

## **ESSENTIAL REFERENCE PAPER F**

### **Extracts from the 'Beta Test' Version of the Planning Practice Guidance**

#### **A): Local Plans**

##### **How should a Local Plan reflect the presumption in favour of sustainable development?**

Paragraph 15 of the National Planning Policy Framework indicates that Local Plans should be based upon and reflect the presumption in favour of sustainable development. This should be done by identifying and providing for objectively assessed needs and by indicating how the presumption will be applied locally.

##### **How can the local planning authority show that a Local Plan is capable of being delivered?**

A Local Plan is an opportunity for the local planning authority to set out a positive vision for the area, but the plan should also be realistic about what can be achieved and when. This means paying careful attention to providing an adequate supply of land, identifying what infrastructure is required and how it can be funded, and ensuring that the requirements of the plan as a whole will not prejudice the viability of development.

Early discussion with infrastructure and service providers is particularly important to help understand their investment plans and critical dependencies. The local planning authority should also involve the Local Enterprise Partnership at an early stage in considering the strategic issues facing their area, including the prospects for investment in infrastructure.

The Local Plan should make clear, for at least the first five years, what infrastructure is required, who is going to fund and provide it, and how it relates to the anticipated rate and phasing of development. For the later stages of the plan period less detail may be provided as the position regarding the provision of infrastructure is likely to be less certain. If it is known that a development is unlikely to come forward until after the plan period due, for example, to uncertainty over deliverability of key infrastructure, then this should be clearly stated in the draft plan.

Where the deliverability of critical infrastructure is uncertain then the plan should address the consequences of this, including possible contingency arrangements. The detail concerning planned infrastructure provision can be set out in a supporting document such as an infrastructure delivery programme that can be updated regularly. However the key infrastructure requirements on which delivery of the plan depends should be contained in the Local Plan itself.

The evidence which accompanies a draft Local Plan should show how the policies in the plan have been tested for their impact on the viability of

development, including (where relevant) the impact which the Community Infrastructure Levy is expected to have. Where local planning authorities intend to bring forward a Community Infrastructure Levy regime, there is a strong advantage in doing so in parallel with producing the Local Plan, as this allows questions about infrastructure funding and the viability of policies to be addressed in a comprehensive and coordinated way.

### **What role should the local planning authority play in neighbourhood planning?**

A local planning authority must:

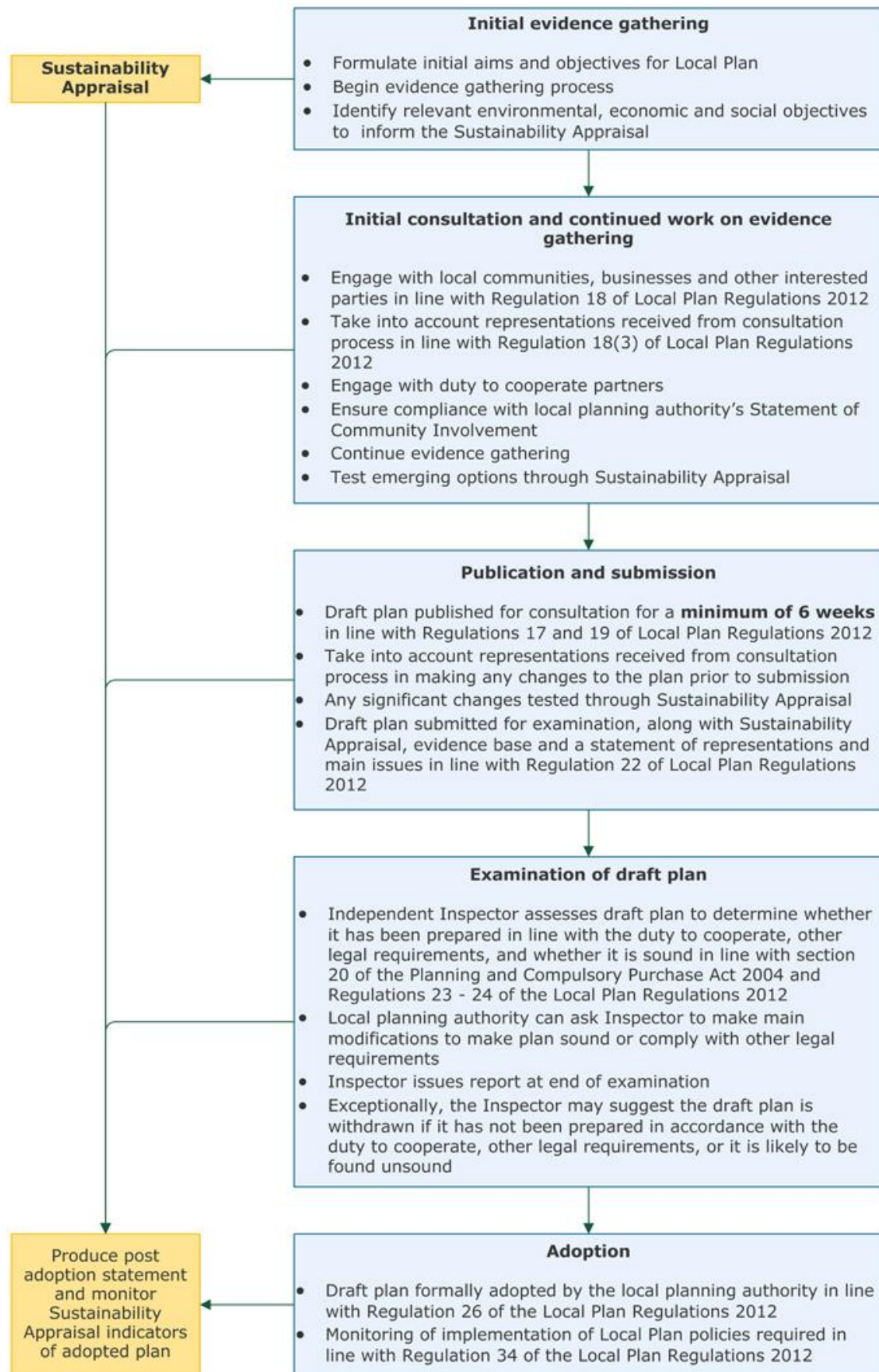
- take decisions at key stages in the neighbourhood planning process
- provide advice or assistance to a parish council, neighbourhood forum or community organisation that is producing a neighbourhood plan or Order as required by paragraph 3 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

### **Should all the Local Plan policies be contained in one document?**

The National Planning Policy Framework makes clear that the Government's preferred approach is for each local planning authority to prepare a single Local Plan for its area (or a joint document with neighbouring areas). While additional Local Plans can be produced, for example a separate site allocations document or Area Action Plan, there should be a clear justification for doing so.

Neighbourhood plans, when brought into force, become part of the statutory development plan for the area that they cover. They can be developed before, after or in parallel with a Local Plan, but the law requires that they must be in general conformity with the strategic policies in the adopted Local Plan for the area (and any other strategic policies that form part of the statutory development plan where relevant, such as the London Plan), irrespective of when this came into effect. Where a neighbourhood plan has been made in advance of a new Local Plan being submitted for examination, the local planning authority should take into account the neighbourhood plan in preparing its strategy and policies, and avoid duplicating policies that are in the neighbourhood plan.

The guidance includes the following chart showing the process of Local Plan development:



## **B): Duty to Co-Operate**

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

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

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

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

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

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

The Local Plan examination will test whether a local planning authority has complied with the duty to cooperate. The Inspector will recommend that the Local Plan is not adopted if the duty has not been complied with. The examination will also test whether the Local Plan is sound. The test of soundness, set out in full in the National Planning Policy Framework (paragraph 182), assesses whether the Local Plan is:

- positively prepared;
- justified;
- effective; and
- consistent with national policy.

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

## **Who is responsible for the duty?**

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

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

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

These bodies are:

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

These organisations are expected to cooperate with local planning authorities, county councils that are not local planning authorities and the other prescribed bodies to make local plans as effective as possible on strategic cross boundary matters. They should be proportionate in how they do this and tailor the degree of cooperation according to where they can maximise the effectiveness of plans.

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

Local Enterprise Partnerships and Local Nature Partnerships are not subject to the requirements of the duty. But local planning authorities and the public

bodies that are subject to the duty must cooperate with Local Enterprise Partnerships and Local Nature Partnerships and have regard to their activities when they are preparing their Local Plans, so long as those activities are relevant to local plan making. Local Enterprise Partnerships and Local Nature Partnerships are prescribed for this purpose in Town and Country Planning (Local Planning) (England) Regulations as amended by the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012 to include Local Nature Partnerships.

This requirement reflects the important role that both Local Enterprise Partnerships and Local Nature Partnerships need to play in strategic planning. Local Enterprise Partnerships have a key role to play in delivering local growth by directing strategic regeneration funds and in providing economic leadership. The commitment of local planning authorities to work collaboratively across Local Enterprise Partnership areas will be vital for the successful delivery of Local Enterprise Partnerships' strategic plans. An effective policy framework for strategic planning matters, including joint or aligned planning policies, will be a fundamental requirement for this.

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

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

Cooperation should take place throughout Local Plan preparation – it is important not to confine cooperation to any one point in the process. To ensure that Local Plans are robust and effective, local planning authorities and other public bodies need to work together from the outset at the plan scoping and evidence gathering stages. That will help to identify and assess the implications of any strategic cross boundary issues on which they need to work together. After that they will need to continue working together to develop effective planning policies and delivery strategies. Cooperation should continue until plans are submitted for examination and beyond into delivery and review.

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

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

encourage positive, continual partnership working on issues that go beyond a single local planning authority's area.

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

There is no definitive list of actions that constitute effective cooperation under the duty. The actions will depend on local needs which will differ. Cooperation should produce effective policies on cross boundary strategic matters. This is what local planning authorities and other public bodies should focus on when they are considering how to meet the duty.

Section 33A(6) of the 2004 Act requires local planning authorities and other public bodies to consider entering into agreements on joint approaches. Local planning authorities are also required to consider whether to prepare local planning policies jointly under powers provided by section 28 of the 2004 Act.

The activities that fall within the duty to cooperate include activities that prepare the way for or support the preparation of Local Plans and can relate to all stages of the plan preparation process. This might involve joint research and evidence gathering to define the scope of the Local Plan, assess policy impacts and assemble the necessary material to support policy choices. These could include assessments of land availability, Strategic Flood Risk Assessments and water cycle studies.

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

The duty requires additional consultation beyond the existing statutory consultees. The requirement to consult statutory consultees is separate from the duty to cooperate which goes beyond a requirement to simply consult. The duty means that local planning authorities and other public bodies must work together constructively from the outset of plan preparation to maximise the effectiveness of strategic planning policies. It is unlikely that this could be satisfied by consultation alone. Local planning authorities that cannot demonstrate that they have complied with the duty will fail the independent examination process.

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

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

### **What should a local planning authority do if it is reliant on another local planning authority that will not cooperate?**

Local planning authorities should consider whether they have done all they can at both officer and councillor level to secure necessary cooperation on strategic cross boundary matters.

As part of this process they should consider whether there are different local planning authorities with whom they could work to achieve an effective outcome. Local planning authorities should also satisfy themselves that the planning strategy cannot be delivered in another way and that all policy options have been tested thoroughly.

If local planning authorities consider that the plan falls short for whatever reason, including a lack of cooperation from key partners, they should discuss their concerns with the Planning Inspectorate prior to submitting the plan for examination.

If local planning authorities have tested all available options they may have to accept that their planning strategy cannot be achieved fully, for example they may not be able to meet all of their objectively assessed housing need, without the cooperation of another local planning authority, and submit it for examination on that basis. In these circumstances they should submit a detailed statement and evidence of the actions they have taken to engage cooperatively. Local planning authorities will also need to submit undertakings in writing about the actions that they will take to seek to secure an effective planning strategy in the future.

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

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

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

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



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

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

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

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

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

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

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

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

Planning for infrastructure is a critical element of strategic planning. The National Planning Policy Framework (paragraph 162) makes clear that local planning authorities should work with other local planning authorities and

providers to assess the quality and capacity of a range of infrastructure types. This will ensure that key infrastructure such as transport, telecommunications, energy, water, health, social care, and education, is properly planned.

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

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

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

## **C) Assessment of housing and economic development needs**

### **What is the definition of need?**

Need for housing in the context of the guidance refers to the scale and mix of housing and the range of tenures that is likely to be needed in the housing market area over the plan period – and should cater for the housing demand of the area and identify the scale of housing supply necessary to meet that demand.

Need for all land uses should address both the total number of homes or quantity of economic development floorspace needed based on quantitative assessments, but also on an understanding of the qualitative requirements of each market segment.

Any assessment of need should be realistic in taking account the particular nature of that area (for example geographic constraints and the nature of the market area). Assessing development needs should be proportionate and does not require local councils to consider purely hypothetical future scenarios, only future scenarios that could be reasonably expected to occur.

### **Can local planning authorities apply constraints to the assessment of development needs?**

The assessment of development needs is an objective assessment of need based on facts and unbiased evidence. Plan makers should not apply constraints to the overall assessment of need, such as limitations imposed by the supply of land for new development, historic under performance infrastructure or environmental constraints. However, these considerations will need to be addressed when bringing evidence bases together to identify specific policies within development plans.

### **Can local planning authorities use a different methodology?**

The use of this standard methodology is strongly recommended because it will ensure that the assessment findings are transparently prepared. Local planning authorities may consider departing from the methodology, but they should explain why their particular local circumstances have led them to adopt a different approach where this is the case. The assessment should be thorough but proportionate, building where possible on existing information sources outlined within the guidance.

Please note that there is no one methodological approach or use of a particular dataset(s) that will provide a definitive assessment of development need.

### **With whom do local planning authorities need to work?**

Local planning authorities should assess their development needs working with the other local authorities in the relevant housing market area or functional economic market area in line with the duty to cooperate. This is because such needs are rarely constrained precisely by local authority administrative boundaries.

Where Local Plans are at different stages of production, local planning authorities can build upon the existing evidence base of partner local authorities in their housing market area but should co-ordinate future housing reviews so they take place at the same time.

Local communities, partner organisations, Local Enterprise Partnerships, businesses and business representative organisations, designated neighbourhood forums and parish/town councils preparing neighbourhood plans should be involved from the earliest stages of plan preparation, which includes the preparation of the evidence base in relation to development needs.

### **What areas should be assessed?**

Needs should be assessed in relation to the relevant functional area: either a housing market area, a functional economic area in relation to economic uses, or an area of 'trade draw' in relation to main town centre uses.

Establishing the assessment area may identify smaller sub-markets with specific features, and it may be appropriate to investigate these specifically in order to create a detailed picture of local need. It is important also to recognise that there are 'market segments' (ie not all housing types or economic development have the same appeal to different occupants).

### **Is there a single source that will identify the assessment areas?**

No single source of information on needs will be comprehensive in identifying the appropriate assessment area; careful consideration should be given to the appropriateness of each source of information and how they relate to one another. For example, for housing, where there are issues of affordability or low demand, house price or rental level analyses will be particularly important in identifying the assessment area. Where there are relatively high or volatile rates of household movement, migration data will be particularly important. Plan makers will need to consider the usefulness of each source of information and approach for their purposes. Local planning authorities can use a combination of approaches where necessary.

### **What is a housing market area?**

A housing market area is a geographical area defined by household demand and preferences for all types of housing, reflecting the key functional linkages between places where people live and work.

The extent of the housing market areas identified will vary, and many will in practice cut across various local planning authority administrative boundaries. Local planning authorities should work with all the other constituent authorities under the duty to cooperate.

### **How can housing market areas be defined?**

Housing market areas can be broadly defined by using three different sources of information as follows.

- *House prices and rates of change in house prices*  
Housing market areas can be identified by assessing patterns in the relationship between housing demand and supply across different locations. This analysis uses house prices to provide a 'market-based' reflection of housing market area boundaries. It enables the identification of areas which have clearly different price levels compared to surrounding areas. The findings provide information about differences across the area in terms of the price people pay for similar housing, market 'hotspots', low demand areas and volatility. *Suggested data sources:* Office for National Statistics, House Price Index, Land Registry House Price Index and Price Paid data (including sales), Department for Communities and Local Government Statistics including Live Tables on Affordability (lower quartile house prices/lower quartile earnings), Neighbourhood data from the Census.
- *Household migration and search patterns.* Migration flows and housing search patterns reflect preferences and the trade-offs made when choosing housing with different characteristics. Analysis of migration flow patterns can help to identify these relationships and the extent to which people move house within an area. The findings can identify the areas within which a relatively high proportion of household moves (typically 70 per cent) are contained. This excludes long distance moves (eg those due to a change of lifestyle or retirement), reflecting the fact that most people move relatively short distances due to connections to families, friends, jobs, and schools. *Suggested data sources:* Census, Office for National Statistics Internal Migration Statistics, and NHS registration data. Data from estate agents and local newspapers contain information about the geographical coverage of houses advertised for sale and rent.
- *Contextual data (eg travel to work area boundaries, retail and school catchment areas)* Travel to work areas can provide information about commuting flows and the spatial structure of the labour market, which will influence household price and location. They can also provide information about the areas within which people move without changing other aspects of their lives (eg work or service use). *Suggested data sources:* Office of National Statistics (travel to work areas), retailers and other service providers may be able to provide information about the origins of shoppers and service users, school catchment areas.

### **How can functional economic market areas be defined?**

The geography of commercial property markets should be thought of in terms of the requirements of the market in terms of the location of premises, and the spatial factors used in analysing demand and supply – often referred to as the functional economic market area. Since patterns of economic activity vary from place to place, there is no standard approach to defining a functional economic market area, however, it is possible to define them taking account of factors including:

- extent of any Local Enterprise Partnership within the area;
- travel to work areas;

- housing market area;
- flow of goods, services and information within the local economy; service market for consumers;
- administrative area;
- transport network.

Suggested Data Source: Office of National Statistics (travel to work areas)

### **What is the starting point to establish the need for housing?**

Household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need.

The household projections are produced by applying projected household representative rates to the population projections published by the Office for National Statistics. Projected household representative rates are based on trends observed in Census and Labour Force Survey data.

The household projections are trend based, ie they provide the household levels and structures that would result if the assumptions based on previous demographic trends in the population and rates of household formation were to be realised in practice. They do not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour.

The household projection-based estimate of housing need may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends. For example, formation rates may have been suppressed historically by under-supply and worsening affordability of housing. The assessment will therefore need to reflect the consequences of past under delivery of housing. As household projections do not reflect unmet housing need, local planning authorities should take a view based on available evidence of the extent to which household formation rates are or have been constrained by supply.