



Department for
Communities and
Local Government

Government response to the Communities and Local Government Select Committee inquiry into the report of the Local Plans Expert Group



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Response to Select Committee Questions

The Government is committed to a plan led system. Good progress has been made on plan-making, with 75% of authorities now with an adopted Local Plan compared to 18% in 2010; however there's still more to do. Having up-to-date plans in place is essential for planning for the right homes in the right places, supported by the necessary infrastructure. Plans are integral for enabling communities to help shape the design and development of the places where they live. But the plan-making system is in need of reform.

In July 2015 the Government's Productivity Plan said: *The Government will bring forward proposals to significantly streamline the length and process of local plans, helping to speed up the process of implementing or amending a plan.* In September 2015 Ministers launched the Local Plans Expert Group (LPEG) to examine what measures or reforms might be helpful in ensuring the efficient and effective production of Local Plans. LPEG conducted a call for evidence from 18 September 2015 to which they received 155 responses, received questionnaire responses from 9 local planning authorities, and met directly with representatives from 28 organisations.

LPEG reported on 16 March 2016 – their detailed recommendations are here - <http://lpeg.org/>. We consulted on the recommendations made by the Group until 27 April 2016. 143 representations were received from across all sectors. The Communities and Local Government Select Committee undertook a short inquiry into LPEG's recommendations and wrote to us on 21 July 2016.

Select Committee Question: *When do you expect to respond formally to LPEG's recommendations?*

Through both the Neighbourhood Planning Bill and the Housing White Paper we have set out our proposals for plan-making reform, including a number of recommendations put forward by LPEG. Our proposals have been informed by representations sought on the LPEG report, a summary of those representations is set out at the end of this response.

Select Committee Question: *Will you use the Neighbourhood Planning and Infrastructure Bill announced in the Queen's Speech to implement the LPEG's recommendations? Will you clarify the intended timescales for the Bill's introduction, in particular whether you intend to publish a draft Bill before it is formally introduced?*

During the Second Reading of the Neighbourhood Planning Bill on 10 October, the Secretary of State indicated that he agreed with the central thrust of LPEG's recommendations. He said that there needed to be more co-operation and joint planning; the requirement to have a plan should not be in doubt; and the process for putting a plan in place needed to be streamlined.

As LPEG set out, most of those changes can and should be made through national policy and guidance, rather than through primary legislation, but should primary legislation be required, he would seek to use the Neighbourhood Planning Bill as the vehicle for it. Accordingly we brought forward measures in the Neighbourhood Planning Bill which respond to some of LPEG's proposals. Today we have published our White Paper which sets out our intention to bring forward a number of other proposals.

Select Committee Question: *In the longer term, if you do not accept and implement LPEG's recommendation for a statutory duty to prepare and maintain Local Plans, how will you ensure that local authorities keep their Local Plans up to date?*

Through the Neighbourhood Planning Bill we are bringing forward a requirement for every local planning authority to set out policies, to deliver the strategic priorities for the development and use of land in their area, in their development plan documents (unless they are satisfied that these priorities are addressed in a spatial development strategy that covers their area).

Measures in the Neighbourhood Planning Bill will enable the Secretary of State to prescribe the intervals at which local development documents must be reviewed, to ensure plans are up to date. The Government intends to mandate in regulations that all authorities should review their plans (and, if necessary, update them) at least once every five years.

Select Committee Question: *Do you intend to follow your predecessor's intention to intervene in the production of Local Plans where local authorities do not have them in place by March 2017? If so, how many local authorities do you anticipate might need such intervention, and what form might it take?*

In February 2016, the Government consulted on its proposed approach to intervening in plan-making. This included criteria to prioritise intervention where:

- the least progress in plan-making had been made;
- policies in plans had not been kept up to date;
- there was higher housing pressure; and,
- intervention would have the greatest impact in accelerating local plan production.

We also consulted on ensuring that decisions on intervention would also be informed by the wider planning context in each area, and we would give authorities the opportunity to put forward any exceptional circumstances before action was taken. The White Paper confirms that the Government intends to proceed on the basis set out in the consultation, both for the use of its existing powers and those proposed in the Neighbourhood Planning Bill.

Select Committee Question: *Will you amend the National Planning Policy Guidance to include a standard methodology for assessing housing need?*

The White Paper confirms that the Government will consult on options for introducing a more standardised approach to assessing housing requirements. The outcome of this consultation will be reflected in changes to the National Planning Policy Framework. We want councils to use the standardised approach and will incentivise them to do so, as this will help to speed up and reduce the cost of the plan making process for those authorities that use it. The White Paper indicates that our decision making for the £2.3bn Housing Infrastructure Fund is likely to factor in whether authorities intend to apply the new standardised approach to assessing housing requirements.

We expect councils that decide not to use the methodology to explain why not and to justify the methodology that they have adopted. We will consult on what constitutes a reasonable justification for deviating from the standard methodology, and make this explicit in the National Planning Policy Framework.

Select Committee Question: *The LPEG concluded on the basis of the evidence it received that the Duty to Cooperate is not working effectively. What measures will you put in place to ensure that local authorities cooperate effectively when preparing their Local Plans?*

The White Paper confirms we will consult on changes to the National Planning Policy Framework so that authorities are expected to prepare a Statement of Common Ground setting out how they intend to work together to meet housing requirements and other issues that cut across authority boundaries. The purpose of this requirement is to encourage a more strategic approach to addressing housing needs; it is not intended to allow authorities to avoid doing all they can to meet their own housing needs.

We are also bringing forward a measure in the Neighbourhood Planning Bill which will enable the Secretary of State to direct two or more local planning authorities to prepare a joint development plan document where it would facilitate more effective planning of the development and use of land in the area of one or more of the authorities.

Select Committee Question: *The Local Plan making process is currently complex and burdensome for local authorities. What measures will you put in place to simplify the process?*

Sections 9, 10 and 12 of the LPEG Report put forward recommendations to simplify the plan-making process. Below is a summary of the key proposals we are bringing forward.

We are providing more flexibility to authorities to determine the types of plan that they produce, so that plan-making can be tailored to the circumstances in each place. We have confirmed in the White Paper that we intend to revise the National Planning Policy Framework to remove the expectation that every authority should produce a single Local Plan. This will allow authorities to identify the most effective way of setting out their key strategic priorities (which may be jointly with other authorities), allowing more detailed matters to be set out in neighbourhood plans or more focused development plan documents

We have set out in the White Paper that we will amend the National Planning Policy Framework to make clear that plans and policies should not duplicate one another unless clearly justified; including updating guidance to state that authorities may rely on policies in the National Planning Policy Framework rather than replicating them in their plans.

We also stated our intention to amend the tests of ‘soundness’ by which such plans are examined, to make clear that the plan should set out “an” appropriate strategy for the area rather than having to demonstrate that they contain “the most” appropriate strategy, to avoid encouraging disproportionate work and challenge at examinations.

We have proposed in the White Paper, to revise the National Planning Policy Framework to tighten the definition of what evidence is required to support a ‘sound’ plan – to allow for more proportionate plans, and to ensure clear and concise evidence is available on the key issues that affect the capacity of each area to accommodate development.

We are bringing forward a measure in the Neighbourhood Planning Bill which will ensure that the Secretary of State can require that planning data from all local planning authorities on the same specified subject will be published in the same, consistent formats and with the same definitions. The opportunity for extrapolating the information in plans greatly increases when the data is made available in a consistent, linkable form. Through a digital planning pilot, we are working with local planning authorities, users of plans and digital innovators to develop the data standards, and also identify opportunities for the better use of data and digital tools in the planning system, and subsequently to improve access to the information held in plans to communities, developers and business.

We are consulting in the White Paper on what wider changes may be needed to ensure that consultation and examination procedures for all forms of plan-making are appropriate and proportionate and that different levels of plans work together.

Select Committee Question: *Is the Neighbourhood Planning system working effectively? Is there sufficient clarity about the roles of Local and Neighbourhood Plan, in particular where Neighbourhood Plans are adopted for areas for which no Local Plan is in place?*

Over 2,000 communities have started the process of neighbourhood planning since we introduced it in 2012, representing nearly 10 million people. Over 270 neighbourhood plans have come into force since 2012; analysis suggests that giving people more control over development in their area is helping to boost housing supply – those plans in force that plan for a housing number have on average planned for approximately 10% more homes than the number for that area set out by the relevant local planning authority. For the first time communities can produce plans that have real statutory weight in the planning system.

The Neighbourhood Planning Bill contains a focused set of measures that will further strengthen neighbourhood planning to give even more power to local people. Measures in the Bill make clear that once a neighbourhood plan has been independently examined - and the decision taken to put the plan to a referendum - it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application.

Engaging with the local community, to understand their views and what they would like to see in the local area, is a fundamental part of a good plan-making. The Bill will also require local planning authorities to set out in their statements of community involvement policies for involving the community in the preliminary stages of plan-making

We have been clear that neighbourhood plans can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic conditions. Guidance also encourages close collaboration with the local authority to align the neighbourhood plan with the emerging Local Plan as the evidence may be relevant.

Through a Written Ministerial Statement on 12 December 2016 we made clear that where communities have planned for housing in their area through a neighbourhood plan, that those plans should not be deemed to be out-of-date unless there is a significant lack of land supply for housing in the wider local authority area. The White Paper sets out how we will take this further to ensure new neighbourhood plans meet their share of local housing need and that housing is being delivered across the wider local authority area, measured by a new housing delivery test.

Summary of representations sought on the Local Plans Expert Group Report

Sections 2 and 7 of the LPEG report – The Problems facing Plan Preparation and Incentives for Timely Plan Preparation:

- Respondents supported the principle of up-to-date plans being in place; however there was a mixed response on whether the early 2017 target set by Government should include authorities that have not prepared a post-National Planning Policy Framework (NPPF) plan.
- There was general support for the introduction of a statutory duty for local planning authorities to produce and maintain a Local Plan; however respondents were concerned that local authorities are insufficiently resourced to meet such a duty. There were also concerns that a duty would negatively affect the quality of Local Plans, as the process would be rushed in order to complete them within prescribed timescales. Some respondents felt more information was needed to understand how such a duty could be introduced in terms of phasing and exemptions for local authorities at certain stages in the process.
- There was support from developers and trade bodies for time limiting out-of-date plans; however there were mixed views from other respondents, including local planning authorities. There was concern about potential significant resource implications, particularly if the principle of 'saved' policies were to be abandoned. Similarly there was concern over the proposed timescales and it was suggested there should be a more flexible approach before special measures were considered.
- There was general support for the proposal that Government should consider providing incentives, to encourage plan-making; however views of local authorities were mixed.
- Some respondents favoured rewarding timely progress provided the incentives awarded are over and above the current funding arrangements for local planning authorities.
- Concerns were raised over making access to funding dependent on progress of the Local Plan, as these plans are not the only basis by which priorities; particularly relating to infrastructure; are identified. There was concern that withholding such funding would have negative consequences where evidenced infrastructure needs have been identified.

Section 3 of the LPEG report – Establishing OAN:

- There were mixed views on the recommendation that DCLG commission an update of the 2010 study of Housing Market Area (HMA) boundaries. However, there was broad support from local authorities that they should continue to work together and that they should not be sub-divided by these boundaries.
- The need for the determination of HMA boundaries to be tested at the local level was emphasised. Some felt the recommendations did not take account of the situation in

London, where there would be a London-wide strategic HMA and then either joint or single borough HMAs addressing local detail.

- There was general support in principle for standardising the methodology for Objectively Assessed Housing Needs (OAN) and Strategic Housing Market Assessments (SHMAs). Respondents felt that this would contribute towards addressing the problem of lengthy and technically complex debates at examination. Some raised questions on the technicalities of the methodology proposed by LPEG.

Section 4 of the LPEG report – Turning OAN into Local Plan Requirements:

- Although there was general support among respondents for the concept of an assessment of environmental capacity, care should be taken to ensure the requirement would be proportionate and not simply adding another layer to plan-making. It was considered that further detail is required to set out how it will work in practice.
- There was widespread support among respondents for a more robust approach to the implementation of the presumption in favour of sustainable development. However, some environmental organisations felt that planning decisions should be led primarily by policies in locally-agreed development plans, and that paragraph 14 of the NPPF as currently worded does not give enough primacy either to Local Plans or to the protection of national and international designations.
- There was general support among respondents for more guidance; however some felt that Green Belt reviews must be undertaken strategically and that guidance should be the subject of a public consultation.
- Some respondents were in favour of Government leadership to incentivise large-scale housing. However, there was also concern that the approach is too top-down, undemocratic, and would undermine the local planning process. Some respondents also felt that the NPPF already provides for large-scale development (paragraph 52), and any change would alter the fundamental balance of the Framework.

Section 5 of the LPEG report – Working across boundaries to meet needs:

- Respondents generally supported better joint working between local planning authorities, but there were a much wider range of views as to how unmet need should be met.
- On directing joint plans, there was general support from developers, but concern from many other sectors about local authority resourcing; and caution that it could lead to further delays in plan making.

Section 6 of the LPEG report – Devolved Powers:

- Several respondents saw benefits from establishing a closer link between devolution deals and planning/housing delivery, and felt that there could be advantages to sharing a joint evidence base. However, this would need to be carefully managed to address issues including different data collection methodologies and different functional economic areas.

- A number of respondents were concerned that some of the conditions, particularly ensuring consistency, would introduce another tier of plan-making. It was felt to be an overly top-down approach which restricted flexibility for places to make the arrangements that best meet their needs.

Section 8 of the LPEG report – Policy Changes:

- There was widespread support amongst respondents for more stable national policy, but mixed views on the optimum period between updates.

Section 9 of the LPEG report – Local Plan process:

LPEG Recommendations 20, 21 and 22 – Consultation and community engagement

- Respondents had mixed views on modifications after publication of the Local Plan.
- Responses to the recommendations on community engagement and meaningful consultation showed support for the principles behind these recommendations, but a number of respondents voiced concern about the details and how realistic it was to apply them in practice.

LPEG Recommendations 23, 24 and 25 – Plan-making timetable, documents and evidence base

- There were mixed views on the introduction of a timetable for the completion of Local Plans. Local authorities were generally opposed to the recommendation and whilst some trade organisations and professional bodies were more supportive, environmental organisations were concerned that any statutory timetable should not lead to decreased public engagement in the plan-making process.
- Respondents generally supported tightening the definition of what is required in an evidence base for plan-making.

LPEG Recommendations 26 and 27 – Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA)

- Respondents had mixed views on whether a Strategic Environmental Assessment was required and, if so, whether it should be focused on the needs of the Plan and on removing the requirement for the Sustainability Assessment to be an iterative process. There were a broad range of views from clear support to strong opposition.

LPEG Recommendations 28, 29 and 30 – the Planning Inspectorate (PINS)

- Respondents generally supported the concept of early MOTs for Local Plans. There was also general support for a PINS annual report on consistency issues and the need for adequate PINS resourcing.
- Of those who expressed an opinion on need for adequate PINS resourcing, there was overwhelming support for this recommendation.

LPEG Recommendation 31 – Soundness and examinations

- Respondents generally supported revising the test of soundness from ‘the most appropriate strategy’ to ‘an appropriate strategy’.

- There were mixed views on the proposal relating to examination by written representations. Local authorities were generally in support but several environmental and community groups strongly disagreed, believing it would curtail community rights in the planning process.

LPEG Recommendation 32 - National Concordat

- Responses showed there was general support for the principle behind this recommendation.

Section 10 of the LPEG report – Local Plan Content:

LPEG Recommendations 33 and 34 – Staged plan-making and role of other plans

- There was general support from respondents for the concept of staged plan-making, or removing the emphasis on the need for local planning authorities to have a single Local Plan in favour of a more flexible approach.
- There were mixed views on the roles of different types of plans: there was support for clarification, but varying views on the details.

LPEG Recommendations 35 and 38 – Policy formulation and Monitoring

- Respondents generally supported the concept that best practice guidance and monitoring/delivery requirements should be set out in Planning Practice Guidance. However, there was some concern to ensure that guidance does not preclude local variations and distinctiveness.

LPEG Recommendation 36 – Funding uncertainty

- There were mixed views from respondents for including strategic allocations in later phases of the plan period. Respondents were concerned there would be insufficient infrastructure in place to support late additions to the plan; and that uncertainty over funding may hold back the prioritisation of deliverable sites.

LPEG Recommendations 37 and 39 – Community Infrastructure Levy (CIL) and local plans, and Content Model

- Respondents generally supported the recommendation to review the Local Plan and CIL Charging Schedule concurrently.
- There was also general support for including the requirements of a Local Plan in the Planning Guidance as a broad model; however, it was felt that there must continue to be flexibility to meet local needs.

Section 11 of the LPEG report – Implementation and Delivery:

- There was general support among respondents for annual monitoring reports to be signed off by an independent examiner, with the result being treated as the definitive annual supply calculation for that local authority area until the following monitoring report.
- However, most respondents expressed concerns on the proposal to calculate the five-year housing land supply, in particular in relation to reserve sites. There was concern that this was a one-size-fits-all approach; could lead to unsustainable development for a perceived deficit; and will have significant resource implications. However, most local authorities agreed a standard procedure would be helpful, and felt that housing figures

should be considered up-to-date for at least 3 years. There was strong opposition to this recommendation from the housebuilding/development sector. Overall, more clarification was felt to be necessary.

Section 12 of the LPEG report – Presentation, Access and Style:

- Respondents generally supported the LPEG's recommendations for shorter, more publically accessible plans and for better use of online technology.

Minerals & Waste section of the LPEG report:

- The representations received on both recommendations were broadly neutral.
- On changes to the weight of output from AWP's, there was some concern this would cause additional delays to the processing of planning applications and the preparation of local mineral plans, and could undermine democratically accountable local authorities and local aggregate assessments.
- Whilst many respondents support comparable expectations for minerals and waste local plans, several felt further clarity is needed on recommendations that apply to these plans.

Section 13 of the LPEG report: Next Steps and Transition:

- Respondents generally supported the establishment of a Technical Working Group, with many offering to serve on such a working group.