

Annex : Failure to meet a Soundness Test Guidance Sheet

- 1** It has not been prepared in accordance with the authority's Local Development Scheme (LDS).
- 2A** It has not been prepared in compliance with the Statement of Community involvement (SCI).
- 2B** 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.
- 4A** 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.
- 4B** It is inconsistent with national planning policy.
- 4C** 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 2004⁽¹⁾ (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 Framework*⁽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 Assessments⁵ (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 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>

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 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* (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.

6 View at:

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

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.

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.

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.

- 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.
- 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.