Local Plans and “Soundness”

Introduction

The NPPF was introduced just over two years ago as part of the Government’s attempt to make the planning system less complex and more accessible. While one of the key aims of introducing the NPPF was to simplify and speed up the planning process, two years down the line progress on getting submitted Plans found sound appears to have slowed.

A review by Nathaniel Lichfield & Partners, undertaken in March 2014, of the 109 Local Plans examined or submitted for examination since the NPPF was introduced, confirmed that the key reason Plans had stalled was the policy requirement to meet objectively assessed needs, with the housing target remaining the key battleground at examination. Just over half of such Plans proposed less housing than had been proposed by former Regional Strategies, with a third of sound plans ending up having to increase their target to pass examination.

Half of the Plans submitted for examination post NPPF and prior to March 2014 had experienced delays. Progress of many Plans had stalled as LPAs took stock of their evidence base before proceeding with the rigorous examination process, with an increasing number of Plans having to be withdrawn in order to avoid having to be found unsound.

The Review in Figures

109 Local Plan examined or submitted for examination

40 Local Plans found sound

15 Local Plans withdrawn on the basis of soundness concerns

48% of the 54 ongoing Local Plans have experienced delays and require modifications

4 Additional number of months that it take on average for Local Plans to be found sound post NPPF

1/3 of LPAs had to increase their submitted housing target in order to be found sound
Policy

NPPF para 47

To boost significantly the supply of housing, local planning authorities should:

• Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area

Para 157

Crucially Local Plans should (inter alia):

• Plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of this Framework;
• Be drawn up over an appropriate time scale, preferably a 15 year time horizon, take account of longer term requirements, and be kept up to date;
• Be based on co-operation with neighbouring authorities, public, voluntary and private sector organisations.

Para 158

Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals.

Para 159

Local planning authorities should have a clear understanding of housing needs in their area. They should:

• prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The Strategic Housing Market Assessment
• should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which:
  - meets household and population projections, taking account of migration and demographic change;
  - addresses the need for all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);4 and
  - caters for housing demand and the scale of housing supply necessary to meet this demand;
• prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period.
Para 178

Public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities set out in paragraph 156. The Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities.

Para 179

Local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and clearly reflected in individual Local Plans. Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas – for instance, because of a lack of physical capacity or because to do so would cause significant harm to the principles and policies of this Framework. As part of this process, they should consider producing joint planning policies on strategic matters and informal strategies such as joint infrastructure and investment plans.

Para 180

Local planning authorities should take account of different geographic areas, including travel-to-work areas. In two tier areas, county and district authorities should cooperate with each other on relevant issues. Local planning authorities should work collaboratively on strategic planning priorities to enable delivery of sustainable development in consultation with Local Enterprise Partnerships and Local Nature Partnerships. Local planning authorities should also work collaboratively with private sector bodies, utility and infrastructure providers.

Para 181

Local planning authorities will be expected to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts when their Local Plans are submitted for examination. This could be by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position. Cooperation should be a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development.

Para 182

The Local Plan will be examined by an independent inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. A local planning authority should submit a plan for examination which it considers is “sound”.

PINS “Examining Development Plans” para 7

LPAs should rigorously assess the DPD before it is published under Regulation 27 to ensure that it is a plan which they think is sound. The document published should be the document they intend to submit under Regulation 30 to the Inspectorate. The 2004 Act specifically provides that a LPA must not submit the DPD unless it considers the document is ready for examination. Changes after submission by the LPA should be unnecessary and may be disregarded by the Inspector unless there are exceptional reasons that justify them.
Para 2.5 onwards

- In looking at the matters and issues, Inspectors will seek to identify any fundamental or cumulative flaws at the first possible opportunity;
- This will avoid wasted time and money if the submitted DPD has major problems (or may even on the face of it appear unsound);
- If the Inspector forms an early view that the submitted DPD may have serious shortcomings that point to potential unsoundness, the Inspector will bring this to the attention of the LPA.

Exceptionally, the Inspector may consider that the examination cannot be completed without additional work being undertaken (such as the need for further sustainability appraisal of alternative options) which may necessitate consideration of a suspension of the examination or, in the worse case scenario, withdrawal of the DPD.

NPPG

Duty to cooperate

What is the duty to cooperate and what does it require?

The duty to cooperate was created in the Localism Act 2011, and amends the Planning and Compulsory Purchase Act 2004. It places a legal duty on local planning authorities, county councils in England and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local and Marine Plan preparation in the context of strategic cross boundary matters.

The duty to cooperate is not a duty to agree. But local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their Local Plans for examination.

Local planning authorities must demonstrate how they have complied with the duty at the independent examination of their Local Plans. If a local planning authority cannot demonstrate that it has complied with the duty then the Local Plan will not be able to proceed further in examination.

Local planning authorities will need to satisfy themselves about whether they have complied with the duty. As part of their consideration, local planning authorities will need to bear in mind that the cooperation should produce effective and deliverable policies on strategic cross boundary matters.

How does the duty to cooperate relate to the Local Plan test of soundness?

The duty to cooperate is a legal test that requires cooperation between local planning authorities and other public bodies to maximise the effectiveness of policies for strategic matters in Local Plans. It is separate from but related to the Local Plan test of soundness.

The Local Plan examination will test whether a local planning authority has complied with the duty to cooperate. The Inspector will recommend that the Local Plan is not adopted if the duty has not been complied with and the examination will not proceed any further.

If the Inspector finds that the duty has been complied with the examination will also test whether the Local Plan is sound. The test of soundness, set out in full in the National Planning Policy Framework (paragraph 182), assesses whether the Local Plan is:
• positively prepared;
• justified;
• effective; and
• consistent with national policy.

In assessing whether the Local Plan is effective the Inspector will assess whether it is deliverable within the timescale set by the Local Plan and if it demonstrates effective joint working to meet cross boundary strategic priorities. If a Local Plan is found unsound at the examination the Inspector will recommend that it is not adopted (although an Inspector must recommend modifications that would make a Local Plan sound if asked to do so by the local planning authority).

Does the duty to cooperate require local planning authorities to reach agreement about the planning strategy before they submit their Local Plans for examination, and what should a local planning authority do if it is reliant on another local planning authority that will not cooperate?

The duty to cooperate is not a duty to agree. But local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their Local Plans for examination. Local authority officers and councillors have an important role to play in this process.

If another authority will not cooperate this should not prevent the authority bringing forward a Local Plan from submitting it for examination. However, the authority will need to submit comprehensive and robust evidence of the efforts it has made to cooperate and any outcomes achieved and this will be thoroughly tested at the examination. Local Planning Authorities should discuss their particular circumstances with the Planning Inspectorate prior to submitting the Local Plan.

Prior to submitting a Local Plan in these circumstances Local Planning Authorities should have explored all available options for delivering the planning strategy within their own planning area. They should also have approached other authorities with whom it would be sensible to seek to work to deliver the planning strategy.

Local Planning Authorities should discuss their particular circumstances with the Planning Inspectorate prior to submitting the Local Plan.

Who is responsible for the duty?

Local planning authority councillors and officers are responsible for leading discussion, negotiation and action to ensure effective planning for strategic matters in their Local Plans. This requires a proactive, ongoing and focussed approach to strategic planning and partnership working.

Are other public bodies subject to the duty to cooperate and what is required of them?

Other public bodies, in addition to local planning authorities, are subject to the duty to cooperate by being prescribed in the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013.

These bodies are:
• the Environment Agency
• the Historic Buildings and Monuments Commission for England (known as English Heritage)
• Natural England
• the Mayor of London
• the Civil Aviation Authority
• the Homes and Communities Agency
• each clinical commissioning group established under section 14D of the National Health Service Act 2006
• the National Health Service Commissioning Board
• the Office of Rail Regulation
• Transport for London
• each Integrated Transport Authority
• each highway authority within the meaning of section 1 of the Highways Act 1980 (including the Secretary of State, where the Secretary of State is the highways authority)
• the Marine Management Organisation.

These organisations are required to cooperate with local planning authorities, county councils that are not local planning authorities and the other prescribed bodies. These bodies play a key role in delivering local aspirations, and cooperation between them and local planning authorities is vital to make Local Plans as effective as possible on strategic cross boundary matters. The bodies should be proportionate in how they do this and tailor the degree of cooperation according to where they can maximise the effectiveness of plans.

Are Local Enterprise Partnerships and Local Nature Partnerships subject to the duty to cooperate?

Local Enterprise Partnerships and Local Nature Partnerships are not subject to the requirements of the duty. But local planning authorities and the public bodies that are subject to the duty must cooperate with Local Enterprise Partnerships and Local Nature Partnerships and have regard to their activities when they are preparing their Local Plans, so long as those activities are relevant to local plan making. Local Enterprise Partnerships and Local Nature Partnerships are prescribed for this purpose in Town and Country Planning (Local Planning (England) Regulations as amended by the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012 to include Local Nature Partnerships.

This requirement reflects the important role that both Local Enterprise Partnerships and Local Nature Partnerships need to play in strategic planning.

Local Enterprise Partnerships have a key role to play in delivering local growth by directing strategic regeneration funds and in providing economic leadership through their Strategic Economic Plans.
The commitment of local planning authorities to work collaboratively with Local Enterprise Partnerships across their area will be vital for the successful delivery of policies for strategic growth in their Local Plans. An effective policy framework for strategic planning matters, including joint or aligned planning policies, will be a fundamental requirement for this.

Local Nature Partnerships work strategically to help their local areas manage the natural environment and they are encouraged to work at a broader ‘landscape scale’. Local planning authorities should seek opportunities to work collaboratively with Local Nature Partnerships to deliver a strategic approach to encouraging biodiversity.

**Why does the duty to cooperate require local planning authorities to work with local planning authorities and bodies outside their area?**

The duty to cooperate seeks to ensure that local planning authorities lead strategic planning effectively through their Local Plans, addressing social, environmental and economic issues that can only be addressed effectively by working with other local planning authorities beyond their own administrative boundaries. For example, housing market and travel to work areas, river catchments and ecological networks may represent a more effective basis on which to plan for housing, transport, infrastructure, flood risk management, climate change mitigation and adaptation, and biodiversity. The aim is to encourage positive, continuous partnership working on issues that go beyond a single local planning authority’s area.

**Does the duty to cooperate require additional consultation beyond existing statutory consultees?**

The duty requires active and sustained engagement. Local planning authorities and other public bodies must work together constructively from the outset of plan preparation to maximise the effectiveness of strategic planning policies. It is unlikely that this could be satisfied by consultation alone. Local planning authorities that cannot demonstrate that they have complied with the duty will fail the independent examination process.

**What outcomes are expected from the duty to cooperate?**

Cooperation between local planning authorities, county councils and other public bodies should produce effective policies on strategic cross boundary matters. Inspectors testing compliance with the duty at examination will assess the outcomes of cooperation and not just whether local planning authorities have approached others.

**What actions constitute effective cooperation under the duty to cooperate?**

The actions will depend on local needs which will differ, so there is no definitive list of actions that constitute effective cooperation under the duty. Cooperation should produce effective policies on cross boundary strategic matters. This is what local planning authorities and other public bodies should focus on when they are considering how to meet the duty. Local planning authorities should bear in mind that effective cooperation is likely to require sustained joint working with concrete actions and outcomes. It is unlikely to be met by an exchange of correspondence, conversations or consultations between authorities alone.

Section 33A(6) of the 2004 Act requires local planning authorities and other public bodies to consider entering into agreements on joint approaches. Local planning authorities are also required to consider whether to prepare local planning policies jointly under powers provided by section 28 of the 2004 Act.
The activities that fall within the duty to cooperate include activities that prepare the way for or support the preparation of Local Plans and can relate to all stages of the plan preparation process. This might involve joint research and evidence gathering to define the scope of the Local Plan, assess policy impacts and assemble the necessary material to support policy choices. These could include assessments of land availability, Strategic Flood Risk Assessments and water cycle studies.

Authorities should submit robust evidence of the efforts they have made to cooperate on strategic cross boundary matters. This could be in the form of a statement submitted to the examination. Evidence should include details about who the authority has cooperated with, the nature and timing of cooperation and how it has influenced the Local Plan.

**Is there a specific point in the Local Plan making process when cooperation should occur?**

Cooperation should take place throughout Local Plan preparation – it is important not to confine cooperation to any one point in the process.

Local planning authorities and other public bodies need to work together from the outset at the plan scoping and evidence gathering stages before options for the planning strategy are identified. That will help to identify and assess the implications of any strategic cross boundary issues on which they need to work together and maximise the effectiveness of Local Plans. After that they will need to continue working together to develop effective planning policies and delivery strategies. Cooperation should continue until plans are submitted for examination and beyond, into delivery and review.

Local planning authorities should bear in mind that failure to demonstrate compliance with the duty at the Local Plan examination cannot be corrected after the Local Plan has been submitted for examination. The most likely outcome of a failure to demonstrate compliance will be that the local planning authority will withdraw the Local Plan.

**When is an issue a strategic matter on which cooperation is required?**

Section 33A(4) of the 2004 Act sets out what are strategic matters. This includes sustainable development or use of land that has or would have a significant impact on at least two planning areas, in particular in connection with strategic infrastructure. The National Planning Policy Framework (paragraph 156) further sets out the strategic matters that local planning authorities are expected to include in their Local Plans. This is not an exhaustive list and local planning authorities will need to adapt it to meet their specific needs.

Planning for infrastructure is a critical element of strategic planning. The National Planning Policy Framework (paragraph 162) makes clear that local planning authorities should work with other local planning authorities and providers to assess the quality and capacity of a range of infrastructure types. This will ensure that key infrastructure such as transport, telecommunications, energy, water, health, social care and education, is properly planned.

Planning for infrastructure is a key requirement of the effectiveness element of the test of Local Plan soundness, which requires plans to be deliverable and based on effective joint working on cross boundary strategic priorities. The involvement of infrastructure providers in Local Plan preparation is critical to ensure that Local Plans are deliverable. Participation in the Local Plan preparation process in turn helps them to inform their business plans and to plan and finance the delivery of infrastructure that they have a legal obligation to provide. It is expected that private utility companies and providers will engage positively in the preparation and delivery of Local Plans.
Does the duty to cooperate require cooperation in two tier local planning authority areas?

Close cooperation between district local planning authorities and county councils in two tier local planning authority areas will be critical to ensure that both tiers are effective when planning for strategic matters such as minerals, waste, transport and education.

How do local planning authorities decide who to cooperate with?

The local planning authorities and public bodies that a local planning authority needs to cooperate with will depend on the strategic matters that the local planning authority is planning for and the most appropriate functional geography to gather evidence and develop planning policies. For example housing market and travel to work areas, river catchments and landscape areas may be a more appropriate basis on which to plan than individual local planning authority areas.

It is important to adopt a pragmatic approach in deciding the area over which cooperation is needed and who to work with. For some strategic matters the most effective outcomes may be achieved through cooperation by a small number of neighbouring local planning authorities while for other matters there may be a need for cooperation over a wider functional area involving both neighbouring and other local planning authorities and bodies. Cooperation between different tiers – counties and districts – may be needed on issues such as transport, waste and flood risk. This will be decided by the particular issues and local planning authorities may well work in different groupings for different strategic matters.

How can two or more local planning authorities cooperate on Local Plan preparation in order to comply with the duty?

Where two or more local planning authorities decide to work together to prepare Local Plans or policies they should consider how to achieve this most effectively. For some authorities the most appropriate way might be to form a joint committee (to include one or more county councils) under section 29 of the 2004 Act. Alternatively, the local planning authorities could prepare a joint plan, using powers in section 28 of the 2004 Act, or align their Local Plans, so that they are examined and adopted at broadly the same time.

These options will maximise opportunities for successful joint working and demonstrate a real commitment to effective strategic planning. It would also provide the most certainty for communities and those investing in economic development.

Another way to demonstrate effective cooperation, particularly if Local Plans are not being brought forward at the same time, is the use of formal agreements between local planning authorities, signed by elected members, demonstrating their long term commitment to a jointly agreed strategy on cross boundary matters. Such agreements should be as specific as possible, for example about the quantity, location and timing of unmet housing need that one authority is prepared to accept from another authority to help it deliver its planning strategy. This will be important to demonstrate the commitment between local planning authorities to produce effective strategic planning policies, and it will be helpful for Inspectors to see such agreements at the examination as part of the evidence to demonstrate compliance with the duty.

Local planning authorities considering how to comply with the duty should discuss joint working with the Planning Inspectorate at an early stage. The Planning Inspectorate will aim to facilitate effective joint working by, for example, appointing the same Inspector to undertake the examinations
consecutively or a team of Inspectors who will ensure that the respective Local Plans are coordinated.

If local planning authorities want to agree a joint planning strategy but are at different stages of Local Plan preparation what should they do?

Where Local Plans are not being taken forward in the same broad time frame, the respective local planning authorities should try to enter into formal agreements, signed by their elected members, demonstrating their long term commitment to a jointly agreed strategy on cross boundary matters. Inspectors will expect to see these agreements at the examination. A key element of the examination will be to ensure that there is sufficient certainty through the agreements that an effective strategy will be in place for strategic matters when the relevant Local Plans are adopted.

How will the duty to cooperate be considered at the Local Plan examination?

At the examination, the Inspector will consider whether the local planning authority has fulfilled its duty under section 33A so as to maximise the effectiveness of the plan making process when planning for strategic cross boundary matters. If the Inspector is satisfied that the local planning authority has complied with the duty, the examination will proceed to consider whether the plan is sound.

The duty applies to the actions taken by local planning authorities in preparing Local Plans. Local planning authorities should bear in mind that a failure to demonstrate compliance with the duty at the Local Plan examination cannot be corrected after the Local Plan has been submitted for examination. If an Inspector finds that the duty has not been complied with they will not be able to recommend that the plan is adopted. In this context the most appropriate course of action is likely to be for the local planning authority to withdraw the plan and engage in the necessary discussions and actions with other relevant local planning authorities and partners. The precise stage of the plan preparation process that the local planning authority will need to go back to will depend on the specific facts of the case. But the revised plan will need to be re-published for consultation and comment before being re-submitted for examination.

How will the Planning Inspectorate test a Local Plan where the evidence suggests that the local planning authority’s planning strategy cannot be delivered fully because it has been unable to secure the cooperation of another local planning authority?

This will depend on the particular circumstances and issues. Inspectors will expect to see robust evidence to support the local planning authority’s case. They will examine what actions local planning authorities have taken to seek the cooperation of key partners and the outcome of their efforts.

Where a local planning authority has done all that it can but it has been unable to secure the cooperation necessary for effective strategic planning policies, Inspectors will assess the evidence and local circumstances to consider the implications for the planning strategy, for example – the extent of unmet housing need and its implications. As part of this analysis, the Inspector will also consider the willingness of the local planning authority being examined and other key partners to commit, through written agreements, to work together to achieve effective solutions.

Local planning authorities that are unwilling to cooperate with others will eventually have to bring forward their own Local Plan for examination. If they are unable to provide robust evidence to support a strategy that does not plan for the unmet requirements of another local planning
authority they may fail the test of compliance with the duty to cooperate or the plan may be found unsound.

**If a local planning authority has adopted a Local Plan is it required to cooperate with another local planning authority that is bringing forward a plan?**

The duty to cooperate applies to all local planning authorities who are in the process of preparing and reviewing a Local Plan, including early scoping and evidence gathering work. So even if a local planning authority has an adopted Local Plan, it is still required to cooperate with a local planning authority that is bringing forward its plan.

Local planning authorities are required under section 13 of the 2004 Act to keep under review the matters that may be expected to affect the development of their area or the planning of its development. These matters include physical, economic, social and environmental characteristics, size, composition and distribution of the population, and communications, transport and traffic. A local planning authority may also keep under review these matters in neighbouring areas beyond their administrative boundary if they are expected to affect its area and they must consult the relevant local planning authorities.

The National Planning Policy Framework (paragraph 182) requires local planning authorities to take a strategic approach in their Local Plans. Local Plans should be based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring local planning authorities where it is reasonable to do so and consistent with achieving sustainable development.

Therefore, if a local planning authority preparing a Local Plan provides robust evidence of an unmet requirement, such as unmet housing need, identified in a Strategic Housing Market Assessment, other local planning authorities in the housing market area will be required to consider the implications, including the need to review their housing policies.

All local planning authorities must give details of what action they have taken to comply with the duty in their local Authority Monitoring Reports at least once a year. This should include details of the actions they have taken to respond constructively to requests for cooperation.

**If an authority is asked to cooperate with another authority to help it deliver its housing need, is the authority obliged to do so even if it considers that cooperation would have adverse impacts on the environment of its own planning area?**

The National Planning Policy Framework makes clear that local planning authorities should meet their own housing need and meet the needs of other authorities in the same housing market area as far as is consistent with the policies set out in the Framework. This includes policies for the protection of the built and natural environment.

The Duty to Cooperate requires authorities to work effectively on strategic planning matters that cross their administrative boundaries. The Duty to Cooperate is not a duty to agree and local planning authorities are not obliged to accept the unmet needs of other planning authorities if they have robust evidence that this would be inconsistent with the policies set out in the National Planning Policy Framework, for example policies on Green Belt, or other environmental constraints.
An authority will need to consider its obligations under the duty to cooperate, the policies of the National Planning Policy Framework taken as a whole and any relevant Local Plan policies when considering requests from others to cooperate on strategic cross boundary matters.

Do local planning authorities have to provide any information on how they have met the duty?

Yes, local planning authorities must give details of what action they have taken under the duty to cooperate to their communities in their Authority Monitoring Reports (Town and Country Planning (Local Planning) (England) Regulations 2012, regulation 34(6)). This should include actions to both secure the effective cooperation of others and respond constructively to requests for cooperation. It should also highlight the outcomes of cooperation. This should be done at least once a year and information should be published on the local planning authority’s website and made available for inspection at their offices.

Revision date: 06 03 2014

Specific Examples of findings of “unsoundness”

Coventry City Council

Plan withdrawn 1 March 2013

Inspector Robert Yuille

Inspector found plan to be unsound due to a failure of the Council to fulfil its duty to cooperate on housing numbers with neighbouring local authorities.

The Plan had drawn criticism from both Birmingham City Council and Nuneaton and Bedworth Borough. Birmingham City Council complained that it had not met its objectively assessed need for housing or explained how any shortfall would be accommodated. It was concerned that this could have knock on implications for Birmingham and other local planning authorities. This was not a matter on which the Council and Birmingham City Council were able to reach agreement.

Nuneaton and Bedworth Borough Council, also made representations on the Plan questioning whether Coventry was proposing to meet its long term housing requirements and expressed concern over the implications of it not doing so.

The Inspector concluded that the local plan did not meet the legal requirements of the 2004 Act in that the council had not engaged constructively with neighbouring local planning authorities on the strategic matter of the number of houses proposed.
North West Leicestershire District Council

Plan withdrawn following Exploratory Meeting 25 September 2013

Inspector Michael Hetherington

Inspector had prepared an initial note concluding that in the absence of an up-to-date SHMA it would be difficult to conclude that the plan met the Framework’s soundness requirements that a plan should be justified and consistent with national planning policy. The Inspector also noted that a number of other planning authorities within the HMA had objected to the proposed housing target which raised concerns over whether the Council had complied with the duty to co-operate.

Taken together with other concerns about the level of housing proposed in the plan the Inspector advised the Council that a failure to demonstrate that the requirements of paragraph 47 of the Framework had been met was unlikely to result in a finding of soundness, while failure to satisfy the legal duty to co-operate could not be remedied. Concerns were also raised over traveller site provision and viability.

Overall the Inspector had serious concerns about whether the plan was effective and justified.

After considering the Council’s response to his initial note, the Inspector re-iterated his concerns to the council particularly in relation to housing land supply and the duty to co-operate in a second letter to the Council and advised that he intended to hold an Exploratory Meeting at which he would set out such concerns in more detail. In the meantime, he invited the Council to consider withdrawing the plan. The Council, however, declined to do so.

At the Exploratory Meeting, the Council invited the Inspector to consider suspending the Examination, however the Inspector considered that the work required to remedy his concerns would not be able to be undertaken within a reasonable time and thus considered that there were only 2 options – withdrawal or proceeding with the Examination.

The Council subsequently decided to withdraw the plan.

Hart District Council

Plan withdrawn 30 September 2013

Inspector Kevin Ward

Inspector ruled on day 2 of Examination that Council had not complied with its duty to co-operate with other local authorities in preparing the strategy and declared it was not sound in terms of overall housing provision.

As a result, the Inspector said it was ‘inappropriate’ to proceed with further hearing sessions scheduled from September 3, and the Council subsequently withdrew the plan
Aylesbury Vale Local Plan

Inspector’s Letter to LPA 7 January 2014

Inspector Kevin Ward

Advice to Council to withdraw its Local Plan from examination after finding:

• that the plan did not meet the duty to co-operate; and

• was unsound in relation to its overall provision for housing and jobs.

Local authorities present at the initial hearing had considered their involvement in the Council’s work on a housing study to inform the plan had been "essentially that of consultees". "They did not consider that they had been actively or directly involved in its preparation...The extent to which engagement, particular of the limited form undertaken, could have genuinely influenced the overall level of housing provision appears to have been minimal" and there were "significant issues" in terms of potential unmet housing needs from other authorities which the Council had been aware of "from early in the plan preparation process, if not before".

In relation to plan’s housing provision, the Inspector said that it was "clear" that the Council was planning for a level of housing "well below" that indicated by its evidence in terms of potential economic growth.

Inspector therefore concluded that the plan had not been positively prepared in relation to housing provision, was not justified or effective and it was not consistent with national policy. It was therefore not sound.

The Inspector advised the Council that it could choose to proceed with the examination, but that given his findings he would be recommending non-adoption of the plan, so the Council may instead wish to consider withdrawing the plan.

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East Devon District Council

Inspector’s Report 3 April 2014

Inspector Anthony Thickett

• The 15,000 housing target not justified by evidence submitted which was inadequate and not up-to-date;

• The absence of an up-to-date Strategic Housing Market Assessment (SHMA) a “serious failing” and made a full assessment of need difficult;

• Subject to the results of an updated SHMA the council should consider making provision for an increased number of dwellings;

• Any backlog of housing must be built within five years;
• The council must demonstrate a five year land supply but can only demonstrate just over four years;

• If adopted in 2014, the plan period covered 12 years instead of 15

Ashfield District Council

Plan withdrawn 24 July 2014

Inspector Jeremy Youle

Inspector held an exploratory meeting to hear the council’s response to concerns he had previously raised in writing. He was not convinced by all of the explanations put forward in response to such concerns and subsequently wrote again to the Council stating his ‘significant concerns’ with the Plan relating to assessments carried out in order to select development sites and evaluate the Green Belt.

The inspector said the Plan did not make clear why certain sites had been selected and others rejected.

He also stated that he ‘was not entirely convinced’ by the council’s arguments for not having a 15-year plan period.

He found that there was ‘a significant risk that the Plan would be found unsound’ due to these concerns, and that a suspension of the examination of the Plan would not be suitable as further work to address such concerns ‘could lead to different conclusions about which sites should be preferred for allocation’. He therefore advised that “The most appropriate course of action would … be for the council to give serious consideration to withdrawing the Plan.

“Whilst the council may not agree with all the inspector’s comments, it has started to work through these matters rather than press forward to examination at this stage,” it said.

Derbyshire Dales Local Plan

Plan withdrawn following examination 22-23 July 2014

Inspector Keith Holland

In his report, the Inspector said that the local plan would “… not be found sound in its current form.” The council needed to review the relationship between its objectively assessed need for housing (OAN) and the environmental constraints that applied in the area.

The Inspector presented the Council with 3 choices:

• the examination could continue but the dangers of doing so were clear and obvious;
• the examination could be suspended to allow the council to undertake further work and consultation. This option was, however, only realistic if the council considered that this work
could be done within a reasonable period – say 6 months – and was able to set out a realistic timetable for the work; or

• the plan could be withdrawn and re–submitted once the issues identified had been addressed.

In reaction to the inspector’s comments, the council decided not to continue with the examination as originally scheduled.

Charnwood Borough Council

Examination suspended following initial hearing sessions 19-20 March 2014

Inspector Kevin Ward

Whilst the Inspector was satisfied that the Council had complied with the duty to co-operate (there being no objections from any of the other planning authorities in the HMA to the proposed housing provision in the plan) he was concerned that the housing provision was not based upon an up to date and robust assessment of the housing needs of the HMA and thus the plan had not been positively prepared, nor was it justified or effective or consistent with national policy in respect of overall housing provision. It was therefore not sound.

The Inspector however recognised that the planned new SHMA and subsequent co-operation and joint working between authorities could potentially address such concerns as a result of which he was prepared to suspend the examination to enable joint working on the SHMA and housing distribution to be completed - the alternatives being that he proceeded with his report, reaching the conclusion that the plan as submitted was not sound, or that the Council withdraw the plan.

The examination currently remains suspended and is due to recommence at the end of this year.

Bolsover District Council

Plan withdrawn 5 June 2014 following examination

Inspector David Vickery

Inspector wrote to Council commenting that there had not been constructive, active and ongoing engagement...between the council, North East Derbyshire District Council and Chesterfield Borough Council ...

Inspector also said the plan’s sustainability appraisal – which deals with sustainable development – was inadequate with regards to provision of employment sites and sites for gypsies, adding “The submitted strategic appraisal is not legally compliant and will need to be revised.”

He recommended the council completely withdraw the plan and the council subsequently notified the Planning Inspectorate of their decision to do so.