



# Local Plan 2015 -2030 – Public Consultation (Reg. 19) 2019

## Guidance Notes for Making a Representation

### Introduction

The Local Plan (Plan) is published in order for representations to be made prior to submission. The representations will be considered alongside the published Plan when submitted, which will be examined by a Planning Inspector. The Planning and Compulsory Purchase Act<sup>1</sup> (as amended) (PCPA) states that the purpose of the examination is to consider whether the Plan complies with the legal requirements, the duty to co-operate and is sound.

### Legal Compliance and Duty to Co-operate

The Inspector will first check that the Plan meets the legal requirements under Section 20(5)(a) and the duty to co-operate under section 33A of the PCPA<sup>2</sup> before moving on to test for soundness.

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

- The Plan in question should be included in the current Local Development Scheme (LDS)<sup>3</sup> and the key stages should have been followed. The LDS is effectively a programme of work prepared by the LPA, setting out the Local Development Documents (LDDs)<sup>4</sup> it proposes to produce. It will set out the key stages in the production of any Plan(s) which the LPA proposes to bring forward for independent examination. If the plan is not in the current LDS it should not have been published for representations. The LDS should be on the LPA's website and available at its main offices.
- The process of community involvement for the Plan in question should be in general accordance with the LPA's Statement of Community Involvement (SCI).<sup>5</sup> The SCI sets out the LPA's strategy for involving the community in the preparation and revision of LDDs (including Plans) and the consideration of planning applications.
- The Plan should comply with the Town and Country Planning (Local Planning) (England) Regulations 2012 (the Regulations).<sup>6</sup> On publication, the LPA must publish the documents prescribed in the Regulations, and make them available at its principal offices and on its website. The LPA must also notify the consultation bodies (as set out in the Regulations) and any persons who have requested to be notified.
- The LPA is required to provide a Sustainability Appraisal Report when it publishes a Plan. This should identify the process by which the Sustainability Appraisal has been

<sup>1</sup> Read here: [https://www.legislation.gov.uk/ukpga/2004/5/pdfs/ukpga\\_20040005\\_en.pdf](https://www.legislation.gov.uk/ukpga/2004/5/pdfs/ukpga_20040005_en.pdf)

<sup>2</sup> Inserted by section 110 of the Localism Act 2011

<sup>3</sup> View at Scilly.gov.uk: <http://www.scilly.gov.uk/planning-development/local-plan-review>

<sup>4</sup> LDDs are defined in regulation 5 of the Town and Country Planning Regulations 2012, view here: [http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi\\_20120767\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi_20120767_en.pdf)

<sup>5</sup> The SCI can be read here:

<http://www.scilly.gov.uk/sites/default/files/document/planning/Statement%20of%20Community%20Involvement%20toS%20Feb%202018%20Update.pdf>

<sup>6</sup> The Regulations can be read here: [http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi\\_20120767\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi_20120767_en.pdf)



carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure they reflect social, environmental, and economic factors.

- The Plan must have regard to any Sustainable Community Strategy (SCS) for its area. The Council of the Isles of Scilly adopted a Community Strategy in 2005,<sup>7</sup> which covers the period 2005 to 2020.

You should consider the following before making a representation on compliance with the duty to co-operate:

- The duty to co-operate originally came into force in November 2011 and any plan submitted for examination on or after this date will be examined for compliance. LPAs will be expected to provide evidence of how they have complied with any requirements arising from the duty. The updated National Planning Policy Framework (NPPF) was published in 2018 and paragraph 24 of the NPPF<sup>8</sup> further reinforces this duty in relation to the preparation of Local Plans.
- The duty to co-operate requires that a LPA engages constructively, actively and on an on-going basis with relevant or prescribed bodies in order to maximise the effectiveness of development plan preparation and strategic matters.<sup>9</sup>
- The PCPA establishes that non-compliance with the duty to co-operate cannot be rectified after submission of the Plan. Therefore the Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the Plan.

## Soundness

Soundness is explained in paragraph 35 of the NPPF. The Inspector has to be satisfied that the Plan is positively prepared, justified, effective and consistent with national policy. There are four tests of 'soundness' and these are:

### i. Positively Prepared

This means that the Plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

### ii. Justified

The Plan should set out an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence.

### iii. Effective

The Plan should be deliverable over its period and based on effective joint-working on cross-boundary strategic priorities.

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<sup>7</sup> This can be viewed here:

<http://scilly.gov.uk/sites/default/files/Final%20VERSION%20Community%20Strategy.pdf>

<sup>8</sup> NPPF:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

<sup>9</sup> The Council of the Isles of Scilly's Duty to Co-operate: <http://www.scilly.gov.uk/local-plan-consultation-2019>



#### **iv. Consistent with national policy**

The Plan should enable the delivery of sustainable development in accordance with the policies in the NPPF.

If you think the content of the Plan is not sound because it does not include a policy where it should do, you should go through the following steps before making representations:

- Is the issue with which you are concerned already covered specifically by national planning policy? If so it does not need to be included.
- Is what you are concerned with covered by any other policies in the Plan on which you are seeking to make representations or in any other Plan?
- If the policy is not covered elsewhere, in what way is the Plan unsound without the policy?
- If the Plan is unsound without the policy, what should the policy say?

#### **General advice**

If you wish to make a representation seeking a modification to a Plan or part of a Plan you should make clear in what way the Plan or part of the Plan is not sound having regard to the legal compliance, duty to co-operate and the four tests of soundness set out above. You should try to support your representation by evidence showing why the Plan should be modified. It will be helpful if you also say precisely how you think the Plan should be modified. Representations should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. After this stage, further submission will be only at the request of the Inspect, based on the matters and issues he/she identifies for examination.

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

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