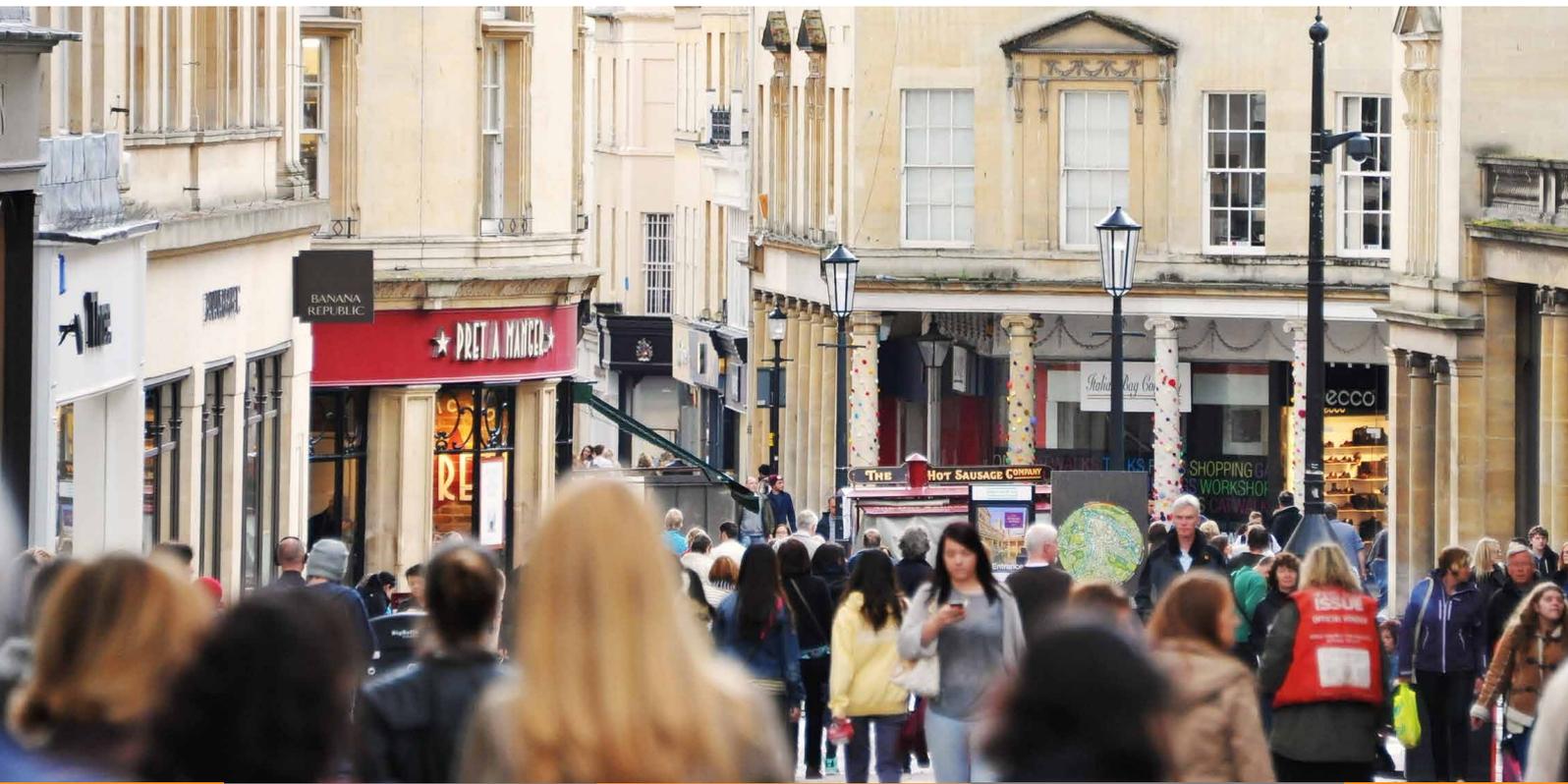


LOCAL PLANS

# Report to the Communities Secretary and to the Minister of Housing and Planning

MARCH 2016



**Local Plans** Expert Group

# Contents

EXECUTIVE SUMMARY	1
1 INTRODUCTION	9
2 THE PROBLEMS FACING PLAN PREPARATION	13
3 ESTABLISHING OBJECTIVELY ASSESSED NEEDS (OAN)	15
4 TURNING OAN INTO LOCAL PLAN REQUIREMENTS	20
5 WORKING ACROSS BOUNDARIES TO MEET NEEDS	22
6 DEVOLVED POWERS	26
7 INCENTIVES FOR TIMELY PLAN PREPARATION	28
8 POLICY CHANGES	30
9 LOCAL PLAN PROCESS	31
10 LOCAL PLAN CONTENT	38
11 IMPLEMENTATION AND DELIVERY	40
12 PRESENTATION, ACCESS AND STYLE	42
13 NEXT STEPS AND TRANSITION	44

## APPENDIX A: LPEG RECOMMENDATIONS

A volume of 13 appendices together with a series of Discussion Papers is available on the LPEG website [lpeg.org](http://lpeg.org)

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# Executive summary

## Introduction

- S1. The Local Plans Expert Group (LPEG) was established by the Communities Secretary, Greg Clark and the Minister of Housing and Planning, Brandon Lewis MP, in September 2015, with a remit to consider how local plan making can be made more efficient and effective.
- S2. The National Planning Policy Framework (NPPF) provides that “*Local Plans should be the key to delivering sustainable development that reflects the vision and aspirations of local communities*” but less than a third of the country has an up to date local plan. LPEG estimate that less than half of the Country’s housing needs are currently being provided for in local plans.
- S3. There are multiple difficulties facing plan makers, which can be grouped under three principal headings:
- authorities are struggling to meet the requirements of a complex local plans process;
  - housing needs are not being met; and
  - communities are turned off by the length, slow pace and obscure nature of many local plans.
- S4. LPEG approached its task aware that there is a difficulty with plan production. The extent of the difficulties set out in the responses to the Call for Evidence, however, is even more severe than we had anticipated. Substantial reform is necessary.
- S5. The Government has already proposed a number of reforms and LPEG’s work has sought to identify complementary measures, working with the grain of existing policy and to identify and then remove the principal obstacles to timely and effective plan making.

## Problems Facing Plan Preparation

- S6. We heard an almost unanimous consensus that the principal difficulties affecting plan making are attributed to the following matters, in approximately this order:-
- agreeing housing needs;
  - difficulties with the Duty to Cooperate, including the distribution of unmet housing needs;
  - a lack of political will and commitment;
  - a lack of clarity on key issues, particularly SHMAs, strategic planning, Green Belt and environmental constraints;
  - too many changes – changes of policy, advice and factual changes in forecasts (“*moving the goalposts*”); and
  - a lack of guidance, support and resources.

- S7. In addition we heard of concerns with the extent of evidence base requirements, the nature of the examination process, the soundness tests and the consistency of decision making from the Planning Inspectorate.
- S8. We have taken it as an important part of our task to consider the validity of each of these concerns.

## Objectively Assessed Housing Needs

- S9. Our examination identified two particular problems for authorities in undertaking Strategic Housing Market Assessments (SHMAs):
- there is no pre-set determination of the boundaries of Housing Market Areas; and
  - there is no definitive guidance on the way in which to prepare a SHMA, leading to significant disagreement and uncertainty over housing numbers, which then affects every stage of the plan making process.
- S10. Our recommendations include the need for the Government to commission a statistical assessment of HMA boundaries based on the last Census and to strengthen guidance in the NPPG that the outcome should be applied in future local plans, with boundaries adjusted to local authority boundaries for simplicity. In the longer term, Government should also work towards harmonising economic and housing planning boundaries to aid coordination.
- S11. Serious problems are generated by the lack of an agreed approach to SHMAs, which have become one of the most burdensome, complex and controversial components of plan making. We set out detailed recommendations for a shorter, simplified, standard methodology for SHMAs and, in particular for assessing housing need, with the aim of saving very significant time, money and, most importantly, with the intention of removing unnecessary debate from this aspect of plan making.

## Defining Local Plan Requirements

- S12. As the NPPG makes clear, "*assessing need is just the first stage in developing a local plan*". Objectively assessed needs for all types of development are the starting point but it is then necessary for the authority to consider the extent to which the plan can meet those needs consistently with the policies of the Framework.
- S13. Despite the clear test set by paragraph 14 of the NPPF, few authorities compile an assessment of the environmental capacity of their area, making it difficult for Planning Inspectors to apply the NPPF policy in situations where authorities propose to provide fewer homes than the assessed level of need. Whilst we recommend significant reductions in other elements of the local plan evidence base (see below), we propose that a proportionate *Assessment of Environmental Capacity* should be an important part of plan making. The NPPG should be strengthened to ensure a robust application of the NPPF's expectation that needs will be met unless the authority can demonstrate that to do so will cause significant adverse effects.
- S14. We recognise that the NPPF does not require authorities to meet the full identified need for development in all circumstances, even within the Housing Market Area, if there is insufficient environmental capacity but we encountered significant uncertainty about how the appropriate balance should be struck. We make recommendations to remove that uncertainty and to confirm the legitimacy of applying the tests set out in the NPPF to ensure that needs are met up to the point where the adverse effects of doing so can be shown to outweigh the benefit of meeting the need.

S15. Notwithstanding these recommendations, it is likely that local plans (particularly in London and the South East) may not enable the full scale of housing need to be met. For this reason, we recommend that Government should consider the extent to which it should enable and incentivise the establishment of growth points to complement the capacity of local plans.

## Working Across Boundaries

S16. We received strong representations that the Duty to Cooperate was not effective in ensuring agreement between neighbouring authorities about the distribution of housing needs and that this was one of the most significant constraints to effective plan making. Whilst the NPPF is already clear that it expects the outcome of the Duty to be that housing needs will be met, it is apparent that further measures are necessary.

S17. In order to provide more “bite” our recommendations include revisions to the soundness tests of the NPPF to emphasise the expectation that needs should be met, with authorities who do not plan to meet their own needs identifying how they expect those needs to be satisfied elsewhere. This would necessarily involve authorities applying to their neighbours to meet their unmet needs and, where necessary, engaging in representations on their neighbours’ plans in order to test the capacity of those adjacent authorities to meet unmet needs. Revisions to both the NPPF and the NPPG are necessary for this purpose.

S18. Even with that strengthened position in place, however, local plans are rarely coordinated in time and, whilst the Duty to Cooperate may encourage joint working between pairs of authorities, it is not sufficient in itself to generate strategic planning across wider areas, such as housing market areas.

S19. Apart from calls to revise SHMAs, the call to facilitate strategic planning was the most frequent point made by respondents to our consultation – respondents in both the public and private sector – who recognise that some issues of agreeing the distribution of housing needs may prove intractable without a wider plan.

S20. There are several examples of good joint working between authorities and we agree with the RTPI, District Councils Network and others that such joint working should be encouraged. In a number of parts of the country, however, joint working needs to be actively facilitated if housing needs are to be effectively addressed – in the meantime, significant shortfalls in delivery will continue. We recommend that, where authorities have failed to reach sufficient agreement on meeting and distributing housing needs by March 2017, the Government should take and use powers to direct the preparation of a high level Joint Local Plan for the HMA or a suitable geography, such as transport corridors, within a prescribed timetable.

## Devolved Powers

S21. From the outset of our appointment, LPEG has been interested in the potential for voluntary joint planning provided by the current round of bids for devolved powers, which cover a large majority of the country. Devolution provides the best opportunity for bottom-up joint planning but bids tend to focus on economic growth rather than housing and we have strongly recommended to Government that it attaches precise conditions to any successful devolution bid, requiring a commitment to plan positively to meet objectively assessed housing needs and a commitment to produce a plan for the combined area. We further recommend that individual authorities within a combined authority area should receive sign off from the combined authority that their emerging plan addresses the Duty to Cooperate before their plan can progress.

## Incentives for Timely Plan Preparation

- S22. Many respondents suggested that it is necessary to use one of several “*carrots and sticks*” to incentivise local authorities to generate timely local plans or local plan reviews. Characteristically, public sector respondents were more likely to suggest that good performance should be rewarded, whilst private sector representatives were more likely to suggest that poor performance should be penalised. We recommend that Government should review the role of financial incentives to stimulate efficient and effective plan making, although we recognise that those matters are already under review and we have concentrated instead on policy and procedural incentives. Authorities bidding for funds should expect to have an up to date plan in place.
- S23. In relation to the Government’s recent consultation on sharpening the incentive provided by the New Homes Bonus to encourage plan preparation, we have responded to the consultation setting out strong views that any incentive should not inadvertently condone the poor plan making performance of authorities who have not put in place a post NPPF compliant local plan.
- S24. In addition to the Government’s proposals that it may intervene to arrange for local plans to be written in consultation with local people, we recommend that the stimulating effect of that announcement can be enhanced by:-
- Introducing a statutory duty on local authorities to produce and maintain an up to date local plan;
  - making clear that authorities who have not submitted a plan for examination by March 2017 will not be able to rely on their existing policies for the supply of housing, which will be considered to be out of date;
  - confirming that the same consequences arise where a local authority fails to undertake an early review of its local plan in circumstances where a Planning Inspector has recommended such a review, so that such a local plan would be considered to be time expired and out of date if the review has not been submitted within the timescale indicated by the Inspector; and
  - the Government should abandon the principle of “*saved policies*”, which attach weight to historic local plans.
- S25. These measures would apply to authorities who have failed to produce a local plan since 2004. Comparable measures should be put in place for those authorities who have a post-2004 plan but who do not have an up to date local plan, in the sense that they do not have a plan which has been examined since the publication of the NPPF in March 2012. For those authorities a deadline of March 2018 (six years after the NPPF) should be set.
- S26. In combination, these measures provide a powerful incentive for authorities to complete outstanding local plans.

## Policy Changes

- S27. Plan making is significantly affected by changes in Government policy. The NPPF sought to bring clarity to Government policy and to end “*policy creep*”; however, recent years have seen a large number of additional policy statements, new legislation and rapid changes to the NPPG, all of which may be beneficial in their own right but which do have the unintended consequences of destabilising plan making, which needs a solid foundation.

S28. Planning now needs a period of stability after significant recent reform and we recommend that:-

- the NPPF is reviewed only every five years;
- the NPPG is only changed periodically (for instance, every 6 months); and
- proposed changes to the NPPG are subject to scrutiny by a technical working group before the changes are made in order to reduce the prospect of unintended consequences.

## Local Plan Process

S29. Our work identified a fault in the current local plan making process. At present, the Local Plans Regulations do not allow a local authority to modify a plan in response to public consultation at the first (and only) stage when a local plan is formally published in draft. This creates several difficulties:

- local communities feel excluded from the plan making process;
- plans may be at risk because consultation may not meet legal requirements; and
- as a result, many authorities undertake additional non-statutory stages of consultation, thereby adding significantly to the plan making process.

We recommend two particular changes to the current regulations so that:

- the first stage of engagement (Regulation 18) should principally enable the community to express their views about their vision for the area and their views on all relevant issues; and
- a local authority can change its published plan in response to public consultation without undertaking a further round of plan making.

S30. These simple changes would substantially improve community engagement but also significantly speed plan making.

S31. We have identified a series of further measures which would reduce a number of the more burdensome and unnecessary obligations on the plan maker including:-

- a significantly shorter, standardised approach to calculating housing needs (see above);
- a much tighter definition of evidence which it is necessary to gather in preparing the plan – limiting evidence to that which is strictly necessary to meet legal requirements;
- clear advice that the preparation of a simple Sustainability Statement auditing the local plan against the NPPF would be sufficient to meet the legal requirement for Sustainability Appraisal – thereby dramatically reducing the burden of one of the most time consuming aspects of plan making;
- scoping back local plans so that they deal only with strategic issues which cannot be addressed in Neighbourhood Plans and other documents; and
- amending the soundness tests so that the local plan need only be “*an appropriate strategy*”, thereby providing much greater local control over the vision and strategy within the local plan.

- S32. If these recommendations are accepted, we further recommend that Regulations should be introduced to require local plans to be complete within two years from first engagement to final submission. Whilst statistics are not available on the current length of the full plan making process, we believe that these changes would more than half the time taken to prepare local plans. The changes would also allow well prepared plans to have shorter more efficient examinations, predominantly conducted through written representations.
- S33. We further propose that local plans are subject to two stages of “early MOT” – a check on the emerging local plan by an independent, certified party such as the Planning Inspectorate to ensure that plans are moving forward along the right lines. In addition, we propose that Government should formalise the current arrangements in which Inspectors test local plans in stages, signing off on strategic issues before addressing more detailed matters. In combination, these measures should dramatically reduce the number of local plans that are found unsound only at the final stages of the local plan process.
- S34. Additionally, we recommend a National Concordat to be entered into between the Government, the County Councils Network, the District Councils Network and statutory authorities. Those authorities have an important role to play in plan making but they too need to sign up to speedy and proportionate performance so that they do not hold up plan preparation.

## Local Plan Content

- S35. Whilst local plans could undoubtedly be shorter (probably around 50 pages) we do not recommend that this is regulated; neither do we recommend the use of template policies. Each local plan should be a distinctive view from its community about the future of its area.
- S36. Our appendices draw together (for the first time) a list of requirements for a local plan and a list of the necessary evidence base, to assist plan makers. We identify the scope for a proportionate approach to both. We also provide advice and recommendations that would limit the scope of local plans to strategic issues, thereby creating a clear role for Neighbourhood Plans or (if neighbourhood planning is inactive in an area) for secondary local plan documents and brownfield registers. We also recommend a change to the NPPF to make clear that it is not necessary for authorities to prepare a single local plan, which covers every issue – rather, staged local plans, which defer local issues to Neighbourhood Plans would be appropriate.
- S37. Similarly, local plans do not need to repeat development management policies set out in the NPPF. Instead, we recommend a simple formula of words, which can incorporate those policies without repetition. We make detailed recommendations in relation to the way in which local plans can be structured and the way in which they deal with infrastructure and their interface with the Community Infrastructure Levy.
- S38. Importantly, however, we particularly recommend that local plans must generate the confidence that they are planning sustainability over the full local plan period (at least 15 years). The simplification of housing issues means that local plans should also engage with those matters of greatest concern to local communities including biodiversity, heritage, place making and quality of life.

## Implementation and Delivery

- S39. The way in which the five year housing land supply requirement is dealt with at and following the adoption of local plans causes difficulties, including the fact that it is often immediately out of date and challenged at Section 78 Appeals by developers bringing forward new evidence, leading to extensive dispute and the release of unplanned sites. This not only absorbs substantial time and resources, it also brings the local plan process into disrepute.
- S40. Our recommendations include a definitive approach to calculating five year housing land supply but, even more importantly, a process for annual monitoring reports to be signed off by an independent examiner, with the result being treated as the definitive years supply calculation for that local authority area until the following monitoring report. Additionally, we propose that the housing requirement adopted in the local plan is treated as the definitive basis for the calculation for a period of at least three years commencing at the date at which the Inspector concluded that the housing requirement was sound. In combination, these measures would bring significant stability to an area which is currently hotly disputed both through the local plan examination and at subsequent planning appeals.
- S41. The annual monitoring process may identify that there is no five year supply, in which case that would be the definitive position until the following monitoring report is signed off. In those circumstances, authorities should have in place policy mechanisms to release land identified as suitable in principle for development within their SHLAAs, subject to normal development management policies. In this way, a continuous supply of housing land should be guaranteed without the need for the stop-start of local plan reviews. The sites favoured for release would be those identified through the work done for the local plan, rather than random sites generated through planning appeals.
- S42. This new annual process would encourage close working between house builders, landowners and the planning authority because the results will be binding on all sides. In addition, the pass/fail nature of the test should also encourage authorities to plan for the longer term and to ensure that there is a good buffer beyond the five year supply.

## Presentation, Access and Style

- S43. Our report reviews emerging best practice in local plan production, noting that there is no central resource with which plan making authorities can consult.
- S44. Recommendations are made for shorter, more publicly accessible plans and for the better use of online technology, with best practice examples highlighted. This includes the approach known as "*propositional planning*" in which communities are engaged with clear illustrations of the consequences of proposed plans in order to stimulate easier engagement.

## Minerals and Waste

- S45. There is no reason in principle why the Government's measures to stimulate early plan completion should not also apply to Minerals and Waste Local Plans. The minerals sector benefits from a well-funded approach to the coordination of aggregate supplies but we recommend that the NPPG should be amended to ensure that sufficient weight is attached to the outcome of the process, in order to assist effective plan making.
- S46. Minerals and Waste local plans would also benefit from a large number of the recommendations we have made for general local plans – for example relating to evidence base, sustainability appraisal, timetabling, soundness, early review etc.

## Transition

- S47. For each of our recommendations we set out recommendations for their introduction. We are particularly conscious that the effect of the recommendations should not be to put back the production of local plans. A number of our recommendations can be introduced with immediate effect with benefit to the plan making system. We identify others that need more phased introduction but we commend them all to the Government.

# 1 Introduction

- 1.1 The Local Plans Expert Group (LPEG) was established by the Communities Secretary, Greg Clark and the Minister of Housing and Planning, Brandon Lewis MP, in September 2015. During our work, LPEG has taken its Terms of Reference to mean in short: *can local plan making be made more efficient and effective and, if so, how?*
- 1.2 This Report set out our response and recommendations. For the benefit of practitioners we have also provided more detailed Discussion Papers and Appendices, which set out the background, our thinking and the detail necessary to implement our proposals and these can be downloaded from the LPEG website ([lpeg.org](http://lpeg.org)). Where appropriate, this report refers to the Appendices and they should be read together with this report.
- 1.3 Our work has been greatly assisted by the scale and quality of responses to our Call for Evidence and by contributions from a great many stakeholders in the public and private sector with whom we have engaged. We are genuinely very grateful for the time that all those involved have given to assist us.
- 1.4 As a result of all of our evidence gathering, two very clear messages emerged:-
- there is substantial support across virtually all interest groups in the public and private sector for an effective plan-led town and country planning system – almost all respondents saw local plans forming an essential role at the heart of the country’s planning system; but
  - there is an equally unanimous view that changes are necessary if the country is to achieve an up-to-date, truly plan-led system.
- 1.5 We share those views – in fact, whilst these messages were not unexpected, the work of the Group has reinforced to us that a review is timely, if not overdue.
- 1.6 Whilst there are many examples of good practice in plan making, it is clear that the process of local plan production is in trouble and needs help. The system is handicapped by a range of problems – from difficult and time consuming procedures, to uncertainties about the role of local plans and genuine difficulties in tackling wider strategic issues. Collectively these issues have severely limited timely plan preparation. Even where the process has moved relatively smoothly, we also heard from community groups that Local Plan making is an obscure and overly technical process from which many feel excluded.
- 1.7 A few short statistics demonstrate the scale of the problem.
- Nearly 4 years after the publication of the NPPF, only 31%<sup>1</sup> of local authorities have local plans which can be regarded as being up to date in the sense that have been examined since (and found to be consistent with) the publication of the NPPF in March 2012<sup>2</sup>; The large majority of those plans are strategic in nature and less than 20% of authorities can claim to have a fully up to date local plan in the sense that they have both up to date strategic and site allocation local plans;

1 Statistics from DCLG and Nathaniel Lichfield and Partners, based on Planning Inspectorate Database of Local Plans.

2 Given the step change in positive planning represented by the NPPF we do not regard self-certificated pre-NPPF local plans as being likely to be up to date. **Our recommendations address this issue.**

- Whilst housing is not the only issue, it follows from this that up to date plans are in place to plan and deliver only a small proportion of the country's housing and economic needs. Delivery either takes place outside the plan-led system or does not take place at all. It seems likely that local plans are currently providing for less than half the country's housing needs<sup>3</sup>.
  - In a number of areas rates of housing delivery are consequently frustrated by the absence of an up to date plan and hampered by a failure to agree on cross boundary housing distribution, with some areas delivering as little as 30% of their housing needs as a result<sup>4</sup>.
- 1.8 The plan (Figure 1) on the next page identifies that there is a particular problem in London and in the Home Counties where local plans are failing to plan for the full scale of projected population growth.
- 1.9 The Government is aware of these issues and has promoted a number of measures to speed delivery of plan preparation, including:
- reformed powers for the Government to intervene more directly in Local Plans<sup>5</sup>;
  - proposed changes to the NPPF to introduce a new 'delivery test' to ensure that what is planned is being delivered<sup>6</sup>; and
  - consultation on changes to sharpen the incentive provided by the New Homes Bonus by withholding the bonus where no Local Plan has been produced<sup>7</sup>.
- 1.10 LPEG's review is complementary to those measures and takes them into account.
- 1.11 Our remit includes an assessment of the process and content of Local Plans. However, our work would be of little value if it did not first seek to understand the root causes behind slow or incomplete Local Plan preparation, so that we might also consider and recommend how those difficulties can be addressed. As the next section of our report explains, our examination revealed multiple difficulties facing efficient and effective plan making and the need for wide ranging reform and assistance.
- 1.12 In framing our recommendations we have been particularly conscious of the risk that further changes to the local plan process could destabilise plan production and, potentially, have a series of unintended consequences. We have also been conscious of the need to consider any necessary transition, so that current local plan preparation is not interrupted.

3 If the annual requirements of all local plans are totalled and compared with DCLG Household Projections, planned totals amount to 75% of the projected need but this figure would substantially overestimate the proportion of planned delivery because (i) actual housing requirements exceed DCLG projections and (ii) in many cases older local plans are not delivering against their annual provision because allocated sites have been developed and there is no plan to allocate new sites.

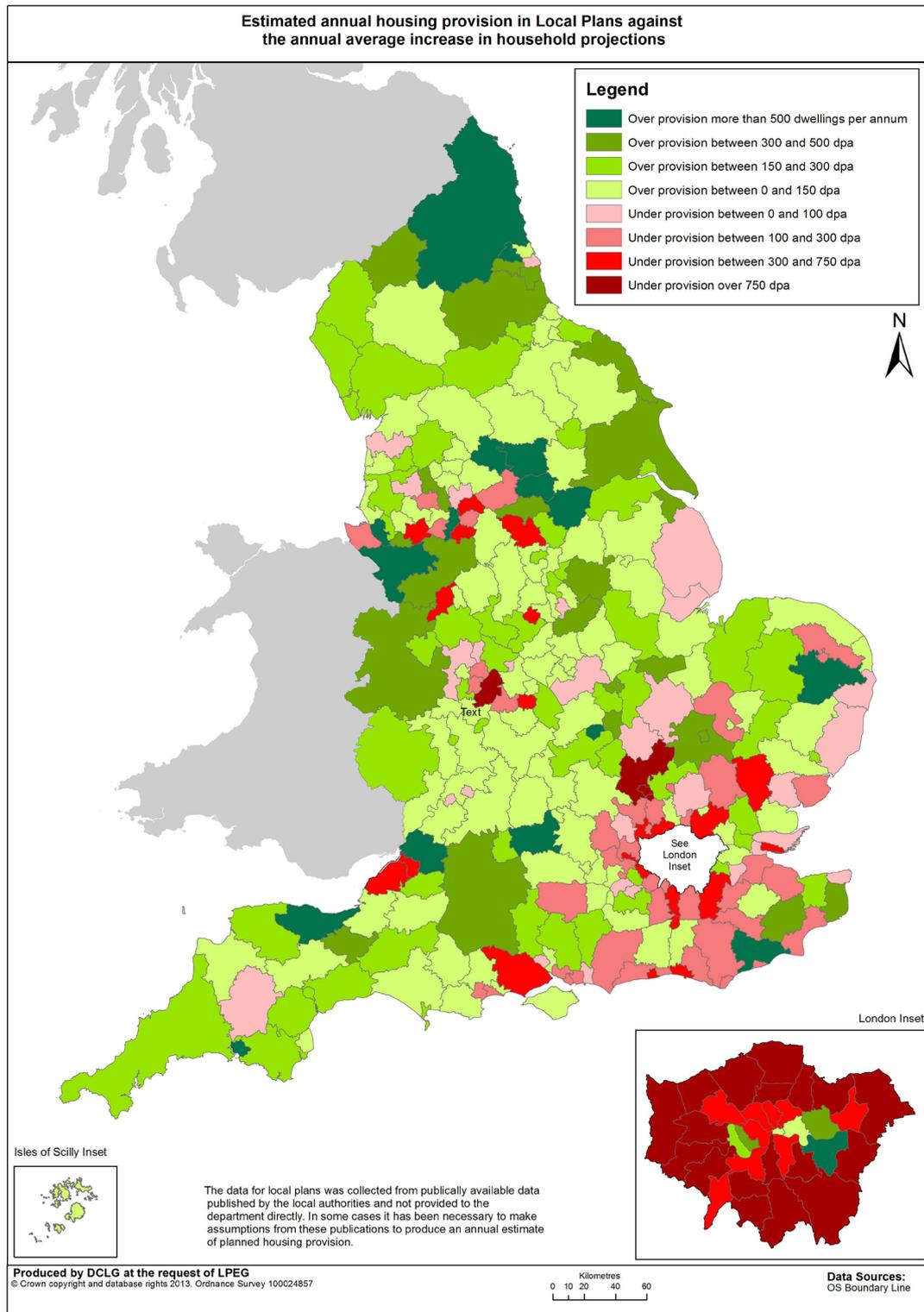
4 For example, LPEG was advised of the position at Harlow where the failure so far of the authorities that make up the Housing Market Area to agree their relative housing requirements has prevented plan progress, with the result that only 35% of identified annual requirements are being met.

5 Housing and Planning Bill (2015-2016), cl. 129-134,

6 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/488276/151207\\_Consultation\\_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488276/151207_Consultation_document.pdf)

7 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/487095/151217\\_-\\_nhb\\_draft\\_condoc\\_published\\_version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/487095/151217_-_nhb_draft_condoc_published_version.pdf)

Figure 1 – Local Plan provision – versus – household projections.



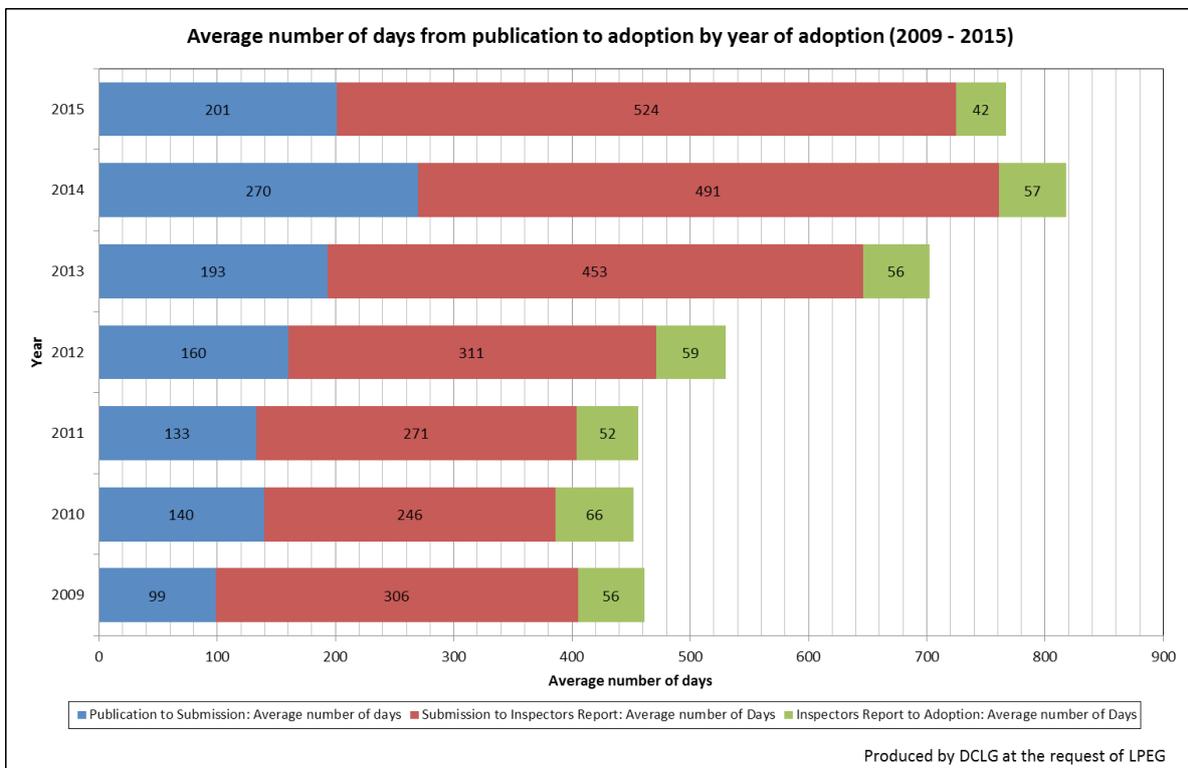
- 1.13 In principle, a theme of our approach has been to attempt to reinforce and work with the existing local plans system, recommending changes which should assist plan preparation and delivery, rather than recommending a fundamentally different approach. We have focussed our attention on generating a series of recommendations which will provide practical help to all those involved in the plan making process, so that the task may be made clearer, easier, faster and more effective. Our recommendations are set out in **Appendix A** to this report. The detail of proposed transition arrangements for the recommendations is contained in a document called 'LPEG Detailed Recommendations', which is provided on the LPEG website.
- 1.14 We start by seeking to understand quite what the problems are which appear to have made plan preparation so difficult, so that addressing those issues can then form the agenda for our report.

## 2 The problems facing plan preparation

### Local Plan progress

- 2.1 The importance of complete plan coverage is hard to overestimate. It is local plans that are charged with planning positively to meet the country's housing, employment, retail, infrastructure, community and other needs. As the NPPF explains, "*Local Plans are the key to delivering sustainable development that reflects the vision and aspiration of local communities*"<sup>8</sup>.
- 2.2 For decades the planning system has failed to deliver the scale of housing necessary to meet national needs.
- 2.3 The scale of the national housing shortage needs no elaboration here, although the urgency of the situation is reinforced by an understanding of the lack of affordability that has arisen from chronic under-provision and an extreme shortage of supply.
- 2.4 In our judgement, given the extent to which addressing housing needs is frustrated by incomplete Local Plans, securing comprehensive up to date coverage of Local Plans in England is one of the most significant steps the Government can take to address the national housing shortage.
- 2.5 Statistics also suggest that local plan preparation is taking longer.

Figure 2 – Local Plan time periods from publication 2009 – 2014.



8 NPPF paragraph 150

2.6 It is apparent that change is necessary. This analysis was shared by the Communities and Local Government Select Committee Report of 9 December 2014 which followed the examination by the Select Committee of the operation of the NPPF<sup>9</sup>. Amongst its conclusions were the following:-

*"This problem clearly pre-dates the NPPF. Local Plans were introduced as part of the Planning and Compulsory Purchase Act 2004. We are surprised that 10 years on, some councils have not even begun to produce their plans. For a plan-led system to work, plans need to be in place. The NPPF cannot be truly successful until every local authority has an adopted, up to date local plan. Unfortunately, progress in getting local plans adopted remains far too slow." (Paragraph 28)*

## Reasons Why Plan Preparation is Slow

2.7 We have not undertaken a statistical analysis of the reasons expressed to us in response to our Call for Evidence for slow or difficult local plan preparation. However, the messages were clear and consistent. There was an almost unanimous consensus that the principal difficulties are attributed to the following matters, in approximately this order:

### Principal Problems

- agreeing housing needs;
- difficulties with the Duty to Cooperate, including the distribution of unmet housing needs;
- a lack of political will and commitment;
- a lack of clarity on key issues: particularly, SHMAs, strategic planning, Green Belt and environmental constraints;
- too many changes – changes of policy, advice and factual changes in forecasts ("moving the goalposts");
- a lack of guidance, support and resources.

2.8 In addition, we found concerns from some plan making authorities and others around legal and administrative matters relating to plan preparation including:-

- the extent of evidence base requirements;
- the examination process;
- the pass/ fail nature of the duty to cooperate and soundness tests, which arise late in the process; and
- the consistency of decision making from the Planning Inspectorate (PINS).

2.9 We have taken it as an important part of our task to consider the validity of each of these concerns and they are all addressed in the following sections of this report.

<sup>9</sup> HC 190 published 16 December 2014

## 3 Establishing objectively assessed needs (OAN)

- 3.1 We heard very clearly in our Call for Evidence that the implications of the NPPF requirement for plans to meet objectively assessed needs (OAN) for housing were at the heart of reasons why plan preparation is so difficult and slow. We recognise that Local Plans have a responsibility to plan for all uses – including employment, town centre, leisure and community uses – but it was the need for housing specifically that was highlighted as a key barrier to plan progression.
- 3.2 In this section we concentrate on technical issues relating to the calculation of OAN for housing. Issues relating more specifically to policy and environmental constraints that might limit the meeting of needs, the Duty to Co-operate, political will and to strategic planning, are addressed in later sections.

### Calculating OAN: two components

- 3.3 NPPF paragraph 159 requires LPAs to prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas (HMAs) cross administrative boundaries. Our examination identified two particular problems in implementing this requirement:
- there is no pre-set determination of the boundaries of Housing Market Areas; and
  - there is no definitive guidance on the way in which to prepare a Strategic Housing Market Assessment (SHMA) and this leads to significant disagreement and uncertainty.
- 3.4 These are striking characteristics of the plan making process and they explain many of the difficulties which have beset local plans.

### Housing Market Areas

- 3.5 HMAs are important because it is within this unit of geography (rather than within individual local authorities) that the NPPF expects housing needs to be assessed (para 159) and then met (paras 47 and 181). The National Planning Practice Guidance (NPPG) identifies the data sources that can be used to define a HMA but does not identify HMA boundaries.
- 3.6 Robust planning would obviously be assisted if the decision to select the HMA for the plan is correctly taken – planning for housing and employment at a strategic level over areas of relative self-containment should generate more coherent planning. In many cases HMAs have been sensibly defined. We heard evidence, however, of certain HMAs being politically defined – for example, of authorities being excluded from an HMA despite their obvious shared geography. We heard of one authority changing its HMA late in the day, potentially to avoid the consequences of shared markets. We also heard industry concerns of a trend towards the adoption by authorities in the East and South East of smaller and smaller HMAs in an apparent attempt to avoid the full implications of the Duty to Cooperate and even of some authorities treating their own administrative boundaries as the extent of their housing market area, which seems inherently unlikely to be the case. This may reflect a perception among

some local authorities – not substantiated by the NPPF – that there is no requirement to address unmet needs outside the boundaries of HMAs. Elsewhere, HMA boundaries have been defined which overlap HMA boundaries – one authority is defined as falling within 4 different HMAs, which very obviously creates difficulties for plan making.

- 3.7 A variation on these behaviours is the tendency for some authorities to accept 'membership' of a wider HMA but nevertheless to prepare their own district level assessment of housing needs rather than rely on and accept the consequences of a joint SHMA.
- 3.8 DCLG did publish an academic study in 2010: the *Geography of Housing Market Areas*<sup>10</sup>. The study was helpful but it was based on the 2001 census and it did not set definitive boundaries for plan making. There is a strong case for updating the study and requiring it to include boundaries which should then be set by Government and published in the NPPG. Whilst that may have been a good starting point for Local Plans, however, we are conscious that setting new boundaries could have unintended consequences for current Local Plan preparation. Accordingly, our recommendations are limited to the following:
- i. **DCLG should commission an update of the 2010 study of HMA boundaries to reflect the latest statistical evidence (notably the 2011 census) and to provide an up to date basis to guide authorities in the determination of their HMA boundaries. That study should identify 'best fit' HMAs based on local authority boundaries;**
  - ii. **The NPPG guidance should be strengthened to reinforce the need to use HMA boundaries which meet the definition of housing market areas set out in the updated CURDS study in the next review of local plans where practical;**
  - iii. **In view of the potential for HMA boundaries to be 'gamed' it is all the more important that guidance reinforces the operation of the Duty to Co-operate (see Section 5) both within and between HMAs.**
- 3.9 We have proposed specific revisions to the NPPG to be consistent with these (and other) recommendations – **see Appendix 6** on the LPEG website. As with all of our recommendations, transition is important and we have no wish to delay the process of plan making. Specific recommendations for the implementation of each of our recommendations, therefore, are set out in the detailed version of our recommendations on the LPEG website.
- 3.10 These issues opened up a wider discussion about the apparently arbitrary nature of planning boundaries and the scope for confusion and inefficiency, for example, between LEP and HMA boundaries. There can be no doubt that it would be much clearer if these planning boundaries could be rationalised.
- 3.11 In the short term, however, the scale of change that rationalisation would involve goes beyond the remit of our Report and we are particularly conscious that any recommendations we make should not have the unintended effect of reversing the process of effective plan making by causing authorities to start again. Accordingly, **we recommend that longer term consideration be given by Government to achieving coordination between economic and housing planning boundaries in order to facilitate more effective voluntary strategic planning for housing, economic growth and infrastructure.** In the shorter term, guidance can encourage greater voluntary joint working (see later) and our further recommendations are focused on helping the existing system work effectively.

<sup>10</sup> Centre for Urban & Regional Development Studies (CURDS), Newcastle, Heriot-Watt and Manchester Universities, 2010

## Strategic Housing Market Assessments

- 3.12 The absence of a definitive guide for the production of SHMAs – and the estimate of OAN within them – is undoubtedly a problem.
- 3.13 General guidance is provided on the necessary steps in the NPPG but this guidance is provided at a high level and many respondents told us that it leaves too many issues open to a range of interpretations.
- 3.14 The Planning Advisory Service (PAS) procured a guide to SHMAs from consultants Peter Brett Associates, the second iteration of which was published following consultation with interested parties in July 2015<sup>11</sup>. The publication is undoubtedly a step towards coordination but, unfortunately, it does not provide definitive guidance on a number of areas and it does not benefit from cross-industry support. We heard representatives from the private sector disagreeing strongly with its suggested methodology.
- 3.15 The scale of the problem is ably demonstrated in the paper "*How Many Houses Should We Plan For?*" presented by Dame Kate Barker DBE to the Oxford Joint Planning Law Conference in 2015.
- 3.16 The lessons from this case study were repeated to us by many respondents, and readily apparent from our review of Inspectors' reports on Local Plans. Four years on from the NPPF, many authorities still do not have an up to date SHMA (research from Savills identifies that only 67% of authorities have carried this out since the NPPF in March 2012). But even where SHMAs are in place, there are widespread problems.
- 3.17 In particular we are aware of the following:
- i. SHMAs can be expensive and time consuming to procure being one of the biggest costs to an authority preparing a plan;
  - ii. with biennial official population and household projections having been produced alternately every year, the 'starting point' for estimates of need has had an effective shelf life of just twelve months, meaning SHMAs often need to be updated during plan preparation. This has obvious cost and timescale implications. The frequency of the changes also calls into question the robustness of local plans, even when they have only recently been adopted;
  - iii. the adjustments to household formation rates sanctioned by the NPPG give rise to wide ranging debates about the approach to be taken;
  - iv. the next step in the NPPG methodology is to align housing with economic forecasts – but there are no centrally accepted economic forecasts, again giving rise to uncertainty and debate;
  - v. there is no clear guidance on how affordable housing needs are to be assessed or how they are to be taken into account in deriving the overall level of housing need;
  - vi. local authorities report objectors preparing rival SHMAs using differences in assumptions and methodologies. Many objectors claim some councils' SHMAs take advantage of uncertainties in the guidance to "suppress" estimates of need. The result is that local plan examinations often struggle to conclude on whether the Local Plan is based on a sound estimate of OAN without considerable debate about rival assessments;

<sup>11</sup> *Objectively Assessed Needs and Housing Targets – Technical Advice Note, July 2015: Peter Brett Associates for PAS*

- vii. many SHMAs run to several hundred pages, containing a huge amount of demographic information, although sometimes not actually concluding on their principal purpose – the clear definition of objectively assessed need;
- viii. some SHMAs do not reach clear conclusions at the apparent request of commissioning authorities where politicians wish to influence the reported OAN to its lowest potentially credible level.

3.18 Both public and private sector stakeholders are clear that these problems need to be addressed.

3.19 The production of SHMA has become overly politicised and has also become an industry in itself for consultants, whilst being one of the largest costs for authorities and the source of greatest concern, risk and uncertainty. Whilst arriving at a precise definition of objectively assessed need is undoubtedly complex, as the NPPG identifies, it is in the nature of the exercise that it cannot be an “*exact science*”.

3.20 Accordingly, we **recommend adoption of a simplified, standard common methodology within the NPPG for the preparation of concise SHMAs with a clear stipulation that this is the approach government expects to be followed**. We set out in **Appendix 6** suggested detailed amended text for the relevant part of the NPPG which provides the necessary ingredients of revised SHMA guidance. In putting forward our suggested revisions to the NPPG, we have sought to work with the grain of the existing stepped approach set out in the NPPG, and change only what is necessary. However, given the objectives of the amendments, the changes proposed have necessarily been substantial.

3.21 Characteristics of the revised approach are the use of a single standard methodology to arrive at an estimate of Full Objectively Assessed Housing Need (FOAHN) which:

- i. identifies a common set of data sources to be used;
- ii. has clarity on the circumstances in which any adjustment should be made to CLG household projections (in terms of household formation rates and migration) and a standard methodology to apply where such adjustments are necessary to reflect local circumstances;
- iii. in the interests of streamlining the process, removes the current requirement to consider alignment of housing need with employment forecasts (as described above, this is one of the single most difficult and disputed steps in the current methodology). We consider the purpose of this step of the current guidance can more easily be achieved by recognising that employment growth pressure is also likely to be reflected in local affordability issues, so that an appropriate adjustment for market signals would meet this purpose. If they wish, plan makers should continue to be able to plan for further growth beyond FOAHN by considering a “*policy on*” alignment with job growth in setting their housing requirement where this is greater than housing need, but that this should not be part of FOAHN;
- iv. is based on clear guidance on the approach to be taken to the market signals adjustment, with this being distinct from any adjustment to household formation rates. The assessment would be based on two straightforward measures of absolute housing affordability in each local authority, with clear stepped increments of up lift to the demographic starting point to improve affordability. Using measures of absolute affordability will help to avoid the current situation where no/too little uplift is applied on the basis that an authority does not perform any worse than its neighbours/comparator areas even though it may be among the least affordable areas (if all Local Plans continue to be prepared on this basis, at the national level there will be no collective effect on

improving affordability). Since the NPPG was first issued in 2013, a number of Inspectors<sup>12</sup> have interpreted its existing guidance on market signals by endorsing the principle of broad percentage uplifts (of 10% and 20%), and the latest OAN evidence for Cambridge<sup>13</sup> puts forward a 30% uplift for the City in response to affordability. We have made some illustrative suggestions for how the adjustment might apply in our **Appendix 6** with banding thresholds for uplifts of 0%, 10%, 20% and 25%<sup>14</sup>. We recognise that some local authorities may perceive a 25% uplift as significant, but uplifts of 25% (coupled with responses to address affordable housing need) will be the minimum necessary to achieve Government objectives; and

v. provides clarity on the adjustment necessary to address affordable housing needs.

3.22 To resolve the problem of Local Plans being destabilised by new sets of household projections and other data being published after submission to the Secretary of State, and in some cases then moving the OAN 'goalposts' during the process of examination, our proposed amendments to the NPPG include a 'lock down' of the OAN evidence for a period of two years from the point of submission of the Plan to the Secretary of State. The effect of this is to limit the prospect of a local plan being found unsound simply because a new set of data has been produced after plan submission. The intention is that this approach would dramatically reduce the length, cost and uncertainty associated with current SHMAs and, thereby would simplify and free up local plan examinations.

3.23 Our suggested approach in **Appendix 6** makes clear that the calculation of OAN should be a clear, objective calculation. It does not, for instance, require public consultation or wider engagement.

3.24 OAN, however, is simply the starting point of plan preparation. Arguably, too much importance is attached to the figure of OAN itself, whilst insufficient importance is attached to the process of determining to what extent OAN can be met within a particular local authority area. This takes us to the consideration of the treatment of policy and environmental constraints within local planning.

12 In respect of Local Plans for Eastleigh, Uttlesford and Canterbury.

13 In evidence to accompany Proposed Modifications to the Cambridge and South Cambridgeshire Local Plans put forward in December 2015 in response to the Inspector's preliminary findings of May 2015.

14 Our estimate – based on our illustrative thresholds – is that just under two thirds of local authorities would fall within 10% or 20% bands, with the remainder at either 0% or 25%. Our initial work suggests that those local authorities most likely to appear in the top band (necessitating a 25% uplift) are not only the least affordable parts of the country, but have also seen persistently low levels of housing development relative to population growth, the highest rates of economic growth across their functioning economic areas, and the largest increases in overcrowding – all to a far greater extent than those in the 20% band (this is true even when one excludes London Boroughs from the analysis) – which will inevitably have exerted downward pressure on the level of household growth shown in the official projections for those areas.

## 4 Turning OAN into local plan requirements

- 4.1 As the NPPG (paragraph 3-030-21040306) makes clear, “*assessing need is just the first stage in developing a local plan*”. Objectively assessed needs are the starting point but it is then necessary for the authority to consider the extent to which the plan can meet the OAN consistently with the policies of the Framework.
- 4.2 The NPPF paragraph 14 is clear that the presumption in favour of sustainable development for plan making means that local planning authorities should positively seek opportunities to meet the development needs of their area and that objectively assessed needs should be met “unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted”.
- 4.3 In Section 9 of this Report we recommend the development and publication of a specific list of local plan evidence requirements. Whilst our focus has been on reducing the scale of evidence required, it is clear from the NPPF that **a proportionate Assessment of Environmental Capacity should be an important part of plan making and we recommend that it should be defined as an essential element of the local plan evidence base. An indicative scope should be prepared as part of an amendment to the NPPG to make clear this requirement and to guide preparation of a proportionate approach to the assessment of environmental capacity.** To a large extent, this is not a new requirement as local authorities will already possess and apply environmental information in plan preparation, but there would be considerable advantage in bringing this evidence together in a single assessment to help establish the development capacity of the local plan area so that paragraph 14 of the NPPF can be applied from an informed perspective.
- 4.4 It is Government policy set out, for instance, in the Productivity Plan and the recent Ministerial Statements that the country must meet its housing needs. Wherever practical, therefore, we anticipate that local authorities should be seeking to meet their objectively assessed needs in the most sustainable and environmentally acceptable way, rather than resisting those objectively assessed needs for growth. There are often not good reasons to anticipate that neighbouring districts are any more able to meet unmet needs than the host authority. If the nation’s housing needs are to be addressed, therefore, **we recommend that a robust approach needs to be taken to the implementation of paragraph 14 the NPPF and that guidance needs to be supplemented to reflect this approach and to make clear the expectation that it will be for authorities to demonstrate that the adverse effects of development significantly outweigh the presumption that sufficient land should be allocated to meet objectively assessed needs.**
- 4.5 We do not go as far, however, as the joint position proposed by POS, RTPI, CCN and DCN (see later in **Section 5**), which asserts that all needs must be met.<sup>15</sup> That approach would be contrary to the NPPF, which recognises (at paragraph 14) that there may be circumstances where development requirements cannot be met because of the demonstrable lack of environmental capacity. Our recommendation above, however, would raise the bar from that currently set in Guidance to reflect the expectations of the NPPF that authorities should do everything they can to support sustainable development (paragraph 19) but it would not insist that all needs must be met in each local authority area or even in each HMA.

<sup>15</sup> See joint paper produced as our **Appendix 7**

4.6 The NPPF itself is clear that planning permission should only be granted for inappropriate development in the Green Belt in very special circumstances. When drawing up a local plan, however, and reviewing Green Belt boundaries, a different test applies – the test of exceptional circumstances. Paragraph 83 is clear that Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the local plan. Paragraph 84 provides that, when drawing up or reviewing Green Belt boundaries, local planning authorities should take account of the need to promote sustainable patterns of development, whilst paragraph 85 requires local authorities when defining Green Belt boundaries to:

*"ensure consistency with the local plan strategy for meeting identified requirements for sustainable development."*

4.7 There is no need to recommend any change to Green Belt policy, which is clearly set out in the NPPF. The purposes of the Green Belt are well understood and have stood the test of time.

4.8 Many authorities review Green Belt boundaries in consultation with their local communities as part of their Local Plans. In 2014/15 11 local authorities adopted Local Plans de-designating areas of Green Belt equivalent to 2000 hectares. Whilst this sounds significant, the changes were made with relatively little controversy and represented only 0.1% of the 1.6 million hectares of land designated Green Belt in England. In fact, overall the Green Belt is 32,000 hectares bigger now than it was in 1997.

4.9 The Planning Officers Society (POS) published a paper "*We Need to Talk about the Green Belt*" in August 2015, which reminded authorities of the fact that Green Belt designation is a planning mechanism rather than an environmental designation and provides helpful suggestions about the methodology for Green Belt reviews. ATLAS also produce helpful advice to local authorities about the way in which release of sites should be managed. **LPEG recommends that such advice should be more readily available to local authorities.**

4.10 Government needs to be alive to the possibility, however, that, even an informed approach to environmental constraints may not allow full OAN to be met, particularly in parts of the metropolitan South East. In these circumstances, **Government should consider the extent to which it is necessary to create the circumstances to enable the establishment of growth points to complement the capacity of local plans to meet national needs. Options include:**

- a refreshed New Towns programme;
- increased powers for the private sector to promote large scale housing using the infrastructure planning powers of the Planning Act 2008;
- facilitating the preparation of locally produced spatial plans based on transport corridors; and
- incentivising bids or growth, for instance, through the devolution agenda.

## 5 Working across boundaries to meet needs

- 5.1 This Section of our report considers how plan making can be made more efficient and effective where meeting needs may require cross boundary cooperation. There are two principal elements to this:
- the Duty to Cooperate; and
  - the scope for joint spatial planning.
- 5.2 Section 6 of our report also considers the additional scope for strategic planning offered by the Devolution agenda.

### The Duty to Cooperate

- 5.3 Respondents were almost unanimous in their agreement that the Duty to Cooperate is not working effectively. One local authority defined the Duty as a “*duty to chat*” which was far too easily met, whilst others saw it as a “*duty to delay*” – in fact, one district council responded that “*the current DtC legislation and practice is one of the most serious obstacles to local plan progress*”. We identified very few examples in which neighbouring authorities have accepted unmet needs from adjoining authorities.
- 5.4 Many respondents observed that Ministerial Statements and the clarification within the NPPG that the “*Duty to Cooperate is not a duty to agree*” effectively emasculate the Duty. Our attention was drawn to numerous case studies of authorities agreeing to disagree – or at least agreeing not to interfere in the ‘sovereign right’ of each other to prepare their own local plans. Some respondents alleged a conspiracy between authorities, with each tacitly agreeing not to object to the others’ plan despite the fact that, collectively, needs are not being met.
- 5.5 Perhaps predictably public sector respondents tended to suggest that the Planning Inspectorate is interpreting the duty too rigidly, whilst private sector interests asserted the opposite.
- 5.6 These issues are some of the most serious in explaining Local Plan failure. The difficulties are substantially responsible for the consistent failure of areas of high housing demand to meet housing needs and in turn for escalating unaffordability. Without change or intervention, the position is likely to get worse.
- 5.7 We were particularly struck by the challenge facing the Mayor of London who is currently obliged to rely upon the Duty in order to seek to address significant unmet needs, which will inevitably be identified even if the London Plan Review succeeds in optimising housing potential within the capital<sup>16</sup>. As the London Housing Commission recently reported<sup>17</sup>, London needs to accommodate a forecast population increase of 1.5 million by 2030, which is likely to require building at least 500,000 homes over the next 10 years (another Birmingham), compared with only 194,000 homes built over the last 10 years. The existence of significant unmet need is already apparent from the current Further Alterations to the London Plan, 2015, which define a shortfall at least at 7,000 dwellings per annum and more likely 20,000 per annum. The London Plan review will inevitably define a greater shortfall.

16 Whilst the Duty does not apply to the preparation of the London Plan, it does apply to the plans of neighbouring authorities.

17 London Housing Commission Interim Report December 2015

- 5.8 The Mayor's office is currently leading initiatives to encourage cooperation across the Wider South East. A joint officer liaison group was established in 2013 which now meets quarterly to share evidence etc. and the Mayor has convened two Wider South East Summits for politicians. Some progress is being made, including joint lobbying for infrastructure on rail corridors, sharing joint data etc. Nevertheless, none of the local authorities with the strongest relationship to London has planned (or appear to be proposing to plan) any contribution to London's housing needs to date.
- 5.9 We are impressed with the efforts being made by the Mayor and his team to find a way forward but not optimistic that the outcome will be successful, unless further assistance is provided.
- 5.10 In response to our Call for Evidence the Mayor of London responded:-

*"The current Duty to Cooperate structure does not provide a mechanism for ensuring strategic requirements are met across local authority areas... Therefore a process for "memorandums of understanding" could be introduced which provide a mechanism for housing need and supply (as well as other land use requirements) to be formally reconciled between LPAs.*

*There need to be both incentives and penalties to encourage the Duty to Cooperate to work effectively whilst still ensuring the timely production of local plans. At the moment local authorities can go through the process with the Duty to Cooperate but as they do not have to agree it can lead to no agreed outcomes. Where an authority has evidence to suggest that greater capacity could be found in surrounding areas but those surrounding areas do not agree, the surrounding areas should be required to produce suitably robust evidence to justify their position."*

- 5.11 We agree with these concerns and the principle of these suggestions. Arguably, the requirements of the NPPF are already clear in paragraphs 181 and 182, which state the expectation that the outcome of the duty is that housing needs will be met. However, given the fact that this outcome is rarely achieved through the duty, we consider that changes are necessary both to the NPPF and to the NPPG.
- 5.12 **We recommend changes to the soundness tests in paragraph 182 of the NPPF to emphasise the practical requirements that need to be demonstrated in meeting the Duty to Cooperate.** This includes that plan making authorities who do not plan to meet their own OAN should be expected to identify in their submitted plans how these needs are likely to be met elsewhere and to proactively work towards achieving the meeting of those needs. The detail is set out in our Recommendation 11.
- 5.13 A strengthened Duty to Cooperate would significantly increase the prospects that unmet needs are addressed but it is unlikely to be fully successful without the approach suggested in paragraph 4.10 to a strategy for growth points and without wider, locally driven strategic planning initiatives to coordinate and integrate development requirements.

## Joint Local Planning

- 5.14 Our attention was drawn to positive examples of good joint planning, details of which are set out in our Discussion Paper on Joint Planning. Helpfully, there appears to be an increasing recognition of the benefits of joint working in many parts of the country.
- 5.15 Joint working, however, does not exempt authorities from the rigorous, positive approach expected by the NPPF and there are examples of collaborating authorities who have nevertheless struggled to have their plans found sound. The lessons from these examples include recognising that informal agreement between authorities is useful but it does not guarantee satisfaction of the NPPF soundness tests.
- 5.16 It is not our intention to recommend that the Government imposes a new layer of strategic planning. However, we do believe that there is more that can be done to encourage the preparation of joint plans and that to do so would be working with the grain of sentiment in both the public and the private sectors, as well as the principles set out in paragraph 179 of the NPPF. Respondents agreed and were outspoken about the need to achieve joint strategic planning across Housing Market Areas. For example, we were advised by respondents to our Call for Evidence:
- achieving a means of reaching agreement across housing market areas would be the “*single most important step*” the LPEG review could achieve;
  - “*everything works better when local authorities come together with common evidence and common timeframes*”;
  - without strategic cross-boundary planning, the plan making process is “*destined to fail*”;
  - there must be a new system for agreeing the distribution of housing, because the current system is “*frankly a mess*”.
- 5.17 Apart from the call to simplify and standardise SHMAs, the need for a system to agree housing distribution was the most common feature of the responses to the Call for Evidence. In fact, the extent of agreement was such that we have listed those parties who advocated the need for joint planning in a footnote<sup>18</sup>.
- 5.18 Joint working will have advantages everywhere but the areas where it is most necessary are the areas where authorities have demonstrated an inability to work together. Such areas are classically city regions where the constrained administrative boundaries of the principal urban area mean that it cannot meet its housing needs but the surrounding districts have a social, political and economic geography which makes joint working more difficult. There are many examples of where joint planning around large towns and cities would be particularly useful – and as a principle, joint planning would assist across every Housing Market Area. Joint planning would also be particularly productive, for instance, across the boundaries of major conurbations, into their hinterland.
- 5.19 In the wider South East, for instance, as the Mayor of London has explained to us, even the most concerted attempts to apply the Duty to Cooperate are unlikely to achieve agreement over the distribution of London’s unmet needs. High level joint plans distributing needs in sectors (such as transport corridors or quadrants) of London’s shared market areas within and outside the GLA boundary would be an enormous step forward.

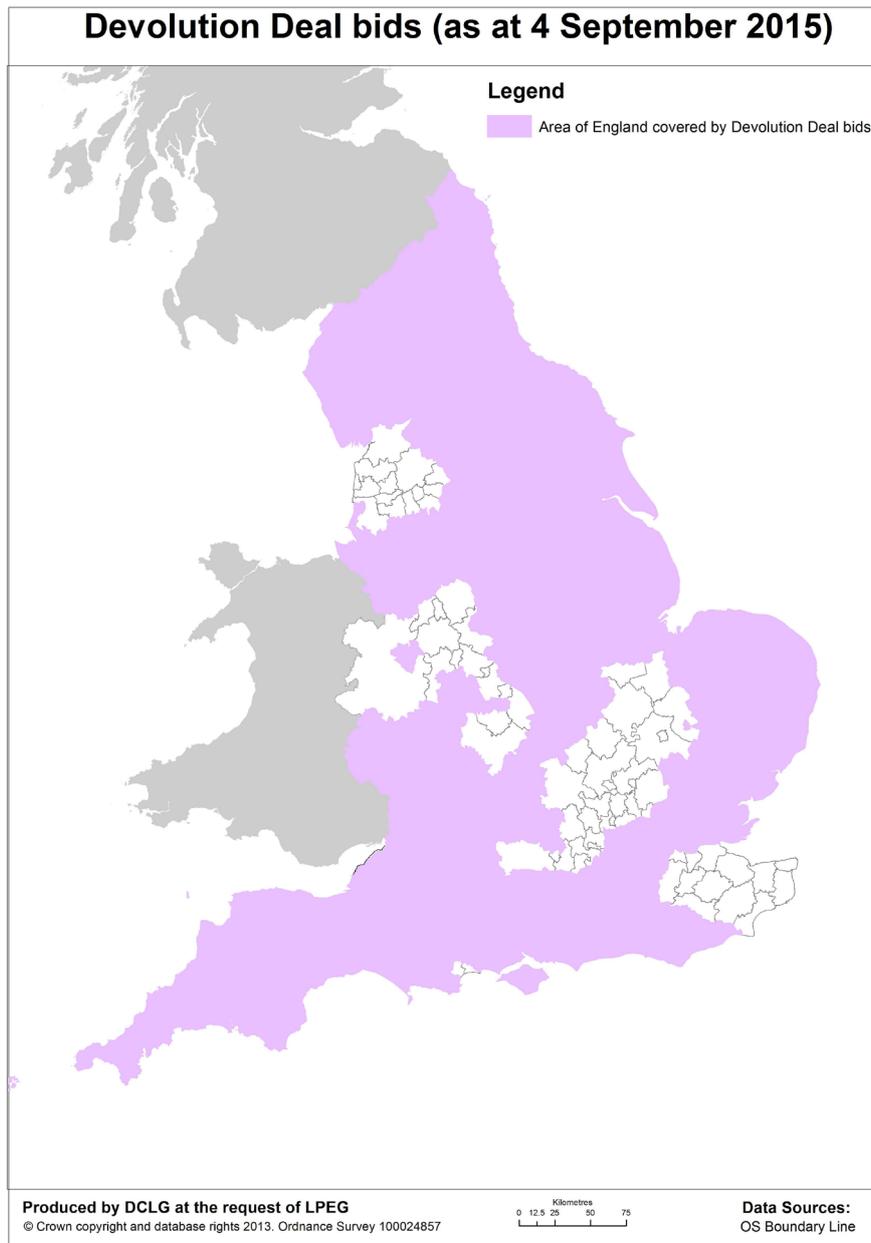
18 District Council’s Network, Planning Officers Society, RTPI, County Councils’ Network, Hertfordshire County Council, Rushmoor, Stevenage, Berkeley Homes, Breckland/South Holland, Brighton and Hove, Bromsgrove, CPRE, Elmbridge, Devon County Council, Plymouth, Gladman, West Northants, Bristol, Harrow, Miller Homes, Redrow Homes, RSPB, South Gloucestershire, David Lock, David Vickery (retired Inspector), Birmingham, Taylor Wimpy, Crest Nicholson, Barratt.

- 5.20 Resolving these difficulties is of critical national importance. By definition, this inability to agree and meet housing needs takes place in some of the most important economic areas of the country and is a substantial constraint on economic growth, as well as generating serious social impacts.
- 5.21 **We recommend that the Government makes clear that, where authorities in a HMA have failed to reach sufficient agreement on meeting and distributing housing needs by March 2017, the Government will be prepared to use powers to direct the preparation of a Joint Local Plan for the HMA (or a suitable geography such as transport corridors) within a prescribed timetable. This may require legislative change and guidance would also be necessary in the NPPG to guide the governance arrangements for such plans.**
- 5.22 Arguably, the same outcome could be achieved by the Government directing that plans should be written for joint authorities. However, we consider that as far as possible, local plans should be prepared by their local authorities and that joint plans will be more effective in coordinating the meeting of needs than individual plans, separately examined.
- 5.23 This measure would give authorities 5 years from the publication of the NPPF to agree how they intend to work together to meet housing and other needs. Making clear this position now should stimulate joint working and plan making so that direct intervention should be necessary only in limited circumstances. Even in those circumstances, the necessary Local Plans would be prepared by the authorities themselves (unless the Government has found it necessary to take over and arrange for the writing of the local plan in accordance with provisions which have already been announced). This, therefore, is not top-down planning, simply a reinforcement of the need for bottom-up, coordinated local planning to be properly undertaken in accordance with national policy.
- 5.24 A Joint Local Plan prepared in these circumstances need only contain policies for those high level issues which have not been agreed locally – such as the scale and distribution of housing and employment needs, critical infrastructure and broad locations for large scale development, leaving individual local plans to proceed (more rapidly) with genuinely local issues.
- 5.25 In combination with our recommendations for a strengthened Duty to Cooperate, these measures would transform the country's ability to plan for the full range of housing and other needs and break the logjam which currently exists where even the most willing and positive minded authorities cannot achieve the sustainable outcomes that depend on joint working with their neighbours. All of the measures recommended retain control over plan making with the local authority but they would greatly assist in ensuring that the necessary local plan making can and will take place.

## 6 Devolved powers

6.1 From the outset of our appointment, LPEG has been interested in the potential for voluntary strategic planning which appears to be provided by the current round of bids for devolved powers. Responding to the Spending Review, city regions have been submitting proposals to HM Treasury and CLG to negotiate a City Deal devolving major powers to a directly elected Mayor. 38 proposals were received by 4 September and further rounds are likely to invite further submissions. A plan showing the area of those bids demonstrates that the very large majority of the country is covered.

Figure 3 – Devolutions Bids, September 2015



- 6.2 The devolution of planning powers and the enthusiasm of groupings of local authorities to seek those powers provides a significant opportunity to encourage joint strategic planning. The fact that authorities are bidding for these powers voluntarily ensures the bottom-up nature of this process, which should naturally stimulate coordinated plan making. This devolution agenda provides the most promising opportunity to achieve meaningful cross-boundary planning.
- 6.3 However, many of the bids that LPEG has reviewed are relatively silent on any commitment to meet objective housing needs but seek extensive powers from Government and extensive commitments for infrastructure funding.
- 6.4 As observed by the RTPi and others, there can be a tendency for growth funds to be rewarded to areas promoting economic growth rather than areas promoting coordinated economic and housing growth. Additionally, some of the bids have not sought powers to prepare a joint plan for the combined area, which we consider to be a wasted opportunity for co-ordinated planning.

- 6.5 **We recommend that Government attaches precise conditions to any successful devolution bids requiring a commitment to positively plan to meet objectively assessed housing needs and we further recommend that government should secure a commitment to joint planning across the bid area to that effect as a condition of approval.**

**Powers should also be provided to combined authorities to ensure that individual local plans within devolved areas are consistently planned.**

- 6.6 **We further recommend that, where practical, the opportunity should be taken for devolved bids to secure a rationalisation of housing and economic planning boundaries.** Devolved powers will be less effective if they do not align with HMA and LEP boundaries (and vice versa).

## 7 Incentives for timely plan preparation

- 7.1 In **Section 8** we address the process of plan making and set out a series of recommendation to speed plan preparation. In this Section we consider whether that process of plan preparation can be further assisted through the use of incentives.
- 7.2 We received a number of responses suggesting that lack of local political will was the principal obstacle to plan making – for example:
- *"The biggest delays always result from political members not wanting to take any decisions, particularly prior to elections";*
  - *"The desire to produce a local plan is driven by the desire to limit development";*
  - *"The failure to produce a plan has everything to do with local politics".*
- 7.3 Our examination has certainly helped us to understand some of the difficulties facing local plan preparation but equally, those difficulties alone cannot properly account for the fact that two thirds of local authorities have not yet been able to adopt a local plan since the publication of the NPPF four years ago.
- 7.4 We are satisfied that there is a reluctance within a significant number of planning authorities to bring forward timely local plans which meet the requirements of the NPPF. We are also satisfied that this lack of commitment is largely responsible for the general slow progress of Local Plan reviews despite the urgings of Local Plan Inspectors who can often only find Local Plans sound if there is a commitment to an early review.
- 7.5 In this context we have focussed on procedural planning policy measures rather than financial incentives but we do **recommend that the Government should review the role of financial incentives to stimulate efficient and effective plan making.** In doing so, the emphasis should be on incentivising up to date plan making, rather than allowing authorities to rely upon pre-NPPF local plans.
- 7.6 One incentive that cuts across financial and procedural matters, however, which we recommend and which is consistent with the Government's approach to devolution, is that **authorities bidding to government or through LEPs for infrastructure related funding should expect to receive less priority if they do not have in place an up to date local plan which identifies the need for that infrastructure.**
- 7.7 It was suggested by a number of respondents that the **Government should introduce a statutory duty on each local authority to produce a Local Plan and to maintain an up to date local plan.** LPEG strongly supports such an initiative. Such a duty would underline the importance of local plans and ensure that their production is given the necessary priority. It is surprising that no such duty already exists.
- 7.8 Authorities who fail to submit for examination a Local Plan within five years of the publication of the NPPF in reality have little genuine reason to consider further measures unfair. Given that the NPPF marked a step change in national policy, it should no longer be appropriate for authorities to continue to plan their area on the basis of old plans or saved policies from historic UDPs or local plans.

7.9 We are aware that the Government has advised its intention to intervene and to arrange for local plans to be written in consultation with the local community where an authority has not produced a local plan by early 2017 and where it would speed plan preparation. We can see the value of that proposition as a fall back. However, there would be advantage in identifying now additional consequences of a failure to produce a local plan by early 2017 in order to further stimulate authorities to want to avoid those consequences. In particular, we are aware that some authorities feel little incentive to prepare a local plan because either they wish to avoid the consequences of the growth expectations of the NPPF, or they wish to continue to attach weight to their own pre-NPPF policies. Accordingly **we recommend:**

- i. if a planning authority with no local plan has not submitted for examination a local plan by the end of March 2017, it should be made clear as a matter of Government policy that its existing relevant development plan policies for the supply of housing will be considered to be out of date. In other words, the presumption in favour of sustainable development set out in the NPPF would fully apply, informed by local designations but unconstrained by local policies;**
- ii. the same provisions should apply to any authority which has not submitted for examination a post NPPF local plan by March 2018;**
- iii. the same consequence should arise where a local authority fails to undertake an early review of its local plan in circumstances where a Planning Inspector has recommended such a review. If, for example, the Planning Inspector considered that the review should be complete within five years but no review has been submitted for examination within that timescale, the existing policies should be considered to be out of date after 5 years (in other words, the plan would be strictly time limited);**
- iv. the Government should abandon the principle of "saved policies" i.e. the practice by which planning policies are allowed to continue to carry weight beyond the expiry period of the local plan period; and**
- v. authorities without a submitted Local Plan by the end of March 2017 should be considered for "special measures" in exactly the same way as authorities who are currently slow to determine planning applications.**

7.10 These measures should not only stimulate an acceleration in plan making, they should also encourage a longer term approach to local planning, with authorities aspiring to do more than achieve the adoption of short term plans which require early review.

## 8 Policy changes

8.1 Our work identified a strong view amongst planning authorities and others that regular changes in national policy and guidance can have disproportionate effects on plan preparation. For example:

*"Tweaks to the NPPF, updates to the PPG, ministerial statements, ministerial letters, CIL consultation, LPEG review, Housing and Planning Act, changes to the GDPO etc. too much continual change does not help local plan delivery... set the updated rules and then leave the planning system alone as far as possible until 2020."*

8.2 Government needs to be aware of the impact of policy changes but also of the danger that the planning system can be brought into disrepute if those changes are seen to be too frequent, introduced without consultation or apparently politically motivated. The Government has gone to enormous lengths to bring rigour, precision and clarity to a concise planning system through the preparation of the NPPF and the NPPG – both of which responded to the complexity of policy that had evolved through "planning creep". It is imperative that the lessons of the past are learned in this respect and that planning policy provides the sense of integrity, consistency and stability which enables confident plan making to be undertaken.

8.3 A number of respondents emphasised the importance of Government being seen to consistently commit to upholding and enforcing the principles of the NPPF. We heard of a widespread perception that the expectations of the NPPF that objectively assessed needs would be met in full was beginning to bear significant fruit up until early 2014 but that a series of Ministerial Statements, changes to the NPPG and a string of negative appeal decisions between that time and early 2015 had a fundamental effect on the way in which planning authorities viewed their obligations under the NPPF. In particular, several authorities reconsidered their position and pulled back from emerging positive strategies. A public debate ensued about the extent to which the Government was genuinely committed to the NPPF.

8.4 It is difficult to over-estimate how important it is that the Government maintains a consistent, strong message in order to instil a uniform acceptance of the need for positive planning. Accordingly we recommend:

**i. the NPPF is reviewed only every 5 years;**

**ii. the NPPG is only changed periodically (for instance, every six months); and**

**iii. that proposed changes to the NPPG are subject to scrutiny by a technical working group drawn, for instance, from the Government's Planning Sounding Board before the changes are made so that their potential effect is fully considered.**

8.5 We also need to be aware that our recommendations could be subject to the same criticisms. As far as possible, therefore, we have focussed on recommendations which will help to bring clarity and simplicity to the existing system of plan making – to reinforce rather than change the emphasis of policy and enable easier, quicker implementation.

8.6 In the detailed version of our recommendations published on the LPEG website we set out a transition matrix, which considers the implications for the progress of plan making of each of our recommendations and suggests how they might be implemented with least adverse effect on current plan making.

## 9 Local plan process

- 9.1 We have undertaken a thorough review of each stage of the local plan making process in order to attempt to identify efficiencies or improvements that may be recommended. We have sought to respond to two principal concerns:
- i. that the plan making process takes too long; and
  - ii. that the technical and legalistic nature of plan making makes it obscure and inaccessible to communities.

### The Stages of Plan Making

- 9.2 The Local Plans Regulations<sup>19</sup> prescribe two Stages of plan making prior to the submission of the local plan for examination:-
- Regulation 18 provides that the authority must notify various (statutory) bodies that it intends to prepare a plan and invite representations about what the plan ought to contain; and
  - Regulations 19 and 20 require the authority to publish a local plan and invite representations.
- 9.3 The authority then submits the local plan to the Secretary of State together with various supporting documents and a copy of the representations made in response to the published plan.
- 9.4 Whilst this sounds straightforward, our analysis identified several important difficulties with this approach. These include that there is no timetable set for the stages of plan making and also that there is little clarity about what is to be undertaken at the Regulation 18 stage. We return to those issues below but, much more significantly, the Regulations only require consultation on a fully prepared plan at a time when it is too late for the authority to amend the plan in response to those representations. In particular:
- the Regulations prevent the local authority from amending the plan after the Regulation 19 publication;
  - the authority is simply obliged to send the representations to the Secretary of State along with the (same) version of the local plan on which it consulted;
  - it is then for the Inspector to examine the local plan but the Inspector can only take account of representations which go to the question of the “*soundness*” of the local plan.
- 9.5 This can generate some perverse outcomes. For example, in the case of the recent East Devon Local Plan, both the community and (subsequently) the local authority wished to delete an employment site from the local plan that was submitted for examination but the Inspector was unable to recommend such a deletion because the allocation of the employment site did not go to the soundness of the plan. The outcome was either that the authority had to withdraw the plan and start again or adopt a plan which contained an unwanted allocation.

<sup>19</sup> Town and Country Planning (Local Planning) (England) Regulations 2012

- 9.6 The overly restrictive nature of the Regulations and the inability of the authority to change the plan in response to representation may have been intended to speed the process but in fact it has at least two undesirable consequences:
- the public feel excluded from the process, with little ability to affect the local plan; and
  - consequently, local authorities often introduce extra stages into the plan making process to overcome this difficulty, thereby extending the process.
- 9.7 In particular, despite the expectations of the Regulations, many authorities add at least two stages of plan preparation prior to submission:
- an Issues and Options Stage (to which there is no reference in the Regulations); and
  - a preferred Local Plan stage (ditto) which is introduced so that communities can comment on a draft local plan and have their comments taken into account before a local plan is published under Regulation 19 (following which the Regulations require further consultation – but no changes – and then submission to the Secretary of State for Examination).
- 9.8 We are in no doubt that the Regulations should be amended in order to bring greater fairness and efficiency to the process. Indeed, there may be a risk to local plans which strictly observe the current Regulations because they do not enable the public to be satisfactorily engaged at a time when the plan is still being formed, contrary to established principles of good public consultation.
- 9.9 The principal amendment that is required is to enable the authority to change the plan in response to public consultation. **We recommend that the Local Plans Regulations are amended to allow local planning authorities to make modifications to the draft of the local plan following consultation and prior to submission.**
- 9.10 Those modifications should also be the subject of consultation but this does not need to slow the submission of the plan because those representations would be made available to the local plan Inspector well before the commencement of examination hearings. If this recommendation is accepted, therefore, authorities would:
- i. Publish a fully drafted local plan and invite representations;
  - ii. Consider if they wish to modify the plan in response to those representations;
  - iii. Submit the local plan to the Secretary of State for examination together with a schedule of proposed modifications; and
  - iv. Invite further representations but only on the schedule of modifications.
- 9.11 This simple change would remove the necessity for authorities to introduce the additional stage of plan making which often takes place (the preferred local plan). It would streamline plan making and enhance meaningful community involvement.
- 9.12 What is also important, however, is that the community has the opportunity early in the plan making process to engage and express its view about what it wants to see achieved through the local plan. **Accordingly, we recommend that the first stage of consultation on a local plan must take place early enough to allow community engagement on a vision and high level options for the local plan area.**

## Timetabling Local Plans

9.13 At present, there is no mandatory or even advisory timetable for the different stages of plan preparation. Some plans have been in preparation for more than 10 years.

9.14 Our Report contains recommendations aimed at addressing each of these issues. If those recommendations are accepted, **we recommend that the Government should regulate the length of the plan making period**, as follows:

Stage		Timescale
1	Commencement of community engagement to full draft plan (revised Regulation 18 to revised Regulation 19) stage <sup>20</sup> .	48 weeks
2	Representations on draft plan (Regulation 20)	6 weeks
3	Submission of the plan, together with proposed modifications in response to consultation. (Consultation would also take place on the modifications but this can follow submission of the plan and overlap with the first stages of the examination process.)	12 weeks
4	Inspectors Report <ul style="list-style-type: none"> <li>● Read in and set questions: 4 weeks</li> <li>● Respond to questions and preparation: 6 weeks.</li> <li>● Hearings: 4 weeks.</li> <li>● Initial report, modifications, consult and final report: 14 weeks.</li> </ul>	28 weeks
5	Adoption by the authority following report, including the making of modifications.	10 weeks

9.15 These changes would mean that the entire plan making period can be reduced to two years. Whilst there are no complete statistics of current plan making timescales, we anticipate that these changes would approximately halve the timescale for local plan preparation.

9.16 Whilst this represents a significant reduction on current timetables, it is important to recognise that our recommendations to regulate this timetable are only made on the basis that our other recommendations for the plan making process are also accepted (see our Recommendations 20- 32). In this context, therefore, the proposed timetable needs to be considered against the following factors:-

- i. no planning authority would be starting from scratch – each authority will already have significant evidence and should be maintaining evidence on key issues such as housing and economic land availability in an up to date format and will be maintaining an ongoing dialogue with key agencies and Duty to Cooperate bodies, in accordance with the NPPF;
- ii. our recommendations below propose a substantial reduction in the evidence base requirements for local plans, so that the necessary evidence is reduced to that which is strictly necessary to achieve legal compliance, soundness and to meet the Duty to Cooperate;

<sup>20</sup> the 48 weeks assumes that work is already in place, for instance, that the authority has working protocols for the duty to cooperate, monitoring data etc. The work required in that period includes consultation at regulation 18, technical studies including those arising from consultation feedback, an MOT – see later – drafting the plan, testing alternatives, SEA etc. and committee processes.

- iii. we propose that the requirements for SEA are scaled back and that the process of Sustainability Appraisal is reduced to a single report supporting the submitted plan;
- iv. we make proposals to ensure that statutory consultees would not be able to delay the preparation of the Local Plan if they are slow to respond to consultation;
- v. the process of calculating objectively assessed need would be substantially simplified and assumptions “frozen” at submission stage, so that changes to projections after submission would have no effect;
- vi. the ability to modify a plan after it has been published would obviate the need for additional informal consultation;
- vii. we recommend early checks on emerging Local Plans to iron out any significant issues in their preparation (see below);
- viii.our recommendations in Sections 10 and 11 explain how the scope of local plans can be limited in order to create a legitimate role for Neighbourhood Plans and other supplementary planning documents;
- ix. we propose a change to the tests of soundness (see below) so that it is no longer necessary to debate at the examination whether the plan is “*the most appropriate strategy*”, simply whether it is “an appropriate strategy”, which again should significantly reduce debate;
- x. the ability of the local authority to modify the published plan should reduce the need for modifications following the examination, whilst we also recommend (in **Appendix 10**) that there should be no need to consult on modifications which the Inspector has concluded are necessary in order for the plan to meet the tests of soundness.

## Evidence Base

9.17 We were surprised to find that there was no clear list or guidance on the extent of evidence that it is necessary to produce for a local plan and our **Appendix 10** contains an **Appendix 10A** listing the nature of evidence which we consider necessary.

9.18 The NPPG already provides that evidence should be proportionate but we received many representations concerned at the sometimes extreme length of the evidence base. Inspectors literally receive a van load of evidence when they are instructed on a local plan but, in reality, only a handful of documents are strictly central to the issues to be examined.

9.19 The current definition of what may be required is broadly drawn. The Local Plans Regulations (Regulations 17, 19 and 22) simply refer to:-

*“Such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan.”*

9.20 The broad nature of the definition creates a concern to authorities that they must respond positively to expectations from others about the extent of evidence they should produce, or face risks of having the plan found unsound at examination. As a result, work is often commissioned at significant expense where it may not be necessary.

9.21 We heard extensively from local authorities that this was a serious problem in plan making. For example:-

*"The detail and level of evidence needed to get a plan through are too uncertain, and leaning on the side of caution causes exponential delay, requiring the refresh of other parts of the evidence base which inevitably also becomes dated during the process."*

9.22 **Accordingly, we recommend an amendment to the NPPG to tighten the definition of the documentation which is expected to comprise the evidence base for the local plan. We recommend the following revised definition of the requirement for evidence to support a local plan:-**

*"Only such supporting documents as the local planning authority considers strictly necessary to show whether the plan is legally compliant, sound and in compliance with the duty to cooperate."*

9.23 **We further recommend that advice of the NPPG is tightened in order to ensure consistency with this revised definition.**

9.24 Particular concerns arise in relation to SHMA, which we have addressed in Section 3. The next greatest concern relates to Sustainability Appraisals, which have also become an industry in their own right, fuelled by the expectations of the NPPG and the threat of legal challenge from objectors if the SA does not demonstrate a detailed approach to the consideration of alternatives at each stage of plan making. Planning officers, however, told us that SA tended to be "self-serving", capable of being adapted to any outcome and often of little genuine assistance to decision making.

9.25 In our view, substantial time and costs savings can be achieved by a more proportionate approach. Accordingly, we recommend that:

- **NPPG is revised to delete the advice that Sustainability Appraisal is an iterative process or that it needs to consider reasonable alternatives. The Guidance should advise that Sustainability Appraisal is concerned with explaining how the plan represents sustainable development by providing an audit of the local plan against the terms of the NPPF and whether it falls short in any respect. A report to that effect supporting the local plan would be sufficient to meet the legislative and practical requirement.**

## Early MOTs

9.26 A particular concern of the current plan making system arises from the number of plans which are found to be unsatisfactory only once the examination has started. Plans are then either found unsound or the examinations are suspended whilst substantial additional evidence is collated.

9.27 To address the time and cost implications of a late failure of the plan making process, early expert assessments of the evolving local plan should be undertaken in order to flag issues which are likely to be challenged later. Our Discussion Paper on Local Plan Process reviews the capacity of PINS or other agencies such as POS Enterprises to undertake this work.

9.28 **We recommend revision to the NPPG to set out strong guidance to local authorities that they should commission two early assessments of the soundness of their local plans. The first should be undertaken at the formative stage of plan making, whilst the second should take place once a full internal draft of the local plan has been prepared prior to its publication.**

9.29 DCLG should undertake a review with PINS, PAS, DCN and POS to put in place a system which ensures that sufficient resources are available from certified providers to undertake this service.

## Examinations and the Test of Soundness

9.30 **Appendix 10** of reviews the examination process, whilst our **Appendix 11** reviews more generally the role of the Planning Inspectorate. That review confirms that we have a very high regard for the Planning Inspectorate and the role which it plays in enforcing and applying national planning policy. We recommend below that the resources available to the Planning Inspectorate should be reviewed in the light of all of our recommendations but we also **recommend that it would help to promote consistency and provide a degree of reassurance if the Inspectorate were required to produce an Annual Report outlining any consistency issues that have arisen during the year and to explain how these have been dealt with.**

9.31 We heard remarkably little concern about the nature of the examination process itself. Planning Inspectors are highly respected and the review set out in our Appendix suggests that the process works well, is sufficiently publicly accessible and that Inspectors are generally successful in applying the discretion that they are given to conduct the examination of the plan.

9.32 A more significant issue relates to a call for “*staged examinations*” in which the examination first deals with strategic issues before moving to more detailed matters. We consider that the present legislation and guidance already allows for this to happen and it is increasingly being adopted.

9.33 A number of parties expressed concern about the pass/fail nature of the soundness tests set out at paragraph 182 of the NPPF, although few respondents suggested specific alternatives.

9.34 In principle, we found no practical difficulty with the soundness tests, although some concern was expressed in relation to the test that “*the plans should be the most appropriate strategy*”, and we agree that this should be changed. Where an authority has met all other tests required, including addressing its housing requirements over the plan period it should be for the authority in consultation with its community to determine the most appropriate strategy. Accordingly, **we recommend an amendment to the tests of soundness so that a plan is considered sound if it represents “an appropriate strategy”, when considered against reasonable alternatives, based on proportionate evidence.**

9.35 This change would reinforce the fact that local plans are intended to reflect “*the vision and aspiration of local communities*” (NPPF paragraph 150). We have considered as a result whether it is necessary for local plans to be examined at all, if they meet certain fundamental requirements (such as planning for their full FOAHN including unmet needs from others etc.). However we consider that there remains benefit in examining local plans because of the importance of ensuring that they do plan positively and robustly to allow needs to be met and delivered. Even the best plans are improved through examination and the knowledge that there will be an examination itself is helpful in ensuring a high quality approach. However, the revised soundness test will reduce the need for debate, as will many of our recommendations in relation to matters such as SHMAs and Sustainability Appraisal, which have commonly formed the principal basis for that debate. Accordingly we do **recommend changes to the NPPG and to PINS’ own Procedural Guidance to allow Inspector’s predominantly to conduct examinations through written representations and to limit hearing sessions to those which the Inspector considers necessary to conclude whether the plan is sound and meets its legal requirements. Revised PINS Procedural Guidance should make it very clear that the use of standard issues and questions of examinations is not appropriate.**

This should allow an authority with a well prepared plan to save significant time and cost<sup>21</sup>.

## The Role to be played by other agencies

- 9.36 A number of authorities express concern to us the plan making was made more difficult by the length of time which many statutory consultees took to respond during the plan making process and by the extent of requirements from those consultees for matters to be evidenced within the plan making process. We have set out above our recommendations in relation to local plan evidence to help to ensure that it is proportionate and no more than is necessary to inform the soundness of the plan.
- 9.37 We have also set out recommendations for the timetabling of local plan preparation. Whilst the timetabling may create tensions between statutory consultees and the plan making authority, consultees will need to adjust to the recognition that the plan making process cannot wait for their responses.
- 9.38 We do believe, however, that plan making is best undertaken when it is jointly undertaken with close cooperation between all those with a contribution to make. Accordingly, **we recommend that DCLG secures a concordat at a national level with the principal statutory consultees, including the County Councils Network, which sets out their commitment to the local plan process, the recognition of the need for early plan preparation and puts in place high level arrangements for timely and proportionate joint working on plan preparation.** With the benefit of such a national concordat, planning authorities would find it easier to engage with local offices of statutory consultees in order to establish a similar quality of local working arrangements.
- 9.39 **We also recommend changes to the NPPG to make clear that a local authority will not be considered to be in breach of the duty to cooperate where it has consulted with statutory authorities but not received a timely response.**
- 9.40 Coupled with our recommendations in **Section 3** to simplify the approach to calculating housing requirements and freeze the assumptions through and beyond the examination process these comprehensive reforms should mean that plan making and delivery should become significantly simpler and less contentious.

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21 This is likely to require legislative change to amend Section 20 (6) of the Planning and Compulsory Purchase Act 2004.

# 10 Local plan content

## Introduction

- 10.1 The evidence suggests that plans are getting longer and also that it is taking longer for Local Plans to go through the process to adoption. We tested whether there was a direct relationship between these factors but concluded that the length of time a plan takes to go through the process is more a function of the complexity of the process itself than it is to do with the length of the document. Within reason, we consider that authorities should be free to *"provide a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities"* (NPPF Foreword).
- 10.2 We have identified, however, a number of respects in which plan making could be more concise and efficient including:-
- i. remarkably, there is no single source which currently sets out the requirements for the content of a local plan – consequently, we have provided one – see **Appendix 12**;
  - ii. whilst the headline requirements for local plans set out in the NPPF remain appropriate in principle, there is considerable opportunity for these to be addressed more efficiently and proportionately, in line with the proposed approach to soundness, and for detailed matters to be devolved to other development plan documents;
  - iii. we **recommend a change to paragraph 153 of the NPPF to make clear the legitimacy of a staged approach to local plan production**, starting with a strategic Local Plan and deferring more detail where practical to neighbourhood plans, subsidiary local plan documents, brownfield registers and supplementary planning documents;
  - iv. there is no need for local plans to replicate the policies of the NPPF – instead, plans should contain a statement that the authority adopts and will apply the NPPF in determining planning applications.
- 10.3 Our recommendations include **a closer integration between the preparation of Community Infrastructure Levy Charging Schedules and Local Plans, including that CIL is focused on local plan priorities. This may mean, for instance, exempting strategic sites from general CIL charges and developing bespoke CIL and section 106 strategies to assist their delivery. In addition there should be a recognition that local plans should be able to plan for the long term, even where there cannot be certainty over long term infrastructure funding.**

10.4 We **recommend a content model for a high level local plan** which includes:

- ensuring that policies are in place for the full plan period;
- the identification of a five year housing land supply together with a buffer to enable sufficient time for neighbourhood plans (or failing these) Site Allocation documents to give effect to the broad allocations of housing, employment and other land uses within the local plan;
- a mechanism for reserve sites to be released if monitoring identifies a failure against the local plan trajectory – see further below in **Section 11**; and
- attention to issues raised in the community’s vision for the local plan and other issues of local importance including a positive plan to enhance biodiversity, protect heritage and define strategies for place making.

10.5 **Section 12** of our report provides guidance and recommendations for the style of local plans.

# 11 Implementation and delivery

11.1 In this section of the report we look at the implementation and delivery of local plans with a specific focus on housing land supply. We recognise that local plans have obligations across all land uses, but we heard views that the credibility of the plan-led system is at risk because local plans may not always be up to date and may not deliver a consistent and continuing supply of housing land, leading to shortages and planning by appeal.

## Maintaining Housing Land Supply

11.2 Particular problems currently occur with identifying and maintaining a five year supply of housing land, not least because:

- i. the factors affecting a five year land supply calculation are 'live', in the sense that matters such as build rates, site circumstances etc. change constantly so that, whatever a Local Plan Inspector finds as a result of the local plan examination will be out of date even before the local plan is adopted;
- ii. even though local plan examinations are often dominated by five year supply issues, they rarely have the time to address the full detail properly and there are several examples of appeals being won on the five year issue immediately after a local plan has been adopted because further scrutiny is possible through section 78 appeals;
- iii. even where a Local Plan has recently been found sound – with a housing requirement that meets OAN – the subsequent publication of new household projections or other data is being cited by developers and others as reason to argue that the plan is out of date;
- iv. because Plans tend only to allocate the minimum amount of land they consider necessary, once adopted, there is little that Local Plans can do to address any shortages that appear in the five year supply. Any shortages, therefore, trigger (slow) local plan reviews meaning that shortfalls tend to be addressed by application or appeal led solutions, rather than plan-led solutions; and
- v. the combination of short term focus, coupled with inevitable long term shortcomings, then encourages the concept of plans being found sound subject to early reviews, which undermines the credibility and sustainability of the plan-led system.

11.3 There needs to be a clearer and more effective mechanism for maintaining a five year land supply, at the same time as ensuring plans consider delivery over the whole plan period and incorporate sufficient flexibility to respond to rapid change. We also note the Government's proposed housing delivery test will increase the importance of having a proactive system to ensure the availability of a genuine supply of deliverable sites as well as a reservoir of potential development sites to address shortfalls in housing supply.

11.4 Accordingly, we **recommend that the NPPF makes clear that local plans should be required not only to demonstrate a five year land supply but also focus on ensuring a more effective supply of developable land for the medium to long term (over the whole plan period), plus make provision for, and provide a mechanism for the release of, developable Reserve Sites equivalent to 20% of their housing requirement, as far as is consistent with the policies set out in the NPPF. Reserve Sites represent land that can be brought forward to respond to changes in circumstances.**

- 11.5 For reasons we set out above, the five year land supply is a 'live' construct, in an area where the 'facts on the ground' can change markedly from year to year (or even sooner) and – because the absence of a five year land supply can often determine whether a housing proposal is granted or refused – matters are routinely contested by applicants through planning applications and at s.78 appeals. We heard of some local authorities where multiple planning appeals (sometimes at the rate of one or two a month) are taking place constantly, at which the existence or not of a five year land supply is among the dominant planning issues. Combined, this is taking up significant local authority, Planning Inspectorate, and applicant resources.
- 11.6 We therefore see significant merit in the introduction of an approach broadly comparable to that recently introduced in Wales which promotes Joint Housing Land Availability Studies where there is a more codified and collaborative approach to establishing the five year land supply. **Our recommendations set out proposals for the following:**
- i. **a Housing Implementation Strategy, reported through the Authority Monitoring Report, based on the Local Plan housing requirement and a standard form of years supply calculations;**
  - ii. **in establishing its housing supply, authorities will be expected to work closely with land owners, developers and others to produce a Five Year Housing Land Supply Statement which would then be tested annually by an independent person, which would conclude the land supply position authoritatively so that it then becomes the accepted position of that authority until the next annual Statement;**
  - iii. **where there is a documented short fall against the five year supply, the authority would be expected to bring forward a plan led approach by releasing reserve sites identified through the local plan process.**
- 11.7 Whilst this may cause short term resourcing issues for the Planning Inspectorate:
- the process would save very substantially on PINS and other resources by reducing the need for and complexity of Section 78 Appeals;
  - certified examiners could be used to supplement PINS resources; and
  - once established the system should be relatively easy to monitor and keep up to date.
- 11.8 This approach would bring greater confidence and certainty for both the planning authorities and the housebuilding sector. It should reduce the need for planning on appeal and provide greater confidence to communities that housing provision is to be plan led as far as practical.
- 11.9 To complement this we **recommend a codified template for a five year land supply calculation** in order to remove the debate which currently affects many planning applications and appeals about the appropriate places for calculation – see our **Appendix 13**.
- 11.10 Included in this we **propose that the housing requirement figure in an adopted local plan is considered to be the up to date basis for the five year land supply calculation for a period of at least three years commencing on the date at which the Inspector concluded that it was sound** when examining the Local Plan. This is intended to bring confidence and stability to local housing provision and to create the space for Neighbourhood Plans, Site Allocations Plans and for plan-led reviews in the event that circumstances change.

## 12 Presentation, access and style

- 12.1 We heard a fairly consistent message from local planning authorities that advice from bodies such as PAS, POS and PINs, as well as from other local authorities, on the plan making process is very helpful. Perhaps inevitably, however, that advice, tends to be focused on the soundness tests and on ensuring that plans successfully navigate the examination process. There is little support available on the quality, accessibility and effectiveness of plans, although we note the good work done by the RTPI Awards in this area. We believe that there should be more advice available to local planning authorities, and that there is scope to improve these aspects of plan making, particularly the ability of users of local plans to find the information they need quickly. Local planning authorities should want their plans to be accessible, easy to digest and user friendly.
- 12.2 We have not had the resources or the time to take on the role of reviewing all local plans, distilling what is good and bad practice, and then providing guidance on this. We have however attempted to explore some of the issues and to find examples of good practice, of which there are many. To do this we have reviewed a no doubt unrepresentative sample of about 40 local plans

### Length and Structure

- 12.3 There is wide variety in the length and structure of local plans – with plans ranging from less than 100 pages to sometimes more than 300 or even 400 pages. We decided not to recommend a prescriptive approach but rather to encourage brevity, innovation and imitation of good practice and our Discussion Paper identifies best practice examples.
- 12.4 If it is not possible to limit plans to 50 pages, it certainly is possible to summarise the content in far fewer pages and we recommend that an **Executive Summary at the beginning of a plan would in most cases improve the legibility of the document.**

### The use of visual material

- 12.5 The focus on word based local plans, with few graphical representations of what the future might look like does not serve planning well. The simplification of the plan making process we have recommended should free up resources for more masterplan based work, with an emphasis on places and zones which would improve the legibility and accessibility of the plan, whilst exciting greater public interest. We note the effectiveness of “propositional planning” in which consultees are shown visual images of the proposed effect of plan policies in order to aid understanding and stimulate engagement.
- 12.6 With increasing interest in zonal planning and the introduction of Permission in Principle, there is all the more reason for plans to be graphically based and visually engaging.
- 12.7 We noted some emerging examples of the creative use of online local plans but scope for substantial improvement. Again, our Discussion Paper identifies best practice examples.

- 12.8 We recommend that local planning authorities consider ways in which the accessibility, of local plans can be improved by, for example:
- i. reducing length where possible;
  - ii. careful formatting, for example by including a summary of the key facts and the policy approach at the beginning of plan documents;
  - iii. more utilisation of graphic presentation to explain the spatial approach and, particularly, in areas where change is envisaged, what change might look like –“propositional planning”;
  - iv. more focus on the link between policy and masterplanning in areas where significant change is envisaged to provide guidance on what change might look like and how well designed places can be created;
  - v. reviewing how readily relevant plan documents are accessible on the web;
  - vi. improving the interactivity of policies maps and plan documents, as well as the links between them; and
  - vii. exploring opportunities for improving on-line consultation.
- 12.9 We further recommend that the Government commission work to review opportunities to draw attention to and spread good practice in the way local plans are structured and presented. We note the opportunity to link this to work the Government is already doing on best use of technology and modern media.

## 13 Next steps and transition

- 13.1 It is entirely for the Government to decide whether to accept and implement any of our recommendations – and whether to do so following a period of consultation.
- 13.2 The majority of our recommendations would require further detailed work before they could be properly implemented. **We would see advantage, therefore, in the establishment of a Technical Working Group being formed from representative sectors of the planning industry to assist with the implementation of detailed recommendations.**
- 13.3 Whilst we have sought to focus our recommendations on measures that would work with the grain of existing policy and facilitate the implementation of local plans, we are aware that the implementation of any change can disrupt the plan making process and that particular thought needs to be given to issues of transition. Accordingly, our Detailed Recommendations are set out on the LPEG website in a table which provides transition proposals for each recommendation.
- 13.4 Our recommendations are set also out in **Appendix A** to this report.

# Appendix A: LPEG recommendations

## The Problems facing Plan Preparation (Section 2)

1. **Ensuring up to date plans are produced** – the Government's current proposals to stimulate the production of local plans by early 2017 should apply to all authorities who have not produced a post NPPF local plan. If that measure is regarded by Government as a change or addition to its stated position, the time period in the case of post NPPF local plans (as opposed to post 2004 local plans) could be extended to March 2018.

## Establishing Objectively Assessed Need (OAN) (Section 3)

2. **HMA boundaries** – DCLG should commission an update of the 2010 study of HMA boundaries to reflect the latest statistical evidence (notably the 2011 census) and to provide an up to date basis to guide authorities in the determination of their HMA boundaries. That study should identify 'best fit' HMAs based on local authority boundaries.

The NPPG guidance should be strengthened to reinforce the need to use HMA boundaries which meet the definition of housing market areas set out in the updated CURDS study in the next review of local plans where practical.

In view of the potential for HMA boundaries to be 'gamed' it is all the more important that guidance reinforces the operation of the Duty to Co-operate (see recommendation 11) both within and between HMAs.

3. **Coordinated boundaries** – Longer term consideration be given by Government to achieving coordination between economic and housing planning boundaries in order to facilitate more effective voluntary strategic planning for housing, economic growth and infrastructure.
4. **SHMAs** – The NPPG should be revised to set out standard common methodology for the preparation of concise SHMAs in accordance with Appendix 6, with a clear stipulation that this is the approach government expects to be followed.
5. **Market signals** – DCLG should produce and maintain a Live Table that specifically deals with the two market signals identified.
6. **Common data** – DCLG should give active consideration to inclusion of a relevant local-level sensitivity in the 2014-based projections to address necessary changes to formation rates, so that it can be utilised in local demographic calculations without necessitating specialist demographic modelling support.

## Turning OAN into Local Plan Requirements (Section 4)

7. **Assessment of Environmental Capacity** – A proportionate Assessment of Environmental Capacity should be an important part of plan making and should be defined as an essential element of the local plan evidence base. An indicative scope should be prepared as part of an amendment to the NPPG to make clear this requirement and to guide preparation of a proportionate approach to the assessment.

8. **Application of paragraph 14 of the NPPF** – A robust approach needs to be taken to the implementation of paragraph 14 the NPPF and guidance needs to be supplemented to make clear the expectation that it will be for authorities to demonstrate that the adverse effects of development significantly outweigh the presumption that sufficient land should be allocated to meet objectively assessed needs.
9. **Green Belt** – advice about how to conduct Green Belt reviews should be more readily available to local authorities.
10. **Growth points** – Government should consider the extent to which it is necessary to create the circumstances to enable the establishment of growth points to complement the capacity of local plans to meet national needs. Options include:
  - a refreshed New Towns programme;
  - increased powers for the private sector to promote large scale housing using the infrastructure planning powers of the Planning Act 2008;
  - facilitating the preparation of locally produced spatial plans based on transport corridors; and
  - incentivising bids or growth, for instance, through the devolution agenda.

### Working across boundaries to meet needs (Section 5)

11. **The Duty to Cooperate** – wording should be added to the soundness tests at the end of paragraph 182 of the NPPF to the following effect:
  - i. the product of joint working between authorities is expected to be agreement on the distribution of full OAN unless there is clear and convincing agreed evidence that the adverse effects of meeting the need in full would significantly outweigh the presumption that the need should be met;
  - ii. plan making authorities who do not plan to meet their own OAN are expected to identify in their submitted plans how those needs are likely to be met and to proactively work towards achieving the meeting of those needs – this should involve, for instance,
    - testing the assertions of adjacent authorities who claim an inability to meet those unmet needs and challenging that assertion if capacity is considered to be available to meet needs;
    - formally requesting that adjacent authorities meet those needs; and
    - making representations to adjacent authorities' plans to meet those needs in the event that agreement has not been reached.
  - iii. where unmet needs are identified as a result of this process, planning authorities requested to meet needs from adjacent authorities whether within the same HMA (or not) will be expected to treat that unmet need as part of their own OAN and to apply the same NPPF tests as they do to their own OAN in assessing their ability to meet those needs within their local plan.

Where authorities fail to make representations to a neighbouring plan about their unmet needs, Guidance should be amended to make clear that Local Plan Inspectors should nevertheless assume that such representations have been made – the absence of representations is not to be taken as evidence of a lack of unmet need where the evidence clearly identifies that such unmet need exists.

In addition the NPPG should be strengthened to reflect this clarification in the NPPF and to make clear:

- a) the importance of joint working between authorities to meet and deliver housing needs, where this is consistent with the policies of the NPPF; and
  - b) Whilst governance models are a matter for the authorities, engagement and joint working is expected at both officer and member level.
12. **Directed preparation of a Joint Local Plan** – The Government should make clear that, where authorities in a HMA have failed to reach sufficient agreement on meeting and distributing housing needs by March 2017, the Government will use powers to make Regulations to direct the preparation of a Joint Local Plan for the HMA (or a suitable geography such as transport corridors) within a prescribed timetable. Legislation may be necessary to this effect. Guidance would also be necessary in the NPPG to guide the governance arrangements for such plans.

## Devolved Powers (Section 6)

13. **Conditions in devolution bids** – We recommend that Government attaches precise conditions to any successful devolution bids requiring a commitment to positively plan to meet objectively assessed housing needs and we further recommend that Government should secure a commitment to joint planning across the bid area to that effect as a condition of approval.
14. **Housing and economic boundaries** – where practical, the opportunity should be taken for devolved bids to secure a rationalisation of housing and economic planning boundaries.
15. **Ensuring consistency** – A power should be provided to the combined authority that they are able to certify that individual constituent authorities have, in their opinion, satisfied the Duty to Cooperate. Individual local plans within the devolved area would not be allowed to proceed to examination in the absence of such a certificate.

## Incentives for timely plan preparation (Section 7)

16. **Financial incentives** – Government should review the role of financial incentives to stimulate efficient and effective plan making. As part of this, authorities bidding to government or through LEPs for infrastructure related funding should expect to receive less priority if they do not have in place an up to date local plan which identifies the need for that infrastructure.
17. **Statutory Duty** – We recommend a change to legislation placing a statutory duty on local authorities to produce a local plan and to maintain an up to date local plan.

**18. Time limiting out of date plans** – We recommend:

- i. if a planning authority with no local plan has not submitted for examination a local plan by the end of March 2017, it should be made clear as a matter of Government policy (through an amendment to the NPPF) that its existing relevant development plan policies for the supply of housing will be considered to be out of date. In other words, the presumption in favour of sustainable development set out in the NPPF would fully apply, informed by local designations but unconstrained by local policies;
- ii. the same provisions should apply to any authority who has not submitted for examination a post NPPF local plan by March 2018;
- iii. the same consequence should arise where a local authority fails to undertake an early review of its local plan in circumstances where a Planning Inspector has recommended such a review. If, for example, the Planning Inspector considered that the review should be complete within five years but no review has been submitted for examination within that timescale, the existing policies should be considered to be out of date after 5 years (in other words, the plan would be strictly time limited);
- iv. the Government should abandon the principle of "saved policies" i.e. the practice by which planning policies are allowed to continue to carry weight beyond the expiry period of the local plan period; and
- v. authorities without a submitted Local Plan by the end of March 2017 should be considered for "special measures" in exactly the same way as authorities who are currently slow to determine planning applications.

## Policy Changes (Section 8)

**19. Stable national policy** – We recommend that:-

- i. the NPPF is reviewed only every 5 years;
- ii. the NPPG is only changed periodically (for instance, every six months); and
- iii. that proposed changes to the NPPG are subject to scrutiny by a technical working group drawn, for instance, from the Government's Planning Sounding Board before the changes are made so that their potential effect is fully considered.

## Local Plan process (Section 9)

- 20. Modifications after publication** – The Local Plans Regulations should be amended to allow local planning authorities to make modifications to the draft of the local plan following consultation and prior to submission.
- 21. Community engagement** – The Local Plan Regulation 18 should be amended to ensure that the first stage of consultation on a local plan must take place early enough to allow community engagement on a vision and high level options for the local plan area.

22. **Efficient, meaningful consultation** – The NPPG should be amended to guide local authorities in how they may engage communities effectively at the commencement of the local plan making process. The NPPG should also provide that further rounds of discretionary consultation should not be carried out except in exceptional circumstances and that where any such exceptional additional consultation is proposed it does not impact on the overall programme for plan preparation.
23. **Timetabled plan making** – The Government should revise the Local Plans Regulations to specify a strict maximum timetable for the preparation of all local plans, following the Timetable set out at paragraph 9.14 of our report.
24. **Documents required for plan making** – The NPPG should be amended to provide a list of documents which may be required in the preparation of a local plan; that list should be based on our Appendix 10A.
25. **A smaller, focussed evidence base** – An amendment should be made to the NPPG to tighten the definition of the documentation which is expected to comprise the evidence base for the local plan. We recommend the following revised definition of the requirement for evidence to support a local plan: *"Only such supporting documents as the local planning authority considers strictly necessary to show whether the plan is legally compliant, sound and in compliance with the duty to cooperate."*

We further recommend that advice of the NPPG is tightened in order to ensure consistency with this revised definition.

26. **Strategic Environmental Assessment** – In relation to SEA:-
- i. we recommend that local planning authorities are alert to consider whether SEA is required at all. The NPPG should be amended to refer to the potential for screening out SEA for particular types of local plans and local planning issues; and
  - ii. we recommend that the NPPG be revised to include guidance that SEA environmental reports should concentrate on the particular issues which arise from the proposals of the local plan and their reasonable alternatives and be no longer than is necessary.
27. **Sustainability Appraisal** – We recommend that the NPPG is revised to delete the advice that Sustainability Appraisal is an iterative process or that it needs to consider reasonable alternatives. The Guidance should advise that Sustainability Appraisal is concerned with explaining how the plan represents sustainable development by providing an audit of the local plan against the terms of the NPPF and whether it falls short in any respect. A report to that effect supporting the local plan would be sufficient to meet the legislative and practical requirement.
28. **Early MOTs** – We recommend revision to the NPPG to set out strong guidance to local authorities that they should commission two early assessments of the soundness of their local plans. The first should be undertaken at the formative stage of plan making, whilst the second should take place once a full internal draft of the local plan has been prepared prior to its publication. DCLG should undertake a review with PINS, PAS, DCN and POS to put in place a system which ensures that sufficient resources are available from certified providers to undertake this service.
29. **PINs resources** – We recommend that Government undertakes a review of PINs resources in the light of the full scale of recommendations set out in this Report.

30. **PINs Annual Report** – It would help to promote consistency and provide a degree of reassurance if the Inspectorate were required to produce an Annual Report outlining any consistency issues that have arisen during the year and to explain how these have been dealt with.
31. **Soundness and the implications for examinations** – We recommend an amendment to the tests of soundness so that a plan is considered sound if it represents “an appropriate strategy”, when considered against reasonable alternatives, based on proportionate evidence. As a result of these and other proposed changes we recommend changes to the NPPG and to PINS’s own Procedural Guidance to allow Inspectors predominantly to conduct examinations through written representations and to limit hearing sessions to those which the Inspector considers necessary to conclude whether the plan is sound and meets its legal requirements. Revised PINS Procedural Guidance should make it very clear that the use of a list of standard issues and questions is not appropriate.
32. **National concordat** – We recommend that DCLG secures a concordat at a national level with the principal statutory consultees, including the County Councils Network, which sets out their commitment to the local plan process, the recognition of the need for early plan preparation and puts in place high level arrangements for joint working on plan preparation.

We also recommend changes to the NPPG to make clear that a local authority will not be considered to be in breach of the duty to cooperate where it has consulted with statutory authorities but not received a timely response.

## Local Plan Content (Section 10)

33. **Staged plan making** – We recommend a change to paragraph 153 of the NPPF and section 10 of the NPPG to make clear the legitimacy of a staged approach to local plan production, starting with a strategic Local Plan document.
34. **Role of other plans** – We recommend that the revisions to the NPPG make clear the division of responsibilities between local plans, Neighbourhood Plans, and supplementary planning documents (which cannot carry the weight of a development plan document but which could be a useful vehicle for local standards etc. as long as the limited weight attached to SPD is understood). As we have set out in Appendix 12, Local Plans have a role in setting the scope for and role of Neighbourhood Plans.
35. **Policy Formulation** – We recommend that new guidance is prepared and published in the NPPG or independently on best practice in policy formulation. This would include best practice in drafting reasoned justifications for policies (which are required by the Local Plan Regulations but which can sometimes be excessively worded). The best practice should include advice on the drafting of concise policies, and mechanisms for dealing with local policy guidance and detailed requirements such as local standards and development management criteria.
36. **Funding uncertainty** – The NPPG should be strengthened to indicate that strategic allocations may still be included in later phases of the plan period where there is uncertainty over funding, but where they are supported in principle by relevant key agencies/authorities.

37. **CIL and local plans** – We recommend that (where practical and without causing delay to plan preparation) the local plan and CIL Charging Schedule are reviewed together, as part of the same thought process and for them to be focused on delivering the same objectives. Where there is a CIL already in place it is important that the authority keep under review its CIL Regulation 123 list to ensure that the spending priorities are aligned with the key infrastructure requirements identified in the plan, and that there is a close correlation with the local plan's Infrastructure Delivery Schedule. This may mean, for instance, exempting strategic sites from general CIL charges and developing bespoke CIL and section 106 strategies to assist their delivery.
38. **Monitoring** – We recommend that the NPPG is amended to set out more clearly the Monitoring and Delivery requirements of a Plan's policies and proposals, with the necessary linkages to Authority Monitoring Reports.
39. **Content of local plans** – We recommend that the NPPG be amended to make clear the requirements of a local plan in accordance with our content model and our **Appendix 12**.

## Implementation and Delivery (Section 11)

40. **Long term supply and reserve sites** – We recommend that the NPPF makes clear that local plans should be required not only to demonstrate a five year land supply but also focus on ensuring a more effective supply of developable land for the medium to long term, plus make provision for and provide a mechanism for the release of Reserve Sites – land that can be brought forward to respond to changes in circumstances. Implementation of this recommendation should be accompanied by the requirement for maintaining a five year land supply being given a more effective platform for consideration and scrutiny through Authority Monitoring Reports.
41. **Boosting supply** – To boost significantly the supply of housing paragraph 47 of the NPPF should be amended to require:
- i. Local Plans should identify a housing requirement with sufficient deliverable or developable sites or broad locations to meet full objectively assessed housing need (FOAHN) over the full plan period for their local area, including any unmet need from within or beyond the Housing Market Area, plus an additional allowance for flexibility appropriate to local circumstances, as far as is consistent with the policies set out in this Framework.
  - ii. Local Plans should make a further allowance; equivalent to 20% of their housing requirement, in developable reserve sites as far as is consistent with the policies set out in this Framework, for a minimum fifteen year period from the date of plan adoption, including the first five years (this recommendation does not apply where it has been demonstrated that a local authority does not have sufficient environmental capacity to exceed its local plan requirement). The purpose of reserve sites is to provide extra flexibility to respond to change (for example, to address unmet needs) and/or to help address any actions required as a result of the Government's proposed housing delivery test.
  - iii. Local Plans should contain a policy mechanism for the release of reserve sites in the event that monitoring concludes that there is less than 5 years housing land supply or there is a need to address unmet needs;
  - iv. Local Plans should be supported by a Housing Implementation Strategy ("the HIS") that illustrates the expected rate of housing delivery through a housing trajectory for the whole of the plan period (at least fifteen years) and also sets out the mechanisms by which the local authority will manage delivery of a five-year supply of housing land to meet its housing requirement.

- v. Local authorities should identify within Authority Monitoring Reports (AMRs) a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period or the Reserve Sites allowance, where applicable) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;

The NPPG would need amendments to reflect this position.

**42. A monitored, plan led approach** – To ensure a monitored, plan-led supply of housing land is delivered:

- i. As now, local authorities should produce an Authority Monitoring Report (AMR) which draws on the Housing Implementation Strategy and which identifies the five year housing land supply position based on an assessed trajectory ('the Five Year Housing Land Supply Statement') for housing delivery, based on the housing requirement, and a standard form of years supply calculation (see further below);
- ii. Where a local authority does not have a five year housing land supply, it should address the shortfall based on bringing forward sites from later years in its trajectory or from its Reserve Sites allowance (where there is an adopted Local Plan) or from sites identified as deliverable within its SHLAA, and show the effect of doing so within its trajectory. Where a local plan does not identify sufficient (or any) Reserve Sites, that authority will be obliged to live with the outcome from the conclusion of the Statement that it does not have a five year supply and the terms of paragraph 49 of the NPPF will apply unless and until a five year supply can be demonstrated through the following year's assessment.
- iii. In preparing its Five Year Housing Land Supply Statement, local authorities will be expected to establish close working relationships (for instance through a Working Group) with landowners, developers and others who hold information relevant to the availability and viability of housing sites in their area.

Local authorities will be responsible for preparing their trajectory drawing on information gathered from known landowners/site promoters, and this should then be used to set out the Five Year Housing Land Supply Statement, which should be submitted to PINS (or a suitable alternative independent body) for it to be formally tested by an Examiner (who may be a PINS Inspector or relevant qualified professional). It is important that the views of relevant organisations are addressed as part of this process, so this could involve one or both of the following:

- The Five Year Housing Land Supply Statement is prepared by the local authority in collaboration with a Working Group drawn from relevant organisations, including representatives of the development industry, with a statement of common ground setting areas of agreement or disagreement on the trajectory being submitted to the Examiner for consideration<sup>1</sup>, and
- The trajectory is published for a consultation period of four weeks, inviting representations to be made that are then considered by the Examiner. The Examiner will normally rely on written representations but may at their discretion schedule an examination hearing session to consider specific matters.

<sup>1</sup> This is the approach adopted in Wales under TAN01

- iv. Based on the trajectory within the submitted Five Year Housing Land Supply Statement, the statement of common ground and/or any representations received, the Examiner will adjudicate on the matters of dispute and arrive at a 'concluded' trajectory and five year land supply position, including specifying the number of years supply as at the preceding 1st April. This 'concluded' figure that should be reported within the local authority's AMR. If no representations are received and there is a statement of common ground agreeing all aspects of the trajectory, the Examiner need simply validate the Five Year Housing Land Supply Statement and 'conclude' it.
- v. Where a Local Plan (with its Housing Implementation Strategy and five year land supply trajectory) has been examined and found sound in the period up to December based on a land supply position as at 1st April of that year, this is assumed to be the 'concluded' five year land supply position for that year and there is no need for a separate Five Year Housing Land Supply Statement to be submitted for examination.

The concluded trajectory and five year land supply position following examination should be considered as the 'concluded' five year land supply position for the purpose of decision taking for a twelve month period from its publication by the Planning Inspectorate, including at s.78 appeals. Over the twelve month period this will remain the case even if circumstances are considered to have changed, for example due to new planning permissions being granted or sites becoming unavailable. Such changes would need to be reflected in the subsequent year's Statement. Where the Council does not produce a trajectory for determination by the Examiner, the 'default' position is that there is no five year land supply. The attachment of substantial weight to either default or 'concluded' position should be reflected in the NPPG, consistently with paragraph 49 of the NPPF.

- 43. A standard approach to 5 year supply calculations** – We recommend that the NPPG is updated to provide a codified template for five year land supply calculations in accordance with our **Appendix 13**. We recommend tighter parameters within the NPPG for calculating the five year housing land supply with these to be confirmed through a technical sub-group looking at the following aspects:
- i. A prescribed approach to defining the housing requirement for five year land supply purposes with and without an up-to-date Local Plan, to include the expectation that the housing requirement figure in an adopted Local Plan is considered to be regarded as up-to-date for five year land supply purposes for a period of at least three years commencing at the date at which an Inspector concluded on the OAN figure in examining the Local Plan.
  - ii. A base date against which to measure undersupply;
  - iii. A more prescriptive definition for persistent under delivery or the application of a blanket buffer to all LPAs;
  - iv. Clarifying that the application of the buffer is to the requirement plus backlog;
  - v. The implementation of a more case-specific application of Liverpool or Sedgefield for the delivery of backlog;
  - vi. The introduction of a lapse rate into the calculation; and
  - vii. Explicit exclusion of specialist types of accommodation as components of supply.

## Presentation, Access and Style (Section 12)

44. **Local plan style and accessibility** – We recommend that local planning authorities consider ways in which the accessibility, of local plans can be improved by for example:
- i. reducing length where possible;
  - ii. the use of an executive summary;
  - iii. careful formatting, for example by including a summary of the key facts and the policy approach at the beginning of plan documents more utilisation of graphic presentation to explain the spatial approach and, particularly, in areas where change is envisaged, what change might look like –“propositional planning”;
  - iv. more focus on the link between policy and masterplanning in areas where significant change is envisaged to provide guidance on what change might look like and how well designed places can be created;
  - v. reviewing how readily relevant plan documents are accessible on the web;
  - vi. improving the interactivity of policies maps and plan documents, as well as the links between them;
  - vii. exploring opportunities for improving on-line consultation;
  - viii. We further recommend that the Government commission work to review opportunities to draw attention to and spread good practice in the way local plans are structured and presented. We note the opportunity to link this to work the Government is already doing on best use of technology and modern media.

## Minerals and Waste Plans

45. **Minerals** – We recommend a revision to the NPPG to the effect that the output from the Aggregates Working Parties should be given particular weight in planning decisions and in the preparation of minerals plans.
46. **Minerals and Waste Plans** – We recommend that the Government clarifies that it has comparable expectations for the completion of Minerals and Waste local plans.

## Next Steps and Transition (Section 13)

47. **Technical Working Group** – We would see advantage in the establishment of a Technical Working Group being formed from representative sectors of the planning industry to assist with the implementation of detailed recommendations.