to oppose plans to delay big projects that impacted their environment. The introduction of the Tracéwet highlights the idea that the democratic gain of public participation no longer outweighed the significant delays on big projects, as was believed during the decades before [18].

The 2000s were a decade of more decentralisation of government influence. The new spatial policy (*Nota Ruimte*) follows the notion 'decentralise where possible, centralise where necessary'. Only the ecological framework is managed on a national scale; all other plans are made on the provincial and municipal levels. This again shifted the top-down planning from the past to a bottom-up system where developments are increasingly being led by market forces rather than integral plans. This change from plan-based to project-based urban planning shows a new level of participation: citizen control. Municipalities still work with zoning plans, but with permits, these plans can be adapted based on the initiator's request. Municipalities still maintain the power to reject such permits based on sound reasoning, but the system does allow for a lot more flexibility than before [99].

In the last decade, we have seen a continuation of the trend of increased participation, but also a greater focus on 'good' participation. One of the biggest criticisms is that participation is mostly a bureaucratic hurdle that has to be checked, rather than a tool to improve the quality of the plans [83]. In 2011, the first plans for a new Environmental and Planning Act (*Omgevingswet*, EPA) were introduced. The idea was to bundle all existing legislation around planning and the physical environment into one clear piece of legislation. After more than a decade of consulting, approving and delaying, the EPA came into effect on January 1st, 2024.

1.4. Introduction of the EPA

Public participation is an important aspect of our democratic system, and with the introduction of the Environment and Planning Act (*Omgevingswet*, EPA) in January 2024, it became even more embedded in Dutch legislation. The EPA's primary goals are to simplify the legislation around environmental law, prioritise the physical environment, decentralise legislation to give municipalities room for adaptive and innovative policy, speed up decision-making times, and increase public participation in new plans and projects [53][56].

Public participation is embedded in the EPA in two ways. Firstly, all governmental bodies are required to formulate their own participation policy. This policy entails the ways in which they will facilitate public participation for the creation of national, provincial, and municipal environmental visions. This ensures that the public is involved in the coming together of the visions that dictate the future zoning of the Netherlands. By decentralising the responsibility of formulating the participation policies, provincial and municipal bodies have the authority to dictate their own tailor-made participation processes. Because this research focuses on municipalities, only the legislation relevant at the municipal level will be discussed from this point onward.

The second aspect of participation is that the EPA dictates in what cases non-governmental parties have to facilitate public participation. In some cases, these parties are only advised to facilitate public participation, and in other cases, public participation is required.

To increase flexibility, instead of detailed zoning plans, municipalities now work with physical environment plans. These environmental plans are made digitally accessible in the form of *Regels op de Kaart* (rules on the map). This online platform shows for each plot of land what function is dedicated and what constraints are present in the physical environment plan. This transparency makes it easier for the initiator to determine what is and what is not allowed in the physical environment plan. When an initiator wants to start a project, there are three possible options regarding the need for a permit:

1.4.1. Initiator does not require a permit

The initiator can check whether their project falls within the physical environment plan through *Regels op de Kaart*. If it does not conflict with the physical environment plan, they can check through the *Omgevingsloket* if they need a permit. The *Omgevingsloket* is a digital tool where people can find out,

through a series of checklists, if they require a permit for their building project. This is dependent on the function, layout, parameters, and environmental impact of the project [78]. If the *Omgevingsloket* indicates that no permit is required, the initiator can commence their project.

1.4.2. Initiator requires an OPA

In some cases, the request complies with the physical environment plan, but still requires a permit. These are specific cases, such as the construction or destruction of a building, wastewater projects, or projects regarding manure storage [122]. Also, if the municipality has rules for aesthetics, these rules will be enforced through the permit requirement. For these projects, the initiator is required to request an environmental permit for an OPA (*omgevingsvergunning voor een binnenplanse omgevingsplanactiviteit*).

1.4.3. Initiator requires a BOPA

If the project does not comply with the physical environment plan, the EPA has simplified the process of requesting a change. In this case, initiators can apply for a BOPA (*omgevingsvergunning voor een buitenplanse omgevingsplanactiviteit*). This is the permit that will be the focus of this research.

On an initiator's request, municipalities will decide whether or not to grant a permit for the BOPA application, based on a range of factors such as safety, energy, sustainability, heritage, social impact, no conflict with municipal, provincial or national plans, and a balanced allocation of functions to locations [52]. Most of these factors are also taken into account for the application of an OPA, as they dictate the impact a project has on the environment. The last factor, balanced allocation of functions to locations (*evenwichtige toedeling van functies aan locaties, ETFAL*), is the most important factor for a BOPA request. This responsibility is established in chapter 8 of the *Besluit Kwaliteit Leefomgeving* (Decree Quality Living Environment, BKL). It states [65]:

“Voor zover een aanvraag om een omgevingsvergunning betrekking heeft op een buitenplanse omgevingsplanactiviteit, wordt de omgevingsvergunning alleen verleend met het oog op een evenwichtige toedeling van functies aan locaties”

“Insofar as an application for an environmental permit relates to an environmental planning activity outside the plan, the environmental permit will only be granted with a view to a balanced allocation of functions to locations.”

The different factors that have to be taken into account for the balanced allocation of functions to locations are found in Chapter 5 of the BKL [66]. These factors range from safety and risk assessments and sound disturbance to air quality and water impact. All these measures ensure that the change to the physical environment plan does not significantly disturb the living environment and does not conflict with the broader vision of the municipal plans [133]. The municipality is responsible for ensuring the scarce space is distributed, organised, and utilised in the best possible way [50].

It is important to note that the OPA and BOPA only take into account the impact on the physical environment plan and the physical environment. Another permit is in place to ensure that initiators meet the technical specifications for the project. All projects have to comply with the *Besluit bouwwerken leefomgeving* (Decree on buildings in the living environment, Bbl). The Bbl consists of all technical rules regarding safety, health, sustainability and usability that buildings must comply with [51]. The permit needed to check if the design of a project meets the technical requirements is called the environmental permit for a construction activity.

Next to the environmental and technical specifications for building projects, the EPA gives municipalities the responsibility to decide for which projects participation is mandatory and for which projects it is only advised. Initiator-led participation is a new addition through the EPA and is embedded in the BOPA policy. As a new step during the application, initiators are asked whether they have facilitated participation by selecting 'yes' or 'no'. If they select 'no', the application will be reviewed by the department of VTH (*Vergunningen, Toezicht en Handhaving*, Permits, Supervision and Enforcement) based on ETFAL. If the initiator has selected 'yes', VTH first checks whether the application is complete. This means they ensure that initiators who selected yes have also provided details on how participation was involved and the outcome of the participation process. They do not evaluate the content of the

participation apart from the completeness of the submitted documents. If the application is incomplete, the initiator must return to the initial question about whether they facilitated participation, 'yes' or 'no'. They can either fill in 'no' or complete the application by submitting a complete facilitation report. If the application is complete, VTH checks the participation documents to see if the information provides enough information to determine the public opinion about the project. If VTH cannot determine the public opinion, they can ask the initiator to facilitate more participation, but they are not required to comply. Another option is for the municipality to gather more information itself by contacting stakeholders directly or facilitating additional participation. Another option is to make the project available for online feedback. The project details will then be made public, with the possibility for the public to submit comments [89]. Municipalities may also extend the municipal decision time from eight weeks to fourteen weeks if they need more time to make their decision. If the initiator has submitted sufficient information to determine the public opinion, this is not necessary, and the municipality will make their decision based on ETFAL and the public opinion [57]. Figure 1.2 shows a schematic overview of how participation is incorporated in the BOPA application process.

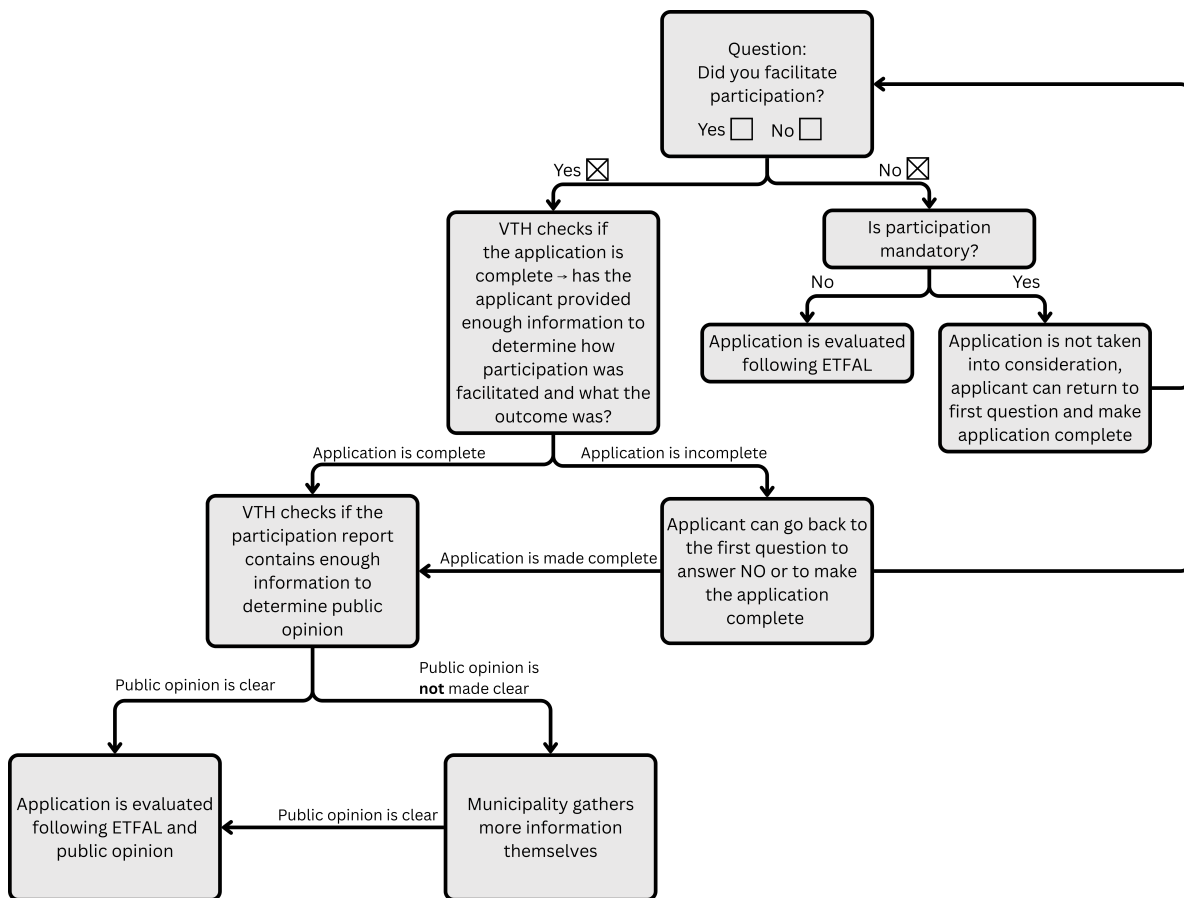


Figure 1.2: Schematic overview of application process for BOPA participation

The EPA has explicitly made the initiator responsible for facilitating participation, without the municipality being able to set requirements for how this should be done. Only if the initiator has selected 'yes' regarding having facilitated participation does it become an application requirement. If the initiator is then unable to indicate how participants were involved and what the outcome of the participation was, the application is incomplete and will, therefore, not be taken into further consideration. In this case, the application can only be taken into consideration if the initiator makes the application complete or selects that they have not facilitated participation. Participation is never grounds for refusal, meaning the municipality cannot deny a permit because it deems the participation insufficiently facilitated, as long as the application was complete.

Based on this process, the EPA does not make it mandatory for initiators to facilitate participation. By asking initiators whether they have facilitated participation, they are advised to do so, but they can still

select no. For the cases where the municipality does not want to make a decision before they know what the public opinion is, the EPA gives the opportunity to make participation mandatory. Municipalities are able to specify projects for which participation is mandatory. In these cases, facilitating participation becomes a compulsory application requirement. This means that if initiators select 'no' regarding having facilitated participation, their application will not be taken into consideration. Again, they still have the opportunity to go back and select 'yes' and submit their participation report. As with the other BOPA applications, VTH checks whether the application is complete. If the initiator fails to specify how participants were involved and what the outcome of the participation was, the application is not taken into further consideration until the application is made complete. The participation outcome is still never grounds for denial. If the participation does not provide enough information to determine the public opinion, the municipality can again decide to gather more information itself. The only difference for projects with mandatory participation is that applications where 'no' is selected regarding participation being facilitated are not taken into consideration, because the application is simply incomplete.

This aspect of the EPA is decentralised, meaning that municipalities can decide for themselves which projects they want to mandate participation. Through a municipal resolution, specific types of projects can be chosen for which participation is mandatory. If a municipality has not published a resolution regarding projects with mandatory participation, it means that no projects have mandatory participation.

A common misconception is that the initiator is responsible for the participation outcome. The EPA writes that the participation process is form-free, so the initiator is responsible for the participation process, and the municipality cannot set any requirements for the participation. The municipality only checks whether the application is complete and whether all relevant information has been submitted. Only once the application is complete, the municipality looks at the outcome of the participation to evaluate if the public opinion is made clear. If the submitted information does not provide the municipality with a clear view of public opinion, it is the municipality's responsibility to gather more information, not the initiator's.

Municipal guidelines

The municipality is neither allowed to set requirements for the participation, nor able to deny a permit based on insufficient participation, as the EPA has made the initiator responsible for the form of the participation. Still, the EPA writes that "*the participation has to have been of any substance*" for the application requirement to be fulfilled. The EPA defines participation as:

"het voorafgaand aan besluitvorming actief betrekken van burgers, bedrijven en maatschappelijke organisaties"

"actively involving citizens, businesses and civil society organisations prior to decision-making"

The level of participation has to be proportionate to the size of the project. For projects with a large impact on the environment, a higher level of participation can be demanded. If the initiator has submitted a participation report but the municipality deems that, based on the report, no substantial participation has been facilitated, this may be grounds for not taking the application into further consideration, as it is incomplete.

Most municipalities have published participation guides that help initiators set up their participation process. These guides indicate who should be involved and how they could participate. Still, these guidelines have no legal substance and initiators are not forced to follow them. Municipalities have also written up internal policy guidelines for VTH to help evaluate the outcome of the participation, but they are only for internal use, and initiators cannot be held accountable based on them.

Legal precedent

In the two years that the EPA has been in place, there have been a number of court rulings about participation in BOPA applications. These help set the legal precedent about when participation is sufficient to fulfil the application requirements. The most important factor for the decision is whether participation was mandatory for the project. In the cases where participation was not mandatory, the court always ruled in favour of the initiator, stating that participation was voluntary [13]. In cases where participation was mandatory, the court had to decide whether the participation was sufficiently facilitated. Only once has the court ruled that the participation was insufficiently facilitated. In this case, the initiator had only notified the neighbours with a letter. As participation has to include two-way communication

between the initiator and the participants, this could not be regarded as participation. Still, the permit was not thrown out. Rather, the participant who objected to the permit was invited to converse with the initiator during the court session to conclude the participation process [85]. In all other cases, the court has ruled that the participation had sufficient substance to be considered participation, thereby meeting the application requirements. Still, the bar for participation is minimal. In 2024, an initiator had only sent a letter to the surrounding businesses to get in contact if they had any questions. The court ruled that *"it would have been better to take a more proactive approach to gathering information and opinions"*, but it was still sufficient to be regarded as participation [84]. Only once has the granting of a permit been undone by a court ruling. In a case in *Amsterdam*, where the municipality mandates participation for all BOPA applications, the municipality granted a permit even though no participation had been facilitated. Their reasoning was that the participation would have weighed neutral in their decision-making, so therefore, it would not have been necessary for the initiator to facilitate any participation. The court ruled that when the municipality chooses to make participation mandatory, it should also enforce this. In this case, the initiator received the opportunity to complete the permit application by still facilitating participation [132]. All in all, the court rulings have shown that the requirements for participation are minimal, but that in cases of mandatory participation, these requirements should always be met.

Binding council advise

The municipal council has two ways of influencing the participation policy for BOPA applications. Firstly, they determine the list of projects that have mandatory participation. Secondly, they can appoint certain types of projects for which the municipal council has to deliver a 'binding advice'. In these cases, the mayor's office, which is normally responsible for BOPA permits, has to request advice from the municipal council. By vote, the municipal council will then determine whether to grant or deny the permit request. This advice is binding, so, in practice, this decision is final. The council can also advise the mayor's office to add specific requirements to the permit request [49]. It is important to note that the decision still has to be based on the evaluation criteria that are in place, so the reasoning of the council still has to be based on ETFAL. The binding advice is used as a way for the council to oversee decisions on projects that they deem of high impact.

Some municipalities choose to combine the list of projects that have a binding council advice and the projects that have mandatory participation, as they both regard projects with a higher societal impact. Other municipalities choose a list that only partly coincides with the mandatory participation list.

Extensive BOPA procedure

For the regular BOPA procedure, the municipality has an eight-week window to decide on the permit, which can once be extended by six weeks. Once the municipality has made their decision, the initiator has the chance to object to the decision. This objection has to be addressed by the municipality, after which the initiator still has the opportunity to appeal to court and higher court [54].

There are three ways in which the extensive BOPA procedure can be declared. Both the initiator and the municipality can decide to declare the extensive procedure, and some types of project are designated by article 10.24 of the *Omgevingsbesluit* to follow the extensive procedure [77]. These could be projects concerning national monuments, Natura-2000 areas or projects with dangerous materials. If the extensive procedure is declared, the decision time is set to 26 weeks, with the opportunity to extend by six weeks. In the extensive procedure, a *zienswijze* procedure is incorporated. This is similar to when the municipality wants to gather more insight about the public opinion by making the project details available for the public to comment on, but with a *zienswijze* procedure, the municipality is required to publish a written response to the comments that they received. After the six weeks, once all feedback has been addressed, the municipality makes their decision [123]. In the case of the extensive procedure, there is no possibility to object to the municipal decision, only to appeal in court and higher court [55]. In a way, public participation is already embedded into the extensive procedure, but the initiator still has the opportunity to facilitate participation before submitting their design draft. BOPAs that are handled with the extensive procedure still have the same regulations regarding (mandatory) participation: it is only an application requirement if the initiator states that they have facilitated participation.

BOPA in numbers

Since the EPA came into power on January 1st, 2024, the number of BOPA applications has risen steadily. In the entirety of 2024, around 3000 BOPA applications have been handled, but more recent

observations have seen this number increase to around 600-700 BOPA applications per month for the first half of 2025 [118][119]. It is unclear how many of these permit applications have been approved and how many have been denied. 74% of the municipalities have specified a list of project categories to determine when participation is mandatory for BOPA applications, but only 14% have prepared assessment criteria for the participation.

Sufficient, successful and complete participation

Throughout this research, different terms are used to describe the standard for participation, each having a slightly different meaning. *Complete* refers to the application requirements. During the first check, VTH checks the *completeness* of the participation report. An application is complete if the participation report describes how the participants were involved and what the outcome of the participation was. *Completeness* does not take the content or the outcome of the participation into account. For a participation report to be *complete*, the participation also needs to be *sufficient*. The *sufficiency* is a subjective standard for which VTH has to determine if the participation was *sufficiently* facilitated to be considered participation, taking the size and context of the project into account. For the *sufficiency* of a participation project, only the process is taken into account and not the outcome. *Successful* participation is another subjective standard, this time focusing on the outcome of the participation. As explained in section 1.2, when participation is considered successful, differs for different parties within the participation process.

1.5. Research question

As explained in subsection 1.4.3, the decentralised setup of the EPA gives municipalities the freedom and responsibility to determine their own process for choosing which projects must facilitate public participation and when this participation is sufficient. As a result, the process for public participation in applying for a BOPA differs significantly from one municipality to another. In theory, such a decentralised system may lead to a higher level of innovation as municipalities are 'forced' to come up with solutions for policy challenges. This gives municipalities the freedom to tailor-make policy that fits their situation [58]. On the other hand, Sugiyama's [98] research shows that in some cases municipalities do not innovate, but rather emulate successful programs from other municipalities. On the contrary, the decentralised approach can also lead to problems for the users; if different municipalities all adopt different policies, it might only complicate the process. This aspect of decentralised legislation and the effect it has on Dutch municipalities will be the topic of this research. The context that will be studied is the initiator-led participation within the request for plans that fall outside of the physical environment plan (BOPA). This research will look at participation from a governmental and policy viewpoint. It will focus on the way policy is implemented and the effects this implementation has. The point of view of the citizens and the initiators will only indirectly, through the eyes of the municipality, be taken into account.

This research aims to give insight into this topic through the following research question and sub-questions:

“What participation policies have municipalities implemented for BOPA applications under the Environment and Planning Act, how is the facilitated participation evaluated and incorporated in the municipal decision-making, and when was the participation successful?”

The main research question focuses on the municipal policy around initiator-led participation for BOPA applications. It aims to give insight into the way municipal policy is formulated for different municipalities, following the freedom provided by the Environment and Planning Act (EPA), and what effect this has on the participation that is being facilitated. Initiator-led participation refers to all participation efforts facilitated by non-governmental agents, such as individual civilians and private corporations. For this research, 'participation' will always refer to initiator-led participation, as the participation for BOPA applications is always organised by the project initiator.

Participation for BOPA applications is a combined effort between many different parties, but the municipality is always the starting and end point. They are responsible for setting up the policy, enforcing the policy, and making the final decision. As a governmental body, they should also try to represent the societal interest, but, as different parties have different interests, this is not always straightforward. For this reason, the perspective of the municipality will be the main focus of this research. Perspectives of other parties, like the initiators and the participants, will also be taken into account, but always in relation to the municipal perspective.

To answer the main research question, the following sub-questions are formulated:

SQ 1 - What policy have municipalities adopted around mandatory participation within BOPA applications?

This sub-question will investigate what policy municipalities have chosen to implement regarding mandatory participation for BOPA applications. This will give insight into the extent to which the municipal policies differ. By analysing a representative sample of municipalities, an overview can be given of the different ways that municipalities have shaped their policies throughout the Netherlands. This will show what effect the decentralised nature of the EPA has on municipal policy. Next, possible factors that correlate with a certain type of policy will be researched. This will highlight the aspects that might have influenced the way municipalities have shaped their policies.

SQ 2 - What considerations have shaped municipal policy around mandatory participation within BOPA applications, and how satisfied are the municipalities with their current policy?

This sub-question will analyse the considerations that have shaped the municipalities' policy around mandatory participation for BOPA applications. This will deepen the understanding of the reason behind the implementation of certain policies. Additionally, this sub-question will research how satisfied the

different municipalities are with the policy that they have implemented. This will give insight into the way municipalities have perceived the first two years of implementation. Are they satisfied with the way their policy functions in practice, or are they still looking for the ideal solution? Did the freedom, as provided in the EPA, lead to innovative and tailor-made solutions, or did it lead to a long process of trial and error before municipalities finally found a policy that fitted their situation?

SQ 3 - What makes participation reports be considered sufficient, and to what extent does the organised participation influence municipal BOPA decisions?

This sub-question dives into the way municipalities evaluate the completeness of the participation in a BOPA application. The EPA has made participation a application requirement, but not a ground for refusal, still municipalities have to determine if the participation that has been submitted is sufficient to comply to this application requirement. The report has to show that a minimal level of participation was facilitated, proportionate to the size and impact of the project. How do municipalities determine if the participation process was executed sufficiently, how do they manage the results of initiators that have not followed the municipal guidelines around participation, and how important is the participation for the overall decision-making?

SQ 4 - What do municipalities regard as successful participation?

This sub-question will look into examples of participation that municipalities have deemed successful. The first three sub-questions have analysed how different municipalities have shaped their policy around participation. These policies are all formed with a goal in mind. SQ 4 will look at participation examples that were successful in the eyes of their respective municipality. These examples will have fulfilled the goal that the municipality had in mind for participation. The different cases will be compared to show what different municipalities value from participation and to highlight *best practices* that have had success in the past. Additionally, different roles in the participation process will have different success factors. What might be considered successful by the municipality might not be considered successful by the initiator or the participants. What can we learn from municipal success factors, and how do these relate to the other parties' success factors?

1.5.1. Analytical Framework

The outcome of all four sub-questions will together answer the main research question. SQ 1 and SQ 2 will dive into the way that the different municipalities have set up their policy around mandatory participation and how they look back on it. This will show how much the policies differ from each other and what considerations have shaped these policies. SQ 3 will focus on the other aspect of the participation policy: how the municipalities evaluate the completeness of the participation, and how participation influences the municipality's decision. Lastly, SQ 4 will analyse different cases that were successful in the past, according to the municipalities. These examples will give insight into the municipal success factors and will highlight *best practices* that can be used as examples for other municipalities and initiators.

Together, these four sub-questions will give an answer to the main research question: *“What participation policies have municipalities implemented for BOPA applications under the Environment and Planning Act, how is the facilitated participation evaluated and incorporated in the municipal decision-making, and when was the participation successful?”*, as shown in Figure 1.3.

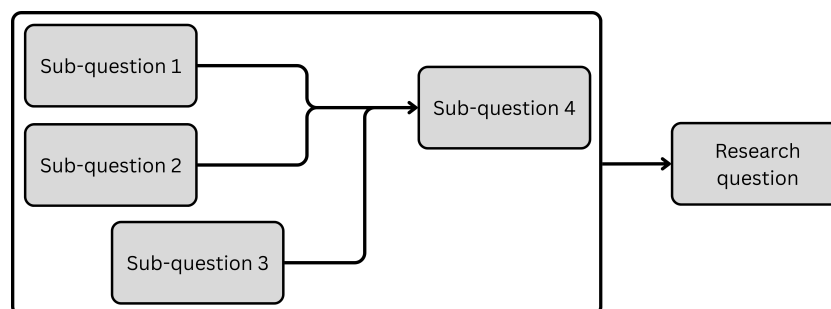


Figure 1.3: Schematic overview of sub-questions and research question

1.6. Research Objective

The goal of this research is twofold. The results of this research will gather insightful information about the way the EPA functions in practice. It will give insight into the way in which public participation policy has been formulated and the way it is implemented. It will become clear to what extent the anticipated goal of the EPA, improved public participation for projects in the built environment, has been successfully achieved and what this successful participation looks like in practice. This will provide valuable insights for lawmakers who want to improve participation legislation in the future.

Secondly, this research aims to contribute to the research on the way municipalities deal with decentralised policy-making. How have they filled in their policy, and how much do the different policies differ? At the time of writing, the EPA has been in place for approximately two years, which provides an interesting opportunity to look at the early stages of policy adaptation. Municipalities might still be figuring out what policy works best for their own situation. The recency of the EPA coming into effect also highlights the research opportunity, as at this time, little research into the topic has been conducted. Additionally, researching how municipalities in the Netherlands handle decentralised policies and learning what guidance they might need could be important information for the Dutch national government.

2

Methods

The main research question, *“What participation policies have municipalities implemented for BOPA applications under the Environment and Planning Act, how is the facilitated participation evaluated and incorporated in the municipal decision-making, and when was the participation successful?”* will be answered by combining the results of the four sub-questions. During this research, the policies of different municipalities will be analysed and compared to determine how they differ from each other, how they came to be, and what effect they have on the organised participation. The research commences in SQ 1 with a broad research into the policy of 50 different municipalities, after which four of them will be chosen to be analysed further in SQ 2-4. This Chapter will elaborate on the way each sub-question will be answered.

2.1. Sub-questions

SQ 1 - What policy have municipalities adopted around mandatory participation within BOPA applications?

Sub-question 1 will focus on the way different municipalities have set up their policy around mandatory participation for BOPA applications. As explained in subsection 1.4.3, one of the aspects of policy that municipalities are responsible for defining themselves is the guidelines that determine whether a project has a mandatory participation process. In practice, this means that most municipalities have defined criteria that determine for which projects public participation is mandatory. This sub-question will identify for a representative group of 50 municipalities what guidelines they have set. Based on the result, the different types of policy can be clustered to determine in what ways municipalities have given shape to this policy. Using statistical analysis, a correlation will be sought to identify possible municipal characteristics that influence the way policy is shaped.

Selection criteria

The municipalities will be chosen in a way that is representative of all municipalities in the Netherlands. Using a stratified sample of all municipalities, based on the province in which they are located and their number of inhabitants, a representative sample will be chosen. Because of their unique context and size, the four biggest cities (Amsterdam, Rotterdam, Utrecht and The Hague) will be included deliberately.

The stratified sample was chosen using the following steps. An overview of the used data can be found in Appendix B. First, the number of municipalities per province was used to determine what the division of municipalities per province should be for the sample (Table B.1). Then, per province, the municipalities were sorted by size to determine how many municipalities should be included in each size category (Table B.2 & Table B.3). This division was then used to determine how many of the 50 municipalities should belong to each size category per province (Table B.4). This number was then 'corrected' using largest remainder rounding and the inclusion of the biggest four cities (Table B.5). This division was used to randomly select the remaining 46 municipalities, resulting in the lists that can be found in Table C.1 of Appendix C.

SQ 2 - What considerations have shaped municipal policy around mandatory participation within BOPA applications, and how satisfied are the municipalities with their current policy?

Sub-question 2 aims to find out the thought process behind the decisions that municipalities made when determining their policy around mandatory participation for BOPA applications. Additionally, it investigates how the municipalities look back on the first two years of implementation and how satisfied they are with their policy. To answer this sub-question, semi-structured interviews will be set up with

representatives from different municipalities. The interviews will focus on four main aspects: how their policy came to be, the expectations they had for the policy, their level of satisfaction with the current policy, and potential adjustments they would implement.

Selection criteria

Interviewing representatives of 50 different municipalities is not feasible for this research. Therefore, a selection of municipalities will be made, based on the results of SQ 1. From the municipalities that were analysed for SQ 1, four municipalities will be chosen to research further. These municipalities will differ in size and location, and will all have different criteria for mandatory participation. This will lead to a diverse group of municipalities to be analysed.

From the chosen municipalities, a representative civil servant will be interviewed. It is important that this person is knowledgeable about both the writing of the BOPA policy and the day-to-day implementation of the policy. This person should be able to give insight into the way municipal policy was set up to implement the legislation of the EPA, and how this affects the participation in practice. These interviews will give insight into how the policy came to be and what considerations are taken to evaluate BOPA applications.

SQ 3 - What makes participation reports be considered sufficient, and to what extent does the organised participation influence municipal BOPA decisions?

Sub-question 3 will focus on the second aspect of the BOPA policy that municipalities implement themselves: how is the participation report evaluated? The EPA states that the degree of participation should be proportionate to the size of the impact of the project. As explained in subsection 1.4.3, municipalities cannot set requirements or specific criteria that the participation should meet in order to be considered sufficient, but the participation report has to show that the participation was of any substance for the application requirement to be met. This question will analyse how municipalities determine whether the participation was sufficient for the application to be considered complete. Secondly, this sub-question will look into the extent to which the participation influences the municipal decision-making.

To answer this sub-question, several aspects of the evaluation process will be analysed. Firstly, the guidelines that the municipalities have set to evaluate the participation reports for BOPA applications will be mapped. Secondly, it will be explored how municipalities use the outcome of the participation for their decisions. The answers to this sub-question will also be found in the interviews that are conducted for SQ 2. Next to the topics relevant to that sub-question, the interview participants will be asked about the evaluation process. This will give insight into the way different municipalities handle participation reports and how they deal with initiators who have not followed the municipality's advised guidelines regarding participation. Together with SQ 1 and 2, this will give a complete overview of the way municipalities have formed their policies around participation within BOPA applications.

SQ 4 - What do municipalities regard as successful participation?

Sub-question 4 aims to find out what different municipalities value from participation. From each of the municipalities, a participation example that they have deemed successful will be analysed. Different municipalities might have different success factors for participation. By analysing *successful* examples from different municipalities, it might be possible to determine what aspects the municipalities value when evaluating the participation.

As explained in section 1.2, it is difficult to determine when a participation process was objectively successful. The success factors of a participation process differ for the different parties that are involved in the participation. If the outcome of a participation process is a list of new ideas for the project, the participants might consider the participation successful, as they were able to influence the project to their liking. For the project owner, this outcome might be unsuccessful. Their goal for the participation might have been to create public acceptance, rather than for the public to influence the project. This makes it difficult to determine the objective success of the outcome of a participation process.

This sub-question will focus on which success factors municipalities value from participation and which aspects are less important. Additionally, the participation examples will be viewed from the perspective of the other parties, such as the initiator and the participants. This will show how the participation that the municipality deemed successful is perceived by the other parties.

Selection criteria

To determine what cases will be analysed, the different municipal representatives will be asked during the interview for an example of *successful* participation in their eyes and their reasoning for this.

Analysis

As explained, defining *successful* participation is prone to being subjective. Therefore, the participation cases that the municipal representatives have deemed successful might not have been successful in all aspects. To see in what aspects the cases scored well, a framework will be set up that scores the cases based on a range of criteria. This will show what aspects municipalities value most when determining the success of a participation process. The criteria are based on participation literature and will give a complete view of the entire participation process.

Comparison criteria

In their article, Rowe and Frewer [91] have analysed thirty articles that evaluate public participation. The articles evaluated participation by focusing on its outcomes, its process, or both aspects combined. In their analysis, they have identified different evaluation criteria that the authors have used to evaluate the success of the participation. Most of the criteria were used to determine one of three measures: validity, reliability, and usability.

Validity measures the extent to which the participation process was able to reach the objective goal. This refers to criteria such as the representativeness of the participants and their level of satisfaction with the participation. It can also be determined by the level of involvement the participants have in the process.

Reliability measures the ability of a participation process to yield consistent results. Both external reliability (consistency to produce similar results when tested at different moments in time) and internal reliability (consistency of results within a single process) are important to consider. 'Good' reliability does not indicate a successful participation process necessarily, but 'bad' reliability often indicates an unsuccessful participation process. In this context of public participation processes, reliability can be measured by identifying how well the participation process is adapted to the specific context and the goals of the participation.

Usability measures the extent to which the outcome of a participation process is feasible and implementable. This refers to the criteria that measure the impact of the participants and the way their input is implemented.

To evaluate the cases, they will be scored based on different criteria that each represent an aspect of either validity, reliability, or usability, as shown in Table 2.1. This table will highlight the strengths and weaknesses of each of the cases.

Table 2.1: Example table sub-question 4

Participation Criteria	Case 1	Case 2	Case 3	Case 4
Project size	3	4	5	4
Mandatory participation	Yes	No	Yes	Yes
Stakeholder selection (validity)	2	1	4	3
Early involvement (validity)	2	3	1	4
Continuous involvement (validity)	3	1	2	4
Participant impact (usability)	1	3	4	2
Context sensitivity (reliability)	2	3	4	1

Scoring the cases objectively and separately from each other is difficult, as the data is mostly qualitative. Therefore, for each of the criteria, the cases will be ranked using an ordinal ranking approach. Through this analysis, the benefits and drawbacks of the different cases will be identified.

The chosen criteria are based on Rowe and Frewer [91], and represent the different aspects of validity, reliability, and usability. Together, the chosen criteria give a complete overview of the different aspects of

the participation. The following section will describe the different criteria that the cases will be compared by and how the cases will be scored:

Project size

An important factor to consider before scoring the participation processes is the project size. The level of participation should always be proportionate to the size and impact of the project. For a larger project, a higher level of participation can be expected. Determining the size of the project puts the scores of the other criteria into perspective, but the *project size* score is not directly linked to the expected level of the other criteria. A level 4 project is not only successful if it scores a 4 in the other criteria. Project size will be scored using Table 2.2.

Table 2.2: Scoring criteria *project size*

Score	Description
1	Very small impact, small changes to building or area.
2	Small impact, 1-2 houses/ projects up to 1000 m^2
3	Medium impact, projects up to 2000 m^2
4	Large impact, big construction projects up to 10,000 m^2
5	Very large impact, large high-rise projects and projects over 10,000 m^2

Mandatory participation

Mandatory participation is a dichotomous criterion that determines whether participation was made mandatory by the municipality or not for the selected case. This highlights the intent of the initiator. If the participation was not mandatory, it highlights an internal motivation to consult or inform the public about the project. Mandatory participation will be scored using Table 2.3.

Table 2.3: Scoring criteria *mandatory planning*

Score	Description
Yes	Participation was mandatory
No	Participation was not mandatory

Stakeholder selection (validity)

Stakeholder selection refers to the group of participants who took part (or were at least contacted) in the participation process. Cases are ranked based on the size, inclusiveness, and representativeness of their participants. Stakeholder selection will be scored using Table 2.4.

Table 2.4: Scoring criteria *stakeholder selection*

Score	Description
1	biased and small selection of participants
2	Random and small selection of participants
3	Medium-sized selection of participants, not all relevant parties are involved
4	Medium-sized selection of participants, all relevant parties are involved
5	Highly representative and large selection of participants

Early involvement (validity)

Early involvement refers to the timing of the participation. When participants are involved early on in the project, they can have a much bigger impact. Early participation can lead to innovative ideas, whereas later involvement mainly has the goal of creating public acceptance for a project. The cases will be ranked based on the timing of when they involved participants. For the highest level of involvement,

the participants should be included in determining the fundamental elements of the project, such as the building program and project size. Early involvement is scored using Table 2.5.

Table 2.5: Scoring criteria *early involvement*

Score	Description
1	Participants are first involved when plans are (almost) final
2	Participants are first involved during the design evaluation phase
3	Participants are first involved during the design phase
4	Participants are first involved during the solution-finding phase
5	Participants are consulted at the very start of the project (idea-finding phase)

Continuous involvement (validity)

Continuous involvement refers to the duration of the participation process. When participants are involved on several occasions over a longer period of time, their involvement in the project is greater. The reason for this is a better understanding of the project and more insight into the decisions that are being made, in theory, leading to a higher level of influence. The four phases of a project that participants can be involved in are idea-finding, solution-finding, design, and design evaluation. At the start of the idea-finding phase, only the project's location is determined. During this phase, the fundamental elements of the project will be determined, including the building program and project size. During the solution-finding phase, all ideas are collected to explore different possibilities, wants, needs, and no-gos. Then, during the design phase, these ideas are transformed into different possible designs. During this phase, there are still many different outcomes possible and ample possibilities to change the design. Lastly, during the design evaluation phase, the chosen design is evaluated, and only smaller changes are still possible. The cases will be ranked based on the number of participation moments during different phases of the project. Continuous involvement is scored using Table 2.6.

Table 2.6: Scoring criteria *continuous involvement*

Score	Description
1	Participants are only involved once
2	Participants are involved twice
3	Participants are involved during three project phases, but participant group differs each time OR the same participants are involved in two project phases
4	Participants are involved in all project phases, but participant group differs each time OR the same participants are involved in three project phases
5	The same participants are involved in all project phases

Participant impact (usability)

Participant impact refers to the extent to which the participation process yielded feasible and implementable outcomes and the extent to which the initiator implemented the outcome. The cases will be ranked based on the different steps of Arnstein's ladder of participation and the concrete impact that the participants have on the project. Participant impact will be scored using Table 2.7.

Table 2.7: Scoring criteria *participant impact*

Score	Description
1	Participants are informed only or participants are consulted without clear impact
2	Participants are consulted, but impact is minor.
3	Participant's input is considered and has significant impact
4	Participant's input has majorly impacted the project
5	Participants are co-owners of the project decisions

Context sensitivity (reliability)

Context sensitivity refers to the extent to which the initiator tailors the participation process to the specific project and the participants involved. This criterion is the most difficult to quantify, as it is highly dependent on contextual factors and on how the initiator manages the process. Nonetheless, it remains an important factor to consider, as it reflects the initiator's willingness to make meaningful use of participation and to adapt the process accordingly. Context sensitivity is scored using Table 2.8.

Table 2.8: Scoring criteria *context sensitivity*

Score	Description
1	Organiser does not take context into account
2	Organiser is aware of the participant's and the context's limitations
3	Participation process complies with participants' wants and needs
4	Participation process is adapted to participants and the context
5	Participation process is tailored specifically to the context and the participants

2.1.1. Interviews

As explained in section 2.1, interviews will be conducted to (partly) answer SQ 2-4. To ensure efficiency, each participant will only take part in a single interview. The outcomes of which will be used to answer the different sub-questions. The interviews will be semi-structured to make the results comparable, but to give the opportunity to dive into specific topics if this opportunity presents itself. All participants will receive the questions beforehand. An overview of the interview questions can be found in Appendix A.

3

Results

This Chapter will describe the results that are obtained during the research. First, the criteria for mandatory participation in BOPA applications that are set by municipalities will be reviewed. Secondly, the reasoning behind these policies and how satisfied the municipalities are with them will be analysed. Thirdly, the policy for evaluating participation reports for BOPA applications and its effect on decisions will be described. Lastly, successful cases of public participation for BOPA applications will be reviewed.

3.1. Results sub-question 1

What policy have municipalities adopted around mandatory participation within BOPA applications?

To answer sub-question 1, the policy regarding mandatory participation within BOPA applications is analysed for a sample of 50 municipalities. An overview of the policies of each of the municipalities can be found in Appendix D. Based on this data, the different municipalities and the way they have implemented the policy can be compared, and possible relations can be identified.

To help the municipalities set up their policy around BOPA applications, the VNG (*Vereniging van Nederlandse Gemeenten*, Association of Dutch Municipalities), has published a document explaining what the new BOPA permits entail and what responsibility and freedom municipalities have in the way they shape their policy around BOPA applications [121]. In this document, the VNG gives an example of how municipalities can set up their criteria regarding mandatory participation in the BOPA applications (Figure 3.1).

Mandatory Participation: Example Activities

Examples of environmental plan activities for which the municipal council may require mandatory participation:

- Activities inconsistent with the **environmental vision** (*omgevingsvisie*).
- Activities inconsistent with the **program principles** (Art. 3.4 EPA).
- Construction of **more than one dwelling**.
- Construction of a non-residential **main building** > [x] m².
- An **annex or extension** outside the built-up area > [x] m high.
- **Infrastructural/public buildings** in public areas > [x] m high or > [x] m².
- **Non-building structures** > [x] m high or > [x] m².
- **Antenna installations** deviating from local policy.
- Use of land/buildings for > **10 years** outside the built-up area.
- **Large-scale renewable energy** (wind turbines, solar farms).

Note: All values and examples are illustrative and vary by municipality/region. The values [in square brackets] should be adapted based on the local situation.

Figure 3.1: Examples of activities requiring mandatory public participation by the VNG [121]

3.1.1. Policy comparison

From all analysed municipalities, the largest group (n=32) has followed the VNG example and has specified a list of categories for projects that have mandatory participation. As shown in Table 3.1, the second biggest group (n=11) of municipalities has chosen to mandate participation for all BOPA applications. A third group (n=3) of municipalities has chosen to demand mandatory participation for

all BOPA applications, except for a list of categories that are excluded. In practice, this policy functions the same as the first, where the municipality has specified in what cases participation is mandatory. It is also not the case that formulating the list in an excluding manner instead of an including manner leads to stricter or less strict regulations. The guidelines for the three municipalities with an excluding formulation range from *construction of all main buildings and all side buildings higher than 5 meters have mandatory participation* in *Hattem* [44] and *Gouda* [41] to *extension or construction of more than 10 dwellings or construction of structures higher than 10 meters have mandatory participation* in *Meerssen* [69]. For the remainder of this research, these municipalities will be regarded as part of the first category. The municipality of *Hengelo* advises initiators to consult public participation but has chosen to never make this mandatory [31]. Together with the municipality of *Lelystad*, this is the only municipality that has chosen not to make participation mandatory for any BOPA application. Another municipality, *Nieuwegein*, has not defined the list of categories more than *projects that have a big societal, economical, or political impact* [73][74], but the municipality has stated in the *participatienota* that they wish to specify the projects where participation is mandatory [75]. For now, they belong to the first category. For one municipality, no official policy can be found about mandatory participation for BOPA applications. Court rulings have stated that when no clear overview is given of when the municipality expects mandatory participation, a permit can never be denied because of a lack of participation [87]. In practice, this means that participation is never mandatory unless stated otherwise by an official municipal decision. Only one municipality has not published anything about mandatory participation, but it is unclear whether the municipality of *Utrecht* has chosen to never mandate participation or just has not yet published an official decision; until stated otherwise, they belong to category 3.

Table 3.1: Overview municipal policies

Type of policy	Number of municipalities
Specified list of categories for mandatory participation	32
Always mandatory participation	11
Always mandatory participation, unless...	3
Never mandatory participation	2
All projects with a big impact	1
Criteria not available online	1

To determine if there is a correlation between municipality size and the policy they have chosen to implement, both aspects are plotted against each other in Figure 3.2. As shown in the figure, municipalities of all sizes are represented within each category. This indicates that there is no correlation between the municipality size and the way they have chosen to implement this policy.

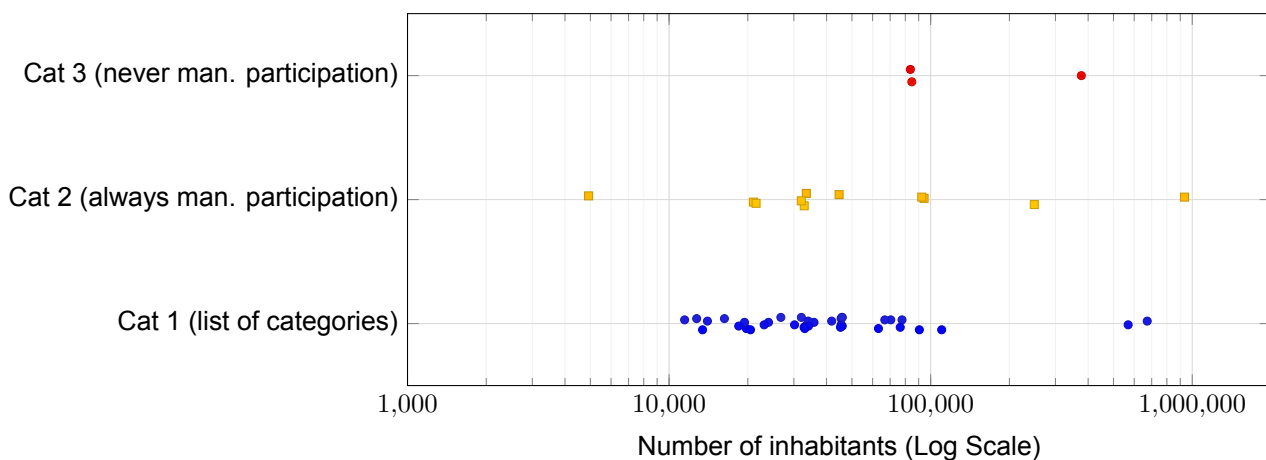


Figure 3.2: Number of inhabitants per policy category

Next, the different municipalities in each of the categories and their policies will be analysed.

Category 1: Municipalities that have specified a list of categories for mandatory participation
Most of the analysed municipalities (n=36) fall into this category. This corresponds well with the figure from the official VNG monitoring. To get a view of the working of the EPA on a municipal level, the VNG publishes quarterly monitoring reports. Based on the latest publication, 79% of all municipalities have specified a list of categories for projects that have mandatory participation [125]. This is only slightly more than the 72% that this sample has generated.

Within this category, there are still large differences between the policies. Most of the municipalities have chosen to follow the VNG example template, as shown in Figure 3.1, and filled in the values based on their preferences, but some of them have adapted the category list to fit their situation and values. What stands out is that the values that are filled in differ greatly. To measure the relative 'strictness' of the municipalities' policies, a category that almost all municipalities have included can be used. Figure 3.3 shows the values that municipalities have chosen for the minimum number of houses to be constructed (inside the built-up area) for a project to have mandatory participation. This value is a useful criterion to determine the municipal threshold for mandatory participation. Municipalities with a low value have a higher level of 'strictness' regarding mandatory participation, whereas municipalities with a high value have a less strict policy. The Figure shows how much the municipalities have extremely varying levels of 'strictness' for projects to have mandatory participation.

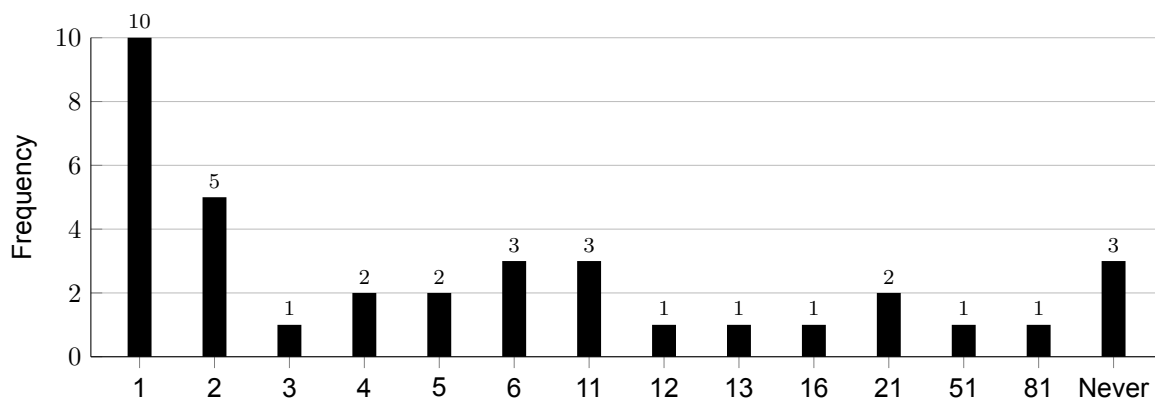


Figure 3.3: Minimum number of houses constructed (inside built-up area) for mandatory participation

Important to note is that this number relates to the buildings inside the built-up area. Most, but not all, municipalities differentiate between projects inside and outside the built-up area, as shown in Figure 3.4. Surprisingly, from the 27 municipalities that differentiate between projects inside and outside the built-up area, eight municipalities have stricter guidelines for projects inside the built-up area, and 19 municipalities have stricter guidelines for projects outside the built-up area. These stricter guidelines can come in the form of a lower threshold for the number of houses to be built, like in the municipality *De Ronde Venen*, where the minimum number of houses to be built for a project to have mandatory participation is 15 inside the built-up area and only 5 outside the built-up area [114][115]. Another example is the policy of the municipality of *Beekdaelen* where inside the built-up area, all non-residential buildings with a floor area over 500 m² have mandatory participation and outside the built-up area, the minimum floor area to have mandatory participation is 100 m² [8].

Another aspect that splits the municipalities is guidelines about (sustainable) energy storage and generation. 30 of the 36 municipalities (including the municipalities that use *always participation unless...* policy) follow the VNG template and include projects about energy storage and/or generation. Still, the guidelines range from *all sustainable energy generation projects* have mandatory participation to *only wind turbines larger than 20 meters* have mandatory participation.

The VNG also includes guidelines about the construction of antennas in its example template. 14 of the 36 municipalities have adopted this into their policy, again, ranging from *all antennas* have mandatory participation to *only antennas larger than 40 meters* have mandatory participation.

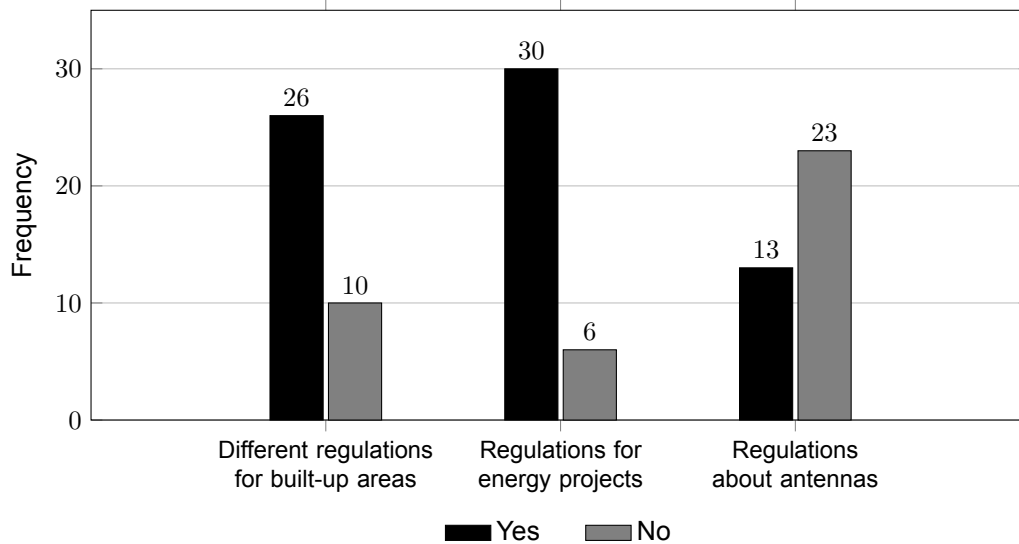


Figure 3.4: Differences between policies

These results show how big the differences are between the different municipal policies in this category. To determine if there is a correlation between the municipality size and their relative 'strictness', Figure 3.5 has been plotted. This figure shows the minimum number of houses that have to be constructed for a project to have mandatory participation plotted against the number of inhabitants in the municipality. No correlation can be determined based on this graph as both low and high levels of strictness can be found for municipalities of all sizes.

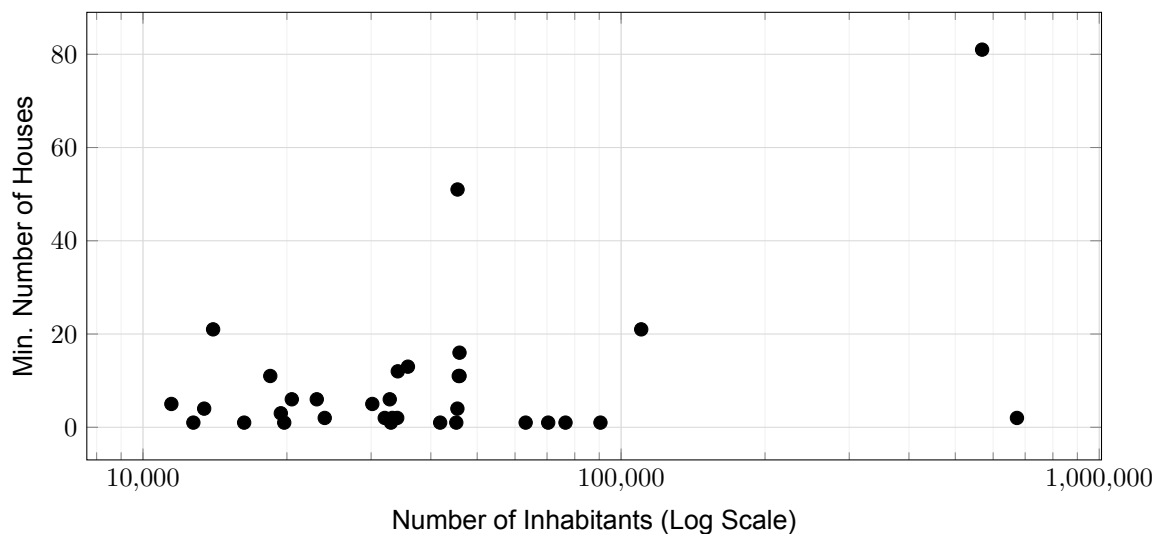


Figure 3.5: minimum number of houses for a project to have mandatory participation plotted against municipality size.

Category 2: Municipalities that mandate participation for all BOPA applications

These are the municipalities that mandate participation for (almost) all BOPA applications. It has to be noted that two of the municipalities in this category (*Sittard-Geleen* and *Eindhoven*) mandate participation for all projects "with regard to the construction of buildings and/or activities relating to changes in their use" [94]. In practice, this includes almost all BOPA applications, only excluding small changes to one's own property, for example. It is important to realise that the mandatory participation only affects BOPA applications, so all permit requests that do not conflict with the physical environment plan are excluded beforehand. For this reason, these municipalities are grouped with the municipalities that require mandatory participation for all BOPA applications.

Whereas most of the municipalities in this category leave out the reasoning behind the decision to have mandatory participation for all BOPA applications, some municipalities give a bit more insight. The municipalities of *Sittard-Geleen* and *Eindhoven* explain in their policy that their reason to always mandate participation is that participation is also mandatory by the EPA if a municipality wants to make changes to the physical environment plan [26]. This ensures that the public opinion is always taken into account before the physical environment can be adjusted. The municipality of *Terschelling* states that they still have to decide on a list of categories where participation is deemed mandatory, and in the meantime, they have decided on mandatory participation for all BOPA applications [100]. Surprisingly, the municipality of *Hilversum* states in their participation memo that the EPA always mandates participation for BOPA applications, which is not in line with their official policy [48].

As shown above in Figure 3.2, the municipalities in this group greatly range in size, including both the largest and the smallest municipality from the sample (i.e. *Amsterdam* and *Terschelling*). This reinforces the belief that municipality size does not correlate with a type of participation policy for BOPA applications.

Category 3: Municipalities that never mandate participation for BOPA applications

Two of the municipalities in the sample have explicitly chosen to never make participation a mandatory part of the BOPA application process. The municipality of *Hengelo* states in their participation memo that they want to focus on stimulating initiators to facilitate useful and effective participation, but that mandatory participation would not be beneficial [47]. The municipality of *Lelystad* also does not see mandatory participation as beneficial [67]. As described above, the municipality of *Utrecht* also falls into this category because it has not published anything about mandatory participation for BOPA applications. By extrapolation, this would mean that 21 municipalities never mandate participation for BOPA applications, but because of the small size of this group, this number is a very rough estimation.

3.1.2. Conclusion

The analysis of a representative sample of 50 municipalities has provided interesting insights about how municipalities have given shape to their policy for participation around BOPA applications. The different types of policy can be divided into three categories: municipalities that have specified what projects have mandatory participation, municipalities that always demand participation, and municipalities that never demand participation. The first category is by far the largest group, with 72% of the municipalities being part of this group, but within this group, large differences are still present in the way these policies have been formulated. The municipalities' policies ranged from (almost) all projects have mandatory participation to (almost) no projects have mandatory participation, so the entire sample includes the total possible spectrum of possible ways to implement the policy.

Analysing the municipality size for the municipalities in each of the categories indicated no correlation whatsoever, as all categories included a diverse group of municipality sizes. Plotting the 'strictness' of the policy against the municipality size also concluded no correlation. It can be concluded that the policy around mandatory participation for BOPA applications varies widely throughout the Netherlands without a clear underlying factor explaining this variation.

3.2. Results sub-question 2

What considerations have shaped municipal policy around mandatory participation within BOPA applications, and how satisfied are the municipalities with their current policy?

This sub-question will give insight into municipalities' reasoning for implementing their policy around participation for BOPA applications, and how they reflect back on it, after two years of implementation.

To answer sub-question 2, several interviews have been conducted with relevant municipal employees of four different municipalities. These selected municipalities have all implemented a different type of policy, as defined in SQ 1.

The first municipality that was chosen is the municipality of *Vught*. Their case stood out as, out of all municipalities analysed in SQ 1, they are the first municipality to publish an evaluated version of their policy. When the EPA came into effect, they had *mandatory participation for all BOPAs*, but as of 2026, they have chosen a *list of categories*. This interview will highlight what considerations have led to the municipality changing its policy.

The second municipality that was chosen is the municipality of *Epe*. This municipality stood out as it was one of the few municipalities to have *mandatory participation for all BOPAs*. This interview will give insight into what considerations were made when determining to make participation mandatory for all BOPAs.

The third municipality that was chosen is the municipality of *Utrecht*. This municipality is an interesting case as, at the moment, no municipal resolution has been published regarding which projects have mandatory participation. This means that, by default, *no projects have mandatory participation*, but they are working on a policy for a *specified list of categories for mandatory participation* at the moment. The interview was planned with the person who is responsible for drafting the municipal policy, so they will be able to explain well what considerations influenced their decisions.

The last municipality that was chosen is the municipality of *Hengelo*. This municipality was chosen as they were one of the two municipalities to deliberately *never mandate participation for BOPAs*. In the interview, they will be able to explain how their policy came to be.

Next to the type of policy they chose, municipalities are selected based on size to include municipalities of different sizes and on their willingness to participate in an interview. The interviews were semi-structured to generate comparable results while also leaving room to elaborate on topics. Table 3.2 shows the four municipalities and their respective policies. The list of interview questions can be found in Appendix A.

Table 3.2: Municipalities that took part in an interview

Municipality	# of inhabitants	Type of policy
Utrecht	376,757	Never mandatory participation*
Hengelo	83,655	Never mandatory participation
Epe	33,469	Always mandatory participation
Vught	33,010	List of categories

* the municipality of Utrecht is working on a list of categories for mandatory participation, but at the moment, participation is never mandatory.

3.2.1. Municipality of Utrecht

As one of the four largest cities in the Netherlands, one would expect the municipality of *Utrecht* to be a frontrunner regarding governmental policy, but this is not the case for the BOPA participation policy. Interestingly, at the time of writing, no policy was published on mandatory participation for BOPA applications. Based on recent court rulings, a municipality that has not defined which projects have mandatory participation can never deny a permit based on a lack of participation [87]. This means that at the moment, participation is never mandatory. The interviewee who represented the municipality of Utrecht was responsible for drafting the policy around mandatory participation. During the interview, they were able to explain the thought process and the reasoning behind the decisions that were made.

The policy proposal was written by a project team consisting of the departments VTH and *Participatie beleid* (Participation policy). Together, they proposed a list of categories for projects that should have mandatory participation. This list is submitted to the municipal council to be approved, after which it will come into function.

The list that the project team proposed makes participation mandatory for the following project categories:

- All projects that require a binding advice from the municipal council*
- Building 2 or more new houses
- Building a supermarket or retail building with a floor space of more than 600 m^2
- Function changes to asylum centres, parking, or sex-related businesses
- Projects that are in line with an urban development vision, urban development parameters, master plan or other spatial framework already adopted by the city council, and for which a participation process has already taken place, are exempt from the participation requirement

* The list of projects that require a binding advice is also being drafted at the moment, so, at the time of writing, it is still unknown what projects fall into this category.

One aspect they considered was to differentiate between projects by private individuals and projects by commercial parties. Projects that aim to realise a single house are most likely for people who want to build their own home, whereas projects for two or more buildings are often executed by project developers. The same holds for supermarkets, offices or retail space over a certain size. The aim of the policy was to include only projects by larger commercial parties in the list for mandatory participation and exclude projects by private individuals.

The second consideration was to include projects that have a strong political sensitivity. Projects surrounding controversial topics, such as immigration and sex work, should also be discussed with the neighbourhood before the permit can be granted. These projects have a higher likelihood of generating some kind of backlash or opposition, so by involving the neighbourhood earlier in the process, this could be reduced.

"For example, when it comes to more controversial issues, such as asylum centres, people tend to have stronger opinions"

Another aspect that was taken into consideration was the workload for the permit department. If all BOPA applications submit a participation report, this would greatly increase the department's workload, as VTH would first have to check the report's completeness and, second, determine whether it provides sufficient information to assess public opinion. To keep the workload limited, a target number of 10% was kept in mind when drafting the list, so based on a yearly average of circa 500 BOPA applications, the municipality aims for 50 projects to fall within the chosen categories.

A benefit of being one of the last municipalities to determine its policy is that it is possible to look at the policy of other municipalities and what effect they have in practice. The main source of inspiration for the municipality of *Utrecht* was the municipality of *Rotterdam*, as their *"route is in line with what we wanted"*. Additionally, the first two years of the EPA had led to a lot more BOPA applications than the municipality had expected. For this reason, the threshold should not be too low, again, to not increase the workload too much.

Reflection

The municipality of *Utrecht* is unable to reflect on its policy, as it has not been put into action, but they have reflected on the current situation. At the moment, participation is not mandatory, but in practice, it is still facilitated. For larger projects, participation was already part of the process, and the developers have already gotten used to it. Initiators of smaller projects are already encouraged to facilitate participation, but the participation rarely plays a large part in the decision-making process. Once the policy has been approved by the municipal council, these projects will still not have mandatory participation, so the situation for smaller initiators will not change.

3.2.2. Municipality of Hengelo

With a population of 83,000 inhabitants, the municipality of *Hengelo* is the 47th biggest municipality of the Netherlands. Unlike the municipality of *Utrecht*, the municipality of *Hengelo* has deliberately chosen to never make participation mandatory for BOPA applications. Their main reason to do so was to avoid the legal hassle that mandatory participation could cause. Because it is not allowed to prescribe what the participation should include, it always becomes subjective whether or not participation was sufficient. Making participation a compulsory application requirement would also make it so projects with insufficient participation could never be taken into account. They expected participants who were unhappy with a plan would argue that the participation was not facilitated sufficiently and sue the municipality for granting a permit, even though it should never have been taken into account due to being incomplete. They were scared that, because of the subjective nature of what 'sufficient participation' entails, a judge could deny a permit request that the municipality would like to grant. This would only be possible if participation is a compulsory application requirement. So instead of reducing the number of legal objections to the plans, they were afraid that it would only increase the number of objections.

"We wanted to avoid ending up with yet another legal debate"

This would also make the participation a much more significant part of the application process, at least in legal terms. The municipality would much rather evaluate the applications based on the contents of the plan. Instead of making participation mandatory through the EPA, they strongly advise initiators to facilitate a participation process. They explain how participation can reduce the number of complaints a project would receive, which would slow down the entire process, and how it could help improve the plans. If, for some reason, the initiator still refuses to facilitate participation, but the municipality does not want to grant the permit before the neighbourhood is able to participate, they mentioned in the interview that they could declare the extensive procedure. As explained in subsection 1.4.3, this extends the application process from an 8-week period, with a possible extension of 6 weeks, to a 6-month decision period. Participation is naturally embedded in the extensive procedure, through several 'zienswijze' procedures where the public can respond to the plans. Until now, they have not had to use this tactic once. It is also unlikely that this tactic would hold up in court. The EPA describes two strict requisites before the extensive procedure can be declared: the project has to have a large effect on the physical environment, and the municipality expects that multiple parties will have objections against the plan. Insufficient participation is therefore no grounds for declaring the extensive procedure. That being said, this tactic is most likely only needed for projects that indeed have a large effect on the physical environment and that might be controversial. In this case, it is still useful to keep the extensive procedure in store. Additionally, in cases where little or no participation was facilitated, the municipality can decide to make the plans public to gather more information about the public opinion.

On paper, one could expect that this policy would lead to much less participation, but this is not at all the case. According to the municipality, it took some time to get used to, but the initiators have started to see the benefit of organising participation. It not only reduces the number of complaints, but it can also make their case stronger against these complaints. By showing how participation helped shape the plan, the initiator can explain why another aspect might not be possible to change. A good indicator that the policy has the desired effect is that the extensive procedure has not been applied because an initiator refused to facilitate a participation process.

"Let's make sure that people themselves recognise the importance of participation [...] so they do it on their own initiative. Because then, participation will have a much greater impact"

It is clear that the policy that the municipality of *Hengelo* has chosen works well. When asked what they would change about the policy, nothing could be named. That being said, one could question the assumptions that they made that led to this policy. Municipalities that mandate participation do not report an increase in complaints about the participation process. Both the municipalities of *Utrecht* and *Epe* report a decrease in complaints to projects, as a result of participation.

The argument that mandatory participation would lead to a lot of legal battles is also not very valid. The VNG estimates that around 10,500 BOPA applications have been filed in 2024 and 2025 [119][120]. These applications have only led to a legal verdict 81 times [86]. There are a few examples of cases where the sufficiency of the participation was questioned. In none of the cases, the court ruled that

the participation was in fact insufficient, as the sufficiency of the participation is only based on the completeness of the application and not the contents of the participation.

The idea that it was very difficult to evaluate the mandatory participation, because no prescriptions could be given, has also not led to issues for other municipalities. The VNG reported that 34% of municipalities have published evaluation criteria for the participation [120]. Instead of prescribing how the initiator should facilitate participation, they explain how they will evaluate it, nudging the initiator to facilitate the participation in a certain way (still, without any legal implication). Additionally, almost all municipalities, including the municipality of *Hengelo*, have published a participation guide for the initiators to help them facilitate their participation. Even without a binding nature, this helps the initiators to facilitate participation in a way that the municipality advises.

Evaluation

Even though the reasoning behind the policy may be questionable, the municipality of *Hengelo* reports being satisfied with how it functions in practice. Their decision could be explained by the fact that the project team that was responsible for drafting the policy mainly consisted of people with legal backgrounds. Looking at the EPA through a legal lens does indeed highlight the ambiguity of many of the regulations. In practice, however, the spirit of the regulations dictates the way the policies are applied, rather than the legal interpretations.

3.2.3. Municipality of Epe

In contrast to the municipality of *Hengelo*, the municipality of *Epe* has chosen to make participation mandatory for all BOPA applications. During the interview, two reasons were named for this. At the start of their term, the new municipal council had agreed that they wanted to increase the emphasis on public participation. The municipality has had issues in the past regarding the communication between inhabitants and the council. They saw this policy as a chance to improve the collaboration between the municipality and its citizens. By making participation mandatory for all BOPA applications, the citizens' input would become more important for projects in the built environment.

The second reason that was given was that it should improve the sense of community. The municipality of *Epe* has 33,000 inhabitants, divided over four towns. This is a much different layout than the cities of *Utrecht* or *Hengelo*, for example. Instead of excluding the smallest types of projects, as many other municipalities have done, the municipality has specifically chosen to include all projects. Even for projects like building a dormer window, the initiator should have a talk with the neighbours.

"We'd love for them to pop round by the neighbours, have a cup of coffee at the kitchen table, and that's it"

Like in the other municipalities, more impactful projects still demand a higher level of participation, but the main difference is that even for the smallest BOPA applications, the public is involved. The idea is that this would prevent conflicts with neighbours and lead to fewer objections to the plans, all in all, contributing positively to the sense of community.

Evaluation

During the first two years of implementation, this policy has not led to any issues. The municipality is happy with its decision to mandate participation for all BOPA applications, and there are no plans to change the policy in the future. At first, it could, at times, be difficult to convince initiators of the importance of facilitating participation, especially for small projects. By now, the first court rulings have ruled against initiators who have failed to facilitate participation, in cases where this was mandatory [132]. This helps convince the few initiators who did not see the benefit of public participation before.

3.2.4. Municipality of Vught

Similar to the municipality of *Epe*, around 33,000 people live in the municipality of *Vught*. When the EPA came into effect, they also chose to implement mandatory participation for all BOPA applications. During their first evaluation of the policy at the end of 2025, they chose, however, to change this to a list of categories for projects that have mandatory participation.

The list of project categories that have mandatory participation in the municipality of *Vught* are the following:

- Building 1 or more houses
- Building an ancillary structure with a floor space of more than 100 m^2
- Function changes of a building or plot

Originally, the municipality had decided to make participation a mandatory requirement for BOPA applications to increase public participation. Similar to the municipality of *Epe*, the sense of community played a role in the decision-making. After two years of the policy being in place, the municipality took time to evaluate. Two aspects stood out during the evaluation. Firstly, there was a mismatch between different policies. In the list of projects that had to receive a binding advice from the municipal council, projects of 11 or more houses were included. In the municipal living policy, the value for binding advice was set at 20 houses for another permit. To simplify the policies and to avoid confusion, these were both set to 20 houses. A couple of other categories were also changed to be more in line with other municipal visions and policies.

The other aspect that stood out was that the permit department concluded that, in practice, participation reports were not demanded from all initiators. When the project only had a small impact, this step was often skipped. The permit department did not see the benefit of asking every BOPA applicant to facilitate participation for small projects, like expanding a shed, where the neighbours were not affected at all by the project. This had not led to complaints by angry neighbours who felt like they were not able to participate. So, as it was not enforced, the threshold value for projects that have mandatory participation was increased. Compared to the other municipalities, the policy is still relatively strict, but the smallest projects are now excluded.

Evaluation

The first evaluation has very recently led to a change in policy, so it will take some time to determine how satisfied the municipality is with their new policy. Based on the fact that the main reason for the change was a lack of enforcement of the previous policy, it is likely that the change will not have a large impact; it is rather a rewriting of the way the policy was already being implemented.

3.2.5. Main takeaways

From the analysis of these four municipalities, it becomes clear that the differences are much smaller in practice than they are on paper. All municipalities take participation seriously and view it as a beneficial tool. The main difference is that some municipalities see the benefit also in the smallest projects, and others have a higher threshold value. Looking only at these four municipalities, it seems like a smaller municipality size correlates to a lower threshold value, but the analysis in SQ-1 has shown that this does not hold for the group of 50 municipalities.

The interviews have shown that all municipalities value participation in medium-sized and large projects. They all share the feeling that this increased participation has had a positive effect on the number of complaints. Interesting to see, is the fact that this goal of increased participation can be reached through several ways. Even the most outlying policies, as implemented by the municipality of *Hengelo* and the municipality of *Epe*, lead to very similar outcomes.

Overall, the municipalities are satisfied with both the general participation policy around BOPA applications and the way they have implemented their policy. Most municipalities have planned an evaluation of the policy around two years after the implementation. These interviews only included a single person per municipality, so it could be that the evaluation will highlight shortcomings that have not been named, but based on the interviews, this seems unlikely.

3.3. Results sub-question 3

What makes participation reports be considered sufficient, and to what extent does the organised participation influence municipal BOPA decisions?

Sub-question 3 was answered, drawing on the same interviews as sub-question 2. The questions focused on how the municipalities determine if the participation reports that initiators submit with their BOPA applications are sufficient to fulfil the application requirements and how these reports influenced the municipal decision-making. Table 3.3 shows which municipalities have taken part in the interviews.

Table 3.3: Municipalities that took part in an interview

Municipality	# of inhabitants	Type of policy
Utrecht	376,757	Never mandatory participation*
Hengelo	83,655	Never mandatory participation
Epe	33,469	Always mandatory participation
Vught	33,010	List of categories

* The municipality of Utrecht is working on a list of categories for mandatory participation, but at the moment, participation is never mandatory.

As explained in subsection 1.4.3, the framework for reviewing the applications is ETFAL (*Evenwichtige toedeling van functies aan locaties*, balanced allocation of functions to locations). In practice, this means that the municipality decides whether the plan fits into the larger municipal vision and the local context. For BOPA applications, two aspects of the participation are reviewed: the completeness of the participation report and the outcome.

Participation report completeness

For all projects where the initiator filled in that they have facilitated participation, VTH checks to see if the participation report provides sufficient information for the application to be considered complete. They check if the participation report describes how the participants were involved and what the outcome of the participation was. If both these aspects are included, the participation report is, in theory, complete. Still, the participation has to be of some substance to be considered participation. If the municipality can argue that the participation does not fulfil the minimal requirements to be considered participation, the application can be deemed incomplete. In this case, the initiator has to either make the application complete or fill in that no participation has been facilitated.

Outcome

The outcome of the participation report will always be taken into account in the decision-making process, regardless if mandatory or not. It is, however, up to the municipality how much impact it has. The outcome is never binding, so municipalities are never forced to decide one way, solely based on the outcome of the participation process.

This sub-question will dive into how municipalities deal with both these aspects of participation.

3.3.1. Municipality of Utrecht

The municipality of *Utrecht* has not yet mandated participation for any projects, but this does not mean that they have not yet had to evaluate the participation process of a BOPA application. Also, for projects without mandatory participation, where initiators have facilitated participation, VTH has to check the application's completeness. This has not yet led to any permits being denied because the participation was insufficiently facilitated.

Together with the list of projects that have mandatory participation, they are also working on a set of evaluation guidelines for the participation process. They have taken inspiration from the municipality of *Amsterdam*, where a point system is set in place. Initiators can score their project based on its size, impact on the traffic, greenery, and neighbourhood. Based on the score, the municipality advises a certain level of participation, with examples of how to do this [2]. In *Utrecht*, they want to implement a similar system, only a bit less strict. The goal for this system will not be to make specific categories for what type of participation is expected for which projects, but rather to give an indication of the level of participation that the municipality expects (e.g. informing, consulting, etc.). Still, the municipality cannot

hold the initiator accountable for not following the guidelines, as they are only advisory and cannot be enforced.

The outcome of the participation will always be taken into account during the decision-making process. The participation report can be part of the ETFAL considerations, as it indicates how the neighbourhood views the project. The outcome, however, has never been a decisive factor for granting or denying a BOPA permit. It can sometimes be used to grant the permit with a specific requirement. The example named in the interview was a case where the neighbourhood had voiced concerns about the safety of a new refugee centre. Based on the participation report, the municipality granted the permit, with the requirement of an additional camera to improve safety. In this case, the outcome of the participation report affected the granting of the permit slightly.

3.3.2. Municipality of Hengelo

The municipality of *Hengelo* has specifically decided to never mandate participation to remove the ambiguity of evaluating the participation report for completeness. In their eyes, the evaluation of the participation process is always subjective, especially as they were not allowed to set requirements. Additionally, they find the process of the participation much less important than the outcome.

"It's not about whether you facilitated participation; it's about the goal you achieved through it [...] and the goal is to make your plan better"

Even without any mandatory participation, they heavily advise the initiators to facilitate participation as they value the outcome of the participation. Still, the outcome of the participation will never be the reason why they deny a permit application. It will always be considered in the context of ETFAL, with many other factors also playing a role. The participation report is mainly used as a tool to gather what the neighbourhood thinks and what their worries might be. If the report highlights that the neighbours are afraid of their privacy being affected, it is a sign that the municipality should look into that before granting the permit. The report will then show what the worries were, how these were taken into account, and how this affected the final design. If the plan receives a complaint after the permit is granted, the report also might help the initiator to explain what the considerations were and why some aspects could not be adapted to the participant's wishes, whilst other aspects could.

The municipality of *Hengelo* has also published a participation framework [47]. In this document, they explain the benefits of initiator-led participation: improving the design, increasing public engagement, and improving the living environment. Together with some examples, they explain the steps needed to set up a good participation process and what considerations play a role in deciding how to facilitate facilitation. The different levels of participation, participation goals, and participation forms are explained to help the initiators set up their own participation as effectively as possible.

During the first communication with initiators, they highlight the importance of this document for the participation process. In practice, the initiators who have little experience with facilitating participation choose to follow these steps. The larger initiators that have more experience might not exactly follow the steps as provided by the municipality, but they are able to facilitate the participation appropriately in their own way.

3.3.3. Municipality of Epe

In the municipality of *Epe*, participation is always mandatory for BOPA applications. Still, not one BOPA application has been denied because the participation report was deemed incomplete. There are only examples of cases where the initiator had not yet facilitated participation, and the application could therefore not be taken into further account before this was corrected. Making participation mandatory for all BOPA applications does get all initiators to facilitate participation in the end. Still, it cannot ensure that the participation is up to a certain standard. If initiators have facilitated participation in any form, it is almost always sufficient. The rare occasion where the municipality has asked an initiator to facilitate more participation was when the outcome of the participation led to some disagreements. The initiator was not obliged to do so, as it cannot be enforced through the EPA, but the municipality can ask the participant.

The municipality of *Epe* has also published an elaborate participation guide. Here, initiators can find a step-by-step guide about how much participation is expected of them, what they should take into

account, who they should involve, and what the participation report should entail, preferably [27].

The outcome of the participation is, again, taken into account by the municipality, but will never be the reason for a permit to be denied or granted. This does not mean that the municipality does not value the participation. There are plenty of examples where the participation has had a positive impact on the design. Especially small changes that take little effort for the developer, but positively impact the design, are often made because of participation.

"Successful participation does not mean that everyone is 100% happy. What matters is that the plan has improved from the initial proposal and therefore is better suited to both the local community and our own policy."

3.3.4. Municipality of Vught

The municipality of *Vught* changed its policy from *always mandatory participation* to *a list of categories* because the permit department did not enforce mandatory participation for small projects. This shows that their focus, like that of the municipality of *Hengelo*, mainly lies with the outcome rather than the process of participation. Still, since the EPA came into function, no BOPA application has been denied based on the participation outcome. For smaller projects, it is often enough to just inform the neighbours. For larger projects, the municipality has to approve the participation plan before the participation actually takes place. This could also help with making sure the participation is always sufficient.

"The participation is never the reason why we deny something or why something is withdrawn"

3.3.5. Main takeaways

All four municipalities have a very similar way of evaluating the participation. An insufficient participation process has never led to an application being deemed incomplete, even though the EPA gives municipalities the chance to do so. This is not too surprising, as it is extremely hard to argue that participation was insufficient if any form of participation has been facilitated. Legal precedent has shown that only on very rare occasions has the sufficiency of a participation report been successfully challenged. A municipality has to be confident that the participation was of so little substance that it cannot be considered participation, which will very rarely be the case. The way in which the EPA is set up, the focus is on the completeness of the participation, rather than the outcome of the participation.

The idea of the EPA was to give municipalities the chance to guarantee participation in projects where the municipality deemed it necessary. By making participation mandatory, municipalities have the power to deny a permit if they deem the participation insufficient. The evaluation, however, is only on the completeness of the application and not on the content of the participation. This makes mandatory participation only a tool to ensure any kind of participation, without being able to set any standards for it. On top of that, the municipality of *Hengelo* has shown that it is possible to ensure participation without mandating participation at all.

This does not mean that the EPA did not have a positive effect on the participation. The way the EPA is implemented encourages more initiators to facilitate participation, but does not push back on them for slacking off. Initiators who fall short in facilitating participation are rarely held accountable, but those who do invest in it see many benefits. Almost all municipalities report reduced complaints and greater public acceptance as a result of better participation in earlier stages of the process. Logically, these benefits apply more to the initiators who facilitated a higher level of participation. All in all, the EPA has improved participation in projects in the built environment, but has not made it a more important factor than before. At the end of the day, the municipality's decision to grant or deny the permit is only slightly affected by public participation.

3.4. Results sub-question 4

What do municipalities regard as successful participation?

The final section of the interviews focused on what the participants viewed as an example of successful participation in their municipality. To answer this sub-question, from each municipality, one example will be analysed and scored, based on the criteria set up in section 2.1.

The fact that the municipalities highlight these cases as successful examples does not mean that they were successful in every aspect, only that they were successful from the perspective of the municipalities. In the analysis, the scoring will be used to determine what success factors the municipalities value. Additionally, the perspective of other relevant parties will be taken into account to determine the success as objectively as possible.

The analysis will show how well these four cases score, based on the criteria found in participation literature. The analyses of these cases will serve as *best practices* that can be used as examples for future participation projects. Important to remember is that the level of participation should always be proportionate to the size and impact of the project. If a participation process scores lower, this does not mean that, in this instance, the initiator has performed worse if their project was relatively small. These *best practices* will not be perfect, so their shortcomings will also be looked into.

3.4.1. Case 1 - Redevelopment Van der Valk hotel - Vught

The case of the redevelopment of the Van der Valk hotel in Vught was mentioned as an example of a successful participation process. This case dates back to 2020, before the EPA was installed, so it did not qualify for a BOFA. Nonetheless, the case would have had mandatory participation, and in this case, participation was also demanded by the municipal council [113].

Background information

The site of the Van der Valk Hotel is located in the northern part of Vught, directly next to the main road that connects the town to the larger city of *Den Bosch* (Figure 3.6). At the moment, the hotel has 126 hotel rooms and 15 different types of halls. These range from small 10-person conference rooms to an auditorium with a capacity of 300 people [20]. In the coming years, Van der Valk is looking to expand this to 200 hotel rooms and 100 long-stay apartments [109]. At the moment, a large part of the plot is used for parking and low-quality greenery (Figure 3.7). This gives the hotel ample opportunity to expand, by moving the parking underground, for example.

The municipality of Vught has also appointed the site as a potential location to develop new housing in their Housing Vision 2021 [19]. Van der Valk has incorporated this into the redevelopment project by planning to construct over 200 new dwellings, next to the plan to expand the hotel. These dwellings will include apartments in different price ranges, both to rent and to buy, and assisted living facilities.



Figure 3.6: Location van der Valk Hotel (red dot) [79]



Figure 3.7: Van der Valk hotel Vught current situation [112]

Project size

The Van der Valk project falls into the largest, fifth category for *project size*. The existing building had

a floor space of 20,000 m^2 , and for the redevelopment, this was increased to almost 40,000 m^2 . This means that a high level of participation can be expected from the initiator.

Mandatory participation

As stated in the introduction, this chosen case was not a BOPA application, so the participation was not mandated by the BOPA participation policy that the municipality of Vught operates. In 2020, Van der Valk approached the municipality of Vught with the plan to expand their hotel and add new dwellings to the plot. Before deciding on the plans, the municipality asked Van der Valk to consult the local residents. The 2021 coalition agreement also states: *"Hotel Van der Valk may, provided the hotel secures sufficient support from local residents, apply for permission for a modest extension. The scale and size of the accommodation must be in tune with the entrance to Vught and the hotel must blend into the surroundings, whilst preserving the qualities of the green spaces and water features."* [39]. This shows that in this case, participation was not only a tool to inform the local residents of the plan, but the participation also had to create public support for the redevelopment plans to be approved by the municipal council. At the start of 2022, the municipality approved the participation plan, and during the following months, Van der Valk organised five interactive sessions for the public to participate in. Together with a report for each of the sessions, a final report was delivered to the municipality to decide on. In September 2025, the municipality and Van der Valk reached an agreement to commence with a feasibility study for the expansion of the Van der Valk hotel [127].

Stakeholder selection

The participation reports that were made after each of the interactive sessions do not indicate who was present. This makes it difficult to determine how representative the group of participants was. The initial participation plan states an extensive list of people who should be included during the participation process. Regarding local residents, they mention the residents of the neighbouring areas and other interested residents from both *Vught* and *Den Bosch*. Regarding stakeholders, several types of governmental bodies (municipalities, provinces, water boards), relevant foundations and associations are mentioned [113]. From the reports, it became clear that between 20 and 40 participants were present during the different sessions, most of them being residents who live nearby. The final report also mentions that *"local residents were represented well. Stakeholders, inhabitants of Vught, and people looking for a home, much less, despite everyone being welcome, and reminded by e-mail and clear communication in the media."* [105].

Van der Valk aimed to have a more diverse and representative group of participants, but despite their efforts, this was not achieved. The group that was present was relevant for the process, considering the goal of reaching public support for the project from the local residents. For this reason, a score of 4 is given regarding the *stakeholder selection*.

Early involvement

One of the reasons for the municipality to demand public participation was the backlash the plans had received when they were first presented in 2020. These plans were made without consulting the residents, who were taken by surprise by a 60+ meter tower that would be added to the premises. In an effort to collaborate transparently with the participants, the initiator chose to start the participation process with a clean slate [106]. The initial plans were off the table, and the participants' ideas were incorporated from the start. The first session had the aim of identifying the participants' wishes, ideas, comments, and problem areas. During the session, the participants rotated between different tables, each with their own topic. The selected topics were: (1) Tourism & economy, (2) Entrance of Vught, size and scale, (3) Greenery, landscape & water, (4) Living, and (5) Environment: sound, smell and particulate matter. The outcome of the session was a long list of elements to keep in mind for the design, as shown in the report about the first session [110]. This list already includes conflicting statements by the different participants, like both support for and objection against the construction of housing and statements like *"High rise is not Vught-like"* versus *"Can be just as high as Eikendonck [15 stories]"*.

Even though Van der Valk aims to start with a clean slate, this is not entirely the case. A real clean slate would also mean that the participants are able to influence the building program and size of the project, but in the later sessions, it becomes clear that these elements are barely adjustable. In Van der Valk's eyes, the program and size of the expansion are a given, and the participants are given the opportunity to transform this into the design that they deem most fitting for the area. This is not clearly communicated to the participants, as becomes clear in the third session when the first designs are

presented. The big outrage that the initial plans received was mainly because of the massive increase in size and the high-rise tower that Van der Valk proposed, but the new designs were just as large, only designed in four different ways. This sparked a big disagreement between the organisers and the participants, leading to the session being cut short, a motion being filed in the municipal council, and an extra session being added with the goal of resolving this. All in all, the case scores a 4 for *early involvement* as the participants are involved at the start of the design process, with many aspects of the project not being set in stone.

Continuous involvement

The second session continued on the outcomes of the first session, still in the solution-finding phase. The sessions start with a more in-depth urban analysis of the site, covering the history, surroundings and greenery of the area. Next, the organisers present the different ambitions that Van der Valk has for the redevelopment and in what way these could take shape [107]. In three categories: architecture, business, and mobility, the participants are shown pictures of reference projects that convey a certain type of implementation. Participants are able to indicate their preference between the different pictures. This session is less interactive compared to the first session. Participants are not able to bring in many new ideas and mostly comment on the ideas the organisers present.

As mentioned, the third session is the session that escalated into a disagreement. The goal of the organisers is to involve the participants in the design phase by presenting four different typologies for designs that the participants could comment on and finally choose between. The reason for the disagreement was a different interpretation of the ambitions of the municipality by the developer and the participants. Participants expected the entire development to be a *modest extension* of the existing hotel, as stated in the coalition agreement. This would correspond to a 25-30% increase of the existing 20,000 m^2 for the entire project. The developer took this *modest extension* into account for the hotel, but incorporated the housing development additionally, based on the housing vision that appointed the location as a potential development site for new houses. This increased to building mass to circa 40,000 m^2 , instead of the 25,000 m^2 that the participants expected [111]. Participants were especially displeased as this only came forward in the third session. Van der Valk has indicated that they repeatedly asked the municipality for clarification on this matter, but that the municipality had asked Van der Valk to explore what was possible for the site through the participation process. In the participation plan that was approved by the municipality, Van der Valk states: *"The focus will be on a number of in-person interactive sessions, during which there will be ample opportunity for participants to contribute, within the parameters set by the municipality."* If they themselves were already unsure about what exactly these parameters set by the municipality were, it demonstrates a lack of transparency not to discuss them with the participants. By acting as if the parameters are certain, whilst the municipality has explicitly asked to explore what is possible with the participants, Van der Valk has put their own interests above the participants' interests.

After the third session, a motion was filed to ask questions to the municipal council about this topic. When asked to provide an answer to the matter of the building size, the municipal council refused to decide on what the parameters should be. Instead, they reinstated that it is Van der Valk's responsibility to ensure that the participation process concludes with a proposal that has public support [40]. For the municipality, it was not important whether this public support was reached for a project of 25,000 m^2 or 40,000 m^2 . An extra session was organised to try to reach an agreement between the participants and the organisers. The goal was not to take a step back and try to come to an agreement regarding the parameters, as this most likely would have ended in an impasse. Instead, the organisers presented a more detailed design for the typology that was most favoured in the third session. Through an online voting system, the participants could then comment on different statements regarding how well the design had translated the original wants and needs that were gathered in the previous sessions [108]. This led to positive reactions on the majority of the topics, such as *The houses are situated well*, *the hotel functions are situated well*, and *The liveliness is in the north-east and the calm is in the south-west*. Most notable is the negative response to *the size and scale of the building is fitting* and when asked *"what do you want to see different"*, the most common responses were *less volume*, *height* and *lower tower*. All of this input is taken into a final design that will be shown in the fifth and final session.



Figure 3.8: Side by side of the design of the fourth session (left) and fifth session (right) [109]

The last session starts with a presentation showing how the plans were adjusted since the previous session and how the feedback was incorporated (Figure 3.8). The session mostly consists of presenting the design and answering questions from the participants. To conclude, the participants are again asked to respond to statements about the design through the online voting system. Not all participants responded positively to the new design, but the overall response is more positive than in the previous session. The responses to the question *"What did you think of the participation process?"* are diverse, but the most frequent answers are *reasonable, transparent, fine, and challenging*.

Overall, the *continuous involvement* criterion scores a 4, as the participants are involved extensively, but only during the solution finding, design, and design evaluation phase. The idea finding was already executed by the organiser beforehand.

Participant impact

The goal of the participation process was to create public support for the project. The way the organisers approached this is by involving the participants during the different phases that led to the final design. During each phase, they tried to incorporate the input of the participants as much as possible, within the boundaries of the project. This can clearly be seen in the different designs that were presented during the different sessions and the way in which they were adapted each time. It was clear that Van der Valk had certain aspects as non-negotiable, but outside of those, there was plenty of room for the participants to influence the design. One aspect that is also named in the most common participation blunders by the VNG is when the organiser does not clearly communicate the boundaries of the participation [124]. It is important to make clear at the start of the process what aspects are already decided on and what aspects can be changed. By clearly communicating what is possible, the participants will not be surprised by certain choices that have to be made. In the case of the Van der Valk hotel, this was a little more nuanced. The parameters were, in fact, not set in stone by the municipality; rather, they were part of Van der Valk's development plan. The task they were given by the municipality was to ensure public support for the plan, regardless of the size of the project. To achieve this, Van der Valk had two options. They could either be transparent with the participants from the start and make clear that the total size of the project was not determined yet, and that their opinion would be taken into account to determine this. The other option was to indicate from the first session what the approximate size of the project would be and indicate what aspects were still undecided. By choosing neither of these options, and surprising the participants during the third session, the participants felt betrayed and misled. Regardless of which option they would have chosen, there would always be opponents of the design, but by being more transparent with the participants, the disagreement of the third session could have been less emotional and would have created less distrust in the organiser. Overall, the participants were able to influence many large parts of the design. For this reason, the case scores a 4 for *participant impact*.

Context sensitivity

This criterion is difficult to quantify as it measures the extent to which the organiser is able to tailor the participation process to the context. In this case, the organiser has shown a great willingness to do so. In the initial participation plan, the organiser had chosen to discard the original plans that had received a large backlash. It was clear that the participants were sceptical from the start, so by involving them as much as possible, he aimed to regain their trust in the project. The plan aimed to incorporate their input from the start of the solution-finding phase. The initial participation plan had included four sessions, but after the third session went off the rails, they organised an extra session with the goal of getting the participants back on board. This shows flexibility and willingness to work together with the participants to reach the best outcome. Because of this high level of adaptation to the context, the case scores a 5 for *context sensitivity*.

Conclusion and takeaways

The redevelopment of the Van der Valk hotel in Vught is a project of large proportions with a rightfully extensive participation process. The success of this is reflected in the scores in Table 3.4.

Table 3.4: Scores case 1 - Redevelopment Van der Valk hotel - Vught

Participation Criteria	Score
Project size	5
Mandatory participation	Yes
Stakeholder selection (validity)	4
Early involvement (validity)	4
Continuous involvement (validity)	4
Participant impact (usability)	4
Context sensitivity (reliability)	5

The organisers of the participation process have shown a high level of willingness to involve the participants, leading to a design that, in the words of Vincent van der Valk: *"[the new plan] is more beautiful and better than the original plan."* He continues: *"In the end, we could not fulfil all wishes. We have a wonderful plan ahead of us, for those present and for Vught"* [105].

Overall, the participation process has led to a plan that, apart from its size, receives largely positive feedback and, based on the participation report, the municipality has concluded that there is enough public support for the plans. One of the main reasons for this was the way in which the sessions were executed. The organisers took the time to organise several different sessions, with enough time in between them to use the participants' input. By gradually receiving input and incorporating this input in each following session, the participants were involved well throughout the whole process. The biggest problem the organisers ran into was the discussion about the building mass, as described above. In their final report to the municipality, the organisers also mention that they would have liked the municipality to have decided on this matter, as this would have spared many of the difficult discussions and was the biggest source of conflict throughout the process. The participation process of the redevelopment of the Van der Valk hotel in Vught has shown a great example of a participation process where the input of a group of involved participants has led to a much improved design that has a majority of public support.

The fact that the municipality of Vught has brought this case forward as the most successful example of participation is surprising, as, by all means, the participation did not go flawlessly. Nonetheless, the final outcome has shown a massive improvement compared to the first design. Looking at the scores, as shown in Table 3.4, the case scores well in every category, and excels in the category of *context sensitivity*. The aim of this sub-question is to determine what success factors the municipalities deem important when looking at participation. It is unlikely that one of the aspects of the participation *process* stood out; it was rather the participation *outcome*. From the start, the main goal for the participation was to create *sufficient support from local residents*. This demand is difficult to quantify, which makes it hard to determine when exactly it is fulfilled. In the end, it was up to the municipality to determine if the

project had received sufficient support. Looking at the effort that Van der Valk put into the participation and the visible changes the process has had on the design, the municipality deemed the public support sufficient. In this case, it was also beneficial for the municipality to grant the permit, as the project massively contributes to the municipal ambition of realising 2000 new houses by 2030. Some of the participants were still unhappy about the final design, mainly because of the volume of the project and the height of the tower. These concerns would not have been solved through more participation, as this aspect has left the initiator and the participants in an impasse. Still, the participation had undoubtedly improved the public acceptance, compared to the initial plans, and visibly improved the design to the liking of the participants. This makes it a success in the eyes of the municipality, the initiator, and many of the participants.

3.4.2. Case 2 - Redevelopment Emsterweg 18-20 - Vaassen

The second example of a successful participation process, according to the municipality of Epe, is the redevelopment of Emsterweg 18-20. The redevelopment site is located in a residential neighbourhood in the town of Vaassen, which is part of the municipality of Epe. The site contains two houses, facing the Emsterweg, and an old, degraded industrial building. In the redevelopment, the initiator wants to replace the industrial building with a new apartment complex, housing 10 apartments (Figure 3.9). In the current physical environment plan, the plot has an industrial function. This means that this application falls outside of the physical environment plan, therefore requiring a BOPA. The municipality of Epe enforces mandatory participation for all BOPA applications, so the initiator is required to facilitate a participation process.



Figure 3.9: Plot of the Emsterweg 18-20 [80]

Project size

The total plot size is 2000 m^2 , but only the 600 m^2 industrial building will be redeveloped into the apartment building, and the current garden will partly be used to place parking spaces. This means that the project receives a score of 2 for *project size*. The project will mainly impact the direct neighbours, so these should be the most important participants for the participation process.

Mandatory participation

As mentioned in the introduction, this project falls outside of the physical environment plan. This means that the project has mandatory participation, as all BOPAs in the municipality of Epe are required to facilitate participation. Additionally, as the project aims to realise more than six houses, the municipal council will give a binding advice that determines if the permit will be granted [81]. In the council meeting of the 26th of February, 2026, the council has given a positive advice regarding the BOPA application [29].

Stakeholder selection

When determining who the participants should be, it is important to keep in mind who is impacted

by the development. For projects with a low to medium impact, it is often sufficient to only involve the directly affected stakeholders. In this case, these are the neighbours who can see the building from their house. Figure 3.9 shows which neighbours have been asked to participate; the direct neighbours, living at Emsterweg 16 and 22, and the neighbours at the backside of the property, living at Ligusterstraat 60. During the first session, one of the neighbours could not participate, but during the second session, all houses were represented. Even though this is a small group of participants, all relevant parties were involved in the participation process. Therefore, the case scores a 4 regarding *stakeholder selection*.

Early involvement

The participation process consisted of two sessions. During the first session, the original plans for the development were shared. The participants could share their concerns regarding the proposed plans. In the current situation, the plot was surrounded by a brick wall, which was overgrown with greenery. This created a high level of privacy for the neighbours. This wall will be replaced by a lower fence in the new design. Additionally, the building height will increase from six metres to circa nine metres. To minimise the impact of this height increase, the building will be moved away from the border of the plot. This will create a gap of at least four meters to the plot neighbouring on the eastern side. The top floor will also be set back by 2.5 metres to make the building look less massive.

The neighbours expressed concerns regarding a couple of topics: sunlight, appearance, and privacy. They wondered how the sunlight and shadows would be affected by the height increase. Additionally, they wondered how the building would fit into the neighbourhood aesthetically. Their last concern was regarding the privacy in their garden. Will the people living on the top floor be able to view into their garden?

It is clear that the plans are already in the design evaluation phase when they are presented to the participants. All big decisions have been made, so only small adjustments are still possible. This means that the case scores a 2 regarding *early involvement*.



Figure 3.10: Sketch of the development with the smaller windows and balconies [30]

Continuous involvement

All neighbours, the architect, the realtor and the initiator are present for the second participation session. During this session, the architect elaborates on the plan and describes how the plans have been altered as a result of the feedback from the previous session. The neighbour's privacy has been improved by replacing the windows on the eastern side with high windows, removing the viewing lines into the garden. Additionally, the balconies have been shortened to be only facing north, south and west (Figure 3.10). This removed the concerns regarding privacy. Next, the architect showed the participants, through a 3D model, what the view will look like from each of their gardens onto the building

and vice versa. The concerns regarding sunlight are answered through images of a shadow analysis, comparing the current situation with the new situation. This shows how, during all seasons of the year, the situation will be similar or even improve with the new development. To answer the concerns regarding the appearance of the building, reference images from the neighbourhood are shown that were used during the design phase.

All in all, the participants are mostly informed of the development, but are also able to express their concerns. These concerns are properly taken into account by the initiator, and changes are made to the design. Nonetheless, the participants are only involved during the last phase of the design. The case will therefore score a 2 regarding *continuous involvement*.

Participant impact

Based on the participation sessions, minor changes have been made to the design. Next to decreasing the size of some of the windows and balconies, participants also suggested placing a brick wall at the edge of the plot, instead of the green wall that was proposed in the design. This would reduce the noise disturbance from the cars going from and to the parking spaces behind the building. In the end, most of the design was already final, and the participants' impact was only minor. Therefore, the case scores a 2 regarding *participant impact*.

Context sensitivity

The participation process was structured well, by collecting the concerns and ideas of the participants during the first session and adequately taking them into account for the second session. The organiser made sure that all aspects of the design that the participants expressed concerns about were either improved or analysed further. The participation report of the session ends with the words: *"The night was transparent and constructive, and all parties look back on it with a positive feeling"*. This was most likely the result of the fact that the initiator clearly listened to the participants and was able to respond well to their concerns. This showed flexibility by the initiator and a willingness to collaborate with the participants. The case, therefore, scores a 3 regarding *context sensitivity*.

Conclusion and takeaways

The case of the redevelopment of Emsterweg 18-20 is a good example of a successful participation process. Contrary to the Van der Valk case, the goal of the participation was not to create public support. Redeveloping an old, deteriorated, and unused industrial building into new apartments is rarely a controversial decision. Still, constructing a new apartment complex without any consultation can lead to some tensions in the neighbourhood. This participation process highlights the positive effects participation can have, even when executed on such a relatively small scale. By incorporating the concerns of the direct neighbours before the application of the building permit, later complaints by the neighbours can be avoided. This will not only improve the acceptance of the project but also remove delays as a result of these complaints.

This example fits well with the municipality's goal regarding participation. As described in the interview, the goals of implementing *mandatory participation for all BOPA applications* were to foster a sense of community and to improve projects by consulting participants. The scores, as shown in Figure 3.5, show high scores in *stakeholder selection* and *context sensitivity*. These are the factors that contribute to the sense of community, as they emphasise involving the important participants and collaborating well with them. Both the initiator and the participants report a successful participation process, showing that the success factors of the municipality were also shared by the other parties.

Table 3.5: Scores case 2 - Redevelopment Emsterweg 18-20 - Vaassen

Participation Criteria	Score
Project size	2
Mandatory participation	Yes
Stakeholder selection (validity)	4
Early involvement (validity)	2
Continuous involvement (validity)	2
Participant impact (usability)	2
Context sensitivity (reliability)	3

This project is also a good example of participants voicing concerns that might otherwise be overlooked, whilst being fairly easy to resolve. All in all, this participation example reinstates the success factors that were mentioned in the interview, being executed well.

3.4.3. Case 3 - Redevelopment Hojel City Centre I - Utrecht

The third case that will be highlighted is the redevelopment of the Hojel City Centre I complex in Utrecht, from here on referred to as Hojel I. This project has not specifically been named by the municipality as an example of successful participation, but, as the municipality of Utrecht does not mandate participation for BOPAs, the number of participation processes for BOPAs is limited. At the moment, participation is not mandated through the EPA, but this does not mean that no participation is being facilitated. For large projects, Utrecht has set up UPG, *Utrechts Planproces Gebiedsontwikkeling* (Utrecht planning procedure for area development). This is the procedure that complex area development projects that fall outside of the physical environment plan follow [37]. Through five phases, the municipality guides the initiator from the initial plan to the realisation. During this process, the participation plan is set up, in collaboration with the municipality, citizens and businesses. Important to note is that UPG takes place before the initiator applies for a BOPA. During the UPG, an urban program of requirements (SPvE, *Stedenbouwkundig Plan van Eisen*) is set up and approved by the municipal council. The municipality collaborates closely with the developers and is even a co-owner of the participation process. Together with the initiator and owner of the building, Athora, developer EDGE, and Friedmann Advies, the municipality of *Utrecht* facilitated this participation process [5].

Just as with a BOPA application, the participation is taken into account by the municipal council when approving or denying the SPvE, but unlike with BOPA applications, the municipality is involved in facilitating the participation process. This makes the example less relevant for indicating what success factors municipalities value when evaluating participation reports, but as the municipality is responsible for facilitating the participation, it will be done according to their participation procedures. This makes the case still useful to analyse, as it highlights what aspects of participation are valued by the municipality of *Utrecht*.

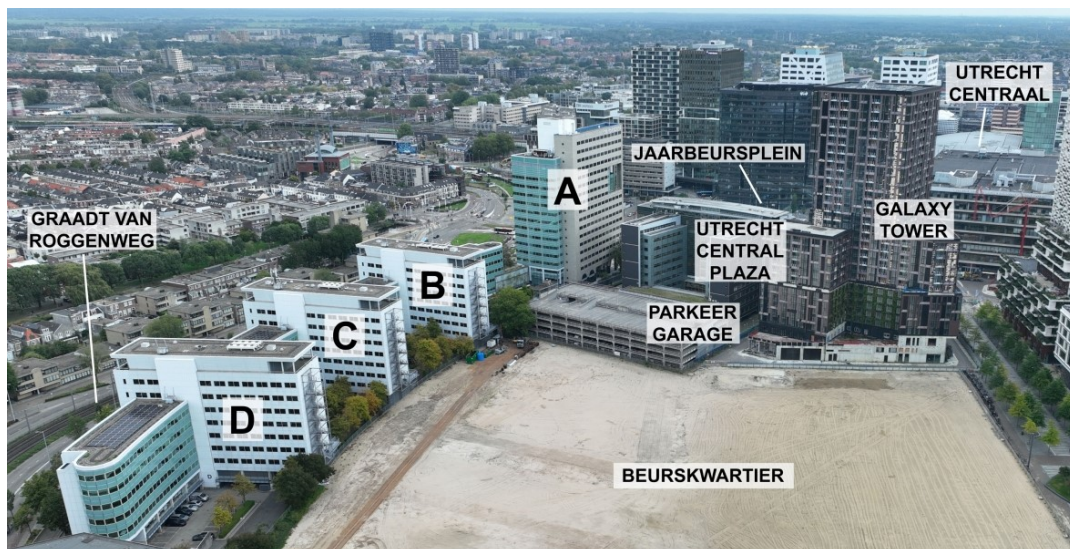


Figure 3.11: Aerial view of the Beurskwartier district (in 2024) [35]

Background information

The plans for the redevelopment started in 2024, once the EPA had come into effect. The existing building is a large office building, but the redevelopment will house a mixture of office space, retail, and housing. This is in conflict with the current physical environment, as the function changes, so a BOPA permit is required.

The project is part of the development of *Beurskwartier*, a new district that will be developed just west of Utrecht Central train station. This development consists of more than ten individual projects, aiming to realise at least 2500 new houses, 5000 office spaces and two parks [10].

The Hojel I complex consists of four parts, as shown in Figure 3.11. Part A is a 70-meter tower, overlooking the Jaarbeursplein. Part B-D together make up a long office building with a façade that stretches over 300 metres, broken up by three larger volumes. In the redevelopment, parts A and B will be redeveloped into separate office buildings, whereas parts C and D will be redeveloped with a residential

tower on either side.

The goal of the participation was to *"create a widely supported plan for redevelopment, that takes the different interests of the surroundings into account"* [33]. Interestingly, the same participation report states that the level of participation will be *"gauging"* (*peilen*). This implies that the aim is mostly to gather input from the stakeholders, without involving them further in the process.

Project size

With a current area of 50,000 m^2 and a projected area of 105,000 m^2 , the project easily falls into the largest, fifth category. This means that a high level of participation can be expected from the initiator, as the impact it will have on the surroundings is large. On the other hand, this project is part of a larger development that is supported by the municipality. Plans for the development of the *Beurskwartier* are already mentioned in the spatial strategy in 2016 [36]. It is, therefore, also in the municipality's interest to commence with the development. The goal of the participation is not to facilitate 'sufficient participation' to get the plans approved, but rather to gather public support and to improve the plans with input from the neighbourhood.

Mandatory participation

As explained, the participation is not executed through the mandatory participation policy for BOPA applications. The participation is facilitated through UPG, which had been set up by the municipality prior to the EPA.

Stakeholder selection

During the participation process, the initiator used several methods to reach participants. A participation session was organised to both inform the stakeholders and to receive their opinions and suggestions. Everyone was welcome to participate in the session, but a specific invitation was sent out to over 600 households close to the development site. Additionally, it was mentioned in the municipal newsletter, and posters were placed in the entrance hall of nearby apartment complexes. This shows a great effort to include a large group of participants, but unfortunately, the participation does not specify how many participants were actually present during the session. Through the website of the municipality, an online survey was also published, which was filled in by 54 participants [33]. Two days after the participation session, through a coffee stand on the street, pedestrians were invited to fill in the online survey. This has led to over 40 of the responses to the survey. Lastly, the initiator has also organised a session, specifically for the owners of the surrounding offices and businesses. A group of seven different parties was present for this session, which resulted in positive responses to the presented plans. Using a variety of ways to reach participants, the initiator has ensured a large and representative group of participants. For this reason, the case scores a 5 regarding *stakeholder selection*.

Early involvement

All the participation sessions took place during the same phase of the design process. The program, volume, size, and general layout were already planned, but the exact layout and look were not yet finished. During the first session, the initiator showed the scope of the project, the program, the building volume, and what urban principles they would implement. Figure 3.12 shows the building volume and program, as it was shown during the first session.

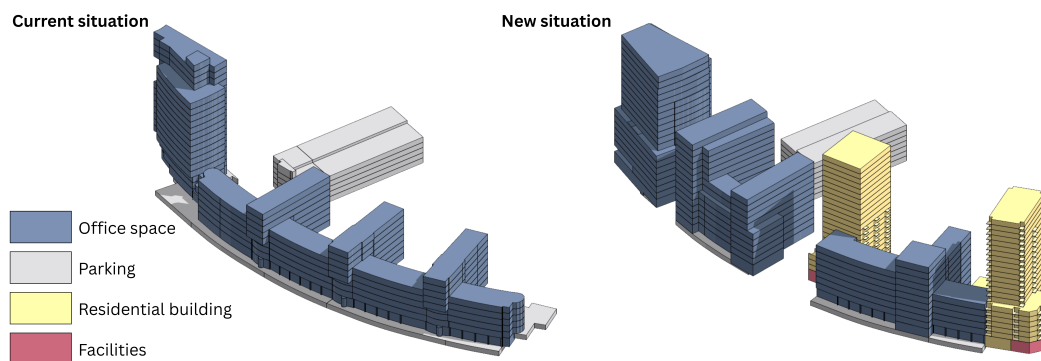


Figure 3.12: Building volumes shown during first participation session [6]

The initiator had only decided on the outline of the program and the building volumes that would house these functions. The most important aspects of this design were the opening up of the façade to create a walkway, increasing the building volume of the office space, and adding two residential towers. Most other aspects were not final. The layout of the public space and what functions should be located on the ground floor were still not decided. This means that the plans were in the solution-finding phase, so ideas from the participants could still be included. The session focused on the three themes: urbanism, public space, and program and facilities. The main points of input are that the (traffic) safety should be taken into account well for the further design steps, and that the public space should be inviting. Some comments were also made about the large building volumes and the additional shadow they would produce. As the project was in the solution-finding phase when the participation started, the case scored a 4 for *early involvement*.

Continuous involvement

After the first participation session, the results were gathered and taken into account in the design. This concept SPvE was then, together with the participation report, sent to the municipal council to be released for a final round of public feedback. Upon approval of the council, the concept version was made public for a period of 5 weeks, with the possibility for anyone to comment on it. This led to another six responses, of which four were general positive feedback and two worried still about the massiveness of the building volumes and the shadow they would create [34]. This did not lead to any changes to the plan, but a further study into the solar impact was conducted. This showed that the impact was only minor and the development did not cause the houses to drop below the minimum solar minutes, as stated in the municipal policy. After the solar study, the final SPvE was sent to the municipal council, which approved it in September 2025. All in all, the participation was only part of the solution-finding phase. Partly, because in this part of the process, only a concept design was presented. Apart from other public feedback rounds, there will be no other participation sessions to gather input from participants. For this reason, the case scores a 2 for *continuous involvement*.

Participant impact

Next to the participation report, explaining how the participation process was set up and what the main takeaways were, the initiator also published a document elaborating on how the input of the participants influenced the plan [38]. The report names four topics that came out of the participation that impacted the plan.

Participants named greenery as an important aspect of the public space. This reinstated the plans of the initiator to include public greenery in the urban space. The second aspect that was named was that the new passage through the building was beneficial to the area. The participants saw a lot of value in being able to reach the centre of the Beurskwartier through this new passageway. This, again, reinstated the proposed plans by the initiator. Thirdly, the participants worried that the building volume might be too high-density, losing the human scale. This did not change the building volume, but reinforced that the public space should focus on keeping this human scale as much as possible and trying to make the buildings not feel too massive. Lastly, participants who worked in the area were worried about the increase in sound that the project would bring. This could not immediately be solved, but caused the initiator to conduct a more thorough sound analysis.

These four aspects highlight how the participants only had a small impact on this phase of the design, but how they were able to contribute to focus points that would be taken into account for the following steps of the design process. This is in line with how the initiator described the goals of the participation process:

"The form of collaboration in this participatory process is 'gauging'. [...] Participants were able to put forward their wishes and concerns. Where possible, the initiator will try to incorporate these wishes and concerns into the plan."

The goal for the participation during this phase of the project was not to gather implementable changes, which mostly happens during the design-evaluation phase. The focus was on gathering wishes, concerns, and aspects that the initiator might not have thought about. In the end, the output of the participation process consisted mainly of positive feedback and some areas to keep in mind during the following steps of the design process. For this reason, the case scores a 2 regarding *participant impact*.

Context sensitivity

The aspect that stood out most in this participation process was the way participants were reached. Not only did the initiator aim to involve a large group of people living in the area, but they also targeted other specific groups of people who are impacted by the development that otherwise would not have been able to give their input. By setting up a coffee cart and asking people who pass by it to fill in the survey, they targeted the direct users of the area. This group would otherwise not be included, as they most likely do not live in the area. The same holds for the fact that the initiator planned a separate meeting with representatives of the businesses that use the office. This shows a willingness of the initiator to go out of their way to include a representative group of participants. The other aspects of the participation process did not stand out in terms of adaptivity to the situation and context. For that reason, the case scores a 3 regarding *context sensitivity*.

Conclusion and takeaways

For a project of this size, the case scores relatively low in most of the categories, as shown in Table 3.6. This does not mean that the participation was set up poorly. Because the participation was not set up for a BOPA application, the aim and goals of the participation were also not the same as for the other cases. The scoring framework is therefore not able to reflect the success of the participation in the same way it does for the other cases. The end product, for which the participation was facilitated, was a concept program of requirements, and not a detailed design, as is the case for BOPA applications. It is still, however, possible to reflect on the success factors that the municipality of *Utrecht* has set for their participation. What they did well was make sure many relevant participants were involved in the process. The goal of gathering valuable wishes and concerns from the public was also achieved. Once the plans have been worked out in more detail, the initiator will be able to apply for a BOPA.

Table 3.6: Scores case 3 - Redevelopment Hojel City Centre I - Utrecht

Participation Criteria	Score
Project size	5
Mandatory participation	Yes
Stakeholder selection (validity)	5
Early involvement (validity)	4
Continuous involvement (validity)	2
Participant impact (usability)	2
Context sensitivity (reliability)	3

From the perspective of the participants, this participation process will not stand out as successful. Their most important success factor is being heard and being able to impact the project to their benefit. Even though they were being heard well, their impact is only minimal, and the impact they might have had will only be visible in the later stages of the project. Without a clear indication of how their input is being used, their feeling being taken into account decreases. The initiator, on the other hand, will be satisfied with this outcome. Whilst creating a public acceptance of the plan, they do not have to make many unwanted changes to the design, whilst receiving useful input for the next design phases.

The municipality of *Utrecht* has not published their policy on mandatory participation, but has written up a draft. This draft includes an exception for plans, of which the programs of requirement, such as an SPvE, have been approved by the municipal council. This means that participation will not be mandatory for the BOPA application. The municipality of *Utrecht* mainly took inspiration from the policy of the municipality of *Rotterdam*, which also has a similar exception in its policy [90]. It could be that the initiator of the project decides to facilitate another round of participation for the design and design-evaluation phase, but this is not mandatory through the BOPA policy.

In practice, this could mean that the BOPA applications for projects that went through UPG have no participation facilitated for the later stages of the design process. This would, overall, decrease the level of participation for these larger BOPA applications.

3.4.4. Case 4 - Development De Concurrent - Hengelo

The last participation example is that of De Concurrent in *Hengelo*. The aim of the project is to develop 29 new apartments. As this project included the construction of more than 20 apartments, it was subject to a binding council advice [32]. The council gave a positive advice and had especially high praise for the participation that was facilitated:

"This should be the textbook example. This is what we should show all initiators"

Not only had the initiator submitted an extensive participation report, including detailed descriptions of all participation sessions and the conversations they had with the neighbours, but they also showed a high level of willingness to collaborate extensively with all participants.

Project size

Before the development, the 3000 m^2 plot was home to a shop that sold old cars and car parts. This area would be developed into 29 apartments, ranging from 50 m^2 to 90 m^2 , and 45 parking places. The new building will have a total net floor area of around 2500 m^2 , just about scoring a 4 for *project size*. Although the new building is not massive, it will have an impact on the direct neighbours and the rest of the neighbourhood.

Mandatory participation

As explained in section 1.5, the municipality of *Hengelo* does not mandate participation for any BOPA application. Nonetheless, it is often strongly advised to do so, especially with relatively impactful projects such as this one. Their approach is to make initiators realise what benefits participation can bring to the project, instead of forcing participation by making it mandatory through their policy. The participation report encapsulates this ideology:

"The aim of the participatory process was, on the one hand, to foster awareness, understanding and engagement, and, on the other hand, to improve the quality of the plan by incorporating local perspectives. At the same time, the process was used to build trust and cooperation, which is in line with the broader aim of transparent and careful area development."

Stakeholder selection

The participation process consisted of two public meetings for everyone in the neighbourhood. For both meetings, all households within a 200 metre radius received invitations, but interested participants living outside of this area were also welcome. Additionally, the initiator had close contact with a couple of the direct neighbours. Figure 3.13 shows which neighbours were collaborated with outside of the two main participation sessions. Both the neighbours at Adriaansweg 3 and Berfloweg 124 - 132 were extensively collaborated with, as their homes directly neighbored the new development. All of their concerns were taken into consideration, and they were able to strongly influence what the façade on their side of the development should look like.

On the outer rim of the plot, an old brick wall was present. With the permission of the former owner, some households on the Frederikstraat had built their shed against this wall. As this wall would be demolished in the new development, these structures would have to be taken down as well. During the second participation session, the initiator urged everyone who would run into issues, as a result of the demolition of this wall, to get in contact. The households at Frederikstraat 22 and 34 did so, and both came to an agreement with the initiator. In the case of Frederikstraat 34, the initiator agreed to take care of the construction of a new shed once they had taken the old shed down.

The first session had 76 participants, from the 400 households that were directly invited, and the second session had 35 participants with the same households still receiving an invitation. These participants were able to represent the interests of the neighbourhood well. By additionally collaborating with the direct neighbours, the initiator received a lot of feedback that translated into implementable improvements to the design. All in all, the case scores a 5 for *stakeholder selection* as a large and relevant group of participants took part in the participation process.



Figure 3.13: Development plans for De Concurrent [45]

Early involvement

During the first session, the participants were shown renders and drawings of a first design. The participants were able to view the drawings on large posters, and the developer and architects were present to answer the participants' questions. It is clear that the project has reached the design phase, as the program and building size were already determined, and the first designs were being shown. This means that there was no room for the participants to influence these aspects, but they could still impact what the design should look like and how certain aspects would be implemented. The participants were also asked to fill in a short 3-question survey after they had looked at the plans. The questions were regarding the function change and preservation of the historical character of the block, what aspects they missed in the plans, and if they would like to keep updated about the development plans. The results were almost exclusively positive, and four aspects were named that should be elaborated in the next session. The participants were first involved in the design phase, so the case scores a 3 regarding *early involvement*.

Continuous involvement

The next participation session was planned half a year after the first session, but in the meantime, the initiator had planned several meetings with the direct neighbours. Figure 3.14 shows all participation sessions and meetings the initiator had with participants. During these meetings, the same plans as in the first participation session were shown, and the neighbours could express their concerns. The neighbouring household at Adriaansweg 3 was mainly concerned about the alleyway that would be constructed, the building volume and their privacy. The neighbouring households at Berfloweg 124 - 132 had also expressed their concerns about the building volume and their privacy. Additionally, they were worried about the safety of the entrance to the parking area and the impact it would have on the traffic.

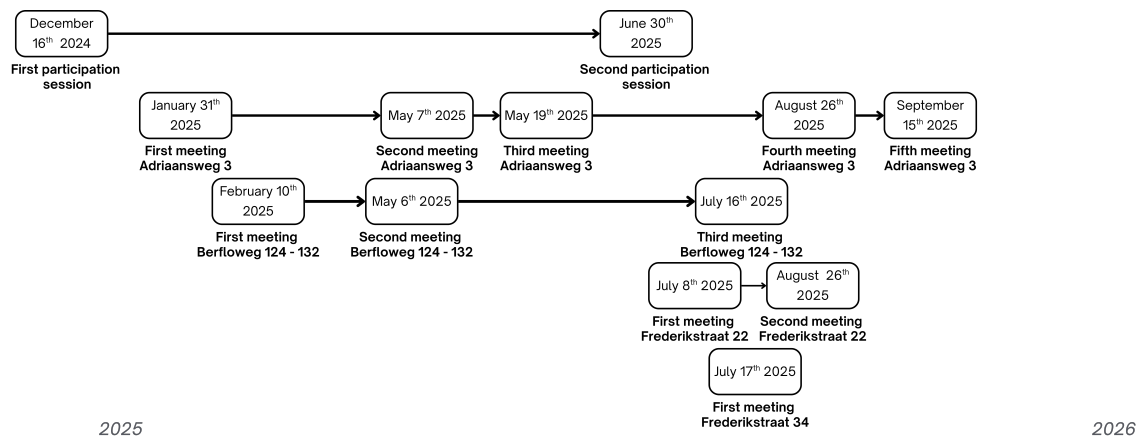


Figure 3.14: Timeline participation process of De Concurrent

For the second participation session, the same group of 400 households had received an invitation, which led to a total of 35 participants. During the session, the initiator showed how the concerns that were voiced in the survey from session 1 and the concerns from the neighbouring households were all taken into account for the new design. The initiator had prepared updated plans which included new renders, floor plans, and views from the specific 'problem areas' that had previously led to concerns.

After the second session, no agreement could be reached with the neighbours at both Adriaansweg 3 and Berfloweg 124 - 132. Only after three more meetings and a string of emails, which were also included in the participation report, was an agreement reached that all parties were satisfied with. In total, the participants were involved in the design and the design-evaluation phase, so the case scores a 3 regarding *continuous involvement*

Participant impact

The level of involvement that the participants had was in relation to the amount of impact the project had on them. The residents who live in the neighbourhood were mainly consulted for ideas, but, as highlighted above, the initiator worked especially in close collaboration with the direct neighbours. Their concerns were taken very seriously, and the initiator tried to ease their concerns as much as possible, within the parameters of the project. Still, for parts of the project, the direct neighbours could be considered co-owners of the project.

The neighbours' privacy was ensured by adding non-transparent foil to the windows that looked onto their garden. Additionally, a perforated metal sheet was installed around the outside staircase to prevent new residents from looking into the other gardens.

At the request of the neighbours, the upper floor of the design had also received a setback to make the volume appear less massive, and an agreement had been reached about what the walls, which could be viewed by the neighbours, would look like.

The corridor between the development and the Adriaansweg 3 was designed with a parking space for the neighbours, and they received a formal right of storage and an easement of way. On the other side, the neighbours of Berflow 124 - 132 could decide what the railing should look like and how the entrance road should be designed.

All in all, the initiator showed a great willingness to adapt the plans to the demands of the participants and large changes were made to the design to appeal to their needs. For this reason, the project case a 5 for *participant impact*.

Context sensitivity

As mentioned, the initiator had asked all participants to remove all structures that were attached to the old buildings so they could be taken down without any issues. They also offered to help anyone for whom this might lead to any problems. Two of the households, Frederikstraat 22 and 34, planned a viewing with the developer to look at their situation. In both cases, large structures were built against the old wall that were not easy to take down and replace. In the case of Frederikstraat 34, the developer agreed to build a temporary wall during the construction of the project, before the actual wall would be constructed. In the case of Frederikstraat 22, the large shed that was placed in the backyard had to be taken down. After two visits, the owners and the developer came to an agreement where the owners would take down the old shed and purchase a new shed, and the developer would take care of the construction of this new shed.

During the entire participation process, the initiator showed a high level of willingness to collaborate with the participants. Not only did they take a lot of time to meet several times with the participants, as shown in Figure 3.14. They also tried to come to constructive solutions that made the entire process as easy as possible for all participants involved. Based on this adaptability and effort to collaborate intensively, the case scores a 5 for *context sensitivity*.

Table 3.7: Scores case 4 - Development De Concurrent - Hengelo

Participation Criteria	Score
Project size	4
Mandatory participation	No
Stakeholder selection (validity)	5
Early involvement (validity)	3
Continuous involvement (validity)	3
Participant impact (usability)	5
Context sensitivity (reliability)	5

Conclusion and takeaways

It is not surprising that the municipality of *Hengelo* highlighted De Concurrent as a successful example of participation. As Table 3.7 shows, the participation process received the highest score in three categories. These are also the three aspects that stood out from the entire process:

Firstly, the participants for the participation process were chosen well. This led to a lot of involvement from the neighbours. The second aspect that stood out was the way the participation was managed. The initiator matched the level of impact the project had on a participant to their level of participation. Direct neighbours were involved through home visits, e-mails and letters, whereas other households in the neighbourhood could participate through the two participation sessions. The first of which was used to gather ideas and wishes, and the second to show how their input was taken into account in the final designs. The third aspect that stood out was the way the initiator collaborated with the participants. Especially with the direct neighbours, the initiator put a lot of effort into finding solutions that benefited all parties. With the neighbours' input, a final design was created that pleased everyone.

As explained in subsection 3.2.2, the municipality of *Hengelo* valued the outcome of the participation more than the process. This is also the reason why the case of De Concurrent stood out as much as it did. It is apparent that the well-facilitated process played an important part in realising the successful outcome of the participation, but it was also about the way the initiator used this outcome to improve the design and collaborate with the participants. This was the main reason for the participation process to be as successful as it was for all parties. The case showed how participation can lead to improvements to the plan, public acceptance of the plan, and neighbours who feel involved in their neighbourhood.

3.4.5. Main takeaways

The aim of this sub-question was to determine what success factors the different municipalities value from participation and to give four examples of participation processes that can be used as a reference for future initiators and municipalities. Table 3.8 provides an overview of the scores that the cases received.

The common factor that all municipalities share is that the outcome of the participation is valued more than the process, but a good participation process is important to realise a valuable outcome. A good outcome, in the eyes of the municipalities, is an improved plan, public support for the plan, and a transparent collaboration between the initiator and the participants. This starts with making sure that the group of participants is large enough and represents the group of impacted people well. The second aspect that was visible in all cases was the level of adaptation to the context and the willingness of initiators to collaborate with the participants. Interestingly, the usability of the participation is not always present in the cases, whereas this is one of the most important success factors for participants. As long as the initiator was transparent about their choices, it would often ensure a good collaboration. A low impact was often the result of many aspects of the design already being decided on, leaving only small changes to be made. This, in turn, is a result of not involving the participants early on in the process, like in the case of *Utrecht*, or not using the participation outcome to make adaptations to the design. In this case, a longer involvement could also lead to a higher level of impact by the participants.

Table 3.8: Results cases sub-question 4

Participation Criteria	Case 1	Case 2	Case 3	Case 4
	Vught	Epe	Utrecht	Hengelo
Project size	5	2	5	4
Mandatory participation	Yes	Yes	No	No
Stakeholder selection (validity)	4	4	5	5
Early involvement (validity)	4	2	4	3
Continuous involvement (validity)	4	2	2	3
Participant impact (usability)	4	2	2	5
Context sensitivity (reliability)	5	3	3	5

As explained in section 1.2, different parties have different success factors. These cases have shown that the municipalities value a good participation process over a valuable participation outcome. An improved plan is also beneficial for the municipality, as it improves the overall quality of the area, but a smooth collaboration between the initiator and participants and societal support is more important, as it leads to a positively involved community. This is difficult, however, as the success factors of the initiator and the participant are not entirely in line. They are not contradicting, as all parties benefit from an improved plan, but *improved* is again subjective and is dependent on your perspective.

Similarly, participants want to have a lot of impact, but this impact is not always beneficial to the initiator. Too many changes might worsen the plan in their eyes, but sometimes they have to compromise with the participants to keep their approval. There are also positive examples of participation where small changes greatly improve the plans for the participants, without worsening the plan for the initiator, like happened in the *Epe* case. In the end, these small changes to the design are not important from the perspective of the municipality; these are not reasons to grant or deny a permit. Still, municipalities value transparent collaboration and honest agreements between the initiator and the participants. These small changes and compromises show goodwill from both sides, leading to more public support for the plans, which is the one success factor that all parties share.

Another way to determine the success of a participation process is to assess the goals set for the participation and evaluate how well they have been achieved. However, it is not always clear what goals the initiator has determined for the participation. For the case in *Vught*, it was clear. The main goal was to create public support for the plan, which was achieved, according to the municipality. For the case in *Utrecht*, however, the goal was to *“create a widely supported plan for redevelopment, that*

takes the different interests of the surroundings into account". With the current state of the plan, it cannot be concluded that the participation has led to a widely supported plan, as the participation process only collected the neighbourhood's concerns and ideas. The participation report for the project in the municipality of *Epe* has not mentioned their goals for the participation. It is unclear whether they had not set clear goals for the participation or if they had chosen to leave them out of the report. In *Hengelo*, the goal was to *"foster awareness and understanding (...) and to improve quality of the plan by incorporating local perspectives"*. The participation report shows that this goal has been achieved. Still, the goals that the initiators set for the participation differ from the success factors that the municipalities indicate, as their focus also includes a good and transparent collaboration between the initiator and the participants. Still, even if it is not a direct goal for the initiators, good and transparent collaboration helps the initiators achieve their goal. This shows how certain factors that municipalities value from participation are, for the initiators, merely a tool for achieving the goals they set.

4

Conclusion & Discussion

This chapter will use the results of the research to draw conclusions and answer the main research question by combining the conclusions of the different sub-questions. Based on these conclusions, recommendations will be given for the EPA, municipalities and future research. Additionally, the report will reflect upon the goals of the EPA, and the limitations of this research will be described.

The research question that stood at the centre of this research was the following:

“What participation policies have municipalities implemented for BOPA applications under the Environment and Planning Act, how is the facilitated participation evaluated and incorporated in the municipal decision-making, and when was the participation successful?”

This research question was divided into different sub-questions to analyse the specific aspects of the question, together answering it in its entirety. The conclusions of the four sub-questions will be discussed first, after which the final conclusions will be drawn.

4.1. Conclusion

4.1.1. SQ 1 - What policy have municipalities adopted around mandatory participation within BOPA applications?

This sub-questions was answered through the analysis of the municipal policy around mandatory participation of a representative group of 50 municipalities. These municipalities could be divided into three main categories: always mandatory participation (n=11), never mandatory participation (n=3), and specific categories of projects that have mandatory participation (n=36). By far, most municipalities fall into the category that appoints specific projects for mandatory participation, but this does show how far apart the different municipal policies lie. Even within this category, the policies differ massively. A respective level of 'strictness' was defined by the number of houses that have to be constructed in a municipality for a project to have mandatory participation. Within this largest category, the strictness ranged from 'All houses have mandatory participation' to 'projects building more than 80 houses have mandatory participation' and 'building houses never has mandatory participation'. This shows how the sample included mandatory participation policies that ranged across the entire possible spectrum of 'strictness', from very strict to not strict at all.

Municipal size was plotted against the type of policy that was implemented and the level of strictness of the policy, both resulting in no correlation whatsoever. It can be concluded that most municipalities have implemented their own unique policy. This research has not found a topological reason to explain their choices, but the decisions that have led to certain policy implementations are the topic of the next sub-question.

4.1.2. SQ 2 - What considerations have shaped municipal policy around mandatory participation within BOPA applications, and how satisfied are the municipalities with their current policy?

From the diverse group of policies categorised in sub-question 1, four municipalities have been selected for further analysis. Specifically, the decisions that have shaped their policy and how they reflect on their policy were the topic of this sub-question. The chosen municipalities are shown in Table 4.1.

Table 4.1: Municipalities that took part in an interview

Municipality	# of inhabitants	Type of policy
Utrecht	376,757	Never mandatory participation*
Hengelo	83,655	Never mandatory participation
Epe	33,469	Always mandatory participation
Vught	33,010	List of categories

* The municipality of Utrecht is working on a list of categories for mandatory participation, but at the moment, participation is never mandatory.

All municipalities reported different reasons for implementing their policy. Examples of reasons that influenced the decisions are the importance of participation (*all municipalities*), limiting workload (*Utrecht*), fostering a sense of community (*Epe*), and limiting legal conflicts (*Hengelo*). These values can easily be translated into the policies *always mandatory participation* and *never mandatory participation*, but it gets more difficult when they need to be translated into specific values and categories. This was, for example, done by aiming to differentiate between private individuals and commercial companies by setting the minimum number of houses for mandatory participation at two (in *Utrecht*). Another approach was to include all projects, except for small projects that have little impact on the environment. The municipality of *Vught* raised the threshold to exclude these small projects because, in practice, the mandatory participation policy was not enforced for these projects.

Interestingly, even the municipalities that have opposite policies regarding mandatory participation share the same values for participation. Both the municipality of *Epe* and the municipality of *Hengelo* emphasise the importance of participation, but they have chosen different routes to achieve it. Where in *Epe*, the mandatory participation is used as an instrument to ensure that all initiators facilitate participation, in *Hengelo*, they ensure this without any mandatory participation. The municipality of *Hengelo* has shown that it is also possible to get initiators to facilitate participation by educating initiators on the benefits of participation, rather than forcing them to do so. Their reason to never mandate participation was that they were concerned that this would lead many legal battles over when participation is *satisfactory*. In the municipalities that did mandate participation, this concern turned out not to be valid. Still, their approach has highlighted a hole in the mandatory participation policy, as it showed a way of ensuring participation without mandating it.

Even though they all implemented different policies, the municipalities agree that their participation policy has a positive effect. They report a decrease in the number of official complaints to the permits that are granted, as a result of more and earlier participation. Furthermore, they see many examples of projects that have been improved because of participation. The municipality of *Vught* is the only municipality of the four that has reflected on its policy (leading to an elevated threshold for mandatory participation), but the other municipalities indicated that they are pleased with their policies at the moment and see no reason to alter them.

4.1.3. SQ 3 - What makes participation reports be considered sufficient, and to what extent does the organised participation influence municipal BOPA decisions?

This sub-question analysed how municipalities evaluate the completeness of the participation report and how the participation influenced their decision regarding the BOPA applications. Using the same interviews that helped answer SQ 2, this sub-question aimed to find out how important participation is for municipal decision-making.

When asked about the importance of participation, all municipalities reported that insufficient participation has never been the reason for a BOPA application to be deemed incomplete, regardless of whether it was mandatory for the project or not. The participation is always taken into account, but will never be the deciding factor in the decision-making process. This does not mean that the municipalities do not value the participation reports. For the municipalities, the participation has three main goals: improving the projects, creating public support, and highlighting/ removing the concerns of the public. These factors are not decisive for the decision-making, but rather highlight what aspects they have to pay attention to. The participation reports are an important instrument for defining the public opinion about a project.

The fact that insufficient participation has never been used as a ground for denying a permit shows how the EPA makes it impossible for municipalities to evaluate the participation on its content, as participation is only an application requirement. Mandating participation is now only a tool to ensure any kind of participation, without being able to enforce a certain standard for this participation. The policy does not hold initiators who fail to facilitate sufficient participation accountable, which is a missed opportunity, as successful participation has been shown to be greatly beneficial. At the moment, municipalities are not allowed to set requirements for the participation, as it is the responsibility of the initiator to facilitate participation, and they should be free to do so however they deem best. Without insufficient participation being grounds for refusal with requirements and standards, it becomes extremely difficult to enforce a certain level of participation. Some municipalities have tried to work around this by instead of setting requirements, making guidelines and being transparent about their evaluation criteria for the participation. Still, these cannot be enforced through the EPA. Additionally, if municipalities want to deem an application incomplete due to insufficient participation, it is difficult to substantiate this objectively. This ambiguity was also an important reason for the municipality of *Hengelo* to never mandate participation, as determining the sufficiency of participation can never be objective without requirements. This highlights one of the biggest problems with this part of the EPA. The inability to set requirements for the participation makes it difficult to determine when participation was insufficient and impossible to hold the participation to a certain standard.

4.1.4. SQ 4 - What do municipalities regard as successful participation?

The final sub-question aimed to highlight the success factors that municipalities deem most important in participation by analysing examples of participation that were successful in their eyes. This will not only provide more insight into the ways municipalities look at participation, but the examples also serve as *best practices* of participation processes that were successful in the past. The participation processes of all four cases were scored according to objective criteria to measure the success of participation. The municipal success factors could therefore be related to the objective success and the success factors of the initiators and the participants.

The four examples all described varying types of projects, differing in both size and context. Still, the participation showed some parallels. Three aspects stood out from all examples: the initiators showed a strong willingness to collaborate, the participation processes were adapted well to the project's context, and the projects were improved as a result of the participation.

The initiator's goals for the participation are twofold. On one hand, they want to benefit from the participation, but on the other hand, they want to convince the municipality to grant the permit. This makes the initiator's success factors intertwined with those of the municipality. The participants have the most self-centred success factors, as their only stake in the process is the quality of the project, as perceived by them. Even though the municipality benefits from an improved design, the analysis of the four cases shows that the important municipal success factors are good transparent collaboration between the initiator and participants, and public support for the plan. In the end, the municipality is more concerned

with maintaining the sense of community in a neighbourhood than the exact design of the project. In this way, the common success factor of the three parties is public acceptance, as this benefits everyone. This highlights the idea that the most important aspect of a participation process is realising public support for the project through good collaboration and striking compromises between the initiator and the participants, leaving everyone satisfied.

4.1.5. Conclusion main research question

What participation policies have municipalities implemented for BOPA applications under the Environment and Planning Act, how is the facilitated participation evaluated and incorporated in the municipal decision-making, and when was the participation successful?

Combining the outcome of the four sub-questions, the main research question can be answered. The aim of the research question was to determine how the decentralised nature of the EPA has affected the municipal participation policy around BOPAs and what the effect of this was on the way participation is facilitated. SQ 1 and SQ 2 highlighted how far the municipal policies around mandatory participation lie apart, whilst all trying to achieve the same goal of increasing the level of public participation. Using a variety of reasons, all the analysed municipalities came up with different policies. In practice, the difference between the municipalities is only minimal. The biggest difference between the municipalities is the threshold for mandatory participation. The municipality of *Epe* was the only municipality that valued participation for all projects, including those with a minimal impact, and enforced this through making participation mandatory for all projects. For medium and large projects, participation is always facilitated, even in municipalities where it is not mandated, like in the municipality of *Hengelo*.

The differences in participation policy also have little effect on the way participation is used for municipal decision-making. The municipalities all have a similar way of evaluating the participation report. Whilst not decisive, the participation report does help them with the decision-making through indicating what the public opinion is about the project and what concerns are prevalent. All in all, the decentralisation of the EPA has led to many differentiating municipal policies, with only a few notable differences in practice.

The municipalities show similar success factors for participation, with the main focus on good collaboration between participants and the initiator, and public support for the project. Surprisingly, in the current way the EPA is set up, initiators are not motivated to achieve any of these goals. The level of participation that initiators have to meet for their application to be considered is extremely minimal. The success factors that the municipalities value cannot, in any way, be enforced. Even when they have made participation mandatory for a project, the initiator has no extrinsic motivation to facilitate participation better than the bare minimum to be considered participation.

The goal of this research was firstly, to provide insights into the practical working of the EPA, and secondly, to provide lawmakers on a national and municipal level with practical recommendations about this topic. The first goal has been achieved through this research, as detailed in this Chapter. The second goal has also been achieved with a number of concrete, implementable recommendations for both the national government and local governments. These are described in subsection 4.2.2 in the next section of the report.

4.2. Discussion

This section will discuss how the ambitions of the EPA have been achieved through the BOPA legislation. Additionally, based on the outcome of the research, recommendations to both the local governments and the national government will be given. Next, recommendations will be given for future research that can expand on the work that has been done. Lastly, the limitations of this research will be described.

4.2.1. Ambitions of the EPA

As described in section 1.4, the implementation of the EPA had several ambitions in mind. The EPA should simplify the legislation around environmental law, prioritise the physical environment, decentralise legislation to give municipalities room for adaptive and innovative policy, speed up decision-making times, and increase public participation in new plans and projects. Based on this research, it cannot be determined how well this goal was achieved for the entire EPA. Still, the success of the BOPA legislation can be evaluated against these ambitions.

The *simplifying of legislation* was in this context mainly achieved through *Regels op de Kaart*. This platform was set up for citizens to determine what permits they need for their projects through an interactive map. In theory, this platform helps speed up the process massively, whilst improving transparency. In practice, however, this goal is not entirely achieved. The platform does not provide the easy overview it promises, and not all data is complete. Municipalities are still working on transferring the data from the old platform to the new platform. Once they have all done so, it will contribute to simplifying the process. BOPA legislation also contributes to the *prioritising of the physical environment*. This ambition aims to improve the coherence between buildings, infrastructure, the environment, and heritage. BOPA legislation creates a fast and simple way of deviating from the physical environment plan, whilst still letting the municipality be in control. Through this system, the municipality can ensure the coherence of the environment is maintained whilst still being flexible in their developments. It is clear that BOPA legislation has given municipalities room for *adaptive and innovative policy through decentralised legislation*. This research has shown, however, that the practical effect this has on the actual workings of the legislation is small. Still, municipalities value being able to determine their own legislation, as it gives them the opportunity to tailor their policy to their own location and context. As mentioned, BOPA legislation enables a fast and easy way to deviate from the physical environment plan. The goal of *speeding up decision-making* has, in this way, also been achieved. The last goal, *increasing public participation*, is most relevant to this research. All municipal representatives report concrete benefits of this increased public participation. Still, there are improvements to be made to increase public participation even further.

4.2.2. Practical recommendations

The outcome of this research has led to both practical recommendations for adaptations to the EPA and recommendations for municipalities about how to shape their policies.

When looking at the mandatory participation policies of the four municipalities, the most interesting difference is the way in which they use them. In theory, the EPA wants to encourage all BOPA applicants to facilitate participation, but municipalities can enforce mandatory participation for specific projects. Still, municipalities are only able to evaluate the completeness of the participation report. This gives municipalities no possibility to ensure a certain level of participation for the projects where they deem it necessary. At the moment, none of the analysed municipalities has ever enforced their mandatory participation policy by taking a permit out of consideration because of insufficient participation, because this can only be done when the minimum requirements for participation have not been met, or the application was incomplete. Mandatory participation is only used as a tool to ensure that, for projects where the municipality deems it necessary, any form of participation is facilitated. The municipality of *Hengelo* has shown that ensuring participation can also be achieved without mandatory participation, but by educating the initiators instead. By informing the initiators of the benefits of participation and nudging them to do so, the municipality of *Hengelo* has not had any problems ensuring that participation is being facilitated. This also shifts the focus of the participation from meeting the application requirements to ensuring a valuable outcome. The municipalities value a good outcome much higher than a complete participation process. A good participation process is an important aspect that helps to generate this outcome, but municipalities have, at the moment, no way of ensuring a good participation process. The

only thing they can do is advise the initiator to facilitate participation and give them guidelines for how to do so. Most municipalities already have participation guidelines that step-by-step explain how to facilitate participation, based on the type of project and the level of impact. At the moment, these are already used by some initiators to set up their participation process, but they are not required to follow these guidelines. As shown by the municipality of *Hengelo*, a good participation process can also be achieved without mandating participation. By educating the initiators and providing enough guidelines, they have achieved successful participation without mandating it.

Recommended change to the EPA

The way the EPA was set up, mandatory participation policy can never ensure a certain standard for participation because insufficient participation is not a ground for refusal. Municipalities are not allowed to set standards and requirements for participation. The idea behind this is to give the initiators the freedom to facilitate participation in the way they see best fit. This leads to a situation where participation is only a bureaucratic check mark, where initiators are not stimulated to facilitate actual, meaningful participation. At the moment, the municipalities' only possibility of holding an initiator accountable is when their participation does not meet the minimum standard for a project of their impact, which does not happen in practice due to its subjectivity and the fact that the minimum standard is extremely low. If municipalities were able to set requirements for the projects that have mandatory participation, it would be possible to ensure any kind of standard for the participation. When communicated clearly to the initiators, this would ensure an objective process for the evaluation of the participation. This objectivity would ensure that this would not lead to any unexpected decisions. By differentiating between projects with and without mandatory participation, this would only slightly increase the workload for the municipalities, as the non-mandatory participation will still only be checked for completeness. Municipalities would be able to set their own standards, so they would be able to determine for themselves what they expect from the participation. Many municipalities have already published participation guides with similar requirements, but are not able to enforce them at the moment. Projects where participation is not mandatory are deliberately excluded from these standards, as this would discourage initiators from facilitating participation voluntarily. For these projects, the current setup of the EPA could remain in place, where only the completeness of the application is evaluated.

The benefits of this change are that municipalities would be able to ensure that participation, for projects where they deem it important, can be held to their own standards. This would lead to more meaningful participation, increasing the benefits of participation even further, without discouraging the initiators of projects without mandatory participation. This would give municipalities more control over how they would like to see participation being facilitated, as they are able to set their own standards. It would still be possible to differentiate the requirements for projects of different sizes and levels of impact.

A drawback of this change would be that the initiators lose their freedom of being able to choose however they would like to facilitate participation, but, depending on how the requirements are set up, municipalities are able to determine how strict they make their requirements.

Another small drawback is that this change would shift some of the control over the participation from the mayor's office to the municipal council. At the moment, the municipal council is responsible for drafting the municipal participation policy, which includes participation guidelines for both initiators and the mayor's office. The mayor's office, in turn, uses these guidelines to evaluate the participation reports. Still, these are internal guidelines that cannot be enforced on the initiators. With the recommended change to the EPA, these evaluation guidelines become legal requirements for all projects that have mandatory participation. This means that the evaluation process becomes an objective checklist, removing the freedom and room for interpretation that the mayor's office currently has when evaluating participation. This is not necessarily negative, but it does mean that some of the responsibility for the participation evaluation is shifted from the mayor's office to the municipal council.

Recommendation for municipalities

If the EPA were to stay unchanged, this research does provide a recommendation for municipalities about how to approach their BOPA policy. The analysis of the policy of the municipality of *Hengelo* has shown that it is also possible to get an initiator to facilitate participation without mandating it, but rather to inform them about the benefits of participation. Their idea is that this helps the initiator to be intrinsically motivated to facilitate participation, instead of only aiming to meet the application requirements. Educating the initiators about the benefits and showing them examples of successful participation pro-

cesses could make them more willing to facilitate the participation in a way that benefits not only them but also the participants, as the focus is shifted away from meeting the requirements, instead focusing solely on the outcome. Mandating participation focuses more on ensuring that any kind of participation is being facilitated, rather than on the success of the participation.

To conclude, this research recommends that municipalities focus on actively educating all initiators about the benefits of participation, and for non-mandatory participation, to keep the current system of only checking if the application is complete. Additionally, it would recommend the EPA to give municipalities the possibility to set requirements for the participation for all projects that have mandatory participation. These requirements could be dependent on project size, as long as they are objective and clear for the initiators. As long as municipalities have not published their new requirements, the current system will remain in place. This will not only lead to more participation but also ensure that a higher standard is met for the participation of all projects with mandatory participation.

Personal note

One of the main motivations for this research topic was the interest in public participation in the built environment, as this is a highly topical subject that plays an increasingly more important role in society. The biggest complaint that keeps being repeated is that participation is only a bureaucratic checkmark, and that citizens still do not feel heard, despite efforts to make public participation more important. One of the ambitions of the EPA was to make public participation more embedded in projects in the built environment. This research aimed to determine if this complaint was still warranted or if concrete improvements had been made through the EPA. Unfortunately, this research cannot conclude that this complaint is entirely unwarranted. In the way the EPA is currently set up, participation is still barely more than a formality.

The decisions that have formed the current EPA setup were chosen deliberately, and they are understandable. It is important that municipalities cannot prescribe exactly how initiators should organise participation, as this would impede their flexibility regarding how to facilitate participation. Still, the way the EPA is currently set up gives initiators so much freedom and flexibility that municipalities have lost all control over the participation process. With the recommended change to the EPA, initiators still retain much of their freedom and flexibility, whilst giving municipalities their control back. Hopefully, this change could lead to an increase in meaningful participation and cut down on the perception that participation is still merely a formality.

4.2.3. Limitations

This research has contributed to a better understanding of the workings of the EPA and the effect it has in practice. Still, some limitations have to be considered.

Small sample size

From the representative sample of 50 municipalities, only four have been selected for additional analysis. Selecting four municipalities with different policies has given insight into the different reasons they had for choosing their policy, but this leaves only a sample of one municipality per policy type. It would also be interesting to analyse the reasoning of different municipalities that have come to the same type of policy. This limited the depth of the analysis for the different policy categories, but this scope was chosen to highlight the large differences between the municipalities.

Additionally, one type of policy that has not been analysed in this research is the group of municipalities that have a high threshold for mandatory participation. Municipalities such as *The Hague*, *Kerkrade*, or *Delft* have a mandatory participation threshold of 80, 50, and 20 houses, respectively. It would be interesting to know what their considerations were for this and what effect this has on the level of participation in their municipality. How much participation is facilitated for projects that fall below this threshold, and how do they evaluate this participation? With the feasibility of the research in mind, this group was left outside of the scope, as this group is still similar to the municipalities of *Utrecht* and *Vught*.

This research could not find a correlation between municipal typology and BOPA participation policy. The scope of this research only included municipality size, but elements such as the location within the Netherlands and which political party is in power were not included. A more thorough research into the municipal typologies could highlight a correlation that was not found before.

Possible bias

From the four municipalities that were analysed for SQ 2-4, only one representative was interviewed per municipality. The representatives were selected because of their knowledge of both the policy-making aspect and the practical, day-to-day workings of BOPA policy in their municipality. These representatives were able to give knowledgeable insights, but the limited number of interviews might have led to some unintended oversights or biases.

Limited perspectives

The perspective of the municipalities was chosen as the scope of this research, as they are responsible for determining and enforcing the policies, but the perspectives of the other relevant parties have been tried to incorporate into the research as well. Still, without consulting any initiators and participants, their perspective has merely been based on the literature and the participation reports. It would have been valuable to hear from them about their experience with the policy and the participation processes.

4.2.4. Future research

The outcome of this research has led to new insights and recommendations for both local governments and the national government. Still, many aspects remain uncovered, and new doors have been opened for future follow-up research. In this section, recommendations will be given for future research that can elaborate on the work that has been done.

As explained in the limitations in subsection 4.2.3, the perspective of the participants and the initiators is an important factor that has not been covered extensively in this research. Their evaluation of the policy is just as important as the municipalities'. The outcome of this research can be the starting point for such research, as it can give the participants and initiators a better insight into the workings of the policy and the perspective of the municipalities. This work can help increase the understanding of the decisions that the municipalities have made and the way participation plays a role in municipal decision-making.

Secondly, the scope of this research did not allow for a deeper research into a possible correlation between municipal topology and BOPA participation policy. Future research could include a larger sample size and an analysis of additional municipal features such as location and political affiliation.

Another aspect that was not part of the scope of this research, but is an important aspect to research further, is the second step of the participation evaluation. After VTH has checked the completeness

of the participation report, they conduct a second evaluation to determine if the public opinion can be determined based on the available information. This evaluation step has not been researched in this research, as it focused on how initiators facilitated participation, and they are no longer responsible for the participation once their application is marked as complete. Still, it would be interesting to research how often municipalities feel the need to gather additional information to determine the public opinion. It could, for example, be researched how often municipalities publish the applications for public feedback before making their decision. This would indicate how often municipalities receive participation reports that have been marked as sufficient, but that are still unable to determine the public opinion. This would indicate if the recommended policy change, to increase the standard for participation, is actually necessary, or if, in practice, municipalities are already satisfied with most participation reports.

Additionally, it would be interesting to compare the initiator-led participation, as is the case with BOPA applications, with participation as facilitated by the municipalities themselves. Municipalities are tasked with facilitating participation when drafting the physical environment plan, but do the goals and success factors change without a supervisory authority to evaluate the participation? What can initiators learn from municipality-led participation and vice versa?

Lastly, it would be valuable to share the conclusion and recommendations of this research with different municipalities. Firstly, to get their response, and secondly, to see what the effect is of the recommendations that have been given. At the moment, the actual effect of the recommendations is still speculative, but it would be interesting to see what would happen if they were to be implemented by a municipality.

4.2.5. AI disclaimer

Artificial Intelligence tools such as ChatGPT and Claude have been helpful for this research, but it is important to clarify for what purpose they were used. AI has **never** been used to generate text or replace human thinking. It has been helpful for navigating the participation literature and specific municipal documents related to their BOPA policy. No information has been directly taken from the AI tools, but they were used to find relevant sources. AI has also helped with the formatting of images and tables in LaTeX and the translation of Dutch text to English. No images are the work of AI, all images in this report have been correctly sourced or were made by the author.

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Interview setup

A.1. Interview setup (NL)

A.1.1. Onderzoek achtergrond

Dit interview is onderdeel van mijn afstudeeronderzoek voor de Master Construction Management & Engineering aan de TU Delft. Het onderzoek gaat over hoe gemeenten hun beleid hebben vormgegeven binnen de omgevingswet. De omgevingswet heeft veel speelruimte gelaten voor gemeenten om hun eigen beleid vorm te geven op basis van hun eigen situatie en context. De casus die ik hiervoor heb gekozen is de participatie binnen de vergunningsverlening voor buitenplanse omgevingsplanactiviteiten (BOPA).

Achtergrond BOPA

Binnen de omgevingswet is ervoor gekozen om participatie met belanghebbenden en de omgeving aan te raden bij dit soort vergunningsaanvragen, maar niet verplicht te maken. Dit betekent dat de uitkomst van de participatie mee kan wegen in het besluit van de gemeente om een vergunning wel of niet toe te kennen, maar dat een gebrek aan participatie (of een negatieve uitkomst van de participatie) niet de reden mag zijn tot afwijzing van de aanvraag. Gemeenten hebben wel de mogelijkheid om gevallen aan te wijzen waarvoor een participatieplicht geldt. In dat geval is geen of een gebrekkige participatie grond om de aanvraag buiten behandeling te laten. Verschillende gemeenten hebben ervoor gekozen om een lijst met criteria op te stellen voor projecten die een participatieplicht hebben zoals een minimum aantal woningen, minimum oppervlakte of bepaalde type projecten. Aanvragers van projecten die aan de criteria voldoen zijn dan verplicht een participatieverslag aan hun aanvraag toe te voegen.

Een andere deel van het beleid wat vrij is gelaten aan de gemeenten is de beoordeling van de participatie. Gemeenten mogen vooraf geen eisen stellen aan de participatie van de aanvrager, maar de mate van participatie moet wel proportioneel zijn aan de impact van het project. Gemeenten moeten per project zelf beoordelen of de participatie aan de aanvraag voldoet en inderdaad voldoende is uitgevoerd. Dit onderzoek gaat over hoe gemeenten de vrijheid van de omgevingswet hebben gebruikt om tot hun beleid te komen, hoe (veel) het beleid verschilt per gemeente en wat het effect hiervan is. Daarnaast wordt er gekeken naar succesvolle voorbeelden van participatie in de praktijk. De eerste vragen zullen gaan over de participatieplicht, het tweede deel zal gaan over de evaluatie van het beleid, het derde deel zal gaan over de reflectie op het huidige beleid en het vierde onderdeel gaat over voorbeelden van succesvolle participatie.

A.1.2. Vragen interview

Introductie van de eerste resultaten

Deel 1 - Participatieplicht

Welk beleid heeft uw gemeente rondom de participatieplicht bij BOPA aanvragen?

Hoe is dit tot stand gekomen?

Wat waren hiervoor de overwegingen?

Is het voordelig voor de gemeente om dit soort beleid zelf vorm te kunnen geven in plaats van een algemeen landelijk beleid?

Wat was het effect hiervan?

Hoe kijken jullie als gemeente in het algemeen tegen gedecentraliseerd beleid?

Deel 2 - Participatie evaluatie

Hoe wordt de participatie van een BOPA aanvraag geëvalueerd, zijn er beoordelingscriteria opgesteld?

Worden deze van tevoren gedeeld met de aanvragers?

Is er een participatiegids vanuit de gemeente?

Wordt de participatie los beoordeeld of is dit altijd in context van de totale aanvraag (ETFAL)?

Hoe belangrijk is de uitkomst van de participatie voor de besluitvorming?

Wordt er anders naar de participatie gekeken als een project een participatieplicht heeft?

Zijn aanvragers er altijd van op de hoogte als hun project een participatieplicht heeft?

Hoe wordt een participatietraject geëvalueerd als de aanvrager niet de aangeraden methode van de gemeente heeft gebruikt?

Hoeveel BOPA's zijn er geweest (in het afgelopen jaar)?

Hoeveel daarvan zijn er toegekend/ afgewezen?

Hoeveel BOPA's worden er afgewezen (of nog niet toegekend) vanwege gebrekkige participatie?

Deel 3 - Reflectie

Wat waren de verwachtingen voor de BOPA?

Hoe tevreden bent u met het huidige beleid en waarom?

Wat zijn dingen waar u tegenaan loopt met het huidige beleid?

Zijn er dingen die u zou willen aanpassen?

Deel 4 - Succesvolle participatie

Wat is een voorbeeld van een project waar succesvolle participatie heeft plaatsgevonden?

Wat maakte dit goede participatie?

Wie waren er allemaal betrokken bij de participatie?

Hoe zijn zij geselecteerd?

Hoeveel hebben zij kunnen bijdragen?

Op welke momenten zijn zij betrokken?

Hoe is er rekening gehouden met de lokale context?

Is de gemeentelijke participatiegids hiervoor gebruikt?

Was dit een project met een participatieplicht?

Is er een participatieverslag wat gedeeld kan worden?

Afsluiting

Heeft u contacten binnen uw gemeente die verder relevant zijn om te spreken voor dit onderzoek?

Heeft u zelf nog vragen naar aanleiding van dit interview/ onderzoek?

A.2. Interview setup (EN)

A.2.1. Research background

This interview is part of my graduation research for the Master Construction Management & Engineering at TU Delft. The research concerns how municipalities have shaped their policy within the Environment and Planning Act. The Act has left considerable room for municipalities to develop their own policy based on their individual situation and context. The case I have chosen for this is participation within the permit process for out-of-plan environmental activities (BOPA).

Background BOPA

Within the Environment and Planning Act, a decision was made to recommend, but not require, participation with stakeholders and the surrounding community for this type of permit application. This means that the outcome of the participation process may be taken into account in the municipality's decision to grant or deny a permit, but that a lack of participation (or a negative outcome of the participation) may not be grounds for rejecting the application. Municipalities do have the option to designate cases for which a participation requirement applies. In that case, absent or inadequate participation is grounds for leaving the application unprocessed. Various municipalities have chosen to draw up a list of criteria for projects subject to a participation requirement, such as a minimum number of dwellings, a minimum floor area, or certain project types. Applicants whose projects meet the criteria are then required to include a participation report with their application.

Another part of the policy left to municipalities is the assessment of participation. Municipalities may not set requirements for the applicant's participation in advance, but the degree of participation must be proportionate to the impact of the project. Municipalities must assess on a per-project basis whether the participation meets the application requirement and has indeed been carried out sufficiently. This research examines how municipalities have used the freedom granted by the Environment and Planning Act to arrive at their policy, how much — and in what ways — policy differs between municipalities, and what the effects of this are. In addition, successful examples of participation in practice are examined. The first questions will concern the participation requirement, the second part will address the evaluation of policy, the third part will focus on reflection on current policy, and the fourth part will cover examples of successful participation.

A.2.2. Interview questions

Introduction of the first results

Part 1 - Participation requirement

What policy does your municipality have regarding the participation requirement for BOPA applications?

How was this developed?

What considerations formed it?

Is it advantageous for the municipality to be able to shape this kind of policy independently, rather than following a general national policy?

What was the effect of this?

What is the municipality's general view on decentralised policy?

Part 2 - Participation evaluation

How is the participation for a BOPA application evaluated, have any assessment criteria been established?

Are these shared with applicants in advance?

Is there a participation guide from the municipality?

Is participation assessed in isolation, or always in the context of the overall application (ETFAL)?

How important is the outcome of the participation for the decision-making process?

Is participation viewed differently when a project is subject to a participation requirement?

Are applicants always informed when their project is subject to a participation requirement?

How is a participation process evaluated when the applicant has not used the municipality's recommended method?

How many BOPAs have there been (in the past year)?

How many of these were granted / rejected?

How many BOPAs are rejected (or not yet granted) due to inadequate participation?

Part 3 - Reflection

What were the expectations for the BOPA?

How satisfied are you with the current policy, and why?

What challenges do you encounter with the current policy?

Are there things you would like to change?

Part 4 - Successful participation

What is an example of a project in which successful participation took place?

What made this good participation?

Who was involved in the participation?

How were they selected?

How much were they able to contribute?

At what points were they involved?

How was account taken of the local context?

Was the municipal participation guide used for this?

Was this a project subject to a participation requirement?

Is there a participation report that can be shared?

Closing

Do you have contacts within your municipality who would be relevant to speak with for this research?

Do you have any questions following this interview / research?

B

Choosing Municipalities

Table B.1: Proportional allocation of municipalities across Dutch provinces (n=50)[16]

Province	Number of municipalities	% of NL	% of NL * n (= 50)	Number in selection
Zuid-Holland	50	14,6%	7,31	7
Noord-Brabant	56	16,4%	8,19	8
Gelderland	51	14,9%	7,46	7
Noord-Holland	44	12,9%	6,43	6
Limburg	31	9,1%	4,53	5
Overijssel	25	7,3%	3,65	4
Utrecht	26	7,6%	3,80	4
Friesland	18	5,3%	2,63	3
Groningen	10	2,9%	1,46	1
Drenthe	12	3,5%	1,75	2
Flevoland	6	1,8%	0,88	1
Zeeland	13	3,8%	1,90	2
Total	342	100%	50	50

Table B.2: Division of municipalities per province [17]

Province	# small (< 10k)	# m-small (10k – 25k)	# medium (25k – 50k)	# m-large (50k – 150k)	# large (> 150k)	# in selection	# total
Zuid-Holland	0	6	22	20	2	7	50
Noord-Brabant	1	23	18	10	4	8	56
Gelderland	1	13	29	5	3	7	51
Noord-Holland	1	17	13	9	4	6	44
Limburg	1	14	10	6	0	5	31
Overijssel	0	8	10	6	1	4	25
Utrecht	2	8	6	8	2	4	26
Friesland	4	2	7	5	0	3	18
Groningen	0	1	6	2	1	1	10
Drenthe	0	2	7	3	0	2	12
Flevoland	0	2	1	2	1	1	6
Zeeland	1	5	5	2	0	2	13
Total	11	101	134	78	18	50	

Table B.3: Percentage division of municipalities per province

Province	# small ($< 10k$)	# m-small ($10k - 25k$)	# medium ($25k - 50k$)	# m-large ($50k - 150k$)	# large ($> 150k$)	# in selection
Zuid-Holland	0%	12%	44%	40%	4%	7
Noord-Brabant	2%	41%	32%	18%	7%	8
Gelderland	2%	25%	57%	10%	6%	7
Noord-Holland	2%	39%	30%	20%	9%	6
Limburg	3%	45%	32%	19%	0%	5
Overijssel	0%	32%	40%	24%	4%	4
Utrecht	8%	31%	23%	31%	8%	4
Friesland	22%	11%	39%	28%	0%	3
Groningen	0%	10%	60%	20%	10%	1
Drenthe	0%	17%	58%	25%	0%	2
Flevoland	0%	33%	17%	33%	17%	1
Zeeland	8%	38%	38%	15%	0%	2

Table B.4: Number of municipalities in sample

Province	# small ($< 10k$)	# m-small ($10k - 25k$)	# medium ($25k - 50k$)	# m-large ($50k - 150k$)	# large ($> 150k$)	# in selection
Zuid-Holland	0,0	0,8	3,1	2,8	0,3	7
Noord-Brabant	0,1	3,3	2,6	1,4	0,6	8
Gelderland	0,1	1,8	4,0	0,7	0,4	7
Noord-Holland	0,1	2,3	1,8	1,2	0,5	6
Limburg	0,2	2,3	1,6	1,0	0,0	5
Overijssel	0,0	1,3	1,6	1,0	0,2	4
Utrecht	0,3	1,2	0,9	1,2	0,3	4
Friesland	0,7	0,3	1,2	0,8	0,0	3
Groningen	0,0	0,1	0,6	0,2	0,1	1
Drenthe	0,0	0,3	1,2	0,5	0,0	2
Flevoland	0,0	0,3	0,2	0,3	0,2	1
Zeeland	0,2	0,8	0,8	0,3	0,0	2
Total	2	15	19	11	3	

Table B.5: Number of municipalities in sample (corrected)

Province	# small ($< 10k$)	# m-small ($10k - 25k$)	# medium ($25k - 50k$)	# m-large ($50k - 150k$)	# large ($> 150k$)	# in selection
Zuid-Holland	0	1	2	2	2	7
Noord-Brabant	0	3	3	1	1	8
Gelderland	0	2	4	1	0	7
Noord-Holland	0	2	2	1	1	6
Limburg	0	2	2	1	0	5
Overijssel	0	1	2	1	0	4
Utrecht	0	1	1	1	1	4
Friesland	1	0	1	1	0	3
Groningen	0	0	1	0	0	1
Drenthe	0	0	1	1	0	2
Flevoland	0	0	0	1	0	1
Zeeland	0	1	1	0	0	2

C

Chosen Municipalities

Table C.1: Sample municipalities with number of inhabitants

Zuid-Holland		Limburg	
Rotterdam	672,960	Sittard-Geleen	92,491
Den Haag	56,8945	Kerkrade	45,490
Delft	110,173	Beekdaelen	35824
Gouda	76,514	Meerssen	18,460
Zwijndrecht	44,669	Gulpen-Wittem	14,017
Hendrik-Ido-Ambacht	32,859		
Midden-Delfland	19,423		
Noord-Brabant		Overijssel	
Eindhoven	249,035	Hengelo	83,655
Roosendaal	77,721	Twenterand	34,113
Etten-Leur	45,457	Oldenzaal	32,021
Vught	33,010	Tubbergen	21,507
Sint-Michielsgestel	30,176		
Rucphen	23,995		
Bladel	21,006		
Boekel	11,465		
Gelderland		Utrecht	
Barneveld	63,152	Utrecht	376,757
Zevenaar	45,215	Nieuwegein	66,788
Wijchen	41,836	De Ronde Venen	45,921
Epe	33,469	Bunnik	16,279
Beuningen	26,749		
Druten	19,748		
Hatterm	12,745		
Noord-Holland		Friesland	
Amsterdam	934,526	Súdwest-Fryslân	90,534
Hilversum	94,393	Tytsjerksteradiel	32,821
Medemblik	45,934	Terschelling	4923
Diemen	33,228		
Drechterland	20,476		
Uitgeest	13,427		
Groningen		Drenthe	
Stadskanaal	32,038	Assen	70,392
		Midden-Drenthe	34,021
Flevoland		Zeeland	
Lelystad	84,713	Vlissingen	45,755
		Sluis	23,094

D

Policy comparison

Table D.1: Mandatory participation policy per municipality
(BA = Built-up Area)

Municipality	# of inhabitants	Type of policy	Housing	Energy	Office/ retail	Other
Amsterdam [1]	934,526	Always mandatory participation				
Rotterdam [90]	672,960	List of categories	>1 house, change function to living >120 houses		Change function to social function >1000m ²	Floor use of social or living function >1000m ²
Den Haag [43]	568,945	List of categories	>80 new houses, >250 houses for transformation			All function changes unless social function
Utrecht	376,757	Not available online				
Eindhoven [26]	249,035	Always mandatory participation (almost)	All buildings and function changes			
Delft [21]	110,173	List of categories	>20 houses		Construct or expand supermarkets >500m ²	buildings >30m, function changes social function >250m ² , nightclubs >500m ²
Hilversum [48]	94,393	Always mandatory participation				
Sittard-Geleen [94]	92,491	Always mandatory participation (almost)	All buildings and function changes			
Súdwest-Fryslân [97]	90,534	List of categories	All houses	Sustainable energy generation outside of municipal vision		Project that do not have a environmental vision, >10 recreational houses, expanding sport or social functions >50%, new buildings >1000m ²
Lelystad [67]	84,713	Never mandatory participation				
Hengelo [31]	83,655	Never mandatory participation				
Roosendaal [88]	77,721	List of categories		Large scale energy generation, wind turbines >150% permitted height		
Gouda [41]	76,514	Always mandatory participation unless				Side building outside BA <5 meter/ <150m ² , infrastructure <5m/<50m ² , buildings <10m/ <50m ² , antenna <40m
Assen [4]	70,392	List of categories	All houses	Wind turbine, solar energy park, other energy generation/ storage	Constructing or changing office/ company buildings	Antenna, function changes, advertising mast >10m

Municipality	# of inhabitants	Type of policy	Housing	Energy	Office/ retail	Other
Nieuwegein [73]	66,788	All projects with a big impact				
Barneveld [7]	63,152	List of categories	All houses	Wind turbine, solar energy park, other energy generation	Large scale projects inside BA for retail, companies or offices. All companies on agricultural land	building >10m/ >50m ²
Medemblik [68]	45,934	List of categories	11-100 houses that do not fit municipal vision, >100 houses			Large scale housing for foreign workers, agricultural expansion >4 ha
De Ronde Venen [114]	45,921	List of categories	>15 houses inside BA, >5 houses outside BA	Wind turbine >20m	Shopping area of office space >1000m ² / >5000m ² on industrial area, expansions non-agricultural businesses outside BA	New built with social function >500m ² , function changes >1000m ² / >15 houses/ >5 recreational houses, buildings with >3 building layers
Vlissingen [117]	45,755	List of categories	>10 houses inside BA, >2 houses outside BA, function changes to assisted living >25 houses	Wind turbine >21m, solar energy park, hydrogen generation/ storage, biomass power station, energy storage	recreational housing >1km of the coast	Construction or expansion of buildings >1500m ² , function changes to housing of foreign workers or refugees, erotic projects, non ground-bound agriculture, >15% over agricultural area, Natura 2000 areas, projects with protected cityscapes, antenna's, dredging depots >10 years
Kerkrade [60]	45,490	List of categories	>50 houses inside BA, all houses outside BA	Wind turbines, solar energy park >50m ²	Function changes to social functions >2000m ²	All infrastructure, medium-voltage substations >3.5m, buildings >8m
Etten-Leur [28]	45,457	List of categories	>3 houses inside BA, all houses outside BA	Wind turbine >15m/ >1, solar energy park	Social functions, offices, companies inside BA >1500m ² , all outside BA	>500m ² public area function changes
Zevenaar [134]	45,215	List of categories	All houses	Wind turbine, solar energy park, other forms of energy generation/ storage	All business activity inside BA or on industrial area, non-agricultural activity outside BA	Antenna >15m, intensive recreation, social facilities
Zwijndrecht [135]	44,669	Always mandatory participation				
Wijchen [130]	41,836	List of categories	All houses and housing splits, transformation to >2 houses or >5 rooms for assisted living	Wind turbine >15m, solar energy park, other forms of energy generation/ storage	Agricultural activity, non-agricultural activity outside BA, all projects for sport, social or business activity (outside of function changes inside BA)	buildings >5 building layers/ >15m, new nature >1 ha
Beekdaalen [8]	35,824	List of categories	>12 houses inside BA, all houses outside BA	Energy generation from manure, combined heat and power		Main building inside BA >500m ² or outside BA >100m ² , side building >5m/ >150m ²

Municipality	# of inhabitants	Type of policy	Housing	Energy	Office/ retail	Other
Twenterand [102]	34,113	List of categories	>11 houses inside BA, >4 houses outside BA	Solar energy park >1 ha, wind turbine >35m, sustainable energy generation outside BA		Antenna >40m, all projects >500m ²
Midden-Drenthe [71]	34,021	List of categories	>1 house	Solar energy park	New location, change or expansion of business activity, projects with impact to environment	
Epe [27]	33,469	Always mandatory participation				
Diemen [22]	33,228	List of categories	>1 house	Sustainable energy generation		Main building inside BA >500m ² or outside BA >100m ² , side buildings >5m/ >150m ² , structure >10m/ 100m ²
Vught [126]	33,010	List of categories	All houses, side houses >100m ²			Function changes
Hendrik-Ido-Ambacht [46]	32,859	Always mandatory participation				
Tytsjerksteradiel [103]	32,821	List of categories	>5 houses or repurposing >25 houses inside BA, all houses en extensions >5/ >150m ² outside BA	Wind turbine >15m		Utility building >5m/ >50m ² , structure >10m/ >50m ² , antenna >15, horse paddock outside of policy, yard extension >2500m ²
Stadskanaal [96]	32,038	List of categories	>1 house	Sustainable energy generation	Construction or extension of hospitality, businesses >cat 2	Projects with social function, care farms
Oldenzaal [76]	32,021	Always mandatory participation				
Sint-Michiëlsgestel [93]	30,176	List of categories	>4 houses inside BA, all houses outside BA	Large scale energy generation, finding or mining scale gas	Societal real estate	Main building >500m ² inside BA or >100m ² outside BA, use of land >1500m ² , antenna, structure >10m/ >500m ²
Beuningen [9]	26,749	List of categories	All houses outside BA	Solar energy park, wind turbine	New businesses in BA	Intense recreational facilities outside BA, events outside BA >1 week
Rucphen [92]	23,995	List of categories	>1 house outside BA, all houses inside BA	Wind turbine, solar energy park >0.5 ha	New or changing businesses with sound/ smell zone > cat 2	Special projects outside BA, recreational projects, projects with landscape/ cultural/ historical values, temporary projects >15 years

Municipality	# of inhabitants	Type of policy	Housing	Energy	Office/ retail	Other
Sluis [95]	23,094	List of categories	>5 houses inside BA, >2 houses outside BA, expansion of houses outside BA >1000m ³	Solar energy parks, wind turbine >20m, facilities >400m ² / >3.5m	Construction or extension of hospitality inside BA, businesses >500m ² or too high environmental zone	Construction or expansion of nature areas, parking spaces >10 parking spaces, antenna >40m, garage boxes inside BA, recreational housing and hotels, temporary housing >30 persons, asylum seeker's centre, intense livestock farming
Tubbergen [101]	21,507	Always mandatory participation				
Bladel [11]	21,006	Always mandatory participation				
Drechterland [24]	20,476	List of categories	>5 new houses inside BA, >20 houses in existing building, all houses outside BA	Solar energy park, wind turbine >15m		
Druten [25]	19,748	List of categories	All houses and house splits, transformation to >5 houses (non independent living)	Wind turbine >15m, solar energy park, other energy generation	Non-agricultural businesses outside BA, constructing agricultural business	Building >5 building layers/ >15m, all projects inside BA that increase building area, new nature > 1ha
Midden-Delfland [70]	19,423	List of categories	>2 houses inside BA, all houses outside BA, house splitting of houses into >3 units outside BA	Solar energy park, wind turbine >20m, sustainable energy generation	Business extension >10%, businesses cat 3	Agricultural extension >1.5 ha, function changes to agricultural, migrant workers outside BA, businesses or social functions outside BA
Meerssen [69]	18,460	Always mandatory participation unless:	<11 houses inside BA, side building or extensions <5m/ <150m ²			structures <10m/ <50m ² , antenna <40m
Bunnik [15]	16,279	List of categories	All houses	Wind turbine, solar energy park, energy generation	Floor area extension, constructing new businesses inside BA or on industrial area, constructing non-agricultural businesses outside BA	Antenna, social functions, recreational projects
Gulpen-Wittem [42]	14,017	List of categories	>20 houses inside BA, all houses outside BA	Large scale energy generation projects	Cat 3 businesses inside BA, all cat 4 businesses, all offices and shops outside of environmental vision	Repurposing of agricultural or camping function, new agricultural businesses, all projects surrounding 'Einstein Telescope'
Uitgeest [104]	13,427	List of categories	>3 houses	Wind turbine >5m, solar energy park, other energy generation/ storage		Antenna >5m, events
Hattem [44]	12,745	Always mandatory participation unless:				Side building outside BA <5m/ <150m ² , infrastructure <5m/ <50m ² , buildings <10m/ <50m ² , antenna <40m

Municipality	# of inhabitants	Type of policy	Housing	Energy	Office/ retail	Other
Boekel [12]	11,465	List of categories	>4 houses, function changes from living	Solar energy park, wind turbine, energy projects	Schools, social functions, function changes >250m ² , retail >500m	Hospitality outside centrum but inside BA >500m ² , or >250m ² outside BA, >10 recreational houses, function changes to recreation, antenna >40m
Terschelling [100]	4923	Always mandatory participation				