

This section of making plans deals with the successive stages of the plan process under the existing arrangements, from writing the plan to the management of the public inquiry, and on to adoption and beyond.

The prerequisites for success from section 1 of the guide are repeated first. If these are not in place, embarking on the process set out in section 4 of the guide may be premature and doing so would be likely to lead to avoidable waste and delay.

Although the stages described relate to the present arrangements, some of the advice will also apply to the preparation of LDFs.

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Before beginning

Before the review of the plan is written and before the formal process that has to be followed begins, there are steps that should have been taken to ensure that all goes well. These prerequisites for success were identified in section 1.2 of the guide and have been reiterated throughout. They are worth repeating as a checklist for any planning authority opening the guide at section 4.

References to other sections of the guide are provided to assist in finding the relevant advice.

Before going any further the planning authority should have ensured that its work is being driven by –

- a clear view of what it wants to be achieved by the plan and hence what kind of plan is wanted see section 2.1
- a decision on the scope of the review with either a replacement of the adopted plan or its alteration see section 2.2
- the means of relating the plan to other plans and strategies, and particularly with the community strategy, in order to better use resources and to coordinate involvement, policy formulation and delivery see section 2.2
- a system of project management with a project manager responsible for the overall process see section 3.1
- a project plan which relates the content of the plan to the resources to be used and the time that will be taken see section 3.2
- arrangements for working with partners, and drawing upon experience and existing material in order to focus the content of the plan and formulate it efficiently see section 3.2
- a programme linking identified resources to necessary tasks for the whole project, with the short-term programmed in more detail, and providing for frequent review with a means of measuring progress against milestones see section 3.3
- a participation strategy embracing a number of approaches to ensure representation as well as understanding see section 3.4
- the process for producing the documents through the successive stages to final production with full communication between internal participants, in-house and external resources, and between electronic input and output devices see section 3.5
- full acknowledgement of the place of the plan in a continuous cycle of understanding needs, making policy, managing change, monitoring and review. see section 3.6

4 *part one*

issues and options

This section of making plans deals with the use of an issues report, which is a stage that is advised to be included by PPG12 rather than required by the Regulations. It also suggests that work on 'issues' could merge into work on basic strategic 'options' – for example for the principles of development location and housing provision.

This therefore represents a transitional stage and is treated as important by this guide for that reason. It is transitional because good practice points to the issues report being seen as the link between the breadth and vision of the community strategy, and specific matters arising from it that can be delivered through the development plan as the spatial expression, amongst other things, of that strategy.

The issues report and participation

The development of an issues report is a key stage in a cumulative participation process because it is at this early point that vital questions are raised and the scope is created for agreement on main strategic directions. If such agreement can be (if only provisionally) 'signed off' at this point, the subsequent stages ought to be able to be embarked upon with greater prospect of achieving the chosen options, and with less drama. Without this strategic stage there is a risk that the participation work will appear to begin with an inappropriate level of detail that has no evident origin or ownership.

Ensuring that the issues report emerges through a participatory process should be a positive part of the planning process. It is a major opportunity for creating added value. Too often, this opportunity for 'real planning' has been neglected in the concern for following statutory procedures and because it is still considered by some to be too difficult for consultees to engage with strategic concerns. This reflects traditional reliance on methods such as public meetings and questionnaires that do not allow for in-depth consideration and discussion based on genuine understanding of a plan's remit.

More recent approaches to participation have been aimed specifically at ensuring properly managed shared debate of challenging strategic choices and the examples that follow show that this has worked successfully within a plan-making context.

A sound issues report provides a good start to an inclusive approach to plan-making. It provides the foundations on which to explore the basic options for contributing to the needs of the area identified in the community strategy (and which the issues report itself should reiterate) and for the subsequent proposals and policies of the development plan.

An example of a planning authority using the needs and objectives adopted in a community strategy to shape the development of the main land use issues and development options to be explored in the issues report can be found in section 2.2.

Content and style of the issues report

Some authorities have chosen to produce a single document at this stage – an issues and options report. There are advantages in such an approach because many consultees are not happy to merely discuss ‘issues’ without also taking what they see as the natural next step towards solutions – that is, examining the basic options. This approach therefore holds out the prospect of taking large strides towards consensus on essential elements of the plan quite early in the process, with all the later benefits that can flow from this. This is, however, only valid if it emerges from a consistent and unified participation process through all the stages.

A note of caution is important here. Successful recent experience involves what was termed earlier ‘work in depth’, that is, it has focused on the involvement of a small number of key stakeholders in carefully managed discussion. What is then essential is to find some way of disseminating the results of this focused work as widely as possible – ‘in breadth’ – so that the general community can engage with the issues and options being developed. This reinforces the argument for linking issues and options because options tend to generate interest whilst the discussion of issues may not.

Simply produced and widely circulated consultation document by Wychavon District Council

Issues and options reports do not necessarily have to be elaborately produced, with consequent cost savings. Wychavon District Council used an A5 black and white booklet for consultation on development strategy options following participation work. The information is presented effectively under headings dealing with –

- the context and the main issues influencing development decisions
- the amount of housing required, the potential offered by previously developed sites and preferred greenfield locations, with two main strategic options suggested
- employment allocations and employment diversification issues
- underprovision of retail and leisure uses and preferred locations where these should be promoted
- community facilities, current shortfall and what should be available or provided in relation to new housing developments.

Report setting out the issues and options for meeting development requirements in the review of the Cambridgeshire and Peterborough Joint Structure Plan

The Issues Report displays characteristics of good practice because –

- it makes a real attempt to encourage people to make their view known to the joint strategic planning authorities, with the document containing numerous messages such as 'the future is in your hands, but we can't read your mind' and 'giving us your views could make a real difference, no policies have been written and this is your opportunity to influence the way the plan is put together'
- it is written in a way which is succinct and which uses plain English
- it is presented imaginatively and uses colour and pictures effectively
- the issues put forward for discussion are of a strategic nature and the document is not cluttered with development control issues. One of the key questions posed for instance, is where should the new settlement for Cambridgeshire go?
- the reader is informed about the development plan system including the context of the Structure Plan in relation to other planning guidance at the beginning of the document

- it has a clear structure, based on four main themes that relate to priorities for the Structure Plan area; these being, ensuring prosperity; improving our environment, supporting communities and better travel choices
- within each theme, the main issues are presented, and key questions are raised. A questionnaire is provided as the main means of responding and participants are given contrasting options to identify that which they prefer and least prefer.

The main form of response to the issues report is by the return of a questionnaire. Prompts, through the use of a questionnaire are a good way of channelling thoughts about certain issues, but if participants want to raise other issues, this should also be welcomed.

In addition to paper copies, the consultation document is also available on a CD and this also contains a 'planning for real exercise' to run on a computer. The role is that of chief planner and the task is to identify where the requirement for 22,000 homes should go.

Good practice in preparing and using issues reports appear to be –

- (as with every part of the project) only commit to the use of an issues report once it is clear that the added value of what is intended justifies the expected additional time in the overall programme
- avoid writing an ‘everything we know about your area’ document and focus on the main issues and options
- make clear that the issues report is an important stepping stone between the community strategy and the site-specific proposals and detailed policies of the first deposit plan
- if just an issues report, pose real questions in the document about matters on which the plan will have to put forward difficult proposals, to do with the way in which identified needs can be met for instance
- if opting for a combined issues and options report, make clear the source of the material included, the options preferred by the consultee groups and the type of response sought to the report
- make the document short, highly graphic and easy to understand, and disseminate it widely.

The relationship between the issues report and other aspects of the participation strategy followed in making the plan are considered in section 3.4.

With the scope of the plan review determined (sections 2.1 and 2.2) and the findings from the stage of participation in response to an issues and options report known (sections 3.4 and 4.1), the preparation of the deposit plan can proceed. This section deals with a number of matters that arise at this point, from organising the drafting of the document to the anticipation of the subsequent stages of receiving objections and the initial preparation for the public inquiry.

Allocation of responsibilities

Having adopted the prerequisites for success from section 1.2 and having established the programme, the first step in drafting the plan is the allocation of responsibilities for parts of the plan. This is something that will already have been addressed in the preparation of the resources bid (see sections 1.3 and 3.3) and in preparing the project programmes (see sections 3.2 and 3.3).

The division of tasks will relate to the structure proposed for the plan and the skills available within the team. Some authorities organise the forward planning team into strategic, policy and research / technical roles and if adopted this type of arrangement will be reflected in the division of tasks when the plan is drafted.

Identifying pairing arrangements for each topic or area, if numbers allow, would not only help to achieve a more rounded approach and consistency of style, but would also spread the benefits of the experienced staff more widely and help build the pool of experience for the future. The ability to cover sickness and departures, and for different people to be able to present each topic or policy to members, to the public and eventually before an inspector, will greatly increase the flexibility available in managing the project and so save overall time.



Briefs for parts of the plan

It should be part of the project manager's task, in association with members of the team, to prepare briefs or a project specification for the lead authors of each part of the plan. These should cover –

- the reasons for including the topic and the planning authority's aspirations to be taken forward through the plan
- the basic structure and content
- how the section is related to other parts of the plan (the role of policies in delivering the overall strategy for instance)
- the main policy messages to get across
- how the requirement for dynamism is embedded in the plan
- the relationship with the use of SPG.

The brief can establish some common rules of style too. Aiming for a similar style will reduce the amount of work for the editor and make the plan more readable. These rules might include –

- the adoption of a positive style
- the balance to be struck between easy comprehension and credibility and the rigours of legal scrutiny
- how criteria policies are to be written to provide for precision and predictability in decision making
- the relationship between the policy and the reasoned justification, and the amount of detail in the supporting text
- the approach to be adopted for cross-referencing to policies elsewhere, to secure consistency and avoid conflicts and repetition
- an emphasis on clear, straightforward English, most likely to be easily read and understood by all users, with the avoidance of jargon and technical terminology.

The message should be to strive for quality – it follows from the Best Value requirement for continuous improvement that each plan should be better than the one it replaces.

Preparation of project briefs by the Borough of Poole

The Borough of Poole is undertaking alterations to its Local Plan. The whole project has been broken down into smaller projects, each supported with a project specification. An example is given for the development of policy on affordable housing. This helps authors to maintain a focus about what is required in the drafting of policy as well as identifying opportunities to improve policy integration across the Plan. Target deadlines and suggested opportunities for coordination with local authority departments and other partners are also given. The initials shown in the example represent those persons identified to complete the various tasks.

In this example the reference to no costs is understood to mean no external costs, though better practice would be to identify the costs (or at least the proportion) of the in-house resource committed to the task.

Borough of Poole – Affordable housing

Objectives

To assess the need for and supply of affordable housing in order to justify a policy for affordable housing provision and a lower threshold for negotiations with developers for affordable housing

Project details

Estimate the housing need – Housing Needs Survey and analysis of incomes, house prices, concealed households, homelessness, housing waiting list etc
Estimate the supply of affordable housing – Council house vacancies, Housing Association provision, private rented accommodation and low cost housing.
Investigate the availability and size of sites suitable for affordable housing

Targets and milestones

The issue of affordable housing provision will be part of an Issues Paper for Spring 1999 and to be the basis for consultation. Alterations to policies and the Plan to be complete by Winter 1999. Research ongoing to defend stance and policies at PLI and continuously monitor the need and supply of affordable housing

Partnership

Housing, General Housing, Research and Intelligence, Revenue and Benefits

Staff resources

ST, AD

Costs/budget

None

Members involvement

Agree issues and debate implications

Project manager

ST

Plan formulation

This process of formulation – of putting the pieces together – can be described using the illustration of the way that a plan provides for housing.

Formulating the housing strategy and planning to meet a community's housing requirements involves –

- developing the housing strategy as an integral part of the plan's strategy so as to support the plan's objectives, taking account of the community strategy, and reflect the national, regional and strategic planning policy context
- planning to meet the housing requirements of the whole community, including those in need of affordable housing and special needs housing
- adopting a systematic approach to assessing the development potential of sites and the redevelopment potential of buildings
- identifying sites for housing, after making an allowance for windfalls, by following a search sequence starting with the re-use of previously-developed land and buildings within urban areas identified by the urban housing capacity study, then urban extensions, and finally new development around nodes in good public transport corridors; but not extending the search sequence further than required to provide sufficient capacity to meet the agreed housing requirement (see *'Tapping the Potential'*, DETR)
- testing sites to allocate for housing by assessing their potential and suitability for development against the criteria set out in paragraph 31 of PPG3 before including them in the deposit plan
- determining the order in which suitable sites identified for development should be released reflecting the presumption that previously-developed sites (or buildings for re-use or conversion) should be developed before greenfield sites unless previously-developed sites perform so poorly in relation to the criteria set out in PPG3 as to preclude their use for housing (within the relevant plan period or phase) before a particular greenfield site
- setting the performance sought from new development including the efficient use of land, design and sustainability (see *'Better Places to Live'*, DTLR)
- linking the proposals in the plan to other parts of the planning toolkit for implementation, with SPG used to further develop and amplify the meaning of criteria that will be applied for instance and to set out area frameworks, and with development briefs for significant sites
- examining the proposals through consultation and, under current arrangements, the local plan inquiry leading to modifications of the plan and eventual adoption
- monitoring the effectiveness of the plan's strategy and policies, and in particular whether sufficient housing completions to meet housing requirements are being delivered sustainably (see *'Monitoring Provision of Housing through the Planning System'*, DETR)
- managing the plan's implementation through development control to secure its objectives and deliver the strategy (see *'Planning to deliver'*, DTLR)
- updating the plan's housing strategy and policies as appropriate in the light of regular monitoring and changes to the strategic context.

Monitoring and implementing the programme

Policy drafting is a part of the process that can be programmed with some certainty. Having followed the advice in sections 3.1 and 3.3, it is the project manager's responsibility to monitor and evaluate performance against the programme.

Regular team meetings will help to maintain awareness of progress. They also provide the opportunity for the sharing of ideas and support between team members as well as co-ordinating the efforts of different authors across the plan.



Ways of improving the drafting of the plan

There are other ideas that can be followed to help get the drafting as good as possible, including –

- following the advice set out in the POS guide on drafting policies, *Better Local Plans* which is being up-dated to take account, amongst other things, of the *Planning Green Paper*
- use of specialised training courses
- using pairing arrangements as mentioned above
- for the team meetings to include drafting workshops
- reading other plans, particularly those that have been modified after their public inquiry
- including staff from outside the preparation team – from the implementation roles of development control and regeneration for instance – at the drafting stage to assist in making the policies precise and effective
- getting the plan 'plain English' approved, for example using the Crystal Mark scheme found at – <http://www.plainenglish.co.uk/crystalmark.html>
- involvement of the Government Office (see section 3.2).

Editorial responsibility

Overall editorial supervision is needed to help secure internal consistency, address potential inconsistencies with the community strategy and other plans and strategies, and foresee matters that would otherwise create difficulties at the revised deposit and public inquiry stages. The editor would also be responsible for the coordination of the inputs from the outside expertise being used and for maintaining the tactical integrity of the plan that may rely upon several different parts of the plan.

With the ultimate examination of the plan to come through the quasi-judicial public inquiry process, there are arguments for the early direct involvement of the advocate or at least the instructing professional. Resources often constrain this involvement, but the plan editor should at least have access to legal advice during the drafting of the plan.

The editor is likely to be a planner but would be best divorced from the day-to-day making of the plan so as to have an overview and objectivity. The role is to correlate and reconcile the various parts of the plan as they emerge, and to ensure consistent lines of argument. This role could be combined with that of project manager.

The need to cater for translations into Braille and other languages should be accepted at this stage.

Appraisals and audits

PPG12 makes clear that authorities should consider the scope for extending an environmental appraisal of their emerging revised development plans to encompass economic and social issues and undertake a sustainability appraisal. The Department has published advice on how to carry out a sustainability appraisal of Regional Planning Guidance (*Good Practice Guide on Sustainability Appraisal of Regional planning Guidance, DETR 2000*). In the *Planning Green Paper* the Department has announced that it will issue sustainability appraisal guidance, taking full account of the requirements of the EU Directive on Strategic Environmental Assessment. In advance of this a number of authorities have already carried out sustainability appraisals of development plans.

The real value of appraisal and auditing is gained from it being an integral and continuous part of plan-making.

The timing of this continuous sustainability appraisal should be worked into the project programme.

Securing conformity

PPG12's advice is clear on the need for the planning authority at the local plan level to secure conformity with the structure plan. The statutory conformity procedures need to be rigorously followed to avoid unnecessary and disruptive late complications in the process. Advice on this is given in chapter 6 of PPG12.

The planning authority should consider the need to complete the revised local plan in conformity with a structure plan that is either out-of-date or is under review.

Designing the objection form

The planning authority should design objection forms to be made available with the deposit plan, both in an electronic and paper form. Those wishing to make representations should be encouraged to use the forms as they will help the authority to process and hence consider the representations much quicker.

The objection form should collect information covering –

- name, address, phone number and e-mail of the objector
- name, address, phone number and e-mail of the agent
- whether the representation is being made in support of the plan or is an objection.
- the precise policy, paragraph, site or inset map number that is the subject of the support or objection
- if an objection is being made, whether this is to be pursued by written representation, or at a hearing or the public inquiry
- willingness to co-operate with others making similar objections
- the full grounds upon which the representation is being made
- what change is sought to the plan
- signature and date.

The forms themselves should be accompanied by supporting information –

- encouraging respondents to use a separate form for each individual support or objection
- making clear the time and date the representation period will close
- detailing the address to which the form should be returned
- describing what will happen next, once the representation is received by the local authority and perhaps pointing the participant to informative guides such as the *DTLR Code of Practice* or similar document prepared by the planning authority.

Appendix C of the *POS Good Practice Note on Local Plan Preparation* (1994) provides an example of a standard form for making representations.

Appointing the public inquiry programme officer

As the planning authority approaches the deposit plan stage it needs to make arrangements for the appointment of a programme officer. The need at this point in the process is to set up the database for registering representations to the deposit plan.

Advice on the appointment and role of the programme officer is given in section 3 of the Planning Inspectorate's *Guide to Development Plan Inquiries*.



Establish the database for representations

A robust database is essential to cope with the numbers of objections and to ease the passage of each objection through the subsequent stages. This should be developed and made available before the plan goes on deposit. The Planning Portal is intended to provide for the coordination of the many systems currently in use. The database should provide for the inclusion of neutral and support representations as the planning authority may wish to make use of these and they could potentially become objections at later stages if changes are made to the plan.

Over-sophistication in the system is better avoided, providing for its use by a variety of participants, including local authority staff and people with different levels of expertise and familiarity in the public, private and voluntary sectors.

The database needs to be able to deal with –

- the objector or supporter's unique reference number
- differentiating between supporters, objectors and counter objectors
- the unique individual objection number
- multiple objections
- the objector's and any agent's name, address, phone and fax numbers and e-mail details
- any specific policy identified
- the location and reference of any specific site

- recording where objections have been acknowledged
- the method for pursuing the objection at public inquiry
- the dates for receipt of further representations, especially proofs of evidence
- any associated revisions and changes
- any withdrawals
- the framework for committee reports
- the inspector's skeleton report framework.

The system should be capable of being interrogated across all fields, so as to correlate, for example, the objections by policies. This should enable material to be presented in different ways, and to facilitate the programming of proof writing.

The Planning Inspectorate's Guide offers good general advice, and the development of the Planning Portal will provide more, but these sources do not propose any specific database. The independent programme officer appointed should have experience of such systems. Additionally, contact with other planning authorities with recent experience will produce useful advice.

Anticipation of objections

It is good practice to already be thinking about the nature of the objections likely to be made when drafting the plan. These can be anticipated from the issues report stage and subsequent discussions, and will also be known from the last round of plan-making, if there is still interest in rejected sites for instance. The development control team, members' local knowledge and appeal decisions will all contribute further intelligence.

The issue of stakeholders seeking the inclusion of policies has been mentioned in section 2.2. There may be conservation policies which national bodies might wish to insert into the plan – some of them reflecting genuine innovations. There may be new local organisations not understanding the planning process wishing to inject inappropriate policies or schemes into the plan. Some of these may be more appropriate elsewhere, such as the reconsideration of a conservation area.

Dialogue should not only prevent unnecessary objections, but should help such participants to appreciate and understand the plan-making process better. All of the plan preparation stages should be used to identify the most likely sources of controversy. The position of most local interests should now be clearer from their involvement in the community strategy process and in the issues and options stage.

Some of the possible objections could be anticipated and catered for, if the change would not be significant, so shortening all of the following stages. There is a danger however of reducing the effectiveness of the plan overall.

Also, satisfying some participants' requests or stipulations can evoke many contrary opinions, and alternative objections. There is a fine balance to be struck at this stage. The skills of the members, the preparation team and the advocate will be needed to sustain the integrity of the vision and strategy and to meet targets while accommodating some of the many variations in local and national needs and aspirations.

In the end some points of view and potential objections should be agreed to improve the plan, and to avoid wasting time. There will also be irreconcilable issues that will pervade all the following steps. The plan should move forward in this dual context, but overall with more acceptability, ownership and support, together with forewarning of the conflicts to come, and the resources needed to answer them.



Likely timing of the public inquiry

The planning authority decides when the public inquiry should be held, although the Inspectorate advise that a request should not be made until the deposit plan period has ended. The Inspectorate requires six months notice but with the two stage deposit this is unlikely to be a determining constraint. There is good advice in the Inspectorate's *Guidance on Development Plan Inquiries*.

What is vital is the realistic assessment of the time when the planning authority needs to be ready with the resources available. This assessment needs to consider the scale of objections received and the time to be assigned for negotiation, based on judgements about the significance of an objection to the plan and the prospect of achieving withdrawal of the objection. This is the negotiation strategy and is discussed further in section 4.3.

It should be said that whilst highly unusual, if all objectors request consideration by written representation then a public inquiry is not necessary.

The Planning Inspectorate's advisory visit

Experienced development plan inspectors are available to visit planning authorities and to discuss procedural practice. This is an invaluable opportunity to tap into the Inspectorate's experience of inquiries and knowledge of rapidly evolving practice.

The Inspectorate advise that best use is made of a visit four to six months before the plan goes on deposit. More than one visit is possible, if required.



Placing the plan on deposit

The deposit plan is the first opportunity for the public to consider detailed proposals, in what was previously made available as a full consultation draft plan. The statutory deposit period of six weeks may simply not be enough time for prospective participants to fully understand and make objections to the plan, particularly for the general public who may not be familiar with the development plan process.

The authority should consider including a period of intensive information provision over a few weeks prior to the plan going on deposit, informing the public about the overall strategy and key features of the plan.

The introduction of Section 54A into the 1990 Town and Country Planning Act in 1991 has increased the desire amongst stakeholders to influence the plan as it is prepared, raising the number of representations that can be expected.

The first deposit stage is the first formal opportunity to make representations to the planning authority on a full draft plan. It is also the stage when statutory procedures become activated. Anyone making objections to the deposit draft has the right for the objection to be considered by an inspector at a local plan public inquiry.

This section provides detailed advice on how the planning authority can organise its approach to devising and following an objections or negotiation strategy to manage its work.

Negotiating with objectors to the deposit plan

How the planning authority responds to objections will have a major effect on the time taken to adopt a plan, and because of the high costs associated with the public inquiry, will have a disproportionate effect on the planning authority's budget. A systematic approach to dealing with objections at this stage is essential and can also bring improvements to the plan. Planning authorities should not lose sight of the need to record support for policies as well as objections. Negotiations with objectors need to be informed by this knowledge, otherwise there is a danger that negotiating away an objection will provoke other objections to those previously supportive of the policy.

The 1999 Regulations introduced a second stage deposit into the plan preparation process although there is no legal requirement to have two stages and a few authorities have decided that in view of the degree of community support for their plans, two stages are unnecessary. The changes sought to enable the negotiation of objections to be built into the process, with the benefit of removing them from any further consideration in the plan. However, satisfied objectors do not have to withdraw their objection, even though they no longer need the opportunity to have their view supporting any revisions made by the authority considered by an inspector. Satisfied objectors are invited to withdraw their objections, but this does not happen automatically.

Objections strategy

Making revisions to the deposit plan in response to objections is discretionary and the approach the authority takes should be determined on the balance between resources that can be committed to addressing objections, and possible time (and hence cost) savings.

The time the authority is prepared to allow between the deposit plan and the public inquiry should be informed by the actual scale of the objections received, including judgements about the significance of an objection to the plan and the prospect of achieving withdrawal of the objection, but also by the need to keep the overall time to adoption short.

There will be a point when further delaying the public inquiry will no longer be beneficial, but will increase the overall time and cost of putting the plan in place. The negotiation strategy is the planning authority's way of ensuring that it hits the optimum point in this equation.

The steps in implementing the objections strategy are –

- receipt of objections
- initial professional assessment
- categorising the objections and planning the negotiations stage
- presenting a committee report
- undertaking negotiations
- making revisions to the plan.

Sources of objections

The detailed examination of the deposit plan will give rise to specific and precise objections. Along with those drawing on professional expertise, there will be others expressed as the proper concerns of local people about matters that arise from the plan as well as some which arise from prejudice and some which are nothing to do with the plan. Along with the well-made objections will be some that are incoherent. The objections will reflect opposing positions for more or less development with some wanting no change even if this is not an option available to the plan. There will be substantive objections with implications for many parts of the plan and objections wanting specific sites to be included or excluded for development. Site-specific objections tend to dominate representations because development allocations give rise to local opposition and because there will be competing commercial interests. There will also be objections arising from ambiguities and factual or typographic errors.

Receipt of objections

The criteria for objections to be duly-made is set out in the Regulations and should have been made clear by the planning authority with the publication of the deposit plan. This might be defined in terms of receipt at the stated closing-time to the main local authority offices, and/or to the planning department's office, and by personal delivery, post, fax or e-mail. Some flexibility in method and locations is advisable, but being precise and firm about the timing is important, in order to meet the statutory requirements and not to prejudice other objectors.

The advice is that 'late objections' should not be accepted, and if this is the policy of the planning authority, it needs to be made clear and to be fairly applied to avoid problems and possible grounds for dispute.

The arrival of the objections should have been planned for in the programme and staff availability should be matched to the anticipated arrival pattern. The receipt of objections will peak at the end of the six week period. If the statutory publication of the deposit plan has been carried out meticulously the actual receipt of objections should be a basic administrative process.

Initial professional assessment of objections

When objections are first received they should be checked to ensure that they meet the stated deadline and that the objection is related to the plan and the statutory procedures. Each individual objection is to be given a unique number. Each objection should be acknowledged giving the objector the objection number (or numbers) for all future reference.

At various stages in the process, the officers, the inspector and the programme officer and others will need to access original objection forms. The planning authority officers will tend to work with objections relating to policy, whereas the inspector and the programme officer will need to work by objector number. It is important that copies are taken of original objections and useful for two sets to be organised in order to facilitate access in either way. Since objections should be available for public inspection, care must be taken to ensure that objections are not taken away by members of the public. Making a copy available for public inspection will ensure that the original is not mislaid. Local authorities may wish to have copies available for inspection in their satellite offices where applicable.



Before logging representations onto the database they should be looked over as early as possible by staff familiar with the content of the plan. This is particularly important for distinguishing between multiple objections, as making changes to incorrect information at a later date can be immensely time consuming. What is being looked for includes –

- ensuring that each separate objection is identified when several objections are contained within the same objection form or letter
- spotting the 'but' that turns a representation of support into an objection
- points which are unclear that need clarification, or misunderstandings that can easily be resolved
- objections where it is unclear what revisions are being asked for
- 'objections' which have escaped the first sieve and should not have been accepted, perhaps because they concern controls under different legislation, such as conservation area boundaries, or which would require the structure plan or a PPG to be changed
- objections to distinct parts within policies, which could be resolved without affecting the rest of the policy.

The scope for the negotiation of objections

All queries arising should be followed up quickly with objectors, where the exact meaning and scope of the objection needs to be ascertained for instance. It is particularly important when an objection has not been accepted, or has been wrongly accepted, that this is made clear in writing to the objector or agent so that such 'objections' are removed from the system.

Each additional duly-made objection identified and accepted through this check should be given a unique number, linked to the objector's number and his or her other objections, and be acknowledged.

The publication of a schedule of all objections, linked to the database, will inform all those who have made representations, facilitate their further involvement, and provide for their combination with other objectors as appropriate.

The analysis undertaken so far will enable the local authority to understand the scale and scope of the objections, noting those from major new participants, and enable the local authority to –

- see their implications for the integrity of the plan as currently envisaged
- relate the actual objections to the time and resources that had been anticipated for the next stages
- anticipate the scope and size of the public inquiry, its duration and costs
- begin to distinguish objections according to the approach to be taken.



Developing and implementing the negotiation strategy

The planning authority should seek to reduce the number of objections to be considered by the inspector. This should be tackled in a systematic way through a negotiation strategy. This means recognising that there are different types of objections which vary according to the significance their acceptance would have for the plan, but also according to the likelihood of any negotiation that were attempted being successful from the planning authority's point of view. The time that would be likely to be needed to resolve an objection is the other variable. Having a strategy means categorising the objections, allocating time to the negotiations stage according to the reduction in the number of objections that can realistically be expected to be resolved, and continuing to the public inquiry stage once that time has been used.

The amount of time allowed for the negotiations stage will be informed by the objections expected and received, but will be guillotined to maintain the overall programme, ideally (if the strategy has been well devised) at the point where the objections that remain are those which are either irresolvable or on which it would not be cost-effective to negotiate.

The planning authority has the options of accepting, negotiating or resisting the revisions proposed by objectors, with those it chooses to resist having to be resolved by an independent inspector.

It can decide how to proceed on each objection according to –

- the significance of the change to the plan and to the members' aspirations
- the likelihood of the objector being prepared to withdraw the objection
- the effort that would be involved in this endeavour.

Those types of objection most likely to be easily resolved, by either informing the objector of a willingness to change the plan, or by negotiating a change in the objector's views, and hence in either case obtaining a willingness to withdraw, are –

- misunderstanding of the plan by the objector
- factual errors, for example where terminology is incorrect, something has been inappropriately referred to, or boundary lines have been incorrectly drawn
- instances where policies, proposals or the supporting text is unclear and can be clarified with more appropriate wording, additional text or explanation
- instances where the local authority has interpreted national or strategic guidance incorrectly
- non-contentious policy omissions
- minor changes that have no significance to the overall strategy.

Since these can be resolved relatively easily, it is advised that they are addressed and agreement with the objector over revisions is sought as a first priority. They will seldom involve extensive 'negotiation' and can often be resolved by written correspondence or a telephone conversation. The objector should receive written confirmation of any agreements made over the phone.

Those types of objection which are most likely to be very difficult to resolve, because neither the planning authority nor the objector would be willing to accede, include objections –

- that would conflict with the plan strategy
- from the local community or lobby groups to site-specific allocations required to meet the development provision set for the plan
- to allocations from those with a commercial interest in an alternative site
- that promote one interest (for example, maintenance of the green belt or the protection of all historic buildings) above all others.

Though the savings at the public inquiry could be substantial, to reach a compromise on these matters will probably not be possible, and would certainly be very time consuming. In prioritising effort within the time allocated for the negotiations stage, it is advised that local authorities devote least effort to these sorts of issues.

In between the two types of objections there may be others where the prospect of agreement and the effort that would be involved are less readily predicted. There may be cases where objectors have misunderstood national guidance, or require the authority to make changes to the plan that are inconsistent with national guidance, or that go beyond the remit of a local plan. These types of objections are more subjective and will require more effort than the first group identified above, but there may be more scope to avoid these objections going through to the public inquiry than with the second group.

From the experience of authorities that have had success in this aspect of the process, good practice is for the authority to commit time and effort to resolving those objections that are clearly in the 'easy' category but not to negotiate over those objections that are clearly in the 'difficult' category.

Those objections that fall between these extremes can be addressed, by offering a more accurate interpretation of guidance, explaining why the approach in the plan has been taken, or offering further justification for instance. However, these efforts may not necessarily result in a successful withdrawal, particularly where the objection is emotionally driven or there is a desire on the part of the objector to go through to the public inquiry. Having ranked these objections roughly from easiest to most difficult, the authority should use the balance of the time allocated for the negotiations stage on these objections and then draw a line under this part of the overall project.

Initial committee report and analysing the objections

Members should be appraised as early as possible about those matters in the plan (or omitted from the plan) that are likely to give rise to significant opposition. To make the best use of the available resources, this might take place during the time the plan is on deposit and objections are beginning to arrive. Anticipation of the likely focus and weight of objections will enable the planning authority to prepare its response to those areas, for instance, where they are willing to be flexible and where they do not want to compromise on revisions. For those planning officers who are to undertake negotiations, this will enable them to be clear over the scope for accommodating objectors' concerns.

The committee report that is prepared will play a very important part in the next stages in the process. It will determine the general shape and scale of the public inquiry and the outcome of objections through the public scrutiny, but also the credibility of the plan and its acceptance by the community.

What the report says on each objection will provide the basis for the subsequent discussions and examination. It will set the form and general content for the planning authority's negotiation stances and as necessary the case for the public inquiry. Its contents and form will be used several times. Doing this well will therefore save a significant amount of time and expenditure later.

The committee report will inform the objectors, and any likely counter-objectors, of the planning authority's

specific position on each objection. This in turn would allow them to base their own negotiations and cases on what the planning authority say. Hiding opposing arguments can only waste time and money, when disclosure of the planning authority's position could lead to less confrontation and easier discussions, and perhaps to withdrawn objections.

In anticipation of objections which will go to public inquiry, the report's summaries will also form the foundations of the planning authority's evidence. This will avoid repeating the preparation of the basic case for the public inquiry. The case will only need updating and the adding of specific rebuttals to the objector's own detailed evidence. With the database linkages, the planning authority's proofs and written representations should be more quickly and cheaply produced.

The objectors' counter-arguments and answers can also be easily focused on what they know to be the planning authority's arguments, with agreed matters spelt out where appropriate and with the clear recognition of the residual issues between the parties.

Delegated powers and members' panel

The committee report should set out the need for formal decisions during the negotiation stage, and in the run-up to, and even during, the public inquiry. Guidance for negotiation and possible concessions should be clarified, with the division between those areas of discretion given to officers and to a sub-committee of members familiar with the plan. Such measures will speed up the process, and it will give confidence to the negotiators and the public inquiry witnesses to know the basis for debate and possible compromise.

Consultation within negotiations strategy

On the basis of the dialogue since the beginning of the review, the initial conclusions on the objections and their implications should be discussed with the major participants, and those directly affected by the potential revisions sought by the objectors. Some of these will be supporters, formal or tacit, who could become counter-objectors should the planning authority agree to the objections through revisions.

The initial feedback from such consultation would help to inform the planning authority in its deliberations about the application of the negotiation strategy, and the more detailed consideration of less far-reaching objections.



Selective targeting in practice

As soon as officers are briefed on the matter, they are in a position to begin negotiation with objectors. Whilst most objections are received towards the end of the deposit period, there is no reason why contact should not be made before this time with those from whom representations have been received.

The approach to be taken to individual objections, including the use of mediation, will need to be identified when the objections arrive prior to being processed onto the database. A proforma would best suit this purpose. This should identify the scope for resolution, how the objections should be addressed according to the planning authority's position on certain matters (and subject to a continuing review of the resource implications of the continuing flow of objections), and the member of the team to be responsible for the action to be taken on the objection. It is good practice to assign staff to handling objections for policy themes they are most knowledgeable about, from their role in drafting sections of the plan.

Once the consultation period has closed and all the objections and representations logged, some analysis of the number of objections received, the degree of support, the scope for resolution and the time to be allocated

relative to cost savings at public inquiry needs to be made in order that a deadline for the negotiations period can be set. This may be quite time-consuming, but is essential in determining what level of resource is needed. This task should involve scheduling, in agreement with team members, to determine the number of objections that can be dealt with per person each day.

Within this process, consideration should also be given to any consequential effects of successful negotiations. The possibility, or even probability of counter-objections to any agreed provisions should be assessed and evaluated in the overall context of improving the plan and shortening or prolonging the public inquiry. Public perceptions of the degree of revisions should also be thought through. The involvement of other interested parties, especially formal supporters of the particular proposal or policy, should be considered to balance any revisions and to anticipate counter-objections.

Once the time period has been determined and the handling of negotiations programmed, the date can be set for starting the preparation of the revised deposit and for making the request for an inspector.

Practical application of a negotiation strategy by Wirral Metropolitan Borough Council

Wirral MBC made changes to the deposit plan in response to almost half of the objections received and secured the conditional withdrawal of more than 75% of the objections. With a UDP team of four people, the process took 16 months from the close of the first deposit to the start of the public inquiry, culminating in the hearing of 99 objections of the original 889 received to the first deposit plan.

In this example, the inspector's report contained recommendations in support of pre-public inquiry changes and for 'no change' to the deposit plan for over 75% of those policies considered during the public inquiry. This proved beneficial in writing the modifications, but taking place under the old system meant that these changes still had to be subject to publication requirements. This example however demonstrates that targeting effort in this way can make efficient use of the available resources. This is particularly through reductions to the length of the public inquiry from which there will be cost savings in terms of advocacy and the number of inspector's sitting and reporting days.

Consultation on alternative and additional policies and sites

A potent source of objections is peoples' and organisations' disappointment that their sites or policies have not been included in the deposit plan.

With policies, the objections usually come from interest groups which want their concerns included in the plan, they argue, to give their interests the full weight of Section 54A.

Advice from the Government Office should be sought on the approach to take. Such policies may be specialised, with little implication for other parts of the plan, and unlikely to raise counter-objections. If so, planning authorities may be tempted to accommodate them.

With 'alternative omission' sites for residential development, these are usually in conflict with allocated sites in the plan within the context of the level of provision required from the plan. Often the sites have been rejected as possible options during the early stages. In parallel with an objection to include a site, there will usually be related objections to allocated sites.

At the public inquiry the objector will contest the comparative merits of some of the allocated sites, and promote the alternative site or sites. The results of such comparisons can produce recommended modifications in the inspector's report. Such sites can be very controversial and provoke objection from nearby residents, which could lead, if accepted by the planning authority, to prolonged modification deliberations.

Government advice is that planning authorities might wish to invite representations on such 'omission site' objections. This will assist its case at the public inquiry, assuming that the authority does not negotiate to accept such a site. The respondents to such an invitation have no statutory status in the public inquiry, and may feel frustrated at their lack of opportunity to present their own arguments. The planning authority should consider whether it could usefully add substance to its own evidence to call representatives as additional witnesses in its case.



Advocate and programme officer

The holders of both of these roles should be involved at the first deposit stage. Initial strategic advice is desirable from the advocate on the key issues for the following stages, and the tactics for negotiations and public inquiry. Similarly, the sheer scale of the administration and management of objections requires sound foundations at this early stage with the programme officer able to assist here. Both will prevent weaknesses and inefficiencies pervading into the basic approaches and systems over the next few months.

The decision on an in-house or external advocate should have been taken early in the project for budgeting purposes. With an external advocate, the instructing officer should have been identified and the work allocated.

With a high proportion of written representation cases at the public inquiry (some 80% is usual), the role of the advocate should be directed to strategic and tactical advice together with the coordination of evidence and representations to ensure consistency.

A good approach to the role of the programme officer is for some full-time work around the first deposit to ensure that the comprehensive and efficient database and all the necessary systems are in place and working. There is then some part-time work during the negotiation period to keep abreast of developments and full-time working can recommence around the second deposit and continue to the close of the public inquiry and its immediate aftermath.

Since in-house administrative support has now become usual to help a programme officer in the later peak stages, such a person could with advantage be made available on a part-time basis initially. This arrangement could also cover the intervening period during negotiations, before the programme officer returns to run the rest of the public inquiry stages.

An in-house programme officer could meet these variations in workloads, but it is difficult for authorities to allocate a suitable member of staff to these duties, as well as their regular job. They cannot have the experience of the sophisticated public inquiry process gained by regular programme officers. The most likely source of an experienced programme officer is from a pool of independent individuals. This issue can be explored with the Inspectorate, and as part of the Inspectorate's advisory visits.



Involvement of the Planning Inspectorate

The Inspectorate is a source of advice and guidance on this stage and the consequential steps to the public inquiry itself and beyond. The Inspectorate's Guidance is a good reference document. The specialist Development Plans Group is available for more focused advice on any particular procedural problems faced by a planning authority or objector.

The Inspectorate should be contacted to discuss the likely programme for the opening of the public inquiry and the appointment of the inspector(s). The service agreement with the Inspectorate will also amplify the necessary arrangements. Each planning authority should seek guidance through an advisory visit by an inspector at this stage, perhaps with a programme officer, and again if necessary before the public inquiry opens.

Progress with negotiations

The progress of negotiations should be monitored, tracking the volatile equation of success against resources and timescales closely. The comprehensive committee report will facilitate and test this appraisal, taking full advantage of the database structure to reduce the work involved. It should be practicable to conclude on each negotiated objection, or sets of objections where they have been grouped together.

With continuous scrutiny of outcomes, reporting to the members' sub-committee as necessary, the pattern of achievements will emerge allowing staff resources to be managed and redeployed to best effect.

Major issues may emerge especially if there are significant external events. These may require corporate decisions which would alter and direct the on-going negotiations.

The associated formalities of withdrawn objections and statements of residual disputes will run in parallel to inform the database, the planning authority and programme officer of the latest state-of-play.

Proposed revisions

The progressive recording and annotation of agreed revisions should be carried out to dictate the form and scope of the revisions to be incorporated into the revised deposit plan. This should allow for the rolling programme of any discretionary consultations and ensure that no internal inconsistencies or conformity issues creep into the plan. The advocate should be kept informed of the more significant and unpredicted revisions.

This culmination of negotiations, and the conclusions on revisions, should complete this stage, hopefully in line with projected time-scales and budgets.

However, there could still be discussions that have not yet concluded. These would now have to be reassessed to judge the likely successes in continuing for a short, finite time. This would have to be balanced against the implications of any delay in the programme for the second deposit and subsequent stages.

The only continuation of negotiations that should be contemplated is where major or critical issues are involved and where the gains for all parties would be substantial. This would be likely however to raise the need for a significant 'pre-public inquiry change' after the revised deposit stage, with the consequential implications and complications for the next stages. Such cases should be regarded as exceptional.

The end product of this extended negotiating process should be an improved revised deposit plan, with many objectors satisfied and feeling more involved in, and committed to, the future achievements of the plan. There should also be significant longer term savings in time and expense for many parties and the planning authority, as well as a substantial decrease in the remaining time to conclude the next stages in order to accelerate adoption and positive implementation.

The decision to produce a revised plan will have been taken. With the current procedures it is very unlikely that such a stage would not be necessary and desirable, to produce a better, more informed and acceptable plan. This section deals with what needs to be done to move from the first to second deposit plans and how revisions should be identified and dealt with.

second deposit
plan

Types of revisions

The revised deposit plan will incorporate all the agreed revisions deriving from the negotiation stage.

It will also include any revisions that the planning authority itself wishes to make and which would have been made through planning authority-initiated 'changes'. As well as correcting word processing errors which should not affect the meaning of the plan, these could clarify any ambiguities or insert any amplifications not addressed by objectors, but which would improve the understanding of the plan.

There may also be the need for some up-dating of references, with perhaps a revised PPG or Circular. Again many of these may not entail any material changes in content of the plan, and should be easily accommodated through the revised draft without any likely representations.

There is a wider, more serious issue of updating a draft plan at this stage for new policies, either from the national perspective, as happened with the revised PPG3, or as the structure plan or RPG are being reviewed and revised. In particular, advice on the nature of the new LDFs will be issued by the Department. There could also be possible new implications of the evolving community strategy.

Accommodating all revisions

The clear guidance in PPG12 is that the plan should be as up-to-date as possible at the time of adoption. Consequently, at this stage there is the expectation that the revised deposit plan should incorporate any new external information. It is advised that only 'when a plan is very close to adoption', and has reached the completion of any modifications process that a local planning authority should proceed with its plan unamended to adoption, without further revisions.

At any earlier stage therefore, any need to revise the plan to reflect the latest external policy position should be recognised, and as far as practicable anticipated and incorporated. Continuing close liaison with the Government Office should help with the absorption of such revisions, and there should be continuing dialogue with affected interest groups and individuals. Throughout the negotiations stage, parallel attention to external pressures and influences should be assiduous and structured. Often, the other parties to the negotiations may have useful advance knowledge and information to assist the anticipation of likely imposed factors, to inform the negotiation discussions and to ease any later revisions.

The timescale to cater for any new revisions and likely reactions is difficult to predict, but some effort needs to be made. Any consequential delay to the overall programme would have to be considered.

Overall aspects of the revisions

Within the compass of all the revisions, this is the right time to reassess and reaffirm the plan as a whole to ensure that it is still consistent with the mainstreaming considerations of sustainability, equality considerations, national and regional policy guidance and conformity with the structure plan.



Revised deposit plan

As discussed in section 4.2, the revisions to the plan at this stage should have progressively emerged as the negotiations crystallised. The advice is that –

- all revisions will need to be clearly identified in the plan's text, and any new wording should be clearly differentiated
- it is generally helpful to retain any deleted or superseded wording so that the full extent of the revisions can be comprehensively understood and appreciated, though this can make the document harder to follow
- with the proposals map, there is no need to revise and reprint the whole map. The revisions at this stage should be shown on separate maps or diagrams, cross-referenced to the initial deposit plan, which will be included with the revised plan
- ease of correlation to demonstrate the revisions is essential.

An index of all the revisions should be prepared, with a brief explanation of the basis and significance of each revision, linked back to the initial committee report on the objections. This will also focus potential counter-objectors on any points with which they may be discontented.

Appointment of inspector

The outcomes of the initial contact with the Inspectorate should now be confirmed, with changes as necessary, especially to the requested time for the opening of the public inquiry. The inspector or inspectors should be appointed around this time.

This should, in England, be related to the need for six to nine months notice ahead of the predicted opening of the public inquiry. The two-stage deposit has complicated this estimation, but at the time of finalising the revised deposit, the planning authority should be able to predict the probable timing, and to finalise its request.

The planning authority will know the scope and scale of outstanding objections from the first deposit plan. It should be able to predict the possible reactions and objections to the revisions derived from the original objections. It will be more difficult to be precise about the responses to any 'new information' revisions.

Some thought, and conclusions, will also be necessary to establish how far, and to what specific timetable, further negotiations would be allowed, before the stage is finally set for all the residual issues to go to the public inquiry.

These could include any remaining, critical negotiations from the first deposit stage, as well as any room to manoeuvre on new objections that could arise from the revisions. This flexibility would tend to be minor since the planning authority should have already concluded on all aspects during the negotiated agreement with the objector. The interim targeted consultation during negotiations on possible revisions should have also informed the planning authority of potential new objections, at least to some extent, and been taken into account in reaching a decision on whether to proceed with the revisions.

Overall, combining knowledge of the objections, and possible still on-going, or any new, negotiations, the planning authority should be able to confirm the opening date within the Inspectorate's requirements. This would also inform the decision on the number of inspectors, with any possible specialisms, or the associated use of planning assistants.

Second deposit

With these tasks completed, the planning authority should proceed to follow the similar steps to deposit the revised plan, and to invite representations. Because of the relatively new two-stage deposit procedure, it would be worth emphasising very clearly what is required at this stage to avoid any confusion, and wasted time for all sides. This is that the planning authority should –

- follow the statutory procedures accurately and assiduously, avoiding costly inaccuracies and errors
- fully and clearly explain, in all appropriate languages, that objections at this revisions stage can only be accepted when they relate to the revisions, and that objections to the original deposit plan, or its omissions, will not be accepted. Some potential objectors, may have 'missed the boat' at the earlier stage. It must be remembered that this has already been a long process, and existing objectors who were active and correct at the first deposit could be prejudiced if very late objections to the original plan were to be entertained at this later stage. This will apply whether the points of objection are similar to others already made, or on entirely new aspects
- publish a parallel explanatory statement summarising the main changes made through the revisions, as this may help to make the statutory position clear. This should use the same information base as the schedule of revisions already advocated, to save time and costs. By concentrating public attention on the revisions only, this could reinforce the messages about the tight limitation on the grounds for objection this time around
- focus specific consultations with known interest groups, as this could help to streamline appreciation of, and responses to, what is proposed to be revised. This in turn should channel objections onto the new aspects in the revised plan, and build upon the recommended dialogue during the negotiation stage. This should be considered in the context of the participation strategy – see section 3.4.

Objections

These should be treated in the same way as objections to the first deposit, as set out in section 4.3. Additional care will be needed to distinguish between valid objections and those to the first deposit which might still slip through the planning authority's sieve. The established database will accommodate these new objections, but they should be distinguished by a different prefix.



Withdrawn objections

An object of widening the scope and scale of negotiations is to reduce the length and costs of the public inquiry. The introduction of the two-stage deposit has formalised the 'changes' regime that had progressively evolved to reduce the number of issues and conflicts at public inquiry. 'Changes' were effective as they led to a 'conditional withdrawal' of many objections. The inspector was still required to conclude on such withdrawals, but if there was no conflict with national guidance or counter-objections, he or she would deal with them quickly. PPG12 and the *Code of Practice (A Guide to Procedures)* advise that in the case of negotiated solutions where a formal revision follows in the revised deposit plan the objector should withdraw the objection. This would then achieve the full benefits of the new procedure.

Planning authorities should press satisfied objectors in writing to withdraw, but without the strength of statute or regulations, there may be a lack of incentive to comply. The inspector would still have to deal with an extant objection, in the same way as with 'changes' and 'conditionally withdrawn objections' before. There will be savings in public inquiry time, but not as much as there could be.

With partially successful negotiations, Government advice is that the agreed issues should be identified, and a written statement about the unresolved parts jointly set out for the public inquiry, with some time saving for both parties at the next stages. The satisfaction and withdrawal of objections should also increase active involvement and the recognition of the plan as a community and business project, which is also open to refinement and improvement through the formal processes.

Professional assessment of objections

By this stage of the process, the original objections would be well known. The topics and tone in most new objections should also be well-anticipated, and seen as part of the public inquiry part of the process. The main considerations will be the degree and content of opposition to revisions where the planning authority has now committed itself to satisfy original objectors. The differences will be subjective, and the planning authority would have already weighed all the considerations in reaching its conclusions to alter the original proposals. There should not be a need for much additional consideration, unless the objection introduces new factors not already taken into account. In such exceptional circumstances, the planning authority may wish to reconsider, especially if the subject of the objection(s), such as a new residential allocation, is highly controversial. This would involve further discussion with the original objector(s).

With objections to 'new information' revisions, the position could be more difficult. The reactions may be hard to anticipate, and may involve policies outside the planning authority's direct control to resist. Guidance from the Government Office should be sought, and if necessary consideration might be given to employing consultants to meet any new objections on specialist subjects.

Negotiations and pre-public inquiry changes

The planning authority will have reached the necessary conclusions on how to deal with each new objection. At this stage after months of deliberations, most objections would be accepted as needing to be settled through the public inquiry. As with the first deposit objections, however, the classification could find some objections that might be negotiated away.

To deal with these, a very restricted timeframe should be set prior to the agreed time for the opening of the public inquiry.

Some objections could be thought to be quickly resolvable, and there may be others where a concentrated but longer input of resources could save a lot of public inquiry time.

There is still the provision to create pre-public inquiry changes to achieve these types of solutions. However, PPG12 strongly advises that they should be exceptional. The main reason is that, as in the pre-1999 position, there can be implications and problems at the later modifications stages.

While the planning authority can publicise such changes and seek representations, they cannot be considered as formal revisions to the plan, even if upheld at the public inquiry. They will need to be formally incorporated into the plan through the modification process, and could require a further public inquiry.

The balance is one for the planning authority to consider carefully, in the potential saving of public inquiry time and costs, in identifying all likely representations and the risk of a modifications inquiry.

Public inquiry programme

By this time, the public inquiry is looming with its strict, rolling programme for evidence, and time for all of the preparations is starting to look inadequate. The continuing negotiation and consideration of objections conflicts with the need to get on with refinement of the public inquiry strategy and tactics, as well as the preparation of all the evidence. The same staff are having to do both. The planning authority's overall consideration of when to call a halt to negotiations should be informed closely by the management of the planning and legal resources to cope with these conflicting demands. The project manager will need to be fully involved in this part of the process and balance the time and resources to make necessary decisions.

At worst the public inquiry could be allowed to slip, by rearranging through the Inspectorate for a later opening date. However, this can cause serious problems for the Inspectorate, the programme officer, and the objectors and their advisors, and should be avoided if at all possible. Postponements can also undermine the motivation and confidence of the authority's staff. Delays would have consequences for the adoption of the plan, as well as opening up the possibility of more new information emerging to cause further complications.

Therefore this second post-objection period should normally be tightly structured and resourced to prevent these conflicts disrupting what is becoming the all-important work to present the best evidence and arguments at the public inquiry. If resources allow, some separation of continuing negotiations from the preparation of evidence for all the other public inquiry cases would help to overcome the inherent conflicts. Advance anticipation of this situation, in the original project plan, and its subsequent review at key stages, could remove some of this problem, but firm decisions on the final planning authority's position on each objection is the best and more realistic approach.

On the basis of the above guidance, preparations for the public inquiry should be ready to continue in the intensive next few months.



Good management of the preparation for the public local inquiry and of the event itself can make a valuable contribution to the overall plan preparation process, and have an even higher proportionate benefit in terms of cost to the planning authority and other participants. This is also an area in which the principles of good practice are well established and these only need to be outlined here.

the public
local inquiry



Generally

The Planning Inspectorate's *Guidance on Development Plan Inquiries* provides valuable advice. In addition in November 2001 the Inspectorate issued advice on Best Value approaches to the operation of the development plan public inquiry process. Access to good practice will be reinforced by the future availability of the comprehensive Planning Portal – see section 3.5. This guide does not repeat the advice in detail.

There are general messages to note, and then advice related to the particular aspects, broken for convenience into the sequence of the public inquiry as part of the overall process. The material is written as good practice points that the planning authority should aim to follow.



- check the obvious, but surprisingly neglected, need to make sure that all the statutory and formal requirements associated with the public inquiry are met, and on time, especially the need to advertise the public inquiry and notify all representees
- view the public inquiry holistically and positively from the very start of the plan-preparation process as an essential testing of the plan to meet objections and criticisms, as an opportunity to accommodate refinements and improvements, and to arrive at a practical plan as an implementable product
- set down, and have approved by members, a practical strategy and timetable for the whole public inquiry, particularly any delegated room to manoeuvre to make concessions – related to, and refined from, the earlier negotiation strategy
- plan the most economical use of resources, by seeking the resolution of objections where practicable, requesting the most effective method for considering each objection, in order to minimise the duration of the public inquiry and subsequent inspector's reporting, consistent with fairness to objectors
- secure sufficient, competent resources, especially additional staff-time to cope with the demanding public inquiry
- ensure thorough preparation at all stages.

Before the public inquiry

- appoint an independent, experienced programme officer of the appropriate calibre, preferably part-time from the first deposit stage
- take advantage of the Planning Inspectorate's offer for an advisory visit to clarify any particular procedural aspects, and to plan a realistic budget. Involve all 'players' at this stage, especially the advocate and programme officer
- ensure that the tailored database is robust and complete, and designed and able to cope with all aspects of the public inquiry and all consequential requirements up to adoption. Seek a ready-made public inquiry management system – commercial packages are available
- clarify the meaning and intent of all objections, and the scope of residual issues and make firm, consistent decisions on any late objections.



Project management and programme

- plan the management of the public inquiry within any necessary refinement of the project management framework of the whole plan-making process
- appoint a public inquiry manager or coordinator, such as a senior planner who manages the overall and day-to-day running of the public inquiry, and to act in direct liaison with the programme officer, preparation team members and other officers, members and the objectors
- decide a realistic timetable for preparation time up to the pre-public inquiry meeting and the public inquiry itself – the planning authority proposes the date for the opening – and update the programme accordingly
- select an appropriate venue which has disabled access, is accessible by a range of modes of transport, provides a range of public inquiry rooms, meeting rooms, programme officer's and inspector's rooms, library and photocopying facilities
- ensure that the fundamental logistics are satisfactory, for example venue, equipment, public inquiry library, and administrative support
- appoint the advocate early – to advise and coordinate evidence and to prepare the planning authority's opening statement
- identify the necessary staff resources and expertise required to prepare evidence and appear at the public inquiry.

The Planning Inspectorate

- confirm appointment of the inspector(s), giving details of numbers of objections, main issues, likely duration and preferred opening date.
- discuss with the Planning Inspectorate any need or request for more than one inspector, and/or the use of a planning assistant, to expedite the public inquiry, and to reduce the delivery time for the report
- discuss with the Planning Inspectorate and the programme officer the production of the skeleton report.

Objections

- encourage the combined presentation of similar objections
- continue to secure as many withdrawn objections, in writing, as practicable, including any partial withdrawals, with joint-statements of points of agreement and residual disputes. Distinguish between conditional withdrawals and unconditional withdrawals
- continue only with negotiations that would produce large, or vital, savings in public inquiry time.

Pre-public inquiry meeting

- a good representation of planning authority participants should attend
- use the meeting positively to seek a realistic programme related to planning authority resources, to set out the authority's overall stance, to confirm the need for short and focused evidence and to anticipate the likely difficulties at the public inquiry
- discuss which topics and objections might be dealt with by round table sessions
- use the notes of the meeting as an opportunity to clarify the timetable and requirements for objectors' written representations and proofs of evidence, and to provide guidance on number of copies, style, numbering and other logistical and administrative matters.

Evidence

- propose informal hearings and written representations, where practicable, to save time, money, and often stress, for all participants
- develop standard proformas and formats for proofs and written representations to ensure a consistent approach
- keep evidence tight and focused – eliminate excessive detail, irrelevancies, gratuitous appendices, all of which add bulk more than value
- plan the effective use of witnesses, allocate specialists and experience levels to best effect – do not overstretch staff and use teamwork and timetabling to spread tensions – co-opt other specialists or consultants
- do not forget that the other work carries on making demands on staff time
- build all evidence upon the foundations of the issues and responses set out in the initial comprehensive committee report on objections
- focus on the modifications sought
- the format should mirror the format of the inspector's skeleton report by dealing with the differences between the objector's and the planning authority's cases and concluding on whether a modification would be justified
- draft proofs as early as possible, especially core proofs or topic papers
- establish as much common ground and undisputed matters as possible
- draw up a tight, rolling timetable for finalisation of succinct, focussed proofs and summaries in relation to the public inquiry programme
- schedule, and do not underestimate, resources for the numerous and equally important written representations responses, and formulate a detailed programme in parallel with the public inquiry programme to avoid possible slippage and delays near the close of the public inquiry. Combine with the public inquiry proofs as far as possible to optimise and economise efforts on all responses
- decide the tactics for incorporating any supporters into the process, including any involvement in the public inquiry to add to the planning authority's cases.

Changes

- avoid changes made during the public inquiry unless essential, ensure those made are appropriate, consistent, and do not have any unintended knock-on-effects
- minimise, record, publicise and notify all pre-public inquiry changes
- negotiate if practicable with counter-objectors and involve them in the public inquiry process to try to avoid consequential delays at the modifications stage
- prepare a comprehensive 'changes document' as this needs to be available before the public inquiry is closed.



The public inquiry

- follow normal procedures and best practice. The *Code of Practice* provides a general guide to procedures
- follow the programme of appearances for formal sessions, hearings and round table sessions, and the rolling programme for deadlines for evidence. Be prepared for adjustments to the programme throughout the public inquiry.
- liaise with the programme officer about timetabling necessary breaks to allow for preparation and catch-up, and to take account of any staff commitments
- ensure expert evidence is given by appropriate internal staff or external consultants, and that it is consistent
- monitor staff stamina and welfare
- before the close, check on the implications of any new events and late information since the public inquiry opened, and assess the consequences for adoption after receipt of the inspector's report.

After the public inquiry

- retain the programme officer and as agreed with the Planning Inspectorate, secure the public inquiry library and all public inquiry documentation
- provide the finalised public inquiry database, up-dated to the close of the public inquiry
- finalise, and monitor, report delivery timetable with the Planning Inspectorate
- take stock of the likely outcomes of the public inquiry – anticipate probable and possible ‘losses’. Explore their consequences, discuss with members, and continue dialogue with involved parties, and the community and interest groups
- prepare to meet the ‘eight weeks from receipt’ publication date for the inspector’s report with any necessary committee timetables and press releases
- check on and monitor all new events and late information since the public inquiry closed which could effect the consideration of the inspector’s report, and complicate or delay the speedy progression onto the modification and adoption stages. Discuss with the Government Office as necessary.
- maximise the use of staff resources and undertake work related to monitoring for instance
- it may also be useful to compile a report detailing the experiences of the plan preparation process to date and identifying any opportunities for change at the next review stage.



4 *part six*

modifications and adoption

This section identifies general points and specific matters related to the two stages of the process following the receipt of the inspector's report.



General

These two stages should have been identified from the outset as the culminating stages of the project programme and with the 'end in sight', should be tackled with the same commitment to minimise delay that should have influenced every previous stage.

The modifications stage should have been anticipated after the close of the public inquiry and as much preparatory work as practicable carried out to expedite the final stages. Though the modifications stage can be vulnerable to unexpected delays and costs, there really should be few surprises left in the process.

Close contact with the Inspectorate over the timetable for delivery of the report will ensure that the team is able to move quickly when it arrives.

Remember that all of the revisions built into the revised deposit plan are not required to be publicised at the modifications stages unless they are the subject of counter objections as they are already part of the planning authority's plan. If an original objector did not withdraw the objection, despite the invitation to do so, once his or her objection has been met by a formal revision, the inspector would still have to report to the planning authority. The planning authority would need to formally accept that the objection had been dealt with, although no modification action would be necessary.

modifications



adoption

Receipt of the inspector's report and the analysis of the proposed modifications

The actions to be taken once the inspector's report is received are to –

- publish the inspectors report as soon as possible and certainly within eight weeks of receipt
 - make sufficient hard copies available at reasonable cost as well as access to the electronic version of the report
 - be prepared for publication when this takes place, briefing members and the local press about the timescale and by making arrangements to let objectors know when and how the report is available
 - have the necessary staff resources in place, preferably with the same team members who have brought the plan to this stage, and make provision for involving the legal and other advisors involved in the public inquiry
 - identify any material omissions from, or points of clarification about, the inspector's report and urgently seek any necessary formal addendum or corrections from the Planning Inspectorate
 - analyse the contents and the inspector's list of recommendations, correlating these by topic or area
 - brief the members with the overall picture, and on confirmed conclusions and unexpected conclusions, but be prepared to leave detailed consideration of every part of the report until after the statutory publication, by assessing what will be the most significant matters
- prepare a full committee report, using the existing database, and material from the skeleton report and original committee report to minimise the additional work and time needed
 - assess the full impact of the most significant recommendations and analyse the possible effects on the plan's strategy. Any alternative solutions recommended need to be analysed too, to see if they would produce a more realistic plan for instance, and to see whether the planning authority can accept the change
 - check the actual recommendations against anticipated conclusions and correlate with the anticipated reactions that have been discussed with the members and possibly with other interested parties
 - decide whether to accept or reject each recommendation by the inspector
 - ensure that the committee report and subsequent decision given in the statement of reasons accompanying the proposed modifications give clear and explicit reasons why any recommendations are rejected. Inadequate reasons or simple repetition of the planning authority's original ideas are the most likely matters for legal challenge.

Proposed modifications

Where the accepted recommendations require a formal change to be made to the plan, modifications are required. The output is a list of consequential modifications which the planning authority proposes to make to the plan. These should all relate to the initial public inquiry and have been fully discussed. However, the list of modifications and reasons for making them still have to be advertised using the statutory procedures. There is a right of objection to these modifications and to the failure of the planning authority to accept any of the inspectors recommendations.

Other possible modifications

The planning authority can further modify the plan at this stage with inconsequential modifications primarily to bring it up-to-date with new considerations arising since the public inquiry closed and during the usually substantial reporting stage for the inspector.

There is a balance to be struck between a completely up-to-date plan and the need to have an adopted plan as soon as possible. A modifications public inquiry may be needed if the latest position introduces new issues that have not been publicised and the opportunity to object and present evidence has not been given.

Post-public inquiry events

The impact of events since the close of the public inquiry is potentially a problem. These may be the publication of a new or revised PPG. The inspector will have to take into account any such new Government policy guidance in her or his considerations and conclusions in the report and specifically draw such implications to the planning authority's attention.

Other events or publications would have to be taken into account by the planning authority. Planning permissions or refusals may affect sites within the plan, or disturb the planned locational balance of allocations to meet housing or retail needs. There could be a new transport investment programme.

None of these considerations should be proposed for the plan as additional modifications without very careful consideration of the consequences on the need for a modifications public inquiry. Where the decision is within the planning authority's own control it might be better to press ahead with the adoption of the plan as already revised, and carry out a quick and probably partial review through subsequent formal alterations. This would be appropriate where the new factor is confined to one part of the district or to one policy area.

With matters outside the planning authority's direct control the best course of action should be discussed with the county council, or Government Office. Government guidance is contained in PPG12, and the main advice is to accommodate the latest position unless the plan's progress is very advanced, that is, the modifications process has already been completed.

The need for a modifications public inquiry

At this stage no planning authority welcomes the additional time and resources required for a possible second public inquiry. Government advice is that a modifications public inquiry will not normally be necessary, but this is entirely a matter for the planning authority to decide. There are clear legal constraints on the planning authority's room to manoeuvre. This is based on the premise that to avoid the need for a modifications inquiry, no new issues should be included in the proposed modifications which have not been fully considered through the public inquiry part of the process. The exception is where it is concluded that a modification would not materially affect the content of the proposals. The corollary is that new issues would require a second public inquiry.

The earlier advice for the public inquiry stage emphasises that planning authorities should make special efforts as far as they can that all issues are fully aired before the public inquiry closes. Particular care would be necessary to ensure that all pre-public inquiry and during-public inquiry changes (which should be few) had been satisfactorily publicised to the extent that all issues, any potential objections and consequential modifications had already been considered at the public inquiry.

Risks with the decision

There has been significant case law on this issue, which is always evolving and should be studied with care. The critical balance between ensuring that there have been reasonable opportunities to debate the issues surrounding any proposed modification, and the need to adopt development plans after their main public inquiry so that all the interests and intentions covered by the plan can be progressed without delay in order to implement the desired strategy. There appears to be little support for the same issues to be debated again, by different parties. The planning authority should decide and fully explain its reasons for its actions and decisions.

Modifications documents

Considerable thought should be given to the presentation of the proposed modifications document. Continuing with the approach used at the second deposit stage would link the changes directly to a policy and provide the full context for them. All approaches should –

- consider the audience and their requirements, and aim to keep the document as simple as possible and avoid having to cross-refer to other documents, including the deposit plan
- provide clear referencing of policies, objections, objectors, site-specific issues and inspector's recommendations
- use brief indexes to summarise the modifications
- repeat in full the recommendations, reasons and changes as reference to earlier comments or other documents complicates the process for objectors
- provide clear, explicit and detailed reasoning
- detail all changes to the policies and text and set them in context. Use the same format and font as in the original plan. Colour coding may be helpful
- include maps to illustrate the modification, ensure they are cross-referenced to the objection and policy and are explicit about what is proposed.

The modifications should be published and notified in accordance with the Regulations. Particular care should be taken with the statutory notices.

Consideration of objections and decision on second public inquiry

The planning authority should consider all objections made and decide if any relate to the original deposit or revised deposit plan, rather than the modifications or matters already fully considered. These types of objections should not require further consideration.

If there are objections where the planning authority considers that there has not been a satisfactory opportunity to air all the relevant issues, then a further public inquiry could be necessary.

The planning authority also has to consider if there should be any further modifications in response to any of these objections – if so then there needs to be another round of publication and the opportunity for further objections.

With the amendments introduced in 1997 to the Regulations, once a decision is taken to hold a further public inquiry, the planning authority no longer has to consider all objections at the public inquiry. The planning authority now has the discretion to select those to be considered, related to the new issues identified not already dealt with. If a public inquiry is to be held, its scope and remit should be made explicit.

The planning authority should produce a report considering all objections. It is important that the reasons for not holding a second public inquiry are made clear.

It will then proceed to adoption of the plan.

Adoption

This notional end of the process is governed by clear statutory procedures. These should be strictly followed and the Regulations and forms in the prescribed format used to ensure that a statutory development plan is achieved.

Intention to adopt

The planning authority cannot adopt the plan until it has given notice of the intention to adopt.

During this time the Government Office has the power to –

- issue a direction requiring that the plan should not be adopted without specific modifications
- call in the plan for determination
- issue a holding direction requiring the planning authority not to adopt the plan until further notice.

Notice of adoption

Presuming these powers are not used, the planning authority proceeds to issue a notice of adoption. This states when the plan was adopted and gives a six week time period from the date of publication of the notice for any application to be made to the High Court to challenge the validity of the plan.



makingplans...
a new start

This is the end of the guide. If you have reached this point from reading through the guide, well done. If you have started at the end of the guide because the review of the plan has been adopted, well done on that count, but the guide is still worth reading.

The adoption of the plan represents the culmination of a great deal of effort and perseverance. In the process of making plans it is an end of sorts, though in the bigger view of things it is the completion of an important stage in a continuing process.

The guide started with the important message that the plan has to be dynamic and is part of a perpetual cycle. It finishes on the same theme. The big task of making better places with good plans carries on. With the plan adopted, what needs to be done now to make the most of what has been achieved, to ensure that the area benefits from influential and effective planning, and to prepare for the next review? Four tasks are suggested.

First should come some reflection. A lot will have been learnt from the review of the plan. This should not be allowed to be lost with the pressure of work, the passing of time or changes in personnel. What was done well and what could have been done better needs to be identified and recorded in a way that will influence the work to come.

This knowledge will come from a number of sources. The project manager should have a lot to contribute from his or her role, and if the advice has been followed, will have the 'team leaders log' to draw on and to jog recollections from a seemingly (though hopefully not) distant time.

Specific matters on programme on which there are likely to be lessons to learn or useful experience to store are –

- the reasons for the time taken compared with the original programme
- what could be done to save time and to reduce the impact of unforeseen events
- how long specific tasks took, to assist in producing future programmes.



Skilled team management will have ensured that the views of all in the team have contributed to the work, even where these might have differed from the project manager's initial view. In the debriefing, the views of the full team on the process they have been through should be collected. A workshop devoted to the task of collecting views and using these to lay the foundations for future work would be good practice, very soon after but separate from the adoption party (though this would also be good practice).

If the planning authority is using the opportunities offered by Best Value, it may have a community forum in place. This or other groups or networks established during the participation work could be used for advice on how the involvement of partners and participants has worked from their point of view. This experience should be sought. The planning authority might most need to hear from people who ought to have been better involved and it should seek this out too. Rounding off the participation process from this review of the plan will again lay the foundations for participation in the next.

If the messages of the guide have had some influence, or have confirmed what was already happening, a system of monitoring will be in place and directing effort to ensuring that monitoring is going well is the second of the tasks to

be addressed now. How the monitoring is done will determine whether the value in the plan is realised and recognised. The dynamics of the planning process and the need for monitoring have been emphasised, but as a reminder –

- the policies in the plan dealing with development provision may incorporate phasing mechanisms and trigger points that will need to be managed through purpose-designed monitoring
- checking on the delivery of the strategy will enable timely adjustments to any implementation plan in discussion with relevant stakeholders
- knowing how changes taking place in the area can be attributed to the influence of the plan will enable the next plan to be more effective where it does have influence, and to not suggest that it has influence where it does not.

Everybody should be able to find out whether the plan is delivering a valuable contribution to the objectives it sets out. Monitoring is not just about numbers. Monitoring should let people know whether the place is becoming more or less like the vision set out in the plan.

It will be some time before people in the area see the next review of the plan emerging. In the meantime the

planning authority should look for ways to keep the role of the plan in the public eye. The way that plan, monitor and manage has been embraced may mean that this happens through frequent adjustment of the development provision. In any case the planning authority should look for ways to make the findings of the monitoring process known, through a newsletter and its website perhaps, and it should seek opportunities to link news about what is happening in the area to the influence of the plan.

The third task that will engage some of the time of the preparation team will be that of tracking changes in the policy context (or of any other type) that will effect the life or value of the plan and which will have to be taken on board in the next review. This will be more easily done where there is an involvement in the formulation of strategic policy, or with the studies required by regional planning guidance, but should be done on a systematic basis anyway. All of the policy changes examined should be reported to members with their implications for planning for the next review, as well as for the planning of the area in the meantime.

The fourth task will be to revisit the information base for the plan, perhaps to do the things for which time could not be found before. What is needed will be identified

from the previous tasks, the reflection on what has gone well and less well, the monitoring of the plan in use and from new needs prompted by policy changes. The types of information from which a plan is built – with the addition of wisdom – have been discussed already in the guide.

making plans began by suggesting a set of prerequisites for success. The planning authority will know from experience whether this advice was good and with the benefit of the acquired experience should put in place what is needed for an even better review to be prepared next time.

