

POS response to government consultation on planning powers for mayors in England

POS is the single credible voice for public sector planners, pursuing good quality and effective planning practice. The Society's aim is to ensure that planning makes a major contribution to achieving sustainable development in ways that are fair and equitable and achieve the social, economic and environmental aspirations of the community.

We operate in three main ways:

- As a support network for planners in the public sector
- As promoters of best practice in planning
- As a think tank and lobbying organisation for excellence in planning practice

Where we can, we will work across the sector to craft proposals that have widespread support from the people who operate the planning system at the coalface: landowners, developers, agents, legal, local authorities and politicians. We will be both radical and practical as we look for solutions to tangible problems that will make a real difference to crucial areas. Our objective is to improve the planning system to enable it to deliver its key aim of sustainable development.

POS Response

Question	Proposed response
Question 1 Do you agree with the proposed PSI application categories for areas outside of London, as set out in Annex A? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why, please reference specific categories.	Disagree 1. Definition of an PSI application - The consultation document suggests setting common thresholds and definitions of PSI applications based on those currently used in London, in advance of SDS being adopted. This is important because the Mayor of London Order requires the Mayor to be satisfied (S7(1A) Impact Criteria) that "the development or any of the issues raised by the development to which the PSI application relates is of such a nature or scale that it would have a significant impact on the implementation of the spatial development strategy" before they can call an application in. The new Mayors should operate in the same way, so an SDS must be in place first. Whilst having a common process is useful for the interim period prior to the SDS being adopted, each area will be different in terms of its strategic priorities and the scale at which these are likely to impact. For example, some of the SDS areas will be largely rural and some will have extensive National Park coverage where other categories of development could have a significant impact and be vital to the delivery of a strategically important

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	growth area in the SDS. Once an SDS is adopted, each SPA should therefore be allowed to set out its own definition of PSI applications, relevant to its own area, which should be in terms of scale (size thresholds), location (within SDS growth areas) and type of development (for example, to support a priority growth sector). These locally set thresholds clearly need to be scrutinised before being introduced. POS considers that there are two ways this could be done: • As part of the SDS examination process so that locally set PSI thresholds are justified and scrutinised within the context of the SDS before they take effect, however this does run the risk of overloading this process and delaying the introduction of SDS. • By the SoS after the SDS is in place so that their justification can be considered in that context. 2. Skills and resources - The consultation document makes it clear that resources to support the PSI application process should be funded by the MSA, although there is an opportunity for some discretionary charges to support pre-application services. There are challenges in planning resources across England, especially for Development Management and even more so for the experience and various specialist skills needed to support strategic applications. It is likely that the SPAs will be trying to attract the same small group of experienced planners within the LPAs which will put even more stress on the system. Different models of supporting planning across both LPAs and SPAs will be needed in the future, which includes shared resources hosted by the Mayoral Authorities. The Planning Officers Society has already considered what this could mean in practice through its recent work on LGA/Devolution and Planning Reform (POS) and is now working with MHCLG, PAS and others through the Planning Alliance to consider what the future models of planning support might look like. In the meantime, however, the Government should acknowledge that, if these powers are introduced early in 2027, before the MSA strategic planning capacity is fully resourced, other options, such as using the private sector, will be needed to service

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	the initial PSI application referral and call-in process. 3. Fees - On the pre-app process, there needs to be clear guidance around this in terms of fees e.g. what happens if there has been pre-app discussions already with the LPA and the applicant is then required by the Mayor to enter into new pre-app discussions? What happens where the PSI is referred to the Mayor by the applicant due to non-determination of the applications by the LPA? Also, who pays for the proposed new fee to statutory consultees? Best practice has emerged in London where pre-application discussions are co-ordinated between a borough and the GLA, often involving joint meetings. 4. The role of Mayors – As in London, the powers will sit with the Mayors specifically which will have implications for the Mayors’ own resources. The Mayor of London relies on his Deputy Mayor of London for Planning, Regeneration and the Fire Service to support him in this process. In other MSAs, however, any Deputy is likely to represent a specific local authority partner and will therefore have a vested interest. The Cabinet Office’s recent statement on rewiring Britain (Rewiring the State – Cabinet Statement - GOV.UK) suggests that the Government is considering establishing the Deputy Mayor role for all other MSAs. The EDCE Act also allows for Mayors to appoint Commissioners to support some of their functions, which could include planning. This should be something that is discussed with the Mayors before the powers are enacted as it will directly impact on the amount of time they spend on the new powers right from the start as PSI applications will be referred to Mayors, even if they decided not to intervene. 5. PSI applications outside Mayoral areas - Ensuring PSI applications support delivery of SDS is not just a key issue in relation to SDS delivery in Mayoral areas. Under previous strategic planning systems, LPAs were required to refer these to the SPA to ensure they were consistent with the strategic priorities (strategic consultations). Whilst non-Mayoral SPAs will not have the ability to directly impact on the decision of such

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	applications, their views should still be taken into account in the application process.
Question 2 Do you propose any other categories of development which should be considered a PSI application, including in London? Please reference the particular category if you are proposing amendments to it.	No
Question 3 Should mayors outside of London be able to call in Category 3J (50 homes or more) applications where local planning authorities are minded to refuse? [Yes, No] Please provide reasons why.	Yes, we consider that in principle the new powers should match London's as a starting point with the ability to adjust them as part of the SDS process as set out in our answer to Q1.
Question 4 Do you agree that the scope of powers to intervene in relation to PSI applications should expand as a SDS is progressed? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why	Intervention should only be possible when a SDS is in place. However, from the start Mayors should be consulted on PSI applications and their views taken into account by the LPA. This is in line with the position in London where the Mayor of London Order requires the mayor to be satisfied (S7(1A) Impact Criteria) that "the development or any of the issues raised by the development to which the PSI application relates is of such a nature or scale that it would have a significant impact on the implementation of the spatial development strategy" before they can call an application in. The new Mayors should operate in the same way, so it requires an SDS to be in place first. However, if the powers are introduced on a limited basis prior to SDS adoption, there should be a clear protocol agreed between the Mayor and respective LPAs around how this will work, with an evidence based approach to support any interventions, e.g. where the PSI impacts

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	on local growth plan priorities which will directly influence the SDS.
Question 5 Do you agree that where a SDS is not yet adopted , a decision by a mayor to either direct refusal or call in a PSI application will need to be justified in respect to growth? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Disagree. See answer to Q4: intervention prior to an SDS should not be possible – Mayors should be consulted on PSI applications and their views taken into account by the LPA, but intervention should only be possible when a SDS is in place. However, if the Government is minded to introduce this power in advance of the SDS adoption, it is agreed that this should be based on evidence that demonstrates an impact on the Mayor’s growth ambition, as set out in the local growth plan.
Question 6 Do you agree with the proposed criteria for mayors to use their PSI application powers following adoption of a SDS? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree
Question 7 Do you agree with the proposed approach to written representations for called-in PSI applications? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree
Question 8 Do you agree to the approach to exclude centrally led UDCs or NTDCs from a mayor’s	Partially Agree The areas managed through centrally led UDCs and NTDCs are likely to be fundamental to the delivery of the SDS. Whilst there are reasons why Mayors should not be able to intervene in these areas, Mayors should

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powers to direct refusal and call in PSI applications? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	be subject to a formal consultation process for any PSIs in these areas, especially where they impact on neighbouring LPAs.
Question 9 Do you have any suggestions for minor and/or technical changes to the PSI application procedure? [Yes/No] Please provide details.	No
Question 10 Do you agree that Mayoral Developments Orders cannot be used for Schedule 1 EIA Development? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree
Question 11 Do you agree that Mayoral Development Orders cannot be used for minerals development? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Partly agree. Some MDOs will include minerals sites, especially in the form of safeguarded sites. We are going to become increasingly reliant over the next 25-30 years (life span of an SDS) on sea dredged and imported aggregates to support the growth needed. Wharfs and depots are under real pressure now for housing development, especially as they are brownfield sites and we may lose strategically important minerals sites as a result. The recent decision on the strategic proposal in Kent is a really good example of this, where the government refused an application for housing on a safeguarded wharf in Gravesham (Kent CC objected as it was contrary to their Minerals LP, Gravesend recommended approval as they have a high proportion of GB and no housing land supply) - 260730-Combined-DL-IR-RtoC-Ebbsfleet-Football-Club-3360355.pdf. This could easily have been subject to an MDO in the future and has a clear minerals development content.

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	Linked to this, but more related to the general Mayoral call-in powers, in London there is a requirement for all applications on safeguarded wharfs which are used for water-borne freight handling which includes aggregates, to be referred to the Mayor. This is not included in the proposals set out in the Con Doc but should be, given the need to protect these areas - Safeguarded Wharves Directions London City Hall.
Question 12 Do you agree with the proposed approach to preparing a Mayoral Development Order? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Partially agree Comments on skills and resources in Q1 response apply equally here: Skills and resources - The consultation document makes it clear that resources to support the PSI application process should be funded by the MSA, although there is an opportunity for some discretionary charges to support pre-application services. There are challenges in planning resources across England, especially for Development Management and even more so for the experience and various specialist skills needed to support strategic applications. It is likely that the SPAs will be trying to attract the same small group of people within the LPAs which will put even more stress on the system. Different models of supporting planning across both LPAs and SPAs will be needed in the future, which includes shared resources hosted by the Mayoral Authorities. The Planning Officers Society has already considered what this could mean in practice through its recent work on LGA/Devolution and Planning Reform (POS) and is now working with MHCLG, PAS and others through the Planning Alliance to consider what the future models of planning support might look like. In the meantime, however, the Government should acknowledge that, if these powers are introduced early in 2027, before the MSA strategic planning capacity is fully resourced, other options, such as using the private sector will be needed to service the initial PSI application referral and call-in process. Overall, the POS position is that these procedures should match those already in place for the London Mayor.
Question 13 Do you agree with the proposed approach to publicity and consultation	Agree

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of a Mayoral Development Order? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	
Question 14 Do you agree with the proposed arrangements for making a Mayoral Development Order? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree
Question 15 Do you agree with the proposed approach to approval of conditions following the grant of permission through a Mayoral Development Order? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree
Question 16 Do you agree with the proposed approach to revisions and revocations of a Mayoral Development Order? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree

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Question 17 MCIL To what extent, and in what ways, could evidence and analysis used to prepare a Spatial Development Strategy (SDS) inform work to prepare a CIL charging schedule?	Those LPAs who have prepared their Local Plan alongside their CIL charging schedule have found that there is considerable overlap in evidence between the two processes and resultant saving easily run to a 6-figure sum. POS also considers that the delivery of infrastructure is central to a spatial development strategy and a spatial plan and are best developed in tandem.
Question 18 MCIL Should SDS examination generally take place at the same time as CIL charging schedule examination, and where would greater flexibility be justified? [Yes/No] Please provide your reasons.	Agree This is best practice for all CIL setting as it enables the spatial strategy and the infrastructure delivery strategy to be considered together and it usually saves a significant amount of money and time in evidence preparation and examination costs.
Question 19 How might the requirements for updating a MCIL charging schedule best ensure mayors of strategic authorities can keep rates reflective of market conditions?	They should work in the same way as updating LPA CIL Charging Schedules.
Question 20 Should the CIL regulations require mayors to take account of local tier authority CIL rates when setting their own rates? [Yes/No] Please provide your reasons.	Yes The London Mayor is not currently required to do that and it can result in problems where the Mayor “takes all the surplus” and LPA have no ability to set a local CIL or deliver affordable housing etc through s106. This is especially important in the current economic climate, even in London and the SE.
Question 21 Are there further conditions or requirements (i.e. beyond those which already exist, and those proposed in this consultation) that mayors	As with any CIL Charging Schedule, it is important that all sources of funding are explored. There is a limited quantum of funding that can be extracted from the development process and that is under even more pressure in current economic circumstances. Within this context, it is also important that there is proper scrutiny of infrastructure requirements to make sure

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should need to fulfil before they can charge MCIL?	that they properly comply with the CIL Regulations. This is not always the case and POS has set out these concerns in its recently published Good Practice Guide to Infrastructure Delivery (see in particular paras 3.19 to 3.23).
Question 22 Do you agree that MCIL outside of London should be capable of funding a broader range of strategic infrastructure than the current model in London (which funds strategic transport infrastructure only)? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Strongly Agree that MCIL should be used to fund a broader range of strategic infrastructure than just transport.
Question 23 What type of strategic infrastructure do you think MCIL should be capable of being used to fund, and how might this affect rate-setting?	Water, reservoirs, energy infrastructure, major transport connections – it is often this type of infrastructure that is needed to unblock strategic growth areas.
Question 24 Could there be exceptional cases where it would be appropriate for MCIL to fund matters in an area that would usually sit within a single local tier authority's responsibilities? [Yes/No] Please provide more detail.	Yes - Some strategic infrastructure within one single LPA area has much wider impact e.g. water and energy infrastructure and MCIL could make the difference in unblocking a growth area. Furthermore, in London context, the LBs are relatively small geographically but in other areas, LPAs cover large geographical areas.
Question 25 How can the collection of MCIL work simply and effectively in all	Agree that the approach adopted in London should be followed.

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circumstances, including when the local tier authority does not charge its own CIL?	
Question 26 Do you have any other observations or comments on the expanded MCIL proposals, or anything related to them?	No
Question 27 Do you agree to removal of the restriction that LDOs cannot be used to grant planning permission for development affecting listed buildings? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree that complementary LDOs (where there is a LLBCO) makes sense. We do not support LDOs on listed buildings where there is no associated LLBCO. An LDO not on a listed building but on land that might affect its setting should be possible, but with very clear requirements to consider that impact in both creating the LDO and in discharging conditions.
Question 28 Do you agree that Local Development Orders cannot be used for minerals development? [Strongly agree, Partially agree, Neither agree nor disagree, Partially disagree, or Strongly disagree.] Please provide reasons why.	Agree for the reasons set out in the consultation paper
Question 29 Do you have any further minor technical changes to the Local Development Order procedure? [Yes/No] If yes, please provide more detail.	No

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Question 30 Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? [Yes/No] If yes, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how.	This will be the first time that strategic planning authorities have had powers to directly influence delivery of the strategic plan. In structure plan and RSS days, the SPA prepared the plan but had very limited control over how it was implemented, other than through the strategic application consultation process. This is a very positive step forward and should be considered in the wider context of Devolution where Mayoral Strategic Authorities (MSA) will also have significant flexibility to use devolved funding to support the delivery of strategically important projects and softer powers, including convening powers, to bring key stakeholders together. However, as is noted in the consultation document, it is important that if these powers come forward on a limited basis before Strategic Development Strategies (SDS) are adopted, very strict monitoring procedures should be put in place to ensure that SDS preparation continues to be prioritised. It is also important that any funding that has been allocated to the MSA to support preparation of the SDS is not redirected to support the new DM powers as set out in the consultation document.
Question 31 Is there anything that could be done to mitigate any impact identified? [Yes/No] If yes, please provide more detail.	No