

## Guidance Notes on Legal Compliance and Soundness

The representations on the Site Allocations DPD will be examined by an independent Planning Inspector. The purpose of the examination is to consider whether the document complies with the legal requirements and is 'sound'.

Through your comments, please identify whether you think the document is legally compliant or whether it is sound or not:

- If you are seeking to make representations on the way in which the LPA has prepared the submitted DPD it is likely that your comments or objections will relate to a matter of legal compliance.
- If it is the actual content which you wish to comment on or object to, this is likely to refer to a matter of soundness and will relate to whether the DPD is justified, effective or consistent with national policy.

### Notes about Legal Compliance

The Inspector will check that the document meets the legal requirements under section 20(5)(a) of the 2004 Act before moving on to test for soundness.

You should consider the following before making a representation on legal compliance:

- The document in question should be within the current Local Development Scheme (Third Revision) and the key stages should have been followed. The Local Development Scheme (LDS) is effectively a programme of work prepared by the Council, setting out the documents to be produced. It sets out the key stages in the production of any documents the Council propose to bring forward for independent examination. The LDS is on the Council's website and available at the main offices or from the LDF Team.
- The process of community involvement for the document in question should be in general accordance with the Council's Statement of Community Involvement (SCI). The SCI is a document which sets out the Council's strategy for involving the community in the preparation and revision of documents for the Local Development Framework (LDF) and the consideration of planning applications.
- The document should comply with the Town and County Planning (Local Development) (England Regulations) 2004 (amended 2008). On submission, the Council must publish the documents prescribed in the regulations, and make them available at their principal offices and on their website. The Council must also place local advertisements and notify the DPD bodies (as set out in the regulations) and any persons who have requested to be notified.
- The Council is required to submit a Sustainability Appraisal Report when they submit a document for examination. This should identify the process by which the Sustainability Appraisal has been carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure they reflect social, environmental, and economic factors.
- The document should have regard to national policy and conform generally to the Regional Spatial Strategy (RSS). The RSS sets out the region's policies in relation to the development and use of land and forms part of the development plan for local Councils.
- The document must have regard to any Sustainable Community Strategy (SCS) for its area (i.e. county and district). The SCS is usually prepared by the Local Strategic Partnership which is representative of a range of interests in the Council's area. The SCS is subject to consultation but not to an independent examination.

For more information about legal compliance please refer to paragraph 4.50 of PPS12.

### Notes about Soundness

To be sound a document should be:

#### Justified

- This means that the document should be founded on a robust and credible evidence base involving:

- Evidence of participation of the local community and others having a stake in the area
  - Research/fact finding: the choices made in the plan are backed up by facts
- The document should also provide the most appropriate strategy when considered against reasonable alternatives. These alternatives should be realistic and subject to sustainability appraisal.
- The document should show how the policies and proposals help to ensure that the social, environmental, economic and resource use objectives of sustainability will be achieved.

### **Effective**

- This means the document should be deliverable, embracing:
  - Sound infrastructure delivery planning
  - Having no regulatory or national planning barriers to delivery
  - Delivery partners who are signed up to it
  - Coherence with the strategies of neighbouring authorities
- The document should also be flexible and able to be monitored.
- The document should indicate who is to be responsible for making sure that the policies and proposals happen and when they will happen.
- The document should be flexible to deal with changing circumstances, which may involve minor changes to respond to the outcome of the monitoring process or more significant changes to respond to problems such as lack of funding for major infrastructure proposals. Although it is important that policies are flexible, the document should make clear that major changes may require a formal review including public consultation.
- Any measures which the Council has included to make sure that targets are met should be clearly linked to an Annual Monitoring Report. This report must be produced each year by all local authorities and will show whether the document needs amendment.

### **Consistent with national policy**

- The document should be consistent with national policy. Where there is a difference, Councils must provide clear and convincing reasoning to justify their approach. Conversely, you may feel the LPA should include a policy or policies which would be different to national or regional policy to some degree in order to meet a clearly identified and fully justified local need, but they have not done so. In this instance it will be important for you to say in your representations what the local circumstances are which justify a different policy approach to that in national or regional policy and support your assertion with evidence.
- If you think the content of a document is not sound because it does not include a policy where it should do, you should go through the following steps before making representations:
  - Is the issue with which you are concerned already covered specifically by any national planning policy or in the Regional Spatial Strategy? If so it does not need to be included.
  - Is what you are concerned with covered by any other policies in the document on which you are seeking to make representations or in any other document in the Council's LDF. There is no need for repetition between documents in the LDF.
  - If the policy is not covered elsewhere, in what way is the document unsound without the policy?
  - If the document is unsound without the policy, what should the policy say?

For more information about the tests of soundness please refer to paragraphs 4.36 to 4.38 and 4.44 to 4.47 of PPS12.

Further detailed guidance on the preparation, publication and examination of documents is provided in Planning Policy Statement 12: Local Spatial Planning ([www.planningportal.gov.uk](http://www.planningportal.gov.uk)), in The Plan Making Manual from the Planning Advisory Service ([www.pas.gov.uk](http://www.pas.gov.uk)), and in 'Examining Development Plan Documents: Soundness Guidance' from the Planning Inspectorate ([www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)).