



The Planning Inspectorate

Development Plans Examination - A Guide to the Process of Assessing the Soundness of Development Plan Documents



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Ministerial Foreword

I firmly believe that planning is one of the most important tools available to local authorities to deliver sustainable communities. To be an effective tool, however, planning needs to be relevant to people's lives – relevant, interesting, and understandable.

That is why I am introducing this guide, which provides practical advice and guidance to all those involved in the new local development framework process. The material in this guide will help everyone to understand what the key tests will be when development plan documents are examined by an Inspector from the Planning Inspectorate. The guide will also help any individual or group frame their comments on the Plan and it explains how those comments will be considered by an impartial Inspector.

I commend the guide to you – it is another step forward in achieving the culture change we are seeking in planning – a culture change which engages with local communities and places value on the creative energy we need to develop the quality of place that we all want to live and work in and to visit.

Baroness Andrews, OBE

Introduction

Context: Local Development Frameworks

1. *Planning Policy Statement 12: Local Development Frameworks*¹ (PPS12) notes that Local Development Frameworks are intended to streamline the local planning process and promote a positive approach to managing development. The key aims of the new system are²:

- Flexibility;
- Strengthening community and stakeholder involvement;
- Front loading (i.e. seeking consensus on essential issues early in the process);
- The use of sustainability appraisal in the preparation of local development documents;
- Efficient programme management; and
- Soundness both in plan content and the process by which plans are produced.

2. Local planning authorities (other than County Councils) must prepare a Local Development Framework which will comprise a folder of local development documents for delivering the spatial strategy for the area³. County Councils will be responsible for the preparation of minerals and waste development frameworks. In this guide, references to Local Development Frameworks should also be taken to include mineral and waste development frameworks. Similarly references to development plan documents should be taken to include minerals and waste development plan documents.

3. Development Plan Documents (and Statements of Community Involvement⁴) will form part of the Local Planning Authority's Local Development Framework and will be subject to independent scrutiny. The process of the independent scrutiny will be by an 'examination'. An independent Planning Inspector will be appointed to consider whether the Development Plan Document is 'sound'. The examination is required regardless of whether any representations are received to a Development Plan Document and the Inspector's report will be binding on the local planning authority. This means that the Inspector has a role as part of the plan-making function and will have to exercise the duty to contribute to the achievement of sustainable development⁵.

1 View at:

http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=5382&l=3

2 See PPS12, paragraph 1.3

3 See PPS12, paragraph 1.4 and Figure 1.1

4 A separate guide is available on the independent examination of statements of community involvement: *Development Plans Examination - A Guide to Assessing the Soundness of Statements of Community Involvement*. View at: www.planning-inspectorate.gov.uk.

5 Section 39 of the Planning and Compulsory purchase Act 2004. View at: <http://www.opsi.gov.uk/acts/acts2004/20040005.htm>

Examination of Development Plan Documents

4. Section 20(5) of the *Planning and Compulsory Purchase Act 2004* defines the purpose of the independent examination into Development Plan Documents, which is to determine :

- a) whether they satisfy the requirements of the Planning and Compulsory Purchase Act 2004 (s20(5)(a)) and the Town and Country Planning (Local Development) (England) Regulations 2004;
- b) whether they are sound (s20(5)(b)).

Local Development Documents (which include Development Plan Documents) must be sound in terms of their content and the process by which they are produced. They must also be founded on robust and credible evidence⁶. The term 'sound' is not defined in the 2004 Act. It may be considered in this context within its ordinary meaning of 'showing good judgement' and 'able to be trusted' and within the context of fulfilling the expectations of legislation.

5. *PPS12* sets out the 9 tests of soundness for examining Development Plan Documents and it states that '*The presumption will be that the Development Plan Document is sound unless it is shown to be otherwise as a result of evidence considered at the examination*' (Paragraph 4.24).

Structure of the Guidance

6. This guidance is intended provide a comprehensive framework for the process of carrying out the independent examination and ensure consistency of approach. It is aimed at all those involved in preparing Development Plan Documents and seeking to participate in the examination process. The Planning Inspectorate is producing a separate guidance note more specifically aimed at members of the public wishing to participate in the examination of development plan documents, which will provide more general advice.

7. **Section 1** deals with the examination of Development Plan Documents. It sets out:

- the processes by which the assessment will be undertaken;
- the range of possible outcomes from the examination;
- the key questions raised by each of the tests of soundness;
- examples of the type of evidence that might be relevant to assess whether the particular test has been met; and
- the roles of the principal bodies involved in the examination.

8. **Section 2** deals with a number of the procedural aspects of the independent examination and associated arrangements. The advice in this section is intended generally to supplement, rather than repeat, the advice in *PPS12*. It covers:

- the underlying principles for the new examination system;
- the structure of the examination;

⁶ Paragraph 1.3(vi), *PPS12*

- the method of examination; and
- a model form for local planning authorities to make available to those making representations on a Development Plan Document. It also provides a model note to accompany the form to focus representations on the tests of soundness.

9. **Section 3** provides supplementary advice on the practicalities of dealing with the examination process, which will be of particular interest to local planning authorities. It covers:

- Advisory visits to Local Planning Authorities, the submission of Development Plan Documents, the Service Level Agreement and Inspector Teams;
- the appointment and role of Programme Officers; and
- dealing with representations and statements of evidence.

Status of the guidance

10. This is non statutory guidance applying in England only, and it is not intended as an interpretation of the law. It should be read in conjunction with the relevant legislation and associated guidance. This includes the *Planning and Compulsory Purchase Act 2004*, *The Town and Country Planning (Local Development) (England) Regulations 2004*⁷ and *PPS12*. A fuller list of relevant legislation and guidance is provided in annex A.

11. The paper does not set out every possible course of action that might be taken in all possible circumstances, nor does it include worked examples. When assessing the soundness of Development Plan Documents, Inspectors will need to exercise their professional judgement based on the evidence available, including the representations made, and the particular circumstances for the Development Plan Document and the area in question.

12. *PPS12* states that "*Local Planning Authorities should ensure that Development Plan Documents are sound when submitted for examination*" (paragraph 4.15). Local Planning Authorities may find it useful to carry out an objective self assessment process having regard to the tests in *PPS12* to satisfy themselves that they have produced what they consider to be a sound development plan document. Where they do this, their assessment can be used as part of their evidence.

13. This guidance is not focused on the details of the new system of Local Development Frameworks nor the tests of soundness as set out in *PPS12*. The focus is on providing a framework for the examination process to ensure that the approach to assessing soundness is clear, workable, and helps lead to quality outcomes.

14. The Planning Inspectorate intends to keep this guidance under review and we shall seek to update and improve the guidance as further lessons emerge from the practical examination of Development Plan Documents.

⁷ View at: <http://www.opsi.gov.uk/si/si2004/20042204.htm>

List of abbreviations and terms

(Note: terms in *italics* are explained elsewhere in the table)

The Act	The Planning and Compulsory Purchase Act 2004.
Annual Monitoring Report (AMR)	Part of the <i>Local Development Framework</i> , the annual monitoring report will assess the implementation of the <i>Local Development Scheme</i> and the extent to which policies in <i>Local Development Documents</i> are being successfully implemented.
Area Action Plan (AAP)	Used to provide a planning framework for areas of change and areas of conservation. Area Action Plans will have the status of <i>Development Plan Documents</i> .
Community Strategy (CS)	Local authorities are required by the Local Government Act 2000 to prepare these, with the aim of improving the social, environmental and economic well being of their areas. Through the Community Strategy, authorities are expected to co-ordinate the actions of local public, private, voluntary and community sectors. Responsibility for producing Community Strategies may be passed to <i>Local Strategic Partnerships</i> , which include <i>Local Planning Authority</i> representatives.
Core Strategy	Sets out the long-term spatial vision for the <i>Local Planning Authority</i> area, the spatial objectives and strategic policies to deliver that vision. The Core Strategy will have the status of a <i>Development Plan Document</i> .
Development Plan Documents (DPDs)	Spatial planning documents that are subject to independent examination and, together with the relevant Regional Spatial Strategy, will form the statutory development plan for a <i>Local Planning Authority</i> area for the purposes of the <i>Act</i> . They can include a <i>Core Strategy</i> , <i>Site Specific Allocations of Land</i> , and Area Action Plans (where needed). Other Development Plan Documents can be produced. They will all be shown geographically on an adopted Proposals Map. Individual Development Plan Documents or parts of a document can be reviewed independently from other Development Plan Documents. Each authority must set out the programme for preparing its Development Plan Documents in the <i>Local Development Scheme</i> .
Front loading	A phrase that denotes early consultation and decision making in the plan making process.
Government Office (GO)	One of nine regional offices which are the primary means by which a wide range of Government policies and programmes are delivered in the English regions. The Government Offices represent 10 Whitehall departments, and are involved in the front line of regenerating communities, fighting crime, tackling housing needs, improving public health, raising standards in education and skills, tackling countryside issues, and reducing unemployment.

Local Development Document (LDD)	The collective term in the <i>Act for Development Plan Documents, Supplementary Planning Documents</i> and the <i>Statement of Community Involvement</i> .
Local Development Framework (LDF)	The name for the portfolio of <i>Local Development Documents</i> . It consists of <i>Development Plan Documents, Supplementary Planning Documents, a Statement of Community Involvement, the Local Development Scheme</i> and <i>Annual Monitoring Reports</i> . Together these documents will provide the framework for delivering the spatial planning strategy for a <i>Local Planning Authority</i> area.
Local Development Scheme (LDS)	Sets out a 3-year programme for preparing Local Development Documents. The first such schemes were submitted by 28 March 2005 by all <i>Local Planning Authorities</i> to the Secretary of State for approval.
Local Planning Authority (LPA)	The district council, unitary authority, metropolitan council or national park authority. For the purposes of development relating to Minerals or Waste, the County Councils are also Local Planning Authorities.
Local Strategic Partnership	Partnerships of stakeholders who bring together service providers, the private, voluntary and community sectors to identify and meet local needs more effectively and in a joined up way. They have responsibility for preparing the Community Strategy in many <i>Local Planning Authority</i> areas.
Regional Planning Body	One of nine regional bodies in England (including the Greater London Authority) responsible for preparing <i>Regional Spatial Strategies</i> (in London the Spatial Development Strategy).
Regional Spatial Strategy (RSS)	Sets out the region's policies in relation to the development and use of land and forms part of the development plan for <i>Local Planning Authorities</i> . In London it is called the Spatial Development Strategy (SDS). Planning Policy Statement 11 'Regional Spatial Strategies' provides detailed guidance on the function and preparation of Regional Spatial Strategies.
Robust	In this context: strong, straightforward, and able to withstand scrutiny or testing.
Service Level Agreement (SLA)	The Service Level Agreement is a voluntary agreement between the Planning Inspectorate and individual Local Planning Authorities. It is expected that both parties will comply with the provisions unless there are good reasons not to do so. The agreement sets out the steps which the parties need to take in order to facilitate an efficient examination and reporting process.
Site Specific Allocations	Allocations of sites for specific or mixed use development to be contained in <i>Development Plan Documents</i> . Policies will identify any specific requirements for individual proposals.

Sound	Considered in this context within its ordinary meaning of 'showing good judgement' and 'able to be trusted', and within the context of fulfilling the expectations of legislation.
Spatial planning	Spatial planning goes beyond traditional land use planning to bring together and integrate policies for the development and use of land with other policies and programmes which influence the nature of places and how they function. That will include policies which can impact on land use, for example by influencing the demands on, or needs for, development, but which are not capable of being delivered solely or mainly through the granting or refusal of planning permission and which may be implemented by other means.
Statement of Community Involvement (SCI)	Sets out the standards which authorities will achieve with regard to involving local communities in the preparation of <i>Local Development Documents</i> and development control decisions. The Statement of Community Involvement is subject to independent examination.
Strategic Environmental Assessment (SEA)	A generic term used to describe environmental assessment as applied to policies, plans and programmes. The European 'SEA Directive' (2001/42/EC) requires a formal 'environmental assessment of certain plans and programmes, including those in the field of planning and land use'.
Supplementary Planning Documents (SPD)	Provide supplementary information in respect of the policies in <i>Development Plan Documents</i> . They do not form part of the Development Plan and are not subject to independent examination.
Sustainability Appraisal (SA)	Tool for appraising policies to ensure they reflect sustainable development objectives (i.e. social, environmental and economic factors) and required in the Act to be undertaken for all <i>Development Plan Documents</i> .
Sustainability Appraisal Report (SA Report)	Report prepared in accordance with section 19(5)(b) of the Planning and Compulsory Purchase Act 2004 to provide an appraisal of the sustainability of the proposals in each <i>local development document</i> .

Section 1: The Examination of Development Plan Documents

1.1 The Tests of Soundness

1.1.1 *PPS12* sets out nine tests which a Development Plan Document (DPD) should meet if it is to be sound (paragraph 4.24). This guidance sets out a framework for the assessment of soundness which will be carried out by Inspectors at the independent examination. It provides advice to aid understanding of the overall context for assessing soundness and to assist those who are seeking to make representations on submitted DPDs.

1.1.2 The *PPS12* soundness tests fall into three categories:

- Procedural Tests;
- Conformity Tests; and
- Coherence, Consistency and Effectiveness Tests.

Procedural tests

- i. The DPD has been prepared in accordance with the Local Development Scheme (LDS);*
- ii. The DPD has been prepared in compliance with the Statement of Community Involvement (SCI), or with the minimum requirements set out in the regulations where no SCI exists;*
- iii. The plan and its policies have been subjected to Sustainability Appraisal.*

Conformity tests

- iv. It is a spatial plan which is consistent with national planning policy and in general conformity with the Regional Spatial Strategy (RSS) for the region or the Spatial Development Strategy (SDS) if in London, and it has properly had regard to any other relevant plans, policies and strategies relating to the area or to adjoining areas;*
- v. It has had regard to the authority's Community Strategy.*

Coherence, consistency and effectiveness tests

- vi. The strategies/policies/allocations in the plan are coherent and consistent within and between Development Plan Documents prepared by the authority and by neighbouring authorities, where cross boundary issues are relevant;*
- vii. The strategies/policies/allocations represent the most appropriate in all the circumstances, having considered the relevant alternatives, and they are founded on a robust and credible evidence base;*
- viii. There are clear mechanisms for implementation and monitoring;*
- ix. It is reasonably flexible to enable it to deal with changing circumstances.*

1.2 The examination process

1.2.1 The examination process is intended to be a quick and efficient part of the overall process of delivering up to date Local Development Frameworks. It is an independent process for examining whether the DPDs which Local Planning Authorities (LPAs) produce are sound. The role of the independent Inspector includes ensuring that the evidence on which the LPA has based its policies and proposals in any DPD is properly tested. The examination should be taking place after the LPA has been through a thorough process of consultation⁸, during which it has reviewed and considered all the available options to produce what it considers to be a sound plan. Those who propose a change to the content of the DPD should therefore seek to show why the DPD is not sound and what changes should be made to make it sound⁹.

1.2.2 The following gives some general guidance on the process for assessing the above soundness tests.

Procedural tests

1.2.3 The procedural tests relate specifically to the process by which the DPD has been prepared by the LPA rather than to its content. To ensure that time is not spent examining in detail a plan which is procedurally unsound the Planning Inspectorate will carry out an early screening of all submitted DPDs. Where it is clearly evident that a procedural matter has not been followed in the preparation of DPD, for example it is not in compliance with the Statement of Community Involvement (SCI), this will be highlighted to the relevant authority by the Inspectorate to rectify.

The conformity tests

1.2.4 The conformity tests will relate to both process and content and the judgemental element in their assessment is likely to be greater than in the case of the procedural tests. In making judgements about the degree of conformity, considerable weight will be given to representations based on relevant evidence from bodies that are responsible for other relevant strategies that have been taken into account in the DPD.

1.2.5 Plan making authorities should keep the Government Offices (GOs) fully informed throughout the process. If this is done the GOs will be in a good position to make an important contribution to speeding up the system by identifying serious procedural or conformity errors or omissions at the earliest possible stage.

1.2.6 In relation to general conformity with Regional Spatial Strategies (RSS) (Spatial Development Strategy (SDS), in London) the view of the regional planning bodies (or the Mayor) will be given considerable weight. Similarly considerable weight will be attached to the views of GOs on the consistency of a DPD with national planning policy. Any material inconsistency with national planning policy or lack of general conformity

⁸ In accordance with the LPA's Statement on Community Involvement or the minimum requirements set out in Regs. 25 and 26 of the *Town and Country Planning (Local Development) (England) Regulations 2004*

⁹ Paragraph C3, Annex C, PPS12

with the RSS (or in London, the SDS) will need to be fully justified on the basis of local circumstances, based on relevant evidence.

1.2.7 As regards the authority's Community Strategy, LPAs should involve the local strategic partnership in the preparation of DPDs, especially Core Strategies, to help ensure DPDs have regard to the Community Strategy. Where there is two tier local government, regard should be had to Community Strategies prepared by other local authorities within an authority's area. If the Local Strategic Partnership raises issues about the relationship to the Community Strategy, the LPA should seek to resolve these prior to submitting the DPD for examination. If there is a conflict between the Community Strategy and the requirements of regional or national planning policy the latter will normally be expected to prevail, unless the LPA can demonstrate sufficient local justification (based on relevant evidence) for departing from the higher level policy.

The coherence, consistency and effectiveness tests

1.2.8 The coherence, consistency and effectiveness tests relate to the content of the DPD and these are likely to be the key tests on which the examination will concentrate. These tests are covered accordingly in greater detail in section 1.4, paragraphs 1.4.11 – 1.4.14.

1.3 The potential outcomes of the examination process

1.3.1 Following the assessment of soundness undertaken by the appointed Inspector, there are a number of potential outcomes relating to what the Inspector may be able to recommend in his/her report, which will be binding on the LPA.

1.3.2 The most serious outcome would be a finding of unsoundness in relation to a critically important part of the DPD, leading to a recommendation that the DPD be withdrawn. This is much less likely to occur if the plan-making authority has followed the good practice guidance and "front loading"/consultation procedures outlined in the various advisory documents relating to local development frameworks¹⁰.

1.3.3 Where the Inspector finds unsoundness in a DPD other potential outcomes are a requirement that:

- additional work needs to be undertaken before the examination of the DPD or SCI can be completed (such as the need for a further sustainability appraisal of alternative options);
- part of a DPD should be excluded or changed (having regard to the implications in terms of community involvement and sustainability appraisal requirements) and the remainder adopted;
- part of the DPD should be excluded and subsequently brought forward in a revised form in a fresh DPD (subject to the LPA including the new or revised DPD in their local development scheme) and the remainder adopted.

¹⁰ See Annex A

1.3.4 An Inspector may only make a change if it is sound, in accordance with all the tests. If a policy is unsound then it should be rejected. A DPD will be deemed unsound if the Inspector cannot make a necessary binding change which would make it sound.

1.4 Key questions and evidence requirements¹¹

1.4.1 The following sets out a series of key questions and evidence requirements, which aim to provide a framework for the assessment of soundness of DPDs.

Procedural Tests

1.4.2 **Test i: The DPD has been prepared in accordance with the Local Development Scheme.**

Key Questions

- Is the DPD identified in the authority's Local Development Scheme (LDS)?
- Have the details set out in the LDS such as the role, rationale or scope of the DPD been met?

Evidence

The Local Planning Authority's LDS and their self-assessment of soundness¹², where produced. A DPD which was not included in the LPA's LDS should not come forward to examination.

1.4.3 **Test ii: The DPD has been prepared in compliance with the Statement of Community Involvement (SCI), or with the minimum requirements set out in the regulations where no SCI exists.**

Key Questions

- Having regard to the nature of the DPD, have all of the relevant consultation/participation procedures set out in the Statement of Community Involvement (SCI) been carried out?
- If no SCI exists, have the minimum requirements of the *Town and Country Planning (Local Development) (England) Regulations 2004* been met?

Evidence

The Local Planning Authority's SCI; the Consultation Statement produced for the DPD which should show how the LPA has carried out its consultation procedures and how these relate to their SCI or the Regulations; the Regulations; and the Local Planning Authority's self-assessment of soundness, where produced.

¹¹ A table is provided in Annex B, summarising the soundness tests, key questions and evidence

¹² See paragraph 12 of the Introduction to this guide concerning 'self assessment'.

1.4.4 **Test iii: The plan and its policies have been subjected to Sustainability Appraisal.**

Key Question

- Has Sustainability Appraisal (SA) been carried out in relation to the particular DPD in question?

Evidence

The Sustainability Appraisal Report (SA Report). Local Planning Authorities are required to submit a SA Report with the DPD, identifying the process by which the SA has been carried out, the baseline information used, and the outcomes of the process. Guidance on the SA process is provided in *Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents*, issued by the Office of the Deputy Prime Minister¹³, including advice on the requirements associated with bringing forward additional or alternative sites late in the process (see also text box on page 38, *PPS12*). The outcome of the SA process will be tested under the later tests of coherence, consistency and effectiveness.

Conformity Tests

1.4.5 **Test iv: It is a spatial plan which is consistent with national planning policy and in general conformity with the RSS for the region or the Spatial Development Strategy if in London, and it has properly had regard to any other relevant plans, policies and strategies relating to the area or to adjoining areas.**

1.4.6 This test needs to be broken down into its constituent parts:

- (a) It is a spatial plan which has regard to other relevant plans, policies and strategies;
- (b) It is consistent with national planning policy; and
- (c) It is in general conformity with the Regional Spatial Strategy (RSS) or the Spatial Development Strategy (SDS) in London.

1.4.7 **(a) It is a spatial plan which has regard to other relevant plans, policies and strategies.**

Key Questions

- Does the DPD reflect the guidance on spatial planning which is set out in national planning policy¹⁴?
- Has adequate account been taken of the relationship between the proposals in the DPD and other requirements, such as those of utility companies and agencies providing services in the area including their

13 www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_606126.hcsp - 10k - 7 Nov 2005

14 Paragraphs 30-32 of *Planning Policy Statement 1: Delivering Sustainable Development (PPS1)* and *PPS12* paragraphs 1.8-1.11 set out what spatial plans should include. View PPS1 at:

http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=5845&l=3

future plans or strategy and any requirements for land and premises, which should be prepared in parallel?

- Is it clear how the DPD relates to other plans and strategies such as local transport plans which will influence the delivery of policies and proposals within the plan?
- In two tier areas, does the DPD integrate effectively with plans prepared by the county council/district council?

Evidence

Depending on the nature of the DPD, a range of documents may be relevant, similar to those set out under test vii below. The Local Planning Authority's self-assessment of soundness, where produced, should indicate how this test has been met. Of particular significance will be representations from bodies that consider that the DPD either does or does not have sufficient regard to other relevant strategies for which they are responsible.

1.4.8 (b) It is consistent with national planning policy.

Key Question

- Does the DPD contain any policies or proposals which are not consistent with national planning policy and, if so, is there a local justification?

Evidence

Planning Policy Guidance Notes and Planning Policy Statements and any representations from the relevant GO. Any local studies or any other information which provide the basis for departing from national planning policy – such as those that may derive from the community strategy or local studies forming part of the evidence for the DPD.

1.4.9 (c) The plan is in general conformity¹⁵ with Regional Spatial Strategy or, where relevant, the Spatial Development Strategy in London.

Key Question

- Does the DPD contain any policies or proposals which are not in general conformity with the RSS, or SDS in London? If so, is there a local justification?

Evidence

The RSS (or SDS) and any representations from the Regional Planning Body (or the Mayor, in London). Any local studies or any other information which provide the basis for departing from regional policy. NB it is only where an inconsistency or omission in a DPD would cause significant harm to the implementation of the RSS (or SDS) that it should be considered not to be in general conformity (see paragraph 4.20, *PPS12*).

¹⁵ For further guidance on general conformity see paragraphs 4.19-4.22, *PPS12*

Following commencement of the 2004 Act, there is no longer a requirement for local development documents to be in general conformity with structure plans, although these will remain a material consideration and part of the development plan until superseded by the regional spatial strategy. In the event of conflict between the structure plan and the regional spatial strategy, the last document to be adopted will take priority (see paragraph 4.22, *PPS12*).

1.4.10 **Test v: It has had regard to the authority's Community Strategy.**

Key Question

- Does the DPD have regard to the Community Strategy, by setting out policies and proposals which deliver key components of that strategy so far as they are consistent with or in general conformity with higher-level planning policy and relate to the use and development of land?

Evidence

The Community Strategy and any representations from the Local Strategic Partnership, where they have prepared the Community Strategy.

The Community Strategy may set out the spatial implications of the strategy and how the key components of the strategy which relate to the use and development of land might be delivered through the Local Development Framework. Local authorities should set out in their DPDs how the objectives of the Community Strategy relate to the plan.

Coherence, Consistency and Effectiveness

1.4.11 **Test vi: The strategies/policies/allocations in the plan are coherent and consistent within and between Development Plan Documents prepared by the authority and by neighbouring authorities, where cross boundary issues are relevant.**

Key Questions

- Do the policies clearly relate to the objectives in the submitted DPD or a related DPD (e.g. the Core Strategy)?
- Are the policy objectives within the DPD themselves consistent?
- Is it clear how the DPD relates to other plans in the authority's Local Development Framework and to other relevant plans prepared by neighbouring authorities?
- Where there are overlaps, are these consistent/complementary?

- Are there any obvious gaps in the coverage of the DPD having regard to its purpose and the relevant requirements set out in national planning policy statements?
- Is it clear how any cross boundary issues are addressed?

Evidence

The LPA's Local Development Framework and neighbouring authorities' Local Development Frameworks will be the principal source of evidence.

The DPD should be clear what its purpose is: i.e. if it is a Core Strategy it should include a vision and a strategic framework for the preparation of more detailed plans such as Site Allocations and Area Action Plans.

The DPD should show how the policies and proposals within it relate to other parts of the Local Development Framework and, where relevant, to any neighbouring authority's Local Development Framework. The DPD should explain, where necessary, why there may be perceived inconsistencies.

LPAs should undertake joint studies where appropriate to ensure consistency between neighbouring authorities. For example, *Planning Policy Guidance Note 3: Housing* (PPG3)¹⁶ states that housing capacity studies should consider brownfield land in adjoining areas.

1.4.12 **Test vii: The strategies/policies/allocations represent the most appropriate in all the circumstances, having considered the relevant alternatives, and they are founded on a robust and credible evidence base.**

Key Questions

- Is it clear that the Local Planning Authority considered all reasonable options and alternatives in preparing the DPD?
- Are the assumptions in the DPD set out clearly and are they supported by evidence?
- Does the evidence clearly support the policies in the DPD?
- Is the evidence robust and credible – i.e. has it been prepared in accordance with national policy and good practice guidance?
- Where a balance has been struck in taking decisions between competing alternatives – is it clear how those decisions have been taken?

Evidence

Sustainability Appraisal Report (SA Report): The SA Report should set out the options and the process by which they have been objectively assessed. It will be a fundamental part of the evidence base.¹⁷

¹⁶ See paragraphs 25-26, PPG3. View at:

http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/divisionhomepage/036667.hcsp

¹⁷ See para 3.5.6 of *Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents*

Depending on the nature of the DPD and the character of the area, there will be a range of other evidence required to assess this test. The following are suggested examples only and do not constitute a definitive and inclusive list:

- If the DPD is a Core Strategy, the following documents, amongst other evidence, may be relevant: urban capacity studies; urban and rural regeneration strategies; local housing assessments; regional and local housing and economic strategies; retail capacity studies; community development strategies; local transport plans; health and education programmes and strategies; infrastructure providers' investment programmes and strategies; environmental programmes and assessments of waste management needs.
- If the DPD is a Site Allocation Plan the evidence may include urban capacity studies; flood risk assessments; various environmental studies and assessments; transport assessments etc.
- If the DPD is an Area Action Plan, evidence may include area assessments, market assessments, socio-economic assessments, and assessments of infrastructure.
- If the DPD is an Area Action Plan relating to the regeneration of rural settlements the evidence may include Parish Plans, rural regeneration strategies, and local transport plans etc.

1.4.13 **Test viii: There are clear mechanisms for implementation and monitoring.**

Key Questions

- Does the DPD contain targets and milestones¹⁸ which relate to the delivery of the policies, including housing trajectories where the DPD contains housing allocations?
- Is it clear how these are to be measured and are these linked to the production of the Annual Monitoring Report?
- Are the delivery mechanisms and timescale for implementation for the policies clearly identified?
- Is it clear who is intended to implement each policy? Where the actions required to implement policy are outside the direct control of the LPA is there evidence that there is the necessary commitment from the relevant organisation to implementation of the policies?
- Do the processes for measuring the success of the DPD accord with national guidance?
- Does the DPD explain how its key policy objectives will be achieved?

¹⁸ Targets and milestones should be set out in the DPD or in supporting evidence to the examination. The progress on targets and milestones will be reported through the Annual Monitoring Report.

Evidence

The evidence will be broadly similar to that required to assess test vii. In relation to site-specific allocations, however, this may include viability assessments of alternative sites. Relevant evidence might include reports or representations by main public and private sector delivery bodies.

1.4.14 Test ix: It is reasonably flexible to enable it to deal with changing circumstances.

Key Questions

- Is the DPD flexible enough to respond to a variety of, or unexpected changes in, circumstances?
- Are Development Control Policies written in a generic form to enable them to provide a robust and consistent framework for considering planning applications?

Evidence

The annual monitoring report will be an important source of evidence. For example, the LPA should be monitoring the effectiveness of their policies. Sensitivity testing¹⁹ of the policies in the DPD to potential changes in the assumptions that underpin them (such as economic growth or transport provision), and other sources of evidence for the DPD (see test vii) would help to demonstrate the robustness of the DPD to change.

For example, if the strategy of the DPD is dependent on the construction of a major transport scheme, the Local Planning Authority should carry out an assessment of the risk of the infrastructure not being delivered and the consequences of this failure for the DPD as a whole.

Where there is a significant risk, the Local Planning Authority should identify contingency options that will achieve the objectives of the DPD in the event that the policy in question cannot be delivered. The DPD should set out the basis for the contingencies identified.

1.5 Role of the key participants in assessing soundness

Local Planning Authorities

1.5.1 LPAs are expected to submit DPDs which they are satisfied are sound, having regard to the tests set out in *PPS12*. To demonstrate this, local authorities are encouraged to carry out a self-assessment process against the tests of soundness as they prepare the DPD. As a matter of good practice, the results of this exercise should be submitted alongside the plan to show why the LPA considers it to be a sound DPD. Prior to

¹⁹ 'Sensitivity testing', meaning testing the effect of changing local circumstances in various degrees (new roads, new employers or loss of) on , for example, the need for housing provision and other facilities.

finalising the report the Inspector will send the draft to the local planning authority to allow the authority to check for factual errors and seek clarification on any conclusion which they consider to be unclear (but not to challenge the Inspector's arguments or recommendations).

Government Offices

1.5.2 The Government Offices (GOs) have a key role in guiding LPAs in the production of sound DPDs. Prior to the submission of the DPD, where possible, the GO should identify the potential for weaknesses in relation to the tests of soundness. This would include identifying any obvious omissions and procedural errors which might lead to a finding that the DPD was unsound. Although the LPA and GO should endeavour to resolve any issues of conflict prior to the examination, the GO has the opportunity to make formal representations which will be considered at the examination (either in writing or, where deemed necessary by the Inspector, by appearing).

1.5.3 Paragraph 4.33, PPS12 provides that the Secretary of State may consider intervention by 'direction'²⁰ where the recommendations of the binding report are considered to be in conflict with issues of regional or national importance and extend beyond the area of the plan making authority. The Planning Inspectorate will provide the relevant GO with a copy of the draft report on the examination of the DPD at fact check stage²¹, when it is sent to the LPA. Any issues raised by the GO will be made publicly available.

Regional Planning Bodies

1.5.4 The objective of an RSS (SDS in London) is to contribute to the achievement of sustainable development. The RSS (SDS) should provide a broad development strategy for the region (London) for a fifteen to twenty year period. RSSs should be spatial strategies setting out the strategic policies and proposals, including infrastructure proposals and management policies, governing the future distribution of regionally or sub-regionally significant activities and development within the region. The RPB (or the Mayor in London) should assess DPDs to ensure that they are in general conformity with the RSS (or SDS in London). If there is a material departure from RSS/SDS for which there is no clear local justification, the regional planning body (or the Mayor) should inform the LPA before it is submitted for examination. If the LPA decides to proceed with the DPD, any opinion of the regional planning body (or the Mayor) that the document is not in general conformity with the RSS (or SDS) must be taken as representations seeking a change to the document. The regional planning body (or the Mayor) will provide evidence either in writing or, where necessary, in person at the examination to enable the Inspector to decide whether or not the departure is justified²².

²⁰ See section 21 of the 2004 Act

²¹ PINS will send the Inspector's report to the LPA in draft for any final comments on factual matters shortly before formally issuing the report to them; this is known as the 'fact check' stage. See also PPS12 4.29 re fact check stage and PPS12 4.33 re the Secretary of State's intervention powers.

²² See paragraphs 4.19-4.22, PPS12, for advice on 'general conformity'

The Planning Inspectorate and appointed Inspector

1.5.5 The Planning Inspectorate will appoint the Inspector in accordance with the Service Level Agreement (SLA)²³ that the Planning Inspectorate will have with each LPA. The Planning Inspectorate will screen DPDs shortly after submission by the LPA to ensure that all necessary documentation has been submitted in accordance with *PPS12*²⁴ and the SLA. Where documentation is not complete the Planning Inspectorate will inform the LPA and set a timetable for the submission of any missing documents to allow the examination to proceed.

1.5.6 The role of the Inspector is to carry out an independent assessment of the soundness of the DPD and to ensure that it satisfies the statutory requirements for its preparation. It is the Inspector's job to assess the DPD on the basis of evidence submitted to the examination (including any representations made on the DPD in question) and his or her wider knowledge and professional judgement. The Inspector may only make changes in the binding report on the basis of evidence assessed during the examination (whether that assessment is carried out using written representations or by oral hearing). An early assessment of compliance with the Act and Regulations will be carried out by the Inspector to ensure the requirements of the Planning and Compulsory Purchase Act s20(5)(a) are met before the document is examined for soundness under s20(5)(b).

1.5.7 The assessment process set out in this guide is a framework to ensure consistency of approach. Each examination will ultimately be the responsibility for the appointed Inspector who will carry out his/her job in accordance with the underpinning principles of openness, fairness and impartiality²⁵.

The Community and other Stakeholders

1.5.8 It is vital that the community and other stakeholders become involved at the earliest stages of the preparation of DPDs i.e. at the issues and options stage²⁶. This will strengthen plan production by allowing the LPA the opportunity to consider alternative options at an early stage. This might help to minimise representations seeking changes to the DPD later on in the process and will certainly help to clarify the issues which the examination will need to focus upon. Raising new representations at submission stage, on issues which have not been considered by the LPA earlier in the DPD preparation process (as part of "frontloading" the DPD), will cause serious difficulties for the Inspector because of the need for the Inspector to ensure that any changes made lead to a sound DPD in terms of the procedural tests. Representations which request substantial changes to a DPD at submission stage should therefore be avoided as alternative policy options and proposals should be aired during the early consultation stages. Further advice on early involvement and securing input from the community and other stakeholders is given in Chapter 4 of *PPS12* and Chapter 7 of *Creating Local Development Frameworks: A Companion guide to PPS12*²⁷.

²³ See paragraph 3.1.3 in section 3 of this guide

²⁴ See 'Submission of a Development Plan Document Process', paragraph 4.16, *PPS12*.

²⁵ These 3 guiding principles are commonly referred to as the 'Franks' principles.

²⁶ See Figure 4.1, page 31, *PPS12*

²⁷ View at: http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_032593.pdf

1.5.9 It will be particularly important that groups responsible for the delivery of the policy objectives of the DPD are involved at the earliest possible stage to ensure proper planning of service provision and widespread commitment to delivery. For example, the relevant primary care trust will need to be involved in assessing the impact of new development on health care provision and in the formulation of policies on how to accommodate additional demand.

1.5.10 Section 2.4 provides a model form and accompanying note for LPAs to make available to members of the public, to guide those seeking to make representations. The community and other stakeholders are encouraged to ensure that any representations seeking changes to the DPD focus on the tests of soundness and demonstrate clearly why the DPD is considered unsound.

Section 2: Procedural guidance on the examination process

2.1 Underlying principles for the new examination system

2.1.1 The examination process must be carried out quickly. The length of the examination will vary according to the type and nature of the DPD. The aim is that from submission of any DPD for examination to issue of the binding report should take no more than 12 months²⁸. The precise length of any individual examination will be determined once the nature of the DPD and the issues involved are clear. In setting the procedures to be adopted at the examination the Inspector will ensure that the tests of soundness are properly examined. The dates for any formal part of the examination process and any pre-examination meeting/s will be agreed with the LPA.

2.1.2 The presumption is that the plan is sound unless it is shown to be otherwise as a result of evidence brought to the Examination (paragraph 4.24, PPS12). Underpinning the new system is the principle of continuous community involvement in accordance with the LPA's Statement of Community Involvement (which itself will be subjected to independent examination) or, in the absence of the SCI, in accordance with minimum standards as set out in the 2004 Regulations. There are various stages where the relevant GO may be able to intervene to discourage the submission of a patently unsound plan for examination. If that has failed the Inspector will be able, should it be necessary to do so, to recommend that the LPA rectify any procedural unsoundness, before the detail of the plan is subject to formal examination. In these circumstances, the Inspector should provide full reasons for this course of action. The intention is that the plan which comes to the examination should be able to meet the procedural and conformity tests set out in PPS12.

2.2 The structure of the Examination

Pre-examination meetings

2.2.1 The new examination system will require a proactive approach to be adopted by Inspectors in setting out the issues to be examined in advance to ensure that they can assess the soundness of the plan and, in doing so, allow those who wish to exercise their right to be heard the opportunity to participate in the examination in the most efficient and effective manner possible.

2.2.2 Normally a pre-examination meeting or meetings will be held by the Inspector to discuss the management of the examination, including establishing the overall programme for the examination, how representations will be heard, and the timetable for submission of evidence. Where the DPD in question is simple and straightforward and

²⁸ See PPS12 Figure 4.1

there are no or limited representations (which are proposed to be dealt with by written representations), it is unlikely that a pre-examination meeting will be necessary.

2.2.3 Both the authority and those making representations seeking changes to the DPD should be prepared to take an active role in the pre-examination meeting. The invitation to attend the pre-examination meeting will be sent to all those seeking changes to the DPD and to those who have made representations in support of the DPD. Non attendance at the pre-examination meeting by persons seeking changes to the DPD will not prejudice their right to appear at the examination, but it is considered highly desirable that those who wish to appear at an examination make every effort to attend such meetings.

2.2.4 Following the pre-examination meeting, the aim of the Inspector in programming the examination should be to minimise the time the examination takes whilst ensuring that the examination properly tests the soundness of the DPD. Further guidance on the pre-examination meeting is provided in paragraphs D26-D32, Annex D, *PPS12*.

The Inspector's Approach

2.2.5 Different types of DPD may lead to the examination focusing on different aspects of the tests for soundness. For example, whilst it is important that all DPDs must be consistent with national planning policy and generally conform to the RSS (or SDS in London)²⁹, these criteria are likely to be of more relevance to the examination into the Core Strategy DPD than to an examination into an Area Action Plan (AAP), as all DPDs in the LPA's LDF must conform to the Core Strategy³⁰. Furthermore, the issues at AAP level are likely to be more focused on the deliverability and implementation criteria.

2.2.6 The approach to the examination will be to identify in advance the issues for debate and participants will be invited to contribute to that debate, having regard to the representations they have made. The Inspector will need to consider the whole plan (i.e. the whole submitted DPD) and all of the representations. All those who wish to exercise their right to appear will be invited to participate at the appropriate sessions relating to the representation(s) they have made. *PPS12* stresses the use of written representations as the preferred method, especially for the SCI³¹, and it must be stressed that these carry the same weight as representations given orally. Nevertheless, there will be issues in DPDs which will require thorough examination through an oral process. Where the person making the written representation is asked to appear and declines to do so, non attendance will not detract from the weight afforded to their written representation.

2.2.7 The Inspector will consider the views of the LPA and other parties in determining the most appropriate procedure to adopt for the examination of each individual DPD. However, Inspectors have the power to determine

²⁹ For further guidance see paragraphs 4.19 – 4.22, *PPS12*.

³⁰ The core strategy will normally be the first DPD to be prepared, but this will not always be the case. See paragraph 2.9, *PPS12*

³¹ See paragraph D2, Annex D, *PPS12*.

the precise procedure(s) to be adopted at the Examination. Section 2.3 of this guide sets out the types of procedures which will be adopted; these will be round table discussions and hearings, with formal hearings being used when the Inspector considers there is a need for evidence to be subject to formal cross examination. Even then the process will be clearly led by the Inspector whose aim will be to adopt the most efficient procedure to enable him/her to determine whether the DPD is sound.

2.2.8 Whilst the Inspector should have regard to all the tests of soundness, the degree of detail into which he/she will need to go on each test at the examination is likely to be determined by the nature of the particular DPD and the representations made on it. That degree of detail is also likely to determine the most appropriate procedure which should be adopted in any individual examination. Thus, a Core Strategy DPD which sets out a broad strategy but does not include Site Specific Allocations may be best suited to examination largely through a series of round table discussions similar in format to the RSS Examination in Public. By contrast, a Site Specific Allocations DPD, which identifies specific sites to accommodate the necessary development to meet the Core Strategy, might attract a significant number of representations relating to individual portions of land. These may require consideration by more detailed discussions at hearings. Nevertheless, whilst it will be important to ensure that each representation is properly considered, that does not mean numerous individual hearings. Joint or combined hearings relating to a group or groups of sites or to a specific settlement and dealing with a number of representations of this nature should, in many cases, provide an effective and time efficient way of dealing with such issues.

2.2.9 The Inspector may choose to keep the examination open, after hearing all those who wish to be heard and holding all the programmed sessions, whilst the report is being written. This will enable the Inspector to seek further clarification on matters which may have been raised under written representations and to address, if necessary, any new matters which may arise during or after the formal examination process, providing these do not materially affect the soundness of the plan. The Inspector will set a timetable for the submission of any additional information and will ensure that all relevant parties are aware of the information which has been sought.

Order of Examining DPDs

Sequential

2.2.10 There are likely to be clear benefits in examining the Core Strategy in advance of site allocations especially where the Core Strategy is controversial. This should enable the LPA to take into account the outcome of the Core Strategy examination process and should help to avoid the need to examine sites which are clearly not in accordance with the Core Strategy.

Joint

2.2.11 Where adjoining LPAs have similar issues to address, such as in Core Strategy there may be scope for joint examinations or partial joint examinations – e.g. to examine the implications of RSS policies. This might be particularly useful where a new strategic policy is being interpreted at the lower level by a number of authorities who have a similar approach which, for the benefit of consistency, might be examined in a joint examination session.

2.2.12 Other forms of joint examinations may be into two or more DPDs where they are interrelated and there is a clear benefit in examining them together. However, this process is not intended to permit the production of an old style local plan or unitary development plan which is effectively divided into separate DPDs for joint examination.

Concurrent

2.2.13 Where the LPA is preparing a number of DPDs which can be prepared at the same time but are not interrelated as such there may be scope to run concurrent examinations if the LPA is resourced to meet the demands of such a process.

2.3 Methods of conducting examinations

2.3.1 The examination will consider the development plan document as a whole. A summary of the procedures by which the Inspector can consider representations is set out in Annex C. The following highlights important good practice points to ensure that the examination runs smoothly whichever procedure is adopted.

Written Representation

2.3.2 Expeditious treatment of written representations by the LPA and the Inspector is important for maintaining public confidence that they will be considered in the same way as oral representations seeking changes to the DPD. The Inspector may wish to clarify some matters of fact on written representations seeking changes or on the authority responses. If this is necessary, it will be done in writing, through the Programme Officer³², with the other party being allowed to comment. Where such questions and responses might prejudice the interests of others seeking changes to the DPD, the Inspector will ensure they are informed. The authority should be aware of this possibility and be ready to advise the Inspector accordingly. All such correspondence should be categorised as examination documents and stored in the examinations library³³.

Round Table discussions

2.3.3 Round table discussions (known as RTS) are likely to be particularly suitable for examining core strategies. They need to be well prepared and

³² For further information on Programme Officers, see section 3.2

³³ See paragraph 3.3.5

the number of participants at each RTS managed to make such sessions useful. Careful consideration will be given by the Inspector as to who should be invited to participate at particular RTSs, having regard to the nature of the representations made and to those who have expressed a wish to be heard. Prior to the RTS all participants will be invited to prepare a short paper addressing the issues raised by the Inspector for discussion. If the Inspector considers it helpful, legal representatives may be permitted to be present to assist in questioning but there will be no place for formal presentation of evidence or cross examination.

Informal Hearings

2.3.4 Group or, where appropriate and necessary, individual informal hearings will allow Inspectors to explore issues with participants in a relatively informal setting which may suit the lay participant. This format will be particularly suitable for dealing with relatively straightforward issues where evidence is not technically complex and participants do not need the assistance of professionally trained advisers or advocates. LPAs should ensure that their representatives are fully versed in the content of the DPD and the process by which it has been prepared so they can assist the Inspector in considering the impact of any proposed changes on the soundness of the plan.

Formal Hearings

2.3.5 The formal hearing is intended to be organised on a similar basis to an informal hearing but with an opportunity for the formal questioning of evidence, when appropriate. It will be suitable where evidence is more complex and professional advisers are likely to be present. All participants will sit around the same table and will remain seated throughout. The emphasis will be on the use of an inquisitorial approach with sessions led by the Inspector. The Inspector will structure the discussion around the matters which have been identified in advance from the submitted statements based on the issues identified by the Inspector for examination. Statements of evidence should be limited to about 3000 words.

2.3.6 The Inspector will lead an open discussion of each issue in turn and witnesses will not be formally "called" to give evidence. It should be clear to the Inspector from the statements of evidence which participant is most qualified to contribute to the discussion on the particular matter being considered at any time. The Inspector may look to either the Council or any person making the representation to commence discussions according to the nature of the evidence before the Examination. The Inspector may seek comment from, and ask questions of, any party at any point in the discussion and parties are free to challenge points made by other participants.

2.3.7 Should a party be formally represented their representative will be invited to lead their team rather than exercise the traditional advocacy role. At the Inspector's discretion, such representatives may be given an opportunity to put questions to any participant expressing an opposing view on an issue which has not, otherwise, been covered adequately in the discussion. The guiding principle for the proceedings will be to minimise the

time necessary and to avoid repetition. The Inspector may intervene to achieve this.

Attendance at the examination

2.3.8 Where an oral examination (as opposed to one conducted exclusively by written representations) is to take place, it will be conducted in a venue to be provided by the LPA to accommodate all those that need to attend. For further advice see paragraph D18, PPS 12³⁴. In order to participate at the examination either by making written representations or, where considered necessary, by requesting an oral hearing, the person making a representation seeking a change to the DPD must make their representation during the specified six week consultation period at submission stage. Supporting representations will be taken into account by the Inspector but there is no right to appear before the Inspector if no change to the DPD is sought.

2.3.9 Inspectors are careful to ensure that lay participants who are unfamiliar with examination procedure are properly guided through the process. It is not necessarily the case that appearance before the Inspector leads him or her to a better understanding of the issues. These can often be more than adequately considered through the written representations procedure. Attendance at the Pre-Examination Meeting will help all participants and the Inspector ensure that the process followed at the examination is both thorough and efficient.

2.3.10 Inspectors have the power to invite additional participants to the examination, i.e. those who have opted not to be heard or those who have not made any representations at all, if the Inspector considers it would assist him/her to determine the soundness of the plan, for example by the provision of evidence on particular areas of expertise³⁵. This power will be exercised with caution and only where there are clear benefits in doing so and in consultation with the LPA and relevant participants.

Sitting times

2.3.11 Examination sessions will be timetabled and participants will be advised of the timing of the sessions to which they are invited. Sufficient flexibility will be built into the programme to avoid sessions being delayed as a result of over-runs but Inspectors will normally expect participants to observe the agreed timetable. The start date of any oral part of the examination and the number of sitting days will be agreed between the LPA and PINS as part of the Service Level Agreement. Detailed timing of sessions will be determined once the nature of the DPD and the representations have been considered. and the arrangements will be finalised at or shortly after the Pre-Examination Meeting.

Use of professional resources

2.3.12 Authorities will need to give careful consideration to their use of personnel at the examination, either from outside or within the authority and experts in particular fields, such as highways. Generally examinations

³⁴ For advice on examination expenses see paragraph D19 , PPS12

³⁵ See paragraph D16 (and D29) Annex D, PPS12

will proceed more quickly if those representing the authority are sufficiently senior and experienced. Where consultants are used to represent the authority at the examination, clear lines of communication between the authority and the consultant are essential for the smooth running of the examination. The Inspector will expect evidence given on behalf of the authority to be consistent, and will draw attention to any inconsistencies, even if they are not raised by those making representations.

2.4 Making representations on DPDs

Model form and guidance note

2.4.1 When the LPA submit the DPD to the Secretary of State for independent examination, the authority will place it on its website and on deposit at its main office and other suitable venues. The LPA will also send copies of the DPD to the consultation bodies described in the 2004 Regulations, and will invite representations on the submitted document within six weeks³⁶.

2.4.2 A suggested model form and guidance note is provided below for use by LPAs for inviting representations on submitted DPDs. The form asks those making representations to identify which test of soundness they think the DPD fails to meet and why. It would be helpful if LPAs set out the criteria for testing soundness when advertising/publicising the DPD at the formal submission stage to help to focus the representations.

2.4.3 Copies of the form and accompanying note should be made available by the LPA on request or should be available for download on the local authority website. The completed form may be submitted to the local authority either by post or via the e.mail address provided by the local authority for making representations.

2.4.4 Those making representations within the specified 6 week period should indicate how they wish those representations to be dealt with i.e. by written representations (suitable for representations where there is no controversial or complex evidence involved) or by appearing at the formal examination. The procedure for making representations on development plan documents submitted to the Secretary of State is set out in *PPS12* Annex C and in the 2004 Regulations (see regulation 29).

2.4.5 Raising new issues in representations at submissions stage (which have not been raised previously at the issues and options stage or at the preferred options stage) may present problems for the Inspector, since he/she may only make changes to the DPD if they are sound in accordance with all the tests. The Inspector would not be able, for example, to include a new site proposed at submission stage unless it could be shown that the proposal had been subject to proper procedures of community involvement and sustainability appraisal. In the absence of clear evidence that such procedures had been carried out in advance of the examination, the Inspector may decide to give limited consideration to such proposals.

³⁶ Regulation 4 of the 2004 Regulations provides that copies of the DPD and representations made on the DPD may be sent/made by way of electronic communications.

Model Representation Form for Development Plan Documents

Council Logo	Development Plan Document (DPD) Submission Stage Representation Form	Ref: (For official use only)
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Name of the DPD to which this representation relates:

1. Personal Details	2. Agents Details (if applicable)
Title <input style="width: 150px;" type="text"/>	<input style="width: 150px;" type="text"/>
First Name <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Last Name <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Job Title (where relevant) <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Organisation (where relevant) <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Address Line 1 <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Line 2 <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Line 3 <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Line 4 <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Post Code <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
Telephone Number <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>
E-mail Address (where relevant) <input style="width: 280px;" type="text"/>	<input style="width: 280px;" type="text"/>

3. Did you raise the matter that is the subject of your representation with the LPA earlier in the process of the preparation of the DPD, i.e. before it was submitted for examination?

No	<input style="width: 80px;" type="text"/>	Yes (at issues and alternative options stage)	<input style="width: 80px;" type="text"/>	Yes (at preferred options stage)	<input style="width: 80px;" type="text"/>
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If 'No', can you briefly explain why you did not do so:

4(a). Do you consider the DPD is:

Sound¹

Go to Qu.5

(ie you support the DPD)

Unsound

Go to Qu.4.(b)

(ie you consider the DPD
should be changed)

4(b). If you consider the DPD is **unsound**, please identify which test of soundness your representation relates to (having regard to test numbers 1-9 listed in the Annex).

Please note you should complete a separate form for each test you consider the development plan document fails.

Soundness Test no.
(see Annex)

5. To which part of the DPD does your representation relate?

Paragraph

Policy

Proposals
Map

6. Please give details of what change(s) you consider necessary to make the DPD sound, having regard to the test you have identified at 4. above. You will need to say why this change will make the DPD sound. *Please be as precise as possible.*

(Continue on a separate sheet/expand box if necessary)

7. Can your representation seeking a change be considered by written representations or do you consider it necessary to attend the Examination?

Written Representations

Attend Examination

8. If you wish to attend the examination, please outline why you consider this to be necessary:

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to attend the Examination.

Signature:

Date:

¹ Sound may be considered in this context within its ordinary meaning of "showing good judgement" and "able to be trusted" and within the context of fulfilling the expectations of legislation.

Annex : Failure to meet a Soundness Test		
1		It has not been prepared in accordance with the authority's Local Development Scheme (LDS).
2	A	It has not been prepared in compliance with the Statement of Community involvement (SCI).
	B	Where no SCI exists, it has not been prepared in accordance with the minimum requirements of the Town and Country Planning (Local Development) (England) Regulations 2004.
3		The plan and its policies have not been subject to sustainability appraisal.
4	A	It is not a spatial plan, or it has not properly had regard to any other relevant plans, policies and strategies relating to the area or to adjoining areas.
	B	It is inconsistent with national planning policy.
	C	It is not in general conformity with the regional spatial strategy (or the spatial development strategy in London).
5		It does not have regard to the authority's community strategy.
6		The strategies/policies/allocations in the plan are not coherent and consistent within and between Development Plan Documents (DPDs) prepared by the authority and by neighbouring authorities, where cross boundary issues are relevant.
7		The strategies/policies/allocations fail to represent the most appropriate in all the circumstances, having considered the relevant alternatives, and they are not founded on a robust and credible evidence base.
8		There are no clear mechanisms for implementation and monitoring.
9		The plan is not reasonably flexible to enable it to deal with changing circumstances.

Notes to Accompany Model Representation Form for Development Plan Documents

1. Introduction

1.1 Following this final stage of consultation on the Development Plan Document (DPD), an examination will be held by an independent Planning Inspector. The Planning and Compulsory Purchase Act 2004¹ (the 2004 Act) states that the purpose of the examination is to consider whether the Development Plan Document is “sound”. This means those who wish to make a representation seeking a change to a DPD which has been submitted by the Local Planning Authority (LPA) for independent examination will need to show how that DPD is unsound and what needs to be done to make it sound.

1.2 In order to decide whether the DPD is sound, the Inspector will apply a number of tests to the document. These are explained below. It would be helpful to ensure that any representations seeking a change to the DPD are clearly related to one of the tests of soundness.

- 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 should be set out under one of the ‘procedural’ tests.
- If it is the actual content on which you wish to comment or object you should look at the ‘conformity’ and the ‘coherence, consistency and effectiveness’ tests.

1.3 Whilst you should endeavour to make clear which soundness test you consider the DPD fails, if you fail to identify a test in relation to your representation seeking a change this will not lead to your representation not being considered, providing it relates to the relevant DPD. Where your representation seeks more than one change (and relates to the failure to meet more than one test of soundness), a separate form should be used for your representation on each change and relevant soundness test. A separate form should also be used for representations supporting the DPD as opposed to objecting to it.

1.4 Where there are groups who share a common view on how they wish to see a DPD changed, it would be very helpful for that group to send a single representation which represents the view, rather than for a large number of individuals to send in separate representations which repeat the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorised.

1.5 The tests to be applied to assess the soundness of DPDs are set out in paragraph 4.24 of *Planning Policy Statement 12: Local Development Frameworks*² (PPS12). The following gives some brief guidance on each of the tests.

¹ View at: <http://www.opsi.gov.uk/acts/acts2004/20040005.htm>

² View at:

http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=5382&l=3

2. Procedural Tests

2.1 The procedural tests are as follows:

Test 1

The DPD has been prepared in accordance with the Local Development Scheme.

The Local Development Scheme (LDS) is effectively a programme of work prepared by the LPA, setting out the Local Development Documents it proposes to produce over a 3 year period. It will set out the key stages in the production of any DPDs which the LPA propose to bring forward for independent examination. If the DPD is not in the current LDS it should not have been submitted for examination.

Test 2

The DPD has been prepared in compliance with the Statement of Community Involvement, or with the minimum requirements set out in the Town and Country (Local Development)(England) Regulations 2004³ where no Statement of Community Involvement exists.

The Statement of Community Involvement (SCI) is a document which sets out a LPA's strategy for involving the community in the preparation and revision of Local Development Documents (including DPDs) and the consideration of planning applications. The LPA will submit a consultation statement with the DPD to show how they have complied with their SCI.

Test 3

The DPD has been subjected to a Sustainability Appraisal.

Local authorities are required to carry out a Sustainability Appraisal⁴ of DPDs which incorporates the requirements of the European Directive on Strategic Environmental Assessment⁵ (the SEA Directive). The LPA is required to submit a Sustainability Appraisal Report when they submit a DPD 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.

3. Conformity Tests

3.1 The conformity tests are as follows:

Test 4

The DPD is a spatial plan which is consistent with national planning policy and in general conformity with the Regional Spatial Strategy for the region

³ View at: <http://www.opsi.gov.uk/si/si2004/20042204.htm>

⁴ Section 19(5)

⁵ View at: <http://www.planningportal.gov.uk/england/professionals/en/1112201229095.html>

or, in London, the Spatial Development Strategy. It has properly had regard to any other relevant plans, policies and strategies relating to the area or to adjoining areas.

Spatial planning should not just be concerned with the physical aspects of location but also with economic, social and environmental matters relating to the development and use of land. Further guidance on what spatial planning means can be found in paragraphs 30-32 of *Planning Policy Statement 1: Delivering Sustainable Development*⁶ (PPS1) and 1.8-1.11 of PPS12.

The Government Office for the Region can be expected to comment on any possible inconsistency with national planning policy and the Regional Planning Body (or the Mayor in London) should identify any issue about the general conformity of a DPD with the Regional Spatial Strategy (Spatial Development Strategy in London).

Test 5

The DPD has had regard to the authority's Community Strategy.

The Community Strategy is usually prepared by the Local Strategic Partnership which is representative of a range of interests in the LPA's area. The Community Strategy is subject to consultation but not to an independent examination.

4. Coherence, Consistency and Effectiveness Tests

4.1 There are four tests under this heading, test numbers 6-9. These are the tests to which you are most likely to wish to respond as they relate to the content of the DPD i.e. what the authority is proposing for your area. The tests require that:

Test 6

The strategies/policies/allocations in the DPD are coherent and consistent within and between DPDs prepared by the authority and by neighbouring authorities, where cross boundary issues are relevant.

The DPD should show how the policies and proposals within it relate to other relevant policies and proposals in the LPA's area and in neighbouring areas.

Test 7

The strategies/policies/allocations represent the most appropriate in all the circumstances, having considered the relevant alternatives, and they are founded on a robust and credible evidence base.

The DPD should show how the policies and proposals help to ensure that the social, environmental, economic and resource use objectives of sustainability will be achieved.

⁶ View at:

http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=5845&l=3

Test 8

There are clear mechanisms for implementation and monitoring.

The DPD should indicate who is to be responsible for making sure that the policies and proposals happen and when they will happen. Any measures which the LPA 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 DPD needs amendment.

Test 9

The DPD is reasonably flexible to enable it to deal with changing circumstances.

The plan 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 DPD should make clear that major changes may require a formal review including public consultation.

5. Additional Considerations

5.1 If you think the process by which the DPD has been prepared is not sound you should consider the following before making representations:

- Is the DPD in question within the current Local Development Scheme (LDS) and if so have the key stages been followed? The LDS should be on the Council's website and available at their main offices.
- Has the process of community involvement for the DPD in question been in general accordance with the LPA's Statement of Community Involvement (or does it meet the minimum requirements set out in the 2004 Regulations⁷)? NB It would not be appropriate to object to the processes set out in the SCI at this stage, since it is subject to a separate independent examination process⁸.
- Has a Sustainability Appraisal Report been produced and does it relate to the DPD in question? Whether the resultant policies of the DPD are sustainable will be covered by other tests, notably the tests relating to the coherence, consistency and effectiveness of the plan, which deal with the content of the DPD.

5.2 If you think the content of a DPD 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 (or the Spatial Development Strategy in London)? If so it does not need to be included.

⁷ Regulations 25 and 26 of the *Town and Country Planning (Local Development) (England) Regulations 2004*

⁸ A separate guide is available on the independent examination of statements of community involvement: *Development Plans Examination - A Guide to Assessing the Soundness of Statements of Community Involvement*. View at: www.planning-inspectorate.gov.uk.

- Is what you are concerned with covered by any other policies in the DPD on which you are seeking to make representations or in any other DPD in the LPA's Local Development Framework (LDF). There is no need for repetition between documents in the LDF.
- If the policy is not covered elsewhere, in what way is the DPD unsound without the policy?
- If the DPD is unsound without the policy, what should the policy say?

5.3 If you feel that the LPA has not put forward sufficient evidence to justify a significant departure from national or regional policy, your comments should try to make it clear why you think the LPA's case for departure is inadequate. Conversely, you may feel the LPA should include a policy or policies which would depart from 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 that justify a different policy approach to that in national or regional policy and support your assertion with evidence.

6. General advice

6.1 If you wish to make a representation seeking a change to a DPD or part of a DPD you should make clear in what way the DPD or part of the DPD is not sound having regard to the tests set out above. You should try to support your representation by evidence showing why the DPD should be changed. It will be helpful if you also say precisely how you think the DPD should be changed.

Section 3: Supplementary advice to Local Planning Authorities

3.1 Advisory visits, submission of DPDs, Service Level Agreement and Inspector Teams

Advisory Visits

3.1.1 Visits to LPAs by the Planning Inspectorate can be arranged in order to discuss procedural issues. An advisory team can discuss issues relating to the examination, including modes of representation, suitability of venues and the requirements of the Inspector. However, the final detail of the examination procedures will be a matter for the appointed Inspector to consider. The visits are not designed to discuss the content of the DPD, but to advise the LPA on the correct approach to the examination process and the requirements of the Inspector. In order for the LPA to gain the maximum benefit from an advisory visit, it is recommended the visit is arranged well in advance of submission of the DPD. Groups of LPAs may benefit from combined advisory visits especially when they are operating to roughly similar timetables.

Submission of DPDs for examination and appointment of an Inspector

3.1.2 Local authorities should submit the DPD in the form they wish to see it adopted, since the Inspector's report will be binding³⁷. Two paper copies should be submitted and one electronic copy to the Planning Inspectorate together with a copy of the SA Report, any supporting technical documents (such as the urban capacity study and housing needs survey), a copy of the SCI (where one is adopted) and a statement of compliance detailing how the LPA has complied with the SCI (or minimum requirements of the 2004 regulations)³⁸. The Planning Inspectorate will appoint an Inspector on submission of the DPD in accordance with the SLA. Where thought desirable to maximise the efficiency of the examination more than one Inspector may be appointed to work as a team.

Service Level Agreement (SLA)

3.1.3 The SLA covers the arrangements between the Planning Inspectorate and the LPA for the examination and the Inspector's binding report. The terms of the current SLA can be viewed at www.planning-inspectorate.gov.uk

Inspector Teams

3.1.4 PINS may appoint teams including lead and other Inspectors and staff such as Planning Officers (employed by PINS) to deliver the most efficient examination system.

³⁷ See paragraph 4.27, *PPS12*

³⁸ See paragraph 4.14, 4.16 and the text box on page 36, *PPS12*

3.2 Appointment and Role of Programme Officers

Appointment of a Programme Officer

3.2.1 The LPA will appoint a Programme Officer with administrative experience (not a member of the planning team) who should be appointed early in the planning process, preferably at preferred options stage. It is important that the Programme Officer is appointed no later than stated as this will enable the efficient management of the administrative process. The Planning Inspectorate will not arrange the formal examination until the LPA has supplied details of the name, address and telephone number of the Programme Officer.

The qualities of an effective Programme Officer

3.2.2 The Programme Officer is responsible for managing the day to day arrangements of the examination process before and during the period of examination, recording all documents submitted, arranging for the inspection of sites by the Inspector and dealing with correspondence on his/her behalf to those who have made representations, including requests for and exchange of all statements. It is not envisaged the Programme Officer should be needed on a full time basis in the initial days of appointment. For the successful flow of the DPD examination, it is vital that the Programme Officer possesses good administrative skills, tact, patience, firmness and confidence and an extremely desirable quality is previous experience of such work. In order to aid LPAs in securing an effective Programme Officer, the Planning Inspectorate keeps a list of experienced, independent Programme Officers that may be available to work for an LPA. A course for Programme Officers is run by Oxford Brookes University in association with the Planning Inspectorate³⁹. LPAs are encouraged to consider working collaboratively with neighbouring authorities to train staff who can be shared amongst them and to widen the pool of available Programme Officers.

Maintaining impartiality

3.2.3 It is important that for the duration of their appointment, the Programme Officer must be seen as an impartial officer of the examination process. It is recommended that the Programme Officer use examination headed paper, not incorporating the Council Logo, to emphasise their independence.

Programming the examination

3.2.4 The role of the Programme Officer is considered to be very important to the efficient running of an examination. Under the guidance of the appointed Inspector, the Programme Officer will draw up a provisional examination programme and timetable for discussion at the pre-examination meeting, which will be published on the LPA's website. The

³⁹ Contact details: Karen Hughes, Short Course/In-House Training Co-ordinator, School of Built Environment, Department of Planning, Oxford Brookes University. Tel 01865 483560; email: khughes@brookes.ac.uk

examination programme will show what procedural methods the Inspector intends to adopt having regard to the nature of the DPD and the representations and will indicate who has been invited to each session, having regard to participants' wish to be heard and how the examination is proposed to be structured, having regard to the tests of soundness. The draft programme will indicate how long the examination is anticipated to last and inform participants when they are likely to be required to attend. Further guidance is provided in paragraphs D20-D21, Annex D *PPS12*.

After the examination

3.2.5 Once the examination is concluded, the Programme Officer should ensure that all documentation is complete and properly stored. Whilst preparing the Binding Report, the Inspector will almost certainly need to contact the Programme Officer to seek clarification on matters which may have been raised under written representations. It is therefore important that if an external appointment, the Programme Officer be retained, probably on a part time basis, for at least a month after the close of the examination. When the local authority proposes to terminate an external Programme Officer's contract, an alternative member of the Council's staff (independent of the planning department and the production of the development plan) as agreed with the Planning Inspectorate must be made available for the Inspector to contact.

3.3 Representations, referencing and statements of evidence

Use of Information Technology in the examination process

3.3.1 The Planning Inspectorate recommends LPAs use an online electronic system to support an efficient and effective examination process. The system should provide a means to publish documents in the LDF online to assist with the process of consultation. It should supply a mechanism for any interested party to make representations on the content of DPDs online. Additionally it should provide a full electronic administration system for local authorities to use for recording all representations made on DPDs. This will allow representations to be made, stored and managed via the internet if the LPA chooses to use the system to manage examinations.

Analysing, referencing and storing representations

3.3.2 Representations should be analysed carefully by experienced members of the planning team, not the Programme Officer. Any inadequate or inconsistent analysis will lead to misunderstandings and mistakes leading to abortive work later on.

3.3.3 LPAs should structure their database for representations so that the representations are capable of being listed in a variety of ways including soundness test order, paragraph order or policy order. This will assist the Inspector in determining the most efficient way of carrying out the examination.

3.3.4 It is recommend that representations should be referenced as simply as possible. An example is set out below:

(i) **Soundness test number 1-9**, where the representation is asserting the DPD is unsound, the test number should be used as the prefix. Where the representation is supporting the soundness of the DPD, the prefix should be an S. This is essential for all parties and especially Inspectors.

(ii) **Paragraph and policy** – this prefix is also essential for all parties, particularly Inspectors.

(iii) **Personal Reference** number. This should be used to identify the person(s) making the representation only, and numbering can start at 0001, giving each person, group, organisation their individual reference number.

(iv) **Representation Reference** number. This is used to identify each representation and should start at a substantially higher number than the last reference number for the Personal References. It is useful to add up the total number of Personal References initially and number them 0001-0999 (or higher if necessary) and then number Representation References at a significant higher number, for example 5000.

So where the representation is seeking a change because the DPD is unsound, the reference number will look like this:

1(test number)/2.6ENV(para/policy)/0001(Personal Reference number)
/5000 (Representation reference number)

Where a representation is in support of the soundness of the DPD (or part of) the reference will look like this:

S/2.6ENV/0002/5001

Examination Library

3.3.5 Community Groups, private residents and other unrepresented persons may need help to understand the nature of the examination process if they are to use it efficiently. Therefore a start should be made on setting up the examination library no later than the end of the period for the consultation on Preferred Options⁴⁰, so that the information and documents it will contain can be available to those making representations as soon as possible. The library should contain a copy of this guidance, existing plans, committee reports, research reports, Planning Policy Statements, Planning Policy Guidance, the RSS (SDS, In London) and any other information likely to be used during the examination. Those making representations should be told of the library's existence and invited to discuss any difficulties they encounter in preparing for the examination with the Programme Officer or the authority.

⁴⁰ See paragraphs 4.12-4.13 and text box on page 34, PPS12. Also see regulations 26 and 27 of the 2004 Regulations.

Statements of Evidence

3.3.6 Adhering to the principles of front loading community involvement in the preparation of DPDs should mean that nothing is brought to the examination by those making representations which has not been considered by the LPA during the plan preparation process. To assist in the efficient running of the examination, LPAs should produce evidence in the following form:

- Core proofs/topic papers to deal with the broad basis of the authority's case in respect of all representations on a particular topic. These should draw upon the initial report to committee and incorporate any agreed statements between those making representations and the authority. These papers will assist those making representations with their statements of evidence and should be prepared well before the pre-examination meeting.
- Response statements to representations seeking changes to a particular policy or proposal should be concise and clear. They should begin by summarising the gist of the representation made and conclude with a clear statement of, for example, what change is needed to make the meaning of the DPD clearer. It is not expected that any major proposal changes should be necessary at this stage, if front-loading has been carried out correctly. Where appropriate, and possible, the statement should explain how the change affects the sustainability appraisal. All such statements should be produced in accordance with the timetable specified by the appointed Inspector.

Annex A

List of relevant legislation and guidance

Please note this list is not exhaustive. A number of other relevant guidance documents have been and are proposed to be published by the Office of the Deputy Prime Minister to provide further guidance and advice on the preparation of documents which will comprise LDFs. Please refer to the ODPM website: www.odpm.gov.uk

Legislation

Planning and Compulsory Purchase Act 2004

<http://www.opsi.gov.uk/acts/acts2004/20040005.htm>

The Town and Country Planning (Local Development) (England) Regulations 2004

<http://www.opsi.gov.uk/si/si2004/20042204.htm>

European Directive on Strategic Environmental Assessment (2001/42/EC)

<http://www.planningportal.gov.uk/england/professionals/en/1112201229095.html>

The Environmental Assessment of Plans and Programmes Regulations 2004

<http://www.opsi.gov.uk/si/si2004/20041633.htm>

Guidance

Planning Policy Statement 12: Local Development Frameworks

http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=5382&l=3

Creating Local Development Frameworks: A Companion guide to PPS12

http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_032593.pdf

Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents

<http://www.odpm.gov.uk/stellent/groups/odpm>

Planning Policy Statement 1: Delivering Sustainable Development

http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=5845&l=3

Annex B

Summary of the Tests, Key Questions and Evidence

Procedural Tests		
Test	Key questions	Evidence
1. Prepared in accordance with the LDS	<ul style="list-style-type: none"> • DPD identified in the approved LDS? • Details in the LDS (e.g. role, rationale, scope) been met? 	<ul style="list-style-type: none"> • LDS • LA's self assessment of soundness (where produced)
2. Prepared in compliance with SCI (where adopted) or 2004 Regulations (where not adopted)	<ul style="list-style-type: none"> • All consultation procedures set out in SCI been carried out? • Where no SCI, minimum consultation requirements in 2004 Regulations been met? 	<ul style="list-style-type: none"> • SCI • Consultation statement produced with DPD • 2004 Regulations • LA's self assessment of soundness (where produced)
3. Plans and policies subject to SA	<ul style="list-style-type: none"> • SA been carried out in relation to the particular DPD? 	<ul style="list-style-type: none"> • SA report (identifying process SA carried out, baseline information used and outcomes of process)

Conformity Tests		
Test	Key questions	Evidence
4. Spatial plan consistent with national planning policy, in general conformity with the RSS for the region (or SDS in London), and had proper regard to any relevant plans, policies and strategies relating to the area or adjoining area	<p>(a) <i>Spatial plan, with regard to other relevant plans, policies and strategies</i></p> <ul style="list-style-type: none"> • Reflects guidance on spatial planning in national planning policy? • Takes account of relationship between proposals in plan and other requirements (e.g. utility companies and service providers) • Clear how DPD relates to other plans, strategies (e.g. Local Transport Plans) which influence delivery of proposals in DPD • In two tier areas, clear DPD integrates effectively with plans prepared by the county council/district council? <p>(b) <i>Consistent with national planning policy</i></p> <ul style="list-style-type: none"> • DPD contain any policies/proposals not consistent with national planning policies? If so, any local justification? <p>(c) <i>DPD in general conformity with RSS (or SDS, in London)</i></p> <ul style="list-style-type: none"> • DPD contain any policies/proposals not in general conformity with RSS (or SDS, in London). If so, any local justification? 	<ul style="list-style-type: none"> • Depend on nature of DPD – range of documents relevant – see Test 7 examples • LA's self assessment of soundness (where produced). • Representations from bodies which consider DPD does not have sufficient regard to other relevant strategies they are responsible for. <ul style="list-style-type: none"> • PPGs and PPSs • Representations from GOs • Local studies and other information providing basis for departing (e.g. those that derive from the Community Strategy or local studies forming part of evidence for the DPD) <ul style="list-style-type: none"> • RSS (or SDS, in London) • Reps from RPB (or Mayor, in London) • Local studies/other information providing basis for departure

5. Regard to authority's Community Strategy	<ul style="list-style-type: none"> • DPD has regard to Community Strategy, by setting out policies and proposals which deliver key components of that strategy, in so far as consistent or in general conformity with higher level planning policy and relate to the use and development of land? 	<ul style="list-style-type: none"> • Community Strategy and representation from LSP • Community Strategy may set out spatial implications of Strategy and how key components relating to use and development of land might be delivered through the LDF. • DPD should set out how objectives of Community Strategy relate to the DPD
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Coherence, Consistency and Effectiveness Tests

Test	Key questions	Evidence
6. Strategies/policies/allocation s in the DPD are consistent within and between DPDs prepared by the authority and by neighbouring authorities, where cross boundary issues are relevant.	<ul style="list-style-type: none"> • Policies clearly relate to objectives in the submitted DPD or a related DPD (e.g. Core Strategy)? • Policy objectives within DPD themselves consistent? • Clear how DPD relates to other plans in authority's LDF and relevant plans prepared by neighbouring authorities? • Any overlaps- are they consistent/complementary? • Any obvious gaps in coverage of DPD, having regard to its purpose and the relevant requirements in national planning policy statements? • Clear how cross boundary issues are addressed? 	<ul style="list-style-type: none"> • Principal source LDF and neighbouring authorities' LDFs • Purpose of DPD should be clear (e.g. if Core Strategy should include a vision and strategic framework for the preparation of more detailed DPDs such as SAPs and AAPs) • DPD should show how policies and proposals within it relate to other parts of the LDF and (where relevant) to any neighbouring authority's LDF. DPD should explain (where necessary) why there may be perceived inconsistencies. • LPAs joint studies (where appropriate) to ensure consistency between neighbouring authorities.

<p>7. Strategies/policies/allocations represent most appropriate in all the circumstances, having considered the relevant alternatives, and are founded on a robust and credible evidence base</p>	<ul style="list-style-type: none"> • LPA considered all reasonable options and alternatives in preparing the DPD? • Assumptions in the DPD set out clearly and supported by evidence? • Evidence clearly supports the policies in the DPD? • Evidence robust and credible – i.e. prepared in accordance with national guidance and good practice guidance? • Where a balance struck in taking decisions between competing alternatives – is it clear how those decision have been taken? 	<ul style="list-style-type: none"> • SA Report fundamental, setting out options and process by which they have been objectively assessed • Other evidence - <u>note: examples only:</u> <ul style="list-style-type: none"> – if DPD is a Core Strategy, urban capacity studies; urban and rural regeneration strategies; local housing assessments; regional and local housing and economic strategies; retail capacity studies; community development strategies; local transport plans; health and education programmes and strategies; infrastructure providers' investment programmes and strategies; environmental programmes and assessments of waste management needs. . - If the DPD is a SAP the evidence may include urban capacity studies; flood risk assessments; various environmental studies and assessments; transport assessments etc. - If DPD is an AAP, area assessments, market assessments, socio-economic assessments, and assessments of infrastructure. - DPD is an AAP relating to the regeneration of rural settlements, Parish Plans, rural regeneration strategies, and local transport plans etc.
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<p>8. Clear mechanisms for implementation and monitoring</p>	<ul style="list-style-type: none"> • DPD contains targets and milestones relating to delivery of the policies (including housing trajectories where the DPD contains housing allocations)? • Clear how these are to be measured and linked to production of the AMR? • Delivery mechanisms and timescale for implementation for the policies clearly identified? • Clear who is intended to implement each policy? If actions required to implement policy are outside the direct control of the LPA, is there evidence of commitment of relevant organisation to implement the policies? • Processes for measuring the success of the DPD accord with national guidance? • DPD explains how its key policy objectives will be achieved? 	<ul style="list-style-type: none"> • Evidence broadly similar to that required to assess Test 7 • If DPD relates to site-specific allocations, however, this may include viability assessments of alternative sites. • Relevant evidence might include reports or representations by main public and private sector delivery bodies.
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<p>9. Reasonably flexible to enable DPD to deal with changing circumstances</p>	<ul style="list-style-type: none"> • DPD flexible enough to respond to a variety of, or unexpected changes in, circumstances? • Development Control Policies written in a generic form to provide robust and consistent framework for considering planning applications? 	<ul style="list-style-type: none"> • AMR important evidence source (e.g. LPA should be monitoring effectiveness of their policies • Sensitivity testing of policies in the DPD to potential changes in the assumptions that underpin them (such as economic growth or transport provision), and other sources of evidence for the DPD (see Test 7) would help to demonstrate the robustness of the DPD to change. For example, if the strategy of the DPD is dependent on construction of a major transport scheme, the LPA should undertake assessment of the risk of the infrastructure not being delivered and consequences of this for the DPD. • Where significant risk, LPA should identify contingency options that will achieve the objectives of the DPD in the event that the policy in question cannot be delivered. DPD should set out the basis for the contingencies identified.
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Annex C

Summary of types of procedure for the Examination

The following is an extract from paragraph D15, PPS12.

Written representations: For the Inspector, written representations are a very efficient method of considering representations. Inspectors are experienced in reaching decisions on the basis of an exchange of written statements. Where necessary, the Inspector can seek clarification of matters raised in written representations during his or her examination of the development plan document by writing to the parties and inviting further comments on specific issues.

Round table discussions: Round table discussions allow a range of issues to be discussed with a number of participants representing different viewpoints in a relatively short time. The Inspector will set the agenda based on the representations made and will chair the discussion. The procedures used in round table discussion are likely to vary according to the nature of the development plan document under examination;

Informal hearing sessions: Informal hearings allow for a concentrated discussion of the issues involved, which is led by the Inspector. They can provide those not familiar with the examination process with the opportunity to present their arguments in a reasonably informal and relaxed setting. This may be the most appropriate method for considering site specific issues, including any requests for boundary changes to sites identified in the development plan document; and

Formal hearing sessions: The traditional inquiry is an adversarial process which involves the formal presentation of evidence and cross examination of witnesses. This particular procedure is considered unlikely to be necessary for the consideration of most representations in determining the soundness of development plan documents. The existing traditional inquiry procedure has been adapted to form the formal hearing, where the Inspector leads the process in an inquisitorial manner and advocates are permitted to be present to assist in the proper testing of evidence.

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