

A modest proposal ; some thoughts from , Lord Matthew Taylor, Paul Tucker and Steve Quartermain.

So the Government has now committed to legislating its big planning reforms. And while the recent MHCLG committee report on these reforms raised significant issues, there is a risk that the Government will not find the report “interesting or helpful,” in that it requires them to do some things differently! So the temptation may be to assume the brace position, but whatever you may feel about the proposals they will still be a long time coming.

It’s not **just that** even once a Bill is published, there will be a year of debates and amendments, it’s that this will only start the ball rolling. The impact on plan making will take years to get through locally – and meanwhile there will be a temptation in many local authorities to delay plans yet again, pending reform. The great irony of committing to legislative reform to speed up planning and housing delivery is that history tells us that the first impact is to slow things down – and more often than not to introduce unintended complications that creates more delay than the changes solve.

So, the big question we pose is – can something sensible be done quicker?  
We think so.

Irrespective of the legislative reforms, quick & straightforward progress could be made to speed up the planning system and make it more effective in delivering outcomes if the Government simply made immediate and relatively uncontroversial changes to the NPPF. That’s not to argue for or against the controversial “big ideas” put forward in the last White paper. It’s just that, in the spirit of trying to assist, we suggest unblocking the system should need not have to wait upon more fundamental change.

We strongly believe there are easy options that would lead to significant improvements, and here we want to invite those who are engaged in the glorious enterprise of planning and place-making to add their voice to achieve “quick wins” while we await the parliamentary fireworks and the slow burn of implementing major planning reforms.

So - our starter for five:

**1. Assume a plan is ok unless an objector can prove it’s not.**

Examinations of plans can take a long time. One reason for this is that the examination affords an opportunity to review all things in the plan; every dot and comma looked at afresh, often through the eyes of the Inspector, notwithstanding the view that the plan belongs to the council and it is “their plan”.

Despite the welcome clarification in the 2018 NPPF that the test is whether the strategy is appropriate (and not “the most appropriate”), it is still the case that the assumption is often towards the negative rather than assuming the plan is ok. This second guessing of local plans makes no sense .

The Inspector should not support a poorly thought out plan, but the test should not be whether someone has a better idea, but whether this locally developed and consulted plan is ok, or “sound “.

If we were to start from this more positive point of view (which used to be how it was done when plans were relatively quickly adopted), the inspector could concentrate on testing whether any specific, evidenced based objection had merit, which might lead to modifications.

To achieve this, we simply need to look at para 35 of the NPPF and introduce a paragraph to make it clear that the burden is on the objector to prove the plan is not right; something like

“ A submitted local plan shall be assumed sound, it is not the purpose of an examination for the Council to prove this presumption. The burden is therefore upon an objector to identify precisely what part of the plan needs to be modified, and to prove why it needs to be in order to make the plan sound. Any part of the plan which is not subject to objection need not be examined beyond the regulatory check”

We also see no point at all why the explanatory text needs to be examined – just the policies and the allocations/designations – as its those which count in making decisions.

Its that simple. If you (or MHCLG) have better words that’s great – but hopefully you (and they) get the point.

**2. Soundness** - assume allocations will come forward unless unsurmountable hurdles evidenced

Sticking to para 35, and the soundness test, when this notion was first mooted it was to move away from the beauty contest between sites to an approach which assumed the plan was ok if the process was sound, and the test was focussed on how conclusions were evidenced.

The current NPPF sets out the key matters to be met in the test of soundness and we believe the test of effectiveness would be a good candidate for change. Of course plans need to be deliverable, but with the current onus on LPA’s to prove its case in a raft of really difficult areas, such as deliverability, viability, and infrastructure provision, the result is that ambition is stymied and the examination process fuelled into endless controversy.

Given that all plans should now be reviewed every 5 years, a much better approach would be to go beyond footnote 35, and assume allocations will come forward unless unsurmountable hurdles can be evidenced; and even if the plan falters the government has powers to intervene and the LPA can address such matters in their review. The role of the examination should be to spot show-stoppers and not examine the minutiae of schemes which are still on the drawing board.

So why not reword para 35 c to say

“ Effective; a firm expectation that development will come forward unless unsurmountable hurdles have been identified to its delivery”

This, when linked to the Housing Delivery Test will keep LPAs responsible for keeping land in the pipeline but will allow more flexible and faster plan making. Simple enough? Plan making should be about planning not crystal ball gazing.

### **3. Digital - fewer words and more maps**

Plans used to be shorter, with fewer words and more maps, showing what was planned and where. Often well under 100 pages, focused on local policy. Now there are hundreds of pages of text, often replicating national policy or setting out broad visions that no-one would disagree with but don't aid decision taking.

The NPPF could emphasise the requirement for plans to be map based and on a digital platform. We have suggested a limit of 50 pages but to be honest there is a danger an exact figure only encourages “annex fever”, so the message is to keep it short and only say what needs saying. Use a map to show what you mean. The PPG needs amending too to assist here.

So insert a paragraph in the NPPF and change the PPG to say that explanatory text in plans should be kept to the absolute minimum and that only such text as is necessary to explain local policy needs should be included within the plan - which should be predominately map based and on a digital platform.

So perhaps reword para16 f;

“ Not repeat policies, or include explanatory text that are already set out in the NPPF. Plans are expected to be largely map based, with limited text and available on a digital platform ‘

Wouldn't that make life a lot easier?

### **4. Standardise Development Management policies**

If you pick up any two plans at random you will find plenty of development management policies that have exactly similar intent, but all seem to be worded differently and often accompanied by endless supporting text.

They are legitimate in aim and cover a range of common planning matters such as protection of heritage assets, household extensions, habitat protection. So if they have the same intent, why are the policies are not the same; some are encapsulated in a paragraph, some run to pages. All can be subject to scrutiny at examination, and even if they are not time is wasted drafting what could be standard.

We suggest that these “core “policies need not be in every plan at all. This would help to make the plan shorter (see above) and quicker to produce. The White Paper floated this idea but why wait; our suggestion is to create an annex to the NPPF with model policies. As with PINS model conditions all LPAs can use these policies without reproducing them in their plan, or they could just ‘adopt’ them without the need to examine them for soundness.

LPAs would not be prevented from something bespoke if they must and can justify it, but we argue the vast majority of policy content in plans could be included in a national document and it would not take too much resource to produce such a document for consultation.

So ,add a paragraph that might say

“ LPAs can adopt any of the model policies produced by the SoS from time to time within the NPPF annex without replication in their plan. Such policies shall be assumed to be sound and therefore not be subject to examination and shall be treated as up to date until such time the SoS proposes to amend them”

Simple enough?

## **5. Keep the plan process moving**

Our final plea reflects the frustration we all feel when “things change”. Things like the housing numbers, the NPPF, high court decisions. At present any of these can lead to delays in a draft plan and possibly a return to square one. So we need to consider what up to date means and how (now we have proposed the change to the Inspectors role in the soundness test) plans can be “kept alive” .

We suggest the NPPF clarify that whilst a plan should be prepared on relevant evidence, it does not mean that a plan should be treated as unsound if things change. Any change post submission should be picked up at the next review (and these would need to be robustly undertaken and failure to do so have consequences in the presumption – and we mean a more than a cursory ‘Things still look ok to us’ sort of review..... ). This is what a five year review is for and the NPPF can be amended to make it clear that whilst the plan should be up to date there is no need to modify it if post submission things change. It is a matter of planning judgement of course, but if things change, then change the plan next time. And of course a digital plan is much easier to review than a printed one.

So perhaps a revised Para 33;add

“ where changes to a local plan are warranted , the policies in the current plan should be regarded as up to date within 5 years of their adoption pending a review unless the current plan when read as a whole is out of date and a review is not programmed in the LDS.”

Is that all? Of course not. There are other NPPF changes already consulted on and more that you (and we) might like to promote. A more user influenced NPPF rather than a think tank driven one might well produce the planning system outcomes the government wants to see; more housing and economic growth.

if anyone is reading this at MHCLG – don't wait. The five changes above would make everything faster and simpler, and could be done by the autumn. Autumn 2021 that is.

And for readers not in the MHCLG; join this debate and help shape this agenda now

Let's Crack On.