

Briefing on development of a Local Plan

Introduction: Planning policy, nationally, regionally and locally, is contained in the government's *National Planning Policy Framework* (for England), in the London Mayor's *London Plan*, in local planning authorities' *Local Plans* and in parish councils' or neighbourhood forums' *Neighbourhood Plans*.

Planning policy is developed and consulted on in a very different way from other types of policy. Legislation sets out how it must occur and what requirements, must be met.

What is a Local Plan? A Local Plan is a framework for future development in a planning authority area. It contains policy that guides decisions made about individual planning applications and whether planning permission will be granted or not. It must address the needs (supported by evidence) and opportunities in relation to the development of housing, the local economy and infrastructure. It must safeguard the environment and heritage, enable adaptation to climate change and help to ensure good quality and accessible design.

A Local Plan can be just one document or a folder of documents which must include a strategic vision and objectives for the area setting out how it will look in 15 to 20 years' time, what key things are to be developed, a spatial strategy, core policy areas and how policy will be implemented. It must include a *proposals map* (showing where significant development, change and conservation are planned). It might also include -

- *development management policies* (more detailed policy on how development takes place, what issues developers ought to take into account and how development should be designed);
- *site allocations and designations* (specific locations that are to be developed) and
- *area action plans* (that guide development in specific areas such as town centres).

Before a Local Plan is formally 'adopted' it is subject to consultation and an Examination in Public which is overseen by an independent planning inspector. The inspector's remit is to ensure that the document satisfies legal and procedural requirements including the *duty to co-operate* and *tests of soundness*.

The local planning authority may also provide more detailed guidance in *supplementary planning documents* (SPDs) and *supplementary planning guidance* (SPGs). These do not provide new policy but rather additional guidance on specific planning policies or development in specific areas or sites that assist in the interpretation and application of policy. As such, SPDs and SPGs are not subject to an independent Examination in Public and can be 'adopted' by the Council after public consultation.

Processes for developing a Local Plan: A local planning authority must *gather evidence* (for example around the need for housing, transport and employment) and carry out a *Sustainability Appraisal* on the effects of the plan on the environment (see below). It must also carry out *effective discussion and consultation* with local communities, businesses and other interested parties.

Initial stages of consultation (Reg 18): There is flexibility around how local authorities carry out initial stages of plan preparation, as long as they comply with specific requirements in Regulation 18 of the Town and Country Planning Regulations and their commitments in their *Statement of Community Involvement*. Regulation 18 of the Town and Country Planning Regulations stipulates that a planning authority must consult 'specific consultation bodies' and, more general bodies, residents and businesses that the authority considers appropriate, of proposals to develop the Local Plan; invite comments or representations around what it should contain and take them into account.

Final stage of consultation (Reg 19): Regulation 19 requires planning authorities to publicise the version of their Local Plan that they intend to submit to the Planning Inspectorate for examination to enable comments or 'representations' to come forward to be considered by an examination. Section 19 of the Planning and Compulsory Purchase Act 2004 requires a planning authority to have regard to national policies and guidance and (in London) the London Mayor's London Plan, to comply with the authority's statement of involvement, carry out an appraisal of the sustainability of the proposals and prepare a report on findings of the appraisal.

This consultation stage is more technical and involves consultees having to frame their comments in relation to 'test of soundness'. Forms and guidance notes are available from the authority. Later a planning inspector will examine the Local Plan to consider whether it is sound or not (see following sections on this) and will consider all responses (known as representations) to this consultation and indeed earlier responses, in considering this.

Sustainability appraisals promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives. They should incorporate the requirements of the Environmental Assessment of Plans and Programmes Regulations, which implement the European Directive 2001/42/EC (the 'Strategic Environmental Assessment Directive').

Statement of Community Involvement sets out when and how the authority will involve the community in plan-making and in development management (planning applications)

Once consultation has been carried out on the final draft (Reg 19) Local Plan, a local planning authority has to submit its proposed 'publication' version of the Local Plan (along with other documents – including evidence based documents and responses to consultation) to the Planning Inspectorate for the Public Examination on behalf of the Secretary of State.

What is a Public Examination? A Public Examination of a Local Plan is carried out by a planning inspector whose remit is to decide whether the plan *is sound or not* and whether it is prepared in line with legal requirements, including the *Duty to Cooperate*. Local plans must be positively prepared, justified, effective and consistent with national planning policy (and in London in general conformity with the London Plan) in accordance with the

Planning and Compulsory Purchase Act 2004 (section 20) and the National Planning Policy Framework.

The appointed planning inspector will, as part of the examination, read all the materials submitted. In most cases the inspector will hold a pre-hearing meeting before the hearing sessions to discuss how he or she will manage the examination. This meeting will identify the main topics to be examined and a timetable will be produced. All the consultees will be invited by the inspector to submit written submissions on a set of questions that will test the plan. This may be an opportunity for consultees to expand on the issues they have raised in response to the consultation and submit additional evidence to support (including community based evidence).

The inspector will then hold a public 'hearing' to which individuals who have made responses to the consultation requesting to participate will be invited to attend. This may take place over a series of days or weeks depending on numbers of people who have made responses to the consultation and have said that they wish to attend the public examination.

For the hearing agenda, the inspector will set out a more detailed list of issues and questions for discussion along with a list of consultees who have been invited to attend (for each section of discussion). Again, consultees can comment on both the list of questions / areas of discussion and on the list of consultees. The inspector's aim will be to tease out further explanation on issues of controversy or the specific changes to policy text that consultees would wish to see. The inspector will ask the planning authority to respond during the public examination and at times they may concede to certain changes.

While consultees do not have to attend the hearings, experience demonstrates that having the opportunity to develop concerns directly with the Planning Inspector can result in additional changes being made to the Local Plan.

During and following the examination, the planning authority may propose 'minor modifications' to the plan, if they are not related to soundness. The planning inspector, if requested by the planning authority, will also produce a written report which may suggest additional changes or 'main modifications' to policy to ensure that the plan is sound and legally compliant. Such changes if accepted by the authority would need then to be advertised and may require a Sustainability Appraisal.

While it is within the gift of the planning authority to publish its local plan as it chooses, in that it is not legally obliged to make the changes suggested by a planning inspector, most authorities will take seriously the comments made by the planning inspector. There will then be a final opportunity by the public to lobby the authority on the planning inspector's report before the plan is adopted.

If the changes recommended by the inspector are so extensive and go to the heart of soundness, the inspector may recommend that the plan is not adopted. The planning

authority would then need to consider whether to withdraw and prepare a new document for submission.

The tests of soundness: The National Planning Policy Framework sets out four tests of soundness. These are that: planning documents must be positively prepared, justified, effective and consistent with national policy (and in London, the London Plan).

Positively prepared: that the development planning documents must be based on an objective assessment of development and infrastructure requirements and be consistent with achieving *sustainable development*.

Justified: must be founded on robust and credible evidence including -

- evidence of participation of the local community and others having a stake in the area;
- research or fact finding showing that the plan is justified by evidence that is up to date and convincing;
- the most appropriate strategy when considered against reasonable alternatives

Effective: need to be deliverable, flexible, able to be monitored, and be based on joint working with neighbouring authorities.

Consistent: should be consistent with National Planning Policy Framework and in general conformity with the London Plan. Where it is not, it must give clear and convincing reasons to justify this.

What is duty to co-operate? This places a legal duty on local planning authorities and other public bodies (such as Natural England, the Environment Agency, Historic Buildings and Monuments Commission for England, Transport for London, NHS Commissioning Board) to secure the necessary co-operation to maximise the effectiveness of their strategic policies and develop 'sound' Local Plans.

Formal adoption of a Local Plan: Once the examination is completed the planning authority can formally adopt the plan to be part of the development plan for the area. This means that it has to be agreed usually at a full meeting of ~~on~~ the local planning authority. The adoption of a Local Plan can only be overturned by a successful challenge in the High Court on a point of law.

Monitoring of a Local Plan: Planning authorities are required to produce and publish, updated at least annually, reports on the achievement of policies in the Local Plan