

LOCAL PLANS: submission of evidence by the Campaign to Protect Rural England (CPRE) to the Expert Group established by the Department for Communities and Local Government

October 2015

Executive summary

The Campaign to Protect Rural England's suggestions for the improvement of the efficiency and effectiveness of local plan production are summarised here in relation to the ten key factors that we consider currently to be holding back the production of local plans. We call on the Panel to recommend that the Government takes a series of actions, set out below.

I. Address the contentious and arbitrary nature of housing targets

- See our recommendations on the operation of the Strategic Housing Market Assessment (SHMA) process (to be published shortly).

II. Protect local plan priority and resources from the distraction of speculative proposals and challenges to plans

- Rebalance the 'presumption in favour of sustainable development' to discourage unrestricted speculative proposals by:
 - making speculative proposals on National Planning Policy Framework (NPPF) footnote 9 land¹ subject to express Secretary of State approval;
 - requiring an expedient site allocations process where 5-year supply is not demonstrated to ensure that the most sustainable sites are selected from a range of alternatives;
 - preventing constant challenge to 5-year supply by restricting the opportunity for challenge to the annual monitoring process.
- Local planning authorities (LPAs) should be given more scope to refuse applications on grounds of 'prematurity'.

III. Protect the value of plan-making from centrally-imposed deregulation

- Re-invigorate enthusiasm for local planning by empowering LPAs to revoke centrally-imposed permitted development rights through local plan processes.

¹ This includes Green Belt and specific wildlife, heritage and landscape designations, etc.

- Prevent the blanket imposition of further permitted development rights without the consent of LPAs.
- IV. Reduce the variety and complexity of different types of local planning activity**
- Create a rationalised menu of different types of planning policy interventions supported by an associated simplified menu of processes for their production.
- V. Resolve tensions between local and neighbourhood plans**
- Town and parish councils and neighbourhood planning forums should be given a limited right of appeal against planning permission.
- VI. Address the monolithic nature of local plans**
- Amend NPPF para 153 to support LPAs in disaggregating plan preparation.
 - Encourage LPAs to prioritise site allocations proposals.
 - Promote a new approach to simple and visionary long-term strategies.
 - Prevent locally-supported non-time-limited planning policies being classified as ‘out-of-date’ and therefore no longer relevant.
- VII. Overcome the expectation of perfect local plans**
- Explicitly empower the Planning Inspectorate to recommend the adoption of a generally sound plan that is ‘nearly perfect’.
 - Enable LPAs to partially withdraw aspects of a plan that require further attention before a public examination.
- VIII. Fix the Duty to Co-operate**
- There should be no absolute obligation for councils to meet the needs for development arising in neighbouring areas.
 - Housing need identified in SHMAs should be aggregated and monitored at national level.
- IX. Address unreasonable incentives for local plan production**
- The New Homes Bonus should be recast to reward only the successful delivery of schemes in a development plan.
- X. Make local plan policies meaningful for communities**
- Ensure that the NPPF and Planning Practice Guidance (PPG) together promote the drafting of straightforward and unambiguous policies.

In addition CPRE recommends that the Group considers further inquiries exploring (i) a more ‘open source’ approach to local planning, and (ii) the implications of the partial introduction of a continental zoning/coding system into the discretionary English planning system, as introduced in section (f) below.

Introduction

1. The Campaign to Protect Rural England (CPRE) is a registered charity with around 60,000 members and a branch in every English county. We welcome the opportunity to submit evidence to the Expert Group, which is considering issues of particular interest to us. Our network of local branches and regional groups have had extensive and detailed involvement in local plans, and this submission is built around a large volume of feedback received from them.

Positive about the plan-led system

2. CPRE was instrumental in calling for the plan-led system of managing new development, which was introduced through the Planning & Compensation Act 1991. The plan-led system has significant benefits:
 - providing certainty both to investors and to communities with regard to how development will take place;
 - enabling a proper balance between promoting economic and housing growth and conserving natural resources, cherished landscapes and cultural heritage;
 - facilitating the consideration of alternatives in order to select in an open and accountable way strategies and proposals that ensure the most sustainable forms of and locations for development;
 - ensuring the alignment of growth with infrastructure provision.
3. We have welcomed the continued focus on the plan-led system stated in the National Planning Policy Framework (NPPF), but we have serious concerns that the application of some aspects of the NPPF in practice have served to undermine the integrity of the plan-led system and public confidence in it, resulting in continued lack of progress with local plan adoption, and the encouragement of speculative development proposals and ‘planning by appeal’, which do not result in the most sustainable outcomes.

Positive about getting plans in place

4. CPRE’s analysis (see table below) shows that Local Planning Authorities (LPAs) are adopting local plans at an average rate of less than 3 per month, and that the rate of adoption, which was increasing up to the publication of the NPPF, has since tailed off. Information on what plans have been adopted across the country, and whether they are considered to be up-to-date, compliant with the NPPF and/or promoting a 5 year supply of housing is far from reliable.
5. CPRE has welcomed the Government’s intention, stated in the NPPF, to get local plans in place in all local authorities across the country, as well as recent statements² by both the Secretary of State Greg Clark and Housing and Planning Minister Brandon Lewis that have sought to encourage further progress.

² See, respectively, letters dated 27 March 2015, <https://www.gov.uk/government/publications/letter-to-the-chief-executive-of-the-planning-inspectorate> and 21 July 2015: <https://www.gov.uk/government/publications/local-plans-letter-to-the-chief-executive-of-the-planning-inspectorate>

Local plan adoptions	LPAs adopting a local plan	LPAs adopting a second plan post NPPF	LPAs with an adopted local plan (cumulative)	Monthly rate of plan adoption
Dec 06 - Feb 08	18		18	1.2
Mar 08 - Feb 09	21		39	1.8
Mar 09 - Feb 10	17		56	1.4
Mar 10 - Feb 11	32		88	2.7
Mar 11 - Feb 12	47		135	3.9
(Publication of the NPPF)				
Mar 12 - Feb 13	27	1	162	2.3
Mar 13 - Feb 14	25	4	187	2.4
Mar 14 - Feb 15	28	6	215	2.8
Mar 15 - Sep 15	16	3	231*	2.7
* Not all of these plans will necessarily still be defined as 'up-to-date'. There are 336 LPAs in England.				

CPRE's evidence

6. Our experience, including that of CPRE county branches, of local plans in practice has led us to conclude that the factors that hold back the production of local plans fall into ten main categories as set out below. We have structured our response, which is aimed at resolving these concerns, under the principal headings advised by the Group in its Call for Evidence. Recognising that our concerns do not necessarily map directly onto those headings, the following list indicates the principle heading under which each concern is primarily discussed.
- I. Address the contentious and arbitrary nature of housing targets (c).
 - II. Protect local plan priority and resources from the distraction of speculative proposals and challenges to plans (d).
 - III. Protect the value of plan-making from centrally-imposed deregulation (d).
 - IV. Reduce the variety and complexity of different types of local planning activity (d).
 - V. Resolve tensions between local and neighbourhood plans (d).
 - VI. Address the monolithic nature of local plans (a).
 - VII. Overcome the expectation of perfect local plans (b).
 - VIII. Fix the Duty to Co-operate (c).
 - IX. Address unreasonable incentives for local plan production (d).
 - X. Make local plan policies meaningful for communities (a).
7. Note that many of our recommendations are interdependent; for example, it would be counter-productive to introduce measures to prioritise delivery plans for development sites without also making the setting of delivery targets more realistic and responsive to local opportunities and constraints.

a. Content of local plans

8. **Issue: the monolithic structure of local plans.** Although the 'local development framework' (LDF) system introduced through the Planning & Compulsory Purchase

Act 2004 became bogged down by acronyms, over-regulation and central government interference, the principle of plans being a portfolio of planning policy documents had the potential to make plan preparation far more responsive to changing circumstances and local needs.

9. LDFs were expected to comprise a long-term strategy, development management policies that would generally be consistent over time, and frequently-reviewed delivery plans. After 2004, LPAs were advised to include more and more detailed content in their 'core strategies' to speed up progress with adoption (an approach that singularly failed), until NPPF para 153 finally decreed that "any additional development plan documents should only be used where clearly justified", resulting in a return to the single, unwieldy local plans that had been delaying the adoption of local planning policy since the introduction of district-wide local plans in 1990.
10. LPAs were seen not to be progressing to site allocation policies quickly enough (a fair assessment). Many LPAs focused on 'easy' development management policies and put too much detail into their core strategies, unnecessarily reviewing existing policies or repeating regional or national policy positions. But the solution of including site allocations within strategies simply delayed site allocations further.
11. It would have been more effective had LPAs and communities been given certainty over the long-term applicability of existing strategies and development management policies, to facilitate the rapid identification of site allocations within the context of existing policies. Instead of which, there were various central directions to remove policies from development plans (such as the "saved policies" directions post-2004 and the revocation of regional strategies) even where the policies in question were locally-supported and still had long-term relevance for the communities involved; such processes forced LPAs unnecessarily to review otherwise robust areas of policy.
12. Potential solutions
 - 1) **Amend NPPF para 153 to support LPAs in disaggregating plan preparation**, facilitating simple long-term strategies, resilient development management policies, area-based action plans for locations subject to significant change such as town centres, and responsive and frequently-reviewed site allocations. These would not necessarily need to be presented in separate policy documents with complicated, inaccessible names. See also our note on 'open source' planning under section (f).
 - 2) **Encourage LPAs to prioritise site allocations proposals**, especially where allocations are out-of-date, within the context of existing local, regional or national policies. LPAs should similarly be empowered to retain existing strategies and development management policies, including those 'saved' from previous plans, unless there are clear, locally-led, reasons to review those policies.
 - 3) **Promote a new approach to simple and visionary long-term strategies** in local plans that reflect in a straightforward way constraints on and opportunities for development, building on wider visions for the future of places developed by the communities involved, and aligning these strategies with the new political geographies resulting from the current sub-national devolution agenda. Such strategies should be robust enough to be retained without significant alteration through several iterations of site allocations/delivery plans.

- 4) **Prevent locally-supported non-time-limited planning policies (such as long-term strategies and development management policies) being classified as ‘out-of-date’ and therefore no longer relevant.** In particular, arbitrary notions such as ‘NPPF-compliant’ and ‘post-2004’ should be examined carefully. Part of the success of the NPPF was that it largely continued existing national planning policies with few changes other than economy of presentation - the most significant change being the ‘presumption in favour of sustainable development’ - hence many local plan policy areas such as heritage and Green Belt do not need updating to be NPPF-compliant. Similarly, national policies and their interpretations have continued to change since the NPPF, with clarifications and new policies issued by ministerial statement and through the PPG. Local plan policies should not be considered ‘out-of-date’ on the basis of their age, but only on the basis of their compliance with the current interpretation of national policy. The wholesale revocation of locally-supported planning policies by Ministerial direction should be prohibited. Consideration could also be given to empowering LPAs to redeploy centrally deleted policies from previously adopted local plans, structure plans and regional strategies, at their discretion, where those policies are still reasonably compatible with NPPF policy.
13. **Issue: unreasonable expectations for local plan policies that are counter-intuitive for communities.** While the NPPF and PPG are not overly prescriptive on the issue, there is a long-standing expectation that policies in local plans should be both positively-worded and flexible. This causes difficulties for LPAs because communities, including local politicians, and many investors, would prefer to see “clear policies on what will or will not be permitted and where” (NPPF para 154).
14. Some commentators on local plans insist that the emphasis that the NPPF places on ‘positive planning’ necessarily implies that each individual policy should be worded positively, but this is not necessarily the case, and can be counter-productive. Sometimes the most effective policies are those which set out clearly that certain types of development will not be permitted in certain areas. Expressing such intentions in a positively-worded policy can give false hope to developers or investors and also results in unwieldy policies that can be problematic to sell to politicians and citizens.
15. Similarly, some commentators insist that all policies should be worded flexibly, and this position is to a certain extent supported in some parts of the NPPF. However, attempting to account for unknown future possibilities with a flexible local plan policy is not only very difficult, but can also raise false hopes, as well as making policies unwieldy and difficult to follow. There is no need for policies to be flexible in any case because section 38(6) allows for decisions to be made that are not strictly in accordance with local plan policy if ‘material considerations’ can be shown to apply.
16. As well as adding unnecessarily to the length of plans and the time taken to produce them, such ‘positively worded’ and ‘flexible’ policies are often highly technical in nature and very difficult for ordinary citizens to feel comfortable with. Such citizens, who are ultimately the users and owners of local plan policy, should feel that policies work for them; otherwise they can feel disengaged from the whole plan.
17. Potential solution

- 5) **Ensure that the NPPF and PPG together promote the drafting of straightforward and unambiguous policies** that are clear on what will or will not be permitted, where and when.

b. Local plan preparation process

18. **Issue: the expectation of complete and comprehensive local plans.** Related to the matter of their monolithic nature, there is generally speaking an expectation that local plans, despite being unwieldy, should be able to be found ‘sound’ in their entirety at a single point in time. This has proved to be difficult to achieve in practice. In several cases local examinations have resulted in a recommendation from a planning inspector in favour of adoption of the plan, with a recommendation that policies are quickly subject to review.
19. Although this option is available, plans can and do stall or get withdrawn as a result of LPAs not being confident that the plan as a whole will be found sound, and greater clarity should be given to facilitate the partial adoption of a nearly perfect plan, or its entire adoption subject to early review. LPAs could also be given the opportunity ahead of a local examination to withdraw parts of the plan that they feel deserve greater attention, while allowing the rest of the plan to proceed.
20. Again, this area of concern relates to our thoughts about ‘open source’ planning set out in section (f).
 - 6) **Explicitly empower the Planning Inspectorate to recommend the adoption of a generally sound plan that is ‘nearly perfect’**, with time-limited recommendations for matters that need urgent consideration, such as consideration of an unsatisfactorily addressed discrete policy area or the topping-up of sites allocated for development.
 - 7) **Enable LPAs to withdraw aspects of a plan that require further attention before a public examination**, allowing priority areas of policy to proceed to adoption without being encumbered by more risky areas of policy.

c. Agreeing strategic requirements (including cross boundary requirements)

21. **Issue: the contentious and arbitrary nature of housing targets.** Determining an ‘objectively assessed need’ (OAN) figure is difficult, time consuming and contentious. Housing land supply issues are identified as being the main issue of contention in most incidences of local plan withdrawal or examination failure, which have grown since the NPPF came into force³. In that time, fifteen local planning authorities have withdrawn their plan for amendment. Nine of these were in the year after March 2013⁴. In some cases, this is because work had begun on plans before the NPPF came into force, meaning that these plans were felt to need substantial revision to conform with national policy.

³ Encyclopaedia of Planning Law and Practice Monthly Bulletin January 2014, pp.3-5.

⁴ *Planning* 21 February 2014, ‘Rules of Compliance: Getting Local Plans Back on Track’.

22. There are particular problems in relation to how the underlying evidence base for Local Plans is prepared. The recommended approach to preparing Strategic Housing Market Assessments (SHMAs) in the PPG is much less clear than that existing before the development of the NPPF, and lacks the detailed methodological guidance provided by, for example, ONS and DCLG in relation to demographic projections. If the Government intended this as a way of reducing burdens on local authorities and planning inspectors, the effect has in fact been the reverse.
23. Evidence supplied by CPRE branches shows that OAN is usually much higher than what could reasonably be expected to be built. Analysis of Inspectors' decisions shows that it is very difficult for a local authority to adopt housing targets which are lower than their OAN, even though the NPPF clearly states that OAN should not be met in full where "specific policies in this Framework indicate development should be restricted" (NPPF para 14). Naturally this is causing opposition to local plan progress at a local level which in turn slows the whole process down.
24. Potential solution
 - 8) **See our recommendations on the operation of the SHMA process (to be published shortly).** In November, CPRE will be publishing significant research into the operation of the SHMA process undertaken by Housing Vision and Tibbalds Planning and Urban Design. The recommendations from that report on improving the SHMA process will in our view be critical to improving the efficiency and effectiveness of local plans.
25. **Issue: the Duty to Co-operate is poorly understood and is unnecessarily holding up local plan progress.** Many local authorities are falling foul of the Duty to Co-operate and are tripping up at examination, with local plans needing to be withdrawn or amended because they have not fulfilled the duty. For a local plan to be found sound neighbouring authorities need to collaborate on preparing their housing requirements. However, a lack of clarity over what is needed to satisfy the Duty and a lack of systems in place to ensure co-operation is making it difficult for local authorities and causing extensive delays.
26. Central Bedfordshire Council (CBC) provides an instructive example, involving 9 other surrounding authorities. A key problem was the very high level of housing need, which neighbouring Luton argued could not be met within its own constrained boundaries and was looking to adjoining LPAs to accommodate. CBC initiated a Draft Memorandum of Understanding on this with all 9 other LPAs, which was signed off at officer level but held up in negotiations at executive level. CBC - which was already offering 5,400 homes for Luton - decided to proceed anyway. The Inspector determined that, whilst there was no 'duty to agree', CBC could and should have done more to co-operate.
27. The PPG now provides more detail. In particular it states that 'local planning authorities are not obliged to accept the unmet needs of other planning authorities if they have robust evidence that this would be inconsistent with the policies set out in the [NPPF], for example policies on Green Belt or other environmental constraints'.⁵ In CPRE's view this places more of a burden on LPAs to release land to meet needs

5 <http://planningguidance.planningportal.gov.uk/blog/guidance/duty-to-cooperate/what-is-the-duty-to-cooperate-and-what-does-it-require/>

generated in a neighbouring area than it places on the LPA in which the need was generated. This also supports LPAs that do not have the capacity to provide housing within their own boundaries, but who wish to pursue an ambitious economic growth strategy, in abrogating responsibility for difficult decisions about the locations of growth to their neighbours, irrespective of the existence of constraints in the surrounding areas - such is the case in places like Oxford, Stevenage and Newcastle.

28. Potential solutions

- 9) **There should be no absolute obligation for councils to meet the needs for development arising in neighbouring areas** where either NPPF footnote 9 constraints apply⁶ or housing needs are based on growth ambitions that exceed natural household growth. This is not to say that LPAs should not plan for ambitious growth, just that these plans should take account of constraints and opportunities available in their own and in neighbouring areas. LPAs that seek growth that they cannot accommodate in their own area, and would therefore necessitate development in neighbouring areas, should (a) make a greater effort to accommodate their own growth aspirations within their own boundaries, (b) seek positive ways to incentivise - in a non-mandatory way - neighbours to accept such development as it would be reasonable to accommodate (and then allow their neighbours to accommodate the growth however they see fit), and/or (c) revise their ambitions for growth to be compatible with the opportunities and constraints affecting the area.
- 10) **Housing need identified in SHMAs should be aggregated and monitored at national level.** Only if the total amount of OAN nationwide significantly exceeds planned development rates should the Government consider taking action to encourage additional housing growth. Such action could include inviting bids for highly sustainable locally-led new towns (including eco-towns or 'garden cities'), making the best of opportunities such as brownfield land and public transport corridors, while avoiding constraints such as those listed in NPPF footnote 9.

d. Implementation

29. A key reason for the failure of many LPAs to progress quickly enough with preparing local plans is the priority given to plan-making by council leaders and politicians, and hence the resources that are put in place. There are a number of reasons why councils do not properly prioritise plan-making, which are often related to their preparation being difficult and expensive, and also because councils are distracted by other pressing matters, including fighting planning appeals. LPAs that are most effective in producing plans usually have professional planners close to the leadership and a well-resourced and motivated local plans team that works closely with the corporate centre. Further details around some of these issues are given below.

⁶ NPPF Footnote 9 states: "For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion."

30. **Issue: Local plan priority and resources are reduced by the distraction of speculative proposals and challenges to plans.** CPRE strongly advocates the plan-led system that is essential to sustainable development and clearly intended to be central both to legislation and to the NPPF, but implementation of the system in practice favours those who choose to challenge a plan-led approach by demonstrating that plans are out-of-date or failing to meet identified need, in order to facilitate speculative development proposals. This is compounded by the fact that appeal decisions frequently overrule even up-to-date plans: CPRE research⁷ has shown that in the first two years of operation of the NPPF, even where LPAs could demonstrate a 5-year supply of housing land, 1 in 6 appeals for housing development on greenfield sites were allowed: this is not a plan-led system in operation.
31. The implicit encouragement that the NPPF's 'presumption in favour of sustainable development' currently gives to speculative development proposals has direct impacts on the integrity of the planning system as a whole, and on the ability of investors who have 'done the right thing' and followed the plan-led system to deliver properly planned development. Plan-led developments on the most sustainable (often brownfield) sites can be more marginal in terms of viability than many speculative developments, which tend to be on greenfield sites and subject to a less rigorous approach to identifying necessary infrastructure provision; the result is that the viability of plan-led developments can be undermined by the competition arising from unplanned development.
32. In principle, the 'presumption in favour of sustainable development' is an understandable carrot-and-stick measure to encourage LPAs to progress with local plans, but it also encourages development interests to frustrate them, particularly where those interests lie in forms or locations of development that would not be supported by communities or by sound practices of sustainable development.
33. All of the above affects adoption of plans because lack of faith in the plan-led system demotivates LPAs from putting resources into development plans, and speculative development proposals divert resources away from development plans, particularly where planning appeals are involved.
34. Potential solutions
- 11) **Rebalance the 'presumption in favour' to discourage unrestricted speculative proposals.**
- a) Ensure that emerging and established local policies, as well as national policies, on the appropriate scale and strategic location of development, including conservation policies and Green Belt, are rigorously applied. **No speculative development affecting NPPF footnote 9 interests should be allowed by LPAs or on appeal without the express consent of the Secretary of State.** This could be supported through a limited Neighbourhood Right of Appeal (see para 48 below).

⁷ <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/3722-targeting-the-countryside>

- b) Reduce resource requirements on LPAs and the Planning Inspectorate arising from appeals, and the harmful impact of speculative proposals, where plans are out-of-date and/or 5 year land supply cannot be demonstrated. **Where insufficient sites are identified for development, a new expedient process for selecting appropriate additional sites from available alternatives should be defined.** This could comprise a call for sites consistent with local and national policy, a consultation period, and the LPA's resulting recommendations to an independent public examination resulting in additions to the local plan's site allocations. (cf. current clause 99 of the Housing & Planning Bill.)
 - c) Reduce the scope for challenges to the up-to-dateness of local plans and 5-year land supply. **LPAs' annual monitoring reports should set out which parts of the plan are up-to-date and the 5 year land supply position, and these positions should only be challengeable annually when the report is produced and not with every speculative planning application.**
- 12) **LPAs should be given more scope to refuse applications on grounds of 'prematurity'** (i.e. when an application would compromise policies in an emerging or draft local or neighbourhood plan). While there is currently limited scope for this when development plans are at a very advanced stage of preparation⁸, we consider that a more robust approach would encourage developers to engage positively with local plans at an earlier stage. In particular we would recommend that LPAs should be supported in refusing any application for 'major' developments in cases where:
- a phasing policy, e.g. seeking to prioritise suitable brownfield land or sustainably-located sites, would be undermined;
 - LPAs propose to delegate site allocations to a relevant, well advanced neighbourhood plan; or
 - one or more infrastructure providers (as referred to in paragraph 162 of the NPPF) provides evidence identifying the site in question as unsuitable for development due to deficient or inadequate supporting infrastructure.
35. **Issue: centrally-imposed deregulation demotes the value of local plan-making.** The progressive removal of local discretion in decision-making, through increased permitted development rights and similar mechanisms, decreases the effectiveness of local plans and demotivates councils from putting resources into them. This is particularly the case with the blanket removal of controls over the conversion of properties between widely differing uses, such as commercial to residential, and which have significantly different impacts.
36. Emerging proposals for an automatic 'permission in principle' on various types of land (to be determined) similarly have the potential to undermine local discretion.
37. Potential solutions

⁸ <http://planningguidance.planningportal.gov.uk/blog/guidance/determining-a-planning-application/how-must-decisions-on-applications-for-planning-permission-be-made/>

- 13) **Re-invigorate enthusiasm for local planning by empowering LPAs to revoke centrally-imposed permitted development rights through local plan processes.** LPAs with an adopted local plan should have the right to reclaim local discretion over planning decisions in part or all of their areas subject to local consultation.
- 14) **Prevent Government from the blanket imposition of further permitted development rights without the consent of LPAs,** instead offering councils the opportunity to sign up to a menu of permitted development rights for parts or all of their areas, subject to local consultation.
38. **Issue: preparation processes for different types of local planning activity vary considerably and most are overly complex and bureaucratic.** Procedures applying to local plans, joint local plans, different types of planning documents within local plans, neighbourhood plans, supplementary planning policy (including site development briefs), local development orders, neighbourhood development orders, etc. are widely different, with different types and forms of consultation, impact assessment, public examination and processes for (and even names for) adoption applying to each, many of which are rigorously tied down with complex regulations.
39. This complex arena is being further complicated by emerging elements such as housing zones and the ‘permission in principle’ approach being applied to sites identified on a statutory brownfield register, as proposed in the Housing and Planning Bill.
40. Navigating their way through this bewildering array of processes inevitably slows LPAs and stakeholders down with the production of plans, especially in terms of the effort required to continuously educate and inform council leaders, politicians, other stakeholders and citizens whose engagement with the overall system is often only occasional.
41. Potential solution
- 15) **Create a rationalised menu of different types of planning policy interventions supported by an associated simplified menu of processes for their production.** Not all processes would be appropriate for all interventions. Such an approach could also rationalise the different terminology used. This would require a rationalisation of existing legislation. (This approach would be highly compatible with the ‘open source’ approach to planning described in section (f) below.)
42. **Issue: tensions between local plans and neighbourhood plans.** CPRE is a great supporter of neighbourhood planning and is currently engaging with DCLG on ways to promote the practice in places that have not yet made a start. CPRE considers that it is just as important to ensure that neighbourhood plans are efficiently produced and effective as it is for local plans; all the more so if there is a move towards the kind of ‘open source’ planning we describe below.
43. Currently, there are two key tensions between local and neighbourhood plans that serve to deter some communities from going to the effort of producing a neighbourhood plan.
44. First, there is a widespread but erroneous belief that because neighbourhood plans should generally conform with local plans they cannot be put in place until a local

plan is adopted (or close to adoption). Government and its partners (including organisations like Locality and Planning Aid, as well as CPRE) are working hard to correct this impression, but there remains uncertainty about preparing neighbourhood plans in areas where local plans are absent or out-of-date.

45. Related to this, the second tension relates to the fact that it is the district council as LPA that makes decisions on planning applications, and that the LPA is required to make such decisions in accordance with the development plan - including neighbourhood plans - unless material considerations indicate otherwise. There is serious concern that, faced with pressure to grant consent for developments under the NPPF 'presumption in favour of sustainable development', or simply because they might feel that neighbourhood plans interfere with their own discretion, LPAs will grant permission for development proposals that conflict with neighbourhood plan policies, or that permission will be granted on appeal.
46. Encouraging communities to participate in neighbourhood planning can help to speed up the delivery of local plans by contributing to the front-loading of local plan preparation from the bottom-up, and by helping to identify opportunities and constraints at a very detailed, practical level.
47. The best way to ensure that communities engage with neighbourhood planning is to convince them that their plans will have effect.
48. Potential solution
 - 16) **Town and parish councils and neighbourhood planning forums should be given a limited right of appeal**, to enable them to challenge the granting of permission for speculative development proposals that conflict with neighbourhood plans where neighbourhood plans are in an advanced state of preparation or 'made' (i.e. adopted). We believe that such a mechanism would rarely be used in practice, but would actively help bring more neighbourhood plans forward, and be a disincentive for developers to pursue speculative planning proposals; this would thereby also allow LPAs to focus more on preparing local plans, rather than reacting to speculative planning applications.
49. **Issue: unreasonable incentives for local plan production.** The New Homes Bonus is currently the most significant financial incentive used by Government to encourage local authorities to release more land for house-building. In its present form it has the damaging outcome of encouraging local authorities to permit or accept poor quality new development, without having had a chance to plan properly for it. The scheme has been widely criticised, including by both the National Audit Office in March 2013⁹ and the House of Commons Public Accounts Committee in October 2013¹⁰.
50. This impacts upon the efficiency of local plan preparation because communities often feel that LPAs are only proposing new development in order to benefit financially, which encourages antipathy to development and hence objections to plans. Whereas some apparent benefits that lead to this impression (such as a

9 <http://www.nao.org.uk/report/the-new-homes-bonus-2/>, published 27 March 2013.

10 See <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accountscommittee/news/new-homes-bonus-report/>, 31 October 2013.

section 106 payments, community infrastructure levy and increased council tax) are largely if not entirely offset by the increased cost to councils of having more development in their areas, and also go some way towards mitigating the impacts of new development, the New Homes Bonus appears simply to be a bribe to accept development, the benefits of which to the communities affected by the development are not sufficient to overcome their objections.

51. Potential solution

- 17) **The New Homes Bonus should be recast to reward the successful delivery of schemes in a development plan** (local plan or neighbourhood plan) or local/neighbourhood development order that is either adopted or at examination, and should be weighted to reward sites that accord well with NPPF policy (e.g. brownfield redevelopments, conversions and bringing empty homes back into use) more favourably than those that take place on land that the NPPF would otherwise protect (i.e. footnote 9 land). This would retain the focus on rewarding an increase in house-building, as the New Homes Bonus originally intended, but would better incentivise well-planned, good quality development that is supported by the local community.

e. Observations / f. Other

52. **True ‘open source’ planning:** consideration should be given to taking the approach outlined above with regard to disaggregating plans and rationalising planning processes a step further, reducing the boundaries between different areas of planning and related policies in a way that is more ‘open source’. Parallels can be drawn between the preparation of massive and unwieldy local plans and the implementation and release of computer operating systems such as Microsoft Windows. Microsoft has described Windows 10 as the ‘last version’ of Windows. In future, it will apply incremental updates, as has long been the practice for Linux. As for operating systems, a critical issue will be to maintain dependencies from updates, in other words making sure that to one piece of software does not break the system, or one policy make the plan as a whole unsound. It should be possible, using available information technology, to place all planning and related policies for an area into a single accessible resource, accessed primarily via online mapping, similar to that in operation in Victoria State, Australia¹¹. It will be critical that open data principles are applied comprehensively, so that spatial data is published in consistent formats and that policies are published with metadata.
53. Users of planning policy would not then be forced to navigate their way between different policy documents produced for different reasons by different bodies covering different areas (local plans, neighbourhood plans, minerals and waste local plans, local transport plans, etc.) in cumbersome PDF files¹². Rather they should be able to see the policies and proposals that apply to their area of interest, highlighting those that are perhaps under review (as some software highlights features that are in ‘beta’). This would also assist the various agencies involved in aligning policies/proposals and avoiding conflicts between them.

¹¹ <http://services.land.vic.gov.au/maps/pmo.jsp>

¹² It is notable that while the planning system still relies on PDF files, this format is awarded only one star as open data. Central government is changing formats in 2016 and the planning system now needs to catch up: <https://gds.blog.gov.uk/2014/07/22/making-things-open-making-things-better/>

54. Within such a system individual policies or proposals, or groups of them, could be created or reviewed by the relevant agencies easily, openly and expediently in response to changing needs and circumstances, just as packets of computer code are updated in response to user needs, bugs or security issues, etc.
55. **Further note: ‘permission in principle’.** A further risk to the primacy of the planned system could arise from proposals to introduce ‘permission in principle’ through the Housing & Planning Bill, apparently as a means of moving towards a ‘zoning’ system for planning new development¹³.
56. Zoning systems already in place in countries like France and the USA are backed by legally binding plans and ordinances, in which there is far less scope for discretion and hence for speculative development proposals. European style zoning systems have been lauded by some for encouraging the custom build model of housebuilding, but some American academics have argued that the form of zoning that is widespread in that country has contributed directly to the country’s particular problems of urban sprawl¹⁴. CPRE has particular concerns that the new ‘permission in principle’ route may short circuit the local plan process; create additional cost burdens for already stretched local planning authorities; and considerably hobble the scope for local communities to reap betterment from development values on sites given permission. We are concerned that a hybrid between the English discretionary system and the discipline of zoning could be unworkable or have unreasonable outcomes, especially if it seems easier for developers to obtain permission by exception on appeal on speculative sites than to meet rigid design codes in identified zones.
57. The introduction of ‘permission in principle’ is likely to have a major influence on the process and content of Local Plans in future. We recommend that the Panel considers exploring this issue in greater detail, but as a matter of urgency, perhaps through a separate inquiry.

CPRE

October 2015

¹³ In Fixing the Foundations: the Productivity Plan, July 2015.

¹⁴ Hirt, Sonja: *Zoned in the USA: The Origins and Implications of American Land-Use Regulation*, Cornell University Press 2015.