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Hampshire

## Guide to Involvement in the Local Plan Making Process

CPRE Hampshire (revised 05.08.2021)

### 1. Introduction

1.1 The purpose of this guide is to assist those who want to influence plan-making for their area. It has been developed by CPRE Hampshire to guide, primarily, it's District Groups in their task of influencing Local Plans. However, it may also be useful to other CPRE member organisations, such as parish and town councils, civic societies and action groups. It is not intended to be a comprehensive guide as there are numerous other publications which can provide more detailed information, such as CPRE's '*Planning Explained*'; various toolkits; and specific guides on neighbourhood plans.

1.2 The Government in its White Paper Planning for the Future published in August 2020 proposed a number of changes to the planning system. A planning bill is expected in the autumn of 2021 setting out the details of those changes. This paper is based on the current legislation and guidance as at August 2021.

1.3 The text in **italics** highlights actions which CPRE Hampshire recommends to those participating in the plan-making process

### 2. Types of planning documents

2.1, Local planning authorities e.g. districts, boroughs and unitary, are responsible for preparing development plan documents (DPDS) for their area. County Councils and unitary authorities e.g. Southampton and Portsmouth, are responsible for the preparation of minerals and waste plans which are also DPDs. DPDs can take a number of forms. A local authority area could be covered by a single DPD, often referred to as a local plan; or by several. One could set the overall planning strategy identifying where change such as new development would take place with further DPDS allocating sites and or setting out development management policies.

2.2 LPAs also publish supporting documents, which provide data and further advice to that set out in DPDs. These are called supplementary planning documents (SPDs). They do not



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follow the same process as DPDs, but LPAs usually undertake public consultation in preparing them. Neighbourhood development plans are also DPDs, but are prepared, usually for individual towns, suburbs, parishes or village by town / parish councils or by other local groups.

2.3. Neighbourhood plans are also DPDs. These are prepared by town or parish councils and follow a similar formal process to that for DPDS prepared by LPAs.

### **3. The scope of development plan documents**

3.1 The primary role of DPDs is to provide a framework for decisions on development where a change of use of land or buildings requires permission. They can allocate land for a particular purpose e.g. housing or employment and include policies which provide a framework for assessing the impact of development.

3.2 The scope of the DPD and its content will be informed and guided by the National Planning Policy Framework (NPPF) the National Planning Practice Guidance (NPPG) and relevant case law. In preparing a DPD an LPA will need to demonstrate that it is consistent with national policy and is one of the tests of soundness applied at the examination stage.

3.3 The Government's position on the role of the planning system and in particular local plans in tackling climate change and the move to a net zero carbon society by 2050 lacks clear thinking and direction. DPDs have a limited role in respect of how buildings are constructed and the demands they generate for energy and water. These matters are dealt with via separate legislation and regulation e.g. Building Regulations. This is an important point to have in mind in respect of the issue of climate change and achieving sustainable development.

3.4 The NPPF 2021 does not rule out local requirements regarding the sustainability of buildings, but they should reflect national technical standards. The White Paper proposed a single sustainability test for development but as yet no details have been published. In this



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context it is understandable that LPAs are reluctant to undertake work to support a local approach which may be in conflict with national policy and not survive the scrutiny of a local plan examination.

3.5 Notwithstanding the position that LPAs find themselves they should be encouraged and supported in the development of locally based responses to climate change. ***Groups as part of their responses to the formal stages of consultation on DPDs could use the six tests against which CPRE at a national level intends to assess the Government's proposed changes to the planning system as a basis for assess the emerging local plans for their area in respect delivering sustainable development***

#### 4. The plan making process

4.1 DPDs are formal documents which have an important role to play in decision-making. The law requires that applications for planning permission are determined in accordance with the Development Plan, unless material considerations indicate otherwise (see Section 38(6) of the 'Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town & Country Planning Act 1990).

4.2 The LPA or neighbourhood planning body will need to prepare the document in accordance with the relevant legislation and regulations. It will also have to give close attention to national planning advice published by the Government, including the National Planning Policy Framework (NPPF); National Planning Policy Guidance (NPPG); and other guidance published by organisations such as the Environment Agency, Heritage England and Natural England, together with any relevant case law. The aim is to receive a favourable report from an Examiner, who has to determine that the document is sound before it can be adopted.

4.3 The preparation of a DPD, such as a local plan, will go through a number of stages. There are a number of stages required by the regulations and include: a Scoping Report, first draft for consultation (Regulation 18); a revised draft submitted for examination (Regulation 19



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consultation); examination; report; modifications; and adoption. The regulation numbers are different for the formal stages of a Neighbourhood Plan.

4.4 LPAs have discretion to include additional stages of consultation often in the early stages of the process e.g. consultation on issues and options.

#### *Local Development Scheme*

4.5 Each LPA is required to publish its timetable for preparing planning documents. This takes the form of a local development scheme (LDS) which should be kept up-to-date (although this is not always the case) and available on its web site. The adoption of an LDS and any revisions to it is likely to be by a decision of a committee or cabinet. All the reports to those meetings are public documents. They are useful reference points for those interested in the plan-making process in terms of the highlighting the timetable and when consultation will take place.

4.6 The LPAs' approach to consultation on planning documents and planning applications should be set out in a statement of community involvement (SCI). It should be published on its web site

4.7 In addition to the LDS noting any potential changes to published timetables, each LPA should publish a timetable of the reports that it intends to consider. This is referred to as the forward plan. It sets out the business of a council, normally for the next three months, and it, too, should be published on the LPA's web site. ***Groups are advised to be aware of important dates in any LDS or forward plan for boroughs and districts in their area, so that they can be ready to influence the debate at the most opportune times.***

#### *Issues and Options*

4.8 The stage at which the public and consultees have potentially the best opportunity to influence the content of the document is in the early informal stages of a plan's preparation.



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A further opportunity is informal the 'Issues and Options' consultation. At the point at which the LPA publishes its Regulation 18 consultation the scope for substantial changes is in many cases limited. The LPA will have considered its options in the light of the available evidence and will be mindful of the need to have an up-to-date plan in place.

***4.9 If a Group has identified the issues that it believes are important and can demonstrate why those issues ought to be addressed in the new local plan, then its best opportunity to get them included would be to influence the thinking of the LPA at the outset. The Group should share the information with the LPA's officers and Councillors at the earliest opportunity.***

***4.10 Groups are also advised to share their views on what they consider are the key planning issues, with parish and town councils and with local district/borough councillors, at this stage, and, if possible, before any detailed work on a plan is commenced.***

4.11 LPAs will use the 'Issues and Options' stage to highlight the matters they think need to be addressed and may well publish information to support their views. They will often set a number of questions on relevant topics to assist the public to respond. The questionnaires can be lengthy, and the format of the questions may appear to restrict the scope of a response ***As well as responding to the questionnaire, Groups are advised to submit their own assessment of the issues and potential way forward and to make any additional comments on relevant topics.***

4.12 LPAs are encouraged to engage with the public, businesses, infrastructure providers and statutory consultees throughout the plan-making process. The preparation of Strategic Housing Land Availability Assessment (SHLAA) is one mechanism for seeking input from the development industry. LPAs will issue a 'call for sites' which provides the opportunity for sites to be submitted for consideration for development. The SHLAA will be published and provides communities with an indication of the potential for development in their area. There is no formal process for input from communities but if they have concerns regarding the content of the SHLAA they should raise them with the LPA.

### *Sustainability Appraisal Scoping Report*

4.13 The sustainability appraisal scoping report (SASR) is a key piece of work, the significance of which is not often appreciated. A new local plan has to comply with environmental legislation and ensure that the impact of its policies and proposals on the environment has



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been assessed. To ensure that all relevant topics are covered the LPA produces the SASR indicating what will be assessed and how. It should be undertaken at the beginning of the process and should be published. ***A Group should highlight any issues which it thinks have been omitted from the SASR.***

4.14 The SASR may precede or follow the 'Issues and Options' stage. In any event it is an important reference document in terms of the information it contains and should form the basis for developing the content of the local plan. ***Any Group seeking to influence the content of a new local plan is advised to study the SASR, as it may well provide information to support the Group's own views.***

4.15 The local plan will need to be the subject of a formal assessment of its impact on the environment, this is in the form of a Sustainability Appraisal (SA) and a Strategic Environmental Assessment (SEA). The two are often combined resulting in a lengthy and complex document. It is a very important one as it should assess the impact of policies and proposals set out in the local plan and the alternatives considered by the LPA. The process can be highly subjective, but LPAs do need to demonstrate how they have arrived at their preferred approach and that it should be justified. A failure to do so may leave them at risk of a legal challenge which could undermine the process.

### *Regulation 18 Consultation*

4.16 This is the first formal opportunity to make comments on an emerging plan. LPAs will often provide a pro forma on which to respond, to assist the LPA process responses. ***Groups are advised to quote the relevant policy number and paragraph number for each comment. At this stage Groups can indicate which parts of the plan they support and which they consider should be changed. Groups are advised to suggest alternative wording, if they disagree with parts of the document. This is also the opportunity to point out where topics that the Group considers should have been covered are inadequately dealt with or omitted altogether. Groups may also be best advised to submit their own assessment rather than use the form presented.***



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4.17 The LPA will consider all the comments and may compile a document giving its views on suggested changes or omissions. It will debate how to change the draft to reflect the consultation responses, prior to making changes to the documents. ***Groups are advised to read the consultation responses to assess the strength of public support for their position and gauge the reaction of the LPA. Additional influence can be brought at the debate stage by working with other like-minded respondents to influence councillors.***

### *Regulation 19 Consultation*

4.18 The revised document will be published, and it is this version which will be submitted to the Secretary of State, who will arrange for the public consideration of the draft local plan by an examiner, appointed by the Planning Inspectorate. Responses to this document are more restricted, in as much as they must indicate exactly which part of the local plan is considered to be unsound (see below) and how it ought to be amended to ensure that it is sound. These comments should be in the form of representations to be considered by the Examiner. ***Groups are advised to be precise in their wording and to ensure that they have sufficient background information to support their conclusions if they are challenged at the examination in public.***

### *Examination*

4.19 Examiners are tasked with satisfying themselves that the local plan has been prepared in accordance with the legal and procedural requirements and that it is sound. The tests for soundness are;

- that the plan is positively prepared (including meeting the area's housing needs);
- that the content is justified;
- that the plan is effective i.e. deliverable; and, that it is consistent with national policy.

4.20 This last test is one which can be the cause of considerable discussion and challenge, especially where a plan seeks to take a different approach to that advised by the Government, such as adopting more demanding affordable housing policies in response to specific local needs.



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4.21 Once an examiner has received all the necessary documentation they will, most probably, arrange for an examination in public of those matters which they think need to be the subject of further discussion and scrutiny. They will draft a list of issues to be discussed and a list of those respondents who are invited to participate. Anyone who has made representations seeking to change a plan must, if they request, be given an opportunity to attend a hearing session. A programme officer is appointed by the LPA to administer the examination. To make best use of time, they may well encourage those with a common interest to nominate a representative to put forward those views. Hearing sessions usually take the form of a round table discussions chaired by the examiner. ***If a Group that has made representations seeking to change a plan is not invited to participate in discussions on that topic, it can ask to be added to the list or can approach a sympathetic invitee and seek their help in putting the Group's view forward.***

4.22 Examiners, where they have concerns, will seek additional information from the LPA and may arrange pre-examination hearings. Following which, they may advise the LPA that it should either do further work and/or withdraw the plan, if they think it will not be found to be sound. An examiner, once an examination has started, may also advise the LPA to withdraw the plan if they are not satisfied that the plan will be found to be sound, due to a lack of essential evidence.

4.23 The examination process will usually produce changes to the plan either promoted by the LPA or suggested by the Examiner. In their report, examiners may propose "main modifications" to ensure a sound plan. The LPA is required to consult on these and any further representations on them are considered by the examiner. The examiner, then, publishes a final report.

4.24 Where an examiner considers that the changes required to achieve a sound plan are so extensive as to require a virtual re-write of the plan, they are likely to suggest that the plan be withdrawn.

4.25 The Planning Inspectorate publishes guidance on the procedural aspects of the examination of local plans.

### *Adoption*

4.26 The LPA can move to adopt the local plan on receipt of a favourable inspector's report.





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### *Judicial review*

4.27 Whilst the objective of responding to consultations is to have in place a plan which supports the aims/views of the local group/branch and to do so in a positive manner it is worth monitoring the formal requirements of the plan's preparation to check that the regulations have been met. There is scope to seek a judicial review of the plan at any point in the process and plans have been quashed by the courts where they have fallen foul of the legislation.

## **5. Making the Group's Case**

### *Identify the Key Issues for the District Group*

**5.1 *It is advised that the most effective involvement in the preparation of a local plan is through a proactive approach. Well before a plan is published the local issues and potential solutions should be identified and set down. A Group's vision for its area could also be mapped out.***

**5.2 *Groups are advised to focus only on those issues which can be addressed in a local plan. However, if other non-planning matters are identified they should be recorded and forwarded to the appropriate agencies.***

### *Collect Evidence to Support the Issues Identified*

5.3 The plan will be supported by an extensive evidence base which will be in the public domain. Some of the supporting documents may not be available until the plan is published which sets a challenge for respondents who will need to understand what the LPA has based its policies and proposals on. ***Monitoring of the local planning authority's web site is advised to be aware of the publication of new or updated evidence.***

5.4 The SASR and the SA itself should set out the information on which the plan has been prepared and are key documents. The LPA's decision making leading to the content of the local plan should be clear, i.e. the appraisals have informed where development is to take place and where it is not. These documents can be very long and are not easy to read,



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however the information they contain can be helpful. There will also be reports on a range of topics, such as housing; employment; ecology; heritage; etc. ***Groups are advised to read these to gather any relevant information to inform any response.***

5.5 LPAs are required to publish an annual authority monitoring report. This can be a useful source of information as it should set out the impact of existing Local Plan policies.

5.6 The evidence used to inform recently adopted local plans may be retained on web sites or available on request and can be a helpful source of information, if not necessarily the most up to date information.

5.7 In addition to the information published by an LPA there are other sources which can support the input and responses to a local plan. These might include data held by the county council, government departments and agencies which is publicly accessible, such as population statistics; economic growth forecasts; and flood risk maps. ***Groups should cite any information source which supports their case.***

5.8 ***There is a danger of being overwhelmed by the information available. Focussing on the issues that are of most concern can help manage the efforts of a Group***

*Draft what the emerging plan should say about those Issues*

5.9 ***Setting out the focus of the Group in terms of the new plan will enable it to articulate what it wants to achieve and can be used as the basis for involvement in the plan's preparation. It can also inform decisions on the resources needed to promote the Group's objectives.***

*Who should know about the views of the District Group?*

5.10 The new local plan will need to be considered by elected councillors at key stages in the process. LPAs may set up informal arrangements for the involvement of councillors, such as panels and sub-committees, which may or may not be in the public domain. ***Lobbying of the councillors to make them aware of the views of the Group is advised, as is involvement in initiatives by the LPA to involve the public and attendance at public meetings.***



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5.11 Examiners, in their reports, will focus on the planning case being made and the evidence relied upon to support the plan. The volume of public comments is unlikely to be a determining factor. However, it is more likely that elected councillors will be more sympathetic to supporting changes as the plan develops if there is significant public support. ***The Group could consider a range of options to garner public support, for instance using social media to inform residents and gain their backing for its response.***

5.12 Parish and town councils are statutory consultees and will be invited to comment on emerging plans. ***They should be advised of the Group's views and sent copies of any submissions, responses or other papers.***

5.13 ***Identifying who the key people are in the LPA and developing a relationship with them is time well spent. Aligning the case being made by the Group to the aims and objectives of the Council will help its case too, so it is worth studying a council's corporate plan and other strategy documents.***

## 6. Getting involved

6.1 There have been various initiatives by LPAs to encourage greater public involvement in the plan-making process and new ones introduced. One Hampshire authority, Test Valley Borough Council, is currently part of a national pilot scheme to involve groups of residents to discuss significant issues affecting it. ***LPAs provide opportunities to subscribe to newsletters or be on a 'keep informed' database. The Group should take advantage of the options to be kept up to date by LPAs***

6.2 LPAs hold exhibitions, workshops and public meetings as part of the consultation process. ***These should be used to promote the particular views of the Group and be seen as an opportunity to meet other interest groups with similar views.*** Some LPAs are starting to use social media as a mechanism for seeking views. ***Groups are advised to take the opportunity to use that format and raise CPRE's public profile.***

6.3 ***The Group should consider its involvement in all such initiatives, subject to having the capacity to do so, and should have a clear view of what it is trying to achieve through the local plan. Clear and concise goals, supported by independent evidence, will enable Groups to play a proactive and constructive role.***



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