

A Brief Guide to Examining Development Plan Documents

Development plan documents set planning policies in local authority areas. They are very important when deciding planning applications. Independent planning inspectors must look at all development plan documents that local authorities in England prepare. The examination is the last stage of the process for producing a development plan document. The process should have fully involved everyone who has an interest in the document and they should have had the chance to comment.

How do I get involved in the examination?

The authority will publish its development plan document for a minimum period of 6 weeks. It will put the document on its website and make it available at its office and other suitable venues, such as public libraries. The authority will also give notice that it has published the document by placing an advert in the local newspaper.

The authority will put a form on its website for you to make your comments (known as representations) on the development plan document. Or, you may ask the authority for a paper copy of the form to fill in. Their contact details will be on their website and in the newspaper advert. The authority will also provide a guidance note to help you fill it in and tell you where and when to send the filled-in form.

To make sure your representation is considered when the document is submitted for examination, you must make the representation during the consultation period which the authority will set. You should also let the authority know if you want to speak to make your case in person at the hearing sessions.

What form will the examination take?

In most cases, the inspector will hold a pre hearing meeting before the hearing sessions to discuss how he or she will manage the examination. The meeting will identify the main areas to be examined and a timetable will be produced for the hearing sessions. Everyone involved in the examination will be invited to attend the meeting.

The hearing sessions will usually involve concentrated discussions on a range of issues in a fairly relaxed atmosphere. Occasionally, where there are strongly opposed views on matters within the development plan document, the evidence may need to be tested more formally, with the relevant people putting their case forward with the help of legal representation.

The inspector will combine this approach with carrying out the examination through a process known as written representations. This is a procedure which allows the inspector to carry out the examination through written communications with the people who have an interest in the development plan document. If no-one uses their right to speak at the examination, the inspector may choose to carry out the whole examination using written representations.

How will the inspector make the assessment?

In carrying out the examination, the inspector will check that the authority has prepared the development plan document in compliance with the legal requirements and consider whether it is sound. There is no legal definition of 'sound' but in this context, to be sound, a development plan document should be positively prepared, justified, effective and consistent with National Policy. There is a short summary of the key legal requirements and soundness considerations in the text box over the page.

In assessing the document, the inspector will need to use his or her professional judgement based on the evidence available. The inspector will need to consider the whole development plan document and all of the representations made. If the inspector is not satisfied that he or she has enough information from the local authority to determine whether the development plan document is sound, he or she may ask the authority to carry out more work before the examination can be completed. The inspector may also want more details of the matters raised in the examination, and will set a timetable for receiving that information, before making his or her report.

The length of the examination will vary according to how complicated the document is and what representations have been made. The hearings sessions will usually take no more than 8 days. The overall examination process will be around 6 months for most development plan documents.

What happens after the inspector has made the assessment?

After the examination, the inspector will produce a report for the local planning authority with his or her recommendations. The authority must publish the inspector's recommendations and tell those people who asked to be informed of its publication. The report should also be available for inspection at the authority's offices, any other suitable venues and on its website.

Since the examination of a plan is not an inquiry into objections, reports will not summarise the cases of individual parties, will avoid as far as possible any direct reference to specific representations and should not describe discussions at the hearing sessions. The report will explain why the Inspector, based on a consideration of all the evidence and his/her professional expertise and judgement, has reached a particular view on legal compliance, including the duty to cooperate and soundness.

If the inspector considers that the plan may require major modifications to make it sound/legally compliant, she must be satisfied that the requirements for public consultation and sustainability appraisal have been met with regard to the modifications.

The Inspector will start from the premise that the report should be as short as possible while ensuring it is adequately reasoned to explain and justify the conclusions. The Inspector has no power to recommend improvements to the Plan. In many instances representations are made about matters that do not undermine the soundness of the Plan. The Inspector will not make recommendations about these matters even if he/she feels that the representation is well-founded. The Plan is the LPA's document and the Inspector will only make recommendations on major modifications that are necessary to make the Plan sound and legally compliant. Inspectors are required to ask themselves whether the plan would be unsound/legally non-compliant without the modifications. Minor changes, known as additional modifications, can be made by the LPA on adoption without the need to be examined.

In order to comply with legislation the inspector will check that the plan:

- has been prepared in accordance with the Local Development Scheme and in compliance with the Statement of Community Involvement
- has been subject to sustainability appraisal
- meets the procedural requirements involving publicity and availability of the development plan document and related documents.

The inspector will consider the soundness of the document in the context of whether it is:

1. 'Positively prepared' – this means the plan should be:
 - prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements
2. 'Justified' - this means that the document must be:
 - founded on a robust and credible evidence base
 - the most appropriate strategy when considered against the reasonable alternatives
3. 'Effective' – this means that the document must be:
 - deliverable over the plan period and based of effective joint working on cross-boundary strategic priorities
 - flexible
 - able to be monitored
4. Consistent with National Policy
 - the NPPF and other subsequent policy

Frequently Asked Questions

1 Can representations on a development plan document be made confidentially?

The local planning authority cannot treat the representations it receives as confidential. This is to make sure that you have a chance to identify other people who may have made a representation similar to yours.

2 What is the nature of the legal right to be heard?

You only have the right to be heard if you are seeking a change to the document. If your representation is in support of the development plan document, you cannot speak to the inspector unless invited. If you want to use this right, you should consider how going to a hearing session, rather than setting out your case in writing, will help the inspector decide whether the document is sound. Written representations are treated with equal importance to appearances at the hearing sessions.

3 Do representations opposing a development plan document have to be related to legal compliance or soundness?

No, but it will help the inspector in the examination process if your representation seeking a change to the document focuses on legal compliance or soundness. Ideally, your representations should aim to show why the document is not legally compliant or unsound and what changes you think are needed to make it compliant or sound.

4 Will the inspector help me to make my representation at the hearing session?

Inspectors will make sure that people who are not familiar with an oral hearing are properly guided through the process. However, the inspector must be fair to other people who might not share your views and can only offer limited help.

5 Who will pay my costs if I go to the examination?

Everyone who attends a hearing session will be responsible for meeting their own costs.

6 Will I be able to identify specifically how my representation has been dealt with in the inspector's report?

The report will not summarise any representations considered during the examination. It will focus on whether the development plan document is legally compliant and sound overall, which the inspector's conclusions will cover.

7 What if I want to challenge the adopted development plan document?

Any person may challenge an adopted development plan document if they do not think that it meets the conditions of the relevant legislation. Applications must be made to the high court within six weeks of the date of the authority advertising that the development plan document has been adopted.

You should get legal advice before starting this process.

Further Information

The policy framework for development plan documents is set out in:

- *National Planning Policy Framework* (NPPF) 2012, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
- *National Planning Practice Guidance* 2014, available at [http://planningguidance.planningportal.gov.uk/blog/guidance/Planning Policy](http://planningguidance.planningportal.gov.uk/blog/guidance/Planning%20Policy)

A comprehensive guide, *Examining Local Plans Procedural Practice*, 2013, is available at:

- http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf