



## Local Plan Legal Compliance Checklist (April 2013)

This checklist has been updated for PAS by SNR Denton. It supersedes the previous checklist and is based on **Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012**. It should be used with the Soundness Self Assessment Checklist (also updated January 2013).

Remember that the evidence you provide to support your plan should be relevant and proportionate. Please don't use this checklist as a reason to assemble more than is needed.

### Glossary:

"Act" means the **Planning and Compulsory Purchase Act 2004 (as amended)**

"NPPF" means the **National Planning Policy Framework** published March 2012

"Regulations" means the **Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012**

LDS means **Local Development Scheme**

SCI means **Statement of Community Involvement**

DPD means **Development Plan Document**

### Stage one: The early stages

Where the 'possible evidence' column refers to a document that will not be complete until a later stage (for example, the sustainability appraisal report), documents that will contribute to that report are relevant at the earlier stages. This way, the submitted report provides the evidence at submission, with an audit trail back to its source.

In terms of legal compliance, the main issues for the early stage are in relation to:

- planning for community engagement
- planning the sustainability appraisal (including consultation with the statutory environment consultation bodies)
- identifying significant cross boundary and inter-authority issues
- ensuring that the plan rests on a credible evidence base, including meeting the Act's requirement for keeping matters affecting the development of the area under review.



Regulation 17 notes that a statement setting out which bodies and people the council invited to make representations under Regulation 18 is one of the proposed submission documents. In this tool, the term 'consultation statement' is used to describe this statement.

Section 33A of the Act (introduced by the Localism Act 2011) introduces a duty to cooperate as a mechanism to ensure that local planning authorities and other bodies engage with each other on issues which are likely to have a significant effect on more than one planning area. This pervades every stage of the plan preparation. A plan may be found unsound if a council cannot show that it has taken reasonable steps to comply with the duty.

### Stage one: The beginning

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
1. Is the DPD identified in the adopted LDS? Have you recorded the timetable for its production?	The Act section 15(2) and section 19(1)	NPPF para 153		<ul style="list-style-type: none"> <li>i. The adopted LDS at the time of commencement, publication and submission of the DPD</li> <li>ii. The relevant authority monitoring report (if changes need to be explained)</li> </ul>	Local Development Scheme (LDS) July 2016 and update note on the timetable page of the web site.
2. How will community engagement be programmed into the preparation of the DPD?	The Act section 19(3)  Regulation 18	NPPF paras 150, 155 and 157	If the SCI is up-to-date, use that. If not set out any changes to community engagement as a result of changes in legislation.	<ul style="list-style-type: none"> <li>i. The SCI</li> <li>ii. The project plan for the DPD</li> </ul>	<p>Statement of Community Involvement (SCI) 2014</p> <p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>Consultee list 2016</p>
3. Have you considered the appropriate bodies	Regulation 18	NPPF paras 4.25 -4.26	Regulation 2 defines the general and specific consultation	<ul style="list-style-type: none"> <li>i. The SCI</li> <li>ii. Reports and decisions setting</li> </ul>	Statement of Community Involvement (SCI) 2014



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
you should consult?			<p>bodies.</p> <p>The possible evidence may duplicate each other. Only use what you need to.</p>	<p>out the approach to specific and general consultation bodies</p> <p>iii. Consultation statement</p>	<p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>Consultee list 2016</p>
4. How you will co-operate with other local planning authorities, including counties, and prescribed bodies, to identify and address any issues or strategic priorities that will have a significant impact on at least two planning areas?	<p>The Act section 33A(1)(a) and (b), section 33A(3)(d) (e) &amp; (4)</p> <p>The Act Section 20(5)(c)</p> <p>Regulation 4</p>	<p>NPPF paras 178 to 181 (which comprise the guidance referred to in the Act section 33A(7))</p> <p>Under NPPF Para 182, to be 'Effective' a plan should be based on effective joint working on cross-boundary strategic priorities.</p>	<p>Section 33A(4) defines a "strategic matter".</p> <p>Under section 33A(6) the required engagement includes considering joint approaches to the plan making activities (including the preparatory activities) and considering whether to agree joint local development documents under section 28.</p>	<p>i. Reports and decisions setting out the approach to be taken</p> <p>ii. Consultation statement</p>	<p>Statement of Compliance with the Duty to Co-operate Dec 2016</p> <p>Consultation Statement Aug. 2016 and Dec 2016 update</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
		Strategic priorities are listed at NPPF Para 156	The bodies prescribed by section 33A(1)(c) are set out at Regulation 4(1).		
5. How you will co-operate with any local enterprise partnerships (LEP) or local nature partnerships (LNP) to identify and address any issues or strategic priorities that will have a significant impact on at least two planning areas?	The Act section 33A(1)(c) and section 33A(9), section 33A(3)(d) and (e)  The Act section 20(5)(c).  Regulation 4	NPPF paras 178 to 181	Section 33A(4) defines a "strategic matter". Strategic priorities are listed at NPPF Para 156.  Regulation 4(2) prescribes LEPs and LNPs for the purposes of section 33A(9).  Under section 33A(6) the required engagement includes consulting on joint approaches to relevant activities.	i. Reports and decisions setting out the approach to be taken. ii. Consultation statement	Statement of Compliance with the Duty to Co-operate Dec 2016
6. Is baseline information being	The Act section 13	NPPF paras 158 - 177		i. Documents dealing with	Sustainability Appraisal Scoping Report 2014



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
collected and evidence being gathered to keep the matters which affect the development of the area under review?				collection of baseline information ii. Relevant technical studies iii. The annual monitoring report	Interim SA Report September 2014 SA Report August 2016 Other supporting evidence documents Authority Monitoring Report 2014/15
7. Is baseline information being collected and evidence being gathered to set the framework for the sustainability appraisal?	The Act section 19(5)	NPPF paras 165 and 167 Strategic Environmental Assessment Guide, chapter 5		i. Sustainability report scoping document ii. Sustainability appraisal report	Sustainability Appraisal Scoping Report 2014 SA Report Aug 2016
8. Have you consulted the statutory environment consultation bodies for five weeks on	Regulations 9 and 13 of The Environmental Assessment of Plans and	NPPF paras 165 and 167 SEA Guide	The Strategic Environmental Assessment consultation bodies are also amongst	Copies of the consultation letters sent to and any responses from the	SA Scoping Report June 2014 – consultation with 3 statutory bodies and other stakeholders from 14/18/4/14 (5 weeks). 4



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
the scope and level of detail of the environmental information to be included in the sustainability appraisal report?	Programmes Regulations 2004 No 1633.	chapter 3	the 'specific consultation bodies' which are defined in Regulation 2).	bodies	responses.



## **Stage two: Plan preparation - frontloading phase**

Information assembled during this phase contributes to:

- showing that the procedures have been complied with
- demonstrating cooperation with statutory cooperation bodies
- developing alternatives and options and appraising them through sustainability appraisal and against evidence.

The council should record actions taken during this phase as they will be needed to show that the plan meets the legal requirements. They will also show that a realistic and reasonable approach has been taken to plan preparation.

## Stage two: Plan preparation

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
<p>1. Have you notified:</p> <ul style="list-style-type: none"> <li>the specific consultation bodies?</li> <li>the general consultation bodies that have an interest in the subject of the DPD and invited them to make representations about its contents?</li> </ul>	Regulation 18(1) and (2)(a) (b)	NPPF paras 159 – 173	Specific and general consultation bodies are defined in Regulation 2.	<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Copies of documents consulting these bodies</li> <li>iii. Record of discussions</li> <li>iv. Copies of representations made</li> <li>v. A brief statement setting out the reasons why any bodies have been omitted from or included in consultation</li> </ul>	<p>SCI 2014</p> <p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>consultee list</p>
<p>2. Are you inviting representations from people resident or carrying out business in your area about the content of the DPD?</p>	Regulation 18(1) and (2)(c)	NPPF paras 159 – 173		<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Copies of documents consulting these persons</li> <li>iii. Record of discussions</li> <li>iv. Copies of representations made</li> </ul>	See above



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
3. Are you engaging with stakeholders responsible for delivery of the strategy?	Regulation 18	NPPF para 155	NPPF paras 160-171 4.29 give examples of relevant bodies which should be consulted.	<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Copies of documents consulting these people</li> <li>iii. Record of discussions</li> </ul>	<p>See above</p> <p>Infrastructure Delivery Plan Dec. 2016</p>
4. Are you taking into account representations made?	Regulation 18(3)	NPPF para 155	Evidence from participation is part of the justification. Show how you have taken representations into account.	<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Any reports on the selection of alternatives and options for the DPD</li> </ul>	<p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>Reports to Executive March 2015 and July 2016 with summaries of responses etc.</p>
5. Does the consultation contribute to the development and sustainability appraisal of alternatives?	<p>The Act section 19(5)</p> <p>Regulations 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633</p>	<p>NPPF paras 165 – 168</p> <p>SEA Guide, chapter 3</p>		<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Any reports on the selection of alternatives and options for the DPD</li> <li>iii. Sustainability appraisal report</li> </ul>	<p>Interim SA Report 2014</p> <p>SA Report Aug 2016</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
<p>6. Is the participation:</p> <ul style="list-style-type: none"> <li>• following the principles set out in your SCI?</li> <li>• integrating involvement with the sustainable community strategy?</li> <li>• proportionate to the scale of issues involved in the DPD?</li> </ul>	<p>The Act section19(3)</p>	<p>NPPF para 155</p>		<ul style="list-style-type: none"> <li>i. Consultation Statement</li> <li>ii. The SCI</li> <li>iii. The relevant sustainable community strategies</li> </ul>	<p>SCI 2014</p> <p>Consultee list</p> <p>Consultation Statement Aug. 2016 and Dec 2016 update</p>
<p>7. Are you keeping a record of:</p> <ul style="list-style-type: none"> <li>• the individuals or bodies invited to make representations?</li> <li>• how this was done?</li> <li>• the main issues raised?</li> </ul>	<p>The Act section20(3)</p> <p>Regulation 17</p>	<p>NPPF paras 158 - 171</p>	<p>You will need to submit a statement of representations under Regulation 22 (1) (c): see Submission stage below.</p> <p>Regulation 35 deals with the availability of documents and the time of their removal.</p>	<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Reports by the council on the consultation</li> <li>iii. Copies of representations and relevant correspondence</li> <li>iv. Technical reports on the engagement process</li> </ul>	<p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>Links to view representations online</p> <p>Reports to Executive March 2015 and July 2016</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
<p>8. Are you inviting representations on issues that would have significant impacts on both your areas from another local planning authority? Or county issues from an affected county council that is not a planning authority? Or significant cross-boundary issues and strategic priorities of a body prescribed under Section 33A(1)(c)?</p>	<p>The Act section 33A(1)(a) (b) and (c), section 33A(3)(d) &amp; (e) section 33A(4) section 33A(9)</p> <p>The Act section 20 (5)(c)</p>	<p>NPPF paras 178 to 181</p>	<p>Section 33A(3)(d) and (e) requires cooperation on significant cross-boundary issues before and during plan preparation.</p> <p>Section 33A(2) requires you to engage constructively, actively and on an ongoing basis.</p>	<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Reports by the council on the consultation</li> <li>iii. Copies of representations and relevant correspondence</li> <li>iv. Technical reports on the engagement process</li> </ul>	<p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>Statement of Compliance with the Duty to Co-operate Dec 2016</p> <p>IDP December 2016</p>
<p>9. Are you inviting representations on cross-boundary issues and strategic priorities from a local enterprise partnership (LEP) or a local nature partnership (LNP)?</p>	<p>The Act section 33A(1)(c) and Section 33A(9).</p> <p>The Act section 20(5) (c).</p> <p>Regulation 4</p>	<p>NPPF paras 178 to 181</p>	<p>Section 33A(3)(d) and (e) requires cooperation on significant cross-boundary issues before and during plan preparation.</p> <p>Section 33A(2) requires you to engage</p>	<ul style="list-style-type: none"> <li>i. Consultation statement</li> <li>ii. Reports by the council on the consultation</li> <li>iii. Copies of representations and relevant correspondence</li> <li>iv. Technical reports on the engagement</li> </ul>	<p>Statement of Compliance with the Duty to Co-operate Dec 2016</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
			constructively, actively and on an ongoing basis.	process	
10. Are you developing a framework for monitoring the effects of the DPD?	<p>The Act section 35</p> <p>Regulation 34</p> <p>Regulation 17 of The Environmental Assessment of Plans and Programmes Regulations 2004 No1363</p>	<p>NPPF paras 165 - 1687</p> <p>SEA Guide, Chapter 5</p>	It is a matter for each council to decide what to include in their monitoring reports while ensuring they are prepared in accordance with relevant UK and EU legislation” Chief Planning Officer letter 30 March 2011 withdrawing ODPM guidance.	<ul style="list-style-type: none"> <li>i. Sustainability appraisal report</li> <li>ii. The authority monitoring report</li> <li>iii. Reports or documents setting out the appraisal and monitoring framework</li> </ul>	See Appendix F of the Submission Plan



### **Stage three: Plan preparation - formulation phase**

This stage has many legal matters, for process and content, to address. The council should be beginning to formulate the preferred strategy for the local plan or supplementary planning document with which the council chooses to address Regulation 18 requirements, using the information gathered and previous collaborative work with stakeholders.

Para 182 of the NPPF makes it clear that explicit consideration of alternatives is a key part of the plan making process.

You should evaluate the reasonable alternatives identified in 'stage two: frontloading phase – plan preparation' phase against the:

- completed body of information from evidence gathering
- results of sustainability appraisal
- findings from community participation
- findings from engagement with statutory cooperation bodies.

This may be written up as a preferred strategy report. The results of participation on the preferred strategy and an accompanying sustainability report will enable the council to gauge the community's response and receive additional evidence about the options. The council can then decide whether, and how, the preferred strategy and policies should be changed for publishing the finished DPD.

Alternatives developed from the evidence and engagement during the frontloading stage need to be appraised to decide on the preferred strategy. Participation will also need to be carried out on it.

These matters need to be considered, and dealt with, in good time, and not left until publication. Supporting documents will assist in providing evidence that decisions on alternatives and strategy are soundly based. These documents will, in due course, become part of the proposed submission documents in stage four.

**The council should tell all parties that this is the main participation opportunity on the emerging plan..** The publication stage is a formal opportunity for anyone to comment on an aspect of the DPD's soundness, and to propose a change to the plan accordingly. The more effectively this message is put across, the lower the chance of late changes being brought forward following publication.

**Stage three: Plan preparation – writing the plan**

Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
<p>1. Are you preparing reasonable alternatives for evaluation during the preparation of the DPD?</p>	<p>Regulation 12 (2) of The Environmental Assessment of Plans and Programmes Regulations 2004 No. 1633</p>	<p>NPPF paras 152 - 182  SEA Guide, Chapter 5</p>	<p>The sustainability appraisal report and supporting documents relevant to the preparation of the DPD are part of the proposed submission documents (see Regulation 17).</p>	<p>Documents supporting decisions on alternatives and any preferred strategy</p>	<p>Core Strategy Issues and Options Topic Papers 2009</p> <p>Core Strategy Housing Options 2010 consultation (see Consultation Statement Aug 2012 for details)</p> <p>Core Strategy Options for the number of new homes consultation (Sept 2010) (see Consultation Statement Aug 2012 for details)</p> <p>Core Strategy Preferred Options and Draft Policies 2011</p> <p>Core Strategy Revised Preferred Options and Draft Policies 2012</p>



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
					Core Strategy Pre-submission version 2012  Consultation on Housing Scenarios and other issues for the Local Plan 2014  Various SA reports 2007 - 2016
2. Have you assessed alternatives against: <ul style="list-style-type: none"> <li>• consistency with national policy?</li> <li>• general conformity with the regional spatial strategy where still in force?</li> </ul>	The Act section 19 (2), section 24	NPPF para 151	For London boroughs and local authorities where regional strategies are still in force general conformity is tested formally later but you need to consider it during preparation of the DPD.	i. Supporting documents ii. Correspondence with Mayor of London (London Boroughs and Mayoral Development Corporations only)	As above
3. Are you having regard to (where	The Act sections 19 (2) and 24 (1) and		Where the regional strategy has been	i. Supporting	N/A



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
relevant): <ul style="list-style-type: none"> <li>• adjoining regional spatial strategies?</li> <li>• the spatial development strategy for London?</li> <li>• Planning Policy for Wales?</li> <li>• the National Planning Framework for Scotland?</li> </ul>	(4)  Regulation 10 and 21		revoked you should record that fact.	documents ii. Correspondence with the Mayor of London, relevant Welsh or Scottish regional planning bodies (as appropriate) iii. CLG notice of revocation of the regional strategy	
4. Are you co-operating with other local planning authorities including counties, to address significant cross boundary issues? Have you discussed doing joint local development	The Act section 33A(2)(a)  Section 33A(6)(a)(b)  Section 20(5) (c)	NPPF paras 181 and 185	.	i. Supporting documents ii. Correspondence with LPA/County Council	Statement of Compliance with the Duty to Co-operate Dec 2016



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
documents?					
5. Are you cooperating with a person prescribed for the purposes of Regulation 33A(1)(c) to address significant cross boundary issues including preparing joint approaches?	The Act section 33A(2)(a), section 33A(6)(a)  The Act section 20 (5) (c)  Regulation 4	NPPF paras 181 and 182	The bodies prescribed by The Act section 33A(1)(c) are set out at Regulation 4 (1).	i. Supporting documents ii. Correspondence with prescribed bodies	As above
6. Are you cooperating with having regard to the activities of the LEP and LNP?	The Act section 33A(2)(b) and section 33A(9). Regulation 4 (2)	NPPF para 181 and 182		i. Supporting documents ii. Correspondence with LEP/LNP	As above
7. Are you having regard to: <ul style="list-style-type: none"> <li>your sustainable community strategy or of other authorities whose area comprises part</li> </ul>	The Act section 19(2)			i. Supporting documents ii. The sustainable community strategies iii. Relevant local development documents iv. Correspondence	N/A  Local Plan includes a section in relation to Minerals and Waste issues that are the responsibility of Surrey CC



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
<p>of the area of the council?</p> <ul style="list-style-type: none"> <li>• any other local development documents adopted by the council?</li> </ul>				<p>with the local strategic partners</p>	
<p>8. Do you have regard to other matters and relevant strategies relating to:</p> <ul style="list-style-type: none"> <li>• resources</li> <li>• the local/regional economy</li> <li>• the local transport plan and transport facilities and services</li> <li>• waste strategies</li> <li>• hazardous substances</li> </ul>	<p>The Act section19(2)</p> <p>Regulation 10</p>		<p>As well as the matters and strategies listed in the Act and Regulations there are likely to be other matters identified in planning policy statements, regional and local strategies that you will need to have regard to in preparing the DPD.</p>	<ul style="list-style-type: none"> <li>i. Supporting documents</li> <li>ii. Correspondence with the relevant bodies</li> </ul>	<p>Evidence documents/studies</p> <p>The IDP Dec 2016</p> <p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>The Local Plan itself</p>

Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
9. Are you having regard to the need to include policies on mitigating and adapting to climate change?	The Act section19(1A)	NPPF paras 93 -108		Supporting documents	Relevant Local Plan policies CC1, CC2, CC3 and CC4, together with policies SP1, SP2, ST1, TD1, NE1, NE2
10. Have you undertaken the sustainability appraisal of alternatives, including consultation on the sustainability appraisal report?	The Act section19(5)  Regulation 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633	NPPF para 182  SEA Guide, Chapter 5	Regulation13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633 sets out the consultation procedures.	i. Reports on the sustainability of alternatives ii. Record of work undertaken on sustainability appraisal iii. Supporting documents	SA Scoping Report June 2014  Interim SA Report 2014  SA Report Aug 2016  (See also earlier SA reports regarding the Core Strategy where relevant)
11. Are you setting out reasons for any preferences between alternatives?	Regulation 8(2)	NPPF para 182	This will include Information from the sustainability appraisal.	i. Any reports setting out alternatives and choices considered ii. Supporting documents	As above and the Local Plan itself  Reports to Executive setting out emerging strategy and outcome from consultations

Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
<p>12. Have you taken into account any representations made on the content of the DPD and the sustainability appraisal? Are you keeping a record?</p>	<p>Regulations 17, 18(3) and 22 (1) (c) (iv)</p> <p>Regulation 13(4) of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633</p>	<p>NPPF paras 150, 155, 157 and 159-171</p>	<p>Records on the sustainability appraisal should also include recording any assessment made under the Habitats Directive.</p>	<p>i. Correspondence from those making representations</p> <p>ii. Reports on issues raised</p> <p>iii. Consultation statement</p> <p>iv. Sustainability appraisal report</p>	<p>Consultation Statement Aug. 2016 and Dec 2016 update</p> <p>Links to representations online</p> <p>Reports to Executive March 2015 and July 2016.</p>
<p>13. Where sites are to be identified or areas for the application of policy in the DPD, are you preparing sufficient illustrative material to:</p> <ul style="list-style-type: none"> <li>• enable you to amend the currently adopted policies map?</li> <li>• inform the community</li> </ul>	<p>Regulations 5 (1)(b) and 9</p>	<p>NPPF para 157</p>	<p>Regulation 2 defines the terms 'submission' and 'adopted' proposals map.</p> <p>A map showing changes to the adopted policies map is part of the proposed submission documents defined in Regulation 17.</p>	<p>i. Adopted policies map</p> <p>ii. Any reports on proposals to amend the policies map</p> <p>iii. Illustrative material that shows how the policies map will be amended or replaced</p>	<p>Consultation documents 2014</p> <p>Supporting evidence documents</p> <p>Pre-submission Local Plan</p>



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
about the location of proposals?					
14. Are the participation arrangements compliant with the SCI?	The Act, section 19(3)  Regulation 18	NPPF paras 150 and 155		i. The SCI ii. Consultation statement	SCI 2014  Consultation Statements 2012 and 2016  Updated consultee list



#### **Stage four: Publication**

Under Regulation 20, the period for formal representations takes place **before** the DPD is submitted for examination in accordance with a timetable set out in the statement of the representations procedure which is made available at the council's office and published on its website.

When moving towards publication stage, the council should consider the results of participation on the preferred strategy and sustainability appraisal report and decide whether to make any change to the preferred strategy. In the event that changes are required, the council will need to choose either to:

- do so and progress directly to publication

OR

- produce and consult on a revised preferred strategy.

The latter may be appropriate where the changes to the DPD bring in changed policy or proposals not previously covered in community participation and the sustainability appraisal. It avoids having to treat publication as if it were a consultation, which it is not. It also provides insurance in relation to compliance with the Strategic Environmental Assessment Regulations. Legally, during any participation on a revised preferred strategy, you should:

- comply with the requirements of the SCI
- update the sustainability appraisal report.

The council should then produce the DPD in the form in which it will be published. This includes removing material dealing with the evaluation of alternatives and the finalisation of the text. The council should be happy to adopt the DPD in this form, and satisfied that it is sound and fit for examination.

The six weeks publication period is the opportunity for those dissatisfied (or satisfied) with the DPD to make formal representations to the inspector about its soundness. Only people proposing a change to the plan can expect to be heard at examination.

The possibility of change under certain circumstances (which should be exceptional) is allowed for in the new procedures, and is described in 'stage five: submission'.

### Stage four: Publication

Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
1. Have you prepared the sustainability appraisal report?	The Act section 19(5)  Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 No 1633	NPPF paras 165 - 168  SEA Guide Chapter 5		Sustainability appraisal report	SA Report Aug 2016
2. Have you made clear where and within what period representations must be made?	Regulation 17, 19, 20 and 35		The period must not be less than 6 weeks from when you publish under Regulations 19 and 35 (see below).	i. Report or record of decisions ii. The statement of community interest	Web site  Statement of Matters  Public Notice  Press Statement  Consultation letters/emails
3. Have you made copies of the following available	Regulation 19(a)		Regulation 17 gives definitions.	i. Copies of the relevant	Web site



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
for inspection: <ul style="list-style-type: none"> <li>• the proposed submission documents?</li> <li>• the statement of the representations procedure?</li> </ul>				statements ii. Report on where and when made available iii. Record of where and when made available	Press Statement  Public Notice  Statement of Representation Procedure  Consultation letters/emails
4. Have you published on your website: <ul style="list-style-type: none"> <li>• the proposed submission documents?</li> <li>• the statement of the representations procedure?</li> <li>• statement and details of where and when documents can be inspected?</li> </ul>	Regulations 19 and 35		Regulations 2 and 17 give definitions.	Record of publication	Evidence from web site
5. Have you sent to	Regulation 19(b)		Regulations 2 and 17	i. Copies of	Consultee List used to



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
<p>each of the specific consultation bodies invited to make representations under Regulation 18(1):</p> <ul style="list-style-type: none"> <li>• A copy of each of the proposed submission documents</li> <li>• The statement of the representations procedure?</li> </ul>			<p>give definitions.</p>	<p>correspondence ii. Record of sending</p>	<p>publicise the Plan</p>
<p>6. Have you sent to each of the general consultation bodies invited to make representations under Regulation 18(1):</p> <ul style="list-style-type: none"> <li>• the statement of the representations procedure?</li> <li>• where and when</li> </ul>	<p>Regulation 19(b)</p>		<p>Regulations 2 and 17 give definitions.</p>	<p>i. Copies of correspondence ii. Record of sending</p>	<p>As above</p>



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Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence	Evidence provided
the documents can be inspected?					
7. Have you requested the opinion of the Mayor of London (if a London Borough or Mayoral DC) on the general conformity of the DPD spatial development strategy?	The Act section 24  Regulation 21		The request must be made on the day you publish the documents under Regulation 19(a) and a response must be made within six weeks from the request (Regulation 21).	Copies of correspondence	N/A



## Stage five: Submission

At the submission stage, the council should receive and collate any representations made at publication stage. You don't have to report these representations to councillors but there may be requirements deriving from other legislation, Standing Orders or council procedures that must be considered. Or you might just think it is a good idea to report on it anyway.

If they are reported it should be on the facts of the representations made, not the results of a consultation process by the council. They should not be treated as a consultation or an opportunity to make changes or answer representations. NB: under the 2012 Regulations there is no longer any requirement to give notice by local advertisement.

You should ensure you are in legal compliance with the SCI, the Habitats Directive and the Strategic Environmental Assessment Directive in any additional work. Any formal publication of additional or changed matters would need to allow at least a six-week period for representations to be made.

There are different approaches that could be taken to changes. You should be satisfied that you remain fully compliant with the legal requirements if any changes are made (and any consequential effects on the DPD as a whole).

Apart from notification of the examination, this tool does not deal with the legal requirements that need to be followed after submission.

## Stage five: Submission

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
1. Has the DPD been prepared in accordance with the LDS? Does the DPD's listing and description in	The Act section 19(1)		The Act section 15(2) sets out the matters specified in the LDS. As at January 2013, no further matters are prescribed in the	i. The LDS ii. Explanation of any changes from the milestones set out in the LDS	Local Development Scheme (LDS) July 2016  Link to note on web site



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
the LDS match the document? Have the timescales set out in the LDS been met?			Regulations.	iii. Relevant authority monitoring reports	regarding submission date
2. Has the DPD had regard to any sustainable community strategy for its area (like a county and district)?	The Act section 19(2)	NPPF para 182		i. The sustainable community strategy(ies) ii. Reference to sections of the DPD showing how regard has been had to them	N/A
3. Is the DPD in compliance with the SCI (where one exists)? Has the council carried out consultation as described in the SCI?	The Act section 19(3)  Regulation 22(1)(c)		Before the SCI is formally amended to take into account the changes in the regulations, you may need to set out how the community engagement that you carried out met the regulations (as amended).	i. The SCI ii. The Regulation 22(1)(c) statement	SCI 2014
4. Have you identified and addressed any issues which are likely to have a	The Act section 33A(1) and section 20(5)	NPPF paras 181 and 182	Under NPPF para 182, the plan should be based on effective joint working on cross-boundary	Statement identifying any strategic cross-boundary issues or impacts on county	Statement of Compliance with the Duty to Co-operate Dec 2016



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
<p>significant impact on at least two planning areas. In doing so, have you co-operated with other local planning authorities, county councils where they are not a planning authority, LEPs, LNPs and the prescribed bodies in identifying and addressing any strategic cross-boundary issues</p> <p>If you have not agreed on the approach is there a justification?</p>			<p>strategic priorities to be found 'Effective'.</p>	<p>matters addressed in the document and explaining the approach taken to co-operate with the relevant bodies.</p> <p>Supporting correspondence and reports e.g. Memorandum of Understanding, shared and agreed evidence</p>	<p>The Plan itself</p> <p>IDP Dec 2016</p>
<p>5. Has the DPD been subject to sustainability appraisal? Has the council</p>	<p>The Act section 19(5)</p> <p>Regulation 22(1)(a)</p>	<p>NPPF para 165</p> <p>SEA Practical Guide, chapter 5</p>		<p>Sustainability appraisal report</p>	<p>SA Report Aug 2016</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
provided a final report of the findings of the appraisal?					
6. Is the DPD to be submitted consistent with national policy?	The Act section 19(2) and Schedule 8	NPPF para 151		<ul style="list-style-type: none"> <li>i. Correspondence with PINS?</li> <li>ii. PAS Soundness self assessment checklist</li> </ul>	PAS Soundness Self-Assessment
<p>7. Does the DPD contain any policies or proposals that are not in general conformity with the regional strategy where it still exists?</p> <p>If yes, is there local justification?</p> <p>If the LPA is a London borough or a mayoral development corporation has it</p>	<p>The Act section 24(1)(a) and 24(4)</p> <p>Regulation 21</p>	NPPF para 218 footnote 41	In London the requirement is for general conformity with the spatial development strategy (The London Plan).	<ul style="list-style-type: none"> <li>i. Correspondence with or representations from Mayor of London (where appropriate)</li> <li>ii. Confirmation of (where appropriate) conformity from the Mayor or that no Regional Strategy is in place</li> </ul>	No. Only one relevant policy from the South East Plan remains (NRM6), and the Local Plan is in conformity with this (e.g. Policy NE3)



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
<p>requested an opinion from the Mayor of London on the general conformity of the plan with the spatial development strategy?</p>					
<p>8. Has the council published the prescribed documents, and made them available at their principal offices and their website?</p> <p>Has the council notified the relevant statutory and non-statutory bodies, and all persons invited to make representations on the plan?</p>	<p>The Act section 20(2), 20(3) and 20(5)(b)</p> <p>Regulations 8 and 19</p>	<p>NPPF para 182</p>	<p>Requirements relating to publication of the prescribed documents are listed later in this table.</p>	<p>i. The documents prescribed at Regulation 22(1)</p> <p>ii. Relevant authority monitoring reports</p> <p>iii. Records of the actions undertaken (see below)</p>	<p>Yes</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
Does the DPD contain a list of superseded saved policies?					Yes
<p>9. Are there any policies applying to sites or areas by reference to an Ordnance Survey map or to amend an adopted policies map?</p> <p>If yes, have you prepared a submission policies map?</p>	Regulations 5(1) (b), 9 (1), 17 & 22(1)			<ul style="list-style-type: none"> <li>i. Submission policies map</li> <li>ii. Brief statement if a submission policies map is not required</li> </ul>	Yes
10. Is the DPD consistent with any other adopted DPDs for the area? If the DPD is intended to supersede any adopted development plan	<p>Regulation 8(3) and (4)</p> <p>Regulation 8(5)</p>		Development Plan is defined in Section 38 of the Act.	<ul style="list-style-type: none"> <li>i. The core strategy</li> <li>ii. Documents or reports demonstrating conformity</li> </ul>	See Schedule of saved policies



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
<p>policies, does it state that fact and identify the superseded policies?</p>					
<p>11. Have you prepared a statement setting out:</p> <ul style="list-style-type: none"> <li>• Which bodies and persons were invited to make representations under Regulation 18?</li> <li>• How they were invited?</li> <li>• A summary of the main issues raised?</li> <li>• How the representations have been taken into account?</li> </ul>	<p>The Act section 20 (3)</p> <p>Regulation 22(1)(c)</p>		<p>This will bring forward material from the Consultation statement (see Stage 2 above).</p>	<p>i. Consultation statement</p> <p>ii. The Statement as required in Regulation 22(1)(c)</p>	<p>Consultation Statement Aug. 2016 and Dec 2016 update</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
<p>12. Have you prepared a statement giving:</p> <ul style="list-style-type: none"> <li>• the number of representations made under Regulation 22?</li> <li>• a summary of the main issues raised?</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• that no representations were made?</li> </ul>	<p>The Act section 20(3)</p> <p>Regulation 22(1)(c)</p>			<p>The Statement as required in Regulation 22(1)(c)</p>	<p>As above</p>
<p>13. Have you collected together all the representations made under Regulation 28?</p>	<p>The Act section 20(3)</p> <p>Regulation 22(1)(e)</p>			<p>Copies of the representations</p>	<p>Yes.</p>
<p>14. Have you assembled the relevant supporting documents?</p>	<p>The Act section 20(3)</p> <p>Regulation 22(1)(g)</p>			<p>All necessary evidence and records of decisions relevant to the DPD</p>	<p>Yes.</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
15. Has your council approved the DPD for submission?			Check the LPA's constitution/standing orders for the authorisation process appropriate for the type of DPD.	Report and resolution of the appropriate council body	Council resolution on 29 <sup>th</sup> Nov 2016
16. Have you sent the Secretary of State (the Planning Inspectorate) both a paper copy and an email of the following: <ul style="list-style-type: none"> <li>• the DPD?</li> <li>• the submission policies map (unless there are no site allocation policies)?</li> <li>• the documents prescribed in Regulation 22(1)?</li> </ul>	The Act section 20(1) and 20(3)  Regulations 22(1) and 22(2)		Regulation 35 deals with the availability of documents and the time of their removal.  Electronic copies of some of the representations and supporting documents may not be practicable.  Regulation 35 deals with the availability of documents and the time of their removal.	i. Record of sending  ii. Reasons why documents cannot be sent electronically	Yes
17. Have you made the following	Regulation 22(3)		You should do this as soon as reasonably	Record of where and when made available	To follow submission



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
<p>available at the same places where the proposed submission documents were to be seen:</p> <ul style="list-style-type: none"> <li>• The DPD?</li> <li>• The documents prescribed in Regulation 22(1)?</li> </ul>			<p>practicable after submission.</p>		
<p>18. On your website, have you published the:</p> <ul style="list-style-type: none"> <li>• DPD?</li> <li>• submission policies map?</li> <li>• sustainability appraisal report?</li> <li>• Regulation 22(1)(c) statement?</li> <li>• supporting documents</li> </ul>	<p>Regulation 22(3) and 35(1)(b)</p>		<p>You should do this as soon as reasonably practicable after submission.</p>	<p>Record of publication</p>	<p>To follow submission</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
<p>(where practicable) ?</p> <ul style="list-style-type: none"> <li>• representations made under Regulation 20 (where practicable) ?</li> <li>• statement as to where and when the DPD and the documents are available?</li> </ul>					
<p>19. For each general consultation body invited to make representations under Regulation 18(1), have you sent:</p> <ul style="list-style-type: none"> <li>• notification that the documents prescribed in Regulation 22(3)(a)(i)-(iii) are available for</li> </ul>	<p>Regulation 22(3)(b)</p>		<p>You should do this as soon as reasonably practicable after submitting to the Secretary of State.</p>	<ul style="list-style-type: none"> <li>i. Copies of correspondence</li> <li>ii. Record of sending</li> </ul>	<p>To follow submission</p>



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
inspection <ul style="list-style-type: none"> <li>• where and when they can be inspected?</li> </ul>					
20. Have you given notice to persons who have requested to be notified that submission has taken place?	Regulation 22(3)(c)		You should do this as soon as reasonably practicable after submitting to the Secretary of State.	i. Copies of correspondence ii. Record of sending	To follow submission
21. If an examination is being held, at least six weeks before its opening has the Programme Officer: <ul style="list-style-type: none"> <li>• published the time and place of the examination and the name of the person appointed to carry out the examination on</li> </ul>	The Act section 20  Regulations 24 and 35			i. Record of publication of information ii. Record of sending iii. Copies of correspondence iv. Copy of advertisement	Relates to the Examination



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Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence	
<p>your website?</p> <ul style="list-style-type: none"><li>notified those who have made representations on the published DPD which have not been withdrawn of these details?</li></ul>					