

LGA response to Call for Evidence – Local Plans Expert Group

October 2015



The Local Government Association (LGA) welcomes the opportunity to respond to the Local Plans Expert Group call for evidence.

The LGA is here to support, promote and improve local government. We will fight local government's corner and support councils through challenging times by making the case for greater devolution, helping councils tackle their challenges and assisting them to deliver better value for money services. www.local.gov.uk

This response has been agreed by the LGA's Environment, Economy, Housing and Transport (EEHT) Board. The EEHT Board has responsibility for LGA activity in relation to the economy and environment, including: transport, employment and skills, economic development and business support, housing, planning, waste and climate change.

Key messages

Councils play a central role in driving regeneration, revitalising communities and creating the right mix of homes and jobs to enable them to thrive.

A plan led system is the most effective way of ensuring that land with community support for housing is made available and providing long term certainty to encourage investment in new build housing with the necessary infrastructure.

The planning system has seen numerous further top-down changes since the introduction of the National Planning Policy Framework. The focus now needs to be on allowing the system to bed in effectively, avoiding large-scale reform which de-rails the good work councils are doing to get up to date plans in place. Over 80% of councils now have published local plans which provide certainty to investors.

Our response covers a number of key areas where we feel there is scope to make changes to the current plan-making process in order to make it less costly, faster and provide more clarity for councils, communities and the development industry.

Detailed comments

Local Plan evidence requirements

Compiling the evidence base in the development of local plans, particularly in relation to housing numbers, and the need to ensure that this evidence base is kept up to-date throughout plan preparation, has been identified by a number of councils as one of the most time consuming elements of plan making.

Submission

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Uncertainty over the extent of evidence requirements needed to satisfy the Planning Inspectorate at examination risks extensive and unnecessary data collection and plans which are overly-detailed and long.

The government should consider reducing the burden of Local Plan evidence by reviewing the extent of current evidence being collected and looking at how this might be streamlined. Alongside this, consideration should be given to enabling PINS to provide early stage reviews of draft plans and advise on the level of evidence required, as part of a staged examination. This would also complement the role of the Planning Advisory Service (PAS).

On one specific area of plan-making the NPPF requires all local planning authorities to identify and maintain a five year supply of deliverable land for housing. However, the presence (or otherwise) of a five-year land supply has been one of the areas which has been subject to significant challenges both through the plan-making process and subsequently through planning appeals for specific planning applications.

A lack of a prescribed methodology for calculating five-year housing land supply means that local planning authorities' and planning applicants' figures are often at odds. In addition, the NPPF (paragraph 49) provides for an automatic presumption in favour of granting planning permission where the local authority is unable to demonstrate a five-year land supply. This can lead to frequent challenges.

The government should work with local authorities and the development industry to develop an agreed consistent methodology for calculating five-year supply. This would provide clarity and certainty to both local planning authorities and developers and also reduce the cost and resource burden of ongoing challenges to PINS, councils and developers.

Government should also consider a more flexible approach to five year housing supply in local authorities that can demonstrate they are promoting large scale, sustainable developments which will meet housing need in the longer term.

National policy changes and impact on local plan-making

Councils need the powers and flexibility to shape the supply of different tenures of housing to meet needs of different people in their area, in line with their local plan and the National Planning Policy Framework (NPPF).

Since the National Planning Policy Framework (NPPF) was introduced in 2012 and the subsequent streamlined national planning practice guidance there have been numerous government consultations that have introduced top-down changes to planning policy. Many of these have subsequently been introduced.

These have included permitted development rights for office to residential conversions and exemptions from section 106 affordable housing requirements for small builders. The recently published Housing and Planning Bill also introduces new requirements on councils which they will have to take into account in the plan-making process. This includes a duty to promote Starter Homes, with the ability for the Secretary of State to make a compliance direction if he/she believes the council is not discharging its duty or if a policy contained in a local plan is incompatible with the duty – effectively over-riding adopted local plans.

We have long argued that constant top-down piecemeal reforms which lack

regard to local circumstances, add further confusion to the planning system and undermine the premise of a locally plan-led system that government promised to local areas. They can also delay progress in getting local plans in place as councils look to revise emerging plans to ensure they reflect the constantly changing national policy landscape before they are submitted for examination. This also adds unnecessary additional time and resource burden on both councils and the Planning Inspectorate.

Simplification should aim to reduce the cost burden of plan-making over the long-term, as developing a Local Plan can currently cost councils between £500,000 and £1.5 million. There is concern however that the requirement on councils to have up-to-date local plans by 2017 will combine with changes to national planning policy to add significant cost and resource burdens on the plan-making process.

Planning Advisory Service (PAS) support for local planning authorities

The Planning Advisory Service has a significant programme of support in place for local authorities, and more should be made of this valuable resource including a government commitment to continued funding. Sector led support, where councils can learn from the experience of others is a much more effective way of driving local plan development than further national reforms.

PAS provide a combination of on line tools, advice and checklists free for all local authorities to download and use, run round table events for dissemination and discussion of issues and best practice, and provide direct on-site support for authorities. This can be on most aspects of plan making, including sustainability appraisal, evidence base (including objectively assessed need), community engagement, viability, project management and (the most popular support) a health check/critical friend review.

The PAS technical guide to objectively assessed need has become a trusted piece of guidance for local authorities to use. An impact assessment of a sample of PAS support for authorities showed of 107 recommendations made by PAS, 105 were taken forward.

Planning strategically for housing across boundaries

Some areas face high demand for housing, with tightly drawn boundaries and a lack of unconstrained land suitable for housing. However, many councils are working together to plan together to plan strategically for their areas and this momentum should be encouraged. The increase of strategic planning will enable and accelerate house building, particularly through the removal of the barriers to local plan adoption which the Duty to Cooperate has created.

Planning also featured prominently in many devolution bid documents which councils submitted to the government in September 2015, with strategic planning being a notable theme throughout submissions including [Leicester and Leicestershire's](#) and [Gloucestershire's](#). This illustrates the widespread recognition of a need to consider land-use planning alongside infrastructure priorities.

Local areas should maintain flexibility to establish a locally appropriate spatial area to plan strategically - having regard to relevant strategic housing market areas and functional economic areas. For example, across Local Enterprise Partnership (LEP) areas, City Regions or combined authorities as illustrated by many of the devolution bids which have come forward. Planning decisions should still be made by the individual local authorities working in partnership across those

areas.

In those instances where strategic planning across boundaries breaks down we propose that political and technical support and peer challenge is put in place to unblock barriers and work with authorities to negotiate a way forward. This work is most appropriately led by the local government sector. Sector led support should always be the default first response. As is the case in other service areas, in rare cases of failure across a service(s) the government retains a backstop power to intervene.

If the Duty to Cooperate is to remain a feature of the local plan-making process, consideration should be given to further good practice guidance of how councils can demonstrate the efforts it has made to cooperate and any outcomes achieved. This would provide a tool by which councils could measure their efforts against ahead of submitting plans to the Inspectorate.

Where there is concern at the early stages of plan examination that the Duty to Cooperate will not be met, the Planning Inspector should provide the relevant duty to cooperate bodies an opportunity to try to resolve this within a specified timescale. During this period it should be possible for the examination to be put on-hold rather than the plan being rejected.

A two-stage local plan process

The Planning Officers' Society [manifesto](#) in 2014 (and now updated) first proposed a two stage plan-making process. More recently the proposal was included as a recommendation of the Lyon's Review and in the June 2015 joint DCN/CCN/POS/RTPI [statement](#) on improving local plans and strategic planning.

In essence, the proposal is to split the process, including examination by the Planning Inspectorate into two parts. Local authorities would first work together on the strategic elements of their plans – this would include housing numbers, strategic infrastructure, major urban extensions or new settlements. This would then be submitted for examination and once found sound it could be accorded weight in decision-making at an earlier stage than the current process. This would provide earlier certainty and clarity to councils, communities and developers. The additional work on the detailed policies of a Local Plan could be approved after a lighter touch second stage.

This would work well as it would allow local authorities to ensure valuable work would not be lost if a plan was to be found unsound and reduce frontloading of evidence requirements. In addition, a local authority could have an option to not proceed to the second stage and adopt the strategic plan as its Local Plan, or only do more detailed policies for specific areas within a local authority, defined locally.

There should also be the option for local planning authorities to receive additional advice from PINS at an earlier stage in the plan-making process, as outlined earlier.

Length of examination

Councils report that the examination of their submitted local plan can be a lengthy process which is disproportionate long compared to the other stages of plan-making. Research commissioned by PAS shows that 45% of the 100¹ plans most

¹ The last 100 to 31 August 2015 but excluding reviews such as City of London review and

recently found sound had examinations between one and two years. For almost 10% of the 100 plans this exceeded 2 years. Similarly none of the 100 recently adopted plans appeared to have an examination period of less than six months.

Our view is that our proposals will help to speed up the process of getting a Local Plan to examination stage, but they should also help to speed up the Examination stage as well, reducing time and resource burden on both local authorities and PINS.

However, we strongly recommend that the Expert Group look at the current process of examination further to see if it is fit for purpose and the scope for streamlining it – this will of course need to take into account whether there are the right level of resources within PINS to ensure a speedy transition of Local Plans through examination.

Phased Approach to Changes

Whatever the government propose by way of changes or additional requirements to the national plan making process, it is recommended that careful consideration be given to how/when these are to be introduced and whether they should be exempt for authorities at key stages of the plan process. This is to avoid delay/lost plan-making investment for those authorities at a key stage such close to submission. Also clear advice should be given to the inspectorate for examinations and appeals as to the weight that should or should not be given to the changes in relation to advanced emerging plans.