



The City of London Law Society

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Response

RESPONSE TO CONSULTATION ON STREAMLINING LOCAL DEVELOPMENT FRAMEWORKS

1. The City of London Law Society (CLLS) represents over 13,000 City lawyers, through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients from multi-national companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.
2. The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response has been prepared by the CLLS Planning and Environmental Law Committee. This committee is made up of solicitors who are expert in their field.

Draft Local Development (Amendment) Regulations

3. In principle, the CLLS is supportive of changes which shorten the process for making Development Plan Documents (DPDs), provided that adequate arrangements remain in place for full consultation, the making of representations and the consideration of the soundness of the DPD by an Inspector.

Section B1

4. The removal of the Preferred Options stage would significantly assist in speeding up the making of a DPD but may place consultees (particularly those not involved in the preparation of the DPD) at a disadvantage if they object to the DPD. This is because they are required to justify their objection by reference to evidence and the 6 weeks period for consultation may not provide sufficient time for this to be achieved. The CLLS therefore suggests that the Government should consider making two additional changes, should it decide to remove the Preferred Options stage:-
 - 4.1 In preparing a DPD, the local planning authority should be required to consult any person who has previously notified it in writing that it wishes to be consulted on the preparation of the DPD. This would enable those who wish to be involved to say so from the outset and thereby be sure of being involved.
 - 4.2 A longer minimum period for consultation responses on the proposed submissions should be allowed. We suggest twelve weeks to ensure that consultees who wish to object have adequate time to justify their objections. Although this would add slightly to the time scale for preparing a DPD, in

comparison with the Government's proposal, the savings in time from removing the Preferred Options stage would still produce a significant net reduction.

Section B2

5. The CLLS has no comment on the proposal to bring forward the period for making formal representations on the plan to before submission.
6. The CLLS agrees that the procedure concerning "site allocation representations" is burdensome but this is a consequence of the requirement that the local planning authority and objectors should have prepared and submitted their evidence before the plan is considered by the Inspector. Any alternative must give third parties the right to comment on site allocation representations by consultees and sufficient time in which to do so.

Section B3

7. The CLLS supports the principle of what is set out in Section B3. It considers, however, that this should be expressly dealt with in the new Regulations so that express obligations are imposed on the local planning authority at the pre-submission stage:-
 - 7.1 to identify the changes from the withdrawn plan; and
 - 7.2 to consult all those who made representations on the policies affected by the proposed changes in the withdrawn plan.
8. In respect of the specific question raised in Section B3, the CLLS is unsure which representations are being referred to. The text refers to draft Regulation 32(1)(c) but the question seems to be directed at representations received pursuant to Regulations 28 or 30. In any event, the CLLS considers that although most local planning authorities would address the question of whether representations received caused a change of mind regarding the soundness of the plan, a requirement to do so would ensure that all authorities do this. It is important that authorities do consider this question to avoid wasting time at the later stage of the examination.

Section B4

9. The CLLS is already concerned that SPDs can be prepared and adopted without reference to an independent Inspector notwithstanding the fact that policies within them can have a substantial impact on the viability of a development. Accordingly, the CLLS does not agree with proposals to extend the scope for making and adopting SPDs.
10. The CLLS also considers it unnecessary and potentially unhelpful to encourage other bodies to produce non-statutory supplementary guidance. The quantity of planning policy, advice and guidance on most topics is already voluminous. This in itself leads to increased costs and delays because applicants and local planning authorities understandably consider it necessary to address all relevant advice. Instead, the Government should be encouraging more succinct policies advice and guidance with less repetition and from fewer authorities.

Section B5

11. No comment.

Draft PPS12

12. The CLLS welcomes the fact that the draft of PPS12 is more succinct than the current PPS12.

Section C3

13. The CLLS agrees that the core strategy should be the key DPD produced. The CLLS also agrees that the core strategy may allocate a strategic site for development (paragraph 4.6, draft PPS12).

14. Although in principle the CLLS agrees that it should be for local authorities to determine which other DPDs are required, it does consider that an Allocations DPD will be required in all or nearly all cases, especially given the requirement in PPS3 for the identification of a housing land supply. Accordingly, the CLLS suggests that the last sentence in paragraph 5.3 of the draft PPS should recognise that nearly always authorities will have to prepare an Allocations DPD.

Section C6

15. The CLLS considers that the "repackaging" proposed is unlikely to have any material positive or negative effects on clarity or transparency.

Section C8

16. The CLLS supports the proposal to extend the lifespan of the core strategy to 15 years from adoption, although suggests that it should be made clear that the 15 year period will run from the date anticipated for adoption at the date of submission of the plan.

17. The CLLS does have a concern, however, that such an extension will accentuate the already difficult problem of producing evidence now about what infrastructure will be needed later in the plan period, who will provide it and by when (see, for example, paragraph 4.8 of the draft PPS). There is a danger that local planning authorities and inspectors will be reluctant to accept as sound proposals which are desirable in planning terms if these questions cannot be answered specifically from the outset. The suggestion of contingency planning in paragraph 4.10 of the draft PPS may only add to the complexity and the CLLS considers that the draft PPS should acknowledge that, for proposals which are likely to be developed later in the plan period, it may be acceptable for the means by which necessary infrastructure is to be delivered to be worked up ready for further details to be incorporated in the next review of the plan.

Other Comments

18. Joint working is referred to in paragraphs 4.16-4.18 and elsewhere in the draft PPS. In some cases, joint working is necessary but usually it has the effect of slowing down the plan making process because the authorities involved proceed at the pace of the slowest authority. The draft PPS should urge authorities only to engage in joint working if this is clearly necessary.

19. A related point arises in paragraph 4.45D which states that core strategies should be consistent with core strategies prepared by neighbouring authorities where cross boundary issues are relevant. Again there is a risk that the effect of this will be that the processing of the core strategies concerned will move in accordance with the time scale of the local authority whose core strategy is programmed later, thereby slowing down the production of a core strategy for the local authority which has an earlier programme.
20. The test for requiring contingencies to be considered (less than "maximum certainty" – paragraph 4.46) is set too high. A test of "reasonable certainty" would be more realistic.

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