

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (LOCAL DEVELOPMENT) (ENGLAND)
(AMENDMENT) REGULATIONS 2008

2008 No. 1371

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 The Regulations amend the Town and Country Planning (Local Development) (England) Regulations 2004 (“the 2004 Regulations”) in a number of respects. The principal changes are provisions in connection with new requirements for London borough councils to submit their local development schemes (or revisions of such schemes) to the Mayor of London and new direction-making powers provided to the Mayor of London to require changes to such schemes. Local development schemes are a public statement of a local planning authority’s programme for the production of local development documents (see paragraphs 4.4 to 4.6 below about local development documents).

2.2 Also (in terms of principal changes), the Regulations simplify the procedures to be followed in preparing or revising development plan documents and statements of community involvement, as well as providing for new bodies to be involved in their preparation. Development plan documents (“DPDs”) are documents which set out a local planning authority’s policies relating to the development and use of land in their area and constitute part of the development for the purposes of section 38(6) of the Planning and Compulsory Act 2004 (“the 2004 Act”). A statement of community involvement (“SCI”) is a document which sets out how a local planning authority intends to involve interested persons in the exercise of certain of its town and country planning-related functions, including the preparation of DPDs.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 Under Part 2 of the 2004 Act, a new system of local development planning was established which replaced in England the system of development plans made under Part 2 of the Town and Country Planning Act 1990. The 2004 Regulations make provision for the operation of that new system and amongst other things, provision about the form and content of documents setting out a local planning authority’s policies about development in its area and its programme for the production of such documents and the procedures it is to follow in connection with their preparation or revision.

4.2 Amendments have been made by section 30 of the Greater London Authority Act 2007 (“the GLA Act 2007”) to section 15 of the 2004 Act. Section 15(1) of the 2004 Act requires local planning authorities to prepare and maintain a local development scheme (a document, the purpose of which is summarised in paragraph 2.1 above) and section 15(3) requires them to be

submitted to the Secretary of State. Under section 15(4), the Secretary of State may direct a local planning authority to make amendments to its local development scheme. In addition (under section 15(8)(b)), the Secretary of State may also direct a local planning authority to revise its scheme. The amendments made by section 30 of the GLA Act 2007 provide similar direction-making powers to the Mayor of London in relation to the local development schemes of London borough councils, as well as providing for them to be submitted to the Mayor of London (see section 15(3)(d), (4) and (8)(b)). However, the Mayor's directions can be overridden or modified by the Secretary of State (see section 15(6B) and (8C)). The amendments made by section 30 provide for time limits to be prescribed within which the Secretary of State may exercise these powers to override or modify, as well as providing for when a scheme may be brought into effect when the Mayor gives a direction to amend it.

4.3 Regulations 10 and 11 of the 2004 Regulations already add to the regime under section 15 of the 2004 Act. For example, they require that copies of local development schemes must be submitted to the Secretary of State electronically and in paper form. In addition, they contain requirements about the circumstances where a local planning authority may bring a local development scheme into effect in circumstances where no direction has been made under section 15(4) of the 2004 Act by the Secretary of State or in circumstances where such a direction has been made.

4.4 There are a further three categories of document (in addition to local development schemes) used in local development planning which are relevant to the changes made by these Regulations (documents which together constitute local development documents). The documents are follows. Firstly, there are supplementary planning documents ("SPDs"), which under regulation 13(8) of the 2004 Regulations must be in conformity with a DPD or an old policy (i.e. a policy in a development plan produced under Part 2 of the Town and Country Planning Act 1990) relating to the local planning authority's area. The procedures for the production of these documents are to be found in Part 5 of the 2004 Regulations and in particular, regulation 16(2) defines what the contents must be of an "adoption statement" – a statement which provides notification about the rights to challenge in court the decision to adopt a supplementary planning document.

4.5 The second category of document is DPDs, the contents of which are prescribed by virtue of regulations 6 and 7 of the 2004 Regulations. This second category of document differs from SPDs because it is part of the statutory development plan for an area (see section 38(2)(b) and (3)(b) of the 2004 Act). This is an important distinction because where regard has to be had to a development plan for the purposes of certain determinations (such as determining planning applications), that determination has to be in accordance with the development plan unless material considerations indicate otherwise (see section 38(6) of the 2004 Act). There is a presumption in favour of the development plan. Part 6 of the 2004 Regulations prescribes the procedures for the production of DPDs. In particular, regulations 25 to 28 (as originally made) make provision about consultation and public participation in the production of such documents and for the provision of information to the Secretary of State when DPDs are submitted to her for independent examination under section 20(1) of the 2004 Act. Regulation 36 requires publication and notification of an adoption statement (which again summarises how to legally challenge the adoption of a DPD).

4.6 The third category of document is an SCI. This is a document which local planning authorities are obliged to prepare under section 18(1) of the 2004 Act. This document is a statement of the local planning authority's policies about how it will involve interested parties in the exercise its functions under sections 19, 26 and 28 of the 2004 Act (functions relating to the preparation and revision of local development documents) and functions under Part 3 of the Town and Country Planning Act 1990 (which deals with controls over development such as the grant or refusal of planning permission). Under section 18(3) and section 26(3) of the 2004 Act, a local planning authority must comply with its SCI when preparing or revising other local development documents. Part 6 of the 2004 Regulations also sets out the procedures for their preparation and

revision (see regulation 24(1)) and provides for the publication of an adoption statement (see regulation 24(4) and 36).

4.7 Under section 21(4) of the 2004 Act, the Secretary of State has the power, by direction, to call-in DPDs – i.e. to require that a whole or part of such a document is submitted to her to approve. Regulations 40 to 44 of the 2004 Regulations (as originally made) make provision on the procedures to be followed where such a direction is made. In addition, the Secretary of State has powers under section 27 of the 2004 Act to prepare or revise DPDs in default of action by a local planning authority. Regulation 45 of the 2004 Regulations (as originally made) makes provision about the procedures to be followed by the Secretary of State where she exercises these powers.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Policy

7.1 The new role for the Mayor of London in relation to the local development schemes of London borough councils is part of a wider series of changes that have been made to the Mayor's town and country planning-related powers by the GLA Act 2007. The purpose of these changes is to make the operation of the planning system in London more effective and to better reflect the unique governance arrangements in the Capital.

7.2 In England, decisions on planning applications must be taken in accordance with the policies in the relevant development plan "unless material considerations indicate otherwise" (see section 38(6) of the 2004 Act and section 70(2) of the Town and Country Planning Act 1990). Within this "development plan" there are two tiers – the regional plan, which in London's case is the Mayor's London Plan (or the spatial development strategy), and then at the London borough level, DPDs (see section 38(2) of the 2004 Act). The latter must be in general conformity with the London Plan (see section 24(1)(b) of the 2004 Act). Both types of document are prepared following public participation or consultation and are independently examined.

7.3 However, for this system to work effectively it is critically important to ensure that London borough DPDs (amongst others) are up-to-date and are amended to reflect changes in policies at the regional level. The Government sought to address this issue generally across the whole of England by a requirement under section 15 of the 2004 Act on local planning authorities to prepare and maintain a local development scheme. These schemes constitute a public statement about what local development documents (which includes development plan documents and supplementary planning documents) a local planning authority will produce, in what order and when. Sections 15(4) and (8)(b) of 2004 Act gave powers to the Secretary of State to direct modifications to these schemes and to direct a local planning authority to revise its scheme.

7.4 Section 30 of the GLA Act 2007, implemented through the Regulations, takes things further through amendments to section 15 of the 2004 Act. The amendments provide the Mayor of London with powers to direct amendments to the local development scheme of a London borough or to direct a London borough to prepare a revision to its schemes (i.e. without having to ask the Secretary of State to do so).

7.5 This new role for the Mayor of London is part of a wider series of changes that have been made to the Mayor's planning-related powers by the GLA Act 2007 (which builds on provisions in the Greater London Authority Act 1999). The purpose of these overall changes is to make the operation of the planning arrangements in London more effective and to better reflect the unique governance arrangements in the Capital. In particular, alone amongst English regions, Greater London has a directly elected Mayor with powers to prepare and publish a spatial development strategy dealing with strategic planning issues for the capital. Given these facts, the Government considered it appropriate to legislate through section 30 of the GLA Act 2007 for the Mayor to be able to ensure that the strategic priorities of the spatial development strategy are taken forward in a timely fashion without relying on the Secretary of the State. It is important to note, however, that these new powers do not allow the Mayor of London to direct what the detailed content of a London borough council's local development documents should be.

7.6 The amendments made by the Regulations (see regulation 2(7)) give effect to these new arrangements relating to local development schemes by:

- requiring that a local development scheme (or a revision of such a scheme) is submitted to the Mayor within 14 days of preparing it;
- specifying how a scheme or a revision to one must be submitted to the Mayor (i.e. one hard copy and one copy electronically);
- specifying how long the Mayor has to consider a scheme, or a revision to one, which has been submitted to him (i.e. 28 days from when it is submitted, unless he gives notice that he requires more time to consider it);
- making amendments to regulation 11 of the 2004 Regulations about the circumstances where a local planning authority may bring a local development scheme, or a revision to one, into effect to take on board the Mayor's new direction-making powers; and
- prescribing a period of time for the Secretary of State to consider whether to override or amend a direction from the Mayor to modify a scheme or a revision of such a scheme, or to revise a scheme – the period being 21 days from when the Mayor's direction was given.

7.7 Turning now to the changes made by the rest of the Regulations, a principal motivation is to provide local planning authorities throughout England with greater freedom to determine the most appropriate way to prepare or revise their DPDs. At present, the number of DPDs being proposed nationally (1,300) is far greater than anticipated when the 2004 Act was enacted. Added to this is the fact that each plan is taking far longer to produce than had been envisaged. So far, only 5% of all local authorities have adopted a core strategy (the principal DPD for each area), whereas the initial expectation back in 2004 was for that figure to be closer to 80% by September 2007. It has become clear from comments received from both local planning authorities and the general public that the process is over-complicated and has led to 'consultation fatigue'.¹ Under the 2004 Regulations (as they were originally made) the public might be asked on three separate occasions for their opinions on a DPD (or on a revision of one). First, there is pre-submission public consultation under regulation 26 ("the preferred options stage"). Next there is consultation under regulation 29 on DPDs once they have been submitted to the Secretary of State under section 20 of the 2004 Act. Finally there may be consultation under regulations 32 and 33 on any site allocation representations (i.e. representations which seek to change a policy in, or add a policy to, a DPD that allocates a site to a particular use or development). In addition, the local planning authority will have been required to carry out a consultation under regulation 25 with certain statutory bodies and interest groups before it consults the public under regulation 26.

7.8 Public interest in plan-making varies across the country, but it is difficult to maintain genuine public involvement in a process with so many stages, which can appear to simply revisit or repeat an earlier stage. Also, experience is starting to indicate that a more continuous process of

¹ See, for example, the Barker review of Land Use Planning Final Report (December 2004), para 4.20.

testing and refining options, before drafting the final DPD is more useful to authorities than having to be bound by a strictly regulated process.

7.9 The Regulations (see regulation 2(10)), therefore, remove one of the formal stages of consultation described above - the preferred options stage. They also provide (by replacing the existing regulation 25 with new regulations 25 and 26), local planning authorities with a discretion to involve residents and businesses in the preparation of DPDs and SCIs, as they think appropriate. But such potential involvement must be considered.

7.10 We are also keen to ensure that production of DPDs is able to happen as quickly as possible, whilst ensuring that public participation is effective and its results fully taken into account.

7.11 In terms of the speed of preparation, one part of the process which has caused particular concern is the time taken between submission under section 20 of the 2004 Act and the start of any oral hearing (for anyone who has requested to be heard under section 20(6) of the 2004 Act) which might be part of the independent examination required under the same section. A purpose of such an examination is to determine whether a DPD is sound.

7.12 In addition, once a DPD is submitted the process of independent examination begins, the plan is no longer in the control of the local planning authority. Under the 2004 Regulations as they were originally made (see regulation 29(1)), a 6-week period for representations takes place on a submitted plan (which may be extended if a site allocation representation is made – see regulations 32 and 33). Any representations are summarised by the local planning authority into a report which is sent along with each of the representations to the person carrying out the independent examination. However, there is no opportunity for the local authority to alter the plan at this stage, even if the representations provide potentially strong reasons for doing so. Instead, the person appointed to carry out the independent examination may subsequently recommend modifications (see section 23(3) of the 2004 Act). But being in the nature of modifications these cannot fundamentally change the nature of the DPD (such as introducing a new site for development, or radically altering the proposed direction for growth). Alternatively, if the Inspector considers, having taken into account the representations that might be currently made under regulations 29 and 33, that the DPD is not sound, that might mean recommending that it is withdrawn. A local planning authority cannot withdraw a plan after it has been submitted unless the person carrying out the examination recommends this or the Secretary of State directs it is withdrawn (see section 22(2) of the 2004 Act). If withdrawal occurs, the local authority must, after having involved a considerable amount of time and resources (both of its own and of the Planning Inspectorate), start all over again.

7.13 The Regulations, therefore, amend the 2004 Regulations (see new regulations 27 and 28) so that representations are made on a DPD (or SCI or a revision) before submission. This has the potential benefit of reducing the time between submission and the start of any oral hearing from around a maximum of 12 months now (in the worst cases) to one of about 3 months in every case. DPDs should arrive with the person who is examining them in a fitter state to be examined. It also means that, should the representations prove to be so significant as to require a major re-write of a plan, the local authority can make the decision to withdraw the plan (without the need for an inspector to formally recommend this under section 22(2)(a) of the 2004 Act or the Secretary of State to intervene under section 22(2)(b)).

7.14 The amendments (see new regulation 30(2)) also reduce the administrative burden on local planning authorities by only requiring them to provide a single paper copy of associated documents (as well as an electronic copy) to the Secretary of State when they submit a DPD to the Secretary of State. This is instead of the 4 paper copies that were originally required under regulation 30(2) of 2004 Regulations. In this respect, they also no longer require local planning authorities to provide copies of this associated documentation to general consultation bodies (as

defined in regulation 2(1) of the 2004 Regulations) which have been involved in the preparation of the DPD (see new regulation 30(3)(d)).

7.15 In addition (as explained above in paragraph 7.7), the 2004 Regulations as originally made provided for the obligatory advertisement of any “site allocation representations” and the opportunity to make representations on these. This has led in practice to a large amount of work for local authorities. Additionally, in the case of core strategies (the central DPD), which following government policy in PPS 12: Local Development Frameworks should not contain site specific proposals, some disquiet has been caused in local communities where site allocation representations seek at a late stage the addition of site specific proposals. These representations would have to be consulted upon because of regulations 32 and 33, even though they stood little chance of being included in the final DPD. Following consultation the relevant provisions have been removed by the Regulations.

7.16 Aside from making changes which are consequential to the above, we have also taken the opportunity to correct a number of minor errors or omissions that were originally in the 2004 Regulations. For example, see the amendments made by regulation 2(2)(a), 2(3) and (8) (because of a lack of clarity about on which map the inset map should be shown under regulation 14(3)(a) of the 2004 Regulations). Similarly, the amendment made by regulation 2(9) has been made to reflect what happens in judicial reviews proceedings rather than proceedings under section 113 of the 2004 Act. The former is the appropriate way to challenge the adoption of a SPD. We have also chosen to elaborate on the procedures to be followed in the cases where the Secretary of State exercises her powers of call-in under section 21(4) of the 2004 Act and where she exercises her default powers under section 27 of that Act.

7.17 Finally, the definitions of “general consultation bodies” and “specific consultation bodies” in regulation 2(1) of the 2004 Regulations have been amended. These bodies are consulted in the preparation or the revision of SCIs, SPDs and DPDs. There are principally two types of changes here. New bodies have been added as a result of the consultation on a draft of the Regulations described below (i.e. the Coal Authority and police authorities) or because the 2004 Regulations were out of date (for example, because of the dissolution of the Strategic Rail Authority or English Nature).

Consultation

7.18 As regards the changes in the Regulations relating to local development schemes in London (which were not covered by the consultation described in paragraph 7.27 below), the 2005 Labour general election manifesto pledged to review the powers and responsibilities of the Greater London Authority - the Mayor of London and the London Assembly. It included a strong suggestion that the review would result in the devolution of more powers to the Greater London Authority.

7.19 In November 2005, the then ODPM published a consultation paper arising out of this manifesto commitment. This set out options and proposals for additional powers for the Mayor in four key areas - housing, skills, town and country planning and waste. This review proposed devolving further powers from Whitehall to London to augment those provided under the Greater London Authority Act 1999. The consultation paper also included some options for transferring powers from London boroughs to the Mayor (on town and country planning and waste management) where a convincing case could be made that change would deliver better coordinated public services.

7.20 The review prompted a debate in London on what additional powers the Greater London Authority should take on, and what the balance of powers should be between the national, regional and local tiers of government in the capital. There was a good response to the consultation - 337 individuals, groups, London boroughs and businesses (or their representative bodies) replied. The town and country planning proposals in the consultation attracted the greatest interest amongst

respondents with a majority commenting on one or more aspects of the proposals. Most of those respondents who commented supported no, or only minimal, change to the current town and country planning regime. However, some sectors, including the business community and the housing sector, did support some change (with safeguards), but there was no consensus amongst respondents on what changes there should be.

7.21 In July 2006, the Government published its package of final proposals for change in *The Greater London Authority: The Government's Final Proposals for Additional Powers and Responsibilities for the Mayor and Assembly* following careful consideration of all the responses to the consultation paper referred to above. In deciding what should be in the final package, the Government carefully considered whether change would effect better, more integrated decision-making; whether responsibility for determining planning applications and the content of local development schemes would be at the right tier of government; and whether the delivery of these functions would be subject to the appropriate level of democratic accountability.

7.22 On balance, the Government considered there was still a strong case for providing the Mayor with a stronger voice on town and country planning in Greater London to ensure that strategic planning policy for the capital is fully implemented, whilst at the same time recognising the crucial role carried out by London borough councils in representing their local communities. The Government consequently took forward the proposals in the recent Greater London Authority Bill, which included the new powers (described above) for the Mayor of London over local development schemes. All the proposals in the Bill, including those relating to local development schemes were fully debated, during the passage of the Bill through Parliament and passed by both Houses. Regulation 2(7) gives practical effect to these proposals which are now enacted through section 30 of the GLA Act 2007.

7.23 There was also a consultation on a draft replacement to Circular 1/2000: Strategic Planning in London in November 2007. Amongst other matters, the draft Circular set out guidance on the operation of the Mayor's new powers over local development schemes. An accompanying consultation document set out proposed amendments to the 2004 Regulations, specifically that the Mayor should have 28 days to consider draft local development schemes referred to him and that the Secretary of State, in the event of a direction from the Mayor, should have 14 days to consider whether to amend or override the direction. The consultation document asked a specific question "Do the draft Circular and proposed amendments to the *Town and Country Planning Local Development)(England) Regulations 2004* provide clear guidance on (i) the Mayor's power to direct changes to Local Development Schemes (LDSs).....". This consultation package, as a whole, received a total of 37 responses. Of these, 7 respondents made specific comments in relation to the question relating to local development schemes. A majority of the 7 respondents felt the Mayor's role in relation to local development schemes undermined the role of London borough councils or needed further clarity.

7.24 The only change which has been made to what was proposed here has been to provide for the Secretary of State to have 21 days (rather than 14) to consider the issue of whether to amend or override a direction from the Mayor. This is necessary to ensure sufficient time for the Secretary of State to fully consider the issues.

7.25 However, none of the responses (other than that from the Mayor of London) raised issues directly relevant to the content of these Regulations, such as the period of time for the Mayor to consider draft schemes submitted to him. The Mayor was supportive of the package but sought an additional 14 days on top of the 28 days proposed for him to consider local development schemes.

7.26 The responses were substantially more to do with opposing the general principle of whether the Mayor should have a power of direction over the local development schemes of London borough councils rather than the practical detail of how the new powers would operate. The Department is clear that the principle of mayoral involvement in local development schemes was subject to full scrutiny during the Parliamentary passage of the Bill and does not consider that

these consultation responses raised new issues which meant changing the content of these Regulations. In the particular case of the Mayor's representations, the Department does not consider that there is a justifiable case for extending the proposed 28 days for consideration of local development schemes, given the need to ensure that the planning system should not be subject to undue delays and uncertainty.

7.27 Turning now to the England-wide changes in respect of DPDs and SCIs, a written public consultation on a draft of the Regulations (not including those regulations relating to local development schemes), as well as on a draft replacement for PPS 12: Local Development Frameworks, was commenced on 27th November 2007 and finished on 19th February 2008. This consultation was advertised on the Communities website, and was also publicised in the planning press. A series of ten seminars was held in the nine English regions, during which the draft Regulations and draft PPS 12 were the subject of a presentation and question and answer sessions. The purpose of this series of seminars was to target local authorities and other key stakeholders (such as other Government agencies, house builders, infrastructure providers and so on) and get input from them. In addition, prior to the publication of the draft Regulations and PPS in November, there were a series of meetings with a steering group made up of members representing a wide range of stakeholders (including local authorities and infrastructure and service providers and environmental and other 'interest' groups). Feedback from these groups help to shape the contents of the documents published on 27th November 2007.

7.28 By the end of February 2008 a total of 241 responses had been received of which 139 (58%) came from district, borough and city councils and the Broads Authority; 24 (10%) came from county councils and the Hertfordshire Police Authority; 7 (3%) from regional planning bodies; 2 (1%) from parish councils and 13 (5%) from local authority organisations. 8 (3%) came from government agencies; 20 (8%) from private companies and consultancies; 9 (4%) came from environment groups; 4 (2%) from other voluntary organisations; and 6 (2%) from individual members of the public.

7.29 There was strong support for the proposal to remove the requirements relating to the preferred options stage (to be found in regulation 26 of the 2004 Regulations as originally made) and for the proposal to move the procedure for representations on development plan documents and statements of community involvement to before submission of those documents to the Secretary of State under section 20 of the 2004 Act.

7.30 The consultation asked if respondents considered that the procedures for dealing with 'site allocations representations' (regulations 32 and 33 in the 2004 Regulations as originally made) was burdensome. A majority of respondents agreed with this proposition. The Regulations remove the relevant provisions.

7.31 There was also strong support for the proposal to remove the requirement to send copies of DPDs and supporting document to general consultation bodies and to remove the requirement when submitting a DPD to Secretary of State, to provide 4 paper copies of supporting documents. Appropriate changes are, therefore, made here. Various police organisations requested that police authorities become involved in the preparation of DPDs and therefore, regulation 2(2)(b) and (c) makes an amendment by making police authorities, in effect, specific consultation bodies.

7.32 The consultation draft Regulations included a provision which would have allowed SPDs to be produced as an elaboration of policies in regional spatial strategies or the spatial development strategy or as an elaboration of guidance produced by the Secretary of State. Whilst this received a substantial measure of support, the Government has decided not to proceed with this proposal because of its concerns that giving a power to elaborate on any national policy would be too wide to be practicable and that it could result in local planning authorities focussing on the production of SPDs rather than DPDs. However, under the current Planning Bill amendments would be made to the 2004 Act relating to the preparation and revision of SPDs. We intend to reconsider this matter when implementing these amendments (should the Bill get Royal Assent).

7.33 Some respondents expressed opposition to any changes being made to the procedures in Part 2 of the 2004 Regulations as they felt that ‘tweaking’ the system would lead to more delay, even if the changes are ultimately worth while. A full report on the representations will be available at:

<http://www.communities.gov.uk/planningandbuilding/planning/Planningpolicyguidance/planningpolicystatements/planningpolicystatements/pps12>.

Guidance

7.34 The Government Office for London recently published Circular 1/2008: Strategic Planning in London. Amongst other things, this Circular provides guidance on the operation of the Mayor of London’s powers of direction relating to local development schemes (see paragraphs 4.6 to 4.9). The Circular is available electronically from the Government Office for London website at: http://www.gos.gov.uk/497417/docs/200511/GOL_Circular_1-2008.pdf

7.35 Planning Policy Statement 12: Local Development Frameworks (PPS 12) is to be replaced by a new PPS 12, which will set out national policy on preparing local development frameworks (which include the documents that are affected by the changes made by the Regulations). The intention is to publish it before the Regulations come into force. It will be available through TSO and on the CLG website at:

<http://www.communities.gov.uk/planningandbuilding/planning/Planningpolicyguidance/planningpolicystatements/planningpolicystatements/pps12>.

7.36 Further guidance will be published in the form of a Plan-Making Manual which will explain how the 2004 Regulations operate (as amended by the Regulations). This is in the form of a website which allows for it to be regularly updated with new examples of best practice. It is being written in conjunction with local authorities, who will author some of the content, and also experts in the field.

7.37 The Plan-Making Manual will be launched around the same time that the new PPS is published. There will be widespread publicity to ensure practitioners and the public are aware of the existence of both of the Manual and the new PPS, and how to get hold of them. The Manual will be available at www.pas.gov.uk/planmakingmanual.

Consolidation

7.38 There are no current plans to consolidate the 2004 Regulations.

8. Impact

8.1 No separate Impact Assessment has been prepared for the changes relating to the Mayor of London’s new powers of direction over local development schemes. This is because the Government does not consider that in this respect the Regulations give rise to new impacts on the public sector, voluntary bodies, charities or business, and because any impact, positive or negative, resulting from these measures will be negligible. However, a Regulatory Impact Assessment was prepared and published in relation to the GLA Act 2007, which covered the changes relating to local development schemes. The relevant section of this is attached in the Annex to this memorandum.

8.2 An Impact Assessment relating to the changes to the process for preparing local development documents is also attached as part of the Annex to this memorandum.

9. Contact

9.1 Adam Dodgshon at Communities and Local Government Tel: 020 7944 3563 or e-mail: adam.dodgshon@communities.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX

Extract from the Regulatory Impact Assessment on the Greater London Authority Act published in October 2007 with relevant paragraphs highlighted. The complete RIA is available on the Communities and Local Government website at <http://www.communities.gov.uk/documents/citiesandregions/doc/glaact2007>

“3.7 Part 7: Planning

Purpose and Intended Effect

3.7.1 The provisions giving the Mayor additional planning powers will ensure that boroughs fully reflect London’s strategic priorities in their work programmes for preparing their Local Development Frameworks, and give the Mayor the discretion to decide whether he or the local planning authority should determine strategic² planning applications (including applications for waste facilities). These measures build on the Mayor’s existing planning powers: preparing the London Plan and the right to direct refusal of strategic planning applications.

3.7.2 The provisions in the Act are:

- The Mayor is able to direct changes to London boroughs’ Local Development Schemes (LDSs), subject to Secretary of State reserve powers;
- The Mayor is able to determine planning applications of strategic importance in London. He will be the local planning authority for those applications he decides to take on.
- The Mayor should be the lead party for s106 matters relating to those applications he decides as planning authority.

Cost/Benefit Analysis

Economic

3.7.3 The Mayor’s power to direct changes to boroughs’ LDSs enables him/her to influence what Local Development Documents (LDDs) boroughs produce. It ensures that boroughs’ Schemes fully reflect London Plan strategic priorities, for example, the economic and social regeneration of London, while taking account of local circumstances. The Mayor will need to have regard to national and local planning issues, and to the resources available to local planning authorities, in exercising his power. The Secretary of State has powers to override the Mayor’s direction if she considers it conflicts with national policy.

3.7.4 This new power is complemented by strengthening the Mayor’s role in the public examination of draft Development Plan Documents (DPDs). The starting point for an examination will become the Mayor’s opinion as to whether a draft DPD is in general conformity with his London Plan. This change will be implemented by revising the Mayoral Circular 1/2000.

3.7.5 The Mayor’s power to decide a limited number of strategically important planning applications will ensure that London Plan policies are properly reflected in decisions on planning applications. It is intended that London boroughs will continue to decide the vast majority of applications, but

² The Mayor currently has powers to direct refusal of “applications of potential strategic importance” as defined in the schedule to SI 2000 No. 1493, The Town and Country Planning (Mayor of London) Order 2000. Changes to the definition of “potential strategic importance” will be set out in a replacement to this Order which the Government has published in draft to inform Parliament’s consideration of the Bill and will publicly consult on later in the year.

for a limited number of strategic applications the Mayor will decide whether he should take the decision. In deciding whether to exercise his power, the Mayor will be informed by the borough's decision on what they would do with the application. The Mayor must also satisfy a test of how strategically important the application is.

- 3.7.6 The change will ensure that strategic planning decisions, whilst of course having regard to local policies and issues, take full account of strategic planning policy for London as set out in the London Plan – such as in regard to density, design quality and urban renaissance principles. The Mayor, if he wished to, could assume responsibility for the planning aspects of strategically important infrastructure schemes.
- 3.7.7 The discretionary nature of these powers makes costs difficult to assess at this stage. The Mayor may direct boroughs to either add to, or reduce, the number of LDDs they intend to prepare, as set out in their LDS. This should therefore mean either savings or additional costs depending on whether and how the Mayor chooses to exercise his power. In practice, we would expect a Mayoral direction to result in a borough reprioritising its delivery of LDDs within its existing available resources, and therefore for the change to be cost neutral for the borough and other parties.
- 3.7.8 There should be no additional costs arising from the Mayor's strengthened role in relation to DPDs themselves. The proposed change involves a change of emphasis in the examination in public of draft DPDs, rather than any additional burdens on boroughs, developers or the public.
- 3.7.9 Costs resulting from the Mayor's enhanced role in development control are also difficult to quantify at this stage, and will depend on the frequency and extent with which he chooses to exercise his new power. It is envisaged the Mayor would decide only a very small number of cases a year given that the new power will give him enhanced influence over how boroughs' consider applications. The number of "strategic" cases referred to the Mayor is defined by thresholds set out in the Mayor of London Order 2000. Currently around 300 cases a year meet these thresholds, and are therefore referred to the Mayor to enable him to decide whether to exercise his power to direct refusal. In 2004/05, the Mayor directed refusal on 4 cases, in 2005/06 on 9 and in 2006/07 on 5.
- 3.7.10 Where the Mayor decides an application, he will also determine any connected applications for listed building consent, conservation area consent and hazardous substance consent. For any planning application he decides, the Mayor is able to pass decision making for any subsequent applications for the approval of reserved matters or details under a listed building consent, back to the relevant London borough.
- 3.7.11 There will be no additional fees or significant additional costs to applicants as a result of the Mayor exercising his power as applicants already engage in tripartite discussions with the Mayor and the borough on strategic applications, and routinely copy papers to both parties. The borough will continue to receive the application fee from the applicant on the basis that, as now, they will fully consider the application before the Mayor can intervene formally. The applicant would not be charged again if the Mayor intervenes. There may be a cost to the applicant in terms of delay where the Mayor takes over an application, but this would be significantly lower than an appeal to the Secretary of State. The Act includes a requirement on the Mayor to hear oral representations from the applicant and local planning authority, should they wish to make them. There may be minimal costs for the parties in preparing for a representation hearing but they are discretionary, and the applicant will not be at a disadvantage if they choose not to exercise this right.

Environmental and Social

- 3.7.12 The environmental or social impacts arising from the Mayor's additional planning powers are likely to be positive. Through his powers, the Mayor will seek to encourage boroughs to prepare local plans in accordance with his London Plan, and will influence the consideration of strategic

planning applications in accordance with London Plan policies.

- 3.7.13 The London Plan sets out a wide range of policies which impact on the environment and social fabric of the capital – through changes to the built environment (such as the location of tall buildings or increasing densities in new developments) and the use and management of natural resources in London (including the efficient use of water, tackling climate change and protection of open space). London Plan policies are subject to Sustainability Appraisal incorporating the requirements of the Strategic Environmental Assessment (SEA) Directive as they are prepared. Sustainability Appraisal aims to promote sustainable development through the integration of social, environmental and economic considerations into the preparation of revisions of Regional Spatial Strategies (RSS) and for new or revised Local Development Documents.
- 3.7.14 In addition, individual planning applications, whether determined by the Mayor or a London borough, are, if likely to have significant impacts, subject to the requirements of the Environmental Impact Assessment (EIA) Regulations which require the developer to compile an Environmental Statement (ES) describing the likely significant effects of the development on the environment and proposed mitigation measures.

Risks

- 3.7.15 There are risks that additional Mayoral planning powers could emphasise regional, strategic priorities at the expense of local policies and concerns. However, the checks and balances in the planning process are retained under the proposed changes. The Secretary of State has the right to override a Mayoral direction to a borough to alter its LDS. The final decision on whether draft DPDs conform to the London Plan will be taken independently, by an Inspector, rather than by the Mayor himself. On development control, the Secretary of State has the same powers to call-in planning applications in London as elsewhere, and applicants' rights of appeal against refusal of planning permission are unchanged. In deciding applications the Mayor will be required to take account of local policies, including those set out in borough development plans, as well as strategic policies set out in his London Plan. He will be required to give full reasons for his decisions and may pass back decision making on detailed ("reserved") matters to the relevant borough. The Assembly also hold the Mayor to account for his planning decisions.
- 3.7.16 A further risk is that London boroughs will invariably appeal to the Secretary of State when the Mayor directs them to change their Local Development Scheme. But we expect the Secretary of State to overrule the Mayor only if she is clear that the Mayor's direction is inconsistent with his London Plan or cuts across national priorities. This is likely to be the exception rather than the rule.

General Planning: Alternative Options Considered

3.7.17 We considered a number of alternative options in deciding the suite of enhanced Mayoral planning powers. On plan-making, we considered both a Mayoral power to direct changes to LDSs without a Secretary of State reserve power, and no additional powers for the Mayor. The former was discounted because it would fetter the Secretary of State's ability to ensure wider national interests applied to London, where appropriate. The latter was discounted because it would not strengthen the Mayor's role and ensure greater consistency between the London Plan and Local Development Frameworks.

- 3.7.18 On development control two alternative options were considered and rejected. First, requiring the Mayor to decide whether or not to assume control of a strategic application as soon as that application is submitted to the local planning authority. Second, giving the Mayor a power to direct a borough to approve a planning application. The first option was rejected because, although it would provide clarity and certainty from the outset as to who the decision maker would be, it would remove any incentive or opportunity for boroughs to apply London Plan policies

themselves. The second option was discounted because it would prove unworkable in practice, with excessive duplication and risk that the Mayor would not be held accountable for his decisions.

3.7.19 For both plan-making and development control, the Government considered “do nothing” options (more precisely, it considered a “minimal change” option, which would do no more than modify current arrangements to bring them up to date, rather than make any fundamental change). These options were not taken forward in either case. The Government considered that there is a strong case, as set out above, for strengthening the Mayor’s strategic planning role.”

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of changes to the plan making system [Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008]	
Stage: Implementation	Version:	Date: 29 April 2008
Related Publications: PPS12: Creating Strong Safe and Prosperous Communities through Local Spatial Planning		

Available to view or download at: www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements/planningpolicystatements/pps12

Contact for enquiries: Richard Blyth

Telephone: 020 7944 5269

What is the problem under consideration? Why is government intervention necessary?

Government intervention is necessary because the reformed planning system introduced in 2004 requires minor amendments to ensure its smooth operation. The reformed planning system includes at its heart plans called "Development Plan Documents" (DPDs) and the intervention concerned is directed at these DPDs.

What are the policy objectives and the intended effects?

The objective is to remove bureaucratic barriers to aid preparation of Local Development Frameworks.

What policy options have been considered? Please justify any preferred option.

A) Do Nothing

or

B) Incorporate proposed changes into the planning system. Additional information on the proposed changes is located within the Summary section of the impact assessment.

Option B is preferred as it will simplify the plan making system.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? 3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Caroline Flint

.....Date: 19th May 2008

Summary: Analysis & Evidence

Policy Option: B	Description: Reform plan making system. (Reforms listed in evidence base)
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' None	
	One-off (Transition) Yrs		
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 0	Total Cost (PV)	£ 0
Other key non-monetised costs by 'main affected groups' Changes to statutory consultations could be argued as a cost to consultation rights. We believe however, that the quality of consultation will be improved.			

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Savings to Local Authorities from removing requirement for statutory consultation £4m. Savings to Local Authorities from removing the regulatory requirement for separate handling of site allocations £1.4m.	
	One-off Yrs		
	£		10
	Average Annual Benefit (excluding one-off)		
	£ 5.4m	Total Benefit (PV)	£ 44.8m
Other key non-monetised benefits by 'main affected groups' Other unquantified savings to authorities including sending out fewer hard copies of plans			

Key Assumptions/Sensitivities/Risks Assumes LPAs produce a consultation on a Development Plan Document every 3 years.

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 44.8m
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What is the geographic coverage of the policy/option?	England								
On what date will the policy be implemented?	10 June 2008								
Which organisation(s) will enforce the policy?	GOs and LPAs								
What is the total annual cost of enforcement for these organisations?	£ 0								
Does enforcement comply with Hampton principles?	N/A								
Will implementation go beyond minimum EU requirements?	No								
What is the value of the proposed offsetting measure per year?	£ 0								
What is the value of changes in greenhouse gas emissions?	£ 0								
Will the proposal have a significant impact on competition?	No								
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro</td> <td style="width: 25%; text-align: center;">Small</td> <td style="width: 25%; text-align: center;">Medium</td> <td style="width: 25%; text-align: center;">Large</td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> </tr> </table>	Micro	Small	Medium	Large	N/A	N/A	N/A	N/A
Micro	Small	Medium	Large						
N/A	N/A	N/A	N/A						
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	N/A	N/A	N/A	N/A				
N/A	N/A	N/A	N/A						

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £ 0	Decrease of £ 0	Net Impact £ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

The Planning White Paper outlined the proposal to change the plan making system in order to place planning at the heart of local government. In addition changes are to be introduced to local development frameworks to ensure a more streamlined and tailored process with more flexibility about the number and type of plans, how they are produced, and a more meaningful level of community involvement.

Summary of Policy Changes

This Impact Assessment is focused on the proposed amendments to the Local Development Regulations.

One IA has been prepared which incorporates the following themes outlining the proposed changes to the plan making system in the Town and Country Planning (Local Development) (England) (Amendment) (The Town and Country Planning (Local Development) (England) Regulations 2004. The changes are:

1. Statutory Consultation on DPDs;
2. Bringing forward the time for making formal representations on the plan before the point of submission to the Secretary of State;
3. Changes to regulations to reduce administrative burdens; and
4. Removing the regulation requirement for separate handling of the site allocation representations.

These Changes will now be considered in turn.

POLICY CHANGE 1: Statutory Consultation on DPDs

What is the problem under consideration? Why is government intervention necessary?

The current process for producing Development Plan Documents (DPDs) includes three separate statutory requirements for consultation throughout the process.

Three stages of consultation are considered to be unnecessary and have led to confusion amongst consultees. It has also resulted in substantial amounts of time during the plan making process being spent consulting on the various stages of the emerging plan.

What are the policy objectives and the intended effects?

The objective is to streamline and improve the quality and effectiveness of community involvement as part of the Local Development Framework plan making process.

The intended effect will be early and effective engagement throughout the plan preparation process. This will ensure that those consulted on will be more effectively involved in the plan making process. It is also envisaged that the time taken to produce a plan can be lessened, which will fulfil one of the intentions of the LDF system which is that it should be able to respond more rapidly and flexibly to changing circumstances.

The changes involve amending the Town and Country Planning (Local Development) (England) (Amendment) (The Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008 (TCP).

Background

The current process for producing Development Plan Documents (DPDs) includes three separate statutory requirements for consultation, set out in the Town and Country Planning (Local Development) (England) (Amendment) (The Town and Country Planning (Local Development) (England) Regulations 2004. The three requirements are: 'pre-submission consultation' (issues and options), 'pre-submission participation' (preferred options) and at the submission stage of the final plan.

At present there is a pre submission consultation (Regulation 25 – Pre-submission consultation) where the local authority is required to consult with 'specific' and 'general' consultation bodies as it deems appropriate. In addition the local authority is required to make available copies of the pre-submission proposals document and statement of the proposals matters for inspection (Regulation 26 – Pre-submission participation). This is generally treated as the discussion of 'preferred options' and is the second time the public will be consulted on proposals. Once the final plan is submitted for examination, a final period of consultation occurs (Regulation 29 – Representations on development plan documents) allowing any person to make representations on it, thus in effect offering a third 'window' for consultation.

Consultation Responses from Planning White Paper Preliminary Regulatory Impact Assessment

Information from stakeholders and consultation responses to this question has been analysed and has informed the content of this Impact Assessment. A significant number of respondents agreed with the proposal of revoking regulation 26. There were however concerns with the proposal. Specifically:

- concern that the removal of preferred options stages would reduce community input and hinder communities' ability to influence vision, strategies and policy development; and
- Authorities run the risk of non-compliance with SEA Directive which requires early and effective consultation on the plan. If consultation was considered to be insufficient, plans

might be declared unsound, so LPAs would in effect have to consult as now or face delays.

Options

- A) Do Nothing (retain existing process).
- B) Revoke Regulation 26 (TCP) pre submission public participation and add provision for amendments after final consultation (often referred to as the 'preferred options stage').

Sectors and groups affected

- Public sector (particularly local authorities).
- The public and stakeholders involved in DPD production or involved in the consultation process.

Costs and Benefits: Option A (the Status Quo)

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

No new or additional costs or benefits have been identified under this option. Local Planning Authorities would be required to implement the consultation process in its current form.

Costs and Benefits: Option B Revoke Regulation 26 on Statutory Consultation on DPDs – (Preferred Approach)

Benefits

The principal benefit of this proposal is an overall improvement and simplification of the consultation process for key stakeholders, including the public throughout the plan making process.

Cost Saving To Local Authorities

Although there is no information on the costs of the 'preferred option' stage, the estimated costs of the 'issues and options' stage will serve as an approximation. An estimation of this was carried out in early 2007 by contacting several councils who reported an average cost of £33,000. If we therefore assume that cost of the 'preferred option' stage is £33,000 and at least a third of authorities will be undertaking consultation on Issues and Options for a DPD in any one year, there is an annual cost saving of approximately:

$$£33,000 * (364/3) = £3,993,000$$

Rounded this gives an annual figure of £4 million.

Time Savings

Whilst a complex plan or core strategy would go through similar stages as now (which can take 18 months or more), for a plan with a relatively narrow scope or an amendment to an existing plan the preparation time could be six months or less.

Devolutionary Benefits

Additional benefits to the changes include the broader commitment to empowering the local authority to take a greater lead in the overall consultation it has with its constituents on all council matters, through a Sustainable Community Strategy.

Local authorities are best placed to take decisions about the consultation required for each DPD. The remaining regulation 25 will be amended in order to retain its existing provisions and also to include requirements to engage the general public. It will therefore be more flexible than regulation 26, which will increase this local flexibility compared to other options which have been considered

Improvements to Consultation and Plan Making

The change should ensure consultation is meaningful when it occurs there is a lower risk of consultation fatigue. The requirement for consultation would be similar to that for other government policy (two tier) and local authorities would not undertake repeated detailed consultation where it was unnecessary.

.The revised plan making guidance will encourage the authority to undertake early and ongoing involvement with the community and key stakeholders as part of the initial plan making process.

The revised plan making guidance will encourage the authority to undertake early and ongoing involvement with the community and key stakeholders as part of the initial plan making process. The guidance will also reinforce that the requirements of the SEA Directive. The proposed changes to the Regulations are not considered to run contrary to the Directives requirements for early and effective consultation.

Costs

Some people could view this measure as a cost to consultation. However our understanding is that there is at present consultation fatigue and that the 'issues and options' stage is a more effective way of engaging the community than the 'preferred options' stage. It is therefore believed that revoking regulation 26 could lead to more effective consultation.

POLICY CHANGE 2: Bringing forward the time for making formal representations on the plan before the point of submission to the Secretary of State.

What is the problem under consideration? Why is government intervention necessary?

At present, after a plan is submitted to the Secretary of State for independent examination, there is a maximum 6 week period for the submission of representations to be received. As a result, the Inspector is required to hold off commencing the hearing of oral representations until the submissions have been received, analysed and forwarded to the Inspector. Significant issues could be raised during this submission that would be best resolved prior to formal commencement of an examination rather than once and inspectors time has been booked.

Revisions are necessary to ensure the efficiency of the plan making and examination process is maintained.

What are the policy objectives and the intended effects?

The objective is to ensure that the examination process is not compromised by unnecessary delays.

The policy will outline the changes to the times when the submissions of final representations can occur. The changes aim to reduce the potential for time delays during the examination process. It will result in a much quicker examination process, but also much less chance of issues being raised post-submission that have not been raised during the plan preparation and consultation process.

Background

At present the six week period for formal representations on the plan occurs after submission of the plan to the Secretary of State for independent examination. At present the inspector has to wait until the LPA has drawn together all these representations from the post submission consultation before the oral hearing of the examination can commence. Not only does this result in a delay to the commencement of the examination, but the representations received may raise an issue or issues of such significance that it would have been better served if these issues were known prior to the plan being formally submitted.

The satisfactory resolution of this issue could take some time to resolve thus further delaying the formal examination process. The period of time the inspector has to wait is a delay that could be removed by slightly altering the order in which the process occurs, and having this period of consultation prior to the submission of the plan.

Options

A) Do Nothing

B) Amend Regulation 27 & 28 to allow for the LPA to publish and receive representations on plans prior to submission. In addition the period of representation is to be at least 6 weeks rather than exactly 6 weeks. This will allow for the authority to give a longer period should they wish to do so.

Sectors and groups affected

- Public sector (particularly local authorities).
- The public and stakeholders involved in DPD production or involved in the consultation and examination process.

Costs and Benefits: Option A (the Status Quo)

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

No new or additional costs or benefits have been identified under this option. Local Planning Authorities and the Inspectorate would be required to carry out the process as it currently occurs.

Costs and Benefits: Option B Revoke Regulations 27 & 28 on time for making formal submissions & how long the period for receiving representations should be received.

Benefits

Firstly the period of examination is shortened not including all of the time needed to make representations. Secondly, if the plan appears to be unsound it could in extreme circumstances withdrawn before submission.

Costs

It could be argued that there is a risk to perceived status of representations. Draft regulations however, make it clear that the representation may carry the right to be heard and therefore representations will continue to have the same weight.

POLICY CHANGE 3: Changes to regulations to reduce administrative burdens.

What is the problem under consideration? Why is government intervention necessary?

The current regulations impose a number of burdens on local authorities that require them to publish various DPD matters and documents which impose a significant burden on local authorities with limited tangible benefits.

What are the policy objectives and the intended effects?

The objective of these revisions is to ensure that the plan making system does not impose unnecessary burdens on authorities with little noticeable benefit. Revisions are proposed to reduce these burdens at the same time ensuring that the new system retains its integrity. The policy will outline the need to no longer be *required* to send a hard copy of the DPD to every member of the public who engaged in the process, or to each of the general consultation bodies. Those members of the public and consultation bodies who submitted a representation will be notified that should they want a hard copy they can request one from the respective local authority who can supply the material to those individuals and groups at a nominal cost. Alternative ways of viewing the hard copy of the materials will be highlighted and they include accessing them at public libraries or via the local authority website.

Background

At present the local authority must supply hard copies of the DPD to all specific consultation bodies and to those to every member of the public who engaged in the process. The LPA must also send four hard copies of the submission material to the Secretary Of State when submitting the plan for examination.

This results in a substantial cost for the LPA to produce a number of large documents to be sent out to a large number of people.

Options

A) Do Nothing

B) Amend Regulation 27 & 31 to allow for the supply of copies of the DPD to only be sent to specific consultation bodies.

Sectors and groups affected

- Public sector (particularly local authorities).
- The public and stakeholders involved in DPD production or involved in the consultation and examination process.

Costs and Benefits: Option A (the Status Quo)

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

No new or additional costs or benefits have been identified under this option. Local Planning Authorities and the Inspectorate would be required to carry out the process as it currently occurs.

Costs and Benefits: Option B Changes to Regulations 27 and 31 to reduce administrative burdens

Benefits

Altering the requirements to send hard copies to all members of the public who participated in the plan making process, and the four hard copies required to be sent to the Secretary of State will save the authority money on producing multiple hard copies of the plan.

For those who participated in the plans the authority can advise on the various alternative means that the plan can be obtained and viewed, such as the internet, or viewed at public libraries. Should someone wish to purchase the DPD they will still be able to do this for an appropriate cost from the local authority concerned.

We envisage environmental benefits through reduction in paper usage.

Costs

There is a potential risk to adequate provision of information. This will be mitigated however by copies being available online. Bodies previously entitled to a free hard copy may feel this is not as inclusive as the current process.

POLICY CHANGE 4: Removing the regulatory requirement for separate advertisement of site allocation representations.

What is the problem under consideration? Why is government intervention necessary?

At present, whenever a local authority receives a formal representation on a development plan document (DPD) which refers to a particular site, it must, following the close of the period for representations, advertise the fact and then allow a further 6 weeks for the public to be able to make comments on these representations.

During our consultation on the draft regulations in winter 2007-08, many local authorities made the point that this process is unnecessarily burdensome. We are inclined to agree.

Research and consultation on this indicated broad support for, and considerable savings from, amending the regulations. Government intervention is necessary to help speed up the production of LDFs, an objective which this proposal will contribute to, and because only Government can amend the regulations.

What are the policy objectives and the intended effects?

The policy objective is to remove the separate process for advertising site allocations as part of a broader update of policy for the preparation of local development frameworks. This should assist in correcting problems of poor quality and late plans.

The intended effect is that by amending the regulations governing how Site Allocation Representations are handled, the burdens for local authorities associated with this process will be reduced and the process of producing development plan documents speeded-up.

Options

The following options have been considered:

- A) Do nothing (retain Regulations 29 and 30 of the draft amended regulations);
- B) Remove Regulations 29 and 30 from the draft amended regulations (and handle Site Allocation Representations in the same manner as any other representations)

Sectors and groups affected

- Public sector (particularly local authorities).
- Developers and infrastructure providers.
- Local authority residents and groups of residents making representations on Site Allocations

Costs and Benefits: Option A (the Status Quo)

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

No new or additional costs or benefits have been identified under this option.

Costs and Benefits: Option B Amend the Regulations to remove the requirement for separate handling of the site allocation representations.

Benefits

Cost Savings to Local Authorities

This option will remove the burden of having to advertise and handle site allocation representations separately. We contacted 3 district and 2 county planning authorities in March 2008 to gather evidence about the costs involved in implementing the current regulations for

site allocation representations. There were 2 main financial costs: advertising the site allocation consultation and staff to handle the representations received.

In terms of the number of documents that this will involve, as well as the Core Strategy there will be Site Allocation DPDs and Area Action Plans that could all involve the Site Allocations Representations regulations being triggered. The exact number of DPDs produced will vary between authorities, as there is discretion here. However, if we base our calculations on the minimum benefit, we can expect over the next 15 years (the lifespan of a core strategy), most LPAs to produce at least 3 DPDs.

Advertising costs include newspaper advertisements and any necessary printing and postage costs. Given the larger size of counties and the need to advertise in more newspapers, counties and districts were treated separately for the calculations. The staffing costs were related to the need for people to handle the representations received. A number of authorities indicated they would be likely to employ temporary staff to help with this. There is no reason for staffing costs to vary by type of authority.

The cost of advertising the consultation varied between £2,000 and £9,000 for district / unitary national park authorities and between £10,000 and £15,000 for county authorities. Staffing costs varied from £15,000 to £22,500 for all authorities.

For the following calculations the lowest of the ranges of reported costs have been used, in order to produce conservative estimates.

Advertising saving for district/ unitary / national parks:

$$£2,000 \times 364 \times 3 = £2,184,000$$

(£2000 advertising cost per consultation, 3 DPDs per authority, 364 authorities).

Advertising saving for county authorities:

$$£10,000 \times 34 \times 3 = £1,020,000$$

(£10,000 advertising cost per consultation, 3 DPDs per authority, 34 authorities).

Staff saving for all authorities:

$$£15,000 \times 398 \times 3 = £17,910,000$$

(£15,000 staff cost per consultation, 3 DPDs per authority, 398 authorities).

The total saving over a 15 year period is therefore:

$$£2,184,000 + £1,020,000 + £17,910,000 = £21,114,000.$$

Since these figures were based on a 15 year timescale, we can divide the figure by 15 to get an annual saving:

$$£21,114,000 / 15 = £1,407,600.$$

Rounded, this is an annual financial saving of £1,400,000.

Time Savings

As well as these financial benefits, during the evidence gathering phase the authorities contacted indicated that removal of the regulations requiring separate site allocation

representations would lead to time savings as well. All the authorities indicated that this would be about a 3 month saving, the 3 months representing the time to handle approximately 1,000 representations, including scanning all paper representations and preparing summaries of them. This should speed up the plan making process with consequent benefits to developers and local authorities.

Costs

We do not anticipate that there will be substantial costs incurred as a result of the alterations proposed. There, is however, an argument that this might represent a reduction in the opportunities for consultation. We feel, however, that the revised regulations and new policy for producing LDFs should allow for meaningful engagement. Instead of a regulation requiring representations, policy will encourage authorities to engage proactively and early with residents, businesses, developers, landowners and community groups following a front-loading principle. This should encourage people to bring forward, and comment, on site allocations in a more constructive and timely manner. Authorities will be requiring to conduct participation which is proportionate to the document being produced rather than having an overly prescriptive set of regulations which set out how they should engage with their stakeholders.

The 'risk' is the local authority not consulting on site allocations that have not been considered as part of the original plan preparation. This risk lies with the local authority (in not having considered the allocation of the site in preparing the plan and having thus consulted on it) and the proposer of the site (for not proposing it in time to be considered). We believe that this is an acceptable level of risk and the proposals will actually strengthen meaningful, early engagement as well as empowering authorities to consult and handle representations as most appropriate.

There is a safeguard against any proposals arising at the last minute and still ending up in plans . This is that in practice no planning inspector would make a binding recommendation to an authority to include a site in a DPD unless that site had been subject to public consultation. If necessary a public examination could in extremis be suspended while the local authority carried such consultation out.

Specific Impact Tests

Competition assessment

There is not considered to be an impact on competition of these proposals.

Small Firms' Impact Test

There is no evidence to date that there will be an impact on small firms.

Legal Aid Impact test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

These proposals will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

These proposals will not result in increased carbon and other green house gas emissions, or have a negative impact on the Environment.

Health Impact Assessment

There are no detrimental health impacts arising from these proposals.

Race, Disability and Gender Equality

We believe there will be no effect on race, disability or gender equality. It should also be noted that we propose to produce a detailed Planning Manual which will cover local authorities' responsibilities regarding equality. Opportunities to contribute and involve will be reduced, though the quality will hopefully be improved.

Human Rights

These proposals will not have a negative impact on human rights. The proposals are in accordance with the Human Rights Legislation.

Rural Proofing

We believe this measure will not have a negative impact on rural areas.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

< Click once and paste, or double click to paste in this style.>

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of introducing the new Planning Policy Statement 12	
Stage: Implementation	Version:	Date: 18 April 2008
Related Publications: New LDF Regulations [Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008]		

Available to view or download at:

Contact for enquiries: Richard Blyth

Telephone: 020 7944 5269

What is the problem under consideration? Why is government intervention necessary?

Policy relating to reformed planning system introduced in 2004 needs updating to reflect changes in local government policy and the difficulties which have attended delivery of LDFs. Policy is contained in a document called "Planning Policy Statement 12" or PPS12.

What are the policy objectives and the intended effects?

The aim is to have local authorities producing LDFs which are firmly embedded in their overall strategy making, which concentrate on the essentials and which are deliverable

What policy options have been considered? Please justify any preferred option.

- A) Do Nothing: Retain existing Planning Policy Statement 12
or
B) Introduce the new Planning Policy Statement 12. The specific policy changes from the previous PPS12 are outlined in the introduction of the Impact Assessment.

Option B is preferred as it will simplify the plan making system.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? 3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Caroline Flint

.....Date: 19th May 2008

Summary: Analysis & Evidence

Policy Option: **B**

Description: **Introduce New Planning Policy Statement 12**

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' None.
	One-off (Transition)	Yrs	
	£		
	Average Annual Cost (excluding one-off)		
	£		Total Cost (PV) £
Other key non-monetised costs by 'main affected groups' Changes to PPS12 may increase the costs of infrastructure planning. This should be offset by other savings.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' PPS12 reform – estimated savings to LPAs from not necessarily including separate site allocation plans £3.5 million.
	One-off	Yrs	
	£	10	
	Average Annual Benefit (excluding one-off)		
	£ 0.7 m		Total Benefit (PV) £ 6.0m
Other key non-monetised benefits by 'main affected groups' Other unquantified savings to authorities including producing less Development Plan Documents.			

Key Assumptions/Sensitivities/Risks The calculated savings are based on an assumption that a fifth of authorities will produce separate site allocation plans.

Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 6.0m
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What is the geographic coverage of the policy/option?			England	
On what date will the policy be implemented?			10 June 2008	
Which organisation(s) will enforce the policy?			GOs and LPAs	
What is the total annual cost of enforcement for these organisations?			£ 0	
Does enforcement comply with Hampton principles?			Yes/No	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ 0	
What is the value of changes in greenhouse gas emissions?			£ 0	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)	
Increase of	£ 0	Decrease of	£ 0	Net Impact £ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

The Planning White Paper outlined the proposal to change the plan making system in order to place planning at the heart of local government. In addition changes are to be introduced to local development frameworks to ensure a more streamlined and tailored process with more flexibility about the number and type of plans, how they are produced, and a more meaningful level of community involvement.

Summary of Policy Changes

This Impact Assessment is on the introduction of the policy associated with the plan making system – Planning Policy Statement 12 (PPS12). There are 5 policy changes compared to the previous PPS12:

- I. Streamline PPS12 to be a pure policy document, with guidance to be published separately.
- II. Providing local authorities with greater flexibility to allocate sites in the Core Strategy;
- III. Providing local authorities with greater flexibility in determining which DPDs to produce; Reduction in complexity and number of DPDs;
- IV. Increasing the lifespan of the core Strategy from 10 to 15 years; and
- V. Strengthening the role of the Core Strategy in relation to infrastructure provision.

Other changes between the old and new PPS12 documents are not considered to be matters of policy.

Sectors and groups affected

- Public sector (particularly local authorities).
- Developers and infrastructure providers.
- Consultees.

Options

Option A: Do Nothing

This would keep in place the current PPS12.

Option B: Amend the Planning Policy Statement to clarify government's intentions with regard to plan making. In particular to:

- I. Streamline PPS12 to be a pure policy document, with guidance to be published separately;
- II. Provide local authorities with greater flexibility to allocate sites in the Core Strategy;
- III. Provide local authorities with greater flexibility regarding which DPDs they prepare and reduce the number and complexity of DPDs;
- IV. Increase the timespan of the Core Strategy to 15 years; and
- V. Strengthen the role of the Core Strategy in relation to infrastructure provision

Costs and Benefits of Option A (the Status Quo)

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Benefits

There should be no additional benefit from keeping the existing PPS12. Local Planning Authorities will not however need to take time to absorb the changes.

Costs

Under this option, the current policy would be maintained. Local Planning Authorities might continue to take too long to produce DPDs and the failure rate for DPDs might continue at 25%.

Costs and Benefits of Option B (the new PPS12)

Benefits

- I. Streamline PPS12 to be a pure policy document, with guidance to be published separately*

Removing the guidance from the policy contained in PPS12 shortens and simplifies the document. This will ensure greater clarity for LPAs which has the potential to speed up the process and improve the quality of plans.

- II. Provide local authorities with greater flexibility to allocate sites in the Core Strategy*

Site allocations in core strategies will mean that strategic site allocations can be made sooner than having to wait for a later DPD and will also assist in ensuring that the core strategy is underpinned with good evidence of delivery. Contacting a sample of councils in 2007 gave a minimum cost per site allocation plans of £97,000. Our knowledge of the LDF process leads us to believe that around fifth of LPAs will no longer have to produce site allocation plans. Assuming 363 LPAs the total saving can be calculated:

$$(363/5)*£97,000 = £7,022,800$$

Assuming these site allocation plans would have been produced every 10 years the annual saving can be calculated as follows:

£7,022,800/10 = £702,280

Rounded this gives an annual figure of £0.7 million.

III. Provide local authorities with greater flexibility regarding which DPDs they prepare and reduce the number and complexity of DPDs

Giving Local Authorities greater flexibility, in which DPDs to prepare, should reduce costs to local authorities. From communication with Local Authorities we know that it costs between £100,000 and £1m to produce a DPD. It is not possible to estimate a saving to Local Authorities from preparing fewer DPDs as it is not known how Local Authorities will respond to the increased flexibility.

IV. Increase the timespan of the Core Strategy to 15 years

Increasing the time span of core strategies to 15 years will ensure compatibility with government policy on planning for housing (PPS3) and also that better account is taken of the long term. This does not restrict core strategies from being produced more frequently when necessary but will ensure that they consider a 15 year timespan.

V. Strengthen the role of the Core Strategy in relation to infrastructure provision

Consideration of proper infrastructure delivery planning will also assist in ensuring the plan's deliverability and in ensuring that vital infrastructure is provided at the right place and at the right time.

Costs

We do not anticipate that there will be substantial costs incurred as a result of the alterations proposed. Providing local authorities with greater flexibility to allocate sites in the Core Strategy and in determining which DPDs to produce is not anticipated to result in any cost.

Strengthening the role of the Core Strategy in relation to infrastructure provision may result in a financial cost to the plan making authority from having to put resources into effective discussions with infrastructure providers. This should be offset however by savings from producing fewer DPDs due to increased flexibility and other policies which reduce the resources local authorities will have to expend on formal public consultations.

Some might argue that the greater flexibility in allocating sites and the greater flexibility in which DPDs are produced may result in a reduction in the overall number of plans produced and subsequent lessening of public involvement. However where a DPD such as the core strategy takes on a role such as allocating sites, it will be necessary under the Regulations for the authority to undertake appropriate consultation regarding those sites as if it were a Site Allocation DPD.

Specific Impact Tests

Competition assessment

There is not considered to be an impact on competition of these proposals.

Small Firms' Impact Test

There is no evidence to date that there will be an impact on small firms.

Legal Aid Impact test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

These proposals will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

These proposals will not result in increased carbon and other green house gas emissions, or have a negative impact on the Environment.

Health Impact Assessment

There are no detrimental health impacts arising from these proposals.

Race, Disability and Gender Equality

We believe there will be no effect on race, disability or gender equality. It should also be noted that we propose to produce a detailed Planning Manual which will cover local authorities' responsibilities regarding equality. Opportunities to contribute and involve will be reduced, though the quality will hopefully be improved.

Human Rights

These proposals will not have a negative impact on human rights. The proposals are in accordance with the Human Rights Legislation.

Rural Proofing

We believe this measure will not have a negative impact on rural areas.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
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