



The Planning
Inspectorate

Local Development Frameworks

Examining Development Plan Documents: Soundness Guidance



The Planning Inspectorate
August 2009 (2nd Edition)

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Introduction

This guide aims to provide guidance to Local Planning Authorities (LPAs) and all those involved in the Development Plan Document (DPD) examination process.

It sets out the approach that will be taken to assess whether a DPD has been prepared in accordance with the legislative requirements and establish whether it is sound. Planning Policy Statement 12 (PPS12) provides that in determining soundness, the Inspector will consider whether the DPD is justified, whether it is effective and whether it is consistent with national policy. The guide provides an indication of the Inspector's main considerations and should assist those making representations to frame their comments.

This is non statutory guidance that applies in England only. It should be read in conjunction with the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act')¹; The Town and Country Planning (England) (Local Development) Regulations 2004 (as amended) ('the 2004 Regulations')²; PPS12³ and the online Plan Making Manual⁴. There is also a separate Inspectorate guide dealing with

the examination procedure⁵.

This document has been updated in August 2009 to clarify the guidance in relation to Strategic Environmental Assessment.

¹ View the 2004 Act:

http://www.opsi.gov.uk/acts/acts2004/pdf/ukpga_20040005_en.pdf

View the amending Planning Act 2008:

http://www.opsi.gov.uk/acts/acts2008/pdf/ukpga_20080029_en.pdf

² View the 2004 Regulations:

http://www.opsi.gov.uk/si/si2004/uksi_20042204_en.pdf

View the amending 2008 Regulations:

http://www.opsi.gov.uk/si/si2008/pdf/uksi_20081371_en.pdf

View the amending 2009 Regulations:

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20090401_en.pdf

³ View PPS12: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/pps12lsp.pdf>

⁴ View the online CLG Plan Making Manual: <http://www.pas.gov.uk/pas/core/page.do?pageId=51391>

⁵ View the Examining Development Plan Documents Procedure Guidance:

<http://www.pas.gov.uk/pas/core/page.do?pageId=96420>

Submission Documentation

1.1 The Inspector will expect to receive the following documentation in relation to all DPDs:

Material that must be submitted by law (Reg 30)

- The DPD (and submission proposals map if there is one)
- The sustainability appraisal report
- Statement of Community Involvement where one is adopted (note this has ceased to be a legal requirement since April 2009 but will be helpful to the Inspector)
- Statement [Reg 30(1)(d)] setting out how the Council complied with Regulation 25 on participation in production of the DPD showing:
 - Who was invited to make representations
 - How they were invited
 - Summary of the main issues raised
 - How these representations were taken into account
- Statement [Reg 30(1)(e)] relating to the formal representations procedure following publication of the DPD and showing:
 - The number of representations received
 - Summary of the main issues raised
- Copies of the representations received after publication (under Reg 28)

Material necessary for the examination

- Newspaper advertisements relating to publication (Reg 27) and submission (Reg 30) of the DPD
- Self Assessment (not compulsory but advisable - see paragraph 2.7 of this guide)
- Appropriate Assessment (or evidence of appropriate scoping work/ copy of a letter from Natural England that confirms an Appropriate Assessment is not required)
- Equalities Impact Assessment
- Latest Local Development Scheme
- Latest Annual Monitoring Report
- Sustainable Community Strategy (in the case of Borough / District LPAs also one copy of the County's Sustainable Community Strategy if one exists; County Councils should include all the Sustainable Community Strategies produced within their area)
- Letter to the Regional Planning Body requesting confirmation of the conformity of the DPD with the Regional Spatial Strategy
- The Local Plan or Unitary Development Plan
- The Structure Plan in a two-tier area

1.2 In terms of specific requirements, at submission we would expect the evidence base to include at minimum a copy of all documents referenced in the submitted DPD. It is not possible to be prescriptive about the content of the evidence base because the evidence required will depend on the content and nature of the DPD. Local circumstances will also be directly relevant. For example a DPD for an area vulnerable to flooding will require more extensive evidence about this matter than a DPD for an area where there is no flood risk. The important principle is that the evidence must have informed the content of the DPD.

Examination: Section 20

2.1 Section 20(5) of the 2004 Act provides that the purpose of an independent examination is to determine in respect of the development plan document -

- (a) whether it satisfies the requirements of sections 19 and 24(1), regulations under section 17(7) and any regulations under section 36 relating to the preparation of development plan documents;
- (b) whether it is sound.

2.2 The examination of any DPD can therefore be separated into two distinct areas of legal compliance and soundness.

Legal Compliance

2.3 The Inspector will first test to ensure that the DPD meets the legal requirements under s20(5)(a) before moving on to test for soundness. The following questions set out the key considerations in determining legal compliance.

Key Questions

- Has the DPD been prepared in accordance with the Local Development Scheme (LDS)? Does the DPD's listing and description in the LDS match the document? Have the timescales set out in the LDS been met (section 19(1) of the 2004 Act)?
- Has the DPD had regard to any Sustainable Community Strategy for its area (i.e. county and district) (section 19(2) of the 2004 Act)?
- Is the DPD in compliance with the Statement of Community Involvement (SCI) (where one exists)? Has the LPA carried out consultation consistent with the SCI (section 19(3) 2004 Act)?
- Has the DPD been subject to sustainability appraisal? Has the LPA provided a final report of the findings of the appraisal (section 19(5) of the 2004 Act)?
- Does the DPD contain any policies or proposals which are not in general conformity with the Regional Spatial Strategy (RSS), and if so, is there local justification (section 24(1)(a) of the 2004 Act)? Has the LPA got confirmation from the Regional Planning Body about the general conformity of the DPD with the RSS (section 24(2) of the 2004 Act)?
- Does the DPD comply with the 2004 regulations (as amended)? Specifically, has the LPA published the prescribed documents, and made them available at their principal offices and their website? Has the LPA placed local advertisements? Has the LPA notified the DPD bodies? Does the DPD contain a list of superseded saved policies?
- If the DPD is not a core strategy, is it in conformity with the core strategy?

Soundness

2.4 Soundness is explained in PPS12 in paragraphs 4.36 – 4.47, 4.51 and 5.52 and the boxed text. Specifically paragraph 5.52 states that to be sound a core strategy should be:

- (i) Justified
- (ii) Effective
- (iii) Consistent with national policy

2.5 Paragraph 5.2 of PPS12 also provides that to be sound DPDs other than core strategies should also be justified, effective and consistent with national policy.

2.6 Section 20(2)(b) of the 2004 Act provides that the authority must not submit a document unless they think the document is ready for examination. LPAs are expected to publish [Reg 27] what they consider to be a sound DPD for later submission [Reg 30]. That will continue to be the starting point for the examination. The Manual goes into more detail on the processes involved with the publication and submission of a DPD in accordance with the revised Regulations [<http://www.pas.gov.uk/pas/core/page.do?pageId=66579>].

2.7 The Inspectorate strongly urges LPAs to conduct a self assessment. A self assessment toolkit is provided on the PAS website⁵. The self assessment toolkit should be used from the start of the plan making process as the kit has been designed to show an authority what it needs to have done in order to reach the stage of publication and submission of a DPD with everything in order. Even if the toolkit has not been used from the start there are major advantages in applying it retrospectively. Experience has shown that those using the toolkit are more likely to produce a sound DPD. The Inspector may ask the LPA to undertake a form of self assessment if the toolkit has not been completed.

(i) Justified

2.8 PPS12 provides that to be 'justified' a DPD needs to be:

- founded on a robust and credible evidence base involving:
 - evidence of participation of the local community and others having a stake in the area
 - research/fact finding – the choices made in the plan are backed up by facts
- the most appropriate strategy when considered against reasonable alternatives

2.9 The examining Inspector will expect convincing answers to these key questions. Clearly, depending on the nature of the DPD being examined, there may also be other specialist questions that relate to the content of the document.

Key Questions

Participation

- Has the consultation process allowed for effective engagement of all interested parties?

Research/fact finding

- Is the content of the DPD justified by the evidence? What is the source of the evidence? How up to date is it and how convincing is it?
- What assumptions had to be made in preparing the DPD? Are the assumptions reasonable and justified?

Alternatives

- Can it be shown that the LPA's chosen approach is the most appropriate given the reasonable alternatives? Have the reasonable alternatives been considered and is there a clear audit trail showing how and why the preferred strategy/approach was arrived at? Where a balance had to be struck in taking decisions between competing alternatives, is it clear how and why these decisions were taken?
- Does the sustainability appraisal show how the different options perform and is it clear that sustainability considerations informed the content of the DPD from the start?
- Does the DPD adequately expand upon regional guidance rather than simply duplicate it? Does the strategy take forward the regional context reflecting the local issues and objectives?

⁵ View the self assessment toolkit: <http://www.pas.gov.uk/pas/core/page.do?pageId=85629>

(ii) Effective

2.10 PPS12 states that core strategies should be effective. This means:

- Deliverable – embracing:
- Sound infrastructure delivery planning
- Having no regulatory or national planning barriers to delivery
- Delivery partners who are signed up to it
- Coherence with the strategies of neighbouring authorities
- Flexible
- Able to be monitored

Key Questions

Deliverable

- Has the LPA clearly identified what the issues are that the DPD is seeking to address? Have priorities been set so that it is clear what the DPD is seeking to achieve?
- Are there any cross-boundary issues that should be addressed and, if so, have they been adequately addressed?
- Does the DPD contain clear objectives?
- Are the objectives specific to the place; as opposed to being general and applicable to anywhere? Is there a direct relationship between the identified issues and the objectives?
- Is it clear how the policies will meet the objectives? Are there any obvious gaps in the policies, having regard to the objectives of the DPD?
- Are there realistic timescales related to the objectives?
- Are the policies internally consistent?
- Does the DPD contain material that is already in another DPD, should logically be in a different DPD or not be in a DPD at all?
- Does the DPD explain how its key policy objectives will be achieved?
- If there are development management policies, are they supportive of the strategy and objectives?
- Have the infrastructure implications of the strategy/policies clearly been identified?
- Are the delivery mechanisms and timescales for implementation of the policies clearly identified?
- Is it clear who is going to deliver the required infrastructure and does the timing of the provision complement the timescale of the strategy/policies?
- Is it clear who is intended to implement each part of the strategy/DPD? Where the actions required are outside the direct control of the LPA, is there evidence that there is the necessary commitment from the relevant organisation to the implementation of the policies?
- Does the DPD reflect the concept of spatial planning? Does it go beyond traditional land use planning by bringing together and integrating policies for development and the use of land with other policies and programmes from a variety of agencies/organisations that influence the nature of places and how they function?
- Does the DPD take into account matters which may be imposed by circumstance, notwithstanding the LPA's views about the matter?

Flexible

- Is the DPD flexible enough to respond to a variety of, or unexpected changes in, circumstances?
- Is the DPD sufficiently flexible to deal with any changes to, for example, housing figures from an emerging RSS?
- Does the DPD include the remedial actions that will be taken if the strategies/policies are failing?

Monitoring

- Does the DPD contain targets and milestones 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 suitable targets and indicators present (by when, how and by whom)?
- Is it clear how the significant effects identified in the Sustainability Appraisal Report will be taken forward in the ongoing monitoring of the implementation of the plan, through the Annual Monitoring Report?

(iii) National Policy

2.11 The DPD should be consistent with national policy. Where there is a departure, LPAs must provide clear and convincing reasoning to justify their approach.

Key Questions

- Does the DPD contain any policies or proposals which are not consistent with national policy, and if so is there local justification?
- Does the DPD contain policies that do not add anything to existing national guidance? If so, why have these been included?