



Nottingham City Local Plan Part 2: Land and Planning Policies

Critical Friend Review

FINAL REPORT

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1. Introduction

- 1.1 Nottingham City Council's (The Council) Part 1 Local Plan was adopted in Sept 2014 and is part of the Greater Nottingham Aligned Core Strategy (ACS), along with Broxtowe and Gedling. This is also closely aligned with Rushcliffe and Erewash Core Strategies. Each of the Councils are now developing their 'Part 2' local plans setting out detailed site allocations and development management policies.
- 1.2 The Council has prepared a draft Regulation 19 Publication Plan (Part 2: Land and Planning Policies – LAPP) and consulted on this between January and March 2016. This was due to be submitted for Examination early 2017 but since the plan was published, changes have been made to some of the sites allocated and a significant number of changes to the planning system have been proposed, some of which could have implications for the LAPP. The Council has therefore paused to consider what the best way forward is in terms of 'next steps'.
- 1.3 Catriona Riddell & Associates has been asked to advise the Council on the potential implications arising from the changing national policy context and on options for taking the plan preparation process forward. The advice and recommendations in this report are based on a high-level assessment of the main evidence, a review of current practice in plan-making and a workshop with the Council's Planning Policy Team held on the 21 February.

2. Implications arising from changing national policy

- 2.1 In early 2016 the Government consulted on a number of proposed changes to national planning policy, guidance and regulations. These have since been consolidated through the Neighbourhood Planning Bill¹ and the recently published Housing White Paper². Although the Community Infrastructure Levy Review was also published alongside the White Paper, the Government's response to this with any proposed changes, is not expected until the Autumn.
- 2.2 A summary of the Housing White Paper's proposals in relation to plan-making is contained in Annex 1 of this report. There is a three month consultation period for questions set out in the White Paper (ending on the 2 May), and consultation is expected to commence shortly on a new methodology for calculating 'objectively assessed housing need' and the proposed Statement of Common Ground. Consequently, the timescale for a reviewed NPPF (and NPPG) is uncertain, but there are clear indications that Ministers are keen to prevent any further delays to local plans and are therefore aiming for a transition period up to April 2018.

¹ The Neighbourhood Planning Bill is due to complete its legislation passage by the Spring 2017:
<http://services.parliament.uk/bills/2016-17/neighbourhoodplanning.html>

² Housing White Paper and other related government consultation responses:
<https://www.gov.uk/government/collections/housing-white-paper>

2.3 Although there are a significant number of changes proposed, most of these are unlikely to impact on local plans at an advanced stage in the preparation process, such as the LAPP. They will, however, impact on the next round of plans in the Greater Nottingham area (see Hull City Council's response to the local plan Inspector's question re implications of the White Paper, published on the 27 February <http://hullcc-consult.limehouse.co.uk/portal/localplan/hlppi>).

2.4 Some (potential) issues for the Council to consider at this stage in relation to the LAPP are as follows:

(1) **Duplication of policies** (Paragraph A.18 of HWP Annex)

Amendments to the NPPF are proposed to make it clear that plans and policies should not duplicate each other and that LPAs "*may rely on NPPF rather than replicating them in their plans*". Again, this is likely to have greater consequences for the next full review of the ACS and not the LAPP, but there may be some proposed development management (DM) policies that offer no distinction from existing national policy and therefore do not need to be replicated in the LAPP. **The Council is therefore advised to carry out an audit of the draft DM policies within this context.**

(2) **Affordable housing** (Paragraph A.120 - 128 of HWP Annex)

Further changes to the definition of affordable housing and to the proposals for Starter Homes are set out in the White Paper, following on from last year's extensive consultations. The Government proposes to include 'affordable private rented' housing to the NPPF definition and reduce the Starter Homes household income eligibility threshold (from last year's proposals) to £80k (£90k in London). Amendments to the NPPF are also proposed to clarify that local planning authorities should seek a minimum of 10% affordable housing of all homes on individual sites (of 10 units or more/ 0.5ha or more), with some potential exceptions proposed.

Again, these changes are subject to consultation and there will be a transition period to April 2018. However, it is clear that national policy is likely to be different from that proposed in the LAPP in relation to the definition and the site threshold; Draft Policy HO3 of the LAPP proposes that affordable housing is provided on sites of 15 dwellings/ 0.5 hectares or more, rather than the government proposed threshold of 10 dwellings/ 0.5 hectares. **The Council is therefore advised to undertake a 'risk assessment' of the LAPP allocations to determine what the potential impact of the proposed new threshold might be on supply and viability.** The Council is also **advised to consider whether the definition in draft Policy HO3 should be amended to reflect the proposed new national definition.**

(3) **Green Belt** (Paragraph A.61-64 of HWP Annex)

The Government is not recommending any changes to national policy with regards to the Green Belt but proposes amendments to the NPPF to clarify what should be considered 'exceptional circumstances' for Green Belt reviews through the local plan process. The Council is proposing to amend the detailed boundary of the Green Belt in one area as part of the LAPP. However, the context for this has already been set through Policy 3 of the ACS which established the exceptional circumstances required under current national policy.

The Council has used the sequential test set out in Policy 3 and concluded that the site proposed for release from the Green Belt has met the criteria. This is further supported by the fact that the site is adjacent to land in neighbouring Rushcliffe that has already been removed from the Green Belt to make way for a proposed Sustainable Urban Extension.

(4) ***Climate Change and Flood Risk*** (Paragraph A.135-137 of HWP Annex)

The White Paper proposes some relatively minor but important changes to the NPPF with regards to climate change and flood risk. The climate change proposals will have to be considered in a future review of the overall plan strategy. However, the proposals with regard to allocating sites within flood risk areas and the application of the 'Exceptions Test' in Paragraph 102 of the NPPF, could potentially impact on some of the sites currently proposed in the LAPP. **The Council is therefore advised to undertake a risk assessment of the allocations within the context of the amendments proposed.**

3. Managing the Local Plan process

The Issue

3.1 Since consultation on the Published Plan in early 2016, the status and circumstances of some of the sites in the LAPP has changed due to delivery/viability issues. A small number are proposed to be removed from the LAPP, including a strategic site that is impacted by a Safeguarding Direction for HS2. As a result, the Council has taken the opportunity to review all the LAPP sites and adjustments to housing numbers have been made on some (both upwards and downwards). This has also had a knock-on effect on some of the employment allocations, although none of these are being removed from the plan. The Council has requested advise on how to take the plan forward to submission, taking into account these changes.

3.2 The Council has identified a number of potential options open to it:

- a) Consult on the entire LAPP document with all the proposed changes i.e. a second Reg 19 consultation.
- b) A full Main Modifications consultation in advance of submitting the plan.
- c) A partial Main Modifications consultation focussed only on the proposed site amendments.
- d) Present all proposed changes to the Inspector to address through the Examination process without any further pre-submission consultation.

National requirements

3.3 The process for managing plan-making is set out in regulations, national policy and guidance (NPPF and NPPG), and in 'Procedural Practice in the Examination of Local Plans'³. NPPG makes it clear that the starting assumption should be that the local plan submitted for examination is sound and should be (as far as possible) the final version of the plan - "*The publication stage plan [Reg 19] should be the document that the LA considers ready for examination*". However, the plan-preparation process allows for changes to be made to the plan prior to submission as a result of testing through the examination.

³ <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

3.4 Additional Modifications (AMs) are minor editorial corrections, amendments, factual updates and clarifications to the publication plan, which are submitted as part of the Regulation 22 process. These alterations do not have any material effect on the meaning or direction of the plan and its policies, and are not subject to consultation. Main Modifications (MMs) are issues of soundness or procedural requirements that have been identified during the examination process (or in some cases, prior to submission). LPAs need to make a specific request to the Inspector to make these changes to the plan⁴ and they are subject to consultation and (usually) SA.

3.5 The key paragraphs on managing modifications are set out in 'Procedural practice in the Examination of Local Plans' which advises that:

"If the LPA wishes to make any changes to the plan following the Regulation 19 consultation, these changes should be prepared as an addendum to the plan. The addendum should be subject to further consultation and, if necessary, to sustainability appraisal before submission if it is to form part of the plan to be examined." [Para 1.2]

It further states that:

"The Inspector will take the published plan (and if relevant, the addendum submitted with the plan to address matters arising from the public consultation on the plan at regulation 19 stage) as the final word of the LPA on the plan. Therefore, there is a very strong expectation that further LPA-led changes to the plan will not be necessary and this is a key premise of delivering an efficient examination timetable. Provision for changes after submission of the plan is to cater for the unexpected." [Para 1.3]

Further details are set out in Annex 2 of this report.

How is this being applied in practice?

3.6 Although it is reasonably clear what is expected from LPAs in national guidance, there is also some 'good practice' advice emerging from those authorities that have been through the examination process. This includes:

- Discuss with the Inspector how he/she wants to handle the Modification process; Most Inspectors prefer a 'running list' of proposed MMs as the examination hearings progress.
- Don't be premature with proposing MMs; it is supposed to be the authority's preferred plan so do not submit MMs too early unless there are unforeseen circumstances (which could include changing status/ circumstances of a site allocation). Submitting MMs before a hearing can indicate that the plan is not sound. Furthermore, the nature and scope of MMs may change as a result of the hearings.
- Do have an idea of where MMs are needed, however, and draft suggested wording; present suggestions as you go through the process but phrase them carefully so as not to undermine the plan.
- Be clear about the status of MMs i.e. whether they have been consulted upon or are to be included as MMs recommended as part of the examination process.

⁴ Section 20 (7c) of the 2004 Act

3.7 Having reviewed the process for managing changes to Published Plans, it is clear that most authorities follow a similar process with consultation on MMs dealt with after the examination hearings but before the final Inspector's report is received (see Annex 3). Some examples of where the LPA has deviated from this approach are as follows:

- 1) **Consultation on a full revised Regulation 19 Plan** to address significant soundness issues identified as a result of the Regulation 19 consultation and/or changes to strategic sites e.g. Eastleigh.
- 2) **Main Mods consultation before submission** to address a significant number of changes to policies and site allocations, as a result of changing circumstances and/or national policy. The changes were significant in number and did affect soundness but they did not cumulatively undermine the plan's overall strategy or approach. Consultation was required prior to submission to ensure that the MMs could form part of the draft plan submitted for examination e.g. Ipswich.
- 3) **Main Mods consultation at the same time as submission** to address a small number of changes that affected the plan's soundness but few responses from the consultation were expected and could therefore still be addressed early on in the examination process. e.g. Hull City.
- 4) **Main Mods consultation in the middle of an examination** to address issues of soundness which had been flagged by the Inspector through initial hearings and needed to be addressed through MM consultation before the examination could progress. This could include changes required to address the implications of updated evidence provided after Regulation 22 submission e.g. Swale and West Oxfordshire.

Risk Assessment of options

Do the changes undermine the overall ability to deliver the ACS?

3.8 It is some time since the plan was published and inevitably there will be changes to some of the site allocations during this time. The key question to be considered is whether these changes fundamentally change the overall approach being taken by the Council and therefore the plan that was subject to consultation, including whether the changes impact on the overall ability to deliver a plan within the context of the adopted ACS. This does not appear to be the case, therefore a new Regulation 19 consultation of the LAPP is not required.

How likely is it that proposed changes to the Plan will require further changes as a result of the examination process?

3.9 It is important that the local community have an opportunity to comment on the proposed changes to site allocations, where there are options as to how these sites are taken forward through the plan. It is also important that the Inspector is aware of any views on this and that there is an opportunity to examine these through the hearings, where necessary. The changes currently being considered by the Council appear to be a mixture of those where there is an element of flexibility in the way that they are treated, and those where there is no choice, for example the site affected by HS2.

How important is it for the Council to progress the plan on the quickest timetable possible?

3.10 There is a pressing need to implement the ACS and ensure that housing is being delivered to meet the needs of Greater Nottingham. The longer the gap between part one and two plans, the more likely it is that the overall spatial strategy will become out of date. The LAPP is also a

critical component of the success of other plans currently being prepared by councils in the Greater Nottingham area. It is therefore vital that the LAPP process is completed as soon as possible to give confidence to surrounding neighbours that Nottingham is meeting its commitments in the ACS.

- 3.11 There is also a risk that even more changes will be needed to the LAPP before submission, the longer the time lapse between this process and the earlier consultation on the Publication Plan.
- 3.12 Although the Government's ambitious planning reforms are not likely to be implemented until 2018, the longer it takes to progress the LAPP, the more likely it is that it will have to adapt to reflect changes to national policy.

What is the Council's formal commitment to delivering the LAPP?

- 3.13 The Council has a statutory obligation to prepare a Local Development Scheme (LDS) and Statement of Community Involvement (SCI) both of which should set out what the expectations are for the plan in terms of process, timetable and public consultation. However, both the LDS and SCI are out of date and do not reflect the latest process for preparing the LAPP. Both should be updated as a matter of some urgency as these will be scrutinised by the Inspector as part of the examination process.

Conclusions and recommended approach

- 3.14 National policy and guidance is clear that the plan submitted for examination should be the final version of the plan the Council wants to be examined based on the assumption that the plan is sound. The Council has identified a list of changes that impact on the LAPP's soundness and therefore if the plan is submitted in its current form, it would not be considered 'examination ready'. Even if the Council submitted the LAPP with a list of proposed MMs that have not been subject to public consultation, it would be submitting an incomplete document as it would not have been through due process.
- 3.15 It is in the Council's interests to have an open and transparent process for any proposed significant changes to the plan. Even though some of these are as a result of unforeseen circumstances and there is little, if no flexibility in terms of how they are dealt with, there should be a formal opportunity for the local community to respond to these changes before the plan is tested through the examination process. **An initial round of consultation on MMs before the examination hearings take place is therefore recommended.** This does not preclude further MMs being made to the plan as it progresses through the examination.
- 3.16 In terms of when the consultation on MMs should take place, the Council has two options; the first is to carry out the consultation and gather the responses before the Regulation 22 submission i.e. submit the plan as a complete package; the second is to initiate the consultation at the same time as the Regulation 22 submission but to make it clear to the Inspector that the MMs and responses to the consultation should be dealt with as part of the examination process (See question 2 in the Inspector's Preliminary Questions re Hull City's Local Plan Examination, dated 2 Feb 2017 - <http://hullcc-consult.limehouse.co.uk/portal/localplan/hlppi>).
- 3.17 The option chosen depends on the number of MMs the Council intends on addressing prior to the examination. If these are focussed on the main changes to site allocations and not any wider proposed changes to the plan (i.e. Option (c) in paragraph 3.2 of this report), then the

consultation process should be reasonably straightforward. It could, in theory, be carried out at the same time as the Regulation 22 submission and still be completed in time to inform the hearings.

- 3.18 However, if a full MMs consultation is undertaken, this would inevitably be more complex and take longer. It is therefore unlikely that the process could be completed in time to inform the hearings if the consultation started at the same time as submission. Although a full MMs consultation before formal submission would have an impact on the length of timetable prior to examination, it could shorten the length of time needed to deal with any further changes post examination. On the other hand, a partial MMs consultation would leave a number of further MMs (already identified) to be addressed at the end of the process, together with those that have been highlighted through the hearings.
- 3.19 In conclusion, in the interest of submitting an 'examination ready' plan for testing and one that has been developed in an open and transparent way, **it is recommended that the Council carry out a full consultation on MMs prior to the Regulation 22 submission.** The additional time taken for this process in advance of the examination will pay dividends at the end as the post examination modifications process should be limited and therefore reasonably quick to complete.

Presentation of Modifications

- 3.20 The Council has asked for advice on presenting the proposed changes to the LAPP, both AMs and MMs. Each of the case studies included in Annex 3 have presented modifications in slightly different ways. All of these include 'tracked-changes' versions of their plans along with the Schedule of Modifications, but Ipswich and West Oxfordshire are useful examples of clear presentation that distinguishes the different amendments made to the plan.

4. Other issues

- 4.1 The Government has acknowledged that if housing delivery is to speed up, additional resources for planning departments is needed. A 20% increase in planning fees is therefore proposed from July, if LPAs commit to invest the additional fee income in their planning department. This is focused mainly on the DM functions, however, and does not address the significant pressures on the planning policy and research functions arising from the plan-making process, particularly in relation to developing a robust evidence base and keeping this up to date (e.g. regular updates of the land availability assessments/urban capacity assessments).
- 4.2 These pressures are likely to be exacerbated by the demands being placed on local authority monitoring functions as a result of the new 'Housing Delivery Test' proposed in the White Paper. It is therefore vital that all local authorities consider what research and intelligence functions will be needed in future and consider ways of boosting this internally, including whether there are opportunities to develop a shared 'R&I' capacity with other local authorities, e.g. within the Greater Nottingham area.

SUMMARY OF RECOMMENDATIONS

Main Recommendation

1. *In order to ensure that the LAPP is prepared in an open and transparent way and that it is considered 'examination ready', the Council is recommended to undertake a full consultation on MMs prior to the Regulation 22 submission.*

Other Recommendations

2. *The Council is advised to carry out an audit of the draft DM policies to reflect the Housing White Paper's recommendation that LPAs should avoid duplicating nationally set planning policies in local plans.*
3. *The Council is advised to undertake a 'risk assessment' of the LAPP allocations to determine what the potential impact might be on supply and viability of the proposed new national affordable housing threshold.*
4. *The Council is advised to consider whether the definition of affordable housing in draft Policy HO3 should be amended to reflect the proposed new national definition.*
5. *The Council is advised to undertake a risk assessment of the proposed site allocations within the context of the amendments proposed to the application of the flood risk 'Exceptions Test' in Paragraph 102 of the NPPF.*
6. *The Council should update the Local Development Scheme (LDS) and Statement of Community Involvement (SCI) to reflect the latest process for preparing the LAPP as a matter of urgency as these will be scrutinised by the Inspector as part of the examination process.*
7. *The Council should consider what research and intelligence functions will be needed in future and ways of boosting this internally, including whether there are opportunities to develop a shared 'R&I' capacity with other local authorities within the Greater Nottingham area. In particular, the Council should give priority to ensuring that its land availability assessments/urban capacity assessments are robust enough, and regularly kept up-to-date, in order to meet increasing demands being placed on local authorities as a result of implications arising from the Housing White Paper, such as the new Housing Delivery Test and new emphasis on smaller sites.*

Annex 1: Summary of Housing White Paper: Implications for Plan-making

Housing White Paper: *Fixing our broken housing market*

DCLG, Feb 2017

<https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

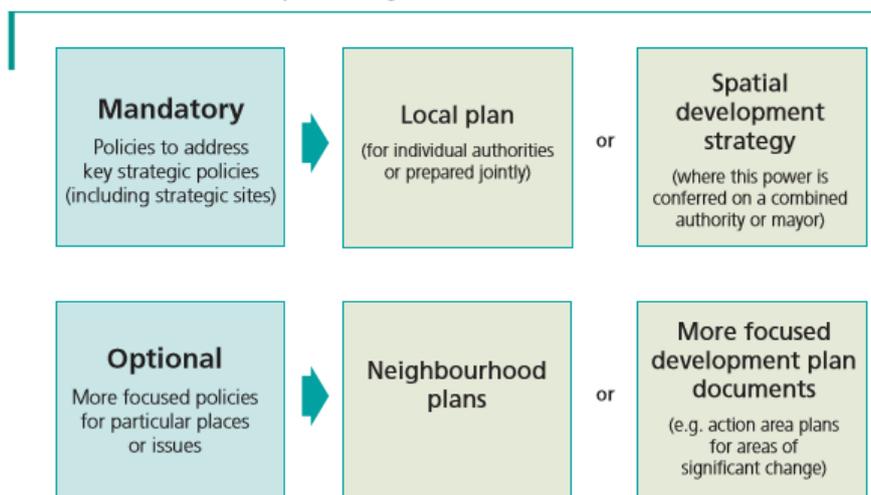
General points

- Changes to the planning system as a result of the White Paper will be introduced through the Neighbourhood Planning Bill, regulations and amendments to the NPPF, which is expected “later this year” and will incorporate all Written Ministerial Statements since March 2012.
- A transition period for all HWP proposals indicated as April 2018.
- A summary of all Government responses to previous planning consultations has been published alongside the White Paper - <https://www.gov.uk/government/collections/housing-white-paper> .
- The Government is only consulting on the proposed changes in the White Paper that will impact on planning-related matters and therefore the NPPF at this stage. The consultation will run for 12 weeks until 2 May 2017.
- Further consultations are expected ‘soon’ on the proposed methodology for assessing objectively assessed housing needs and the proposed new Statement of Common Ground.
- Local plan consultation and examination processes will also be subject to further review.

Plan-making

- The Neighbourhood Planning Bill (NPB) is already putting in place a statutory requirement for LPAs to set out their strategic priorities. The Housing White Paper (HWP) suggests there is more flexibility as to how this is done i.e. it does not have to be a single LP and could be through a joint ‘strategic’ plan.

Box 1: The new framework for plan-making



- An additional priority is to be added to NPPF’s ‘key strategic priorities’ (NPPF Para 156) “to plan for the allocations needed to deliver the area’s housing requirement (except insofar as this requirement will be met through windfall development or more detailed plans”

- The NPB requires LPAs to keep plans under review; the HWP clarifies that reviews should take place every 5 years (to be set out in regulations) or more regularly if the housing target is out of date against the OAN.
- An amendment to the ‘test of soundness’ for LPs is proposed to make clear that it should set out ‘an’ appropriate strategy for the area rather than having to demonstrate that it contains ‘the most’ appropriate strategy (to discourage disproportionate work and challenge at examinations).
- NPPF to be amended to make it clear that policies in different plans should not be duplicated - authorities may rely on policies in the National Planning Policy Framework rather than replicating them in their plans.
- The NPPF will set out what ‘proportionate’ evidence will be needed to support a ‘sound plan’.

Meeting housing needs

- In line with the LPEG’s recommendations, the HWP proposes a standard approach to assessing housing needs. The Government will consult ‘at the earliest opportunity’ on the options for this and on what a reasonable justification would be for deviating from the national set approach.
- Authorities will be expected to have clear policies for addressing the housing requirements of groups with particular needs, such as older and disabled people.
- The new method is to be used as a basis for calculating 5-year housing land supply and delivery from April 2018 where there is no up-to-date plan in place. Authorities collaborating on ambitious proposals for new homes (i.e. through a joint plan/framework) will get extra time to adjust.
- A new Housing Delivery Test will be introduced to highlight where delivery is below target, provide a mechanism for establishing the reasons why and where necessary, set out trigger policy responses. The baseline for establishing delivery will be the up-to-date LPs (i.e. less than 5 years old) or household projections where this is not the case. Net annual completions (submitted to government annually) will be used to assess delivery against baseline.
- Changes to the NPPF will allow authorities the opportunity to have their housing land supply agreed on an annual basis, and fixed for a one-year period but authorities who wish to take advantage of this policy will need to provide for a 10% buffer on their 5-year land supply.
- Guidance will set out more detail on how 5-year land supply should be calculated, including making appropriate allowance for the fact that smaller sites tend to be built out more quickly than larger ones.
- Authorities that choose not to follow this process or do not have a five-year housing land supply will continue to use the current approach in NPPF to ensure that sufficient housing land continues to come forward in these areas.

Joint planning/ Duty to Cooperate

- There is an acknowledgement that the Duty to Cooperate has not been very effective at delivering strategic planning. Strong encouragement is given to LAs to prepare joint plans (already included in the NPB).
- A £2.3bn Housing Infrastructure Fund will be used to ‘encourage and support’ collaboration.
- Where cooperation is not proving effective, the SoS will use the new powers set out in the NPB to direct preparation of a joint plan.
- LPAs will be expected to prepare a ‘Statement of Common Ground’ as part of the LP process, setting out how LAs will work together to address housing needs and other strategic issues. A consultation on this is expected soon.
- Combined authority/mayoral ‘spatial development strategies’ will be allowed (through regulation) to allocate strategic sites where these strategies require unanimous agreement of the members of the combined authority.

Local Plan Intervention

The Housing and Planning Act already allows intervention in plan-making by the Secretary of State or a Combined Authority. Proposed changes to the NPB will in addition provide intervention mechanisms, where LPA does not keep its plan up to date, by the relevant county council. The White Paper confirms that the Government is proposing to use the criteria set out in last year's Technical Consultation for intervention purposes which are:

- the least progress in plan-making had been made;
- policies in plans had not been kept up to date;
- there was higher housing pressure;
- intervention would have the greatest impact in accelerating local plan production.
- Decisions on intervention will also be informed by the wider planning context in each area (specifically, the extent to which authorities are working co-operatively to put strategic plans in place, and the potential impact that not having a plan has on neighbourhood planning activity).

Making enough land available in the right places

- When preparing plans, LAs should have a clear strategy to maximise the use of suitable land (urban capacity study?).
- All housing need should be met unless policies elsewhere in the NPPF provide strong reasons for restricting development or the adverse impacts of meeting the full requirement would significantly outweigh the benefits.
- Greater weight to be given to using brownfield sites for housing unless specific reasons for not using them e.g. flooding (presumption in favour of housing?)
- More emphasis in using public sector land with a new Land Release Fund for LAs (£45m) to help release their own land and to support land assembly.
- LPAs should have policies to support small windfall sites, ensure that 10% of allocated sites are small (0.5ha or less) but not at the cost of open space or through 'garden-grabbing', and give great weight to using small undeveloped sites in 'settlements' for housing.
- More encouragement to "well-planned, well-designed new communities" with new legislation proposed to allow locally accountable New Town Development Corporations.

Green Belt Policy

- No change to overall policy – GB boundaries only to be changed in exceptional circumstances but changes to NPPF proposed to make it clear what 'exceptional circumstances' mean.
- LAs need to demonstrate that they have examined fully all other 'reasonable' options including:
 - Making use of all brownfield sites, underused land, surplus public sector land
 - Optimising density, particularly in areas around well-served public transport and where reflects infrastructure capacity.
 - Exploring whether neighbouring authorities can help.
- Does this mean that housing shortfall is (by default) an 'exceptional circumstance'?

Affordable Housing

- Mandatory requirement for 20% starter homes on all reasonably sized sites has been dropped with proposals to change the definition of affordable housing in the NPPF to encourage a 'mixed package' of affordable home ownership and rented accommodation.
- But, changes to be made to NPPF to make it clear that authorities should seek to ensure that a minimum of 10% of all homes on individual sites (of 10 units or 0.5ha) are affordable home ownership products. Some exceptions likely to apply. No transitional period will apply.
- Confirmation of the change in definition of affordable housing proposed in NPPF consultation to include a range of low cost housing opportunities for those aspiring to own a home, including starter homes. A new definition is set out and will be included in changes to NPPF.

- Two further changes proposed to introduce a household income eligibility cap of £80,000 (£90,000 for London) on starter homes and to introduce a definition of affordable private rented housing, which is a particularly suitable form of affordable housing for Build to Rent Schemes.

Other issues

- More emphasis on rural homes proposed, particularly where they support rural services and where they are affordable.
- From July 2017 LAs will be able to increase planning application fees by 20% if they commit to investing the additional fee income in their planning department. A potential additional 20% rise may also be allowed for those authorities who are “delivering the homes that their communities need”.
- A range of proposed measures included to speed up delivery including more active use of CPO powers on stalled sites; consideration as to whether a developer’s delivery track-record should be considered in a planning application; and the reduction of implementation of permissions from 3 to 2 years. All subject to further consideration.
- List of climate change factors set out in NPPF to include ‘rising temperatures’ and to make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change.
- Application of flood-risk policy in NPPF to be clarified.

CIL Review

- The final report of the CIL Review has been published alongside the HWP although the Government’s response will not be published until the Autumn Budget - <https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government>
- The Review Board concluded that CIL “*is not fulfilling the original intention of providing a faster, fairer, simpler, more certain and more transparent way of ensuring all development contributes something towards cumulative infrastructure needs.*”
- A new ‘hybrid system’ is recommended with all development subject to a ‘streamlined low level tariff’ (Local Infrastructure Tariff or LIT) and larger sites subject to an additional S106 contribution.

Annex 2: Extract from Procedural practice in the Examination of Local Plans

<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

- 1.2. *The plan that is published for consultation should be the plan that the LPA intends to submit under Regulation 22 to the Planning Inspectorate. If the LPA wishes to make any changes to the plan following the Regulation 19 consultation, these changes should be prepared as an addendum to the plan. The addendum should be subject to further consultation and, if necessary, to sustainability appraisal before submission if it is to form part of the plan to be examined.*
- 1.3. *The PCPA specifically provides that a LPA must not submit the plan unless it considers the document is ready for examination. The Inspector will take the published plan (and if relevant, the addendum submitted with the plan to address matters arising from the public consultation on the plan at regulation 19 stage) as the final word of the LPA on the plan. Therefore, there is a very strong expectation that further LPA-led changes to the plan will not be necessary and this is a key premise of delivering an efficient examination timetable. Provision for changes after submission of the plan is to cater for the unexpected. It is not intended to allow the LPA to complete or finalise the preparation of the plan. Main modifications (MM) after submission will only be considered where they are necessary to make the plan sound and/or legally compliant and where the LPA has formally requested that such modifications be recommended by the Inspector. This also applies to any changes of approach to policy (including site allocation) instigated by a LPA.*

- 3.3. *Where an addendum of focussed changes has been submitted with the published plan, the Inspector will also make an early assessment of the nature and status of the addendum. He/she will consider if the changes do not result in a change to the plan's strategy, and whether they have been subject to public consultation (and sustainability appraisal, where necessary). If the Inspector is satisfied on all of these points, the addendum can be considered as part of the submitted plan and the Inspector will make this clear in the initial guidance note (or at the PHM if one is held). If this is not the case, the Inspector will usually treat these proposed changes in the same way as any other proposed main modification at post-submission pre-hearing stage; this means that they would need to fall under the terms of section 20(7B) and (7C) to be taken forward.*
- 3.4. *Given that the LPA can make additional (i.e. minor) modifications to a plan on adoption, it is not necessary for a submission plan to be accompanied by a schedule of minor changes. If the LPA considers that changes are minor it does not need to subject them to the formal examination process. The LPA will be*

- 5.24. *The Inspector examines the plan (including any addendum of focussed changes he/she accepts) 'as submitted'. Where the Inspector identifies that there may be a need for MMs to the plan in order to resolve problems that would otherwise make the plan unsound or not legally compliant, the nature and likely extent of the MMs should be fully discussed at the hearings. These may consist of redrafted text, the omission of a policy or section of text (or the inclusion of a new one). It should be noted that the Policies Map is not a development plan*

document and therefore it is not appropriate for Inspectors to recommend MMs to it. Rather the role of the Policies Map is to illustrate geographically the application of policies in the plan and it will be for LPAs to update this to ensure consistency with the adopted plan.

- 5.25. The purpose of the discussions at the hearings is for the Inspector, the LPA and participants to gain the fullest possible understanding of any modifications that may be required to make the plan sound and legally compliant. If the LPA has not already done so, it will be invited by the Inspector to make a formal request under section 20(7C) of the PCPA. In many cases it is likely that the LPA will suggest the proposed MMs. However the Inspector will reserve the right given to him/her by the LPA to amend or add to the schedule of suggested MMs as necessary in order to make the plan capable of adoption.*
- 5.26. If the Inspector considers that the plan may require MMs to make it sound/legally compliant, he/she must be satisfied that requirements for public consultation and sustainability appraisal have been or will be met with regard to the modifications. Therefore, usually before concluding the scheduled hearing sessions but if this is not feasible, as soon as practical thereafter, the Inspector will set out arrangements and seek agreement on a timetable for any necessary sustainability appraisal work and public consultation. The LPA will produce a schedule of proposed main modifications at the Inspector's request in order to carry out the consultation on them*
- 5.27. The precise arrangements for public consultation on any proposed MMs may vary from case to case but there are a number of important principles that apply throughout:*
- it should be made clear that the consultation is only about proposed MMs and not other aspects of the plan and that these are put forward without prejudice to the Inspector's final conclusions on the plan;*
 - all representations made upon the MMs will be taken into account by the inspector;*
 - the consultation document should include all proposed MMs, whether initially suggested by the LPA or put forward by the Inspector, and there is no need to distinguish between the two in the document; the key requirement is that the Inspector should be reasonably satisfied at this point that the proposed MMs are necessary to rectify the unsoundness and/or legal compliance problem(s) that have already been identified;*
 - additional modifications should not be included in the consultation exercise but if they are published for completeness at the LPA's request it should be made clear that they are not before the Inspector;*
 - the Inspector will not contemplate recommending a MM to remedy unsoundness or legal non-compliance unless any party whose interests might be prejudiced has had a fair opportunity to comment on it;*
 - the scope and length of the consultation on proposed MMs should reflect the consultation at regulation 19 stage (usually at least 6 weeks);*
 - the general expectation is that issues raised on the consultation of the draft MMs will be considered through the written representations process and further hearing sessions will only be scheduled exceptionally; and*
 - in very limited circumstances, the Inspector may be satisfied that no party would be prejudiced by a possible new MM (or the amendment of one that has already been*

publicised) that he/she is contemplating towards the end of an examination; for example, this may be because the scope of the consultation that has already been undertaken on related MMs has adequately addressed this point or because a matter is being deferred to another plan.

Annex 3: Examples of Local Plan Main Modifications

Swale

Main Mods Schedule:

http://swale-consult.limehouse.co.uk/portal/planning/main_mods/lp_main_mods?pointId=4004736

Submission: April 2015

Examination Hearings: Nov – Dec 2015

- Schedule of Main Mods prepared Dec 2015 to reflect issues raised at Hearings

Inspector's Interim Findings: Feb/March 2016

- recommended update of Main Mods Schedule to reflect 'significant new evidence'

Proposed Modifications consultation: June - Aug 2016

- Schedule of Proposed Main Mods & tracked change version of the draft plan

Hearings resumed: Jan-Feb 2017

Further Proposed Main Mods consultation: Feb- April 2017

Vale of White Horse

<http://www.whitehorsedc.gov.uk/services-and-advice/planning-and-building/planning-policy/new-local-plan-2031-part-1-strategic-sit-0>

Submission: March 2015

Examination Hearings: Sept 2015 & Feb 2016

Proposed Modifications consultation: July - Sept 2016

- Schedule of Proposed Main Mods & tracked change version of the draft plan

Inspector's Report: Nov 2016

Adopted: Dec 2016

West Oxfordshire

<http://www.westoxon.gov.uk/localplan2031>

Pre-submission consultation: March – May 2015

Submission: July 2015

Examination Hearings: Nov 2015

Inspector's Preliminary Findings result in Examination suspension: Jan 2016

Proposed Modifications consultation: Oct-Dec 2016

- Schedule of Proposed Main and Minor Mods & tracked change version of the draft plan – all highlighted in red but with additional (blue) signposting to highlight Main Mods

Scarborough

Schedule of Main Mods

[http://uploads.scarborough.gov.uk/localplanexamination/docs/PM-01-Scarborough-LP-Main-Modifications-Sep16-\(updated\).pdf](http://uploads.scarborough.gov.uk/localplanexamination/docs/PM-01-Scarborough-LP-Main-Modifications-Sep16-(updated).pdf)

Inspector's 'Next Steps' Letter

<http://uploads.scarborough.gov.uk/localplanexamination/docs/Next-Steps-in-Examination-Process.pdf>

Pre-submission consultation: Nov – Dec 2015

Submission: May 2016

Examination Hearings: August 2016

Proposed Modifications consultation: Sept – Nov 2016

- Schedule of Proposed Main Mods & tracked change version of the draft plan

Further Hearings as a result of Main Mods consultation

Inspector's Report: Feb 2017

Ipswich

<https://www.ipswich.gov.uk/services/emerging-ipswich-local-plan-2011-2031>

Pre-submission consultation: Dec 2014 – March 2015

Pre-submission Main Mods consultation: Oct – Nov 2015

Submission: Dec 2015

Examination Hearings: June - July 2016

Proposed Further Main Modifications consultation: Oct – Dec 2016

- Schedule of Proposed Main Mods & tracked change version of the draft plan

Inspector's Report: Jan 2017

Derby Local Plan

<http://www.derby.gov.uk/environment-and-planning/planning/main-modifications-consultation/#d.en.58387>

Pre-submission consultation: Aug – Oct 2015

Submission: Dec 2015

Examination Hearings: April – May 2016

Proposed Modifications consultation: Sept-Oct 2016

- Schedule of Proposed Main Mods & tracked change version of the draft plan

Inspector's Report: Dec 2016

Adopted: Jan 2017

Hull City Local Plan

<http://hullcc-consult.limehouse.co.uk/portal/localplan/hlppi>

Submission: Dec 2016

Proposed Changes (main Mods) to the plan submitted: Dec 2016 – subject to consultation between Dec 16 – Jan 17

Refer to Council's response to the Inspector's Preliminary Questions (Qu.2, 2 Feb 17) which includes questions regarding handling of 'proposed changes'.

Eastleigh

Pre-submission Eastleigh Borough Local Plan 2011 – 2029

<https://www.eastleigh.gov.uk/planning-building/planning-policy-and-implementation/local-plan/draft-local-plan/previous-consultations.aspx>

The Pre-submission version of the Eastleigh Borough Local Plan was published on 17 August 2012. It took into account representations arising from the consultations on the draft Local Plan (October 2011 – January 2012) and on the appraisals and assessments and changes to draft Local Plan site allocations (1 June – 13 July 2012).

In response to the Pre-submission Local Plan consultation, representations were received that meant that the Local Plan could not proceed to submission the Secretary of State for formal examination. In particular, a strategic site was withdrawn, limitations were placed on the capacity of another large site and the Highways Agency raised concerns about the transport assessment. Replacement sites had to be found and a new transport assessment had to be commissioned, all of which needed to be subject to public consultation. It was therefore concluded that it was necessary to return to the draft consultation stage.
