



Office of the  
Deputy Prime Minister

Creating sustainable communities

Planning shapes the places where people live and work and the country we live in. It plays a key role in supporting the Government's wider social, environmental and economic objectives and for sustainable communities.



# PLANNING

Planning Policy Statement 12:  
Local Development Frameworks





Office of the  
Deputy Prime Minister

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Creating sustainable communities

## Planning Policy Statement 12: Local Development Frameworks

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# Planning Policy Statement 12: Local Development Frameworks

This Planning Policy Statement replaces Planning Policy Guidance Note 12: Development Plans (PPG12), except that PPG12 will remain in operation for development plans still being prepared under the 1999 Development Plan Regulations. PPG12 can be viewed on the web site of the Office of the Deputy Prime Minister (ODPM) at [www.odpm.gov.uk](http://www.odpm.gov.uk) (under/Planning/Policy/).

Planning Policy Statements (PPS) set out the Government's national policies on different aspects of planning. The policies in this statement apply throughout England and focus on procedural policy and the process of preparing local development documents. These policies complement, but will not overrule other national planning policies and should be read in conjunction with other relevant statements of national planning policy.

The policies set out in this statement should be taken into account by local planning authorities in the preparation of local development frameworks and minerals and waste development frameworks.

Further guidance is contained in a suite of documents which are published separately:

- Local Development Frameworks – A Guide to Procedures;
- Creating Local Development Frameworks (replacing the document *Making Plans* published by ODPM, 2002);
- Local Development Frameworks – Monitoring Guidance; and
- Sustainability Appraisal of Regional Spatial Strategies and Local Development Frameworks.

In addition the Planning Officers' Society has published draft Policies for Spatial Plans which gives practical advice on the creation and use of planning policies in spatial plans.

Topic specific policy on the content of local development documents will be found in topic specific Planning Policy Guidance Notes or new Planning Policy Statements.



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# Chapter 1 Development plans in the planning system

## INTRODUCTION: THE LOCAL DEVELOPMENT FRAMEWORK

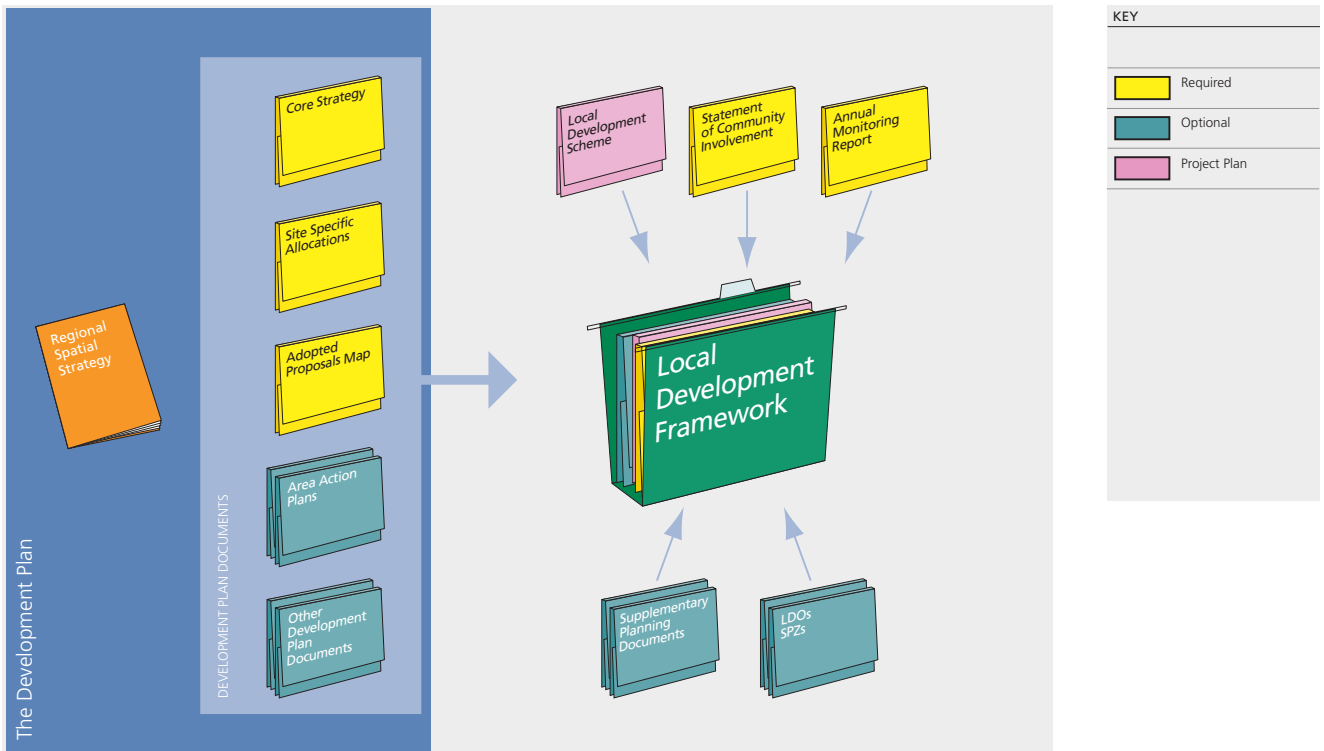
- 1.1 This planning policy statement sets out the Government's policy on the preparation of local development documents which will comprise the local development framework.<sup>1</sup> The local development framework is not a statutory term, however it sets out, in the form of a 'portfolio', the local development documents which collectively delivers the spatial planning strategy for the local planning authority's area.
- 1.2 This Planning Policy Statement should be read with:
  - i. The Planning and Compulsory Purchase Act 2004 (referred to as the Act);
  - ii. The Town and Country Planning (Local Development) (England) Regulations 2004; and
  - iii. The Town and Country Planning (Transitional Arrangements) Regulations 2004.
- 1.3 Local development frameworks are intended to streamline the local planning process and promote a proactive, positive approach to managing development. The key aims of the new system are:
  - i. flexibility. Local planning authorities can respond to changing local circumstances and ensure that spatial plans are prepared and reviewed more quickly than development plans under the old system;
  - ii. strengthening community and stakeholder involvement in the development of local communities. Local communities and all stakeholders will be involved from the outset and throughout the preparation of local development documents;
  - iii. front loading. Local planning authorities should take key decisions early in the preparation of local development documents. The aim will be to seek consensus on essential issues early in the preparation of local development documents and so avoid late changes being made;
  - iv. sustainability appraisal. To ensure that local development documents are prepared with the objective of contributing to the achievement of sustainable development;
  - v. programme management. The efficient management of the programme for the preparation of a range of local development documents in accordance with the local development scheme; and
  - vi. soundness. Local development documents must be soundly based in terms of their content and the process by which they are produced. They must also be based upon a robust, credible evidence base.

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<sup>1</sup> County councils will be responsible for the preparation of a minerals and waste development framework. Reference to local development frameworks should also be taken to include the minerals and waste development framework, other than where specific reference is made to the minerals and waste development framework.

- 1.4 The local development framework will be comprised of local development documents, which include development plan documents, that are part of the statutory development plan and supplementary planning documents which expand policies set out in a development plan document or provide additional detail. The local development framework will also include the statement of community involvement, the local development scheme and the annual monitoring report. Furthermore, local planning authorities should also include any local development orders and or simplified planning zones<sup>2</sup> which have been adopted. The local development framework, together with the regional spatial strategy, provides the essential framework for planning in the local authority’s area. The key documents, which form part of the local development framework, are illustrated in Figure 1.1.

**Figure 1.1 – The Local Development Framework**



2 Section 45 of the Act sets out Simplified Planning Zones.

- 1.5 The preparation of local development documents should be a participatory process, the scope of which will be set out in the statement of community involvement. Where the local planning authority has yet to produce a statement of community involvement, the authority must comply with the minimum requirements as set out in the Regulations<sup>3</sup> and ensure that the community is able and encouraged to participate throughout the preparation process of local development documents.

## THE DEVELOPMENT PLAN

- 1.6 Planning decisions on proposals for development or change of use should not be arbitrary. The Government is committed to the well-established principle of a planned system. The statutory development plan will continue to be the starting point in the consideration of planning applications for the development or use of land (Section 38(6) of the Act). The development plan, therefore, provides the essential framework for planning decisions.
- 1.7 The development plan will consist of:
- i. regional spatial strategies<sup>4</sup> prepared by the regional planning bodies or, in London the spatial development strategy<sup>5</sup> prepared by the Mayor of London; and
  - ii. development plan documents prepared by district councils, unitary authorities, Broads authority, National Park authorities and, in the case of minerals and waste development plan documents, by county councils.

## SPATIAL STRATEGY CONTENT

- 1.8 Local planning authorities<sup>6</sup> should adopt a spatial planning approach to local development frameworks to ensure the most efficient use of land by balancing competing demands within the context of sustainable development. 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. This 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 of planning permission and may be delivered through other

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<sup>3</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

<sup>4</sup> The regional spatial strategy is prepared by the regional planning body and is approved by the First Secretary of State. Planning Policy Statement 11 on Regional Spatial Strategies provides detailed guidance on the function and preparation of regional spatial strategies.

<sup>5</sup> In London, the spatial development strategy prepared by the Mayor is the equivalent of the regional spatial strategy and Government Office for London Circular 1/2000 provides advice in respect of the spatial development strategy.

<sup>6</sup> Section 37 (4) of the Act sets out that local planning authorities are district councils; London borough councils; metropolitan district councils; county councils in relation to any area in England for which there is no district council; and the Broads Authority. Section 37 (5) sets out that a National Park authority is the local planning authority for the whole of its area. Section 16 (3) (b) sets out that for the purposes of Part 2 of the Act in relation to the minerals and waste development scheme, references to a local planning authority include references to a county council.

means. Examples of spatial policies can be found in Policies for Spatial Plans.<sup>7</sup> Where other means of implementation are required these should be clearly identified in local development documents. Planning policies should not replicate, cut across, or detrimentally affect matters within the scope of other legislative requirements. Further guidance is set out in Planning Policy Statement 1 - Creating Sustainable Communities.<sup>8</sup>

- 1.9 Local planning authorities should therefore take account of the principles and characteristics of other relevant strategies and programmes when preparing local development documents and in particular the core strategy. These should include the community strategy and strategies for education, health, social inclusion, waste, biodiversity, recycling and environmental protection. Local development documents should be prepared taking into account urban and rural regeneration strategies, local and regional economic and housing strategies, community development and local transport plans. Planning authorities should consult closely with the bodies responsible for those strategies to ensure effective integration whilst addressing short, medium and long term priorities.
- 1.10 The local development framework should be a key component in the delivery of the community strategy<sup>9</sup> setting out its spatial aspects where appropriate and providing a long term spatial vision. Local development documents should express those elements of the community strategy that relate to the development and use of land.
- 1.11 Local planning authorities should work collaboratively to ensure they take account of the identified benefits of linking the preparation of community strategies and local development frameworks from both a policy content and process perspective. When preparing local development documents, local planning authorities should liaise closely with their Local Strategic Partnership to ensure that the community strategy contains realistic assumptions about the statutory constraints and the resources available to the local planning authority.

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7 Policies for Spatial Plans, published by The Planning Officers' Society.

8 The consultation paper on Planning Policy Statement 1 was published in February 2004 and it is intended that it will be published in final form in late 2004.

9 District and County Authorities have a duty to prepare community strategies under the Local Government Act 2000.

### COMMUNITY STRATEGY – KEY CONSIDERATIONS

*The Relationships between Community Strategies and Local Development Frameworks (ODPM, October 2003)* identifies good practice ‘pointers’ in terms of linking community strategies and local development frameworks from both a policy content and process perspective. The study identified several benefits from creating more effective relationships, including:

- integrated approach towards future development within a local authority area based upon sustainable development objectives;
- joined-up approach to community planning, allowing local development frameworks to gain a clear understanding of community needs;
- recognition of local development frameworks as a delivery mechanism for community strategies and other local initiatives aims and objectives;
- economies of scale in terms of working corporately and sharing resources in the preparation of community strategies and local development frameworks, particularly processes e.g. monitoring, sustainability appraisal etc;
- potential to resolve conflicts between community aspirations and national and regional policy objectives by engaging with a wide range of stakeholders; and
- positive contribution that planners can make to the community strategy process.

### DESIGN AND ACCESS

- 1.12 In preparing local development documents, local planning authorities must include policies on design and access in accordance with Regulation 6(1)(a)(ii).<sup>10</sup> Planning Policy Statement 1 makes clear that good design, including consideration of access issues are crucial to the delivery of sustainable development, not separate from it.
- 1.13 Well designed development responds well to the local physical, social and economic context, being safe, clean, attractive and accessible for all users. Local development documents should therefore include policies that set out strategic design and access objectives in line with Planning Policy Statement 1 and relevant good practice set out in *By Design, Safer Places the Planning System and Crime Prevention and Planning and Access for Disabled People: A Good Practice Guide*.
- 1.14 Local development documents relating to specific areas could usefully inform the implementation of strategic design policies by including design policies that relate to local conditions and objectives.

<sup>10</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

## Chapter 2 Plan content and level of detail

### PRINCIPLES

- 2.1 The local development framework should contain within its documents, an integrated set of policies which are based on a clear understanding of the economic, social and environmental needs of the area and any constraints on meeting those needs. The strategy and the policies in local development documents should relate to the geography of the area and be founded on its physical and demographic characteristics, internal and external links and relationships with neighbouring areas.
- 2.2 The format of local development documents should be clear, succinct and easily understood by all, with the strategy and associated policies expressed in terms which emphasise the means and timescale by which the objectives derived from the spatial vision will be met. A comprehensive and credible evidence base should underpin the policies in local development documents.
- 2.3 County councils have considerable strategic planning expertise, and local planning authorities should seek the advice of county councils in the preparation of local development documents.

### DEVELOPMENT PLAN DOCUMENTS

- 2.4 The local development framework should include the following development plan documents:
  - i. core strategy;
  - ii. site specific allocations of land; and
  - iii. area action plans (where needed).
- 2.5 A proposals map illustrating the spatial extent of policies must be prepared and maintained to accompany all development plan documents. This may contain inset maps, where necessary.
- 2.6 In counties where there are districts, county councils will prepare minerals and waste development plan documents which will be included in a minerals and waste development framework. Development plan documents in unitary authority and National Park authority areas should include minerals and waste policies, which may be prepared as separate minerals and waste development plan documents.

- 2.7 All development plan documents must be subject to rigorous procedures of community involvement, consultation and independent examination to test the soundness of the document and ensure that the necessary legal requirements for its preparation have been undertaken. Development plan documents must be adopted after receipt of the inspector's binding report.
- 2.8 All development plan documents should clearly state when the document was adopted and in the case of the core strategy and any allocations development plan documents, the period of time which the document is intended to cover, in the form of month and year. There will normally be a number of development plan documents in the local development framework and conflict between policies should be avoided. The Act (Section 38(5)) makes clear that in the event of conflict the last adopted, approved or published policy will take precedence.

### **The core strategy**

- 2.9 The core strategy should set out the key elements of the planning framework for the area. It should be comprised of a spatial vision and strategic objectives for the area; a spatial strategy; core policies; and a monitoring and implementation framework with clear objectives for achieving delivery. It must be kept up-to-date and, once adopted, all other development plan documents must be in conformity with it. The core strategy should normally be the first development plan document to be produced, except where the local planning authority has up-to-date saved policies (see paragraphs 5.3–5.5) and where the priority in the local development scheme is the preparation of an area action plan or other development plan document.
- 2.10 The core strategy development plan document should draw on any strategies of the local authority and other organisations that have implications for the development and use of land e.g. the community strategy and local transport plan. Where appropriate, the core strategy should provide an integrated approach to the implementation of these aspects of other strategies, (see paragraph 1.9). The core strategy should set out the long term spatial vision for the authority's area and the strategic policies required to deliver that vision. It should seek to implement the spatial and transport policies of the regional spatial strategy and incorporate its housing requirement. It should set out broad locations for delivering the housing and other strategic development needs such as employment, retail, leisure, community, essential public services and transport development.

- 2.11 For minerals and waste, the core strategy:
- i. for minerals should take account of the need to contribute appropriately to national, regional and local requirements at acceptable social, environmental and economic costs; and
  - ii. for waste should set out a planning strategy for sustainable waste management which enables adequate provision of waste management facilities in appropriate locations.
- 2.12 The core strategy should contain clear and concise policies for delivering the strategy which will apply to the whole of the local planning authority's area or to locations within it, but should not identify individual sites. These should be dealt with under site specific allocations development plan documents or area action development plan documents. However, where it can be justified that it is not possible to identify site specific allocations to meet the identified needs of the area, criteria-based policies should be set out in the core strategy to establish the framework for assessing any unforeseen proposals, such as windfall development. Examples of such criteria are contained in Policies for Spatial Plans.<sup>11</sup>
- 2.13 General locations for strategic development, major transportation issues, and main patterns of movement and constraints may be set out in a key diagram which will illustrate the broad strategy for the area in a diagrammatic format. The key diagram also provides the means to show links and relationships with other strategies and with the plans of neighbouring areas. Further guidance on the key diagram is contained in Annex A. A key diagram will not be sufficient where the core strategy contains policies which need to be defined on an Ordnance Survey or similar map base at a registered scale as these must be illustrated on a submission proposals map.
- 2.14 The local planning authority should ensure that policies and proposals in the core strategy provide certainty for the future. The time horizon of the core strategy should be for a period of at least 10 years from the date of adoption. However the core strategy should aim to look ahead to any longer-term time horizon which is set out in the relevant regional spatial strategy. The core strategy should be kept under review and the horizon rolled forward in subsequent reviews of the document.

### **Site specific allocations and policies**

- 2.15 Where land is allocated for specific uses (including mixed uses), this should be made in one or more development plan documents. The identification of sites should be founded on a robust and credible assessment of the suitability, availability and accessibility of land for particular uses or mix of uses.

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<sup>11</sup> Policies for Spatial Plans, published by The Planning Officers' Society.

- 2.16 Policies relating to the delivery of the site specific allocations, such as critical access requirements or broad design principles which may be sought, must be set out in a development plan document. They may be in the site allocation(s) development plan document(s), in an area action plan or in a separate development plan document. They should not form part of the core strategy. Where the policy requirement is set out for land allocated in a development plan document, greater policy detail may be included in a supplementary planning document, for example a development brief or design brief.

### **Area action plans for key areas of change or conservation**

- 2.17 Area action plans should be used to provide the planning framework for areas where significant change or conservation is needed. A key feature of area action plans will be the focus on implementation. They should:
- i. deliver planned growth areas;
  - ii. stimulate regeneration;
  - iii. protect areas particularly sensitive to change;
  - iv. resolve conflicting objectives in areas subject to development pressures; or
  - v. focus the delivery of area based regeneration initiatives.
- 2.18 Authorities may set criteria in their core strategy for identifying locations and priorities for the preparation of area action plans.
- 2.19 In areas of change, area action plans should identify the distribution of uses and their inter-relationships, including specific site allocations, and set the timetable for the implementation of the proposals. Further guidance, such as the layout of uses within these allocations and design requirements etc, may be provided in the relevant area action plan or in one or more supplementary planning documents in the form of a master plan. In areas of conservation, area action plans should set out the policies and proposals for action to preserve or enhance the area, including defining areas where specific conservation measures are proposed and areas which will be subject to specific controls over development.

## THE ADOPTED PROPOSALS MAP

- 2.20 Local planning authorities must include within the local development framework an adopted proposals map in accordance with Regulation 6,<sup>12</sup> which should express geographically the adopted development plan policies of the local planning authority. The adopted proposals map must be revised as each new development plan document is adopted. It should always reflect the up-to-date spatial plan for the area; including where a policy is deleted or when a saved policy ceases to be part of the local development framework. The adopted proposals map can only be changed as a result of a development plan document being adopted. However, if a core strategy development plan document does not contain any site specific policy, the adopted proposals map will not be changed.
- 2.21 The adopted proposals map should:
- i. identify areas of protection, such as nationally protected landscape and local nature conservation areas, Green Belt land and Conservation Areas; and
  - ii. illustrate locations and identify sites for particular land use and development proposals included in any adopted development plan document and set out the areas to which specific policies apply (i.e. illustrate in map form all site specific policies in all the adopted development plan documents).
- 2.22 District planning authorities must also include on their adopted proposals map, minerals and waste matters including safeguarding areas, minerals consultation areas and any minerals and waste allocations which are adopted in a development plan document by the county council.
- 2.23 Separate inset maps may be used to show policies for part of the authority's area, such as the policies for area action plans, which must all be shown on the adopted proposals map. Where inset maps are used, the geographical area they will cover will be identified on the main adopted proposals map. The boundaries of each inset map must be shown precisely on the adopted proposals map but the policies shown on the inset must not appear on the main adopted proposals map.

### Illustrative material

- 2.24 During the various stages of preparation of a development plan document as set out in Chapter 4 of this planning policy statement, local planning authorities may wish to illustrate proposals and options on a map. Further guidance on illustrative material is contained in Appendix A.

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<sup>12</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

### **Illustrative material at the pre-submission consultation stage**

- 2.25 Throughout the pre-submission consultation stage in accordance with Regulation 25,<sup>13</sup> it may be necessary for local planning authorities in undertaking community involvement, to identify an area of search for a particular policy. This may be undertaken on a map base or in diagrammatic form.

### **Illustrative material at the participation on preferred options stage**

- 2.26 At the participation on preferred options stage in accordance with Regulation 26,<sup>14</sup> local planning authorities should prepare a map or maps to accompany the pre-submission proposals document. This may, for example, identify various sites and alternatives which are being considered for development and or areas of land to which policies would relate.

### **Submission proposals map**

- 2.27 Local planning authorities, when submitting their development plan document in accordance with Regulation 28,<sup>15</sup> must include a submission proposals map to identify how the adopted proposals map will be amended or added to.

## **GENERIC DEVELOPMENT CONTROL POLICIES**

- 2.28 The local development framework should contain a limited suite of policies which set out the criteria against which planning applications for the development and use of land and buildings will be considered. Such policies will ensure that development accords with the spatial vision and objectives set out in the core strategy.<sup>16</sup> These policies may be included as part of the core strategy or in a separate development plan document.
- 2.29 Local planning authorities should avoid producing a compendium of use-related development control policies which can be repetitive and quickly become out-of-date. The focus, instead, should be on topic-related policies such as protecting residential amenity; protecting landscape and natural resources; nature conservation; addressing accessibility; highway and transport issues; protecting vitality and viability; and addressing visual impact etc.
- 2.30 Generic policies should not repeat national planning policy statements but should explain how they apply to the local area. Policies should define clearly the circumstances in which planning permission will, or will not, be granted and should focus on achieving the outcomes required to meet the authority's spatial vision.

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

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

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

16 Policies for Spatial Plans, published by the Planning Officers' Society.

## REASONED JUSTIFICATION

- 2.31 Local planning authorities should ensure that the reasoned justification included in any development plan document in support of the policies and proposals in any development plan document is clear, succinct and necessary to provide context to the policy. For a development plan document, local planning authorities should set out in the reasoned justification how the policy contributes to the soundness of the document. The results of the sustainability appraisal will contribute to the reasoned justification of policies, (see the sustainability appraisal – key considerations box on page 23). The reasoned justification should not contain new policies or expand on the policy to which it applies and should not contain material which will itself be used for taking decisions on planning applications. To avoid confusion, policies should be distinguished from the reasoned justification, for example by the use of a different typeface.

## AVOIDANCE OF BLIGHT

- 2.32 In preparing local development documents, local planning authorities should ensure that adequate provision is made for development and infrastructure provision. It is important that policies are realistic and are likely to be implemented during the plan period.
- 2.33 Where there are policies in a development plan document that are no longer likely to be implemented, the local authority should take the necessary action to ensure that this is clear to those using or referring to the local development framework. This is particularly important for major developments or infrastructure (e.g. roads) where uncertainty of the likelihood of projects proceeding can lead to perceived blight to property owners in the vicinity. The annual monitoring report should record the decision of the local authority not to proceed with that policy and this will be a material consideration for any planning application or subsequent appeal. The local authority should then ensure that the decision not to proceed with the policy is incorporated into the next review of the relevant development plan document(s).

## JOINT LOCAL DEVELOPMENT DOCUMENTS

- 2.34 Joint working on local development documents is particularly encouraged. Two or more local planning authorities may prepare joint local development documents. The procedures for the preparation of a joint local development document are the same as for those for the preparation of a local development document. Where two or more local planning authorities agree to prepare a joint local development document, each authority must be able to demonstrate that they have complied with the procedures. Authorities may agree to undertake any or all of these procedures jointly.

### Joint non minerals and waste documents

- 2.35 Where two or more district planning authorities or unitary planning authorities agree to prepare a joint local development document, they should individually set out in their local development schemes the documents which they will prepare jointly. Where it is agreed that a county council will work jointly with a district or unitary authority to prepare local development documents for matters other than minerals and waste, the authorities involved with the preparation of the joint document must establish a joint committee, see paragraphs 2.37 to 2.38.

### Joint minerals and waste documents

- 2.36 A county council or a unitary authority may work jointly with a district authority to prepare minerals and waste local development documents. In these instances they should individually set out in their local development schemes the documents which they will prepare jointly.

## JOINT COMMITTEES

- 2.37 Where it is necessary to establish a joint committee for the preparation of joint local development documents, the joint committee becomes the local planning authority for the area specified in the agreement in respect of such matters specified in the Order prepared in accordance with Section 29 of the Act.
- 2.38 Each authority who forms part of the joint committee should set out in their individual local development schemes those local development documents which are the responsibility of the joint committee. The joint committee, as local planning authority should set out in a local development scheme the local development documents which it will be responsible for preparing. The policies adopted by the joint committee become the policies of the constituent authorities where they are the local planning authority.

## MAKING A LOCAL DEVELOPMENT ORDER

- 2.39 Where a local planning authority propose to make a local development order, it would be prudent if this was undertaken in conjunction with the development plan document to which it relates. This will enable community involvement to be undertaken at the same time and allow the local planning authority to identify how the local development order will be used to implement the policies in the development plan document. However, there is no requirement for a local development order to be made at the same time and a local planning authority may introduce a local development order at any time whilst a development plan document is being prepared or after it has been adopted.
- 2.40 Whilst a local development order can be prepared at any time, it cannot be adopted until the development plan document (or documents) to which it relates has been adopted by the local planning authority or approved by the Secretary of State.
- 2.41 Local development orders must be prepared in compliance with amendments to be made to the Town and Country Planning (General Development Procedure)(England) Order 1995 which will come into effect early in 2005.

## SUPPLEMENTARY PLANNING DOCUMENTS

- 2.42 Where prepared, supplementary planning documents should be included in the local development framework and will form part of the planning framework for the area. They will not be subject to independent examination and will not form part of the statutory development plan. However, they should be subjected to rigorous procedures of community involvement.
- 2.43 Supplementary planning documents may cover a range of issues, both thematic and site specific, which may expand policy or provide further detail to policies in a development plan document. They must not however, be used to allocate land. Supplementary planning documents may take the form of design guides, area development briefs, master plan or issue-based documents which supplement policies in a development plan document. The following principles apply to a supplementary planning document:
- i. it must be consistent with national and regional planning policies as well as the policies set out in the development plan documents contained in the local development framework;

- ii. it must be clearly cross-referenced to the relevant development plan document policy which it supplements (or, before a relevant development plan document has been adopted, a saved policy);
  - iii. it must be reviewed on a regular basis alongside reviews of the development plan document policies to which it relates; and
  - iv. the process by which it has been prepared must be made clear and a statement of conformity with the statement of community involvement must be published with it.
- 2.44 Supplementary planning documents may contain policies which expands or supplements the policies in development plan documents. However, policies which should be included in a development plan document and subjected to proper independent scrutiny in accordance with the statutory procedures should not be set out in supplementary planning documents.

## Chapter 3 Involvement, appraisal and management of the process

### COMMUNITY INVOLVEMENT

- 3.1 The statement of community involvement should set out the local planning authority's policy for involving the community in the preparation and revision of local development documents and planning applications. Regulations 25 and 26 for development plan documents and Regulation 17 for supplementary planning documents set minimum requirements for community involvement,<sup>17</sup> with which local planning authorities must comply (both before and when they have adopted their statement of community involvement).

#### Community involvement in local development frameworks

- 3.2 Local planning authorities should involve the community at an early stage in the preparation of local development documents. This is essential to achieve local ownership and legitimacy for the policies that will shape the future distribution of land uses and development in an authority's area. Where this is successful in relation to the preparation of development plan documents, it will help to minimise the need for a lengthy and controversial examination process.
- 3.3 Local planning authorities should continue to involve the community throughout the process of preparing local development documents and should tailor the techniques to engage the appropriate parts of the community at the various stages. Local planning authorities should ensure that they propose an appropriate type and scale of involvement in relation to the type of development or the aims of the local development document in question. Further guidance on community involvement in planning was published in February 2004.<sup>18</sup>
- 3.4 The Government's principles for community involvement are:
- i. community involvement that is appropriate to the level of planning. Arrangements need to be built on a clear understanding of the needs of the community and to be fit for purpose;
  - ii. front loading of involvement. There should be opportunities for early community involvement and a sense of ownership of local policy decisions;
  - iii. using methods of involvement which are relevant to the communities concerned;
  - iv. clearly articulated opportunities for continuing involvement as part of a continuous programme, not a one-off event;
  - v. transparency and accessibility; and
  - vi. planning for involvement. Community involvement should be planned into the process for the preparation and revision of local development documents.

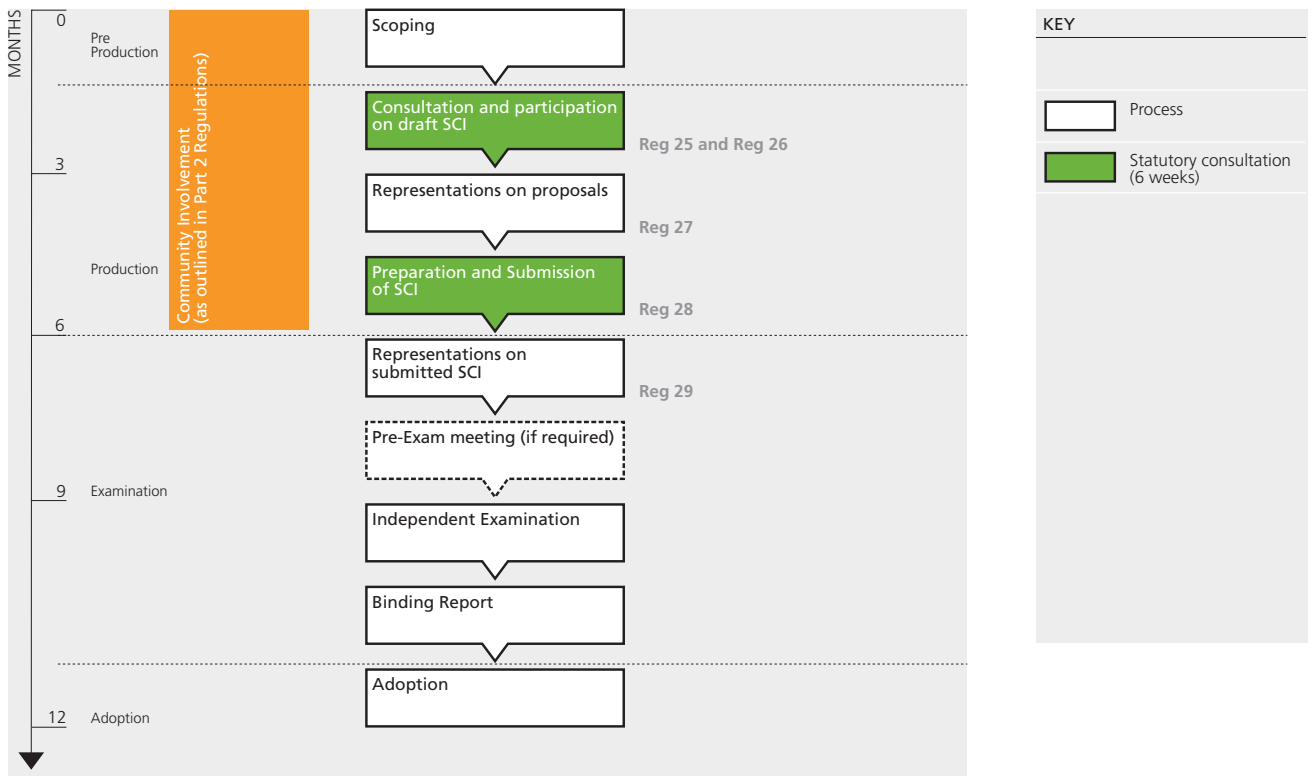
<sup>17</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

<sup>18</sup> Community Involvement in Planning: The Government's Objectives, ODPM, February 2004.

### Statement of community involvement

3.5 The statement of community involvement sets out the standards to be achieved by the local authority in involving the community in the preparation, alteration and continuing review of all local development documents and planning applications. The statement should be a clear public statement enabling the community to know how and when they will be involved in the preparation of local development documents and how they will be consulted on planning applications. Local planning authorities should set out in the statement of community involvement how they will meet, or exceed, the minimum requirements set out in the Regulations.<sup>19</sup> The process for the preparation of a statement of community involvement is set out in Figure 3.1. Further guidance on the preparation and content of the statement of community involvement is contained in Creating Local Development Frameworks.

**Figure 3.1 – The Statement of Community Involvement Process**



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

- 3.6 The statement should set out the authority's vision and strategy for community involvement and how this links with other community involvement initiatives, for example, the community strategy. It should identify the community groups that need to be involved and the techniques required to effectively involve them both informally and formally. These techniques should be fit for purpose for the different stages of preparation of local development documents and for different groups (see paragraph 3.8), which should include those people who are not easy to reach using conventional methods of public participation. The statement of community involvement should also show that the process of involvement can be resourced and managed effectively, and how the results will feed into the preparation of local development documents. It should also set out the various points at which the local planning authority will involve the community in preparing local development documents including the statutory participation on a draft statement of community involvement, which is specified as a milestone in the local development scheme (see paragraph 3.22).
- 3.7 Local planning authorities in preparing local development documents must comply with the general duty in the Race Relations (Amendment) Act 2000 to promote race equality. This duty means that authorities must have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between persons of different racial groups. Community involvement in planning will need to address the involvement of different racial groups. Local planning authorities should also comply with the Disability Discrimination Act 1995 which places a duty on all those responsible for providing a service to the public not to discriminate against disabled people by providing a lower standard of service. Service providers now have to consider making reasonable adjustments to the way they deliver their services so that disabled people can use them.

### **THE VOLUNTARY AND COMMUNITY SECTOR**

The voluntary and community sector has a vital role to play in engaging communities. Local compacts are key in gaining effective engagement with the voluntary and community sector and should underpin partnership working and consultation with the voluntary and community sector. The sector is important in helping to give a voice to people, to enable them to contribute to community life and reach marginalised communities. It has special knowledge of its client groups and/or area of interest, and a sensitive and understanding approach.

Developing relationships is fundamental to partnership working with the voluntary and community sector. The Compact on Relations between the Government and the voluntary and community sector, established in 1998, is a partnership agreement setting out the principles for the relationship with the voluntary and community sector. It is supported by five codes of good practice, on volunteering, consultation and policy appraisal, black and minority ethnic organisations, funding and community groups. The compact and codes set out what the Government and sector can expect from each other. Local compacts do this locally between the sector, local authorities and other local public bodies, with local strategic partnerships being encouraged to take a leading role. Local compact guidelines were published in 2000.

Government Offices have a role in encouraging the development of local compacts by public sector bodies.

- 3.8 Local planning authorities should include in the statement of community involvement information on how the principles of community involvement apply to different types of local development document (e.g. core strategy, area action plans or site allocation development plan documents and to supplementary planning documents). It may be appropriate to explain how involvement will be undertaken for different subjects or issues, (e.g. housing). The statement of community involvement may state which type of body will be consulted for different types of local development document. The Regulations<sup>20</sup> set out those bodies that local planning authorities must consult. Annex D sets out these bodies together with a wider list of bodies whom local planning authorities should consider consulting.

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<sup>20</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

### **Preparation of the statement of community involvement**

- 3.9 The pre-submission consultation process requires local planning authorities to involve the community and stakeholders during the preparation of the statement of community involvement. Community involvement on a draft allows them to influence the scope and form of community involvement that the local planning authority intends should take place when local development documents are prepared. Local planning authorities must ensure that all participants involved in the preparation process are able to make their views known and should therefore consult them during the preparation of the draft document in accordance with Regulation 25.<sup>21</sup> The local planning authority should publish the draft statement of community involvement and invite representations over a period of six weeks in accordance with Regulation 26.<sup>22</sup> Local planning authorities should then prepare the statement of community involvement and submit it to independent examination. The local planning authority should publish a notice and invite representations within a specified period of six weeks in accordance with Regulation 28.<sup>23</sup>

### **Examination of the soundness of the statement of community involvement**

- 3.10 The purpose of the examination is to consider the soundness of the statement of community involvement. The presumption will be that the statement of community involvement is sound unless it is shown to be otherwise as a result of evidence considered at the examination.<sup>24</sup> A hearing will only be necessary where one or more of those making representations wish to be heard (see Annex D). In assessing whether the statement of community involvement is sound, the inspector will determine whether the:
- i. local planning authority has complied with the minimum requirements for consultation as set out in Regulations;<sup>25</sup>
  - ii. local planning authority's strategy for community involvement links with other community involvement initiatives e.g. the community strategy;

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

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

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

24 Further guidance will be contained in the Planning Inspectorate's Guide to Development Plan Examinations.

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

- iii. statement identifies in general terms which local community groups and other bodies will be consulted;
- iv. statement identifies how the community and other bodies can be involved in a timely and accessible manner;
- v. methods of consultation to be employed are suitable for the intended audience and for the different stages in the preparation of local development documents;
- vi. resources are available to manage community involvement effectively;
- vii. statement shows how the results of community involvement will be fed into the preparation of development plan documents and supplementary planning documents;
- viii. authority has mechanisms for reviewing the statement of community involvement; and
- ix. statement clearly describes the planning authority's policy for consultation on planning applications.

### **The binding report and adoption of the statement of community involvement**

- 3.11 After the examination, the inspector will produce a report with recommendations which will be binding upon the authority. The report will set out precise recommendations for how the statement of community involvement must be changed. The local planning authority must incorporate the changes required by the inspector and then adopt the statement of community involvement.
- 3.12 When the report is complete it will be sent to the local planning authority for a fact check before it is formally issued to them. The local planning authority may not question the inspector's conclusions, although they may seek clarification on any conclusion considered to be unclear. Local planning authorities should complete the fact check within two weeks of receiving the inspector's report. Once the fact check has been completed and the inspector has responded to any points raised, the final report will be submitted to the authority in electronic and paper format. The timetable for the fact check and the inspector's response will be agreed between the local planning authority and the Planning Inspectorate as part of a service level agreement. The local planning authority must adopt the statement of community involvement as soon as practicable after the binding report has been received.

- 3.13 Local planning authorities must comply with the statement of community involvement when preparing local development documents. Inspectors, in testing development plan documents, will determine whether the local planning authority has done so. If the authority fails to comply with the statement of community involvement, this could result in the inspector recommending that the development plan document be withdrawn. The statement of community involvement should be kept under review, and revised where necessary, following the same procedures as for the preparation of the first statement. However, it should only be necessary to revise it when significant changes have occurred in the types of groups which the authority wishes to engage, or different techniques for engagement are to be employed.

## SUSTAINABILITY APPRAISAL AND STRATEGIC ENVIRONMENTAL ASSESSMENT

- 3.14 Section 39 of the Act requires local development documents to be prepared with a view to contributing to the achievement of sustainable development. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations. A widely used definition was drawn up by the World Commission on Environment and Development in 1987: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”.
- 3.15 The Government has set out four aims for sustainable development in its strategy: A Better Quality of Life, a Strategy for Sustainable Development in the UK.<sup>26</sup> The four aims are:
- i. social progress which recognises the needs of everyone;
  - ii. effective protection of the environment;
  - iii. the prudent use of natural resources; and
  - iv. maintenance of high and stable levels of economic growth and employment.
- 3.16 Local planning authorities must comply with European Union Directive 2001/42/EC which requires formal strategic environmental assessment of certain plans and programmes which are likely to have significant effects on the environment. The Directive<sup>27</sup> will apply to local development documents where formal preparation begins after 21 July 2004. It will also apply to all local development documents, as well as local plans/unitary development plans continuing under transitional arrangements whose preparation began before that date and, which are not adopted

<sup>26</sup> A Better Quality of Life – A Strategy for Sustainable Development for the UK – CM 4345, May 1999.

<sup>27</sup> European Union Directive 2001/42/EC.

by 21 July 2006. The Directive has been incorporated into English law by virtue of the Strategic Environmental Assessment Regulations 2004. Local planning authorities must comply with these Regulations as well as the Regulations under Part 2 of the Act when preparing local development documents.

- 3.17 Sustainability appraisal is as a systematic and iterative appraisal process, incorporating the requirements of the Strategic Environmental Assessment Directive.<sup>28</sup> The purpose of sustainability appraisal is to appraise the social, environmental and economic effects of the strategies and policies in a local development document from the outset of the preparation process. This will ensure that decisions are made that accord with sustainable development. In this Planning Policy Statement, all references to sustainability appraisal must be taken to include the requirements of the Strategic Environmental Assessment Directive.<sup>29</sup>
- 3.18 Guidance will be published on sustainability appraisal which will incorporate the requirements of strategic environmental assessment.<sup>30</sup>

#### **SUSTAINABILITY APPRAISAL – KEY CONSIDERATIONS**

Sustainability appraisal is as a systematic and iterative appraisal process, incorporating the requirements of the Strategic Environmental Assessment Directive.<sup>31</sup> The main purpose of sustainability appraisal is to appraise the social, environmental and economic effects of plan strategies and policies, from the outset of the preparation process, so that decisions can be made that accord with the objectives of sustainable development, (see paragraph 3.17). Local planning authorities, in preparing local development documents must fulfil the minimum requirements of sustainability appraisal. The key considerations are set out below.

To be effective, sustainability appraisal should be fully integrated into the plan-making process. It should be started as soon as a new or revised local development document is first considered, and should provide input at each stage when decisions are taken. Sustainability appraisal should be used in developing the arrangements for monitoring the implementation of the plan, which should lead to the identification of issues to inform the need for action or the revision/replacement of a local development document.

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28 European Union Directive 2001/42/EC.

29 European Union Directive 2001/42/EC.

30 Consultation paper on Sustainability Appraisal of Regional Spatial Strategies and Local Development Frameworks, published September 2004.

31 European Union Directive 2001/42/EC.

**SUSTAINABILITY APPRAISAL – KEY CONSIDERATIONS (continued)**

In carrying out the appraisal, local planning authorities should have regard to the specific objectives and principles of sustainable development as outlined in Planning Policy Statement 1. The potential direct, indirect and cumulative impacts of different policy options need to be identified and appraised in order to integrate sustainable development objectives in the formulation of policy and to inform decisions on which options should be promoted in local development documents.

Local planning authorities must demonstrate how they are meeting the requirements of sustainability appraisal and strategic environmental assessment, including providing the relevant technical information in line with the stages of preparation of a development plan document (see Chapter 4) as set out below.

Local planning authorities undertaking preparatory work in developing the evidence base must also produce a sustainability appraisal scoping report. This should set out the scope and level of detail of the proposed sustainability appraisal.

**Sustainability appraisal of development plan documents****Pre-submission consultation stage**

Throughout the pre-submission consultation stage, (in accordance with Regulation 25<sup>32</sup>) local planning authorities must undertake sustainability appraisal of the issues and options and consult on an initial sustainability appraisal report.

**Pre-submission public participation stage**

Sustainability appraisal will inform the decision making process and the development of the preferred options. At the participation on preferred options stage in accordance with Regulation 26,<sup>33</sup> local planning authorities must undertake a sustainability appraisal of the preferred options and prepare a final sustainability report for consultation alongside the preferred options document.

**Submission**

When submitting a development plan document to the Secretary of State, local planning authorities must also submit the final sustainability report, having taken into account any changes as a result of the public participation on preferred options.

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

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

**SUSTAINABILITY APPRAISAL – KEY CONSIDERATIONS (continued)****Sustainability appraisal – soundness and conformity**

Sustainability appraisal will play an important part in demonstrating if a local development document is sound by ensuring that it reflects sustainable development objectives. The results of the sustainability appraisal will contribute to the reasoned justification of policies.

Local planning authorities should ensure that the sustainability appraisal is commensurate with the scope of the local development document being appraised. They should evaluate the strategy or policies against the four aims of sustainable development (see paragraph 3.14), and any weighting between these should be made explicit. Full regard should be had to the chain of conformity, to avoid duplication of assessment in preparing an appraisal for a local development document that conforms with another local development document or conforms generally with the regional spatial strategy (which is also subject to sustainability appraisal). For example, work may have been carried out in the appraisal of a core strategy that could also be considered in the appraisal of a subordinate local development document, however, more detailed local development documents may require additional appraisal.

**Sustainability appraisal of supplementary planning documents**

Local planning authorities must undertake sustainability appraisal throughout the preparation process of a supplementary planning document. The sustainability appraisal of the development plan document to which the supplementary planning document conforms, may already meet the requirements for sustainability appraisal of the supplementary planning document. However, where the supplementary document is developing the policy further or in greater detail, it will be necessary to undertake sustainability appraisal of those matters. This includes preparing a scoping report; sustainability appraisal during the preparation of the supplementary planning document; and the production of a final report to accompany the draft supplementary planning document at the public participation stage in accordance with Regulation 17.<sup>34</sup>

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

## THE LOCAL DEVELOPMENT SCHEME

3.19 The local development scheme is a public statement of the local planning authority's programme for the production of local development documents. Local planning authorities must submit their first local development scheme to the Secretary of State within six months of commencement of Part 2 of the Act. County councils, in respect of any part of their area for which there is a district council, must prepare and maintain a scheme to be known as the minerals and waste development scheme. County councils must also submit their minerals and waste development schemes to the Secretary of State within six months of commencement of Part 2 of the Act. The scheme should be revised when necessary. This may either be as a result of the annual monitoring report which should identify whether the local planning authority has achieved the timetable set out in the scheme or if there is a need to revise and/or prepare new local development documents, (see also paragraphs 4.45 – 4.46). The local development scheme should focus on the first three years from the commencement of the Act, they should also indicate in general terms what future work is proposed beyond that three year period, particularly in terms of reviewing or supplementing the documents proposed in the scheme. The local development scheme should also set out complete timelines for production, from evidence base developments to adoption, for all documents whose preparation commences within the first 3 years. In revising a local development scheme, local planning authorities must comply with the procedures as set out in Part 3 of the Regulations.<sup>35</sup>

### Principles for preparing the local development scheme

- 3.20 Local planning authorities in preparing the local development scheme should:
- i. provide a brief description of all the local development documents to be prepared and the content and geographic area to which they will relate;
  - ii. establish which local development documents will be development plan documents;
  - iii. in the transitional period,<sup>36</sup> state which policies and proposals of existing saved development plans (i.e. local plans and unitary development plans) will be replaced by local development documents and which will be saved;
  - iv. provide an explanation of the relationship between local development documents, especially between the core strategy and other local development documents;
  - v. state which, if any, local development documents are to be prepared on a joint basis with one or more local planning authorities;

<sup>35</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

<sup>36</sup> Schedule 8 of the Act and the Town and Country Planning (Transitional Arrangements) (England) Regulations, 2004.

- vi. set out the planned timetable for preparing each local development document and the key milestones to be achieved;
  - vii. set out which supplementary planning guidance, in the transitional period, supports saved policies as well as supplementary planning guidance that will be replaced with supplementary planning documents;
  - viii. set out any other supplementary planning guidance which the authority will continue to use as a material consideration in the determination of planning applications; and
  - ix. set out an explanation of how progress against the local development scheme, e.g. pre-submission and adoption dates, will be monitored and the local planning authority's approach to reviewing the local development scheme.
- 3.21 Local planning authorities must consult with the Government Office and the Planning Inspectorate in the development and review of the local development scheme, so that the timing of the examinations of development plan documents and the statement of community involvement can be confirmed.
- 3.22 The local development scheme should identify the key milestones and the resources required to prepare local development documents. The key milestones are:
- i. commencement of the preparation process of a development plan document;
  - ii. public participation on preferred options;
  - iii. submission of development plan document;
  - iv. pre-examination meeting;
  - v. commencement of the examination; and
  - vi. adoption of the development plan document.
- 3.23 Local development frameworks enable a series of ongoing interrelated local development documents to be prepared, rather than a single document covering the whole of the planning authority area. This allows local planning authorities to better manage the resources required to prepare local development documents. Local planning authorities should have regard to the possible limitations on the resources of the county council and National Park authorities and their ability to provide advice to the proposed timetable set out in the local development scheme. Local planning authorities should programme manage the process, utilising and building on existing project management practices and techniques to reflect:
- i. the need to ensure that there are not too many documents going through the process at the same time, unless there are real benefits of aligning the production of those documents. Although each local development document will have its

- own clearly defined stages, local planning authorities may choose to align the preparation of various documents to reflect policy links or shared preparation processes (e.g. involvement with local community and sustainability appraisal);
- ii. the need to involve other local partners/stakeholders in the preparation of local development documents (see paragraph 1.9); and
  - iii. the requirement for consistent and specialist resources.
- 3.24 The local development scheme is brought into effect four weeks after being submitted to the Secretary of State unless the Secretary of State intervenes during this period (or requests more time). Further guidance on the preparation and content of the local development scheme can be found in Creating Local Development Frameworks.

#### **LOCAL DEVELOPMENT SCHEME PROCESS**

The local development scheme will be the document which the public can use to find out what the local planning authority is proposing to do and when, and at what stage they can expect to be involved in the planning process. Local planning authorities must send four copies of the local development scheme to the Secretary of State (represented by the Government Office for the region in which the local planning authority is located). It will not be subject to independent examination and it will not be published for the public to make formal comment. The Government Office will assess whether the local development scheme:

- is robust and appropriate to document preparation, particularly in terms of priorities;
- is deliverable and realistic in terms of the timetable and the requirements of PSA targets;
- has a comprehensive approach to document production, especially the development of the evidence base;
- has any obvious omissions; and
- identifies that the local planning authority has a service level agreement with the Planning Inspectorate that is consistent with the proposed timing of any examination.

When the local development scheme takes effect the local planning authority must:

- make a copy available for inspection at their principal office during working hours; and
- publish it on their website.

## Chapter 4 Preparation of a local development document

### EARLY INVOLVEMENT

- 4.1 Key to the success of the new system is the early identification of all issues in the preparation of a development plan document. It is essential that anyone who has an interest in the planning of an area actively seeks to assist the local planning authority to shape the future of that area from the earliest stage, both at the core strategy level as well as at the detailed area action level. Those interested, including national organisations, government agencies, regional organisations, developers, local organisations, local community groups and the community, must not wait for the authority to finalise their development plan document before getting involved. To do so would be contrary to the aim of the new system to produce plans which deliver sustainable communities and have been prepared taking all interests into account.

### FRONT LOADING

- 4.2 Local planning authorities should prepare development plan documents taking into consideration the process of continuous community involvement in accordance with the statement of community involvement. Local planning authorities should front load the preparation of development plan documents by facilitating early involvement and securing inputs from the community and all stakeholders. The preparation process should include consideration of all the alternative options derived from the development of the evidence base, the authority's awareness of local issues, the views of stakeholders and community involvement. Key decisions on the spatial strategy should be taken at the earliest possible stage to allow for full community involvement and sustainability appraisal.
- 4.3 Front loading is particularly important when the development plan document is dealing with site allocations. All those who wish land to be allocated for development should ensure that their sites are brought forward early in the process so that they can be considered by the local planning authority and subjected to sustainability appraisal. Local planning authorities should consult with the bodies set out in the statement of community involvement or the minimum requirements set out in Regulations.<sup>37</sup> This will ensure that the community and stakeholders have a real say in the evolution of development plan documents, and on the suitability of any sites put forward, before the local planning authority prepares the development plan document for submission. Furthermore, sustainability appraisal requires that decisions on preferred options should be taken early so that the consequences can be assessed. Where community involvement or sustainability appraisal cannot be demonstrated, for example on a site submitted late in the process of preparation, the inspector, in the binding report, would not be able to recommend its inclusion in a development plan document.

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<sup>37</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

## Mediation

- 4.4 The Government supports the use of mediation, where appropriate, within the planning system, particularly where this might lend itself to better community involvement, and a greater understanding of the planning process. Mediation can play an important role in the facilitation of discussions between planning authorities, developers and local communities in drawing up local development documents, and in bringing about more pro-active engagement with local communities.<sup>38</sup> Mediation can also assist to maximise 'buy-in' from local communities into the final local development document, and reduce the potential for conflict later on in the planning process.

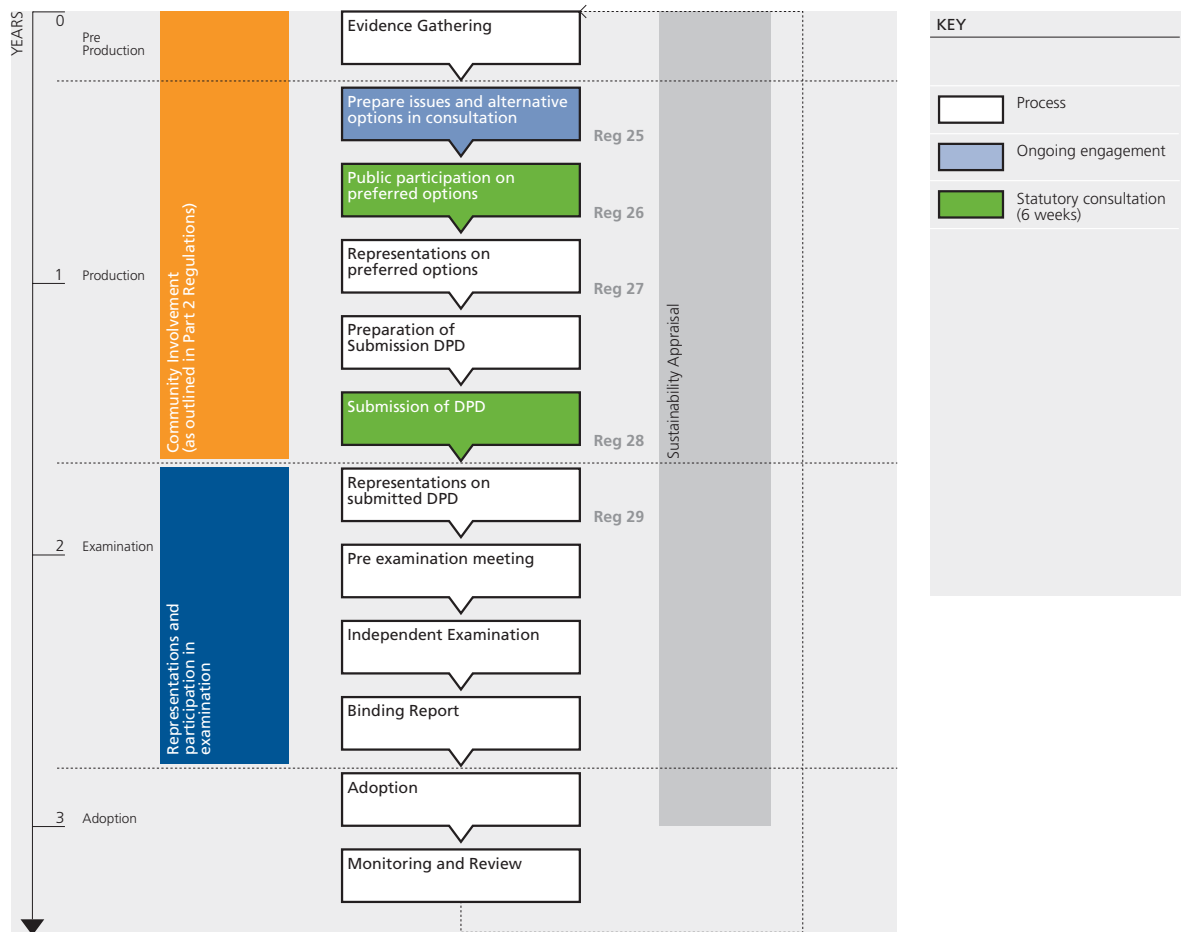
## PREPARATION OF A DEVELOPMENT PLAN DOCUMENT

- 4.5 The preparation process for development plan documents can be divided into 4 stages as set out in paragraphs 4.8 - 4.30 and as detailed in Figure 4.1. These are:
- i. **Pre-production** – survey and evidence gathering leading to decision to include a development plan document in the local development scheme;
  - ii. **Production** – preparation of preferred options in consultation with the community, formal participation on these, and preparation and submission of the development plan document in light of the representations on the preferred options;
  - iii. **Examination** – the independent examination into the soundness of the plan; and
  - iv. **Adoption** – the binding report and adoption.

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<sup>38</sup> Community Involvement in Planning: The Government's Objectives, published February 2004.

**Figure 4.1 – The Development Plan Document Process**



- 4.6 In preparing development plan documents, local planning authorities must have regard to:
- i. national policies and guidance;
  - ii. the regional spatial strategy and the regional spatial strategy for any adjoining region; or the spatial development strategy if in or adjoining London; or the Wales Spatial Plan if adjoining Wales; or any document which sets out the policy of the Scottish Administration in relation to spatial planning, if adjoining Scotland;

- iii. the community strategy or strategies which apply to the area covered by the development plan document;
  - iv. any other local development document adopted by the authority; and
  - v. the resources likely to be available for implementing the proposals in the development plan document.
- 4.7 Annex B sets out further matters which local planning authorities must consider in the preparation of development plan documents.

## PRE-PRODUCTION

### Development of the evidence base

- 4.8 The policies prepared by the local planning authority should be founded on a thorough understanding of the needs of their area and the opportunities and constraints which operate within that area. Local planning authorities should prepare and maintain an up-to-date information base on key aspects of the social, economic and environmental characteristics of their area, to enable the preparation of a sound spatial plan meeting the objectives of sustainable development. Local planning authorities are required to keep under review the following matters:
- i. the principal physical, economic, social and environmental characteristics of their area;
  - ii. the principal purposes for which land is used in the area;
  - iii. the size, composition and distribution of the population of the area;
  - iv. the communications, transport system and traffic of the area (including accessibility by public transport); and
  - v. any other considerations which may be expected to affect those matters.
- 4.9 The evidence base is critical to the preparation of local development documents. Local planning authorities should ensure that the delivery of housing and other strategic and regional requirements is not compromised by unrealistic expectations about the future availability of infrastructure, transportation and resources. Annex B sets out further guidance on resources, utilities and infrastructure provision. In preparing the evidence base, local planning authorities must also prepare a sustainability appraisal scoping report as set out on page 23.
- 4.10 County councils are responsible for keeping under review and making available to local planning authorities all matters in relation to i, iii, iv and v above.

- 4.11 At the earliest stage in the preparation of the development plan document, and particularly for preparation of the core strategy, the local planning authority should gather evidence about their area. This may include studies to be undertaken or commissioned on for example, the nature of the housing required in their communities, the availability of previously developed land, the availability of sites accessible by public transport where development can be encouraged, the natural habitats in the area, areas at risk of flooding, and the need for additional leisure facilities. This evidence will be relied upon by the local planning authority in testing the soundness of the development plan document at independent examination. Local planning authorities should seek the involvement of relevant groups and organisations in the development of this information base as this will help them to identify the issues which the development plan document needs to address and the options which are available to deal with those issues. Other more specific development plan documents such as area action plans will be more focused on a particular part of the local planning authority area, and therefore the nature of the evidence gathering for such plans is likely to be more limited.

## PRODUCTION

### Preparation of preferred options

- 4.12 The pre-submission consultation process as set out in Regulation 25,<sup>39</sup> requires local planning authorities to consult with the community and stakeholders during the preparation of preferred options. Local planning authorities must also comply with the requirements of sustainability appraisal as set out on page 23 by publishing an initial sustainability appraisal report. Local planning authorities must ensure that all participants involved in the preparation process are able to make their views known and have the opportunity to identify potential development sites early in the process in accordance with front loading (see paragraph 4.3). The options must be of sufficient detail for the type of development plan document envisaged, to enable meaningful community involvement and the sustainability appraisal. The preferred options need to be presented clearly. Local planning authorities should set out clear reasons for their selection of the preferred options, together with a précis of the alternatives that were also considered.

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<sup>39</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

### Participation on preferred options

- 4.13 The local planning authority should build consensus through continuous community involvement. Where local planning authorities have effectively engaged the community they should be able to move efficiently to the production of preferred options and the publication of the sustainability appraisal report. Local planning authorities should publish preferred options and proposals and the sustainability appraisal report and invite representations over a specified period of six weeks in accordance with Regulation 26.<sup>40</sup> Local planning authorities are required to consider all representations made, in accordance with Regulation 27<sup>41</sup> and to have regard to them in the preparation of the development plan document for submission. Representations made at this stage will **not** be taken forward as representations to be considered at the independent examination.

#### PREFERRED OPTIONS PROCESS

The aim of this formal public participation on preferred options stage is to give people the opportunity to comment on how the local planning authority is approaching the preparation of the particular development plan document and to ensure that the local planning authority is aware of all possible options before they prepare the submission development plan document. The local planning authority will have to provide sufficient information including maps and/or diagrams where appropriate at this stage to ensure that people can understand the implications of their preferred options. Once the local planning authority has identified their preferred options they will:

- publish them and seek comments over a 6 week period in accordance with the authority’s statement of community involvement;
- place any documentation identifying the preferred options on their website together with any supporting information which is needed to enable people to understand what they are being asked to comment upon and state where and when the preferred options documentation can be inspected;
- publish the sustainability appraisal report;
- make all the relevant material available for inspection at their principal offices and other suitable places for the whole of the six-week period for which it is open to comment;

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

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

**PREFERRED OPTIONS PROCESS (continued)**

- send four copies to the Government Office and one copy to the Planning Inspectorate of the preferred options document on which representations were invited and any accompanying technical evidence which underpins the development plan document, such as assessing housing capacity and the community's housing needs;
- send copies of the relevant material to statutory consultees in accordance with the Regulations;<sup>42</sup> and
- advertise in at least one local newspaper circulating in the area where and when the relevant material can be inspected, how copies can be obtained, what is the closing date for representations and where to send any representations.

**Preparation of submission development plan document**

- 4.14 On completion of the participation on the preferred options and proposals, local planning authorities should prepare the development plan document to be submitted for independent examination, together with a map (the submission proposals map) showing what changes are proposed to the adopted proposals map. For submission, the local planning authority must prepare a statement of compliance detailing how they have complied with the statement of community involvement or minimum requirements of Regulations. The statement should explain how they have dealt with the consultation under Regulation 25, how they have sought representations in accordance with Regulation 26, and how the local planning authority has addressed the representations received under Regulation 27 in the preparation of the submitted development plan document.<sup>43</sup>
- 4.15 Local planning authorities should ensure that development plan documents are sound when submitted for examination. The criteria for assessing whether a development plan document is sound are detailed in paragraph 4.23.

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

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

## EXAMINATION

### Submission of development plan documents

- 4.16 The local planning authority must submit its development plan document for independent examination to the Secretary of State, publish a notice and invite representations to be made within a specified period of six weeks in accordance with Regulation 28.<sup>44</sup>

#### SUBMISSION OF A DEVELOPMENT PLAN DOCUMENT PROCESS

When the local planning authority submits its development plan document for independent examination to the Secretary of State it must publish a notice and invite representations to be made within a specified period of six weeks. Further guidance on making representations is contained in Annex C. When the development plan document is submitted for independent examination, the authority must send two copies of the development plan document and the following documents to the Planning Inspectorate:

- the final report of the sustainability appraisal;
- any supporting technical documents such as the urban capacity study and housing needs surveys;
- a copy of the statement of community involvement, where it exists; and
- a statement of compliance, which should also indicate how the local planning authority has addressed the main issues raised in representations received under Regulation 27.<sup>45</sup> Local planning authorities must not send copies of the representations received.

### Representations

- 4.17 Where representations on a submitted development plan document have been made which include proposals for alternative site allocations or to change a boundary of a site identified in a submitted development plan document, the local planning authority must advertise these immediately after the period for making representations has expired, in accordance with Regulation 32.<sup>46</sup> Guidance on making representations is contained in Annex C. Those promoting an alternative site(s) should indicate how the proposal complies with the tests of soundness as set out in paragraph 4.23 and how the sustainability appraisal process has been or is to be carried out prior to consideration at examination. At this stage, it is the

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

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

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

responsibility of the person proposing an alternative site or boundary change to make clear the effects of the change on the achievement of the objectives of sustainable development and to show that the proper procedures have been undertaken. This will include presenting information demonstrating that the development plan will be sound with the inclusion of their change(s).

- 4.18 If representations on a development plan document seek changes, they should specify the change(s) being sought to inform the inspector, who will be required to prepare recommendations which will be binding upon the authority. The local planning authority should prepare a summary of the representations made on the development plan document.

#### **PRE-EXAMINATION CHANGES**

Local planning authorities should not propose changes to the development plan document prior to examination. Such changes are not likely to be required if the process of continuous community involvement has been effective and the alternatives considered during the preparation stage. Where, exceptionally, changes are proposed after submission, the local planning authority must explain why the change is being put forward and the evidence on which it is based. The changes should be subject to the same process of publicity and opportunity to make representations as the submitted development plan document. Furthermore, the local planning authority must indicate what the implications of the proposed changes are in terms of the soundness of the plan, having regard to the following:

- how the proposed change relates to the core strategy (unless it is the core strategy development plan document);
- how it relates to the community strategy;
- whether it would be in general conformity with the regional spatial strategy or, in London, the spatial development strategy and be consistent with national planning policy;
- whether it is consistent with any other development plan document;
- whether it is consistent with other relevant plans and strategies which will affect the delivery of the policies in the plan, e.g. local transport plans;
- whether it has any environmental, economic or social implications that have not already been covered in the sustainability appraisal;

**PRE-EXAMINATION CHANGES (continued)**

- whether the proposed change requires the preparation of a revised sustainability appraisal; if so whether this has been done or, if not, how it is to be done; and
- what further consultation has been undertaken by the local planning authority in accordance with the statement of community involvement.

Where any statutory processes have not been undertaken for sites submitted late in the preparation of a development plan document, the inspector, in the binding report, would not be able to recommend their inclusion. Furthermore, if the inclusion of alternative sites would make the development plan document procedurally unsound, the inspector would not be able to recommend their inclusion in that document. It is therefore, the responsibility of those promoting such changes to show that the proper procedures have been undertaken.

**General conformity with the regional spatial strategy or spatial development strategy**

- 4.19 Local development documents must be in general conformity with the regional spatial strategy or, in London, the spatial development strategy. However, where the regional spatial strategy or spatial development strategy is being reviewed, account may be taken of the strategy's progression through the statutory procedures. The weight to be attached to the revised strategy depends on the stage it has reached. Where the regional spatial strategy/spatial development strategy has been through an Examination in Public, and the proposed changes have been published, considerable weight may be attached to that strategy because of the strong possibility that it will be published in that form by the Secretary of State.
- 4.20 The test is of general conformity and not conformity. This means that it is only where an inconsistency or omission in a development plan document would cause significant harm to the implementation of the regional spatial strategy/the spatial development strategy, that it should be considered not to be in general conformity. The fact that a development plan document is inconsistent with one or more policies in the regional spatial strategy/the spatial development strategy, either directly or through the omission of a policy or proposal, does not, by itself, mean that the document is not in general conformity. Rather, the test is how significant the inconsistency is from the point of view of delivery of the regional spatial strategy/the spatial development strategy.

- 4.21 At the time the development plan document is submitted for examination, the local planning authority must send a copy to the regional planning body or, in London, the Mayor. If the regional planning body/Mayor do not respond within the six week period the authority should proceed as if the development plan document is in general conformity. Any expression of opinion from the regional planning body/Mayor that the development plan document is not in general conformity will be treated as a representation to be dealt with at the examination, it does not mean that the document automatically falls. Rather, the opinion on the matter would go forward as a duly made objection to be considered by the inspector at the examination. In such an event, the regional planning body/Mayor should set out which policies are not in general conformity with the regional spatial strategy/spatial development strategy. They must also state why the policy is not in general conformity and their reasoning behind that opinion. The inspector will determine whether he or she supports the opinion and recommend accordingly. The regional planning body or Mayor should provide the inspector conducting the examination with any necessary additional information as appropriate, either in person or in writing according to the requirements of the inspector.
- 4.22 After commencement of the Act there will no longer be a requirement for local development documents to be in general conformity with structure plans. However, the structure plan policies will still be a material consideration and will remain 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 conflict will be resolved in favour of the last document to be adopted, which increasingly will be more likely to be the regional spatial strategy rather than the structure plan, (see also paragraphs 5.8 - 5.14).

### **Assessing whether the development plan document is sound**

- 4.23 The policies in development plan documents will be tested thoroughly during the independent examination of the development plan document. Section 20 of the Act sets out the purpose of the independent examination of a development plan document which is to determine whether:
- i. it satisfies the statutory requirements for the preparation of the plan as set out in Section 19 of the Act and it is in general conformity with the regional spatial strategy or, in London, the spatial development strategy; and
  - ii. it is sound.

- 4.24 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. The criteria for assessing whether a development plan document is sound will apply individually and collectively to policies in the development plan document. A development plan document will be sound if it meets the following tests:

Procedural

- i. it has been prepared in accordance with the local development scheme;
- ii. it has been prepared in compliance with the statement of community involvement, or with the minimum requirements set out in the Regulations<sup>47</sup> where no statement of community involvement exists;
- iii. the plan and its policies have been subjected to sustainability appraisal;

Conformity

- iv. it 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 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

- 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; and
  - ix. the plan is reasonably flexible to enable it to deal with changing circumstances.
- 4.25 Where the development plan document relates to housing, local planning authorities should produce housing trajectories which will demonstrate how the plan will deliver the policies relating to housing provision. This will be important in clarifying the delivery mechanisms of the development plan document which will be part of the test of whether it is sound. Annex B sets out further guidance on the preparation of a housing trajectory.

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<sup>47</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

### **The examination**

- 4.26 The purpose of the independent examination is to consider if the development plan document is sound. Therefore the local planning authority must submit the development plan document for independent examination whether or not any representations have been received. An inspector will be appointed by the Secretary of State to conduct the examination. Annex D sets out in detail the examination process.

### **The binding report**

- 4.27 After the examination, the inspector will produce a report with recommendations which will be binding upon the authority. The report will set out precise recommendations for how the development plan document and adopted proposals map must be changed. The report will not summarise any cases submitted to the examination but will focus on the issue of whether the development plan document is sound, which the inspector's conclusions will address. The conclusions reached by the inspector will be binding and the local planning authority must incorporate the changes required by the inspector and then adopt the development plan document.
- 4.28 The inspector may recommend that the local planning authority ought to give certain matters further consideration and these should subsequently be brought forward as a review to the development plan document and included in the local development scheme. This approach will only be taken where the subject matter can be separated from the development plan document without undermining its integrity and so that it can then be adopted as changed by the inspector.
- 4.29 When the report is complete it will be sent to the local planning authority for a fact check before it is formally issued to them. The local planning authority may not question the inspector's conclusions, although they may seek clarification on any conclusion considered to be unclear. Local planning authorities should complete the fact check within two weeks of receiving the inspector's report. Once the fact check has been completed and the inspector has responded to any points raised, the final report will be submitted to the authority in electronic and paper format. The timetable for the inspector's report will be agreed between the local planning authority and the Planning Inspectorate as part of a service level agreement.

### **TIMESCALE FOR PRODUCTION PROCESS**

The date by which the inspector's report will be submitted to the local planning authority will be agreed with the local planning authority as part of the service level agreement which they will have with the Planning Inspectorate. How long it will take to produce the report will depend to a large extent on the scale and complexity of the examination and the resources which the Planning Inspectorate is able to provide in terms of teams of inspectors and/or planning officers. However, the inspector will announce at the last programmed session of the examination the anticipated date on which the report will be delivered. The report will be produced as quickly as possible after the examination, consistent with the Government's aim to speed up the system of plan preparation.

## **ADOPTION**

- 4.30 The local planning authority must adopt the development plan document as soon as practicable following receipt of the inspector's report unless the Secretary of State intervenes. Local planning authorities must prepare an adoption statement to accompany the adopted development plan document. The adoption statement should state the matters referred to under Regulation 24(4).<sup>48</sup> Once adopted, the local planning authority should incorporate the development plan document into the local development framework and make the necessary changes to the adopted proposals map.

### **ADOPTION PROCESS**

When the local planning authority adopt the development plan document they must:

- prepare an adoption statement in accordance with Regulation 36;<sup>49</sup>
- advertise that it has been adopted, and where and when it can be inspected;
- make the adopted development plan document and adoption statement available for inspection at its principal offices and place them on the local planning authority's website; and
- send a copy of the adoption statement to those who have asked to be notified of the adoption of the development plan document.

<sup>48</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

<sup>49</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

**ADOPTION PROCESS (continued)**

The local planning authority must also send a copy of the adopted development plan document to the relevant Government Office for the region and to the Planning Inspectorate. They may also make the document available for purchase.

At the same time the local planning authority must:

- make a copy of the inspector’s report available for inspection at their principal office at reasonable hours and at such other places as the local planning authority considers appropriate;
- publish a copy of the final sustainability report;
- place the inspector’s report and the sustainability report on their website; and
- inform those who requested to be notified of the publication of the inspector’s report.

**INTERVENTION BY THE SECRETARY OF STATE****Intervention powers**

- 4.31 The Secretary of State will only use the powers of intervention in a limited range of circumstances where central Government involvement is clearly justified, and as a matter of last resort.
- 4.32 The Secretary of State may consider intervention is required, either in the form of a direction to modify or a direction to submit for Secretary of State approval, where a local development document:
- i. raises issues of national or regional importance; and
  - ii. extends beyond the area of the plan making authority (without the necessary joint arrangements in place).
- 4.33 The Secretary of State may also consider intervention where the recommendations of the binding report are considered to be in conflict with criteria i and ii above.

- 4.34 The Secretary of State is unlikely to use these powers before a development plan document has been considered at examination, unless the process of preparation of the development plan document is considered unsound. In these circumstances, the inspector, in examining if the development plan document is sound, will consider the views of the Secretary of State as a representation(s) to the development plan document.
- 4.35 The Secretary of State also has the power to direct a local planning authority to modify a supplementary planning document. However, the Secretary of State cannot issue a direction for it to be submitted for approval. All supplementary planning documents should be in conformity with a development plan document, to which the power of direction to submit for approval applies.

### **Default powers**

- 4.36 The Secretary of State will use these powers where a local planning authority fails to prepare a development plan document in accordance with the provisions of the Act. The Secretary of State may use his/her default powers to prepare, revise or approve a development plan document.
- 4.37 The Secretary of State will need to ensure that, where a local planning authority identifies any matters which may be expected to affect the development of their area or the planning of its development, they prepare the necessary development plan documents. Instances where the Secretary of State would wish to use the default powers may be where a local planning authority fails to prepare a development plan document to deliver the requirements as set out in the regional spatial strategy and, in particular, the delivery of housing.

## **HIGH COURT CHALLENGE**

- 4.38 Any person may challenge the validity of a development plan document or any review on the grounds that it is not within the powers conferred by Part 2 of the Act, or that requirements in that part of the Act or Regulations<sup>50</sup> made under it have not been complied with. In such circumstances they may make an application to the High Court to have the local development document or part of the document quashed. Applications must be made within six weeks of the date of the advertisement publicising that the local development document(s) has been adopted.

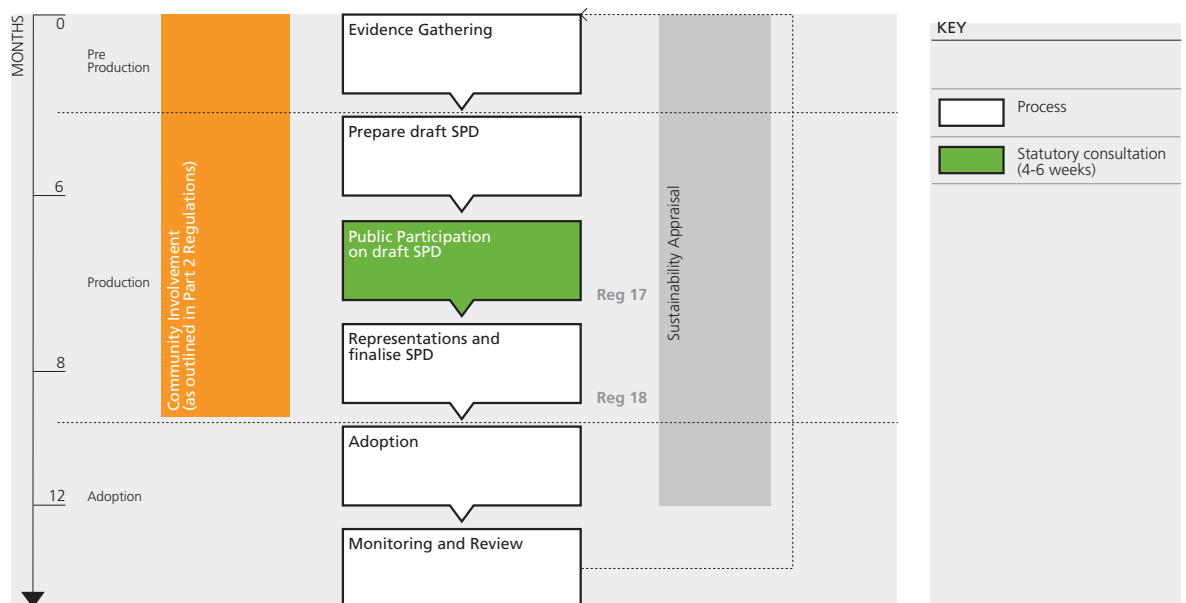
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<sup>50</sup> The Town and Country Planning (Local Development) (England) Regulations 2004 and The Town and Country Planning (Transitional Arrangements) (England) Regulations, 2004.

## THE PROCESS OF PREPARING A SUPPLEMENTARY PLANNING DOCUMENT

4.39 Local planning authorities should set out in their local development scheme any supplementary planning documents which they propose to prepare, including indicating which development plan document they are supplementing and the timetable for preparation. Figure 4.2 sets out the process for the preparation of a supplementary planning document. Local planning authorities should prepare supplementary planning documents taking into consideration the process of continuous community involvement in accordance with the statement of community involvement. The process for preparing a supplementary planning document is similar to the process for development plan documents but simplified. There is no requirement for the preparation of preferred options but there should be community involvement on a draft during its preparation and participation under Regulation 17.<sup>51</sup> The local planning authority should consult in accordance with its statement of community involvement where applicable or the minimum requirements in Regulations where there is no adopted statement. Although supplementary planning documents are not subject to independent examination, the underlying principles of soundness are applicable to supplementary planning documents.

**Figure 4.2 – The Supplementary Planning Document Process**



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

- 4.40 All the matters covered in supplementary planning documents must relate to policies in a development plan document or a saved policy in a development plan. They must therefore conform to the relevant development plan document (or saved policies), and thereby be consistent with national planning policy and generally conform with the regional spatial strategy or, in London, the spatial development strategy. Where the detail to be provided in a supplementary planning document is fundamental to the early delivery of policies in a development plan document, it may usefully be prepared in parallel with that document. However, if the development plan document is changed this may necessitate changes to the supplementary planning document. In such instances, the local planning authority will need to undertake community involvement on the changes they propose to make in accordance with the statement of community involvement or minimum requirements in Regulations.<sup>52</sup>
- 4.41 When the local planning authority publishes the draft supplementary planning document it should be accompanied by a sustainability appraisal (see paragraphs 3.14 to 3.18) and by a statement setting out how the local planning authority has complied with the statement of community involvement or the minimum requirements of Regulations.<sup>53</sup> If the Government Office has indicated that it wishes to see the draft supplementary planning document it must be copied to them. The local planning authority should make an assessment of whether the supplementary planning document is in general conformity with the regional spatial strategy/the spatial development strategy as appropriate. The local planning authority may seek the opinion of the regional planning body or, the Mayor in London, as to whether the supplementary planning document is in general conformity.

### **Consultation on draft supplementary planning documents**

- 4.42 The local development scheme will set out when any draft supplementary planning document will be published and when representations on it will be invited. The local planning authority will decide on the length of the consultation period although it must not be less than four weeks or more than six weeks.

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<sup>52</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

<sup>53</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

**SUPPLEMENTARY PLANNING DOCUMENT CONSULTATION PROCESS**

The consultation arrangements will be set out in the local planning authority's statement of community involvement but as a minimum the authority should:

- make the supplementary planning document available for inspection at their principal office and at other suitable places, together with any supporting documents which will help people to understand what they are being asked to comment upon;
- place the same documents on their website;
- send a copy to the Government Office if the Government Office has asked to see it;
- send a copy to any other bodies referred to in Regulation 17(4),<sup>54</sup> and
- advertise in a local newspaper when and where the documents can be inspected and ensure that adequate publicity is given to the documents.

- 4.43 Once the local planning authority has considered the representations on the draft supplementary planning document and made any changes as a result, they should adopt the document.

**Adoption**

- 4.44 Once adopted, the local planning authority should include the document in the local development framework. The local planning authority should carry out the same publicity process for the adopted supplementary planning documents as applies to a development plan document. The local planning authority must also include with the supplementary planning document a statement of the consultation undertaken, the representations received and their response to those representations, together with a copy of the final statement of sustainability appraisal.

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<sup>54</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

## REVIEW AND MONITORING OF LOCAL DEVELOPMENT DOCUMENTS

- 4.45 Review and monitoring are key aspects of the Government's 'plan, monitor and manage' approach to the planning system. They are crucial to the successful delivery of the spatial vision and objectives of the local development framework and should be undertaken on a continuous pro-active basis. By identifying outputs and trends, these techniques will enable local planning authorities to build a comprehensive evidence base against which local development document policies and implementation mechanisms can be assessed. Regulation 48<sup>55</sup> requires local planning authorities to produce an annual monitoring report to assess:
- i. the implementation of the local development scheme; and
  - ii. the extent to which policies in local development documents are being achieved.
- 4.46 The annual monitoring report must be based upon the period 1st April to 31st March and submitted to the Secretary of State no later than the end of the following December.

### Review

- 4.47 The annual monitoring report should review actual plan progress compared with the targets and milestones for local development document preparation set out in the local development scheme and should assess where the local planning authority:
- i. has met the local development scheme targets and milestones, is on target to meet them, is falling behind schedule, or will not meet them;
  - ii. is falling behind schedule or has failed to meet a target or milestone and the reasons for this; and
  - iii. the need to update the local development scheme, particularly in light of (ii). Where it is necessary to update the local development scheme, the steps and the timetable needed for the revision.

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

## Monitoring

- 4.48 Local planning authorities must develop monitoring systems to assess the effectiveness of local development documents. The annual monitoring report should include an assessment of:
- i. whether policies and related targets or milestones in local development documents have been met or progress is being made towards meeting them or, where they are not being met or not on track to being achieved, the reasons why;
  - ii. what impact the policies are having in respect of national, regional and local policy targets and any other targets identified in local development documents. Regulation 48<sup>56</sup> specifically requires information to be provided on net additional dwellings. As a means of assessing policy implementation, authorities should consider using trajectories to demonstrate past and likely future performance. In particular, Regulation 48 requires local development documents to include information on housing policy and performance, particularly in terms of net additional dwellings. Local planning authorities should therefore produce housing trajectories which will demonstrate how policies will deliver housing provision in their area;
  - iii. the extent to which any local development order, where adopted, is achieving its purposes;
  - iv. whether the policies in the local development document need adjusting or replacing because they are not working as intended;
  - v. whether the policies need changing to reflect changes in national or regional policy; and
  - vi. if policies or proposals need changing, the actions needed to achieve this.
- 4.49 Further guidance on the content and preparation of the annual monitoring report will be included in the Local Development Framework Monitoring Guide. The guide sets out core local development framework output indicators, against which authorities must monitor policy implementation. It also provides advice on the development and use of housing trajectories and identifies contextual indicators that authorities can develop as appropriate to their area. Further guidance on housing trajectories is contained in Annex B25 – B29.

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<sup>56</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

- 4.50 Local planning authorities and regional planning bodies must co-ordinate their monitoring activities to ensure that regional and local monitoring frameworks work together to avoid duplication in monitoring arrangements and reduce the burden on data providers. It is essential that there are appropriate links between the production of the regional and local annual monitoring reports. The regional report will be submitted two months after the local report to enable the local information to feed up to the regional level. In addition to the local development framework core output indicators, further guidance has been published on complimentary core output indicators for regional spatial strategies,<sup>57</sup> which will help to achieve an effective approach to data collection.
- 4.51 County councils have a key role in assisting local planning authorities to develop and maintain an effective information base. County councils should keep under review the matters set out in paragraph 4.10 which inform the work of district planning authorities and regional planning bodies. Districts and county councils will need to work closely together to determine who should be responsible for reviewing which matters. Any agreement must be based upon the most efficient use of resources and expertise to ensure a comprehensive approach to monitoring and review.
- 4.52 Local planning authorities should seek to integrate their approach to monitoring and survey with other local initiatives, particularly community strategies. In reporting on the extent to which policies in local development documents are being achieved in the annual monitoring report, they should be set in the context of where they fit within wider community and local objectives. Where other strategies share common targets with local development documents, monitoring should be integrated, with the annual monitoring report highlighting common targets and indicators.

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57 Monitoring Regional Spatial Strategies: Good Practice Guidance on Targets and Indicators, ODPM, November 2002.

## Chapter 5 Transferring to the new system

### TRANSITIONAL ARRANGEMENTS

- 5.1 The objectives which underlie the transitional arrangements are:
- i. to move as quickly as possible from the system of regional planning guidance, structure, local, waste, minerals and unitary development plans to one of regional spatial strategy and local development documents;
  - ii. to maintain continuity in the development plans system as a framework for development control; and
  - iii. to minimise transitional costs.
- 5.2 The transitional arrangements came into force on the date of commencement of Part 2 of the Act.

### SAVED POLICIES

- 5.3 Adopted structure and local plans and unitary development plans will retain development plan status and will automatically become 'saved' policies for a period of three years from commencement of the Act. For plans in preparation the three-year period will commence from the adoption or approval of the draft plan.
- 5.4 During the three-year period local planning authorities should bring forward local development documents to replace saved policies in accordance with their local development scheme.
- 5.5 It is important that the move to local development frameworks does not lead to any gap in coverage of development plan policies. Where local planning authorities can demonstrate to the Secretary of State that saved policies reflect the principles of local development frameworks, as set out in paragraph 5.15, and that it is not feasible or desirable to replace them within the three year period, it will be possible to seek the Secretary of State's approval to extend them. This should be undertaken as part of a review of the local development scheme before the expiry of the three year period.

## PLANS IN PREPARATION

- 5.6 On commencement, where proposals for the preparation, alteration or replacement of a structure plan, local plan or unitary development plan have not reached first deposit stage, the preparation of those proposals cease. However, wherever possible, the work undertaken should be adapted to assist in the preparation of the regional spatial strategy or local development documents in accordance with the local planning authority's local development scheme.
- 5.7 Where local planning authorities have published the statutory notice of deposit for a structure plan, local plan or unitary development plan, the position will vary depending on the circumstances:
- i. if the local planning authority is engaged in an inquiry, examination or other hearing into their draft plan, or if the inspector or panel for such an inquiry or hearing has been appointed, the proposals will continue under the procedures set out in the Town and Country Planning Act 1990 (As Amended) and the Town and Country Planning (Development Plan) Regulations 1999 or the Town and Country Planning (Development Plan) Regulations 1991; and
  - ii. where the local planning authority has not appointed an inspector, the draft plan will continue under the transitional procedures. There are a number of fundamental differences under the transitional arrangements. There will not be a revised deposit stage, rather the entire plan, including any changes the authority wish to make, will need to be consulted on in the form of a re-deposited plan. This will allow for objections to be made on the basis that there will be no modification stage. Where representations are outstanding from the deposit or revised deposit stages they do not need to be re-submitted when the plan is re-deposited, the inspector at the inquiry will consider all outstanding representations. The inspector's report will be binding upon the local planning authority and there will no longer be a modification stage. This will also apply to draft plans that have reached the later stage known as 'revised deposit' stage.

## Structure plans

- 5.8 Structure plans will be saved for a period of three years from commencement of Parts 1 and 2 of the Act or adoption of the structure plan whichever is the later, unless during that period:
- i. revisions of the regional spatial strategy are published by the Secretary of State which replace the structure plan policies in whole or part; and/or
  - ii. the Secretary of State directs under sub-paragraph 1(3) of Schedule 8 to the Act, that the three year period should be extended.
- 5.9 With regard to point i. above, the regional planning body should identify which policies in the relevant draft regional spatial strategy revision replace which policies in saved structure plans. This can be tested at examination into the regional spatial strategy revision so that before the end of the three-year period those replaced structure plan policies will no longer have effect. These principles will apply after the three-year period for policies which the Secretary of State has directed, by way of an order under sub-paragraph 1(3) of Schedule 8 to the Act.
- 5.10 A regional planning body may decide that it does not wish to replace the saved structure plan policies during this three-year period, but instead wait for the period to end. At the end of the three-year period, unless otherwise directed by the Secretary of State, the structure plan will cease to have effect as a development plan.
- 5.11 With regards to point ii. in paragraph 5.8 the regional planning body should consider, following discussion with the structure plan authority, whether any policies in the saved plan should be saved for a longer period to avoid a policy void. Where the regional planning body proposes to do so, it should make a case to the Secretary of State who will consider whether to direct that these policies should be saved for a longer period in accordance with following criteria:
- i. the saved policies are consistent with national planning policies appearing in White Papers and Planning Policy Statements that have been published since the policies were adopted and are in general conformity with the regional spatial strategy;
  - ii. the saved policies address an existing strategic policy deficit and do not duplicate national or local policy;
  - iii. the operation of policies to be saved for longer than three years is not materially changed by virtue of other policies in the old plan not being saved; and
  - iv. even where policies are non-compliant with one or more of the above, the Secretary of State considers that it is appropriate for the policies to be saved for

longer than three years. This would be on the basis that the regional planning body must provide reasons why these policies should be retained.

- 5.12 If there is any conflict between a regional spatial strategy and a structure plan, whichever was adopted, approved or published most recently must take precedence. Any structure plans which are adopted or approved after commencement of Parts 1 and 2 and Section 38 of the Act will, under sub-paragraph 2(2) of Schedule 8 of the Act, be done so under the relevant provisions of Part 2 of the Town and Country Planning Act 1990. They will not have to be in general conformity with the regional spatial strategy. However, the regional planning body should ensure that it makes any necessary representations to be considered at the examination in public so that the structure plan is consistent with the regional spatial strategy.
- 5.13 For the purposes of the above, where the Secretary of State prescribes that regional planning guidance should be treated as the regional spatial strategy, its publication date will be the date when the relevant regional planning guidance was published.
- 5.14 Regional planning bodies, in co-ordination with Government Offices, should look for opportunities to move forward into the new system as quickly as is practicable to do so. They should, therefore, encourage county, unitary and National Park authorities to review their plan preparation programmes and reconsider whether it would now be sensible to redirect resources towards the appropriate element of the regional spatial strategy. Where a structure plan has reached statutory deposit stage by the time of commencement of Part 1 of the Act, it may continue to be prepared according to the relevant provisions of Part 2 of the Town and Country Planning Act 1990. However, the structure plan authority, in consultation with the regional planning body, may consider that it is not sensible to progress beyond the deposit stage, particularly where strategic planning expertise would be more effectively employed on sub-regional elements of the regional spatial strategy. In such cases the structure plan authority should withdraw the draft structure plan.

### **Local plans and unitary development plans**

- 5.15 Local plans and unitary development plans will be saved for a period of three years from commencement or adoption whichever is the later. However, there may be some saved policies which are compliant with development plan document principles and which the local planning authority wishes to continue beyond the three year saved period. The local planning authority should demonstrate to the Secretary of State that these policies are compliant with the following criteria:
- i. where appropriate, there is a clear central strategy;
  - ii. the policies have regard to the Community Strategy for the area;

- iii. the policies are in general conformity with the regional spatial strategy or spatial development strategy;
  - iv. the policies are in conformity with the core strategy development plan document (where the core strategy has been adopted);
  - v. there are effective policies for any parts of the authority's area where significant change in the use or development of land or conservation of the area is envisaged; and
  - vi. the policies are necessary and do not merely repeat national or regional policy.
- 5.16 At the end of the three-year period the saved plans will cease being the development plan unless the policies have been extended by the Secretary of State.
- 5.17 Where local planning authorities have saved policies they should include with those policies the authority's adopted proposals map. This will continue to be the adopted proposals map until the authority adopts its first development plan document for which the authority has prepared a submission proposals map (see paragraph 2.7). At this stage, local planning authorities should bring forward any saved policies which apply at that time on to the adopted proposals map prepared in accordance with Regulation 14(2).<sup>58</sup>
- 5.18 There is no requirement for plans which have reached first statutory deposit stage to comply with the requirements for development plan documents as set out in the Regulations.<sup>59</sup> It will not be desirable to seek to restructure significantly the draft plan to follow the development plan document format as this would be likely to require major changes to numbering and structure and may cause unacceptable confusion to readers and delays at the public local inquiry. However, there may be scope to consider whether the level of detail in draft policies and reasoned justification accords with development plan document principles.
- 5.19 In the cases where the inspector has not been appointed and the local planning authority has placed the draft plan on first deposit, the plan should be re-deposited in accordance with Regulation 24A.<sup>60</sup> There is no need to place a draft plan on revised deposit as this is covered by the whole plan being re-deposited.
- 5.20 Where the local planning authority has placed the draft plan on revised deposit but an inspector has not yet been appointed the plan will need to be re-deposited in accordance with Regulation 24A.<sup>61</sup>

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

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

60 The Town and Country Planning (Transitional Arrangements) Regulations, 2004.

61 The Town and Country Planning (Transitional Arrangements) Regulations, 2004.

- 5.21 At the stage of re-deposit objections may be made to the whole plan and not just the changes from the initial deposit or revised deposit (if that stage has been undertaken), as there will be no modifications stage. Local planning authorities should not prepare further pre-inquiry changes, but should seek to resolve, through negotiations, any outstanding representations from the deposit or revised deposit stage, before re-deposit of the plan. Where a draft plan is re-deposited, the inspector's report will be binding upon the local planning authority.

### **Supplementary planning guidance**

- 5.22 Under the existing development plans system, supplementary planning guidance is non-statutory local authority approved guidance which is a material consideration in terms of determining planning applications. Planning Policy Guidance Note 12 (Development Plans) paragraphs 3.15 – 3.18 continue to apply to supplementary planning guidance which remains in place as a result of the policy outlined below.
- 5.23 On commencement of the new planning system, existing supplementary planning guidance will not automatically lose its status and will continue to exist as non-statutory guidance whilst the relevant saved policies are in place. The local planning authority should include in its local development scheme details of supplementary planning guidance documents which the authority intends to regard as being a material consideration in the determination of planning applications, and how they relate to the saved policies of the development plan. The scheme should also identify the programme for replacing supplementary planning guidance by supplementary planning documents and for adopting supplementary planning documents as new development planning documents replace saved policies.
- 5.24 Although supplementary planning guidance cannot automatically become a supplementary planning document in the local development framework, they may be used as the basis for the preparation of new supplementary planning documents, provided the requirements of the Regulations<sup>62</sup> are met (see paragraphs 4.39 – 4.44 above). Supplementary planning documents must conform to a development plan document or saved development plan policy. Therefore, supplementary planning documents may be prepared before a development plan document provided the authority shows clear conformity with a saved policy.

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

## WORK UNDERTAKEN BEFORE COMMENCEMENT

- 5.25 This provision allows local planning authorities to count work which has been undertaken prior to commencement of the Act for the purposes of preparing a local development document. Local planning authorities must have undertaken appropriate community involvement and participation, sustainability appraisal and any other requirements as set out in the Act, secondary legislation and guidance. The work can be undertaken in advance of the preparation of the local development scheme and prior to it being brought into effect. However, local planning authorities should work closely with the Government Office and the Planning Inspectorate where it will involve the examination of a development plan document.
- 5.26 Local planning authorities should provide a statement before submitting a development plan document in accordance with Regulation 28 (1) (c) or (d)<sup>63</sup> setting out the actions which were carried out prior to commencement of the Act. Local planning authorities should provide a statement setting out how they have complied with the requirements of Regulation 17(1) and 18(4)(b)<sup>64</sup> prior to the adoption of supplementary planning documents. Local planning authorities should be aware that the provision to undertake work prior to commencement does not absolve them from the requirements of the European Directive<sup>65</sup> on strategic environmental assessment or the requirement under the Act to undertake sustainability appraisal of local development documents.

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

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

65 European Union Directive 2001/42/EC.



# ANNEXES



## Annex A Illustrative material

### LOCAL DEVELOPMENT FRAMEWORK ILLUSTRATIVE MATERIAL

- A1. **Key diagram:** this is a diagrammatic interpretation of the spatial strategy as set out in the core strategy. Authorities may wish to use a key diagram to enable them to illustrate the broad strategy for the area in a similar fashion to existing key diagrams in structure plans. It is most likely to be appropriate to an area of significant change where the general location of broad areas of future development can be identified together with linkages between such areas and the relationship to other strategies and neighbouring areas. Broad areas of protection/little anticipated change can also be shown.
- A2. **Adopted proposals map:** the function of the adopted proposals map is to illustrate the policies and proposals in development plan documents and any saved policies which are included in the local development framework. The adopted proposals map should be on an Ordnance Survey map or a similar map at a registered scale which allows the policies and proposals to be illustrated clearly. The adopted proposals map may show any of the following elements where these are contained in the policies and proposals of the relevant development plan documents (*list is not exhaustive*):
- key policy areas, i.e. the areas to which the core strategy policies will apply such as:
    - allocations of land for major development such as urban extensions;
    - key linkages such as public transport corridors and the road distribution system;
    - location of major multi-modal interchanges; and
    - nationally designated areas such as AONB,<sup>66</sup> SSSIs,<sup>67</sup> Green Belts and Metropolitan Land etc.;
  - areas to which detailed policies and proposals in the development plan document may apply such as:
    - areas subject to specific design initiatives (such as high buildings policies);
    - areas where flooding issues will need to be addressed (flood risk areas);
    - areas easily accessible by non-car modes where developments should be directed;
    - areas where accessibility for non-car modes will be improved;
    - areas subject to any demand management proposals;
    - areas subject to specific density policies;
    - areas of more regional or local importance for biodiversity and where biodiversity will be enhanced;

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<sup>66</sup> Areas of outstanding natural beauty.

<sup>67</sup> Sites of special scientific interest.

- areas of potential land contamination where investigation and remediation measures may need to be taken;
  - areas which have been declared as air quality management areas;
  - areas where specific initiatives will be encouraged such as rural employment initiatives, vacant homes initiatives etc;
  - areas subject to security initiatives (designing out crime);
  - areas of protected views; and
  - areas relating to hazards such as flooding, land instability and contaminated land;
- areas where policies will be seeking to co-ordinate the delivery of community facilities to assist regeneration and the achievement of sustainable communities (such as health/education/social facilities) – where intensive action is required, these areas are likely to be considered in area action plans, and may be illustrated in detail on inset maps;
  - major regeneration/conservation areas including areas subject to community or social initiatives that are the subject of area action plans. These may be illustrated in detail on inset maps. They should be cross-referred to the relevant strategic policy in the core strategy which will set the parameters of the area action plan, e.g. the number of houses to be included within any mix of development, or the scale and mix of commercial development sought in a particular regeneration scheme etc;
  - detailed land allocations arising from the policies and proposals in the development plan document for those areas where there is no area action plan proposed;
  - the hierarchy of centres<sup>68</sup> where this is relevant to the core strategy;
  - rural areas where economic/social initiatives will be sought/supported/co-ordinated;
  - in relation to minerals and waste development plan documents the following will need to be shown on the adopted proposals map:
    - areas of significant mineral resources subject to safeguarding policies and minerals consultation areas;
    - safeguarding of areas for mineral working, handling and for recycling;
    - areas of search and preferred areas for waste management development and mineral working (including allocations of secondary aggregates);
    - railheads and wharves safeguarded for bulk transportation (including minerals and waste);

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68 Draft Planning Policy Statement 6, published December 2003.

- land allocated for recycling of construction and demolition waste;
  - areas safeguarded and subject to groundwater protection;
  - consultation areas relating to hazards such as flooding, land instability and contaminated land; and
  - areas designated for the protection of the aquatic environment.
- A3. District councils must include on their adopted proposals map, safeguarded areas, minerals consultation areas and any minerals and waste allocations when adopted in a county minerals and waste development plan document.
- A4. The adopted proposals map should cross-refer to relevant policies in the development plan document and may set out the essential land use elements proposed to be included in the areas identified for proposed areas for development. Where inset maps will provide greater detail, the area covered by the inset map must be shown on the adopted proposals map.
- A5. **Inset maps:** may form part of the adopted proposals map and are likely to be at a more detailed scale depending on the nature of the area covered and the degree of detail required. Proposals for area action plans may be shown on inset maps. The key to the map may include the list and scale of the mix of uses proposed within any area action plan as defined in the core strategy. Inset maps relating to areas of conservation will identify sites/areas where specific conservation measures are proposed and areas which will be subject to specific controls over development, as set out in the policies in the development plan document.
- A6. All notations on the adopted proposals map or, any of its inset maps, must be clearly referenced to the policies within a development plan document.
- A7. **Other maps/plans/diagrams:** other maps/plans/diagrams within the development plan document may only be used to clarify factual information such as the distribution of certain types of existing development or open spaces etc. Such maps and plans may not be used to allocate sites which must be shown on the adopted proposals map or where applicable its inset maps.
- A8. **Electronic maps and plans/use of GIS<sup>69</sup>:** the adopted proposals map will need to be available in electronic form for accessibility and to enable it to be dynamic and responsive to change, as new development plan documents are adopted. Local planning authorities should continue to maintain paper copies of the adopted proposals map for inspection purposes.

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69 Geographical information system.

## Annex B: Policy Advice and integration with other strategies

### RESOURCES

- B1. Section 19 (2)(I) of the Act requires local planning authorities to have regard to the resources likely to be available for implementing the proposals in local development documents. Local development documents will not give effective direction unless based on realistic assumptions about the resources likely to be available. In order to give consistency to market expectations, local development documents should take account of national economic policies, the financial policies of the various implementing agencies and the likely availability for use of land, labour and other material resources.
- B2. The reasoned justification should include an indication of the assumptions made about the resources likely to be available for carrying out the policies and proposals formulated, and for the associated infrastructure. It should have particular regard to the conservation of finite or non-renewable resources such as land and energy, the need for more sustainable development, and the implications for public sector capital expenditure. Assumptions should be in broad terms and should not attempt an unrealistic degree of precision.

### INFRASTRUCTURE PROVISION

- B3. The provision of infrastructure is important in all major new developments. The capacity of existing infrastructure and the need for additional facilities should be taken into account in the preparation of all local development documents. 'Infrastructure' here includes services such as transport facilities, water supply and sewers, waste facilities and other community facilities. Local planning authorities must develop a strategic approach to infrastructure provision when preparing local development documents.
- B4. It has always been an important purpose of the planning system to co-ordinate new development with the infrastructure it demands. This, in particular, is a reason why the core strategy development plan document should look forward over a reasonable length of time. The bodies that are responsible for infrastructure provision can then plan on the basis of a clear picture of the future shape of the community. By their contributions to the preparation of local development documents they can also influence the pattern of new development so that it takes account of likely infrastructure limitations and makes best use of existing infrastructure. When it comes to an individual planning application, the adequacy of infrastructure can be a material consideration in deciding whether permission should be granted.

- B5. The emphasis on a plan-led system should ensure that the links between infrastructure and development are properly investigated as the proposals are drawn up. The plan-led system should make it more likely that development will take place in accordance with the local development framework, and the infrastructure agencies will have greater certainty in terms of their own investment programmes. Infrastructure provision will therefore be more intrinsically linked to development foreshadowed in the local development framework.

## UTILITIES INFRASTRUCTURE

- B6. Local development documents provide the utility companies responsible for electricity, gas and water supply, sewerage and telecommunications with essential inputs for their own planning. In preparing local development documents, authorities should consider the requirements of the utilities for land – both in their own and in other authorities' areas – to enable them to meet the demands that will be placed upon them. They should also consider the wider environmental effects of increased demand, in terms of both the additional need for basic resources and of the associated emissions to air, soil or water, bearing in mind that those effects may extend to other authorities' areas. Consultation with the utility companies and their regulators on such issues at the information gathering stage of the preparation of a local development document is essential.
- B7. In the case of water supply and sewerage, there may be additional needs for infrastructure such as reservoirs, pipelines or treatment works. There will also be implications for the environment both from such land use and from the additional water abstraction or discharge that may be associated with that infrastructure. Those implications may extend beyond the boundaries of the authority's own area. It is, therefore, essential that local authorities consult water companies and the Environment Agency at an early stage in the preparation of a local development document. This will ensure that new developments are as water efficient as possible and located in ways that will minimise or eliminate the environmental impact of additional demand for water and sewage services, thereby contributing to more sustainable development. Section 83 of the Water Act 2003 requires all public authorities to take into account the desirability of conserving water supplied to premises. This applies to both their actual use of water and where their functions might have an impact on water use.

- B8. The adequacy of existing infrastructure may well influence the timing of development. Provision of completely new infrastructure in some cases might take several years from identification of need to commissioning, so local authorities should discuss the possible phasing of development during their discussions with utility companies. This may be particularly the case if new water resources need to be developed. Water companies have Environment Agency agreed 25 year plans for maintaining water supplies and it will be essential for local authorities to consult with the companies to help ensure that these plans take account of development proposals.

## INTEGRATION OF TRANSPORT AND LAND-USE POLICIES

- B9. The integration of transport and spatial planning is central to the development and delivery of effective local development frameworks. Local transport policies need to reflect and support the aims of the core strategy development plan document. Land use planning, in turn, needs to take account of the existing transport network and plans for its development.
- B10. To deliver integration, local development documents outside London should be consistent with the local transport planning policies of the local transport authority for their area. The local transport plan sets out the local authority's transport policies and detailed investment priorities over a five year period. The first local transport plans cover the period up to 2005/6 and the second 2006/7 onward. These should be consistent with the regional transport strategy, an integral part of the regional spatial strategy.
- B11. Consistency between local development documents and local transport planning policy (as set out in the local transport plan or equivalent) is particularly crucial in shire counties where the district authority prepares local development documents and the county is responsible for transport planning.
- B12. In London, the treatment of transport in local development documents should be consistent with the Mayor's transport strategy and the relevant local implementation plan prepared by London borough councils. The Mayor's transport strategy must in turn be consistent with his spatial development strategy.
- B13. Following the Social Exclusion Unit's report *Making the Connections*, local transport authorities will be expected to incorporate a new process, accessibility planning, within their second local transport plans. This process aims to ensure that there is a clearer and more systematic approach for identifying and tackling the barriers that people, especially those in disadvantaged groups and areas, face in accessing jobs and

key services. Local planning authorities have a valuable role to play in improving accessibility as the location of jobs and services have as significant an impact on accessibility as transport provision. Accessibility should be a key consideration when drawing up local development documents. ODPM will issue guidance on accessibility planning on how local planning authorities should be involved in accessibility planning and the importance of directing developments towards sites that are already accessible by public transport.

- B14. A key transport-related aspect of a development plan document will be to set out proposed improvements to the transport network in support of the core strategy. These improvements should be included on the adopted proposals map. Local planning authorities, however, need to be realistic about what can be implemented over the plan period, otherwise there is a risk of blight or false expectations. The integration between transport and spatial planning will also be undermined. Scheme proposals should only be included where there is a strong commitment from the relevant delivery agency – for instance, if the local transport authority has included the scheme as a priority in its local transport plan. A clear distinction should also be made between scheme proposals and safeguarding potential transport routes which may not necessarily be taken forward over the plan period.

## MUNICIPAL WASTE MANAGEMENT STRATEGIES

- B15. In Waste Strategy 2000, the Government set out its vision of sustainable waste management and the changes necessary to deliver this.<sup>70</sup> Waste planning authorities should have proper regard to the national waste strategy when developing local development documents.
- B16. Waste Strategy 2000<sup>71</sup> encouraged waste disposal authorities to develop comprehensive municipal waste management strategies. This was made a statutory requirement of the Waste and Emissions Trading Act (2003) for authorities in two-tier areas, subject to certain exemptions.<sup>72</sup> It is important that authorities preparing municipal waste management strategies and local planning authorities responsible for preparing local development documents work closely so as to ensure strategies and spatial planning integrate effectively to deliver sustainable waste management.

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70 <http://www.defra.gov.uk/environment/waste/strategy/cm4693/index.htm>

71 <http://www.defra.gov.uk/environment/waste/strategy/cm4693/index.htm>

72 <http://www.hms0.gov.uk/acts/acts2003/20030033.htm>

## HAZARDOUS SUBSTANCES

- B17. Council Directive 96/82/EC (the Seveso II Directive) came into force on 3rd February 1999. Member States are required to ensure that the objectives of the Directive: the prevention of major accidents involving hazardous substances and limiting their consequences for man and the environment are taken into account in land use policies. This will be achieved through controls on the location of new establishments where hazardous substances are present or are likely to be present; controls on modifications at existing establishments where hazardous substances are present, and controls on new developments in the vicinity of existing establishments where hazardous substances are present. The Directive also requires Member States to ensure that land use policies and the procedures for implementing them, take account of the need to maintain appropriate distances between establishments where hazardous substances are present and residential areas, areas of public use and areas of particular natural sensitivity or interest. These obligations have been implemented by the Planning (Control of Major-Accident Hazards) Regulations 1999.
- B18. In preparing or reviewing local development documents, local planning authorities will need to ensure that they include a policy or policies relating to the location of establishments where hazardous substances are used or stored, and to the development of land within the vicinity of establishments where hazardous substances are present.

## CLIMATE CHANGE: IMPACTS AND ADAPTATION

- B19. Climate change is a significant environmental threat, the effects of which will be increasingly felt in future years. The Government attaches great importance to acting on a precautionary basis to reduce the emissions that cause climate change and to prepare for its impacts.
- B20. Development can impact on climate change (through emissions) and climate change could have significant consequences for: the use and design of buildings; infrastructure and urban areas; pressure on water resources and biodiversity; and the risk of inland and coastal flooding. In preparing local development documents, local planning authorities should seek first to avoid, or where this is not possible seek to reduce, the effects of development on climate change and vice versa. Local development documents should therefore include policy on:

- i. the need, where possible, to avoid major new development in areas that are likely to be at greater risk now, or over the lifetime of the development (for example, those in areas of significant erosion or flood risk, or where water resources are limited);
- ii. the physical and environmental constraints on development of land, including, for example, the level of contamination, stability/subsidence, erosion and flood risk, given that any such risks may increase with climate change;
- iii. the likely increase in pressure on resources with climate change;
- iv. the way that the distribution of nationally or regionally significant species and habitats may alter with climate change, and the effects of biodiversity and nationally or internationally designated areas;
- v. the need to consider possible adaptation options for vulnerable areas, while understanding the uncertainties inherent in projections of the impacts of climate change. In the longer term, these may include managed realignment of the coast in some locations in the face of forecast rises in sea-level; and
- vi. the need to revise strategies in the light of developing information on climate change, and its impact on flood risk in particular.

## **THE AIR QUALITY STRATEGY FOR ENGLAND, SCOTLAND, WALES AND NORTHERN IRELAND**

- B21. The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (January 2000) and first Addendum (February 2003) sets out objectives for reducing the levels of the nine main air pollutants that harm human health and the environment.
- B22. Local authorities also play a part in delivering cleaner air. They have a duty to review and assess the local air quality against seven of the main air pollutants as prescribed in regulations. Where the objectives are unlikely to be met, local authorities must designate these areas as air quality management areas and draw up action plans setting out measures in pursuit of the objectives.
- B23. Land use planning is integral to improving air quality. Local authorities should therefore take the national air quality objectives into consideration when preparing local development documents.
- B24. Local authorities may produce their own local air quality strategies. These local air quality strategies are a means of encouraging community involvement in bringing about improvements in local air quality.

## PREPARING A HOUSING TRAJECTORY

- B25. In preparing the annual monitoring report, local planning authorities should include information on whether policies and related targets or milestones in local development documents have been met or progress is being made towards meeting them in accordance with Regulation 48.<sup>73</sup> Where they are not being met or not on track to being achieved, the authority should set out the reasons why. Furthermore, local planning authorities should also include information on housing policy and performance which should include the preparation of a housing trajectory. The main purpose of a trajectory is to support the forward planning process by providing a progress report comparing past performance on housing supply to future rates of supply as anticipated by the local planning authority.
- B26. A robust housing trajectory should:
- i. set out the past and anticipated supply of housing over the entire life-span of a development plan document or an old style local plan or unitary development plan;
  - ii. assess any future shortfall or surplus of housing over the plan period by comparing this to planned build rates;
  - iii. reflect the outcome of discussion with stakeholders, including the development industry; and
  - iv. demonstrate how the plan will deliver the policies relating to housing provision. This will be important in clarifying the delivery mechanisms of the development plan document which will be part of the test of whether it is sound.
- B27. A housing trajectory should be prepared as part of the supporting evidence base when preparing initial housing allocation strategies which should be included within the relevant development plan document. Annual monitoring reports should then provide updates to the trajectory to demonstrate progress towards meeting housing targets.
- B28. Local authorities will wish to tailor their housing trajectories to their own circumstances. For example they may wish to consider how trajectories can be adapted to influence the delivery of major sites, influence site phasing requirements or check progress of windfall sites. However, in testing the soundness of a development plan document that contains housing allocations, the following minimum information is required:

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<sup>73</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

- i. past dwelling completion rates. Trajectories should include data on completion rates since the start of the plan period or for the past five years, whichever period is longer;
  - ii. projected completion rates until at least the end of the plan period, based on firm evidence of the contribution of the various components of housing supply that make up the total allocation. This will include allocated sites as well as the contribution from other sources. Housing allocation timeframes should extend at least ten years from the base date of the development plan document; and
  - iii. for comparison, the strategic allocation which the plan strategy is expected to deliver over time. This should be expressed as an average annual target (calculated as the total number of dwellings allocated divided by the number of years covered by the relevant strategic plan).
- B29. Information should be presented within a table. Completion rates should be expressed as net additional dwellings. Local authorities may also wish to chart the information to demonstrate the performance of the plan strategy over time.

## Annex C: Making representations on submitted development plan documents

### SUBMISSION OF DEVELOPMENT PLAN DOCUMENT

- C1. When the local planning authority submit the development plan document to the Secretary of State for independent examination they will also invite representations on the submitted document in accordance with Regulation 28<sup>74</sup> and:
- place these documents on their website and make them available for inspection at their principal office and at other suitable venues for the full six-week period in which representations can be made on the development plan document;
  - send one copy to each body in accordance with the guidance;
  - advertise in a local newspaper or newspapers circulating in the area (to ensure coverage of the information throughout the area covered by the development plan document) where and when these documents can be inspected, how copies can be obtained, what is the closing date for representations and where to send any representations; and
  - ensure that adequate publicity is given to the documents to ensure that all who have an interest in the planning of the area have the opportunity to make representations on the development plan document.

#### Standard form for representations

- C2. Authorities should urge the use of a standard form to make representations. Ideally, the form will identify the tests of what a sound plan will be (see paragraph 4.23 of this Planning Policy Statement). An electronic representation service is being developed which will allow representations to be made, stored and managed via the internet. It is intended that this service will enable the authority to manage the participation/consultation process from the initial stages in the preparation of a development plan document through to the examination. For those authorities that choose not to use this service, a standard form should be made available electronically on the local planning authority's website. In all cases local planning authorities will need to make the form available in paper format at all of the venues where the development plan document will be placed.<sup>75</sup>

#### Representations seeking change

- C3. When making a representation seeking change, people and organisations should be as specific as possible in setting out what it is they are making a representation on and, in particular how the development plan document is unsound and what changes should be made to make it sound. Where the change sought is for the inclusion of additional or alternative sites for development or for the boundary of a site identified in the development plan document to be changed, the precise change should be identified on an extract from the submission proposals map or on an

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

75 A copy of the model form will be contained in the Planning Inspectorate's Guide to Development Plan Examinations.

alternative map. The nature of the development proposed for the site should also be specified, i.e. whether it is for housing, mixed uses or other specific land uses. Furthermore, those promoting an alternative site or sites should indicate how the sustainability appraisal process has been or is to be carried out prior to the consideration of the site/s at the examination.

- C4. As soon as possible after the close of the period for receipt of representations on the submitted development plan document, the authority will advertise the fact that alternative and/or additional sites and/or any proposed changes to the boundaries of identified sites have been put forward. Local planning authorities should use the same methods they used for the advertisement of the submitted development plan document which should include a further period of six weeks for representations to be made on those sites or boundary changes. The format of the representations and who can make them will be the same as for the submitted development plan document. However, any representations made at this stage must relate solely to the advertised sites or boundary changes and may not include further representations on the submitted development plan document nor put forward further alternative or additional sites or boundary changes.
- C5. Those who make representations opposing the alternative/additional sites or boundary changes will normally be treated as supporters of the development plan document and should liaise with the local planning authority if they wish to appear at the examination. Where, in exceptional circumstances, the local planning authority seek to change the development plan document to include an alternative or additional site or boundary change those who oppose such a proposal will be entitled to be heard at the examination if they expressly ask to do so.

### **How to make formal representations**

- C6. Representations on the submitted development plan document must be made within the six-week period for consultation. Any person or organisation (including a Government Department or other public authority or body) may make representations which will be considered by the person appointed to hold the independent examination (the inspector). Representations should be put in writing or sent electronically, preferably using the form supplied by the local planning authority on their website or obtainable from them. The local planning authority should indicate the date and time by which representations must be received. Only those who make their representations within the specified six-week period will have the right to have their representations considered at the examination. Of these, only those who make representations seeking a change to the development plan document have a right to appear at the examination. The inspector will have no discretion to override the local planning authority in determining whether representations are duly made, i.e. made within the period allowed by the local planning authority.

- C7. In order to help the examination process it is most important that all those making representations on the submitted development plan document:
- state the name of the development plan document the representation relates to;
  - state whether the representation is in support of the development plan document or is seeking to change it, or any part or parts of it. If the representation relates to the submission proposals map it needs to make clear to which part of the submission proposals map it relates. Representation made to the submission proposals map must refer only to those matters which relate to the development plan document under examination and not to any other matters shown on the adopted proposals map;
  - make clear how the development plan document fails any of the tests of soundness (see paragraph 4.23 of this Planning Policy Statement);
  - specify exactly what change is required, if change is sought, and to which part of the development plan document or submission proposals map. If the change is to the submission proposals map as it relates to that particular development plan document it will be helpful for a map to be produced showing the suggested change;
  - indicate how the representation should be dealt with at the examination, i.e. by written representations or by exercising the right to attend and be heard. The factors which the inspector will take into account in determining the procedure to be adopted are set out in paragraph D4. Careful consideration should be given to these factors when deciding which procedure to opt for. However, it is important to note that written and oral representations carry exactly the same weight and will be given equal consideration at the examination; and
  - in those cases where it is appropriate, give the name and address of any agent or advocate who may be employed to provide professional representation at the examination. It is not necessary to be professionally represented at an examination in order to take part in the process. The inspector will be experienced in listening to and seeking out information from those who are not familiar with the planning process and he/she will give the same weight to the representations made whether or not the people making them are professionally represented.
- C8. Where groups of people share a common view on how they wish to see a development plan document changed, it will be preferable for that group to submit a single representation setting out that view, rather than a large number of individuals submitting separate representations repeating the same points. In such cases, the group should indicate how many people it is representing, how that representation has been authorised, such as through a meeting of those who form the group, and how the group wish the representation to be dealt with.

- C9. Where people or organisations wish to make a number of different representations dealing with different aspects of the development plan document these should be submitted on separate forms. This will help to make the process of accurately recording the representations more straightforward.
- C10. Representations cannot be treated as confidential. A schedule of all the representations sent to the authority will be placed with the development plan document and published on the authority's website so that others may see a list of the representations made. Details will also be given of when and where the specific representations can be examined. This enables those who have made representations to identify others with representations similar to their own. Where this happens it will be desirable for the submission of evidence in support of a representation to the examination to be prepared jointly with others who wish to make similar points. The inspector will not wish to hear the same points repeated and to do so will not add weight to the case being made.

### **Supporting representations**

- C11. Where people or organisations wish to support the development plan document or particular policies or proposals within it, this should be made clear in the representation. Normally, the inspector will expect that the local planning authority will represent supporters of the development plan document at the examination. However, the inspector may invite supporters to certain discussions at the examination where this will assist in considering whether the development plan document is sound. Otherwise, supporting representations will be taken into account as written representations.

## Annex D: Independent Examination<sup>76</sup>

### INDEPENDENT EXAMINATION OF THE STATEMENT OF COMMUNITY INVOLVEMENT

- D1. The purpose of the examination is to consider whether the statement of community involvement is sound. The Secretary of State will appoint an inspector to conduct the examination. In assessing whether the statement of community involvement is sound, the inspector will consider any representations which have been duly made.

#### Arrangements for the examination of the statement of community involvement

- D2. The arrangements for the examination will depend on the nature of the representations received and whether any person or organisation wishes to exercise their right to be heard. The preferred method for dealing with representations on the statement of community involvement is by written representation. If everyone who makes representations chooses to have them dealt with by this method, and the inspector is satisfied that this is appropriate to consider if the statement of community involvement is sound then there will not be a hearing. The Planning Inspectorate will notify the local planning authority of the name of the appointed inspector.
- D3. Where any person or organisation wishes to exercise their right to attend the examination and be heard, a formal public examination will be arranged. The Planning Inspectorate will notify the local planning authority of the name of the appointed inspector and set out the date on which the examination will commence. The local planning authority should publicise these details in accordance with Regulation 34.<sup>77</sup> The arrangements for the examination will be essentially the same as for a development plan document and as set out in paragraphs D17 (notification of the examination), D18 (accommodation for the examination) and D19 (examination expenses) below.

#### Procedure at the examination of the statement of community involvement

##### Submission of additional material

- D4. Prior to the start of the examination the Planning Inspectorate will set deadlines for the submission of any further material from those seeking a change to the statement of community involvement together with the deadline for any local planning authority response. These deadlines will vary according to the nature of the examination.<sup>78</sup> During the examination of the statement of community involvement,

<sup>76</sup> Further guidance will be contained in the Planning Inspectorate's Guide to Development Plan Examinations.

<sup>77</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

<sup>78</sup> Further guidance will be contained in the Planning Inspectorate's Guide to Development Plan Examinations.

the inspector may correspond with the participants to clarify matters raised in their representations and he/she may also direct participants to address particular issues about the soundness of the statement of community involvement. The inspector will set deadlines for any response. If any party misses any deadlines for the submission of additional representations set by either the inspector or the Planning Inspectorate, the inspector may disregard those representations.

#### Pre Examination Meeting

- D5. In most cases, it is considered unlikely that there will be a need for the inspector to hold a pre-examination meeting prior to a statement of community involvement examination. In the rare cases when a pre-examination meeting is considered necessary, the procedure will be similar to that for a development plan document as described in paragraphs D26 – D32 below. There should be no need for the appointment of a programme officer. However, the local planning authority should have available a person unconnected with the preparation or implementation of the statement of community involvement to provide administrative assistance to the inspector if required.

#### Formal examination procedure

- D6. Unless all of the examination is to be dealt with by written representations, the inspector will determine the procedure to be used at the formal public examination. The inspector is likely to limit the examination procedure to informal hearings and round table discussions as described in paragraph D4. It is not anticipated that there will be any need to use a formal hearing process (which involves cross-examination) for statement of community involvement examinations. Where appropriate, the inspector will arrange to hear a number of representations together where they raise similar issues.

## **INDEPENDENT EXAMINATION OF DEVELOPMENT PLAN DOCUMENTS**

- D7. The local planning authority must submit all development plan documents for independent examination whether or not any representations have been received, as the purpose of the independent examination is to consider if a development plan document is sound. An inspector will be appointed by the Secretary of State to conduct the examination to consider if the development plan document as a whole is sound. In examining the development plan document, the inspector will consider all the representations and any changes which have been suggested by those making representations.

### Assessing soundness

- D8. Paragraph 4.23 of this Planning Policy Statement sets out the criteria for examining if a development plan document is sound. During the independent examination the inspector will assess the development plan document against each of the tests of soundness.
- D9. The presumption will be that the submitted development plan document is fundamentally sound unless it is shown to be otherwise as a result of evidence considered at the examination.<sup>79</sup> The local planning authority will rely on the evidence, collected through the preparation process of the development plan document, to demonstrate that the plan is sound; others will need to demonstrate why that is not the case. As part of their evidence in relation to housing the local planning authority should produce housing trajectories which will demonstrate how the plan will deliver the policies relating to housing provision. This will assist in clarifying the delivery mechanisms of the plan which will be part of the test of whether it is sound.

## ARRANGEMENTS FOR THE EXAMINATION

- D10. At the same time as the local planning authority submit their development plan document for examination, in accordance with the local development scheme, they will request an inspector to be appointed. If none of those who have made representations on the plan wish to exercise their right to appear before an inspector, and the inspector is satisfied that the soundness of the plan can be assessed properly using the written representation procedure, a formal public examination need not be held. In these circumstances the Planning Inspectorate will notify the local planning authority of the name of the appointed inspector.
- D11. Where a formal public examination is to be held, the Planning Inspectorate will assess the development plan document and the nature and scale of the representations received to determine whether, having regard to available resources, to appoint an individual inspector or a team of people. This may include assistant inspectors and/or planning officers, whose role will be to assist the appointed inspector. This is to ensure that the independent examination into a particular development plan document is conducted in the most efficient and effective way. The lead inspector would be responsible for producing the report to the local planning authority. The local planning authority is responsible for meeting the cost of the examination. The Planning Inspectorate will notify the local planning authority of the name of the appointed inspector and set out the date on which the examination will commence. The local planning authority will publicise these details in accordance with Regulation 34.<sup>80</sup>

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79 Further guidance will be contained in the Planning Inspectorate's Guide to Development Plan Examinations.

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

- D12. To assist the inspector, the local planning authority will appoint a programme officer with suitable administrative experience, who is not a member of their planning department. He or she should be appointed early in the process and no later than the start of the six-week period for representations on the submitted development plan document. The appointment may not need to be full-time in the early stages. Although paid for by the local planning authority, the programme officer will work directly to the inspector and will be responsible for:
- managing the day-to-day arrangements of the examination programme before and during the examination period;
  - recording all documents and plans submitted during the examination process;
  - arranging for the inspection of sites by the inspector and/or members of the inspector’s team; and
  - dealing with correspondence on behalf of the inspector with those who have made representations, including requests for and exchanges of all statements.
- D13. Experienced programme officers can provide vital input to the local planning authority when logging representations and setting up a database, although the electronic representations service (see paragraph C2 above) will provide a bespoke service for the administration of the representations on any documents submitted for examination.
- D14. The name, e-mail and office address of the programme officer should be made known as early as possible. Where necessary, the local planning authority will appoint additional administrative staff to support the programme officer to ensure that the examination can be conducted efficiently.

## TYPES OF PROCEDURE FOR THE EXAMINATION

- D15. The appointed inspector will determine the procedure to be adopted at the examination, subject to the right to attend and be heard (see paragraph D20 below for the factors which the inspector will consider to determine the procedure to be adopted at the examination). The procedures by which the inspector can consider representations<sup>81</sup> are by:
- **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.

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81 Further guidance will be contained in the Planning Inspectorate’s Guide to Development Plan Examinations.

Written representations carry exactly the same weight in the assessment carried out by the inspector as do those heard by him/her at the examination;

- **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.<sup>82</sup>

D16. The appointed inspector can request the attendance of any person or organisation who he/she thinks is needed to enable the soundness of the plan to be determined. This applies whether or not they have made representations on the development plan document or, if they have opted to have those representations considered by written representations.

### Notification of the examination

- D17. Where a formal public examination is to be held (see paragraph D15 above), the authority must give at least six weeks notice of the examination in accordance with Regulation 34,<sup>83</sup> to all those who have made a representation on the submitted development plan document (and not withdrawn it). In giving notice, the local planning authority must give details, in writing or by e-mail, of the time and place where the examination is to be held and the name of the person or persons appointed to conduct it. The local planning authority will also:
- advertise the same details in a local newspaper or newspapers circulating in the whole of the authority's area;

<sup>82</sup> Further guidance will be contained in the Planning Inspectorate's Guide to Development Plan Examinations.

<sup>83</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

- place the same details on their website; and
- take such other steps as the local planning authority considers necessary to give adequate publicity to the examination.

### **Accommodation for the examination**

D18. The authority will provide accommodation for the examination sessions. Adequate arrangements must be made for accommodating all participants, the general public and the press as well as the programme officer and inspector, and where necessary, the inspector's team and additional administrative resources. The venue should be suitable for holding the examination process as described in paragraph D15 above. This means that the formal council chamber will generally be unsuitable for the examination. A flat floored room capable of accommodating a large table arrangement with ample space for seating around and beyond would be the most suitable venue. Audio equipment to aid audibility should also be available. The venue must be suitable for people with all forms of disability and be accessible by public transport.

### **Examination expenses**

D19. Participants attending an examination are expected to meet their own expenses. Unlike a planning appeal inquiry or hearing, there is no power for the inspector to consider applications for costs for or against any parties at the examination into a development plan document.

## **PROGRAMMING THE EXAMINATION**

D20. In consultation with the inspector, the programme officer will draw up a provisional examination programme and timetable for discussion at the first pre-examination meeting (see paragraph D26). The provisional programme and timetable will normally be circulated, either in writing or by e-mail, to all those who have made representations on the development plan document and it will be published on the local planning authority's website before the pre-examination meeting. It will show what procedural methods the inspector intends to adopt to hear those who have exercised their right to attend and be heard and how the examination is proposed to be structured having regard to the tests of soundness. In deciding what procedure to adopt the inspector will take into account the following factors:

- the complexity of the subject matter;
- the likely scope and nature of the evidence;

- the number of potential participants;
  - the significance for the development plan document of the policy at issue;
  - whether or not issues of law are likely to arise;
  - whether the policy is likely to have implications outside the development plan document or the local planning authority's area; and
  - the wishes of the principal parties, i.e. the local planning authority and those who have made representations on the plan and have exercised their right to appear.
- D21. 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. After the pre-examination meeting the programme officer will circulate copies of the programme and timetable to all those who have made representations on the development plan document, together with any other information relevant to the procedures. The programme officer will be available during normal working hours throughout the examination process and should be consulted about the day-to-day arrangements. Those wishing to participate should discuss with the programme officer before the pre-examination meeting any time-tabling issues, such as when someone might not be available to attend the examination and the need for evening sessions. The programme officer will try to inform those concerned of any changes in the timetable as the examination progresses, but the main responsibility for keeping in touch and ensuring attendance at the appropriate time lies with those who wish to participate in or observe the examination.

### **Parallel examination sessions**

- D22. Where more than one inspector has been appointed to deal with the examination it may be possible to run parallel examination sessions in order to shorten the examination. The practical effects of doing so, including the availability of local planning authority staff, will be considered by the lead inspector at the pre-examination meeting and only where there is no prejudice to any participant, including the local planning authority, should such sessions be used.

### **Making a joint case**

- D23. A number of representations on the submitted development plan document may have a similar basis. Local planning authorities should encourage organisations and individuals who share a common concern and who wish to attend the examination and be heard, to join with others in making their case. They should be encouraged to nominate a spokesperson or persons to attend and speak at the examination on their behalf. This is likely to save time and effort at the examination and reduce costs for all concerned.

### **Concurrent examinations and inquiries**

- D24. If the examination is likely to coincide with an inquiry into, for example, a planning application called-in for decision by the Secretary of State, a compulsory purchase order or an appeal against refusal of planning permission which raises issues related to those to be discussed at the examination, it may be appropriate to arrange a concurrent examination and inquiry. This is unlikely to happen with an examination of a core strategy but may be the case where the examination is into an area action plan which is dealing with a policy for a specific development. In such a case, the inspector will report separately to the authority on the development plan document and to the relevant parties on the other matters being considered.
- D25. Concurrent inquiries will be arranged only with the agreement of all principal parties and, generally, only in exceptional circumstances, for example, where the subject of an appeal or called-in application goes to the heart of the development plan document. Details of the procedure to be followed to ensure that the interests of all principal parties will be protected will, where appropriate, be considered at the pre-examination meeting and at any pre-inquiry meeting held for the concurrent case. Authorities should consult with the Planning Inspectorate on the practicality of holding a concurrent inquiry before the pre-examination meeting.

### **PRE-EXAMINATION MEETING(S)**

- D26. The inspector will normally hold one or more procedural meetings before the examination (pre-examination meetings). The purpose of the pre-examination meeting is to discuss the management of the examination. The inspector will wish to achieve the following at the pre-examination meeting:
- to indicate to those who wish to exercise their right to attend and be heard how their representations are to be dealt with at the examination;
  - to consider who else might need to be invited to the examination to assist the inspector in his/her consideration of the soundness of the plan;
  - to identify the issues which will need to be considered at the examination in order to determine the soundness of the plan;
  - to consider how those issues relate to one another and the most logical order for their examination;
  - how to structure the examination to make the best use of time;
  - to identify the nature of the evidence to be brought to the examination;
  - to set the timetable for the submission of that evidence; and
  - to establish the programme for the examination.

- D27. The first (or only) pre-examination meeting will be held no later than 2 months in advance of the opening day of the examination, although the precise time period will depend on the nature of the examination. Where a more complex examination is involved, the pre-examination meeting should take place 3 months beforehand to allow all participants the opportunity to prepare thoroughly for the examination. Similar publicity should be given to any such meetings as will be given to the examination itself (see paragraph D17). This is to ensure that all those who have an interest in the examination have an opportunity to attend any pre-examination meetings. A pre-examination meeting may be dispensed with if very limited representations have been made on the submitted development plan document.
- D28. At the pre-examination meeting the inspector will discuss with participants the draft programme and timetable for the examination and any arrangements which may need to be made to accommodate those who are unable to attend the examination during normal working hours. Any arrangements already made for site visits will be announced at this or any subsequent pre-examination meeting and the procedure for arranging further such visits will be explained.
- D29. The inspector will also indicate if there are any additional participants who he/she wishes to attend in accordance with paragraph D16 above. This may include the Government Office for the region particularly, where the Government Office has made a representation which is fundamental to the determination of the soundness of the plan. Where considered fundamental to enable the issue of the soundness of the development plan document to be properly determined, the inspector may serve a witness summons on any person/organisation requiring them to attend the examination to give specific evidence. This power is unlikely to be used other than in very exceptional circumstances. In such circumstances, the person or organisation summoned may, if they wish, be legally represented.
- D30. The inspector will seek clarification at the initial (or only) pre-examination meeting that the development plan document has been prepared in accordance with the statutory procedures, including compliance with the statement of community involvement, or if the local planning authority does not have one, the Regulations<sup>84</sup> and the sustainability appraisal. The inspector will also seek confirmation that the opinion on general conformity with the regional spatial strategy from the regional planning body, or in London, the spatial development strategy from the Mayor, has been received. In the unlikely event that it becomes clear that there has been a fundamental procedural failure by the local planning authority the inspector may recommend that the development plan document be withdrawn from the examination so that the procedural failing can be rectified.

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

- D31. The inspector will wish to know which background documents will be relied on by the local planning authority and others (the core documents). The inspector will also identify any topic papers which the local planning authority and, where appropriate, others will be expected to produce to address specific aspects of the development plan document in the context of assessing the soundness of the plan. These are intended to assist in the preparation of more detailed evidence for the examination as well as assisting the inspector in preparing for the examination. Any issues arising from the advertisement of alternative/additional sites or boundary changes (see paragraph C4) which have not been identified before the pre-examination meeting will need to be brought to the inspector's attention at the meeting.
- D32. At the initial (or only) pre-examination meeting, the inspector will explain the procedures to be followed and will set the deadlines by which any written statements which are proposed to expand upon the representations are required. The meeting will set the broad framework, structure, and general scope of the evidence which the inspector will require to be brought to the examination. Pre-examination meetings have a vital role in ensuring that the examination is as efficient and effective as possible to enable the inspector to determine the soundness of the plan. The inspector may hold one or more of these, as necessary for the individual examination. It is very important that those who wish to participate in the examination should attend the pre-inquiry meeting,<sup>85</sup> this includes those who wish to exercise their right to attend and be heard, as well as those who have elected to submit written representations.

## PREPARING FOR THE EXAMINATION

### Exchange of written statements in advance

- D33. The inspector is likely to require written statements expanding upon the tests of soundness to be submitted before the examination. Those who have exercised their right to be heard or those invited to attend by the inspector will be required to send any additional written material in accordance with the timetable set by the inspector at the pre-examination meeting. The local planning authority will also be expected to prepare its response in accordance with that timetable. The inspector may direct participants to address particular issues in their evidence to the examination where this will assist in considering the soundness of the plan. Late submission of evidence by any of the parties to the examination will cause disruption and be unfair, as the recipient party may be unable to cope with the late statement and need to seek an adjournment of the examination. Therefore, those who fail to meet the deadlines set by the inspector may lose their right to be heard unless the inspector is satisfied that

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<sup>85</sup> Further guidance will be contained in the Planning Inspectorate's Guide to Development Plan Examinations.

there is a genuine and unavoidable reason for the failure. In such instances the representation will be considered by written representations.

- D34. Dates will be set by which any topic papers (see paragraph D26) should be made available. This will need to be as early as possible in the pre-examination period in order to set the scene for the other participants' evidence to come and to assist the inspector to prepare for the examination. The early production of topic papers by the local planning authority will help to spread the authority's workload and will, where necessary, form the basis for its responses to the issues raised in the representations and by the inspector. Those seeking changes to the development plan document should set out the details of their case in any statements they prepare for the examination. It is essential to explain precisely why the development plan document as submitted by the local planning authority is not 'sound' and what changes are being sought, having regard to the criteria for assessing the soundness of the plan (see paragraph 4.23 of this Planning Policy Statement).

### **Scope and scale of evidence**

- D35. Examinations are not the place to press the detailed merits of proposed development schemes. Inspectors are interested in the evidence and reasoning behind the authority's proposals and in the arguments and evidence against them. Evidence should, however, make clear:
- why and in what way the submitted development plan document is unsound (see paragraph 4.23 of this Planning Policy Statement);
  - what change is required and what is the evidence on which the change is based;
  - what impact such a change would have on the soundness of the plan. If the change involves an alternative site or sites, what arrangements have been made for the sustainability appraisal of any such sites; and
  - so far as the local planning authority is concerned, why the authority opposes the change.
- D36. Inspectors look for strong, simple, and focused evidence. The strength of evidence is not to be equated with its volume.
- D37. Participants should submit their statements by the dates specified by the inspector so that they can be copied and circulated to all relevant participants and made available for public inspection and all can prepare properly for the examination. An electronic version of the evidence should be provided in the format set by the inspector wherever this is possible, so that it can be posted on the local planning authority's website. Similarly, the authority will prepare, circulate and make available their response to such statements and publish them on their website. The examination will be conducted on the basis that those taking part will have read all the relevant

documents, although it will be open to all participants to refer to, and elaborate upon, points as necessary. Participants may obtain copies of any documents held in the examination library from the programme officer, if necessary, subject to a reasonable copying charge which will be set by the local planning authority.

### **Statements of common ground**

- D38. Statements of common ground should be prepared as part of the evidence for the examination, especially where there are a number of issues between the local planning authority and those seeking a change to the development plan document. These will set out the extent to which there is agreement about matters of fact and identify those matters that remain outstanding and need to be examined. Any such document will be circulated and made available for public inspection (see paragraph D37) before the examination opens.

### **Other statements relating to soundness**

- D39. The inspector may request anyone who may be able to assist in determining the soundness of the development plan document to submit a written statement prior to the examination, whether or not they have made representations on the development plan document. In doing so the inspector will set out the information he/she requires. Such a statement will need to be submitted in accordance with the evidence timetable (see paragraph D33) and will be treated in the same way as any other statement (see paragraph D37).

## **SITE VISITS**

- D40. Before the examination takes place, the inspector and, where appropriate, members of the inspector's team are likely to visit those parts of the area covered by the development plan document that are of most relevance to the development plan document which is to be examined. The purpose of this visit is to gain an understanding of the nature of the area to help in the determination of the soundness of the development plan document. Normally, such site visits will be unaccompanied and unannounced unless the inspector needs to enter private land or buildings. During or after the examination, the inspector and/or a member of the inspector's team may make other site visits, either unaccompanied or accompanied by both the person seeking a change to the development plan document and representatives of the authority. On accompanied visits, the inspector is concerned only with observing physical and environmental characteristics of the site and its locality and will not discuss the issues which have been (or are to be) debated at the examination.

## THE EXAMINATION PROCESS

### Role of appointed inspector

- D41. It is for the inspector to decide how to conduct the proceedings and to ensure that the examination is conducted in accordance with the well-established principles of impartiality, openness and fairness. The inspector will keep the proceedings as informal as possible. The inspector will normally lead discussions and will set out in advance the matters he/she wishes to discuss. This will be based on the evidence which has been submitted in advance of the examination, the original representations to the submitted development plan document and on the inspector's need to consider the soundness of the plan.
- D42. The inspector may refuse to permit the oral presentation of any matter which he/she considers to be irrelevant or repetitious. Where he/she does so, the person who wishes to bring such a matter to the examination will be permitted to submit it to the inspector in writing before the close of the examination.
- D43. The inspector will ensure that everyone concerned has access to all the relevant information relating to the topics under discussion, including any relevant representations. The inspector will question participants at the examination to ensure that all the information needed to determine the soundness of the plan has been given. However, the inspector will not wish to spend valuable time at the examination drawing out the precise change that is being sought to the development plan document. This should be detailed in both the original representation and in any statement which is submitted before the examination (see paragraphs C7 and D34). Participants will be given the chance to question one another where this will help the inspector. The inspector will indicate when and if a more formal process will be required to ensure that specific evidence has been properly tested (see paragraph 4.23 of this Planning Policy Statement).

### Opening session and attendance at the examination

- D44. At the opening session of the examination, the inspector will deal with any procedural or programming matters which need to be explained as a result of any changes which have been made to the programme since the last pre-examination meeting was held. Other than the local planning authority, participants will not need to attend the examination every day, although as all sessions will be held in public, anyone will be entitled to attend any or all of them if they wish to observe. However, participants will need to keep in touch with the programme officer to be aware of any changes made to the programme during the course of the examination (see paragraph D21). The detailed examination process will be described in detail in the forthcoming Planning Inspectorate's Guide to Development Plan examinations.

### **Role of the regional planning body/London Mayor and the Government Office at the examination**

D45. If the regional planning body or the Mayor (in London) has issued a statement that one or more aspects of a development plan document are not in general conformity with the regional spatial strategy or in London the spatial development strategy, such a statement counts as a representation to be considered at the examination. The inspector may seek the attendance of a representative of the regional planning body or Mayor at the examination to discuss the lack of general conformity. Similarly, if the Government Office on behalf of the Secretary of State has raised an issue fundamental to the soundness of the development plan document which has not been resolved during the earlier stages in the preparation of that document, the inspector may require the Government Office's attendance at the examination. Such matters are likely to be dealt with early in the examination programme. Where not required to appear at the examination, the regional planning body or Mayor and the Government Office will be expected, where necessary, to clarify any representations they make on the development plan documents in written statements to the examination.

### **Keeping the examination open**

D46. 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 written. This will enable the inspector to seek clarification on matters which may have been raised under the written representations process 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 substance of the plan. It will not be for those who have participated at the examination to raise further additional points in support of their case, unless invited to do so by the inspector. In such cases, the inspector will ensure that any correspondence with any participant is copied to the opposing party and included in the examination library. The inspector will be able to formally close the examination by writing to all participants, if he/she deems it unnecessary to do so in person.

## Annex E: Consultees

### SPECIFIC CONSULTATION BODIES

- E1. The following bodies are specific consultation bodies and must be consulted in accordance with the Act and Regulations:<sup>86</sup>
- (a) The regional planning body if the local planning authority's area is in a region other than London;
  - (b) The Mayor of London if the authority is a London Borough;
  - (c) A relevant authority any part of whose area is in or adjoins the area of the local planning authority;
  - (d) The Countryside Agency;
  - (e) The Environment Agency;
  - (f) Highways Agency;
  - (g) The Historic Buildings and Monuments Commission for England;
  - (h) English Nature;
  - (i) The Strategic Rail Authority;
  - (j) A Regional Development Agency whose area is in or adjoins the area of the local planning authority;
  - (k) Any person to whom the electronic communications code applies by virtue of a direction given under Section 106 (3)(a) of the Communications Act 2003;
  - (l) Any person who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority; and
  - (m) Any of the bodies from the following list who are exercising functions in any part of the area of the local planning authority:
    - i. Strategic Health Authority;
    - ii. Person to whom a licence has been granted under Section 7(2) of the Gas Act 1986;
    - iii. Sewage undertaker; and
    - iv. Water undertaker.

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<sup>86</sup> The Town and Country Planning (Local Development) (England) Regulations, 2004.

## GOVERNMENT DEPARTMENTS

- E2. The appropriate Government Office for the Region should also be consulted and will often be the first point of contact for consultation with central Government Departments. In addition, local planning authorities are strongly advised to consult any Government Departments or agencies where those departments or agencies have large land holdings in the area covered by a local development document. This will ensure that local planning authorities are fully aware of the possible need for expansion of existing facilities or, more importantly, the likelihood of large-scale land disposals taking place within the period of time covered by the local development document.
- (a) Home Office;
  - (b) Department for Education and Skills (through Government Offices);
  - (c) Department for Environment, Food and Rural Affairs;
  - (d) Department for Transport (through Government Offices);
  - (e) Department of Health (through relevant Regional Public Health Group);
  - (f) Department of Trade and Industry (through Government Offices);
  - (g) Ministry of Defence;
  - (h) Department of Work and Pensions;
  - (i) Department of Constitutional Affairs;
  - (j) Department for Culture, Media and Sport;
  - (k) Office of Government Commerce (Property Advisers to the Civil Estate); and
  - (l) The Countryside Agency.

## GENERAL CONSULTATION BODIES

- (a) Voluntary bodies some or all of whose activities benefit any part of the authority's area;
- (b) Bodies which represent the interests of different racial, ethnic or national groups in the authority's area;
- (c) Bodies which represent the interests of different religious groups in the authority's area;

- (d) Bodies which represent the interests of disabled persons in the authority's area; and
- (e) Bodies which represent the interests of persons carrying on business in the authority's area.

## **OTHER CONSULTees**

- E3. Local planning authorities should also consider the need to consult, where appropriate the following agencies and organisations in the preparation of local development documents.
- (a) Age Concern;
  - (b) Airport operators;
  - (c) British Chemical Distributors and Traders Association;
  - (d) British Geological Survey;
  - (e) British Waterways, canal owners and navigation authorities;
  - (f) Centre for Ecology and Hydrology;
  - (g) Chambers of Commerce, Local CBI and local branches of Institute of Directors;
  - (h) Church Commissioners;
  - (i) Civil Aviation Authority;
  - (j) Coal Authority;
  - (k) Commission for Architecture and the Built Environment;
  - (l) Commission for New Towns and English Partnerships;
  - (m) Commission for Racial Equality;
  - (n) Crown Estate Office;
  - (o) Diocesan Board of Finance;
  - (p) Disability Rights Commission;
  - (q) Disabled Persons Transport Advisory Committee;
  - (r) Electricity, Gas, and Telecommunications Undertakers, and the National Grid Company;
  - (s) Environmental groups at national, regional and local level, including:

- i. Council for the Protection of Rural England;
  - ii. Friends of the Earth;
  - iii. Royal Society for the Protection of Birds; and
  - iv. Wildlife Trusts;
- (t) Equal Opportunities Commission;
  - (u) Fire and Rescue Services;
  - (v) Forestry Commission;
  - (w) Freight Transport Association;
  - (x) Gypsy Council;
  - (y) Health and Safety Executive;
  - (z) Help the Aged;
  - (aa) Housing Corporation;
  - (bb) Learning and Skills Councils;
  - (cc) Local Agenda 21 including:
    - i. Civic Societies;
    - ii. Community Groups;
    - iii. Local Transport Authorities;
    - iv. Local Transport Operators; and
    - v. Local Race Equality Councils and other local equality groups;
  - (dd) National Playing Fields Association;
  - (ee) Network Rail;
  - (ff) Passenger Transport Authorities;
  - (gg) Passenger Transport Executives;
  - (hh) Police Architectural Liaison Officers/Crime Prevention Design Advisors;
  - (ii) Port Operators;
  - (jj) Post Office Property Holdings;
  - (kk) Rail Companies and the Rail Freight Group;
  - (ll) Regional Development Agencies;

- (mm) Regional Housing Boards;
- (nn) Regional Sports Boards;
- (oo) Road Haulage Association;
- (pp) Sport England;
- (qq) The House Builders Federation;
- (rr) Transport for London;
- (ss) Traveller Law Reform Coalition;
- (tt) Water Companies; and
- (uu) Women's National Commission.

## Annex F: Complaints procedure

### COMPLAINTS TO THE LOCAL COMMISSIONER

- F1. Any person who considers that he or she has suffered an injustice because of maladministration by an authority, in connection with a local development document, can ask for the matter to be investigated by an independent Local Commissioner (sometimes referred to as the Local Ombudsman). “Maladministration” is not defined in the Act, but broadly it refers to the way in which an authority acted, or failed to act, and not to the merits of decisions or actions taken. A Local Commissioner, however, cannot normally investigate any matter about which the aggrieved person has, or had, a remedy by way of proceedings in any court of law. A Local Commissioner may only disregard that restriction if satisfied that, in the particular circumstances, it was unreasonable to expect the aggrieved person to use the alternative remedy.
- F2. A complaint should be addressed direct to a Local Commissioner and must normally be made within 12 months of the alleged maladministration coming to notice, but a local commissioner has power to accept a complaint outside this time limit if satisfied that there are special circumstances. More information about the work of the Commission can be obtained from the Secretary, Commission for Local Administration in England, The Oaks, Number 2, Westwood Way, Westwood Business Park, Coventry, CV4 8JB, or from local authorities and Citizens Advice Bureau.

### PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

- F3. Any person who considers that he or she has suffered an injustice because of maladministration on the part of a Government Department in connection with a local development document can ask for the matter to be investigated by the Parliamentary Commissioner for Administration (otherwise known as the Parliamentary Ombudsman). A complaint should not be addressed direct to the Parliamentary Commissioner, but should be put in writing to a member of the House of Commons with a request that it be referred to the Parliamentary Commissioner for investigation. Similar limitations to those applying in the case of Local Commissioners also apply in the case of the Parliamentary Commissioner, and the Parliamentary Commissioner has a similar discretion in relation to complaints made outside the 12 months limit.

## **COUNCIL ON TRIBUNALS**

- F4. Procedural matters in connection with public examinations fall within the jurisdiction of the Council on Tribunals. This Council's main function is to advise Government on tribunal and inquiry procedures. In pursuance of that function, they will consider any complaint that established procedures are working unsatisfactorily. However, they have no powers of investigation and they cannot comment on the conduct of the inspector or any assistant inspector or assessor sitting with him or her. The merits of any decisions made by the inspector in a binding report to the authority, or any decisions reached by that authority on such a report, also fall outside the Council's concerns. Unless the circumstances were exceptional, the Council would take no action on a complaint until the procedures were completed. Complaints may be made by sending brief details to the Secretary, Council on Tribunals, 22 Kingsway, London WD2B 6LE.

## **COMPLAINTS ABOUT THE INSPECTOR**

- F5. Any complaints about the conduct of the inspector, or any assistant inspector or planning officer sitting with him or her, should be sent to the Planning Inspectorate Quality Assurance Unit, Room 4/09 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6FA.



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