

Planning for a better future

Mike Kiely presents the Planning Officers' Society's planning manifesto for the next government

The Planning Officers Society's Manifesto was published in February 2014. It concludes that the current system of development plans, as introduced in 2004 and subsequently refined, is essentially sound. However, the Manifesto identifies four key areas where the current system could be improved and these are listed below. This paper sets out how these improvements could be achieved and what would be required to bring them into force.

The Duty to Cooperate is challenging and too many plans are failing because of shortcomings in this area, particularly in terms of establishing cross boundary objectively assessed housing need and cooperating with authorities at different stages in their plan production.

Agreeing the overall strategy in an area can be politically difficult, particularly with the Duty to Cooperate, and this is leading to a two plan process persisting in many areas, rather than a single Local Plan as desired by the National Planning Policy Framework.

Despite the National Planning Policy Framework advice that a plan should receive increased weight as it progresses through the system, the Soundness Test towards the end of the process does undermine the potential weight that could be awarded to an emerging plan.

The Strategic Environmental Assessment and Sustainability Appraisal requirements and Issues and Options stage could be applied in a more targeted way to speed up the process, perhaps focussed on strategic planning matters and matters necessary to be considered under the Duty to Cooperate.

It is clear that with the abolition of regional planning and the introduction of the Duty to Cooperate, local authorities have found it very challenging to collectively agree cross boundary strategic visions, objectives and policies, particularly relating to objectively assessing housing need through Strategic Housing Market Areas. The Society acknowledge that there is very little prospect of the reintroduction of regional planning and believe that this does not have to be barrier to an efficient and effective development plan process. The following improvements are considered effective solutions to ensure that development plans are brought to Examination with cross boundary matters properly addressed.

Summary of proposals

The Society's proposals are based on a recognition that the plan making process has two distinct stages, strategy and details. We need to make sure that each stage is carried out in the most effective and efficient way possible, and crucially, at the right geography. We believe that many of the problems with the current system can be effectively addressed by adopting the changes we recommend.

Stage one: the larger-than-local strategy

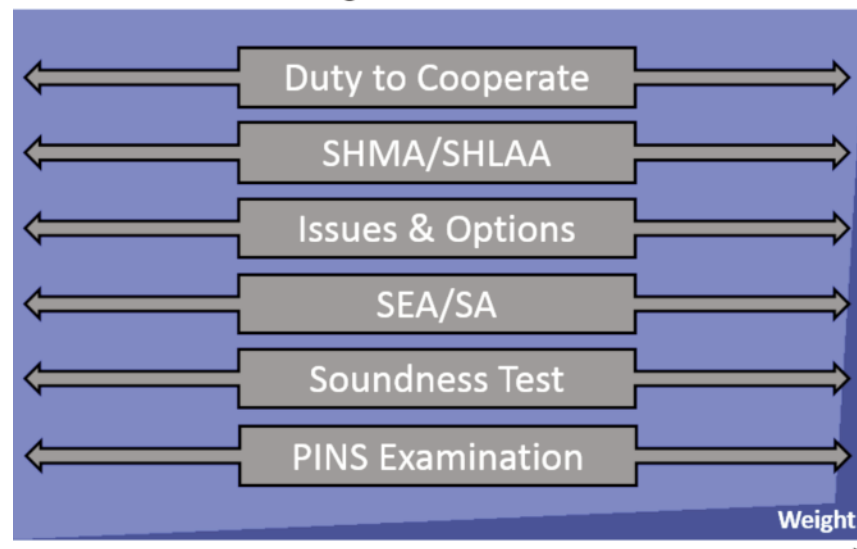
This covers the key larger-than-local issues over the economic geography of the city/town and hinterland. It therefore uses Housing Market Areas as the basic building block since the policy basis for these is well established in the National Planning Policy Framework and they reflect current work already undertaken on Strategic Housing Market Areas. This work was published by the Government in November 2010 and should be refined and recommended as the preferred approach. However, if local circumstances required it, a larger area could be selected covering a number of Housing Market Areas, such as a Local Enterprise Partnership area, an Enterprise Zone or a dialogue between major cities and other joint working arrangements.

The Local Planning Authorities for the selected area will be required to work together to establish the objectively assessed housing need for the Housing Market Area, and, taking into account constraints and the availability of sites, agree the broad distribution of housing and employment including the requirements for each Borough/District. This stage would identify significant developments, such as a large urban extension or a green belt review. It will also cover the key infrastructure necessary for that development to be delivered. County Councils and other bodies would be consulted as part of the process, but the work would be led by the Local Planning Authority at Unitary and Borough/District level. If a Local Planning Authority chooses not to participate in this stage then the remaining Local Planning Authorities will complete the work for the area and that Local Planning Authority will be

Current System

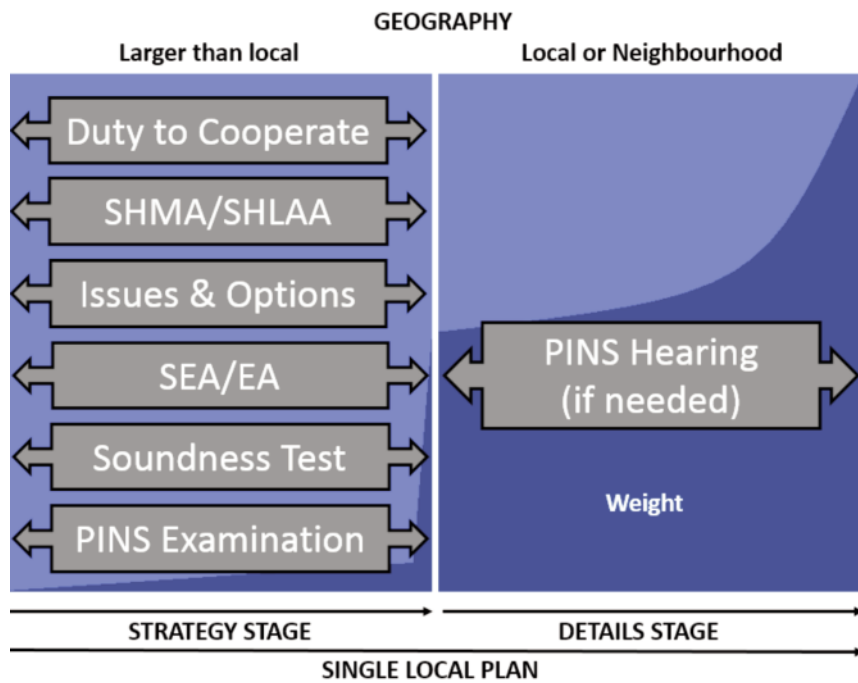
GEOGRAPHY

Larger than local & local



Mike Kiely is Chairman of the Planning officers' Society

Proposed System



bound by the final outcome.

The key evidence base to support this will be the Strategic Housing Market Assessment and the Strategic Housing Land Availability Assessment. A Strategic Environmental Assessment and Sustainability Appraisal will also need to be undertaken. An Infrastructure Study would be required which may involve adjoining Housing Market Areas. This will result in a short document underpinned by evidence base reports and the Strategic Environmental Assessment and Sustainability Appraisal. The report will include a key diagram showing the broad location of development and development requirements which each Local Planning Authority will be required to meet and the key infrastructure to be provided.

This stage will be subject to public consultation and Independent Examination for Soundness and legal compliance. This will include testing the robustness of the objectively assess needs and the distribution and deliverability of the housing and employment requirements so that each area can demonstrate that it meets the requirements of the National Planning Policy Framework.

Should statutory endorsement of strategic planning matters be in place it is important to acknowledge they will not in themselves constitute a development plan document but are matters to be reflected in subsequent documents which would constitute development plan document status at a local authority or neighbourhood level. This reinforces the one Local Plan approach advocated in the National Planning Policy Framework and assists neighbourhood planning. However, although weight is a matter of planning judgement, it is considered the endorsed strategic planning matters should be awarded weight in the decision making process in that they will constitute an agreed and sound planning policy framework at a strategic level.

Stage two: the detailed plan

The Local or Neighbourhood Plan will have to conform to the

strategic requirements set out in stage one. This is where decisions on the precise location of new development and development management policies are left to the Local Planning Authority and the local community to decide through Local Plans and Neighbourhood Plans. There would be wide flexibility for Local Planning Authorities and communities to develop plans tailored to their areas and communities. The important challenge that Local Planning Authorities would face is in ensuring a five-year supply of housing land and delivering the key proposals for growth and infrastructure set out in the strategic stage one. The draft plan would be subject to public consultation.

If a local planning authority considers that the approved strategic framework gives them all they need to plan for growth and development in their area, then they should be able to adopt it as their Local Plan without any further consultation.

In all cases the plan would be tested by the Inspectorate against a National Planning Policy Framework Conformity test. The Inspectorate would also hear any objections to the detailed policies and this would normally be by written representations.

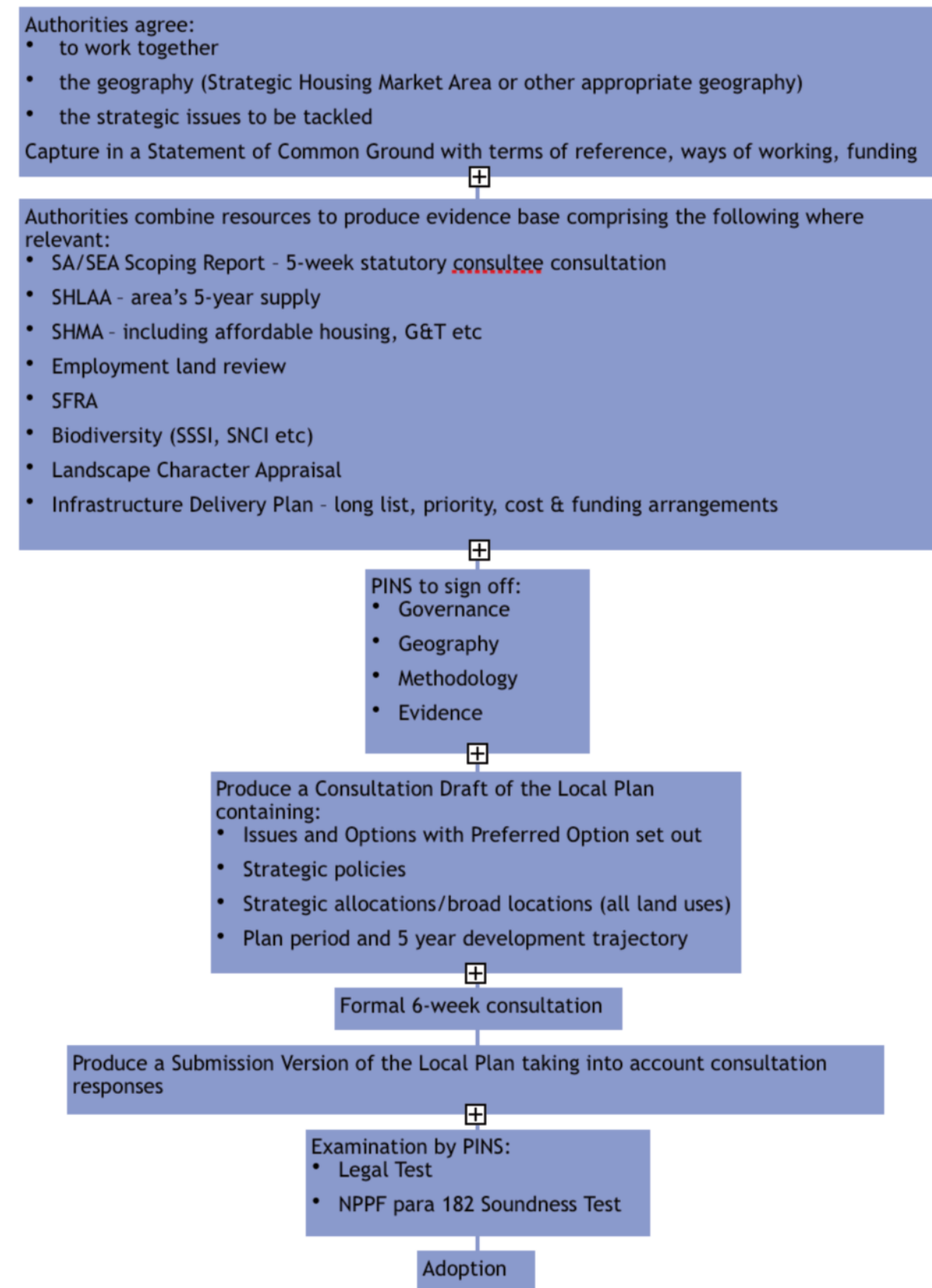
These proposals would ensure that the main Duty to Cooperate responsibilities were discharged in stage one where the quantum and distribution of development was determined. It would avoid detailed work and consultation taking place when the housing requirement was not sound. The cost of the evidence base for stage one would be shared amongst a number of Local Planning Authorities making the process more cost effective. There would be greater flexibility and light touch examination at stage two but a clear requirement for Local Planning Authorities to ensure a five-year land supply.

We have included two diagrams in Appendix A to illustrate the comparison between the existing system and the evolution that we are proposing. Appendices B and C contain flow charts showing in more detail the new process to produce the strategy (stage 1) for a Local Plan and the detailed policies (stage 2) for a Local Plan or a Neighbourhood Plan.

Duty to cooperate and meeting housing need

It is considered the National Planning Policy Framework, with further detail in the National Planning Practice Guidance, should recommend the establishment of cross-boundary local authority groups based on Strategic Housing Market Areas. In some cases Local Economic Partnership areas or other agreed strategic planning areas may be appropriate where they encompass a number of Housing Market Areas. These groups would be bound by agreed terms of reference and tasked with achieving consensus on strategic planning matters, particularly the identification and distribution of objectively assessed

Flow chart showing the new process to produce the strategy (stage 1) for a Local Plan.



housing need across the agreed area.

The real strength of this new approach is that in the strategic stage the whole process, including the final examination, is carried out at the right geography, one that is larger than local. This allows the Inspector to deal with any shortcomings in the

process by amending the strategy rather than just finding a Local Plan (the current but wrong geography) unsound.

If an authority does not engage in the process then it should be possible for the other authorities to progress and plan strategically across the absent authority's area as the

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process will be based upon a Strategic Housing Market Assessment understanding of need and a Strategic Housing Land Availability Assessment understanding of capacity, followed by a strategic planning process that works out the overall quantum of development and its broad distribution in each local authority area. This will avoid those authorities that do not engage holding proactive authorities to hostage regarding the Duty to Cooperate and addressing strategic planning matters.

There will be a need to consider transitional arrangements for those Local Planning Authorities with an adopted National Planning Policy Framework compliant Local Plan. It is vital that their plan stays in place as a decision making tool while these changes are introduced. These authorities will be required to cooperate in this new process so they can contribute to the formulation of the new strategy for their area. The work they would have done on their Local Plan will put them ahead of the curve in these discussions. Once the strategy is in place and found to be sound by the Planning Inspectorate, there will need to be a simple mechanism for their plan to be converted to the new system provided their plan is in conformity with the new strategy for their area.

The identification of a detailed five-year and deliverable longer-term housing land supply will be a vital objective of this process and the house builders will need to engage, particularly at stage one, as they do now. How this is done will depend on the circumstances of the particular area. In some cases this could be achieved to a National Planning Policy Framework paragraph 47 standard in stage one. In most cases however the necessary detail will not emerge until stage two. The National Planning Policy Framework Conformity test that we propose is designed to pick this up in stage two so that this important aspect of the development plan is properly and independently tested.

Although housing need and development is likely to be the focus, it should also be seen as an opportunity to address other strategic matters such as economic development, town centre uses and infrastructure.

Should an authority fail to engage in the process, or fail to reflect the outcomes of this process in their subsequently submitted development plan documents, they would be vulnerable in terms of being able to produce a sound plan. Indeed, the Planning Inspector may choose not to proceed with the examination into a Local Plan on the basis that due to not engaging or complying there is little prospect of the plan succeeding.

Using the current tools in the right way

A central part of our proposals is to make sure that at each stage the existing plan making tools are deployed in the right way so that progress can be made in the fastest possible time

commensurate with crafting sound plans.

Issues and Options

It is important in developing a plan that Issues and Options are properly considered. However, the reality is that an understanding of the issues is the starting point of the whole process and options only really make sense at the strategic level. Considering alternative options at the detailed policy stage is invariably contrived and adds little value to the overall plan making process. Our proposal therefore is to make it clear that Issues and Options are only necessary to consider at stage one: the strategy formulation stage.

It is considered that this does not require a change to legislation, but merely clear guidance in the National Planning Policy Framework/National Planning Practice Guidance.

Strategic Environmental Assessment and Sustainability Appraisal

The need for a Strategic Environmental Assessment and Sustainability Appraisal in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 and European Directive 2001/42/EC is well established in plan making. However, it is considered this is an area that should be refined further to ensure that the legislative requirements are achieved, but the work and material produced is proportionate and adds value to the development plan process and does not represent a fruitless burden to the process. We recommend that if these changes to the development plan making process are adopted then Strategic Environmental Assessment and Sustainability Appraisal will only be necessary for the strategy formulation stage. They will not apply to the detailed policies and proposals stage as they will be in conformity with a sound and agreed strategy, ie one that has been endorsed by the Planning Inspectorate.

Legislation may be necessary to put this new approach beyond legal challenge.

The role of the Planning Inspectorate

The soundness test towards the end of the plan making process does undermine the potential weight that could be awarded to an emerging plan as it produces a binary outcome: the whole plan is either sound or not. This does not support the National Planning Policy Framework aim that a plan should receive increased weight as it progresses through the system. What we are proposing is that the test to be applied by the Planning Inspectorate to the two stages needs to be different.

Furthermore the role of the Planning Inspectorate will be different in the two stages. This is in tune with our design principle of only deploying resources where they are necessary and

can add value.

Following submission to the Planning Inspectorate it is very common for a change of circumstances and/or legislation to occur which can lead to delay in the examination process and receipt of the Inspector's report. To ensure examinations or hearings progress in a timely manner the Planning Inspectorate should be given authoritative guidance that enables them to be pragmatic when addressing such matters. For example, as part of post-examination modification consultation, such matters can be addressed comprehensively prior to drafting of the Inspector's report.

Stage one: the larger-than-local strategy

The outputs from stage one would be discussed and examined at a statutory inquiry that is chaired by a Planning Inspector. The strategy would be tested against Strategic Environmental Assessment and Sustainability Appraisal requirements, the Duty to Cooperate and all four elements of the Soundness Test. Because it is concentrating on strategic matters and operating at that strategic geography the Inspector has the best possible opportunity to repair any shortcomings in the process and get to a position where the strategy can be supported.

A Planning Inspector's report would still be produced and submitted as per the current process. This would provide flexibility and certainty for the remaining parts of the plan to proceed to adoption.

Stage two: the detailed plan

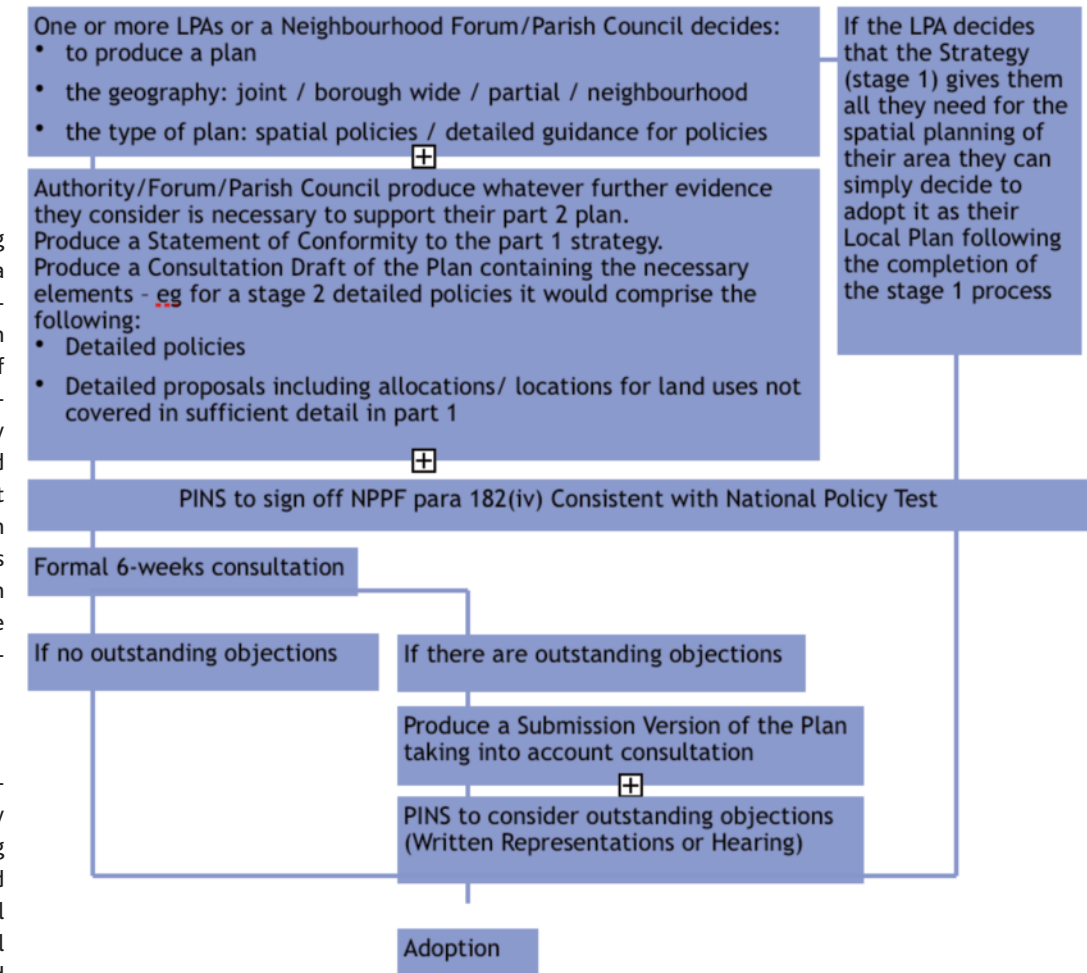
In a context where the strategic framework has been found sound, the Society consider that there is scope with this new approach to significantly streamline the formulation and approval of detailed policies and proposals.

At stage two the Planning Inspectorate would have two roles: • To ensure that the development plan is in generally conformity with the National Planning Policy Framework. We are suggesting that this is called the National Planning Policy Framework Conformity test and is essentially the "Consistent with National Policy" part of the Soundness Test.

• To hear any outstanding objections to the detailed policies and proposals.

The conformity of the draft detailed policies and proposals with the adopted strategic policies and the National Planning

Flow chart showing the new process to produce the detailed policies (stage 2) for a Local Plan or a Neighbourhood Plan.



Policy Framework (and the London Plan within London) could be demonstrated through the completion of a standard proforma, which would show how the detailed policies deliver the agreed strategy and strategic policies. The Planning Inspectorate would sign this off in advance of any consideration of objections.

If through consultation, no objections are received (or they are negotiated away) to the proposed detailed policies from the statutory consultees and non-statutory bodies/individuals, the Council should be able to adopt its plan with no further involvement from the Planning Inspectorate.

If such objections are received, then the Planning Inspectorate's role would be to consider those objections, but not in a manner that the whole Development plan Document would fail should issues emerge. It would only be the detailed "problem" policy that would be deleted or amended. Objections to detailed policies should be considered either through written representations or, in exceptional circumstances, through a much more proportionate and streamlined hearing process.

This approach could be easily adapted and applied to Neighbourhood Plans.

The role of the Chief Planning Officer in Councils

Ensuring that a Local Planning Authority delivers growth and >>>

meets the needs of its population is every bit as important as a Council discharging its fiscal responsibilities. The importance of the latter being effective in the teeth of political turmoil is recognised in the responsibilities and protection given to the "Section 151" officer.

It has been seen that planning for growth and making politically difficult decisions over the allocation of land for development can be a major drag on meeting the needs of our nation. The Society is arguing that a set of responsibilities, powers and protections need to be given to Chief Planning Officers to ensure that these difficult decisions are made even in the situation where local politicians find it politically difficult to make them.

Keeping the system nimble

It is important to set up the system so that it can be flexible and deal efficiently with changes in circumstances. Procedures need to be in place to either partially review the strategy or produce additions or amendments to detailed policies and proposals.

If a Local Planning Authority (or a group of them) wish to amend an approved strategy a partial review should be possible. If this is being undertaken by part of Housing Market Area group of authorities then, provided the views of the other authorities are taken into account, this should be possible. Otherwise the process should follow the same procedure as setting up the initial strategy.

When the current Development Plan system was introduced in 2004 the concept was a suite of documents: Development Plan Documents (Core Strategy, Detailed Policies, Area Action Plans etc) and Supplementary Planning Documents. The National Planning Policy Framework introduces and advocates the formulation of a single Local Plan for a local authority, which addresses strategic policies, site allocations and development policies.

The Society believes that if our recommendations are adopted the distinction between Development Plan Documents and Supplementary Planning Documents can be dropped. In fact the interpretation of the Town and Country Planning (Local Planning) (England) Regulations 2012 (especially Regulation 5 and 6) by the courts means that the scope of content that a Supplementary Planning Document can include is very narrow and their benefits therefore are very limited. If the detailed layer of policies and proposals can be prepared in the simplified way that we have suggested and the option is there to produce additions and amendments to the Local Plan, then we will have all the tools that we need to plan for growth. Furthermore, it is recommended that like the newly launched National Planning Practice Guidance, a Local Plan should be web based. This further enables it to be added

to as circumstances change.

Our recommendation therefore is that amendments and additions to the Detailed Policies and Proposals in a Local Plan should be capable of being promoted in the same way as the original Local Plan, provided that they are in conformity with the main strategy. Otherwise the process should follow the same procedure as adding the detailed policies and proposals to the initial strategy.

The current suite of design guides that are usually adopted as Supplementary Planning Documents can simply be part of the Local Plan with the detailed guidance in an appendix. Masterplans for key development areas could also be prepared as part of the Local Plan with the key land use and development management policies in the main document and the detailed elements of the masterplan in an appendix. The use of a web-based format for these documents will enable the information to be presented and structured on a subject or a spatial basis as appropriate.

These refinements provide the opportunity for the system to respond quickly to specific circumstances or new issues that emerge. They maintain the single Local Plan approach. This would always be contingent on the fundamental strategy being adopted and remaining intact in the context of changes and additions to the Local Plan.

Making the system efficient

Whilst these changes may seem to create a two stage process, the reality is that plan making does have two distinct stages: strategy and details. Under the current legislative arrangements a Development Plan Document is unlikely to take less than three years to produce from inception to adoption. However, this is often not the case and production can be far longer due to changing circumstances and complications around engagement and agreement from cross boundary working.

Under the proposals outlined above, it is considered that the strategic part of the process should take no longer than two years, including evidence base assembly, drafting, consultation and examination. The endorsement of strategic policies as a Development Plan Document is undertaken as a procedural matter linked to the adoption of detailed policies and proposal.

Without the requirement to meet Strategic Environmental Assessment and Sustainability Appraisal requirements, the Duty to Cooperate and the Soundness Test, the belief is that the final Local Plan could be produced in well under two years and possibly as little as a year. To some degree twin tracking of the two stages would be possible. This new approach is considered to be the most time-efficient way to get a Local Plan in place. ■