Guidance Notes

Guidance on legal compliance, soundness and the Duty to cooperate.

Local Plans set planning policies in local authority areas and form the starting point when deciding planning applications. Independent planning inspectors must examine the ‘soundness’ of plans through an Examination, which can include public meetings called ‘hearings’.

The process of producing a Local Plan should fully involve everyone who has an interest in the document and at the end of the process they should have had the chance to comment and, where appropriate, appear at any relevant hearing sessions of the Examination to present their case.

In summary the Inspectors will be considering three questions:-

1. Is the plan legally compliant?

During an Examination the Inspector will first check that the Plan meets the legal requirements of the relevant Planning Acts and Regulations. A plan is considered legal when it complies with the legal requirements under section 20(5) (a) of the Planning and Compulsory Purchase Act 2004 (as amended). Relevant to this issue (but not exhaustively) is whether the Plan in question:

- Has had regard to national policy and guidance issued by the Secretary of State
- has been prepared in-line with our Local Development Scheme. The LDS is effectively a programme of work prepared by the Council, setting out the documents to be produced. It sets out the key stages in the production of any documents the Council propose to bring forward for independent examination.
- complies with the Town and County Planning (Local Planning) (England) Regulations 2012. On submission of the Local Plan, the Council must publish the documents prescribed in the regulations, and make them available at their principal offices and on their website.
- Whether the appropriate notifications have been made.
- Whether a Sustainability Appraisal assessing social, environmental and economic factors has been done and made public. The Sustainability Appraisal is a tool for appraising the plan to ensure it reflects social, environmental, and economic factors.
- Whether the plan meets the requirements of the Habitats Directive and the Conservation of Habitats and Species Regulations 2010 (as amended).

2. Is the plan sound?

To meet the Test of Soundness, the independent Planning Inspector is required to consider if our Local Plan has been positively prepared, is justified and effective and is consistent with national policy.

The following points are relevant when considering legal compliance, as set out in paragraph 182 of the National Planning Policy Framework. To be sound, a plan should be:
**Positively prepared** – 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

**Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence

**Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities and

**Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

### 3. Has the plan complied with the Duty to co-operate?

A legal duty has been placed on local planning authorities, county councils in England and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.

Section 20(5) (c) of the Planning and Compulsory Purchase Act 2004 (as amended) and paragraphs 178-181 of the National Planning Policy Framework create a duty on all local planning authorities and other bodies to cooperate with each other to address strategic issues in the preparation of the Local Plan. The National Planning Practice Guidance sets out further information on the Duty to cooperate.