

LOCAL PLANS

THE BIG PLANS



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## Background

1. In addition to strategic planning at local planning authority level, there is an increasing number of city regions producing their own plans. As set out below, these ‘big plans’ have a significant role to play in strategic policy for bringing forward development in England’s major cities. This paper that accompanies the recently released podcast, covers some of the key issues for developer and LPA clients alike.
  
2. As creatures of statute, the powers of the combined authorities acting under their bespoke devolution settlements, are set out in various pieces of primary and secondary legislation. Not all combined authorities are made equally, some have planning and strategic development powers, others do not:
  - 2.1. London - Strategic planning in London is the shared responsibility of the Mayor of London, 32 London boroughs and the Corporation of the City of London. The Mayor has to produce a spatial development strategy (SDS)<sup>1</sup> – ‘the London Plan’ – and to keep it under review. Boroughs’ local development documents have to be ‘in general conformity’ with the London Plan, which is also legally part of the development plan that has to be taken into account when planning decisions are taken in any part of London unless there are planning reasons why it should not. There is ongoing wrangling over the London Plan, but the aim is to adopt in Summer 2020.
  
  - 2.2. Greater Manchester<sup>2</sup> – Strategic planning is devolved to the Mayor<sup>3</sup> with a mirror of the powers given to the mayor of London in this area under the Greater London Authority Act 1999 (‘the GLAA’). The Greater Manchester Spatial Framework will apply to all the LPAs, who will produce their own plans with more specific policies. It is the strategic framework covering distribution of development, infrastructure, transport, economic development and, very contentiously, green belt boundaries. GMSF has had a tempestuous

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<sup>1</sup> Greater London Authority Act 1999, Part 8.

<sup>2</sup> The combined Councils of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan.

<sup>3</sup> The Greater Manchester Combined Authority (Functions and Amendment) Order 2016, part 2.

journey to date, but the stated aim is to adopt the plan in December 2021 with examination May – October 2021.

- 2.3. Liverpool City Region<sup>4</sup> - As with Manchester, the enabling secondary legislation<sup>5</sup> refers back to the powers in the GLA. The first round of consultations on the Strategic Development Strategy ended in January 2020.
  - 2.4. West of England<sup>6</sup> - Enabling powers<sup>7</sup> set out as per Liverpool and Manchester. However, the West of England plan (not drawn under the West of England SDS powers) appears to have really hit the buffers as in January this year North Somerset and BANES had withdrawn.
3. In addition to the spatial planning powers of the above combined authorities, local planning authorities can come together to agree joint strategic plans<sup>8</sup>. Some of those include:
- 3.1. The Black Country Plan<sup>9</sup> is currently preparing the reg 18 consultation draft.
  - 3.2. Greater Exeter<sup>10</sup> – has completed reg 18.
  - 3.3. The Oxfordshire Plan<sup>11</sup> is looking to adoption in March 2022.
  - 3.4. The South West Herts Local Plan<sup>12</sup> signed an MOU to take the work forward in February 2020.
  - 3.5. The South Essex Plan<sup>13</sup> aims to consult on a draft in the first half of 2021.

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<sup>4</sup> Combined Councils of Liverpool, Halton, Knowsley, Sefton, St Helens and Wirral, with West Lancashire Borough Council attending by request as an Associate Member of the Combined Authority for Spatial Planning.

<sup>5</sup> The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017, Part 2.

<sup>6</sup> Bath & North East Somerset, Bristol and South Gloucestershire.

<sup>7</sup> The West of England Combined Authority Order 2017.

<sup>8</sup> Section 28 Planning and Compulsory Purchase Act 2004.

<sup>9</sup> Dudley, Wolverhampton, Sandwell and Walsall Councils.

<sup>10</sup> East Devon, Exeter, Mid Devon and Teignbridge and Devon County Council.

<sup>11</sup> South Oxfordshire, Cherwell, Oxford City, West Oxfordshire, Vale of White Horse, Oxfordshire Couthy Council.

<sup>12</sup> Dacorum BC, St Albans City and District, Three Rivers and Watford BC.

<sup>13</sup> Basildon, Brentwood, Castlepoint, Essex, Rochford DC, Southend on Sea BC and Thurrock.

## **Why bring forward Combined Authority or Joint Strategic Plans?**

4. In September 2018, Kit Malthouse, then Minister for Housing said:

*Our general thrust is for groups of local authorities to come together to form a kind of strategic partnership and vision for a particular region or area, fundamentally so that we can fund the infrastructure that's related to it."*

*We are unable to put the infrastructure that's required through the [Housing Infrastructure Fund] against proposals unless they have that kind of pan-regional or cross-area coordination.*

5. The benefits that have been put forward are remarkably similar to the advantages put forward as part of the now defunct regional planning. It allows authorities to come together and coordinate on larger cross-border infrastructure projects. The JSPs cover longer time periods and are allowed to take a much more strategic approach.

## **What goes into combined plans and JSPs?**

6. In general it is the same content as in local plans, but operating at a higher more strategic level.
7. They are a high level planning framework for local authorities involved and they should set the strategic direction across the area. It should address critical Duty to Cooperate issues including overall housing target & distribution and strategic infrastructure. They do not have to include site allocations provided it can be demonstrated that these are to be dealt with through other mechanisms such as brownfield registers or non-strategic policies. One of the more complex issues is that it must be based on a shared vision/ambition.

8. The plans must still be found sound in accordance with the NPPF. Requiring it to be positively prepared, justified, effective and consistent with national policy. Tests for soundness of local plans are to be found at paras.35 and 36 of the NPPF2019.
9. Once the examining Inspector(s) have found the plan to be, or not to be, sound, the Courts have been extremely reluctant to go behind that planning judgment.
10. The same issues that derail local plans, have exactly the same potential to knock JSPs off track. For further information on this, check the paper on Local Plans - the Do's and Don'ts.

### **Can the combined authority plan and JSP amend the Green Belt?**

11. This is one of the contentious issues in the GMSF. The short answer is yes. The oddity in the system is that the powers for Spatial Development Strategies under the orders empowering the Combined Authorities do not enable amendments to the GB boundaries. So, for example, the GMSF is not being produced under the regulations specifically designed for the SDS<sup>14</sup>. So GMSF is being produced under the s.28 PCPA
12. The more complicated question is how this is done. The removal of land from the GB is only in exceptional circumstances (NPPF§136) and after demonstrating that all other reasonable options have been fully examined (NPPF§137).

### **What lessons can be learnt from the combined authority plans and the JSPs to date?**

13. Many of these plans are still in development, but some of the early lessons include:

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<sup>14</sup> Combined Authorities Spatial Development Strategy Regulations 2018

- 13.1. Setting the vision out clearly is the essential starting point. Agreeing shared priorities requires as much work as agreeing the duty to cooperate in standard single authority plans.
- 13.2. Whilst the time horizons can be long, enabling long term strategic planning, it means that the wording of policies need to be flexible and capable of responding to changing circumstances. The long time horizon is not a chance to kick big decisions to a later date, it is about setting the framework for future delivery, not an opportunity for deferring strategic decisions.
- 13.3. It is essential that all authorities involved buy in to the plan throughout the process. Authorities can pull out of the plan at any of the stages. Therefore constant engagement across the authorities is essential
- 13.4. Clear decision making structures - this is linked to ensuring buy in throughout the process.
- 13.5. Keeping on top of the timescales and resources. It will take financial and time resources to bring forward a successful plan.
- 13.6. Don't think that the big hand, small map approach means that less evidence is required. The plan must still be found to be sound.
- 13.7. Ensuring coordination between the higher level strategic plan and the LPA level plans is an ongoing task. Not only does the content need to align, but the timetables also require careful management – see for example the ongoing issues in the delayed GMSF.
- 13.8. Engaging with all stakeholders, including, for example, the LEPs who will be in charge of significant funds.
- 13.9. Beware the politics – the pace of plan development is glacial at best. Where the politics change, plans can fall. If development is to play a key role in the economic recovery, then politicians of all stripes must buy in.

- 13.10. The city regions engaged in strategic planning are often highly constrained and therefore land is at a premium and often to meet need, GB release is needed. Strategic planning is the best way to undertake these detailed and complex decisions

### **What lessons can be learnt from the now defunct regional spatial strategies?**

14. The bargain between the increased democracy and engagement in local plans versus the top down approach from the RSS.
15. However, the top down pressure is arguably essential to incentivise the tough decisions on GB release. Need must be met, but local politics frequently make it difficult to release GB land. There is a political advantage to top down targets for those operating at the local level. A combination of the Standard Method and the old top down pressure from the RSS, could be a means of driving delivery forward to meet the 300,000 homes a year target. Such an approach linked to city regions that operate as coherent spatial areas, may see development catalysed in the future and linked to the necessary infrastructure development.

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