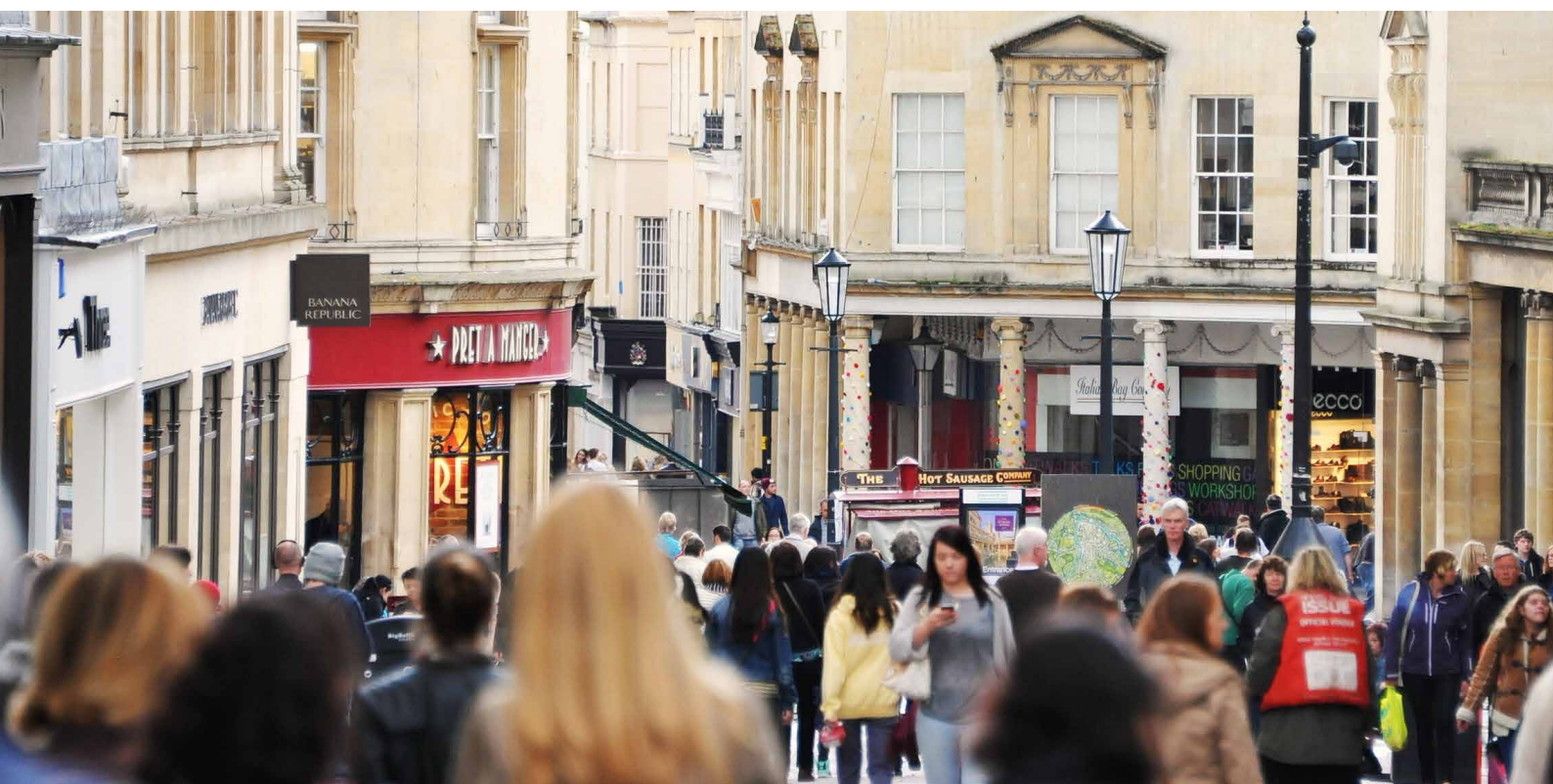


LOCAL PLANS

Appendices

MARCH 2016



Local Plans Expert Group

Appendix 1

Members of the Group

LPEG MEMBERSHIP

Members

Chair

John Rhodes OBE
Quod, Director – Chair

Adrian Penfold OBE
British Land, Head of Planning

Councillor Toby Elliott
Swindon Borough Council – Cabinet Member – Strategic Planning & Communities

Derek Stebbing
Chelmsford City Council, Planning Policy Manager

John Howell OBE MP FSA
Member of Parliament for Henley – House of Commons

Keith Holland – retired Planning Inspector

Liz Peace CBE

Richard Harwood OBE QC
39 Essex Chambers

Advisors

Christopher Katkowski QC
Landmark Chambers

Ian Manktelow
Wycombe District Council, Team Leader, Planning Policy

Matthew Spry
Nathaniel Lichfield & Partners – Senior Director

Secretariat

DCLG

Appendix 2

Terms of Reference

TERMS OF REFERENCE

LPEG has interpreted its Terms of Reference as follows:

- Review the content of Local Plans and supporting evidence, and recommend how this can be stripped back to the essential minimum;
- Consider measures to speed up and simplify the setting of housing numbers, backed by proportionate evidence;
- Examine whether there are advantages in alternative approaches or processes for settling strategic and cross-boundary issues earlier in the plan making process to give authorities early certainty on key issues, and the weight that such issues carry in planning decisions;
- Consider whether ‘tests of soundness’ should be reformed or their application amended in practice, to enable faster and more effective plan making;
- Consider at a high level the way in which local plans address the link between development and infrastructure and whether improvements could be made which would make plan making more efficient and effective;
- Look at whether there are unnecessary or excessive procedural requirements that could beneficially be streamlined;
- Consider best practice or other mechanisms which could help to ensure the timely preparation of effective local plans; and
- Suggest template Plan policies which could be included in plans to avoid duplication of effort between local authorities.

Appendix 3

Call of Evidence

CALL FOR EVIDENCE

The following Call for Evidence was issued by the Group on 18 September 2015:

On 15 September Brandon Lewis MP, Minister for Housing and Planning, launched a panel of experts to examine what measures or reforms may be helpful in ensuring the efficient and effective production of Local Plans. The Group has now met for the first time and decided to invite views from the planning and property industry, local government and other stakeholders to assist its consideration of the issues.

The Group considers it would be most helpful if those wishing to respond could provide their responses under the following principal headings:

- a. **Content of local plans** (including requirements of the NPPF, overlap with the NPPF, ditto re. the NPPG, length, preambles, template policies, spatial detail, plan period, one plan or several, relationship with local guidance etc. – including good and bad examples)
- b. **Local plan preparation process** – could procedures be changed to provide better and quicker plan preparation? This would include matters such as the terms and flexibility of existing Regulations, the appropriateness of statutory requirements, available ‘best practice’ guides, irreducible requirements and can these be changed, scope for active case management, tests of soundness, the terms and implications of the duty to co-operate, the appropriateness of early review, modifying plans post submission, the examination process, powers of intervention, the importance of transition in any change etc.)
- c. **Agreeing strategic requirements** (including cross boundary requirements) – this could include the role of SHMAs, the appropriateness of evidence requirements and methods for calculating objectively assessed need, the potential for strategic plans, two stage plans, dispute resolution, the role of intervention, striking the relevant balance, etc.
- d. **Implementation** (to look beyond technical issues to consider any other impediments to comprehensive local plan coverage – this could include financial or behavioural constraints or practical difficulties etc.; in addition this includes identifying best practice, lessons from joint working but also potential measures that could help to ensure timely local plan coverage).
- e. **Observations** – thoughts or relevant experience about how the system is working and the need for change;
- f. **Other** – what other measures should the Group consider that might assist it to make recommendations which would contribute towards making local plan making more efficient and effective?

All views are welcome. All relevant matters are open for review and the Group has no preconceived ideas about the extent or nature of any changes to the plan making system that it might recommend. There is no word limit for the submissions but it would obviously be helpful if they were clear and concise.

Submissions should be addressed to LocalPlans@communities.gsi.gov.uk and should be received no later than close on **Friday 23 October**.

Any queries about this call for evidence or the work of the Group should be directed to the Secretariat ian.piper@communities.gsi.gov.uk.

A reminder was issued in the form of a Government Press Release on 8 October 2015 – see <https://www.gov.uk/government/news/panel-of-experts-to-improve-production-of-local-plans>

In response to the Call, representations have been received from a total of **155** organisations or individuals.

These break down as follows:

Local authorities and Local Government bodies **48** (of which **5** by local authority officers in a personal capacity)
Professional bodies **8**
Developers **22**
Planning consultants **23**
Third sector organisations **13**
Local/residents' groups **8**
Individuals **30**
Statutory undertakers **3**

Appendix 4

Direct Evidence

DIRECT ENGAGEMENT

The Local Plans Expert Group met directly with representatives of the following organisations:-

- Local Government Association
- British Property Federation
- Home Builders Federation
- Planning Advisory Service
- The Planning Inspectorate
- Royal Town Planning Institute
- Savills
- South Cambridgeshire District and Cambridge City Council
- Planning Officers Society
- District Council's Network
- Redrow
- Crest Nicholson
- Taylor Wimpey
- Barratt
- Town and Country Planning Association
- Planning and Environment Bar Association
- Historic England
- A workshop organised by the Town and Country Planning Association which included representations from
 - Friends of the Earth
 - Civic Voice
 - Ealing Neighbourhood Planning
 - Bloxham Neighbourhood Planning
 - London Forum
 - Cause
 - Network for Social Change
 - CPRE
 - Waterloo and Southbank Neighbourhood Planning

Appendix 5

Questionnaire Responses

QUESTIONNAIRE RESPONSES

1. Cheltenham Borough Council
2. Colchester Borough Council
3. Cheshire West and Chester
4. Harlow
5. Nottingham City Council
6. Wycombe District Council
7. Tewkesbury Borough Council, Cheltenham Borough Council, Gloucester City Council
8. St Albans City and District Council
9. Northampton Borough Council
10. Suffolk Local Authorities

(Babergh District Council; Forest Heath District Council; Ipswich Borough Council; Mid Suffolk District Council; St Edmundsbury Borough Council; Suffolk Coastal District Council; Suffolk County Council; Waveney District Council)

Appendix 6

Housing and Economic Development Needs Assessment – Revised NPPG Text

**HOUSING AND ECONOMIC DEVELOPMENT NEEDS ASSESSMENT –
REVISED NPPG TEXT****APPENDIX 6**

The following text sets out LPEG's recommended changes to the test of the PPG in respect of housing and economic development needs assessments. As described in the main body of the report, we have worked with the grain and general structure of the PPG, but have put forward relatively substantial changes to the wording of key paragraphs, and introduced new provisions. The intention is to provide guidance on how Housing Market Areas relate to the Duty to Cooperate, and to introduce a greater level of stipulation over how to calculate Objectively Assessed Need for housing. Explanations for the approach set out can be found in Sections 3 and 5 of the report. To accompany our recommended changes – should they be accepted - it will be necessary for the guidance on affordable housing need to be enhanced to provide a more detailed methodology (including to address Starter Homes) and also review the affordability thresholds applicable as part of the market signals assessment based on DCLG's production of new affordability indicators within its Live Tables.

Formatted: No underline

HOUSING AND ECONOMIC DEVELOPMENT NEEDS ASSESSMENTS

Formatted: Font:Bold, Underline

THE APPROACH TO ASSESSING NEED

Paragraph: 001 Reference ID: 2a-001-20140306

What is the purpose of the assessment of housing and economic development needs guidance?

Formatted: Font:Bold

This guidance supports local planning authorities in objectively assessing and evidencing development needs for housing (both market and affordable); and economic development (which includes main town centre uses).

The assessment of housing and economic development needs includes the Strategic Housing Market Assessment requirement as set out in the National Planning Policy Framework.

Paragraph: 002 Reference ID: 2a-002-20140306

Deleted: Revision date: 06 03 2014 .

What is the primary objective of the assessment?

Formatted: Font:Bold

The primary objective of identifying need is to:

- identify the future quantity of housing needed, including [both market and affordable housing](#);
- identify the future quantity of land or floorspace required for economic development uses including both the quantitative and qualitative needs for new development; and

Deleted: a breakdown by type

Deleted: , tenure and size

Deleted: 10636222v1

10636222v1

- provide a breakdown of that analysis in terms of quality and location, and to provide an indication of gaps in current land supply.

Paragraph: 003 Reference ID: 2a-003-20140306

What are the key definitions involved in the assessment of housing need?

Full objectively assessed housing need (FOAHN): this is the scale of housing that is likely to be needed in the housing market area, and for each local authority area within it, over the plan period or a period not less than fifteen years from the date of the assessment. Paragraph 14 of the Framework expects local plans to meet FOAHN subject to certain provisos. The assessment of need includes any adjustment to address affordable housing need, and an allowance for housing that is necessary in addition to an estimate based on demographic projections, to respond to market signals in order to cater for demand and improve affordability. The FOAHN is not constrained to the total level of household growth estimated in the latest official projections at national or HMA-level. The total number of homes needed in an area can be greater than the number that might be assumed based solely on estimates of population change. As explained later in this guidance, employment trends should not be taken into account in establishing the FOAHN. The FOAHN does not include the need for specialist types of accommodation such as student accommodation, care homes and other uses falling within the C2 Use Class. Within their SHMA, Local authorities should carry out separate assessments of the need for C2 accommodation, but the outcomes of this should not be integrated with the FOAHN.

Affordable housing need: this is the scale of affordable housing need based on the methodology outlined in this guidance. An adjustment to address affordable housing need forms part of the FOAHN.

Housing Requirement: this is the amount of housing for which a Local Plan makes provision, taking account of the policies in the National Planning Policy Framework. The Housing Requirement figure is distinct from the 'policy off' FOAHN, being a 'policy on' output of the plan making process. In arriving at a housing requirement figure in the first local plan to be prepared following the publication of the NPPF, it will not be necessary to take account of backlog of housing delivery prior to the base date of that plan. However, subsequent reviews, updates or replacement local plans should set their housing requirement with reference to an up-to-date FOAHN figure plus any 'shortfall' or 'over-supply' in housing delivery from the base date of the first post-NPPF Local Plan produced against the relevant requirement figure, up to a maximum of ten years prior to the setting of the new requirement figure. The purpose of this is to ensure that any 'shortfall' or 'surplus' is not cancelled out by virtue of regular plan-review (which should take place at least every five years in any event).

Official Projections: These are the population projections produced by Office for National Statistics and the household projections produced by the Department of Communities and Local Government (DCLG). The household projections are produced by applying DCLG projected household formation rates (sometimes known as representative rates) to the population projections published by the Office for National Statistics (ONS). Projected household representative rates are based on trends observed in Census and Labour Force Survey data.

10636222v1

Deleted: ... [1]

Formatted: Font:Bold

Deleted: What is the definition of need?

Formatted: Font:Bold

Deleted: N

Deleted: for housing in the context of the guidance refers to the

Deleted: and mix

Deleted: and the range of tenures

Formatted: Font:Bold

Formatted: Font:Bold

Formatted: Normal, Tabs: 0.63 cm, List tab + Not at 0 cm

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Font:Not Italic

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Font:Not Italic

Formatted: Not Highlight

Formatted: Font:Not Italic

Formatted: Font:Not Italic

Formatted: Font:Not Italic

Formatted: Font:Not Italic

Formatted: Font:Not Italic

Formatted: Font:Not Italic

Formatted: Font:Not Italic

Formatted: Font:Bold

Deleted: 10636222v1

Demographic Starting Point: this is the scale of housing that would be sufficient to meet the number of households estimated through the use of official projections and limited adjustments based on sensitivities using a ten year migration trend and adjustments to the household representative rates for those aged 25-44.

Formatted: Font:Bold

Market Signals: for the purposes of assessing FOAHN, these are two housing market indicators drawing on official data on house prices, rents and incomes.

Formatted: Not Highlight

Formatted: Not Highlight

Unmet Need: This is the amount of FOAHN that the housing requirement of an individual area (either at HMA or local authority level) would not meet. Unmet needs from one local authority area should be met elsewhere within the HMA subject to the provisions of paragraph 14 of the National Planning Policy Framework. If an HMA is unable to meet its FOAHN, then these unmet needs should be met in adjacent HMAs, subject to the provisions of paragraph 14 of the Framework.

Paragraph: 004 Reference ID: 2a-004-20140306

Can local planning authorities apply constraints to the assessment of development needs?

The assessment of development needs is an objective assessment of need based on facts and unbiased evidence. Plan makers should not apply constraints to the overall assessment of need, such as limitations imposed by the supply of land for new development, historic under performance, viability, perceived limits on the capacity of the local housing market or development industry, infrastructure or environmental constraints. Constraints are matters to be taken into account in formulating local plans and defining the housing requirement figure after estimating FOAHN.

Deleted: <#>- and should cater for the housing demand of the area and identify the scale of housing supply necessary to meet that demand. ... [2]

Deleted: Revision date: 06 03 2014 .

Formatted: No bullets or numbering, Tabs:Not at 0.63 cm

Formatted: Font:Bold

Paragraph: 005 Reference ID: 2a-005-20140306

Can local planning authorities use a different methodology?

The methodology set out in this guidance is the Government's stipulated approach for how local planning authorities and others should assess development needs. The use of this standard methodology is important because it will ensure that the assessment is transparently prepared and consistent across Housing Market Areas (HMAs), thereby supporting discussion on meeting needs across and between HMAs. Local planning authorities are strongly discouraged from departing from this methodology, and any attempt to do so would need to be justified by compelling evidence that local circumstances are truly exceptional such that the stipulated approach would produce a grossly inaccurate FOAHN figure and would be inconsistent with the need to boost significantly the supply of housing.

Deleted: . However, these considerations will need to be addressed when bringing evidence bases together to identify specific policies within development plans.

Formatted: No bullets or numbering, Tabs:Not at 0.63 cm

Deleted: Revision date: 06 03 2014 .

Formatted: Font:Bold

The methodological approach set out in this guidance is comprehensive and to support consistency of approach, the Government does not believe it needs to be supplemented with further guidance.

Deleted: re is no one

Deleted: ical approach

Deleted: or use of a particular dataset(s) that will provide a definitive

Deleted: ment of

Deleted: But t

Deleted: set out in this guidance

Deleted: strongly recommended b

Deleted: findings are

Deleted: may consider

Deleted: e

Deleted: , but they

Deleted: sh

Deleted: explain why their particular local circumstances have led them to adopt a different approach

Deleted: 10636222v1

10636222v1

It is important that plan makers understand and explain what has informed their assessment of need, but the evidence base itself should be focused and proportionate, building where ever possible on existing information sources as detailed within the guidance.

NEW PARAGRAPH

How long should an estimate of FOAHN normally be regarded as up-to-date?

Wherever possible, the objective assessment of need should be informed by the latest available information. The National Planning Policy Framework is clear that Local Plans should be kept up-to-date. However, in order to provide a stable and consistent evidence-base to inform timely plan making, if at the time of submission of the Plan to the Secretary of State, the assessment of FOAHN is up to data and follows the approach stipulated in this guidance then it should be considered to be up-to-date for a period of two years from the date of plan submission. This includes for considering the five year land supply position in advance of the adoption of the Local Plan. During that period this will mean that the assessments is not rendered outdated if new projections or other assumptions are issued. Further, the housing requirement figure in an adopted Local Plan will be 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 provides findings or conclusions endorsing the FOAHN figure in examining the Local Plan.

Paragraph: 006 Reference ID: 2a-006-20140306

Can town/parish councils and designated neighbourhood forums (qualifying bodies) preparing neighbourhood plans use this guidance?

Town/parish councils and designated neighbourhood forums (qualifying bodies) preparing neighbourhood plans can use this guidance to identify specific local needs that may be relevant to a neighbourhood but any assessment at such a local level should be proportionate. Designated neighbourhood forums and parish/town councils can also refer to existing needs assessments prepared by the local planning authority as a starting point.

The neighbourhood plan should support the strategic development needs set out in Local Plans, including policies on housing and economic development. The level of housing and economic development is likely to be a strategic policy.

Paragraph: 007 Reference ID: 2a-007-20150320

With whom should local planning authorities work in preparing their assessment?

Local planning authorities should assess their development needs working with the other local authorities in the relevant housing market area or functional economic market area in line with the duty to cooperate. This is because such needs are rarely constrained precisely by local authority administrative boundaries.

Where Local Plans are at different stages of production, local planning authorities can build upon the existing evidence base of partner local authorities in their housing market area

10636222v1

Deleted: where this is the case. T

Deleted: assessment should b

Deleted: thorough but p

Deleted: outlined

Deleted: Revision date: 06 03 2014

Formatted: Font:Bold

Formatted: Outline numbered + Level: 1 + Aligned at: 0 cm + Tab after: 0 cm + Indent at: 0 cm

Formatted: Font:Bold

Field Code Changed

Formatted: Outline numbered + Level: 1 + Aligned at: 0 cm + Tab after: 0 cm + Indent at: 0 cm, Tabs: 0.63 cm, List tab + Not at 0 cm

Field Code Changed

Field Code Changed

Deleted: -

Deleted: Revision date: 06 03 2014

Formatted: Font:Bold

Deleted: W

Deleted: do

Deleted: need to

Field Code Changed

Field Code Changed

Deleted: 10636222v1

but should co-ordinate future housing reviews so they take place at the same time. [It is open to a local authority to decide to use evidence prepared by or for other organisations, including applicants for planning permission, where it follows the approach stipulated in this guidance.](#)

[An objective assessment of housing need should be prepared to the methodological approach set out in this guidance, and draws principally on publicly available data produced by Government and its agencies. For this reason, there is no need for plan makers to involve or consult with interested parties in preparing their evidence in accordance with the approach stipulated in this Guidance.](#)

SCOPE OF ASSESSMENTS

Paragraph: 008 Reference ID: 2a-008-20140306

What areas should be assessed?

Needs should be assessed in relation to the relevant functional area, ie housing market area, functional economic area in relation to economic uses, or area of trade draw in relation to main [town centre](#) uses.

[Assessments of housing need must identify the objectively assessed need for HMAs as a whole, and for each constituent local authority area on a consistent basis and without making adjustments to reflect policies on the distribution of housing or constraints. In some of the largest local authority areas, where there are clear planning reasons to do so, it may be appropriate to establish a figure for housing need in smaller sub-markets with specific features, and it may be appropriate to investigate these specifically in order to create a detailed picture of local need.](#)

[A local plan must be based on an up to date SHMA prepared in accordance with the approach stipulated in this guidance.](#)

[For economic development, it is important also to recognise that there are 'market segments' taking into account that not all types of economic development have the same appeal to different occupants.](#)

In some cases housing market areas and functional economic areas may well be the same.

Paragraph: 009 Reference ID: 2a-009-20140306

What is a housing market area?

A housing market area (HMA) is a geographical area defined by [housing need and demand](#) and preferences for all types of housing, reflecting the key functional linkages between places where people live and work. [The approach to defining HMAs – including some thresholds to consider – are set out elsewhere in this guidance. Whilst it might be the case that housing market areas overlap, in practice, for their application in planning purposes it](#)

10636222v1

Deleted: <#> .

Deleted: <#>Local communities, partner organisations, Local Enterprise Partnerships, businesses and business representative organisations, universities and higher education establishments, house builders (including those specialising in older people's housing), parish and town councils, designated neighbourhood forums preparing [neighbourhood plans](#) and housing associations should be involved from the earliest stages of plan preparation, which includes the preparation of the evidence base in relation to development needs. ... [3]

Formatted: Font:Bold, Underline

Formatted: Font:Bold

Field Code Changed

Deleted: E

Deleted: ing

Deleted: the assessment area may identify

Deleted: I

Deleted: ie

Deleted: all housing types or

Deleted:

Deleted: Revision date: 06 03 2014 .

Deleted: Is there a single source that will identify the assessment areas? ... [4]

Formatted: Font:Bold

Formatted: Font:Bold

Formatted: Not Highlight

Deleted: household demand

Formatted: Not Highlight

Deleted: I

Formatted: Not Highlight

Formatted: Not Highlight

Deleted: 10636222v1

should be assumed that HMAs are contiguous. For local planning purposes, HMAs are the geographical area within which the NPPF expects FOAHN to be met.

The extent of the housing market areas identified will vary. Whilst in practice many may cut across various local planning authority administrative boundaries, for planning purposes it should be assumed that boundaries are defined to following administrative or plan making boundaries. Local planning authorities should work with all the other constituent authorities within the HMA under the duty to cooperate in order that needs are met across the HMA in line with the National Planning Policy Framework. But the duty to cooperate also applies between HMAs, particularly in order to address unmet needs.

Where there is a joint plan, housing requirements and the need to identify a five year supply of sites can apply across the joint plan area. The approach being taken should be set out clearly in the plan.

Paragraph: 011 Reference ID: 2a-011-20140306

How can housing market areas be defined?

Many local planning authorities have now agreed defined HMAs with their neighbouring authorities, and have prepared SHMA evidence base work. In many cases the definition of these HMAs draws upon longstanding assumptions about the functional and planning relationships between local areas. Unless there is compelling evidence why these HMAs no longer represent functional market areas, and are thus not fit for planning purposes, these HMAs should continue to be used, although it is open for local authorities to revisit the HMA evidence base. The Government also intends to carry out new research to define potential HMAs, based on new Census 2011 data and other evidence; where its results show areas markedly different from those currently being used, this may justify defining an alternative HMA for a new Plan or Plan review.

Housing market areas can be broadly defined by using three different sources of information as follows.

- House prices and rates of change in house prices
Housing market areas can be identified by assessing patterns in the relationship between housing demand and supply across different locations. This analysis uses house prices to provide a 'market-based' reflection of housing market area boundaries. It enables the identification of areas which have clearly different price levels compared to surrounding areas. The findings provide information about differences across the area in terms of the price people pay for similar housing, market 'hotspots', low demand areas and volatility.

Suggested data sources:

Office for National Statistics, House Price Index, Land Registry House Price Index and Price Paid data (including sales), Department for Communities and Local Government Statistics including Live Tables on Affordability (lower quartile house prices/lower quartile earnings), Neighbourhood data from the Census.

10636222v1

Deleted: .

Deleted: .

Formatted: Not Highlight

Deleted: and many will

Formatted: Not Highlight

Formatted: Not Highlight

Deleted: .

Formatted: Not Highlight

Field Code Changed

Formatted: Not Highlight

Deleted: .

Deleted: Revision date: 06 03 2014 .

Formatted: Font:Bold

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Deleted: 10636222v1

- Household migration and search patterns

Migration flows and housing search patterns reflect preferences and the trade-offs made when choosing housing with different characteristics. Analysis of migration flow patterns can help to identify these relationships and the extent to which people move house within an area. The findings can identify the areas within which a relatively high proportion of household moves (typically 70 per cent) are contained. This excludes long distance moves (eg those due to a change of lifestyle or retirement), reflecting the fact that most people move relatively short distances due to connections to families, friends, jobs, and schools.

Suggested data sources:

Census, Office for National Statistics Internal Migration Statistics, and NHS registration data.

Data from estate agents and local newspapers contain information about the geographical coverage of houses advertised for sale and rent.

- Contextual data (for example travel to work area boundaries, retail and school catchment areas)

Travel to work areas can provide information about commuting flows and the spatial structure of the labour market, which will influence household price and location. They can also provide information about the areas within which people move without changing other aspects of their lives (eg work or service use).

Suggested data sources:

Office of National Statistics (travel to work areas), retailers and other service providers may be able to provide information about the origins of shoppers and service users, school catchment areas.

NEW Paragraph:

Deleted: Revision date: 06 03 2014

How should HMA analysis be used to support the duty to cooperate?

Deleted: -

The National Planning Policy Framework states that local authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. Where an authority within an HMA has unmet need, it is to be expected that this will be met elsewhere within the HMA, subject to the provisions of paragraph 14 of the Framework.

In some HMAs it may not be possible to meet FOAHN, and in these circumstances, unmet need should be met in a contiguous HMA, through the duty to cooperate. To inform assessments of where outside an HMA unmet needs should be met and the duty to cooperate, SHMAs should provide evidence on factors including commuting, migration, affordability and the impacts of existing, improved and new infrastructure to identify the local authority areas in other HMAs where demand arising from the unmet need would be most likely to manifest itself were additional housing to be provided in that location to meet it.

Through the duty to cooperate, where there are unmet needs within or beyond HMAs, local authorities will be expected to: test the assertions of adjacent authorities who claim an inability to meet unmet needs and challenge that assertion if capacity is considered to be

Deleted: 10636222v1

10636222v1

available to meet needs; formally request that adjacent authorities meet those needs; and make representations to relevant authorities' plans to meet those needs in the event that agreement on the meeting of those has not been reached.

Where an adjacent authority has not followed this approach, the absence of a formal request or objection to a plan should not be taken as demonstration that there is no unmet need to be addressed, if there is evidence that demand arising from the unmet need would be most likely to manifest in that area.

NEW Paragraph

How should unmet needs from one area relate to the calculation of FOAHN in the area where it is to be met?

If it is intended that unmet need from one area should be met in another area as part of its Plan, the figure for unmet need should simply be added to the FOAHN.

Sometimes, the quantification of unmet need that might be met in one area is derived from a SHMA or estimate of FOAHN that was prepared at a different time and/or is based on different demographic assumptions from that of the location from where the needs originate. In these circumstances, plan makers should not attempt to estimate the implications of different assumptions on the relevant FOAHNs for those areas.

Where a local authority chooses to set a housing requirement in excess of its FOAHN, the additional housing provision can be counted against unmet need from elsewhere within an HMA. Where local authorities within an HMA set their housing requirements in excess of the FOAHN for their HMA, the additional provision can be counted against unmet need from an adjacent HMA, where this is justified by the evidence on commuting, migration flows, affordability and infrastructure that is set out in a SHMA.

NO CHANGE RECOMMENDED TO PARAGRAPHS 012 (FUNCTIONAL ECONOMIC MARKET AREAS) AND 013 (TRADE DRAW)

METHODOLOGY: ASSESSING HOUSING NEED

Paragraph: 014 Reference ID: 2a-014-20140306

What methodological approach should be used?

For the purposes of plan making and decision taking, establishing estimates of future need for housing should follow the stepped approach stipulated in this guidance, which relies on published, secondary sources of data, often collated nationally. In any event, plan makers should avoid expending significant resources on primary research (information that is collected through surveys, focus groups or interviews etc and analysed to produce a new set of findings) as this will in many cases be a disproportionate way of establishing an evidence base.

10636222v1

Deleted: Paragraph: 012 Reference ID: 2a-012-20140306

Formatted: Font:Bold

Formatted: Plain Text

Deleted: How can functional economic market areas be defined?

Revision date: 06 03 2014

Formatted: Font:Bold

Deleted: Revision date: 06 03 2014

Formatted: Font:Bold, Underline

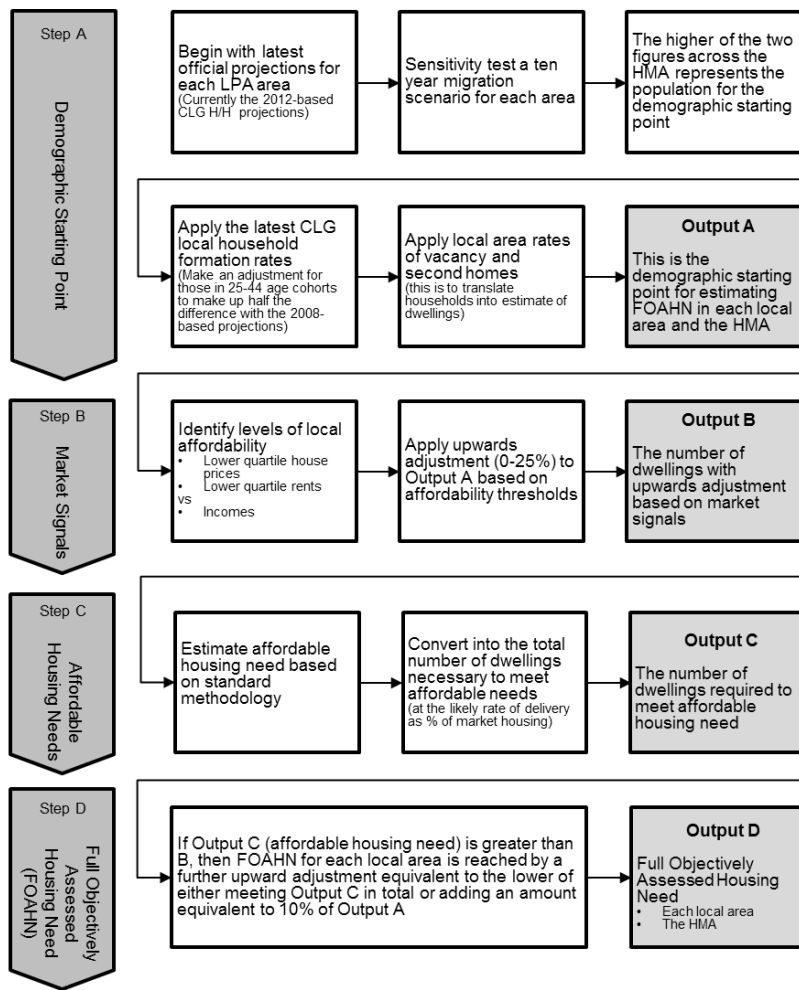
Formatted: Font:Bold

Deleted: E

Deleted: is not an exact science. No single approach will provide a definitive answer. P

Deleted: 10636222v1

The methodology to be adopted is illustrated below, with four distinct steps A-D. Each step generates a series of calculated Outputs A-D:



Deleted: They should instead look to rely predominantly on secondary data (eg Census, national surveys) to inform their assessment which are identified within the guidance.

Paragraph: 015 Reference ID: 2a-015-20140306

How should the demographic starting point be estimated?

Establishing a demographic starting point is the first step in the calculation of housing need. The demographic starting point should be calculated using a credible demographic modelling tool, of which a number are commercially available. The model needs to be

Deleted: Revision date: 06 03 2014 .

Formatted: No bullets or numbering, Tabs:Not at 0.63 cm

Formatted: Font:Bold

Deleted: What is the starting point to establish

Deleted: sh the need for housing

Deleted: Household projections published by the Department for Communities and Local Government should

Deleted: 10636222v1

10636222v1

capable of applying the relevant ONS and CLG demographic assumptions to generate results that are replicable by others.

This calculation should begin with the most recent household projections published by the Department for Communities and Local Government. From summer 2016 – when new 2014-based sub national population and household projections are to be published - it is intended that the publication of population and household projections will be more closely aligned, meaning that it should no longer be necessary for plan makers to work with household formation rates applied to sub-national population projections where these have been produced in alternate years. The base date for the assessment should be consistent with the base date of the plan period, and should use the latest ONS Mid Year Estimates.

The household projections are trend based, ie they provide the household levels and structures that would result if the assumptions based on previous demographic trends in the population and rates of household formation were to be realised in practice. They do not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour.

In the circumstances explained in this paragraph, the household projection-based estimate of housing need will require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends or where past trends do not accurately reflect the need for homes. In many areas, formation rates will have been suppressed historically by under-supply and worsening affordability of housing, and the assessment should therefore make an adjustment to household representative rates to reflect and respond to the consequences of this. This adjustment should take the form of a comparison between the household representative rates set out in the 2008- and 2012-based projections. Where the rates for those in the 25-44 year age cohorts are lower in the 2012-based projections than was estimated in the 2008-based figures, the assessment should make adjustments to the rate for these cohorts to recover half of the difference in rates between the two sets of projections by 2033, and thereafter from that point trend forward the rate of change for that year from the 2012-based projections. Where the rates for these age cohorts in the 2012-based projections are higher than the 2008-based projections, no adjustment should be made.

Paragraph: 016 Reference ID: 2a-016-20150227

How often are the projections updated?

The Government's official population and household projections have previously been updated every two years to take account of the latest demographic trends. The most recent published Household Projections are for the period 2012-2037 and were published on 27th February 2015, based on sub-national population projections published in 2014 and are the most up-to-date estimate of future household growth. A new set of 2014-based subnational population projections will be published in May 2016, to be followed shortly afterwards by updated CLG household projections.

Related policy

10636222v1

Deleted: provide the starting point estimate of overall housing need.

Formatted: Not Highlight

Formatted: Not Highlight

Deleted: The household projections are produced by applying projected household representative rates to the population projections published by the Office for National Statistics. Projected household representative rates are based on trends observed in Census and Labour Force Survey data.

Deleted: <#> .

Deleted: T

Deleted: may

Deleted: For example,

Deleted: may

Deleted: . T

Deleted: will

Deleted: need to reflect

Deleted: past under delivery of housing. As household projections do not reflect unmet housing need, local planning authorities should take a view based on available evidence of the extent to which household formation rates are or have been constrained by supply.

Deleted: Revision date: 06 03 2014 .

Formatted: No bullets or numbering, Tabs:Not at 0.63 cm

Formatted: Font:Bold

Deleted: are

Deleted: generally

Deleted: .

Formatted: Superscript

Deleted: <#>update the 2011-based interim projections to be consistent with the Office for National Statistics population projections. Further analysis of household formation rates as revealed by the 2011 Census will continue during 2015. ... [5]

Deleted: 10636222v1

National Planning Policy Framework

- [Paragraph 17, bullet 1](#)

Paragraph: 017 Reference ID: 2a-017-20140306

What adjustments should be made to population and household projection-based estimates of housing need?

The [official population and household projections](#) are statistically robust and are based on nationally consistent assumptions. [It will not be open for plan makers or other interested parties to reject use of the official population and household projections, for example because of perceived concerns over their statistical robustness, the implications of unattributable population change \(UPC\), local factors underpinning population change during the trend period, or the length of trend period upon which the projections are based.](#)

However, [in some locations recent trends in migration may be influenced by short term factors that may mean future needs are not captured in by the official projections. Plan makers should apply a sensitivity test based on a longer term, ten year migration trend, working back from latest Mid Year Estimates, and using the migration data set out in the Components of Change in the Mid Year Estimates. For the period prior to 2011, the Revised Mid Year Estimates following the 2011 Census should be used. Where the ten year migration trend projects a higher level of population and household growth across the housing market area as a whole, this should be used as the demographic starting point, replacing the DCLG household projections. Where the ten year migration trend is lower, the official projections should always be used. A consistent set of projections \(either the latest official projections or the ten year trend, whichever is higher\) should be used across the whole housing market area.](#)

To arrive at an estimate of the number of dwellings associated with the [demographic starting point, an allowance should be added for the local rates of vacancy and second homes. This data is recorded by the Council Tax Base and presented in DCLG Live Tables, using data from the most recent year. The current rates should apply, except where the vacancy rate is above the national average, in which case plan makers should assume a reduction in that vacancy rate down to the national average to reflect the impact of measures to encourage bringing empty homes back into use.](#)

[The outcome of this step \(Output A\) represents the demographic starting point for estimating FOAHN for each local authority area and the HMA as a whole.](#)

Paragraph: 018 Reference ID: 2a-018-20140306

Should employment trends be taken into account?

[In preparing evidence on need for economic development, Plan makers should make an assessment of the likely change in number of jobs based on a combination of past trends and economic forecasts. Plan makers will use this as part of their evidence, alongside other factors, to estimate how much economic development space is necessary to meet business](#)

10636222v1

Field Code Changed

Deleted: Can

Formatted: Font:Bold

Formatted: Font:Bold

Deleted: produced by the Department for Communities and Local Government

Deleted: p

Deleted: may consider

Deleted: ing

Deleted: , specific to their local circumstances, based on alternative assumptions in relation to the underlying demographic projections and household formation rates. Account should also be taken of the most recent demographic evidence including the latest Office of National Statistics population estimates.

Deleted: <#>Any local changes would need to be clearly explained and justified on the basis of established sources of robust evidence. ... [6]

Formatted: Font:Bold

Deleted: How should

Deleted: numbers

Deleted: /or

Deleted: 10636222v1

needs. The use of economic forecasts is appropriate for this purpose, but estimates of future employment growth should not be used as part of the calculation of housing need, because other adjustments made as part of the full objectively assessed need, such as market signals, are likely to respond proportionately to housing pressures arising from local economic growth across the housing market area. Plan makers may choose to use estimates of future employment growth to justify a plan adopting a housing requirement in excess of the FOAHN for housing but this is a policy matter for plan makers in setting the housing requirement. An estimate of FOAHN arrived at through application of this guidance will not be considered unsound because estimates of employment growth informing other parts of the Plan might imply a higher level of housing at the existing commuting ratio.

Where plan makers choose to set a 'policy on' housing requirement in excess of the FOAHN, based on employment growth, this should be based on applying the changes in economic activity rates that are projected in estimates produced annually by the Office for Budget Responsibility, applied to the local baseline rates of economic activity. The existing commuting ratio should be applied, based on a comparison of economically active residents drawn from the Annual Population Survey and the number of jobs drawn from BRES.

Paragraph: 019 Reference ID: 2a-019-20140306

How should market signals be taken into account?

The National Planning Policy Framework states that plans should take account of market signals, and this is given practical effect in estimating FOAHN by means of an upward adjustment to the demographic starting point to reflect market signals and other market indicators of the balance between the demand for and supply of dwellings. Significant problems with affordability and other adverse consequences of housing under-supply are indicators of a market undersupply relative to demand – a market imbalance.

DCLG will publish data at the District level on median earnings to median quartile house prices and lower quartile rents in Local Authority areas in England for 2011 onwards in order for LPAs to undertake their own assessment as part of its Live Tables. This will be updated on an annual basis and use data from the Land Registry, VOA Rental Market Statistics and Annual Survey of Hours and Earnings. These indicators will show:

- 1 House price affordability – the ratio of median quartile house prices to median earnings ('The House Price Ratio'); and
- 2 Rental affordability – lower quartile rental costs as a percent of lower quartile earnings ('the Rental Affordability Ratio').

The CLG Live Tables will apply an average over the most recent three years of data, to allow for any anomalies and volatility which may occur from one year to the next. In the event the CLG Live Tables are not available or up to date at the time of plan preparation, plan makers should use the latest available source data (based on the sources identified above), to generate their own indicators.

Paragraph: 020 Reference ID: 2a-020-20140306

10636222v1

Deleted: <#> as appropriate and also having regard to the growth of the working age population in the housing market area. Any cross-boundary migration assumptions, particularly where one area decides to assume a lower internal migration figure than the housing market area figures suggest, will need to be agreed with the other relevant local planning authority under the *duty to cooperate*. Failure to do so will mean that there would be an increase in unmet housing need. ... [7]

Formatted: Font:Bold

Formatted: Indent: First line: 0.63 cm, No bullets or numbering, Tabs:Not at 0.63 cm

Deleted: The housing need number suggested by household projections (the starting point) should be adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for and supply of dwellings. Prices or rents rising faster than the national/local average may well indicate particular market undersupply relative to demand. Relevant signals may include the following ... [8]

Deleted: Indicators on overcrowding, concealed and sharing households, homelessness and the numbers in temporary accommodation demonstrate un-met need for housing. Longer term increase in the number of such households may be a signal to consider increasing planned housing numbers. The number of households accepted as homeless and in temporary accommodation is published in the quarterly Statutory Homelessness release. ... [9]

Deleted: 10636222v1

How should plan makers respond to market signals?

The indicators published by DCLG will provide plan makers with an ability to assess (if any) the market imbalances occurring in their area. Where this is evident, LPAs will need to make an upward adjustment to the assessment of need over and above that identified through the population and household projections, including any change to the household formation trends in younger adults. This ensures that the market signals uplift to the assessment of need reflects how a supply response can address previous deterioration in affordability. This is a separate and distinct element to the housing needed to adequately cater for population and household growth. The purpose of this upward adjustment is to ensure the FOAHN reflects pressures on affordability and to address the wider undersupply of housing. The more significant the market imbalance shown by market signals the larger the improvement in affordability needed within the FOAN and, therefore, the larger the additional supply response should be.

Based on the data published by DCLG, LPAs should apply an upward adjustment to the demographic starting point in line with the following benchmarks:

- Where the House Price Ratio is less than 5.3 and Rental Affordability Ratio is less than 25%, no uplift is required;
- Where HPR is at or above 5.3 and less than 7.0, **AND/OR** the RAR is at or above 25% and less than 30%, a 10% uplift should be applied;
- Where the HPR is at or above 7.0 and less than 8.7, **AND/OR** the RAR is at or above 30% and less than 35%, a 20% uplift should be applied; and
- Where the HPR is at or above 8.7, **AND/OR** the RAR is at or above 35%, a 25% uplift should be applied.

The demographic starting point with the market signals uplift is Output B in arriving at FOAHN.

How should affordable housing need be addressed within FOAHN?

Affordable housing need should be calculated for each local authority area within the HMA, based on the detailed methodology described later in this Guidance.

The affordable housing need figure should be expressed as both the total number of affordable homes needed and the total number of homes that would be necessary to meet this need, based on its likely delivery as a proportion of mixed market and affordable housing developments, given the probable percentage of affordable housing to be delivered by market housing led developments, derived from the current proposed percentage of affordable housing in the last adopted or latest emerging plan. The total need for affordable housing should be converted into annual flows by calculating the total net need (subtract total available stock from total gross need) and converting total net need into an annual flow. The result of this calculation is Output C.

Formatted: Font:Bold

Deleted: <#>Appropriate comparisons of indicators should be made. This includes comparison with longer term trends (both in absolute levels and rates of change) in the: housing market area; similar demographic and economic areas; and nationally. A worsening trend in any of these indicators will require upward adjustment to planned housing numbers compared to ones based solely on household projections. Volatility in some indicators requires care to be taken: in these cases rolling average comparisons may be helpful to identify persistent changes and trends. .

... [10]

Formatted: bullets, Indent: Left: 1 cm

Deleted: .

Deleted: 10636222v1

Where the total number of homes that would be necessary to meet affordable housing is greater than the figure arrived at based on the demographic starting point and application of market signals (Output B), an upwards adjustment to Output B should be made of either 10% or to meet Output C in full if lower, to arrive at a figure for FOAHN (Output D). If the affordable housing need expressed as the total number of homes necessary is lower than the need figure arrived at based on market signals (Output B), the assumption is that affordable housing need will be addressed without further adjustment, in which case FOAHN (Output D) will be equal to Output B.

The FOAHN (Output D) should be expressed as an annual figure and a total figure for the plan period.

PARAGRAPHS 022-29 ON AFFORDABLE HOUSING NEEDS REQUIRE UPDATING TO PROVIDE GREATER CLARITY ON THE PRECISE NATURE OF THE CALCULATION REQUIRED AND HOW TO ASSESS THE NEED FOR STARTER HOMES.

Paragraph: 021 Reference ID: 2a-021-20150326

How should the needs for all types of housing be addressed?

Once an overall housing figure has been identified, plan makers may choose to break this down by tenure, household type (singles, couples and families) and household size. If they do so, plan makers should therefore examine current and future trends of:

- the proportion of the population of different age profile;
- the types of household (eg singles, couples, families by age group, numbers of children and dependents);
- the current housing stock size of dwellings (eg one, two+ bedrooms);
- the tenure composition of housing.

This information should be drawn together to understand how age profile and household mix relate to each other, and how this may change in the future. When considering future need for different types of housing, plan makers will need to consider whether they plan to attract a different age profile eg increasing the number of working age people.

Plan makers should look at the household types, tenure and size in the current stock and in recent supply, and assess whether continuation of these trends would meet future needs.

Identifying the need for certain types of housing and the needs of different groups is discussed below in more detail.

- The private rented sector
Tenure data from the Office of National Statistics can be used to understand the

10636222v1

Formatted: Font:Bold

Formatted: Font:Bold

Deleted: <#> .

Formatted: Font:Bold

Deleted: will need

Deleted: P

Deleted: 10636222v1

future need for private rented sector housing. However, this will be based on past trends. Market signals in the demand for private rented sector housing could be indicated from a change in rents. Evidence can also be sourced from the English Housing Survey, which will provide at national level updated information on tenure trends, Office of National Statistics Private Rental Index, the Valuation Office Agency, HomeLet Rental Index and other commercial sources.

- **People wishing to build their own homes**
The Government wants to enable more people to build their own home and wants to make this form of housing a mainstream housing option. There is strong industry evidence of significant demand for such housing, as supported by successive surveys. Local planning authorities should, therefore, plan to meet the strong latent demand for such housing. Additional local demand, over and above current levels of delivery can be identified from secondary data sources such as: building plot search websites, 'Need-a-Plot' information available from the *Self Build Portal*; and enquiries for building plots from local estate agents. However, such data is unlikely on its own to provide reliable local information on the local demand for people wishing to build their own homes. Plan makers should, therefore, consider surveying local residents, possibly as part of any wider surveys, to assess local housing need for this type of housing, and compile a local list or register of people who want to build their own homes.
- **Family housing**
Plan makers can identify current numbers of families, including those with children, by using the local household projections.
- **Housing for older people**
The need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households (Department for Communities and Local Government Household Projections 2013). The age profile of the population can be drawn from Census data. Projection of population and households by age group should also be used. Plan makers will need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to live independently and safely in their own home for as long as possible, or to move to more suitable accommodation if they so wish. Supporting independent living can help to reduce the costs to health and social services, and providing more options for older people to move could also free up houses that are under occupied. The future need for specialist accommodation for older people broken down by tenure and type (e.g sheltered, enhanced sheltered, extra care, registered care) should be assessed and can be obtained from a number of online tool kits provided by the sector. The assessment should set out the level of need for residential institutions (Use Class C2). Many older people may not want or need specialist accommodation or care and may wish to stay or move to general housing that is already suitable, such as bungalows, or homes which can be adapted to meet a change in their needs. Local authorities should therefore identify particular types of general housing as part of their assessment.

10636222v1

Deleted: 10636222v1

- Households with specific needs
There is no one source of information about disabled people who require adaptations in the home, either now or in the future. The Census provides information on the number of people with long-term limiting illness and plan makers can access information from the Department of Work and Pensions on the numbers of Disability Living Allowance/Attendance Allowance benefit claimants. Whilst these data can provide a good indication of the number of disabled people, not all of the people included within these counts will require adaptations in the home. Applications for Disabled Facilities Grant will provide an indication of levels of expressed need, although this could underestimate total need. If necessary, plan makers can engage with partners to better understand their housing requirements.
- Student housing

Local planning authorities should plan for sufficient student accommodation whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus. Student housing provided by private landlords is often a lower-cost form of housing. Encouraging more dedicated student accommodation may provide low cost housing that takes pressure off the private rented sector and increases the overall housing stock. Plan makers are encouraged to consider options which would support both the needs of the student population as well as local residents before imposing caps or restrictions on students living outside of university-provided accommodation. Plan makers should engage with universities and other higher educational establishments to better understand their student accommodation requirements.



Deleted: <#> [11]

Formatted: Outline numbered + Level: 1 + Aligned at: 0 cm + Tab after: 0 cm + Indent at: 0 cm, Tabs: 0.63 cm, List tab + Not at 0 cm

10636222v1

Deleted: 10636222v1

Appendix 7

Improving Local Plans and Strategic Planning, Joint Position Paper

Improving Local Plans and Strategic Planning Joint Position Statement - June 2015

Overview

Our organisations represent, in different ways, the planning function within local government. Each organisation has identified challenges with the current planning regime and has put forward potential solutions in recent publications. This note identifies some core steps to improve and simplify the local planning process, building on that joint work. We would highlight the commitment from the DCN and CCN to work with each other and our partners to that end.

The proposals will support the delivery of quicker and cheaper Local Plans and improved strategic planning:

- Facilitating more cross-boundary strategic planning across functional economic/ strategic housing market areas
- Incentivising plan-making and improving links between local growth and strategic infrastructure
- Making plans shorter and easier to understand
- Reducing risks and costs for developers and local and central government.

This initiative is about:

- Delivering the growth that communities need more effectively.
- Offering flexibility and choice as to how plans are taken forward, responding to local circumstances, rather than prescribing a single solution.
- Consolidating strategic planning for suitable local geographies
- Maintaining ‘bottom up’ planning - but joined up between authorities, with decision-making grounded in democratically elected Local Authorities
- Complementing devolution, combined authorities, partnership working and governance
- Forging stronger links between Local Planning and Local Enterprise Partnerships and economic/ growth/ infrastructure plans

The proposals seek to minimise legislative change so that improvements can be brought forward without delay. We would also like a dialogue around the vital and urgent issue of the ease of revising plans.

The proposals derive from work each of our organisations has been doing over the last year with our members and represents a consensus position.

We jointly commend the changes set out to improve the planned system that underpins the NPPF

District Councils’ Network, County Councils Network, Planning Officers’ Society, Royal Town Planning Institute

Issue: Reduce risks and costs

Given the level of investment needed to produce a plan LPAs can be reluctant to see it through to conclusion and developers invest a large amount of energy and cost and would prefer a clear outcome

Initiative	Impact/Implication
1. Allow Local Authorities the option of having both: <ol style="list-style-type: none"> A strategic plan, agreed through locally developed arrangements (for suitable local geographies), which can be stand-alone or followed by detailed local area plans. A staged Plan examination. 	<p>The more detailed local area plans, once a strategic plan is in place, would only involve 'light touch' examination if objections arise. Strategic issues already examined would not be revisited. LPAs would have the option of relying only on the strategic plan and not preparing a more detailed plan document.</p> <p>'Suitable local geographies' would embrace planning across functional economic areas, strategic housing market areas with flexibility to suit local circumstances.</p> <p>The 'Stage 1' part of the examination would address strategic and other issues that underpin the plan. Stage 2 would complete the Plan.</p>
2. Enable PINS to find plans partially sound and give LPAs the ability to adopt the sound parts of a plan.	This would allow development to move forward in the interim where a section of the plan needs to be revised. It would help the system to be more accommodating of 'good' plans as well as 'perfect' plans.
3. Amend 'prematurity' and 5 year land supply guidance to give more clarity (and a better 'window' for plan-making) to LPAs, communities and developers prior to, during and after examination - when LPAs commit to a plan timescale.	This would act as an incentive for LPAs to get on with plans as they would get a clear 'window', and greater buy-in to investing time and money and more certainty over the benefits and usefulness of the plan. Revision of 5 year supply guidance can support LPAs addressing housing needs by bringing forward large sites/ new settlements which have longer lead in times, alongside bringing forward sites to meet shorter term needs through development management and local plans.

Issue: Incentivise plan-making

LPAs have competing requirements - opportunity to use DCLG programmes, to support prioritisation of plan-making

Initiative	Impact/Implication
4. Provide LAs incentives to bring forward plans by: <ol style="list-style-type: none"> Forging links with infrastructure funding via LEPs and emerging Devolution deals Extending rewards for planning delivery on plans Enabling strategic planning powers and devolving incentives, such 	<p>This would provide encouragement to local authorities to keep development plans up to date and so foster the NPPF's plan-led system.</p> <p>It would bring closer together the housing and economic growth set out in development plans and infrastructure planned via LEPs.</p>

as HIF

Issue: Make plans shorter

Increasing evidence requirements for Local Plans can result in extensive and unnecessary data collection and plans which are too detailed and too long

Initiative

5. Reduce the burden of Local Plan evidence by reviewing existing working on the basis of 'proportionate' evidence.

Enable PINS to provide early stage reviews of draft plans and advise on the level of evidence required (linked to 1b above).

6. Strengthen the delivery of the NPPF by cross-sector parties working with DCLG in bringing forward a national 'set' of Development Management Policies.

Impact/Implication

This will reduce collection of evidence that is not critical to the soundness of a development plan and so help reduce costs and the time taken in plan making. It will foster a proportionate *and* approach to evidence collection and scrutiny. This should lead to more targeted environmental assessment and sustainability appraisal.

These would act as a 'back-stop' for LPAs/Inspectors but be open to change in detailed LPs, if locally justified. LPAs will therefore have the choice of a plan that deals with more strategic policy only, saving time and resources. Developers will have greater certainty over the types of policy they must consider. Shorter plans and a list of standard policies will be easier to interpret for local communities.

Issue: Incentivise and facilitate plan making *and* cross boundary planning**Initiative**

7. Link the infrastructure and devolution offer from Government more closely (but not exclusively) to an outcome of agreed joint plans on housing supply.
8. Further steps to promote strategic planning to embrace rigorous and inclusive governance arrangements, allowing flexibility for arrangements to be proportionate and locally appropriate and not solely based on a mayoral Combined Authority model.
9. Facilitate complete coverage of strategic planning.

Impact/Implication

Strategic planning will enable and accelerate house building.

Areas strongly motivated to develop plans and also to undertake joint working, within the Combined Authority framework or other suitable partnership governance arrangements, widening take-up and building in flexibility to local circumstances.

Promotes partnership working between District and County Councils in two tier areas and governance arrangements with the rigour and capacity to undertake strategic planning.

Enables a joined up system, promoting economic growth, public sector reform and the best local outcomes for residents.

Gaps in 'wider than local' planning filled.

Reference Documents from our Organisations

“Streamlining and Supporting the Local Plan Process - a discussion paper”
(November 2014 - District Councils’ Network)

<http://districtcouncils.info/2014/11/13/streamlining-and-supporting-the-local-plan-process/>

“POS Manifesto - an evolutionary approach to improving local plans” (September 2014 – Planning Officers Society)

http://www.planningofficers.org.uk/POS-Library/POS-Publications/POS-Manifesto_530.htm

“County Devolution – Our Plan for Government 2015-20” (March 2015 – County Councils’ Network)

<http://www.countycouncilsnetwork.org.uk/library/july-2013/file96/>

“Strategic Planning: Effective Cooperation for Planning Across Boundaries” (January 2015 - RTPi)

<http://www.rtpi.org.uk/media/1230885/RTPI-Strategic%20Planning-Brochure%20FINAL%20web%20PDF.pdf>

Abbreviated Terms Used

LPA – Local Planning Authority

DCLG – Department of Communities & Local Government

LEP – Local Enterprise Partnership

NPPF – National Planning Policy Framework

PPG – Planning Policy Guidance

PINS – Planning Inspectorate

LP – Local Plan

HIF – Housing Investment Fund

District Councils’
Network



CCN
COUNTY COUNCILS NETWORK



RTPi

mediation of space · making of place



Planning
Officers
Society

Appendix 8

Letter to the Secretary of State Re. Devolution Powers

Local Plans Expert Group

The Right Honourable Greg Clark MP
Secretary of State for Communities and Local Government
2 Marsham Street
London
SW1P 4DF

APPENDIX 8

23 December 2015

Email: greg.clark@communities.gsi.gov.uk

Dear Secretary of State,

THE ROLE OF DEVOLUTION IN PLAN MAKING

I am pleased to report that the Local Plans Expert Group is making good progress towards the preparation of a report to Ministers with recommendations on how the local plans process can be made more efficient and effective. We are due to report by the end of February.

Our examination has highlighted the benefit of joint working between authorities to agree strategic planning issues, as encouraged by the NPPF. In the absence of joint working, experience of local plan making since 2012 has identified practical issues with the distribution of housing across Housing Market Areas. To date, there is relatively little experience of local authorities planning to meet the un-met need of their neighbours, with the result that there is a risk that local plans will collectively fail to meet the full extent of housing needs.

We are considering what recommendations can be made in this area but we have been particularly interested in the Government's devolution agenda and its potential to bring about a step change in joint working.

We note and strongly support the objective for groupings of local authorities actively working together to take local responsibility and to co-ordinate planning and investment in housing, employment and infrastructure. We propose to feature the benefits of such joint working in our report.

However, we are aware that the Government is currently processing the bids that it has received for devolved powers and we are anxious to ensure that our interest in this subject is made clear in good time so that it can be taken into account as devolution bids are reviewed.

In particular, our evidence gathering has included concerns that devolution "deals" may reward positive strategies for economic growth and infrastructure investment, with relatively less reference to plans for housing growth. Our review of a number of the submissions to the Government has confirmed this concern – namely that the proposals do not make sufficiently clear a commitment to meet objectively assessed housing needs across the devolved area. Unless housing needs are fully addressed, economic objectives will be compromised. Critically, without the necessary commitments, important opportunities will also be lost for effective joint strategic planning.

The purpose of this letter, therefore, is to strongly recommend that the Government makes clear its requirement that the benefit of devolved powers should only be available to groupings of authorities that are willing to make clear commitments to fully meet the objectively assessed housing needs in their areas through their statutory local plans.

Local Plans Expert Group, c/o Quod, Ingeni Building, 17 Broadwick Street, London, W1F 0AX

Members of the Local Plans Expert Group: John Rhodes, OBE (Chair), Adrian Penfold, OBE,
Derek Stebbings, John Howell, MP, Keith Holland, Liz Peace, CBE, Toby Elliot and Richard Harwood, QC.

Local Plans Expert Group

Yours faithfully,

A handwritten signature in black ink, appearing to read 'John Rhodes'.

John Rhodes

Cc: Brandon Lewis, Planning Minister Brandon.Lewis@communities.gsi.gov.uk

Appendix 9

New Homes Bonus Consultation Letter

Local Plans Expert Group

The Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF

APPENDIX 9

15 February 2016

Email: newhomesbonus@communities.gsi.gov.uk

Dear Sir or Madam,

NEW HOMES BONUS: TECHNICAL CONSULTATION

The Local Plans Expert Group (LPEG) is pleased to have the opportunity to respond to your consultation “*New Homes Bonus: Sharpening the Incentive*”. LPEG was established by the Minister for Planning in September 2015 to examine and report upon ways in which the Local Plan process could be made more efficient and effective. We are due to report at the end of February.

There are potential overlaps between our work and the issues covered in your consultation – particularly the ways in which planning policies in their widest sense encourage an increase in delivery. However, we consider that our respective subject areas are complementary rather than interdependent and we are pleased to offer our views on your consultation.

Rather than responding to the full list of questions you have set, our views are limited to three important issues:-

- a) if you conclude that part of the incentive should be linked to whether or not a local authority has a local plan, it is particularly important that this relates to an up to date local plan, by which we mean a plan which has been examined and found sound against the policies of the NPPF – a plan examined since March 2012. By definition, plans produced before that time will not be up to date with the step change in planning policy that was represented by the NPPF and its emphasis on growth and delivery.

As the Consultation explains (para 3.16), to be effective, local plans need to be kept up to date, and the Planning Practice Guidance currently refers to Plans normally being reviewed “at least” every five years. However, at paragraph 3.13 the consultation suggests that 83% of local planning authorities have published a local plan, with 66% having achieved adoption. These figures, however, relate to plans prepared since 2004 and include a number of plans which pre-date the NPPF and are now, by definition, out of date. Similarly, a number of post-NPPF plans are subject to early review, without which they will become out of date within the next 1-3 years.

Local Plans Expert Group, c/o Quod, Ingeni Building, 17 Broadwick Street, London, W1F 0AX

Members of the Local Plans Expert Group: John Rhodes OBE, Quod, Director – Chair; Adrian Penfold OBE, British Land, Head of Planning; Councillor Toby Elliott, Swindon Borough Council – Cabinet Member – Strategic Planning & Communities; Derek Stebbing, Chelmsford City Council, Planning Policy Manager; John Howell OBE MP FSA, Member of Parliament for Henley; Keith Holland; Liz Peace CBE; Richard Harwood OBE QC, 39 Essex Chambers.

Advisers to the Local Plans Expert Group: Chris Katkowski QC, Landmark Chambers; Ian Manktelow, Wycombe District Council, Team Leader Planning Policy; Matthew Spry, Nathaniel Lichfield & Partners, Senior Director.

Local Plans Expert Group

We agree that changes to the New Homes Bonus could help to incentivise the production of an up to date local plan but much of the purpose of the Consultation would be undermined if it protected authorities with an extant, but out of date local plan;

- b) reducing NHB where an authority does not have a local plan could stimulate the production of the plan but could also reduce the incentive to grant planning permissions in the interim. A better solution may be a 50% reduction in NHB in these circumstances but with a 100% reduction where it proves necessary for an applicant to go to appeal;
- c) the proposed relationship of the incentive to a baseline of growth could be more clearly expressed. Care needs to be taken if this step is to be introduced, however, not to penalise those authorities who have maintained a good rate of delivery, whilst making it relatively easy for authorities which have historically underperformed. If this mechanism is to be used, therefore, it needs to be more sophisticated.

We trust that these comments are helpful.

Yours faithfully,



John Rhodes

Local Plans Expert Group, c/o Quod, Ingeni Building, 17 Broadwick Street, London, W1F 0AX

Members of the Local Plans Expert Group: John Rhodes OBE, Quod, Director – Chair; Adrian Penfold OBE, British Land, Head of Planning; Councillor Toby Elliott, Swindon Borough Council – Cabinet Member – Strategic Planning & Communities; Derek Stebbing, Chelmsford City Council, Planning Policy Manager; John Howell OBE MP FSA, Member of Parliament for Henley; Keith Holland; Liz Peace CBE; Richard Harwood OBE QC, 39 Essex Chambers.

Advisers to the Local Plans Expert Group: Chris Katkowski QC, Landmark Chambers; Ian Manktelow, Wycombe District Council, Team Leader Planning Policy; Matthew Spry, Nathaniel Lichfield & Partners, Senior Director.

Appendix 10

Local Plan Process – Technical Assessment

LOCAL PLAN PROCESS

1. The local plan-making process needs to be effective, efficient and fair. Lengthy, drawn-out plan preparation is obviously not efficient, but it also fails to be effective or fair. Slow plan making prevents policies from being in place when they are needed and increases the risk that work will become out of date even before the plan is adopted. Excessive requirements to consider and produce material obstructs rather than informs decision making. This hinders developers and public engagement.

Overview of the process

Current arrangements

2. Local plan preparation requirements are set out in Part 2 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (“Local Planning Regulations”). Plans are also subject to the requirements of Strategic Environmental Assessment under the Environmental Assessment of Plans and Programmes Regulations 2004 and habitats regulations assessment under the Conservation of Habitats and Species Regulations 2010. An authority’s proposed local plan documents and the timetables for their preparation and revision will be set out in its local development scheme or minerals and waste development scheme.¹
3. The current preparation stages which are required by legislation are:
 - Consultation with public bodies on what the local plan should contain;²
 - Publication of the draft local plan for representations;³
 - Submission of the draft local plan to the Secretary of State for examination;⁴
 - Independent examination (in practice by a planning inspector);⁵
 - Publication of the examiner’s recommendations including any modifications;⁶

¹ Planning and Compulsory Purchase Act 2004, ss 15, 16.

² Local Planning Regulations, reg 18.

³ Reg 19, 20. The representation period is at least six weeks from publication of notice of the draft plan: reg 17.

⁴ Reg 22

⁵ Planning and Compulsory Purchase Act 2004, s 20; Reg 23, 24.

- Adoption of the plan.⁷ (section 23 and regulation 26).
4. The process in the original Town and Country Planning (Local Development) (England) Regulations 2004 was more complex:
- i. pre-submission consultation with particular bodies;
 - ii. pre-submission public participation on the proposals;
 - iii. preparation and submission of the development plan document (“DPD”) to the Secretary of State;
 - iv. representations on the DPD;
 - v. representations on the site allocation representations which have been made;
 - vi. the examination;
 - vii. Publication of the examiner’s recommendations
 - viii. adoption of the DPD.
5. In 2008 the pre-submission public participation stage (ii) was removed and representations were invited on the submission draft of the plan prior to submission (reversing (iii) and (iv)). The ‘site allocation representations’ representations stage was also removed.
6. Sustainability appraisal is required under the 2004 Act. If Strategic Environmental Assessment is required because the plan is likely to have significant effects on the environment then this requires the publication of an Environmental Report.

The examination tests

7. The independent examination considers whether:⁸
- a) the requirements of the Planning and Compulsory Purchase Act 2004 and the Local Planning Regulations have been complied with;

⁶ Reg 25

⁷ Section 23 and reg 26.

⁸ Planning and Compulsory Purchase Act 2004, s 20(5).

- b) the plan is sound;
 - c) the duty to co-operate has been complied with (if applicable).
8. The plan may only be adopted if:⁹
- a) the Inspector finds all of these requirements are met;
 - b) any applicable duty to co-operate has been satisfied and whilst there has been a failure of legislative compliance or soundness, that is cured by 'main modifications' recommended by the Inspector at the local planning authority's request.
9. A plan may only be adopted as submitted, or with modifications recommended by the Inspector to cure these errors along with any non-material modifications made by the local planning authority.¹⁰

Consultation stages

10. Legislation requires two stages for representations:
- i. at the regulation 18 stage, the local planning authority will notify various public bodies and those residents or businesses they consider appropriate to inform of the subject of the local plan which the authority propose to make and invite them to make representations '*about what a local plan with that subject ought to contain*';
 - ii. at the regulation 19 stage, publication of the proposed local plan with supporting documents and an opportunity for any person to make representations on it.
11. The regulation 18 consultation is prior to the drafting of the plan and requires the involvement of a limited number of consultees (identified in the Regulations) being asked what the plan contains. In practice consultation does not take place in accordance with the terms of regulation 18. Local planning authorities usually carry out a more widespread consultation on an issues and options paper. When the regulation 19 consultation takes place on the draft local plan the local planning authority has no power to make material modifications in response to those representations. It must submit to the Secretary of State the plan as it has been consulted upon. Such modifications may only be made if the Inspector considers that the plan would otherwise be unsound, although the local planning

⁹ Planning and Compulsory Purchase Act 2004, s 20(7) to (7C).

¹⁰ Planning and Compulsory Purchase Act 2004, s 23.

authority may make its own non-material modifications. Consequently the first time that the regulations provide for representations on the authority's draft proposals it is too late to persuade the authority to change its mind. The debate at that stage has to be on the soundness and other legal compliance of the plan.

12. In practice, local planning authorities go much further in consultation. As we have said, the regulation 18 consultation tends to be badged as an 'issues and options' exercise, with a detailed paper setting out a significant number of questions. There then tends to be a further non-statutory consultation on a draft plan, or significant elements of it, prior to the regulation 19 document. Essentially many authorities have revived the preferred options consultation, which was removed from the regulations in 2008.¹¹
13. Often authorities have carried out many more rounds of consultation prior to the submission of the plan to the Secretary of State. The Eastleigh Borough Local Plan 2011-2029 was the subject of five pre-submission consultations between 2011 and 2014, only two of which were statutory. It was subsequently found to be unsound and was withdrawn. Twelve consultations were carried out in the Cheshire East Local Plan process, mainly on discreet aspects of the plan.
14. Elongated consultation processes or multiple rounds do not necessarily improve the outcome. Indeed, they may increase the prospect of error. For example, the spatial strategy could be consulted on before the housing requirement changed dramatically. Multiple rounds increase the possibility that important issues or alternatives are overlooked because of a mistaken belief that earlier consultations addressed those matters. There is also the danger of consultation fatigue that the time and resources of those interested in the process are exhausted by repeated consultations which seem to make no progress. Finally, the plan making process becomes very lengthy. The Gloucester Cheltenham and Tewkesbury Joint Core Strategy – to 2031 has involved five rounds of pre-submission consultation since 2009 and the plan process has still not reached adoption.
15. Material modifications may be proposed by the Inspector following submission of the Plan if it would otherwise be unsound or fail the various legal requirements. Consultation on these is encouraged in most cases by the Planning Inspectorate guidance prior to the close of the

¹¹ As examples the Teignbridge Local Plan 2013-2033 carried out a Preferred Options consultation in 2012 and the East Hertfordshire District Plan did the same exercise in 2014.

examination.¹² Generally material (main) modifications will be advertised for a six week consultation period with the modifications themselves being considered by written representations unless a relevant examination hearing is still to take place. The authority may also propose modifications which do not materially affect the plan and these are sometimes also consulted upon. Consultation following submission of the plan is entirely non-statutory.

The stages which are necessary

16. The amount of consultation required both before and post-submission will vary, depending upon the issues raised by the document and by any proposed changes to it. Where an area-wide local plan or a joint local plan is being prepared then it will be difficult to proceed without an 'issues and options' consultation and then a consultation on the draft plan. A very specific plan or a partial review could proceed with a single round of consultation: the plan making authority tabling its proposals for consultation and examination.
17. At present, the ability to do this is affected by the Act and the Local Planning Regulations.
18. It is useful to return to first principles. If consultation is carried out then the common law imposes four basic requirements:¹³

"First, that consultation must be at a time when proposals are still at a formative stage.

Second, that the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response.

Third ... that adequate time must be given for consideration and response and, finally,

fourth, that the product of consultation must be conscientiously taken into account in finalising any statutory proposals"

19. How consultation is conducted will reflect who is being consulted.

The Aarhus Convention

20. The Aarhus Convention article 7 applies to the preparation of plans and programmes:

"Article 7

¹² *Examining Local Plans Procedural Practice*, December 2013 (3rd Ed, v.2), para 4.21, 4.25, 4.26.

¹³ *R (Moseley) v Haringey London Borough Council* [2014] UKSC 56, [2014] 1 WLR 3947 per Lord Wilson JSC at para 25 following *R v Brent London Borough Council ex p Gunning* (1985) 84 LGR 168 per Hodgson J at 189.

*PUBLIC PARTICIPATION CONCERNING PLANS, PROGRAMMES AND
POLICIES*

RELATING TO THE ENVIRONMENT

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment."

21. The Article 6 requirements reflect English common law and include knowledge of the nature of the possible decisions and that there is 'early public participation, when all options are open and effective public participation can take place' (article 6(4)). Where it takes place, the Aarhus Convention is reflected in Strategic Environmental Assessment.
22. The current legislation contains a number of weaknesses. The initial regulation 18 consultation does not have to be with the public at large and merely invites suggestions as to what could be put into a plan of a particular subject. It is not a consultation on the authority's proposals themselves. The later regulation 19/20 consultation is solely into whether the plan is sound, being at a time that neither the authority nor the Inspector can materially alter the plan unless it is unsound. This is not a stage at which all options are open. For example, if following that consultation the authority decide that an additional site should be added, the change can only be made if the plan would be unsound without that alteration. That it may be desirable in planning terms to include the site is not sufficient. Similarly, a request by East Devon District Council for a modification to remove a proposed employment site was rejected by the Inspector who considered that the plan, as submitted, was sound.¹⁴
23. The 2004 Local Development Regulations had taken a three stage approach: an initial consultation on what should be in a plan, consultation on the authority's proposed plan (after which changes could be made) and then the submission of the plan with an opportunity to make representations which would be considered in the examination. The second stage (often called 'preferred options') was removed in 2008 to speed up the process. In practice, and notwithstanding the 2008 amendments, authorities do tend to

¹⁴ Report on the Examination into the New East Devon Local Plan 2006 to 2026, 15 January 2016, para 88-95.

consult on a preferred option or advanced draft which meets the common law and Aarhus Convention expectations for consultation prior to the regulation 19/20 consultation. However that has the effect of re-introducing that further stage and slowing down the process. Amending the regulations to reverse the 2008 amendment and reintroduce a formal preferred options stage would be a retrograde step and would extend the preparation period.

Our proposals

24. Consequently we are concerned to find an approach which addresses the deficiencies in the current two stage process and allows a single stage process in appropriate cases. One round of consultation is commonplace for government policy documents. A single consultation stage may be suitable if a limited review of the plan is being carried out or where an area plan is being produced. The preparation of a new plan containing strategic policies is likely to require some consultation prior to the production of the submission draft.
25. The regulation 18 consultation process does not work as local planning authorities do not carry out consultations confined to the narrow terms of the regulation. There is no value in maintaining a process which is not followed and so we **recommend that the present requirement to carry out initial consultation under regulation 18 is revoked. It should be replaced by a duty to consult the community when beginning the preparation of a local plan.** The opportunity arises to use this earlier stage of consultation (under regulation 18) more imaginatively. In particular, we were impressed by the representations we received that many communities feel excluded from plan making – an exercise which they regard as overly technical, dominated by housing issues and often undertaken without a clear community based vision for the future of an area. We address these issues further in section 12 of our Report but **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.** Visioning exercises are the subject of developing best practice but local plan making could learn lessons from the way in which recent neighbourhood planning exercises have been successful in capturing community interest.
26. Multiple additional rounds of consultation should be discouraged as this is damaging to the plan making process and the planning system. Repeated non-statutory consultation leaves participants exhausted and uncertain when and whether a plan will be adopted. Far from improving the eventual outcome, there is a great danger of error as matter may have moved

on since issues were addressed and it is more likely that a mistake would be concealed in the belief that an issue was dealt with when it was not or a failure to appreciate that earlier conclusions are outdated. No developer or local residents group should have to spend six years going through a local plan process.

27. The reality of an elongated plan process is that plans are out of date when made and many important planning decisions are taken on planning applications or appeals rather than by a plan-led system.
28. **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. We recommend that the guidance advises that consultation should be limited to the initial exercise, the published draft and any modifications of it unless there are exceptional circumstances.**
29. At present consultation on the submission version of the plan takes place when the authority has no power to change it. This reduces the ability of authorities to make a fully informed decision on what their plan should be and it is then too late for the public to persuade the authority to change their plan. They have to persuade the Inspector that the plan is unsound. All of this encourages the non-statutory production of preferred options drafts. These issues could be alleviated by allowing local planning authorities to make modifications to local plans following the pre-submission consultation even if the plan is already sound.¹⁵ This would give authorities greater control over their plans. Representations would then be allowed on the changes alone. Those representations will be considered by the Inspector along with the representations made on the submission draft. This would allow the merits of representations on the proposed plan to be taken into account by the authority, rather than consideration being confined to the Inspector's examination of soundness. This, coupled with early community engagement under a revised regulation 18, deals with the difficulty that the regulations do not require consultation on the authority's proposals for what should be in the plan at a time when all options are open. This would avoid the need in practice for a preferred options consultation and would allow authorities to have a single consultation stage on a fully drafted plan. It would also reduce the risk of a challenge based upon an inability to comment whilst all the options were open.

¹⁵ The District Councils Network suggest allowing such modifications as a potential streamlining mechanism

It should also reduce the number of modifications which are required as a consequence of the examination.

30. The current period for representations on a proposed submission plan is 'at least six weeks'. We consider that six weeks is an appropriate period as it may take time for those interested to become aware of the plan and make their representations. The 'at least' is unnecessary. However modifications are likely to be much less extensive, since there is already a draft plan, and the potential participants are likely to already be involved. We consider that the representation period on such modifications should be limited to four weeks. Since these representations will be considered by the Inspector, this period does not need to have ended by the time the plan is submitted. The requirement should be that the plan cannot be submitted before the modifications representation period has started.
31. **We therefore recommend that local planning authorities be given the opportunity to make modifications to the pre- submission draft following consultation and prior to submission.**

The plan preparation process will therefore be:

- (i) The local planning authority carries out community engagement on the high level vision and options for the local plan at the commencement of plan preparation;
 - (ii) The authority prepares and publishes its plan for representations;
 - (iii) Representations are made and the authority decides if it wishes to modify the published plan
- The authority will submit the plan, with any modifications it has made, and representations will be allowed on the modifications;
- (iv) The Inspector will consider the representations on the submitted plan and the representations on the modifications in the examination.

It is important that the ability to make modifications does not become a reason to delay the submission of the plan. We address the timetabling requirements below.

Timetabling local plans

32. The lengthy periods taken to adopt some plans are due to the time taken on each stage and the inclusion of further non-statutory steps, rather than any minimum period necessitated by the Local Planning Regulations. Allowing a flexible form of initial consultation and then a single consultation stage on a fully drafted plan will enable authorities to prepare plans quicker and our recommendations elsewhere in this report will reduce the time and resources required, for example, by simplifying the identification of the OAN and controlling plan content and the evidence base. However there remains too often a lack of urgency in plan preparation and examination.

33. A Local development scheme or minerals and waste development scheme must set out the timetable for the preparation and revision of the plan.¹⁶ The plans must be prepared in accordance with the scheme.¹⁷ Directions may be made by the Secretary of State or in London by the Mayor requiring amendments to a scheme.¹⁸
34. We consider firmer timetabling should be introduced so that a plan can move from initial preparation to adoption within two and a half years (30 months). These would be maximum limits and some changes, such as partial reviews of plans or action area plans should be able to be prepared much faster. Statutory deadlines have been set for consideration of development consent order applications for infrastructure projects under the Planning Act 2008.¹⁹ Those timetables have been adhered to and the Secretary of State has not needed to use his powers to extend any of the deadlines. A similar approach should be taken to local plan preparation. The timetable would be set out in regulations:²⁰

(i) Our proposals are that there will be an earlier round of community engagement at the beginning of the process and then pre-submission consultation on the draft plan. We recommend that the period from the start of plan preparation to the publication of the draft plan for consultation (presently regulation 19) should be no more than one year. For these purposes the start of plan preparation will be the beginning of the revised regulation 18 consultation. The incentives which we propose will encourage authorities to begin work in any event. There should be no need for an additional round of consultation between the initial community engagement and the publication of the draft plan but, if it is found necessary or desirable, it should be achieved within the same timescale – i.e. it should not cause a delay in the publication of the draft plan. Guidance should encourage faster preparation if possible. All of these recommendations should be included in revised Regulations, reinforced and explained in the *National Planning Practice Guidance*;

¹⁶ Planning and Compulsory Purchase Act 2004, ss 15(2)(f), 16(2).

¹⁷ Planning and Compulsory Purchase Act 2004, s 19(1).

¹⁸ Planning and Compulsory Purchase Act 2004, s 15(4). The Housing and Planning Bill proposes to extend this power to require 'full and effective coverage (both geographically and with regard to subject matter)': see clause 129 (House of Lords, 1st Reading).

¹⁹ The Planning Act 2008 time limits are for the examination to conclude six months from the preliminary meeting into the application, the examining authority then having three months to write its report and the Minister then taking no more than three months to decide the application following receipt of the report: Planning Act 2008, ss 98, 107.

²⁰ By the Planning and Compulsory Purchase Act 2004, s 17(7), this may be introduced by regulation.

(ii) Following the publication of the draft plan then representations can be made. This should be for a six week period, which is the normal period used at present.²¹ The authority will need to consider the representations and make any changes it considers to be appropriate (whether or not the plan is otherwise sound). Where the local planning authority is a council, the submitted local plan must presently be approved by the full council (it is not simply a matter for the Council's executive or officers).²² We consider that safeguard should be retained and so this stage must accommodate a full council meeting. The material consulted upon must then be submitted to the Secretary of State along with the representations made and a summary of them and any modifications the authority wishes to make in response to the representations. The regulations should set a maximum period between the close of representations and the submission with any modifications to the Minister of 12 weeks. Notwithstanding authorities' current inability to formally change submission plans, as distinct from asking the Inspector to modify them, the period between the close of representations and submission of a plan has become excessive. Having averaged 2-3 months in the early years of the new system it has now increased to 5-7 months.²³ The timetable will bring the stage back to a reasonable period and with the new ability to change the plan, reduce the duration and complications of examinations.

(iii) Consultation will take place on the modifications for a period of four weeks. This will not be separately timetabled, in that it will not be an additional period between submission and examination. We would expect submission to the Minister and consultation on modifications to start straight after the decision to modify, so the consultation will take place during the early stages of the examination whilst the Inspector is reading in.

(iv) A maximum time should be set for the conclusion of the examination by the provision of the Inspector's report. The Inspector should be required to report within 28 weeks of the submission of the local plan. This was the average examination length in 2010, although this period has been significantly greater in other years.²⁴ On the basis that the Inspector starts work as soon as the plan is received, such a period will encompass four weeks for the

²¹ Reg 17.

²² Local Authorities (Functions and Responsibilities) (England) Regulations 2000, reg 4(3)(ca). We note that reg 4(3)(bb) contains a redundant reference to the long-revoked Town and Country Planning (Development Plans) (England) Regulations 1999. That should be removed at a convenient opportunity.

²³ Average periods between publication and submission are set out in chapter 8 below. On the basis of the usual representation periods of six weeks, the time between the close of representations and submission was on average, 57 days in 2009, 98 days in 2010, 91 days in 2011, 118 days in 2012, 228 days in 2014 and 159 days in 2015.

²⁴ The average period between submission and report was 306 days in 2009, 246 days in 2010, 271 days in 2011, 311 days in 2012, 453 days in 2013, 491 days in 2014 and 524 days in 2015: **see our main report at 2.12.**

Inspector to read in and set questions for responses and organise a programme; six weeks for responses to the questions and preparation for the examination. Any further questions which arise out of consultation on the authority's modifications (which were not previously anticipated) could be set by the Inspector in this period). Even a relatively large number of hearings (say over a four week period) could then be accommodated, leaving in such a case 14 weeks to deal with any later consultation on any Inspector's modifications and to write the report. This time limit does require the Inspector to make an immediate start on the examination and authorities will need to liaise with the Inspectorate to provide adequate notice. The timetable does allow some additional work to be carried out by the local planning authority if necessary as issues arise. It would not though be possible to hold up the examination for months whilst further assessments take place.

If that work was essential to soundness then the plan would need to be withdrawn, but under our proposals a revised plan could be re-submitted relatively quickly without having to go through an initial regulation 18 consultation. The delay caused by withdrawal and resubmission would be much reduced in comparison to the present arrangements.

As with infrastructure examinations, The Secretary of State should be able to extend this period on request, but ought to state in the NPPG that extensions would rarely if ever be granted.

(v) The date of adoption of the plan following the Inspector's report is primarily dictated by the cycle of full Council meetings. Annual average periods between receipt of the Inspector's report and adoption of the plan have ranged from 42 to 66 days and so we do not consider this stage to be a major source of delays. To continue the timetabling we recommend that a requirement to adopt or withdraw the plan within 10 weeks of receipt of the Inspector's report is introduced.

How the timetable is applied to an individual plan will be set out in the local development scheme or minerals and waste development scheme. The NPPG should encourage shorter timetables to be set in those schemes where that is realistic.

The examination timetable does depend upon an Inspector being available from the start of the examination and without other considerable demands on their time. **We therefore also recommend that:**

- (i) local planning authorities inform the Inspectorate in good time of their anticipated submission date and this expectation is contained in the *NPPG*;
- (ii) the Inspectorate programme Inspector's time so that the progress of the examination is not delayed by the Inspector's other work commitments;
- (iii) the government undertakes a review of the resources of the Planning Inspectorate before introducing the timetabled procedure.

Evidence base

35. The local plan evidence base consists of two inter-related aspects:
- i. those documents which the local planning authority is required to produce as part of the process;
 - ii. existing documents which it is required to have regard to in preparing the plan.
36. Some material in both categories is required by legislation whilst some others are encouraged by policy or guidance. The Planning and Compulsory Purchase Act 2004 lists certain documents or issues which the authority 'must have regard to'²⁵ and further matters are listed in the Local Planning Regulations.²⁶ Others are contained in the NPPF or the *Planning Policy Guidance*. To our surprise there is no definitive list and we have sought to identify the documents currently referred to in **Appendix A. We recommend that the *Planning Practice Guidance* contain a list of documents which may be required in the preparation of a local plan. The list should be based upon our Appendix, as amended in the light of other changes resulting from our recommendations.**
37. We note that despite the length of this list, it is not comprehensive. For example, the 2004 Act provides that a plan-making authority must have regard to its own local development documents, but makes no mention of other authorities' local plans or neighbourhood development plans in its same area. Some of those may be relevant. **We recommend that the Local Planning Regulations be amended to include in the list of matters any local plans (including minerals and waste local plans) and neighbourhood development plans which have been adopted or made in the authority's area.**

²⁵ Section 19(2).

²⁶ Reg 10.

38. The Local Planning Regulations refer to previous versions of Planning Policy Wales and the National Planning Framework for Scotland.²⁷ **We recommend that these references should be amended in any new regulations, with the duty being to have regard, where relevant to whatever are the current versions of those documents.**
39. The NPPG says ‘Appropriate and proportionate evidence is essential for producing a sound Local Plan, and paragraph 158 onwards of the National Planning Policy Framework sets out the types of evidence that may be required. This is not a prescriptive list; the evidence should be focused tightly on supporting and justifying the particular policies in the Local Plan.’²⁸
40. **The *Planning Practice Guidance* should however emphasise that local planning authorities should only consider or produce any of the listed documents which are essential for the particular plan.**
41. Some of this material will be more important than others, whilst some indeed may have very limited relevance to the local plan. It should be considered and produced in a proportionate way. In preparing a plan the authority ‘must have regard to’ documents listed in the 2004 Act and other matters prescribed by the regulations.²⁹ It is implicit that this means ‘regard where relevant’, but it may give a clearer steer to authorities to introduce ‘where relevant’ into those parts of the Act and Regulations. **We recommend that these changes are made at a convenient opportunity.**
42. A more significant cost than considering existing documents is the production of new material. This can be extremely expensive and time-consuming, as explained elsewhere in our report. A variety of our recommendations limit the requirements for particular documents and we turn to a general control on the evidence base below.

Provision of documents for the examination

43. The authority is required to publish material for pre-submission consultation and then provide it to the Secretary of State, and so to the Inspector, with the submitted plan. This includes ‘such supporting documents as in the opinion of the local planning authority are

²⁷ Reg 10(1)(e),(f).

²⁸ 12-014-20140306.

²⁹ Planning and Compulsory Purchase Act 2004, s 19(2) and the Local Planning Regulations, reg 10(1).

relevant to the preparation of the local plan'.³⁰ Consequently this tends to include a very large amount of already published material. It is of course important that those being asked to comment on the plan can understand the basis upon which it has been prepared and that the Inspector is able to deal with the underpinning material, but far too much tends to be produced. Inspectors find themselves receiving several boxes of papers and then sorting them out into a box of important documents and boxes of material which is unlikely to need to be referred to.

44. A great deal of this material will already be readily available on local authority and other websites. The public, the Secretary of State and the Inspector need those documents which have been prepared for the local plan process and important documents which are likely to be referred to in the examination or which cannot easily be found online. We recommend that the *Planning Practice Guidance* should encourage authorities not to produce an excessive amount of material. The Local Planning Regulations can be amended to limit the material required at what is presently the regulation 19 and 22 stages, requiring the authority to publish and supply to the examination:
45. *"Only such supporting documents as the local planning authority considers strictly necessary to show whether the local plan is legally compliant, sound and in compliance with any duty to cooperate—~~are relevant to the preparation of the local plan,~~"*
46. These reflect the three elements of the purpose of an examination under section 20(5). At present statements summarising the regulation 18 consultation process have to be published for the later consultation and sent to the Secretary of State.³¹ As a consequence of our recommendation on this consultation the requirement should be simplified and replaced by a statement summarising that consultation.

Strategic Environmental Assessment Directive

47. Strategic Environmental Assessment is required of plans and programmes which are likely to have significant effect on the environment, including those which set the framework for decisions on projects within the categories in the Environmental Impact Assessment Directive or which require appropriate assessment under the Birds or Habitats Directives. Environmental assessment means 'the preparation of an environmental report, the carrying

³⁰ Local Planning Regulations, reg 17, 19, 22(1)(e).

³¹ Local Planning Regulations, reg 17, 19, 22(1)(c).

out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information’³²

48. Under SEA ‘an environmental report shall be prepared in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme, are identified, described and evaluated’.³³ The reasonable alternatives have to be assessed to a comparable extent to the preferred option.³⁴ The report is concerned with significant environmental effects – not all environmental effects –and only that which is reasonably required for the assessment.
49. Local planning authorities can decide not to carry out SEA of plans and programmes which ‘determine the use of small areas at local level and minor modifications to plans and programmes’ if they are satisfied that the plan or programme is not likely to have significant effects on the environment.³⁵ That exception has been applied in the neighbourhood plan context. In suitable cases local planning authorities should consider whether this exception applies to local plan documents dealing with small areas or reviews. **We recommend that local planning authorities are alert to whether they should consider that SEA is not required. The NPPG says that SEA might not be required for supplementary planning documents or neighbourhood plans, but does not draw attention to that possibility for local plans. It should be amended to refer to the potential for screening out SEA, particularly on local plans dealing with small areas and partial reviews.**
50. Environmental reports should be very useful tools for plan-making authorities and those interested in the process. By addressing not merely the impacts of what is proposed but also the alternatives to it, they should inform the exercise. However environmental reports have tended to be formulaic, with policies being tested against generalised objectives in tables scored from ++ (significantly positive) through 0 (neutral) to – (significantly adverse). This simultaneously fails to address the principal environmental issues which actually arise in the plan and to contain sufficient detail to judge the particular impacts of a policy or site allocation. The outcome is often a several hundred page report which is barely referred to in

³² SEA Directive, Article 2.

³³ SEA Directive, Article 5(1).

³⁴ *Heard v Broadland District Council* [2012] EWHC 344 (Admin); [2012] Env. LR 23 per Ouseley J at para 7 to 12, 57, 70, 85, followed by *Ashdown Forest Economic Development Llp v Wealden District Council* [2015] EWCA Civ 681 per Richards LJ at para 9, 10.

³⁵ SEA Directive, Article 3(3).

the examination. The NPPG sets out the legal requirements for environmental reports but is light on practical guidance on their content³⁶.

51. **We recommend that the NPPG be revised to include guidance that SEA environmental reports should concentrate on the particular significant environmental effects which arise on the proposals and their reasonable alternatives and be no longer than necessary. Lengthy checklists on matters which are not significant are not of assistance.**

Sustainability appraisal

52. When preparing a local plan the authority must 'carry out an appraisal of the sustainability of the proposals ... [and] prepare a report of the findings of the appraisal'.³⁷ This is a separate requirement from any need for Strategic Environmental Assessment, which is discussed above, although it has been common to deal with both exercises in the same document.
53. We consider that sustainability appraisals are necessary to local plan making. The local plan should seek to contribute to achieving sustainable development.³⁸ In preparing the plan there will need to be some published explanation of whether and why it has done so. Unless that explanation is to be placed at length in the plan itself, it must be put in its own document. For those reasons we do not recommend the removal of the requirement for sustainability appraisal, notwithstanding our concerns, set out below, as to how it is being operated in practice. As to the level of detail required the NPPG says on sustainability appraisal:³⁹

"The sustainability appraisal should only focus on what is needed to assess the likely significant effects of the Local Plan ... It should focus on the environmental, economic and social impacts that are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the Local Plan."

54. This however has not resulted in useful documents. The exercise of justifying the sustainability of the plan in the light of the NPPF has morphed into an iterative process,

³⁶ See 11-004-20140306.

³⁷ Planning and Compulsory Purchase Act 2004, s 19(5).

³⁸ Planning and Compulsory Purchase Act 2004, s 39. Sustainable development is set out in further detail in the NPPF..

³⁹ 11-008-20140306

looking at the proposals and reasonable alternatives in a similar manner to Strategic Environmental Assessment but extended to social and economic matters.⁴⁰

55. This overlooks the differences between SA and SEA. Sustainability appraisal encompasses all aspects of sustainable development, including the economic and social matters which do not feature so prominently in SEA. However there is no prescription about what a sustainability appraisal should contain nor any statutory requirement to address alternatives. A sustainability appraisal does not have to replicate an SEA environmental report when dealing with economic or social matters. The statutory requirement for sustainability appraisals is much more limited. The effect of dealing with sustainability appraisal and SEA in the same document has been that non-environmental aspects have been addressed in the same way as the significant effects for SEA purposes. That has contributed to the production of excessively long documents of limited utility. We have considered whether the non-SEA parts of a sustainability appraisal could be pared down but that creates a document which may seem lopsided. In such circumstances we doubt that such advice would be followed in practice. It is necessary therefore to separate sustainability appraisal and SEA reports. An SEA environmental report will inform a sustainability appraisal.
56. We are also concerned at the length and usefulness of many sustainability appraisals. As with environmental reports under SEA, there is a danger of producing pages of tables marking off generic objectives which both fail to grapple with the big issues affecting sustainability and fail to provide sufficient useful detail. Such appraisals should be shorter and more focussed.
57. **We recommend that the *Planning Practice Guidance* should advise that sustainability appraisal is concerned simply with explaining how the plan is sustainable development by providing an audit of the local plan against the terms of the NPPF and whether it falls short in any respect. This should be a separate document to any environmental report produced for SEA purposes. The guidance should be revised to delete the advice that sustainability appraisal is an iterative process or that it needs to consider reasonable alternatives.**

Early assessments of the plan process

58. Whilst the examination provides essential testing of a plan and may in some cases lead to substantial modifications and find that plans fail, it is far preferable that problems are

⁴⁰ See *Planning Practice Guidance*, para 11-001, 11-013 to 11-020.

avoided or resolved much earlier. The starting point is that the local planning authority will try to get the process right from the beginning. The experience of officers within a particular council will vary and it is important that sufficient resources are made available at an early stage to get the plan right. The cost and delay of having to pause a plan and do further work, or to withdraw it entirely, is much greater than getting it right at the start.

59. External assessments of the plan process can help ensure that plans are on the right track and avoid later problems. The Planning Inspectorate will carry out one day reviews. Whilst it had provided more extensive three day reviews when the current development plan system was being introduced, there are issues about increasing the availability of inspectors for this work. Such assessments may also be carried out by the Planning Advisory Service, POS, planning consultants, other planning authorities, solicitors or counsel. The cost of a review of the process and key documents is relatively modest.
60. Any assessments⁴¹ cannot consider the entirety of the documentation, except at disproportionate cost, nor will they always have the benefit of seeing representations on the proposals. Such reviews cannot therefore spot all problems, but they should assist in identifying major issues.
61. We do not consider that any early assessment can be determinative, stopping those issues being raised at a later stage.
62. **We therefore recommend:**
- a) **that local planning authorities should commission an external review of its intended approach to its local plan at the Regulation 18 stage before a draft plan is prepared;**
 - b) **that a second review is commissioned between 3 and 6 months before it proposes to publish a draft plan under Regulation 19; and**
 - c) **that the NPPG is revised to reflect this.**

Examination process

63. Local plan examinations are conducted by an Inspector who will consider whether the plan meets the various tests having regard to the material produced with the plan and the

⁴¹ Such assessments have sometimes been referred to as MOTs, but since cars only need an MOT after three years, this might give the wrong impression of the length of the local plan process which we expect.

representations made on it. Those representations will include those at the regulation 19/20 stage and further documents produced in response to the Inspector's requests. Examination Inspectors usually hold hearings and have to do so if a person who made representations in the pre-submission consultation requests. Hearings are inspector-led discussions, to an agenda. They are programmed by the issues identified by the Inspector.

64. There are important differences to examinations carried out for the London Plan and neighbourhood development plans. In the former, whilst hearings are held, there is no right to appear at a hearing. The examiner has a discretion whether to hold any hearings in a neighbourhood development plan examination, so there is no right to be heard. Lacking a right to be heard on the London Plan is understandable given the number of potential participants across the metropolis. In neighbourhood planning, the issue would tend to be whether a hearing should be held rather than who should be invited to attend it.
65. The existence of the right to be heard in local planning does work well. Many of the important contributors will not be well-known or obvious candidates for an invitation, but oral representations by a small local developer, an ambitious landowner, a residents' group or simply the neighbours may turn out to be decisive. The Inspector still controls the agenda, so can decide who is able to speak at particular sessions and manages the hearings themselves. We do not consider that any difficulties have been caused by the right to be heard and it proves to be an important element in the acceptability of the process as a whole.
66. Of course, one issue which may arise is that underlying policy, figures or other circumstances change following the submission of the draft plan. Sometimes changes to, for example household forecasts, may be significant. The response to changes should be pragmatic but supportive of proceeding with the plan without delay. New circumstances can be considered and, where both practical and necessary, accommodated in modifications. However a plan should not be found unsound and incapable of being modified to make it sound because of post-submission changes. Any such modifications must be capable of being prepared (and if necessary, consulted upon) in the statutory examination timetable. We consider this is reflective of the sensible approach which Inspectors will tend to take. Constantly revising a submitted plan to catch up with the latest developments is likely to lead to delay and greater difficulty in keeping the submitted plan as a whole up to date. It is better to proceed with the submitted plan and any practical modifications and if necessary move to a swift partial review. **We recommend that this approach is reflected in the NPPG.**

67. Changes to household forecasts may make significant alterations to the OAN. It may be impractical to take account of those changes without bringing the entire plan process to a halt. Authorities which progress their plans speedily should be able to rely on published forecasts without having to redo their figures as the plan proceeds. **We recommend therefore that the NPPG is amended to state that an authority's housing need and requirements will be treated as up to date if they are based on the DCLG housing forecasts which were current at the date of submission of the plan, provided that the plan is adopted within two years of submission.**

The length of the examination process

- 7.68 The examination starts with the submission of the local plan to the Secretary of State and ends when the Inspector's report is sent to the local planning authority. As we discuss in Section 10, the average length of examinations has increased from around 250-300 days prior to the publication of the NPPF to around 500 days. The move towards fewer, or a single, plan may have contributed to the post NPPF change but the principal causes of lengthy examination periods are further work or modifications being required from the plan-making authority to address soundness, duty to co-operate or procedural issues, delays the inspector being able to start work, consultation on modifications.
69. The number of hearing sessions tends to take up a very small part of the duration of examinations. For example whilst the Cheshire West and Chester Local Plan (Part One) Strategic Policies took examination took 51 weeks from submission to report, hearings were held on 12 days over three consecutive weeks. There may be some scope to reduce this further. It is important that the Inspector considers on what matters hearings need to be held and their duration in the light of the particular plan. Assumptions about the time to be spent on issues may lead to more hearings than are really required.
70. A process for fast track reviews of specific policy issues in a local plan is contained in the Inspectorate guidance.⁴² This envisages reviews of one or a small number of discrete policy issues being carried out in about 6 months. The examination part is proposed to take nine weeks if one or two days of hearings are carried out and six weeks if all representations are considered in writing. It assumes very close co-ordination with the Planning Inspectorate, including the identification of an Inspector and the publication of the details of the hearing

⁴² *Examining Local Plans Procedural Guidance*, Annex 2.

prior to the submission of the plan. However there appears to have been little use of this procedure. The six months estimate must assume that the regulation 18 consultation takes no time at all.⁴³ If the regulation 18 consultation was amended, as we recommend, then a six month period is practicable for these fast reviews.

Notice of hearings

71. At least six weeks' notice of the date, time and place of the opening of a hearing must be given (Local Planning Regulations, reg 24(1)). This is taken as being the first hearing day, rather than requiring six weeks' notice of every hearing day, although the text is imprecise in this respect. Parties will need time to arrange their attendance and professional representation and any hearing is likely to be preceded by a request from the Inspector for written representations on the issues being considered, but six weeks' notice is more than is necessary.⁴⁴ Whilst a window for the hearings may in practice be known quite a while in advance, there is a risk of delaying the start of hearings to meet the notice timetable.
72. The notice period should therefore be reduced to four weeks and the regulations clarified so that the notice is of the first hearing.

Mediation

73. Mediation is suggested by the Home Builders Federation and others. As the Civil Mediation Council and the Chartered Institute of Arbitrators point out, the NPF/PINS Final Report *Mediation in Planning* (June 2010) highlighted the benefit of mediation being carried out following consultations on a local plan. We consider that mediation may lead to common ground being found both on strategic issues and site allocations. That might not simply assist the local plan process but also make it easier and quicker to secure the subsequent planning consents. A greater degree of local consensus is to be encouraged. We would expect mediators to be drawn from outside the Planning Inspectorate, given Inspectors' expertise – which is decision taking not mediation – and the availability of Inspectors.

⁴³ The statutory period is six weeks for the regulation 20 consultation, so with nine weeks for the examination itself, the regulation 18 consultation, drafting of the review, regulation 22 submission and adoption of the review (including decisions by full council) would have to be completed within 11 weeks for the six month period to be achieved.

⁴⁴ As a comparison, four weeks' notice has to be given to the parties entitled to appear at an inquiry into a planning appeal or call-in, an a press advertisement can be required to give the public not less than two weeks' notice of such an inquiry: Town and Country Planning (Inquiries Procedure) (England) Rules 2000, rule 10(3),(6). 21 days' notice is required for hearings in development consent order examinations: Infrastructure Planning (Examination Procedure) Rules 2010, rule 13.

Mediation can, and in the local plan context must be, arranged quickly. We recommend that **local planning authorities and other participants consider whether mediation may help to resolve any issues which arise and if the interested parties agree to arrange mediation either prior to publication of the submission plan, prior to submission or at an early stage in the examination.** The statutory timetable can accommodate mediation if it is organised speedily but it should not however justify any extension of or non-compliance with the timetable.

Soundness

74. Local plans may only be adopted if they are found to be sound or would be made sound if modified.⁴⁵ The term is not defined in legislation but the NPPF describes it as:⁴⁶

“A local planning authority should submit a plan for examination which it considers is “sound” – namely that it is:

- *Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;*
- *Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;*
- *Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and*
- *Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.”*

75. The expectations that a plan is positively prepared, justified, effective and consistent with national policy are applicable to all elements within a plan. The detail of this paragraph may bear more on high level strategic issues. The soundness test strikes a balance between the authority’s ability to produce its own policies and the Inspector requiring good planning.
76. Paragraph 182 refers to plans being expected to be ‘the most appropriate strategy’ rather than simply ‘an appropriate strategy’. Whilst this may suggest that the Inspector decides upon the best approach for the authority, in practice examinations have considered whether

⁴⁵ Planning and Compulsory Purchase Act 2004, s 20(7), (7A), (7C).

⁴⁶ NPPF, para 182.

the plan is justifiable rather than necessarily the best. We support this approach which reflects localism: local planning policy is primarily a matter for the local planning authorities representing local people and the role of the examination is to ensure that the policy is sound. It is for the local authority to decide what the appropriate strategy is. 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.

77. **We also recommend a change to the soundness test in Section 5, where we consider how the duty to cooperate should be applied and tested.**
78. In these circumstances and given the other proposals we have made, there is an opportunity to reduce the nature of the examination process.

Reporting or approval in stages

78. The legislation provides for an examination of a plan which ends with the Inspector’s report and then any adoption would be of the whole of the plan as modified. In practice Inspectors will consider whether there are any fundamental flaws at an early stage, raising any major problems in correspondence and, if necessary, by an exploratory meeting.⁴⁷ The main hearing sessions will tend to focus on strategic issues before turning to more detailed topics: for example to consider need and supply overall before addressing individual strategic sites. At any of these points the Inspector may set out interim views. Some reliance may be placed on those opinions either for the plan making process or for the weight to be attached to the draft plan and particular policies within it. Such conclusions do not have the status of the Inspector’s report, are not binding on the Inspector and do not permit the adoption of the plan in parts.
79. The PINS guidance already states (para 2.7): ‘*The Inspector will seek to identify any fundamental or cumulative flaws at the first possible opportunity. This will avoid wasted time and money if the submitted Plan has major problems which cannot be rectified.*’
80. There has been some discussion of creating an optional staged examination process.⁴⁸ We consider that the present legislation and guidance allows that and it often happens in

⁴⁷ *Examining Local Plans Procedural Practice*, para 2.7-2.10, 8.10-8.17.

⁴⁸ In particular, in the District Councils’ *Network Streamlining and Supporting the Local Plan Process - a discussion paper*, November 2014.

practice. Any showstoppers will be addressed by the Inspector as soon as they are identified. The local planning authority may ask the Inspector to give an interim view on strategic issues (such as the OAN or particular major sites) in advance of the report. Greater weight can be attached to policies and proposals which have that interim support. The statutory timetable we are proposing and the encouragement to proceed quickly with examinations will limit the occasions when it will be useful to have interim conclusions on stages. It will usually though be helpful for the Inspector to say soon after the end of the scheduled examination hearings (if not earlier) whether main modifications are required and would need to be consulted upon. There will be some cases the Inspector can simply report on the plan as a whole. The NPPF refers to greater weight being given to emerging policies which face less significant unresolved objections,⁴⁹ but could go further. **We recommend that national policy or guidance be amended to say (a) Inspectors may wish to provide interim conclusions on parts of the plan or the plan as a whole in advance of their report; (b) are encouraged to do so following the scheduled examination hearings and (c) that greater weight can be given to policies and proposals which are supported by such interim conclusions.**

Modifications and adoption

81. Main modifications which are proposed have usually been subject to non-statutory consultation. The NPPG says that main modifications should be consulted upon.⁵⁰ The Inspectorate's *Procedural Practice* says that such changes should 'where appropriate' be subject to the same process of publicity and opportunity to make representations as at the regulation 19 stage.⁵¹ The guidance retains some flexibility about whether and how consultation on modifications should take place, however the practice has often been to repeat the six week consultation which is carried out on the submission draft plan. Consultation on minor modifications has also often taken place.
82. It must be remembered that in general if a public body consults on proposals then it may make modifications in the light of that consultation without carrying out a further consultation exercise. The whole point of the original consultation is to see whether changes should be made. There will be situations where fairness or good decision making requires consultation on proposed modifications. This will usually be where they raise issues which

⁴⁹ NPPF, para 216.

⁵⁰ PPG, 2-024-20140306.

⁵¹ Para 4.21, 4.25.

have not been sufficiently canvassed before or may have consequences which require further assessment. Where SEA has been carried out then the main alternatives should already have been analysed.

83. Consequently there should not be a presumption that all modifications will be consulted upon or that any consultation will be carried out in the same way, and for the same period, as the regulation 19/20 consultation. Where consultation is appropriate, a much shorter period of two or three weeks may be sufficient, with the proposed change being publicised on the examination webpages and by email to participants. There will be occasions when the volume and complexity of the material requires a longer period or an entirely fresh issue is raised which may affect persons not already alert to the examination. In those circumstances a four week consultation and wider publicity may be needed. Any such consultation may take place during the course of the examination and will not necessarily be left until the close of the examination hearings.
84. **We recommend that the Inspectorate's *Procedural Practice* be reviewed to reflect the approach indicated above, in particular that:**
- (i) Modifications which may be proposed by the Inspector are published for representations to be made unless the Inspector and the local planning authority consider that they have been sufficiently consulted upon;**
 - (ii) Any such consultation period to be no longer than four weeks;**
 - (iii) Any non-material modifications which the local planning authority wish to make following the submission of the plan to the Secretary of State are not consulted upon.**
85. **We also recommend that local planning authorities review their Statements of Community Involvement to provide appropriate flexibility as to whether and how modifications are consulted upon.**
86. The Inspector may only recommend that main modifications are made if the local planning authority ask for recommendations. In practice such modifications will be requested unless the authority intend to withdraw the plan and most modifications will be worked up with the Inspector. **The formal step of an authority having to request the Inspector to recommend modifications is unnecessary and we recommend that the Act should be**

amended to delete it. This is though not a priority and is a change to be made when convenient.

Statements of Community Involvement

87. **The involvement of the public in plan preparation has to take place in accordance with the local planning authority's Statement of Community Involvement.⁵² We recommend that authorities should review their statements in the light of changes made by the Housing and Planning Bill and changes following this report.**

The language used in legislation

- 7.92 A final observation is that the language of the legislation is opaque and hinders its understanding. Whilst the Local Planning Regulations refer to Local Plans, the 2004 Act uses the less user-friendly expression 'development plan documents'. It also refers to local development documents which are the whole range of policy documents when they ought to be neatly divided into local plans and supplementary planning documents. Additionally whilst the submission version of the local plan is colloquially referred to as the draft plan (and we use that expression), under the legislation it is technically a local plan (or development plan plan) even though it has not been adopted.
- 7.93 The plethora of documents, and the shorthand it generated, were ridiculed by Baroness Hanham during the passage of the 2004 Act:⁵³

"to put it in the Government's own acronyms in a document entitled *Creating Local Development Frameworks*, the LDF shall be set out in an LDS, comprising LDDs, some of which are DPDs, namely the CS, AAPs and a

⁵² Planning and Compulsory Purchase Act 2004, s 19(3).

⁵³ *Hansard*, 24th February 2004, Col. 209. Her translation was:

"The Government propose that the local development framework shall be set out in a local development plan scheme comprising local development documents, some of which are development plan documents; namely, the core strategy, area action plans and a proposals map. Other documents will be local development documents but not the development plan documents, namely supplementary planning documents. A statement of community involvement will be treated as a development plan document—sometimes.

These documents will require sustainability appraisal and may need strategic environmental assessment. The development plan will be the development plan documents plus the regional spatial strategy or spatial development strategy."

proposals map. Other documents will be LDDs but not DPDs, namely SPDs, and the SCI, although the SCI will be treated as a DPD—sometimes. These documents will require SA and may need SEA. The DP will be the DPDs plus the RSS or SDS.”

- 7.94 Subsequent reforms have improved the position, but not sufficiently. Clearing up the language does require primary legislation. Whilst we do not see this as a priority, **we recommend that the legislation uses simpler language, with local plans, draft local plans and supplementary planning documents, when a convenient opportunity arises.**

Appendix 10A

Local Plan Evidence Base Requirements

LOCAL PLAN EVIDENCE BASE REQUIREMENTS

Documents forming part of the evidence base for the local plan fall into two categories: those which the local planning authority have to produce for the purposes of the plan-making and those existing documents which they need to consider when plan making.

Documents required to be produced

Provision	Requirement	Comment	Change?
PCPA 2004, s 19(5)	Carry out 'an appraisal of the sustainability of the proposals' and prepare a report of the findings (sustainability appraisal); advice to focus on likely significant environmental, economic and social impacts (PPG, 11-009-20140306)	The Planning Practice Guidance expects the same level of detail for a sustainability appraisal as for strategic environmental assessment: see 11-14 to 11-23	Revise the guidance to emphasise a single stage document explaining how the local plan is sustainable development
PCPA 2004, s 24(4)(a), Local Planning Regulations, reg 21(2)	London borough's request for the Mayor of London's view on general conformity of the plan with the London Plan, and the Mayor's response		No
Self-build and Custom Housebuilding Act 2015, s 2	Regard to the Self-build and Custom Housebuilding register for its area		No
Local Planning Regulations, reg 18(1)	notice of the subject of the plan which the authority propose to prepare		Reg 18 consultation to be amended to be initial community consultation
Local Planning Regulations, reg 17, 19	statement of the representations procedure, which specifies: (a) the title of the local plan which the local planning authority propose to submit to the Secretary of State; (b) the subject matter of, and the area covered by, the local plan; (c) the date by which representations about the local plan must be received by		Revise to a six week consultation

Provision	Requirement	Comment	Change?
	<p>the local planning authority, which must be not less than 6 weeks from the day on which the statement is published;</p> <p>(d) the address to which representations about the local plan must be made;</p> <p>(e) that representations may be made in writing or by way of electronic communications; and</p> <p>(f) that representations may be accompanied by a request to be notified at a specified address of any of the following—</p> <p>(i) the submission of the local plan for independent examination under section 20 of the Act,</p> <p>(ii) the publication of the recommendations of the person appointed to carry out an independent examination of the local plan under section 20 of the Act, and</p> <p>(iii) the adoption of the local plan.</p>		
Local Planning Regulations, reg 19(b)	Statement that proposed submissions documents are available for inspection		No
Local Planning Regulations, reg 17	if the adopted policies map would be changed, a submission policies map	One of the proposed submission documents which are consulted upon	No
Local Planning Regulations, reg 17	<p>a statement setting out—</p> <p>(i) which bodies and persons were invited to make representations under regulation 18,</p> <p>(ii) how those bodies and persons were invited to make such representations,</p> <p>(iii) a summary of the main issues raised by those representations, and</p> <p>(iv) how those main issues have been addressed in the local plan</p>	One of the proposed submission documents which are consulted upon	No
Local Planning Regulations, reg 17	such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan	One of the proposed submission documents which are consulted upon	Revise to ' <i>Only such supporting documents as the local planning authority considers</i>

Provision	Requirement	Comment	Change?
			<i>strictly necessary to show whether the local plan is legally compliant, sound and in compliance with any duty to cooperate'</i>
Local Planning Regulations, reg 22(1)(c)	a statement setting out— (i) which bodies and persons the local planning authority invited to make representations under regulation 18 , (ii) how those bodies and persons were invited to make representations under regulation 18 , (iii) a summary of the main issues raised by the representations made pursuant to regulation 18 , (iv) how any representations made pursuant to regulation 18 have been taken into account; (v) if representations were made pursuant to regulation 20 , the number of representations made and a summary of the main issues raised in those representations; and (vi) if no representations were made in regulation 20 , that no such representations were made;	Submitted to the Secretary of State. The first four matters are in the statement consulted upon under reg 20. The final two summarise, but do not respond to, the reg 20 consultation.	Revise to reflect the amendments to reg 18
			Add any modifications submitted as part of the plan
Local Planning Regulations, reg 22(1)(d)	Copies of the regulation 20 representations		
			Submission of representations made to any modifications
Local Planning Regulations, reg 22(1)(e)	such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan	Submitted to the Secretary of State. This may be a different set of documents to those	Revise to 'Only such supporting documents as the local planning authority considers

Provision	Requirement	Comment	Change?
		consulted upon	<i>strictly necessary to show whether the local plan is legally compliant, sound and in compliance with any duty to cooperate'</i>
Local Planning Regulations, reg 22(3)(iv)	Statement post-submission that documents are available for inspection		No
Local Planning Regulations, reg 24	Notice of any examination hearings and the examiner's name		Suggest shorten the notice period to four weeks
Environmental Assessment of Plans and Programmes Regulations 2004, reg 12	<p>Environmental Report for Strategic Environmental Assessment:</p> <p>This report will (Environmental Assessment of Plans and Programmes Regulations 2004, regulation 12(2)):</p> <p>"identify, describe and evaluate the likely significant effects on the environment of--</p> <p>(a) implementing the plan or programme; and</p> <p>(b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.</p> <p>This shall contain the information identified in Schedule 2 as 'may reasonably be required, taking account of-</p> <p>(a) current knowledge and methods of assessment;</p> <p>(b) the contents and level of detail in the plan or programme;</p> <p>(c) the stage of the plan or programme in the decision-making process; and</p> <p>(d) the extent to which certain matters are more appropriately assessed at</p>		No

Provision	Requirement	Comment	Change?
	<p>different levels in that process in order to avoid duplication of the assessment.’¹</p> <p>Schedule 2 refers to:</p> <p>“1 An outline of the contents and main objectives of the plan or programme, and of its relationship with other relevant plans and programmes.</p> <p>2 The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme.</p> <p>3 The environmental characteristics of areas likely to be significantly affected.</p> <p>4 Any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Council Directive 79/409/EEC on the conservation of wild birds and the Habitats Directive.</p> <p>5 The environmental protection objectives, established at international, Community or Member State level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation.</p> <p>6 The likely significant effects on the environment, including short, medium and long-term effects, permanent and temporary effects, positive and negative effects, and secondary, cumulative and synergistic effects, on issues such as--</p> <p>(a) biodiversity;</p>		

¹ 2004 Regulations, regulation 12(3)

Provision	Requirement	Comment	Change?
	<p>(b) population;</p> <p>(c) human health;</p> <p>(d) fauna;</p> <p>(e) flora;</p> <p>(f) soil;</p> <p>(g) water;</p> <p>(h) air;</p> <p>(i) climatic factors;</p> <p>(j) material assets;</p> <p>(k) cultural heritage, including architectural and archaeological heritage;</p> <p>(l) landscape; and</p> <p>(m) the inter-relationship between the issues referred to in sub-paragraphs (a) to (l).</p> <p>7 The measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme.</p> <p>8 An outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information.</p> <p>9 A description of the measures envisaged concerning monitoring in accordance with regulation 17.</p> <p>10 A non-technical summary of the information provided under paragraphs 1 to 9."</p>		
Conservation of Habitats and Species Regulations 2010; Planning Practice Guidance, 12-016-20140306	If there are likely significant effects on European Protected Sites then an appropriate assessment is required. This is not strictly an obligation to produce a document but in practice 'Habitats Regulations Assessments' are produced to consider whether there are likely significant effects and, if so, to carry out		No

Provision	Requirement	Comment	Change?
	appropriate assessment. The Planning Practice Guidance says that a Habitats Regulations Assessment is required in such cases		
Planning Practice Guidance, 11-014-20140306	Sustainable appraisal scoping report encouraged at pre-reg 18 stage		Since sustainability appraisal will be a single stage exercise, this should be deleted
Planning Practice Guidance, 12-018-20140306	Encourages the production of an Infrastructure Delivery Plan 'The detail concerning planned infrastructure provision can be set out in a supporting document such as an infrastructure delivery programme that can be updated regularly.'		Authorities to only produce such a document if necessary. Utilities and statutory consultees expected to do more of the work
Planning Practice Guidance, 12-018-20140306	Evidence of viability testing of the proposals, including for the effects of the Community Infrastructure Levy		No
Planning Practice Guidance, 9-001-20140306, 9-003-20140306, 9-011-20140306	Demonstrate compliance with the duty to cooperate. 'If another authority will not cooperate this should not prevent the authority bringing forward a Local Plan from submitting it for examination. However, the authority will need to submit comprehensive and robust evidence of the efforts it has made to cooperate and any outcomes achieved and this will be thoroughly tested at the examination.' This may involve a statement submitted to the examination (9-011-20140306)		This should be revised to reflect our proposals in section 5
Planning Practice Guidance 9-016-20140306, 9-017-20140306	As part of the duty to cooperate 'formal agreements, signed by their elected members, demonstrating their long term commitment to a jointly agreed strategy on cross boundary matters' are encouraged where Local Plans are not being taken forward in the same broad time frame. These should be provided to the examination		This should be revised to reflect our proposals in section 5
NPPF para 159,	Strategic Housing Market Assessment which 'should identify the scale and mix of housing and the range of tenures that		This should be revised to reflect our

Provision	Requirement	Comment	Change?
	the local population is likely to need over the plan period which: — meets household and population projections, taking account of migration and demographic change; — addresses the need for all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); and — caters for housing demand and the scale of housing supply necessary to meet this demand		proposals in section 3
NPPF para 159,	Strategic Housing Land Availability Assessment ‘to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period.’		No
NPPF para 174	Assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the development plan, when added to nationally required standards		No
LPEG report, section 9	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.		LPEG group proposal

Documents required to be considered

Provision	Requirement	Comment	Change
PCPA 2004, s 19(1)	The plan must be prepared in accordance with the local development scheme		No
PCPA 2004, s 19(2)(a)	national policies and advice contained in guidance issued by the Secretary of State		No

Provision	Requirement	Comment	Change
PCPA 2004, s 19(2)(b)	the regional strategy for the authority's area, if still in force		No
PCPA 2004, s 19(2)(c)	the London Plan if the authority are a London borough or if any part of the authority's area adjoins Greater London		No
PCPA 2004, s 19(2)(d)	Any the regional strategy for any region which adjoins the area of the authority		No
PCPA 2004, s 19(2)(e)	the Wales Spatial Plan if the authority's area adjoins Wales		No
PCPA 2004, s 19(2)(h)	any other local development document which has been adopted by the authority	Does not require regard to local plan documents prepared by a different tier authority or to neighbourhood plans	No change to the Act. Other local plans and neighbourhood plans in the authority's area should be included in regulations as potentially relevant
PCPA 2004, s 19(2)(i)	the resources likely to be available for implementing the proposals in the document		No
PCPA 2004, s 19(3)	Comply with their statement of community involvement		No
PCPA 2004, s 33A(7)	Any guidance issued by the Secretary of State about how the duty to cooperate is to be complied with		No
PCPA 2004, s 33A(2)(b); Local Planning Regulations, reg 4(2)	Have regard to the activities of prescribed persons insofar as they are relevant. The prescribed persons are local enterprise partnerships and local nature partnerships		No
PCPA 2004, s 34	Any guidance issued by the Secretary of State		No
PCPA 2004, s 39(3)	When exercising the plan making function with the objective of contributing to the achievement of sustainable development, to have regard to national policies and advice contained in guidance issued by the Secretary of State for these purposes		No
Local Planning Regulations, reg 10(1)(a)	The local transport plan (policies developed by a local transport authority under section 108 of the Transport Act 2000)		Regulation 10 to be amended generally to require regard 'where relevant'
Local Planning Regulations, reg	The objectives and provisions of the Control of Major Accident Hazards		

Provision	Requirement	Comment	Change
10(1)(b),(c)	Directive		
Local Planning Regulations, reg 10(1)(d)	The national waste management plan		
Local Planning Regulations, reg 10(1)(e)	Planning Policy Wales if the authority's area adjoins Wales	The regulations refer to the 2011 edition, which has now been superseded	Amend to refer to whatever is the current Planning Policy Wales
Local Planning Regulations, reg 10(1)(f)	National Planning Framework for Scotland if the authority's area adjoins Scotland	The regulations refer to the 2009 edition, which has now been superseded	Amend to refer to whatever is the current National Planning Framework for Scotland
Local Planning Regulations, reg 18(3)	Any representations made in the regulation 18(1) consultation		Note the change to regulation 18
Planning Practice Guidance, 11-016-20140306	'baseline information' refers to the existing environmental, economic and social characteristics of the area likely to be affected by the Local Plan, and their likely evolution without implementation of new policies		Emphasis that this must be proportional to the issues on the plan
NPPF, para 161	Evidence base on business needs and likely changes in the market, used to assess land and floor space requirements and supply, town centre roles, functions and capacity, locations of deprivation and the needs of the 'food production industry'		Emphasise generally that information should only be provided to the examination if necessary. Otherwise no
NPPF, para 162	Assessment of quality and capacity of infrastructure, in its widest sense		No
NPPF, para 163	Mineral resources and demand, including secondary and other sources		No
NPPF, para 164	Information on defence and security needs		No
NPPF, para 164	Information on higher-risk sites for malicious threats and natural hazards		No
NPPF, para 165	River Basin Management Plans		No
NPPF, para 165	assessment of existing and potential components of ecological networks		No
NPPF, para 166	Strategic Flood Risk Assessment may be required		No
NPPF, para 168	Shoreline Management Plans (in coastal		No

Provision	Requirement	Comment	Change
	areas)		
NPPF, para 169	Consideration of the Historic Environment Record	This does not have to be included in the evidence before the examination	No
NPPF, para 170	landscape character assessments, where appropriate, including assessment of historic landscape character		No
NPPF, para 171	Information about health status and needs of the local population, including relevant barriers to improving health and well-being		No
NPPF, para 172	up-to-date information on the location of major hazards and on the mitigation of the consequences of major accidents		No

Appendix 11

The Role of the Planning Inspectorate

THE ROLE OF THE PLANNING INSPECTORATE

1. Several respondents expressed concern about the approach of the Planning Inspectorate (PINS) to local plans. These concerns typically fell into one of the following 3 categories:-
 - i. that PINS is too interventionist, with Inspectors imposing their will rather than accepting the judgement of local authorities and local communities;
 - ii. the contrary view – that Inspectors were too lenient in allowing poor plans to be adopted and taking too soft an approach to the failures of local authorities to plan for sufficient growth; and
 - iii. that there was significant inconsistency between the conclusions reached by different Inspectors on the same issues.
2. Inspectors, of course, are at the “*sharp end*” of the local plan process. By definition, they are often called upon to mediate complex issues where opinions are strongly held on either side. It is inevitable, therefore, that their judgements come in for criticism from those who feel aggrieved by the outcome. We were not surprised, therefore, to see these concerns expressed and we have sought in some cases to investigate the fairness of the criticisms.
3. What was notable, however, was that the number of respondents expressing concerns about PINS was relatively limited. Those who did express concern tended to do so strongly but those concerns came from a relatively small proportion of our respondents and the approach taken by PINS did not feature significantly in our stakeholder engagement meetings. Indeed, there was strong support for retaining and protecting the independent role that the Planning Inspectorate performs.
4. As an introduction to this issue, it would be fair to recognise the challenges facing PINS in the role handed to them to examine the soundness of local plans. In particular, other aspects of our review have identified:-
 - i. that there is no clarity in regulations or policy about the extent of evidence that is necessary to support a local plan;
 - that the calculation and settlement of housing numbers is unnecessarily complex and inevitably generates detailed inconsistencies and competing

analyses from local plan participants – placing PINS in a position where they must arbitrate on such matters as complex economic forecasting and detailed demographic judgements without any clear rules;

- that there is a reluctance from a substantial proportion of planning authorities to accept the obligations required by the NPPF to plan positively to meet growth;
- that many local authorities are not adequately committing to the Duty to Cooperate, placing Inspectors in the difficult position of having to decide the extent to which they must encourage joint working or accept the consequences of inadequate collaboration;
- the requirements of the NPPF and the NPPG are national policy and guidance and it is the obligation of PINS to apply them. Understandable confusion and uncertainty can be generated, therefore, when Inspectors are asked by politicians to be “pragmatic” in their judgements – particularly when that requirement is not reflected in any change to the policy, regulations or guidance which they are obliged to apply; and
- PINS resources are well known to be stretched. Many Planning Inspectors now find themselves dealing with 3 local plan examinations concurrently.

5. Against the background of these challenges, it is our opinion that the Planning Inspectorate upholds strong principles of integrity. Consistent with the principles of fairness, openness and impartiality established by the Franks Report in 1957, there is a wide spread understanding in the planning profession that the Planning Inspectorate rigorously observes these principles and acts as an essential guardian of planning policy. The independence of PINS is comparable to the independence of the judiciary and PINS’ reputation for fair mindedness is an essential component of the planning system.
6. That does not mean, however, that no inconsistency is ever apparent, although it should be recognised that:-
 - i. whilst the circumstances of individual cases may appear superficially the same, closer examination of the evidence often reveals differences; and
 - ii. Inspectors are only able to base their assessments on the evidence provided.

7. Respondents provided some examples of concerns that Inspectors were too heavy handed in their approach to local plans. Examples provided included:

East Hampshire

- Delete sequential approach to the release of land for housing
- New policy relating to accommodation for the elderly
- New policy supporting development that improves employment and workforce skills

Fareham

- Providing greater clarity about the council's approach to the protection of employment land
- Addition of the criteria to guide the future review of strategic gap boundaries
- Clarifying approach in respect of Gypsies Travellers and Travelling Showpeople

East Dorset and Christchurch

- Allocate a specific site
- Amend policies for protecting historic heritage and protected landscapes
- Clarify approach to the provision of SAN and other infrastructure

Oxford City Council

- Revise the policy on student accommodation.
- Amend policy CS10 to confirm that all developments should seek to minimise their carbon emissions.
- Remove the general references to small scale reviews of the green belt.

Wealden District Council

- Add reference to the council being proactive in addressing nitrogen deposition issues at Ashdown forest.
- Delete site in Heathfield and contingency site at Crowborough.
- Include a policy on the presumption in favour of sustainable development.

7. Concern was also expressed, for instance, that Inspectors had rejected local plan proposals for new settlements on grounds of sustainability, Green Belt or because the requirements of SEA (testing alternatives) were not met.

8. We took the trouble to investigate these concerns. In each case, however, it was our view that the approach of the Inspectors was justified and represented a proper application of national policy.
9. There may be issues of policy and philosophy which are relevant to this debate. Until the time that Planning Inspectors are told not to ensure the proper application of national policy, however, it is our judgement that the planning system should be grateful for the strength and independent mindedness of PINS.
10. Another concern expressed by more than one party was that Inspectors had allowed appeals for housing despite the presence of a 5 year supply of housing land having recently been demonstrated through a local plan; our attention was drawn for instance to recent appeals in Cheshire West. Again we did not find these concerns a legitimate basis for complaint, not least because:
 - i. the Inspectors were obliged to consider the (new) evidence presented at the planning inquiries as material considerations; and
 - ii. The NPPF does not limit housing to a 5 year supply, rather it sets out positive policies for development and requires local plans to provide a presumption in favour of sustainable development.
11. There is a separate issue here about whether confidence can be created in matters settled through local plans and we have set out recommendations on this matter in Sections 3, 9 and 11 of our report. Pending the introduction of such measures, however, Planning Inspectors are obliged to determine appeals and local plans in accordance with existing policy and guidance.
12. Whilst a significant proportion of local plan examinations have been suspended by Planning Inspectors, it is apparent that the reasons for such suspension commonly relate to a failure of the submitted plan to meet national policy. Indeed, PINS has contributed very substantially to the national call for local plans to meet the nation's housing need. There are multiple examples of PINS' intervention resulting in underproviding plans being revised to promote housing provision closer to OAN. In just one example, for instance, in the examination of the Cheshire East Local Plan, the Inspector suspended the examination because of "fundamental shortcomings" in the proposed housing provision of 27,000 homes. The plan has now been revised to 36,000 homes and the Inspector has sought to assist the local authority by indicating his in principle support for the revised figure, thereby providing confidence that the

examination can continue. Comparable examples are apparent across the country, including in Warwick, North Somerset, Central Beds, Stratford, Litchfield, South Somerset, Brighton and Hove, Derbyshire Dales, East Staffordshire, Swale etc. There is no doubt that PINS interventions have contributed substantially towards ensuring that the planning system is more able to meet the country's housing needs.

13. This role is inevitably controversial. Several local authorities were keen to express their concern to us that their locally agreed plans were being held up or even rejected by Planning Inspectors. We make recommendations elsewhere about the extent to which it is possible to avoid these issues arising late in the local plan process and also whether it would be helpful to revise the tests of soundness which PINS are obliged to apply. Pending such changes, however, we are clear that the planning system owes a debt to the Planning Inspectorate because of its robust determination to apply national policy fairly.
14. PINS publishes its own procedure guide to examining ¹local plans ²which sets out clearly the process and expectations that planning inspectors will follow through local plan examinations. We are aware that the Guide is being revised by PINS to reflect how the requested approach to pragmatism set out in the Secretary of State's letter of 15 July 2015 will be applied in practice. We were provided with an early draft of the proposed revisions and we were content with their clear and proportionate approach.
15. We met with PINS to discuss their processes for ensuring consistency. PINS has an internal quality assurance process that involves senior and experienced Inspectors reading all examination reports before they are sent to Councils for fact checking. Whilst this process appears to be reasonably successful, it has to be recognised that it has its limitations, particularly as understandably the reading Inspectors do not have the opportunity to access the evidence presented to the examination. The Inspectorate also arranges an annual training event specifically for all Inspectors undertaking development plan examinations. However, internal briefing notes are not provided to Inspectors on matters of policy interpretation because it is rightly the role of the NPPG to set out a definitive approach to guidance and of the NPPF to set out national policy.
16. Within these necessary constraints, there is one area where we believe consistency could be improved – for the benefit of Planning Inspectors but also of planning practitioners. **We**

¹ Ref to be added

² Ref to be added

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.

17. This might usefully cover areas where Inspectors are commonly asked to make judgements about similar issues – how to adjust for market signals in an OAN calculation would have been one good example of a recent recurring issue. A report which recorded the decisions made by different Inspectors and the consistency or otherwise of those decisions on such issues would inevitably aid transparency and provide a useful source for planning practitioners and policy makers.

Appendix 12

Local Plan Requirements

LOCAL PLAN REQUIREMENTS

National Planning Policy Framework

Paragraph	Requirement	Comment	Change in principle
Glossary	<i>“Local Plan: The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. Current core strategies or other planning policies, which under the regulations would be considered to be development plan documents, form part of the Local Plan. The term includes old policies which have been saved under the 2004 Act.”</i>	Definition	No
14	<i>“...Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change....”</i>	Strategic Policy Requirement (Housing)	No
15	<i>“All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.”</i>	Strategic Policy Requirement (Sustainable Development)	No
21	<i>“In drawing up Local Plans, local planning authorities should : -set out a clear economic vision for their area which...encourages sustainable economic growth -set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period -support existing business sectors...and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances -plan positively for the location, promotion and expansion of clusters or networks of knowledge</i>	Strategic Policy Requirement (Economic Growth)	No, although plans can devolve detailed allocations to Neighbourhood Plans or Site Allocations Plans

Paragraph	Requirement	Comment	Change in principle
	<p><i>driven, creative or high technology industries</i></p> <p><i>-identify priority areas for economic regeneration, infrastructure provision and environmental enhancement</i></p> <p><i>-facilitate flexible working practices such as the integration of residential and commercial uses within the same unit."</i></p>		
23	<p><i>"Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should :</i></p> <p><i>-....pursue policies to support their viability and vitality</i></p> <p><i>-define a network and hierarchy of centres that is resilient to anticipated future economic changes</i></p> <p><i>-define the extent of town centres and primary shopping areas...set policies that make clear which uses will be permitted in such locations</i></p> <p><i>-promote competitive town centres that provide customer choice and a diverse retail offer....</i></p> <p><i>-retain and enhance existing markets...ensuring that markets remain attractive and competitive</i></p> <p><i>-allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres....important that needs for retail, leisure, office and other main town centre uses are met in full...</i></p> <p><i>-allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available...</i></p> <p><i>-recognise that residential development can play an important role in ensuring the vitality of centres.</i></p> <p><i>-where town centres are in decline, local planning authorities should plan positively for</i></p>	Strategic Policy Requirement (Town Centres)	No

Paragraph	Requirement	Comment	Change in principle
	<i>their future..."</i>		
30	<i>"...In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport".</i>	Strategic Policy Requirement (Sustainable Development)	No
43	<i>"In preparing Local Plans, local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband....Existing masts, buildings and other structures should be used, unless the need for a new site is justified..."</i>	Strategic Policy Requirement (Communications)	No Detailed policies in non-strategic documents
47	<i>"...ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area..."</i>	Strategic Policy Requirement (Housing)	No
58	<i>"Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area"</i>	Strategic Policy Requirement (Quality) and Local Policy	Detailed Policies in non-strategic documents
69	<i>"...Local Planning Authorities should create a shared vision with communities of the residential environment and facilities they wish to see...should aim to involve all sections of the community in the development of Local Plans....and should facilitate neighbourhood planning...Planning policies and decisions...should aim to achieve places which promote: -opportunities for meetings between members of the community who might not otherwise come into contact with each other....through mixed-use developments, strong neighbourhood centres and active street frontages... -safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion -safe and accessible developments, containing clear and legible pedestrian routes, and high</i>	Strategic Policy Requirement (Place-shaping)	No Although local plans should do more through signposting to create the scope of and role for more detailed development plan documents, Supplementary Planning Documents and Neighbourhood Plans.

Paragraph	Requirement	Comment	Change in principle
	<i>quality public space...</i>		
70	<i>“...planning policies and decisions should: -plan positively for the provision and use of shared space, community facilities...and other local services to enhance the sustainability of communities and residential environments” -guard against the unnecessary loss of valued facilities and services... -ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable.... -ensure an integrated approach to considering the location of housing, economic uses and community facilities and services”</i>	Strategic Policy Requirement (Place-shaping) and Local Policy	Detailed Policies in non-strategic documents
75	<i>“Planning policies should protect and enhance public rights of way and access...for example by adding links to existing rights of way networks...”</i>	Local Policy (Public Rights of Way)	Inclusion in non-strategic documents
76	<i>“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance.....Local Green Spaces should only be designated when a plan is prepared or reviewed...”</i>	Local Policy (Green Spaces)	Inclusion in non-strategic documents
83	<i>“Local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans.....”</i>	Strategic Policy Requirement (Green Belt)	No
96	<i>“....comply with adopted Local Plan policies on local requirements for decentralised energy supply....”</i>	Local Policy (Decentralised Energy Supply)	Inclusion in non-strategic documents
99	<i>“Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape....”</i>	Strategic Policy Requirement (Climate Change)	No
100	<i>“Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources...”</i>	Strategic Policy Requirement (Flood Risk)	No
143	<i>“In preparing Local Plans, local planning authorities should: -identify and include policies for extraction of mineral resource of local and national importance in their area...</i>	Strategic Policy Requirement (Minerals Safeguarding)	No

Paragraph	Requirement	Comment	Change in principle
	<p><i>...define Minerals Safeguarding Areas and adopting appropriate policies in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development...</i></p> <p><i>-safeguard existing, planned and potential rail heads, rail links to quarries, wharfage and associated storage, handling and processing facilities...</i></p> <p><i>-safeguard existing, planned and potential sites for concrete batching, the manufacture of coated materials, other concrete products....</i></p> <p><i>-set out policies for the prior extraction of minerals...if it is necessary for non-mineral development...</i></p> <p><i>-put in place policies to ensure that worked land is reclaimed at the earliest opportunity..."</i></p>		
144	<i>"Local planning authorities should...set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure...."</i>	Strategic Policy Requirement (Biodiversity/Green Infrastructure)	No
126	<i>"Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment...."</i>	Strategic Policy Requirement (Historic Environment)	No
150	<i>"Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities."</i>	Strategic Policy Requirement (Sustainable Development)	No
151	<i>"Local Plans must be prepared with the objective of contributing to the achievement of sustainable development. To this end, they should be consistent with the principles and policies set out in this Framework, including the presumption in favour of sustainable development."</i>	Strategic Policy Requirement (Sustainable Development)	No
152	<i>"Local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across</i>	Strategic Policy Requirement (Sustainable Development)	No

Paragraph	Requirement	Comment	Change in principle
	<i>all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adequate mitigation measures are not possible, compensatory measures may be appropriate."</i>		
153	<i>"Each local planning authority should produce a Local Plan for its area. The can be reviewed in whole or in part to respond flexibly to changing circumstances. Any additional development plan documents should only be used where clearly justified."</i>	Process (General)	Amend to make clear the legitimacy of a staged approach to local plan production, starting with a strategic Local Plan document.
154	<i>"Local Plans should be aspirational but realistic. They should address the spatial implications of economic, social and environmental change. Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where. Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan."</i>	Process (General)	No
155	<i>"Local Plans, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area, including those contained in any neighbourhood plans that have been made."</i>	Strategic Policy Requirement (Sustainable Development)	No
156	<i>"Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver:</i> <ul style="list-style-type: none"> <i>• the homes and jobs needed in the area;</i> <i>• the provision of retail, leisure and other commercial development;</i> <i>• the provision of infrastructure for transport, telecommunications, waste management,</i> 	Strategic Policy Requirement (Priorities)	No

Paragraph	Requirement	Comment	Change in principle
	<p><i>water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);</i></p> <ul style="list-style-type: none"> <i>the provision of health, security, community and cultural infrastructure and other local facilities; and</i> <i>climate change mitigation and adaption, conservation and enhancement of the natural and historic environment, including landscape."</i> 		
157	<p><i>"Crucially, Local Plans should:</i></p> <ul style="list-style-type: none"> <i>plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of this framework;</i> <i>be drawn up over an appropriate time scale, preferably a 15-year time horizon, take account of longer term requirements, and be kept up to date;</i> <i>be based on co-operation with neighbouring authorities, public, voluntary and private sector organisations;</i> <i>indicate broad locations for strategic development on a key diagram and land-use designations on a proposals map;</i> <i>allocate sites to promote development and flexible use of land, bringing forward new land where necessary, and provide detail on form, scale, access and quantum of development where appropriate;</i> <i>identify land where development would be inappropriate, for instance because of its environmental or historic significance; and</i> <i>contain a clear strategy for enhancing the natural, built and historic environment, and supporting Nature Improvement Areas where they have been identified."</i> 	Strategic Policy Requirement (Priorities)	No
158	<p><i>"Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date relevant evidence about the economic, social and environmental characteristics and</i></p>	Process (Evidence Base)	No

Paragraph	Requirement	Comment	Change in principle
	<i>prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals."</i>		
165	<i>"Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area including drawing, for example, from River Basin Management Plans. Working with Local Nature Partnerships where appropriate, this should include an assessment of existing and potential components of ecological networks".</i>	Process (Evidence Base)	No
173	<i>"Plans should be deliverable....To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."</i>	Process (Evidence Base)	No
174	<i>"Local planning authorities should set out their policy on local standards in the Local Plan, including requirements for affordable housing."</i>	Strategic Policy Requirement (Local Standards) and Local Policy	Detailed local criteria in non-strategic documents
175	<i>"Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan."</i>	Process (CIL)	No
182	<i>"A local planning authority should submit a plan for examination which it considers is "sound" – namely that it is:</i> <i>- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do</i>	Process (General) (c.f. PAS Soundness Self-Assessment Checklist)	Amend the second criteria...plans should be an appropriate strategy...

Paragraph	Requirement	Comment	Change in principle
	<p><i>so and consistent with achieving sustainable development;</i></p> <ul style="list-style-type: none"> - <i>Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;</i> - <i>Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and</i> - <i>Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.</i> 		

National Planning Practice Guidance (PPG)

Paragraph	Requirement	Comment	Change
2b-002 – Ensuring the vitality of town centres	<i>“A positive vision or strategy for town centres, articulated through the Local Plan, is key to ensuring successful town centres which enable sustainable economic growth and provide a wide range of social and environmental benefits”</i>	Strategic Policy Requirement (Town Centres) (c.f. NPPF para. 23)	No
5-007 – Renewable and low carbon energy	<i>“Policies based on clear criteria can be useful when they are expressed positively....In shaping local criteria for inclusion in Local Plans....it is important to be clear that...the need for renewable or low carbon energy does not automatically override environmental protections; cumulative impacts require particular attention....local topography is an important factor....great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance....”</i>	Strategic Policy Requirement (Renewable and Low Carbon Energy) and Local Policy	Detailed local criteria in non-strategic documents
6-001 – Climate change (cross-reference to	<i>“....there is a statutory duty on local planning authorities to include policies in their Local Plans designed to tackle climate change and</i>	Strategic Policy Requirement (Climate Change)	No

NPPF paras. 93 and 94)	<i>its impacts.”</i>		
7-001 – Flood Risk and Climate Change (cross-reference to NPPF paras. 100-104)	<i>“In plan-making local planning authorities apply a sequential approach to site selection so that development is, as far as reasonably possible, located where the risk of flooding (from all sources) is lowest, taking account of climate change and the vulnerability of future uses to flood risk. In plan-making, this involves applying the ‘Sequential Test’ to Local Plans and, if needed, the ‘Exception Test’ to Local Plans.”</i>	Strategic Policy Requirement (Flood Risk and Climate Change)	No
7-006 – Flood Risk and Climate Change	<i>“Local planning authorities should work with lead local flood authorities to secure Local Plan policies compatible with the local flood risk management strategy.”</i>	Strategic Policy Requirement (Flood Risk and Climate Change)	No
8-004 – Natural Environment (cross-reference to NPPF para. 165)	<i>“Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area....National Parks and Area of Outstanding Natural Beauty management plans....should be taken into account in the local planning authorities’ Local Plans....”</i>	Strategic Policy Requirement (Natural Environment) – N.B. Conformity with National Parks/AONB Management Plans	No
9-002 – Duty to Co-operate (cross-reference to NPPF para. 182)	<i>“The duty to cooperate is a legal test that requires cooperation between local planning authorities and other public bodies to maximise the effectiveness of policies for strategic matters in Local Plans. It is separate from but related to the Local Plan test of soundness....In assessing whether the Local Plan is effective the Inspector will assess whether it is deliverable within the timescale set by the Local Plan and if it demonstrates effective joint working to meet cross boundary strategic priorities....”</i>	Process (Duty to Co-operate)	No
10-025 – Viability (cross-reference to NPPF para. 111)	<i>“Local Plan policies should reflect the desirability of re-using brownfield land, and the fact that brownfield land is often more expensive to develop.....Particular consideration should also be given to Local Plan policies on planning obligations, design, density and infrastructure investment....”</i>	Strategic Policy Requirement (Viability) and Local Policy	Detailed local policies in non-strategic documents
11-005 –	<i>“Sustainability appraisal is required during</i>	Process (SA/SEA)	No

Strategic environmental assessment and sustainability appraisal	<i>the preparation of a Local Plan. The local planning authority must carry out an appraisal of the sustainability of the proposals. This will help the authority to assess how the plan will contribute to the achievement of sustainable development."</i>		
12-001 – What is the role of a Local Plan?	<i>"...Local Plans set out a vision and a framework for the future development of the area, addressing needs and opportunities in relation to housing, the economy, community facilities and infrastructure – as well as a basis for safeguarding the environment, adapting to climate change and securing good design..."</i>	Strategic Policy Requirement (Vision)	No
12-002 – What should a Local Plan contain?	<i>"The Local Plan should make clear what is intended to happen in the area over the life of the plan, where and when this will occur and how it will be delivered. This can be done by setting out broad locations and specific allocations of land for different purposes....and through criteria-based policies to be taken into account when considering development. A policies map must illustrate geographically the application of policies in a development plan....."</i>	Process (Local Plan Contents – General)	No
12-006 (1) – How should local planning authorities express the need for different types of housing in their Local Plan?	<i>"Local planning authorities should ensure that the policies in their Local Plan recognise the diverse types of housing needed in their area....."</i>	Strategic Policy (Housing Needs)	No
12-010 – How detailed should a Local Plan be? (cross-reference to NPPF para. 156)	<i>"While the content of Local Plans will vary depending on the nature of the area and issues to be addressed, all Local Plans should be as focused, concise and accessible as possible. They should concentrate on the critical issues facing the area – including its development needs – and the strategy and opportunities for addressing them, paying careful attention to both deliverability and viability.....Regulations 8 and 9 of the Town</i>	Local Plan Content (Strategic Policy Priorities)	No

	<i>and Country Planning (Local Planning) (England) Regulations 2012 prescribe the general form and content of Local Plans and adopted policies maps...”</i>		
18-004 - Conserving and enhancing the historic environment	<i>“In line with the National Planning Policy Framework, local authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment...The delivery of the strategy may require the development of specific policies, for example, in relation to use of buildings and design of new development and infrastructure....”</i>	Strategic Policy (Historic Environment) and Local Policy	Detailed local policies in non-strategic documents, including Neighbourhood Plans
23b-003 – Planning obligations (cross reference to NPPF para. 153)	<i>“Policies for seeking planning obligations should be set out in a Local Plan...”</i>	Strategic Policy Requirement (Planning Obligations)	No
26-030 - Design	<i>“A Local or Neighbourhood Plan is essential to achieving high quality places. A key part of any plan is understanding and appreciating the context of an area, so that proposals can then be developed to respect it....Local plans must be informed by what is deliverable”</i>	Strategic Policy Requirement (Place-shaping) and Local Policy	Detailed local policies in non-strategic documents, including Neighbourhood Plans
27-005 - Minerals	<i>“Whilst district councils are not mineral planning authorities, they have an important role in safeguarding minerals....having regard to the local minerals plan when identifying areas for non-mineral development....should show Mineral Safeguarding Areas on their policy maps....”</i>	Strategic Policy Requirement (Minerals Safeguarding)	No
28-011 - Waste	<i>“The Local Plan relating to waste should identify sufficient opportunities to meet the identified needs of an area for the management of waste, aiming to drive waste management up the Waste Hierarchy. It should ensure that suitable sites and areas for the provision of waste management facilities are identified in appropriate locations.”</i>	Waste Local Plan Requirements	No
30-001 – Noise (cross reference to NPPF para.	<i>“....When preparing local or neighbourhood plans, or taking decisions about new development, there may also be</i>	Local Policy	Detailed local criteria in non-strategic

123)	<i>opportunities to consider improvements to the acoustic environment."</i>		documents
32-002 – Air quality	<i>"Local Plans can affect air quality in a number of ways including through what development is proposed and where, and the encouragement given to sustainable transport..."</i>	Strategic Policy Requirement (Sustainable Development) and Local Policy	Detailed local criteria in non-strategic documents
33-005 – Land affected by contamination	<i>"Consideration of land contamination in Local Plans will vary between places and the type of issues that the plan needs to cover, but it can be helpful to consider a strategic, phased approach to dealing with potential contamination....use sustainability appraisal...allocate land which is known to be affected by contamination only for appropriate development – and be clear on the approach to remediation..."</i>	Strategic Policy Requirement (Contamination) and Local Policy	Detailed local criteria in non-strategic documents
34-002 – Water supply, wastewater and water quality (cross-references to NPPF paras. 94, 99, 109, 156 and 157)	<i>"This will vary depending on the character of the local authority area, the type of issues the Local Plan will need to grapple with and the contribution that can be made to a 'catchment-based approach'....In plan-making, there are a number of broad considerations relevant to water supply and water quality – infrastructure, water quality, wastewater, cross-boundary concerns, strategic environmental assessment and sustainability appraisal...."</i>	Strategic Policy Requirement (Water Supply and Quality)	No
37-007 – Open space, sports and recreation facilities, public rights of way and local green space	<i>"....In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan-making."</i>	Local Policy (Green Spaces)	Inclusion in non-strategic documents, including neighbourhood plans
39-002 – Hazardous Substances	<i>"When preparing Local Plans, local planning authorities are required to have regard to the prevention of major accidents and limiting their consequences....."</i>	Strategic Policy Requirement (Hazardous Substances)	Detailed local criteria in non-strategic documents

45-003 – Land Stability	<i>“Consideration of land stability in local plans will vary....but planning authorities may need to consider identifying specific areas where particular consideration of landslides, mining hazards or subsidence will be needed, including policies that ensure unstable land is appropriately remediated....”</i>	Strategic Policy Requirement (Land Stability) and Local Policy	Detailed local criteria in non-strategic documents
50-001 – Rural Housing (cross references to NPPF paras. 17, 28, 29, 34, 54 and 55)	<i>“....Assessing housing need and allocating sites should be considered at a strategic level and through the Local Plan and/or neighbourhood plan process.”</i>	Strategic Policy Requirement (Housing Need) and Local Policy	Detailed site allocations can be devolved to non-strategic documents, including neighbourhood plans
54-004 – Transport evidence bases in plan-making and decision taking	<i>“An assessment of the transport implications should be undertaken at a number of stages...as part of the preparation of the final submission....should highlight the scale of and priorities for investment requirements and support infrastructure spending plans....”</i>	Strategic Transport Priorities and Evidence Base Requirement	No
55-009 – Starter Homes (cross-reference to NPPF para. 22)	<i>“Land allocated for industrial or commercial use in local or neighbourhood plans can be used for Starter Homes where this land is underused or unviable for those purposes...”</i>	Strategic Policy Requirement (Starter Homes) and Local Policy	Detailed local policies and site allocations in non-strategic documents, including neighbourhood plans
56-002 – Housing – optional technical standards	<i>“Local planning authorities will need to gather evidence to determine whether there is a need for additional standards in their area, and justify setting appropriate policies in their Local Plans.”</i>	Strategic Policy Requirement (Housing Standards) and Local Policy	Detailed local criteria in non-strategic documents, including neighbourhood plans

Town and Country Planning (England) Regulations 2012

Reg.8	<i>“Form and content of local plans and supplementary planning documents : general (1) A local plan or supplementary planning document must – (a)</i>	Legal Requirements (Form and Content)	No
-------	----------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------	----

	<p><i>contain the date on which the document is adopted, and (b) indicate whether the document is a local plan or a supplementary planning document</i></p> <p><i>(2) A local plan or supplementary planning document must contain a reasoned justification of the policies contained in it</i></p> <p><i>(3) Any policies contained in a supplementary planning document must not conflict with the adopted development plan</i></p> <p><i>(4) Subject to paragraph (5), the policies contained in a local plan must be consistent with the adopted development plan</i></p> <p><i>(5) Where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy”</i></p>		
Reg. 9	<p><i>“Form and content of the adopted policies map</i></p> <p><i>(1) The adopted policies map must be comprised of, or contain, a map of the local planning authority’s area which must – (a) be reproduced from, or be based on, an Ordnance Survey map; (b) include an explanation of any symbol or notation which it uses; and (c) illustrate geographically the application of the policies in the adopted development plan</i></p> <p><i>(2) Where the adopted policies map consists of text and maps, the text prevails if the map and text conflict”</i></p>	Legal Requirements (Policies Map)	No

Planning Advisory Service (PAS) Soundness Self-Assessment Checklist (March 2014)

Positively Prepared	<p><i>“The plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development”</i></p> <p><i>Vision and objectives</i> <i>The presumption in favour of sustainable development (NPPF paras 6-17)</i> <i>Objectively assessed needs</i></p> <p>(1) <i>Building a strong, competitive economy (NPPF paras 18-22)</i> (2) <i>Ensuring the vitality of town centres (NPPF paras 23-37)</i> (3) <i>Supporting a prosperous rural economy (NPPF para 28)</i> (4) <i>Promoting sustainable transport (NPPF paras 29-41)</i> (5) <i>Supporting high quality communications (NPPF paras 42-46)</i> (6) <i>Delivering a wide choice of high quality housing (NPPF paras 47-55)</i> (7) <i>Requiring good design (NPPF paras 56-68)</i> (8) <i>Promoting healthy communities (NPPF paras 69-78)</i> (9) <i>Protecting Green Belt land (paras 79-92)</i> (10) <i>Meeting the challenge of climate change, flooding and coastal change (NPPF paras 93-108)</i> (11) <i>Conserving and enhancing the natural environment (NPPF paras 109-125)</i> (12) <i>Conserving and enhancing the historic environment (NPPF paras 126-141)</i> (13) <i>Facilitating the sustainable use of minerals (NPPF paras 142-149)</i></p>	Strategic Policy Requirement (NPPF requirements) (c.f. PPG Section 12)	No
Justified	<p><i>“The plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on</i></p>	Process (Evidence Base)	No

	<p><i>proportionate evidence”</i></p> <p><i>(1) Founded on a robust and credible evidence base involving : research/fact finding demonstrating how the choices made in the plan are backed up by facts; and evidence of participation of the local community and others having a stake in the area</i></p> <p><i>(2) The most appropriate strategy when considered against reasonable alternatives</i></p>		
Effective	<p><i>“The plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities”</i></p> <p><i>(1) Deliverable and coherent</i></p> <p><i>(2) Infrastructure delivery</i></p> <p><i>(3) Co-ordinated Planning</i></p> <p><i>(4) Flexibility</i></p> <p><i>(5) Co-operation</i></p> <p><i>(6) Monitoring</i></p>	Strategic Policy Requirement (Deliverability and Cross-boundary Priorities)	No
Consistent with national policy	<p><i>“The plan should enable the delivery of sustainable development in accordance with policies in the National Planning Policy Framework”</i></p>	Strategic Policy Requirement (Sustainable Development)	No
Planning policy for Traveller Sites	<p><i>“The Government’s aims in respect of traveller sites are: that local planning authorities make their own assessment of need for the purposes of planning; that local planning authorities work collaboratively, develop fair and effective strategies to meet need through the identification of land for sites; plan for sites over a reasonable timescale; plan-making should protect Green Belt land from inappropriate development; promote more traveller site provision whilst recognising that there will always be those travellers who cannot provide their own sites; aim to reduce the number of unauthorised developments and</i></p>	Strategic Policy Requirement (Travellers) and Local Policy	Site allocations can be in Strategic Local Plans as part of strategic site allocations and in non-strategic documents

	<p><i>encampments and make enforcement more effective”</i></p> <p>Policy Expectations <i>“Using evidence to plan positively and manage development”</i> <i>“Planning for traveller sites - set pitch targets for gypsies and travellers and plot targets for travelling show people which address the likely permanent and transit site accommodation needs of travellers...Set criteria to guide land supply allocations where there is identified need...”</i> <i>“Sites in rural areas and the countryside - LPAs should ensure that the scale of such sites do not dominate the nearest settled community”</i> <i>“Rural exception sites -LPAs in rural areas, where viable and practical, should consider allocating and releasing sites solely for affordable travellers’ sites”</i> <i>“Traveller sites in Green Belt – Traveller sites (both permanent and temporary) in the Green Belt are inappropriate development”</i> <i>“Mixed planning use traveller sites – Local planning authorities should consider, wherever possible, including traveller sites for mixed residential and business uses....”</i> N.B. Mixed use should not be permitted on rural exception sites <i>“Major development projects –LPAs should work with the...applicant and affected traveller community....if a major development proposal requires the permanent or temporary relocation of a traveller site”</i></p>		
Integration of marine and terrestrial planning	<p><i>“....the Duty to Co-operate requires all local planning authorities, even if landlocked, to take account, where relevant of the Marine Management Organisation’s plans and activities when preparing their Local</i></p>	Process (Consistency with Marine Planning Statement)	No

	<i>Plans...the NPPF requires LPAs to take the UK Marine Planning Statement (MPS) into account under the tests of soundness....(specifically, to test if an emerging DPD is consistent with national policy, which includes the MPS)”</i>		
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--

Appendix 13

Approach to Calculating 5 Year Housing Land Supply

APPROACH TO CALCULATING FIVE YEAR HOUSING LAND SUPPLY

The following text sets out some of the areas where revisions to the NPPG could usefully provide further clarity on how to arrive at conclusions on five year housing land supply.

The Housing Requirement

1. Where there is an up-to-date adopted development plan, this sets the housing requirement figure. Mostly this will be a flat rate across the plan period, but a Local Plan may allow for a stepped rate between phases of the plan.
2. In the absence of an up-to-date plan or published Inspector's report on a plan examination, the 'requirement' figure which should be used is an estimate of FOAHN for the individual local authority area plus any unmet need from another local authority where there has been a formal agreement to take that unmet need in an established position through a Memorandum of Understanding. Similarly where an authority has a Memorandum of Understanding whereby another authority is taking some unmet need from that authority, then the requirement should be reduced from the FOAHN accordingly.

Backlog and Shortfall

3. Existing guidance does not offer advice over the base date for the calculation of backlog or shortfall for a five year housing land supply calculation. Our view is that 'shortfall' should be included from the base date of the first post-NPPF Local Plan produced up to a maximum of ten years prior to the date of assessment, or where one is not in place, from the base date of the FOAHN modelling (with FOAHN used as the appropriate housing requirement). One purpose of this is to ensure that any shortfall (or 'over-supply') to be included is not automatically wiped clean by virtue of a plan-review or new OAN evidence every five years, but equally that the period of shortfall to be addressed is proportionate. The NPPG should usefully clarify that 'backlog' of needs prior to the base date of the first post-NPPF adopted housing requirement or base date of the OAHN calculation should not be included. This exercise is distinct from the assessment of persistent under delivery to identify the appropriate buffer, which should look at longer term delivery.

Buffer

Which buffer to apply

4. The NPPF is clear that either a 5% or 20% (for persistent under delivery) buffer should be applied, but guidance is currently unclear about what exactly constitutes persistent under delivery, stating only that it requires judgment and that the factors behind persistent under delivery vary from place to place. The judgments made concerning persistent under delivery vary between LPAs, S.78 appeal Inspectors and the Secretary of State so it would be helpful if the approach was more definitive. In our view, the the High Court decision in *Cotswold District Council Vs SoSCLG* (27 November 2013) is very helpful with regards to what constitutes persistent under delivery¹ and could usefully form the basis of guidance. This would require consideration of a LPAs delivery record to cover the longer term (we would suggest a period of no less than ten years) and, using the analysis in the judgement as a proxy, we believe it would be reasonable to assume that under-delivery in circa 65% (two thirds) of monitoring years constitutes persistent under delivery. The under (or over) delivery should relate to the relevant housing requirement(s) that applied for that period (likely to be the relevant adopted development plan – including a Structure Plan figure where relevant). In an NPPF context, the absence of an up-to-date Plan post the 12 month transitional period (which ended in March 2013 means the requirement figure for that period should be the FOAHN.
5. The alternative to more determinative approach to defining persistent under delivery is to apply a blanket buffer to all LPAs. We heard views from some developers that a 5% buffer is inadequate to reflect the uncertainty implicit in any trajectory, and the application of a 20% buffer to all LPAs could also provide flexibility so some sites could not come forward but the underlying annual housing requirement could still be met. As per paragraph 47 of the NPPF, this supply is merely brought forward from later in the plan period and does not increase the quantity of housing the LPA needs to deliver over the whole plan period.

¹ The Inspector's judgement considered in this High Court Judgement looked at various indicators of backlog and concluded a 20% buffer was applicable. On a 5 year basis, there was under delivery in 4 years, over 10 year there was a shortfall in 7 years (increasing to 8 years when using a different measure) and over the Structure Plan period there was a shortfall of 89 dwellings.

Application of the Buffer

6. The NPPF and PPG offer no guidance on how the buffer should be applied (to the housing requirement only, or the housing requirement plus backlog) and this has been applied differently by LPA's, appeal inspectors and the Secretary of State. The PPG should clarify the position and we consider there is a clear logic to apply the buffer to the requirement and backlog: the backlog has only occurred because an area has not met its housing requirement and the buffer should thus be applied to this backlog to ensure there is sufficient headroom to ensure the backlog is met.

Liverpool vs Sedgefield

7. The NPPF currently sets out that LPAs should aim to deal with undersupply within the first five years of the plan period where possible. Although this is advantageous so that current undersupply is dealt with immediately and does not go unaccounted for until well into the plan period, there will be instances where the Liverpool method can be more appropriate, for example where the strategic vision for a plan is to build large strategic sites which require a long lead in time and significant enabling works, the plan is clearly 'back loaded' and will deliver its housing needs in bulk later in the plan period. However, this might also be addressed in a 'stepped' requirement figure, so the application of 'Liverpool' rather than Sedgefield might represent double-counting. We recommend the current preference for Sedgefield is maintained, but with flexibility to adopt Liverpool (only where there is an adopted Plan and circumstances justify it), and with the annual determination of the housing trajectory being the mechanism for deciding which is the most appropriate method.

Land Supply

8. The components of supply included in a five year housing land supply calculation vary by each local authority area, but the following are some of the key areas of contention:
 - Deliverable sites: The NPPF's definition of a deliverable site (one which can be delivered in the next five years) as being suitable now, available for development now and achievable (including viable) is useful and can be effectively used to denote whether a component of supply is deliverable, particularly for sites without planning permission. However, one element of the supply side calculation which is not considered in the NPPG is lapse rates. Although the guidance

sets out that sites with planning permission should be included as a component of supply unless there is clear evidence to the contrary, in many instances Councils do not include evidence on lapse rates for small and large sites, despite there being clear evidence that the conversion rate of permissions to starts on site can vary between areas. An Inspector's approach which applied a buffer to both large and small sites with planning permission was accepted in the High Court decision in *Cotswold District Council Vs SoSCLG* (27 November 2013), which concluded that there was local evidence of a lapse in small site permissions and that in the absence of any local evidence on the lapse of large sites, a 10% proxy should be applied. The NPPG should include clearer guidance allowing for lapse rates in the calculation to be applied to both small and large sites and for the rate to be set based on local evidence on the rate at which permissions are converted into completions.

- Lead in times and build rates: significant debate over supply revolves around the assumed lead in time and build rates of larger sites. This is complicated by the fact that LPAs tend to use assumptions provided to them by the developers of the site, as the PPG suggests. However, this information can satisfy the best interests of the developer and is not always realistic, and the PPG should confirm that evidence on likely timescales drawn from experience on comparable sites may be highly relevant.
- Windfalls: The inclusion of windfalls in the five year housing land supply calculation is logical and the NPPF and PPG include a sufficiently detailed explanation setting out the need for local evidence and the exclusion of garden land.
- What types of units cannot be included: There is now a debate about what types of units of residential accommodation can be included in a five year housing land supply calculation and it would be useful to the guidance to address current uncertainties. In essence, estimates of FOAHN do not in the main include the need for specialist types of accommodation such as student accommodation, care homes and other uses falling within the C2 Use Class. It follows that if these uses are not included in the housing requirement, they should not be included in the

supply². This should be clarified by the NPPG. To avoid this confusion, it may also be advisable for the NPPF and the NPPG to clarify that the needs for C2 uses (this can be done as a derivative of or alongside FOAHN, as we proposed in our revisions to the NPPG at Appendix 6) and have a separate mechanism (such as its own annual target or five year land supply expectation) to encourage its provision.

² This was established in the context of student accommodation in the High Court in the judgement *Exeter City Council v (1) Secretary of State for Communities and Local Government and (2) Waddeton Park Limited and (3) The R B Nelder Trust* [2015] EWHC 1663.