



## 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**



**Please note that the PAS checklist includes earlier stages in the plan process. This report deals only with the publication and submission stages.**

**The Council's response to each of the items set out in the table is included as blue text.**

#### **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	Evidence
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		<a href="#">The Sustainability Appraisal (PSD03 and PSD04)</a> has been published on the website, and forms part of the Submission Documents.
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).	<a href="#">The consultation period</a> extended from 13 <sup>th</sup> August to 5 <sup>th</sup> October, a period of 8 weeks. This was made clear in the Proposed Submission plan, the statement of representation procedure notice, on the website, in press releases, on the representation forms and sent to contacts on the consultation database.
3. Have you made copies of	Regulation 19(a)		Regulation 17 gives	

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
<p>the following available for inspection:</p> <ul style="list-style-type: none"> <li>the proposed submission documents?</li> <li>the statement of the representations procedure?</li> </ul>			<p>definitions.</p>	<p>All submission documents are available on the Council's website. The main documents will also be available at the Council offices and all libraries in the District.</p>
<p>4. Have you published on your website:</p> <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>	<p>Regulations 19 and 35</p>		<p>Regulations 2 and 17 give definitions.</p>	<p>The proposed submission documents and the statements of representation procedure (PSD14) (which included details of where and when documents can be inspected) were available on the examination pages of the website.</p>
<p>5. Have you sent to 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</li> </ul>	<p>Regulation 19(b)</p>		<p>Regulations 2 and 17 give definitions.</p>	<p>The Specific Consultation bodies were notified of the Regulation 18 consultation via email. This included a link to the relevant page of the website in order that</p>

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
<p>documents</p> <ul style="list-style-type: none"> <li>The statement of the representations procedure?</li> </ul>				<p>they could view the documents including the statement of representations procedure.</p> <p>This is all set out in the Regulation 22 Statement</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 the documents can be inspected?</li> </ul>	Regulation 19(b)		Regulations 2 and 17 give definitions.	<p>The general consultation bodies were notified of the Regulation 18 consultation by email or letter which provided details of where hard and electronic copies of the documents, including the statement of representations procedure, could be inspected.</p>
<p>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?</p>	<p>The Act section 24</p> <p>Regulation 21</p>		<p>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).</p>	<p>Not applicable</p>



## 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	Evidence
1. Has the DPD been prepared in accordance with the LDS? Does the DPD's listing and description in the LDS match the document?	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	<a href="#">The LDS describes the purpose of the part 2 plan on page 12. The plan which has been produced accords with</a>



planning advisory service

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
Have the timescales set out in the LDS been met?			Regulations.	<p><a href="#">this</a>.</p> <p>The LDS noted that consultation on Issues and Options had taken place in January and February 2016.</p> <p>The LDS stated that plan would progress through its various stages as follows: <a href="#">Proposed Submission</a> version from November 2017 to January 2018.</p> <p>The consultation was undertaken from 27<sup>th</sup> November 2017 to 26<sup>th</sup> January 2018 and therefore complied with this expectation.</p> <p><a href="#">Regulation 19</a> from August 2018 to October 2018.</p> <p>The consultation was undertaken from 13<sup>th</sup> August to 5<sup>th</sup> October 2018 and therefore complied with this expectation.</p>



Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				<p><a href="#">Examination</a> would commence in December 2018.</p> <p>With the submission of the documents in December this was also complied with.</p>
<p>2. Has the DPD had regard to any sustainable community strategy for its area (like a county and district)?</p>	<p>The Act section 19(2)</p>	<p>NPPF para 182</p>		<p>The Council has a Community Strategy which has a number of priorities which have been taken into account in the production of this plan.</p>
<p>3. Is the DPD in compliance with the SCI (where one exists)? Has the council carried out consultation as described in the SCI?</p>	<p>The Act section 19(3)</p> <p>Regulation 22(1)(c)</p>		<p>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).</p>	<p>The SCI was refreshed in May 2017 order to ensure it was fit for purpose for the Part 2 plan. All engagement activity and consultation has been in accordance with that SCI as set out in Statement of Consultation (PSD08)</p>
<p>4. Have you identified and addressed any issues</p>	<p>The Act section 33A(1) and section</p>	<p>NPPF paras 181 and 182</p>	<p>Under NPPF para 182, the plan should be based on</p>	<p>The Council is producing a</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>which are likely to have a 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>	20(5)		effective joint working on cross-boundary strategic priorities to be found 'Effective'.	Statement of Common Ground with neighbouring authorities where cross-boundary issues have been identified. This is explained further in the Statement of Compliance with the Duty to Co-operate (PSD10).
<p>5. Has the DPD been subject to sustainability appraisal? Has the council provided a final report of the findings of the appraisal?</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>		A Sustainability Appraisal (PSD03/04) has been undertaken alongside the preparation of the plan and consulted on at each stage of the plan with an addendum produced at the proposed submission stage to address issues raised.



planning advisory service

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>6. Is the DPD to be submitted consistent with national policy?</p>	<p>The Act section 19(2) and Schedule 8</p>	<p>NPPF para 151</p>		<p>The Council is satisfied that the plan is consistent with the 2012 version of the NPPF.</p> <p>A number of representations have been received suggesting this is not the case. However the Council's response to those suggestions are set out in the submission documents (PSD11).</p>
<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 requested an opinion from the Mayor of</p>	<p>The Act section 24(1)(a) and 24(4)</p> <p>Regulation 21</p>	<p>NPPF para 218 footnote 41</p>	<p>In London the requirement is for general conformity with the spatial development strategy (The London Plan).</p>	<p>Not applicable as there isn't a Regional Strategy for the area.</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
London on the general conformity of the plan with the spatial development strategy?				
<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>Does the DPD contain a list of superseded saved policies?</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>All of the Submission documents have been added to the Council's website on the Examination pages and the Notice of Submission (PSD15) published sent to everyone on the Councils consultation database. The main documents are available in hard copy at the Council offices and libraries in the District.</p> <p>All of the remaining saved policies from the 1997 local plan will be replaced by this plan. A schedule setting out which policies are replaced by which new policies is included at appendix E of the plan.</p>
9. Are there any policies	Regulations 5(1)			

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>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>	(b), 9 (1), 17 & 22(1)			The plan is accompanied by a policies map.
<p>10. Is the DPD consistent with any other adopted DPDs for the area? If the DPD is intended to supersede any adopted development plan policies, does it state that fact and identify the superseded policies?</p>	<p>Regulation 8(3) and (4)</p> <p>Regulation 8(5)</p>		Development Plan is defined in Section 38 of the Act.	<p>The Part 2 plan is considered to be consistent with the Core Strategy.</p> <p>It is intended that one policy from the Core Strategy will be superseded (see appendix E of the plan).</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</li> </ul>	<p>The Act section 20 (3)</p> <p>Regulation 22(1)(c)</p>		This will bring forward material from the Consultation statement (see Stage 2 above).	A Statement of Consultation has been published (PSD08).

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>issues raised?</p> <ul style="list-style-type: none"> <li>• How the representations have been taken into account?</li> </ul>				
<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>The number of representations and main issues are set out in the Statement of Consultation (PSD08).</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>All of the representations made have been included with the Submission documents and are published on the Councils website. They are also summarised in the summary of representations to proposed submission plan and Council response (PSD11) and a summary of the key issues is</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				set out in the Statement of Consultation (PSD08)
14. Have you assembled the relevant supporting documents?	The Act section 20(3)  Regulation 22(1)(g)			All relevant documents have been submitted and are also available on <a href="#">website</a>
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.	Council resolved that the plan could be submitted at its meeting on 6 <sup>th</sup> December 2018.
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.	The documents have all been sent electronically. Paper copies can be provided on request.



planning advisory service

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>17. Have you made the following 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>Regulation 22(3)</p>		<p>You should do this as soon as reasonably practicable after submission.</p>	<p>The local plan and maps have been deposited at the Council offices and in all libraries across the district.</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 (where practicable) ?</li> <li>• representations made under Regulation 20 (where practicable) ?</li> <li>• statement as to where</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>All of the documents referred to in the left hand column are on the website.</p>



Activity	Legal requirement	Guidance reference	Additional notes	Evidence
and when the DPD and the documents are available?				
<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 inspection</li> <li>where and when they can be inspected?</li> </ul>	Regulation 22(3)(b)		You should do this as soon as reasonably practicable after submitting to the Secretary of State.	The notice of submission was sent to each general consultation body which also sets out details of where and when the documents can be inspected.
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.	Following submission, the notice of submission was sent to each person requested to be notified: this also sets out details of where and when the documents can be inspected.
21. If an examination is being held, at least six weeks before its opening has the Programme Officer:	The Act section 20 Regulations 24			<p>i. Record of publication of information</p> <p>Not yet applicable</p>



planning advisory service

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<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 your website?</li><li>notified those who have made representations on the published DPD which have not been withdrawn of these details?</li></ul>	and 35			ii. Record of sending <b>Not yet applicable</b> iii. Copies of correspondence <b>Not yet applicable</b> iv. Copy of advertisement <b>Not yet applicable</b>