



The Planning Inspectorate

LOCAL DEVELOPMENT FRAMEWORKS

Examining Development Plan Documents:
Learning from Experience

September 2009



Contents

• Ministerial Foreword	Page 3
• Introduction	Page 4
• Procedural and Administrative Matters	Page 4
• Content	Page 5
• Critical Issues	Page 5
• Planning for Uncertainty	Page 6
• Housing Land Supply Including the Use of Windfalls	Page 6
• Delivery	Page 7
- Land identification	Page 7
- Infrastructure planning	Page 7
- Cross boundary dependencies	Page 9
• Strategic Sites	Page 9
• Evidence	Page 9
• Options and an Audit Trail	Page 10
• Green Belts	Page 11
• Waste Plans	Page 11
• Proposals Maps	Page 12
• Development Management Policies	Page 13
• The Examination and Report	Page 14
- Late changes	Page 14
- Assumption of soundness	Page 14
- The report	Page 14
• Conclusions	Page 14

Ministerial Foreword

Local Development Frameworks are central to the delivery of sustainable communities. The Government expects progress to pick up accordingly and for local authorities to be confident in taking the strategic decisions for their area without unnecessary delays. As local authorities continue to make progress with LDFs, learning from their own and others' experience who have sound plans in place is very worthwhile. The key messages of a sensible pragmatic approach to gathering evidence and succinct plan policies and proposals relevant to the specific characteristics of the local community clearly come through in this document. They should be taken on board by those preparing and submitting development plans to the Secretary of State.

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Parliamentary Under Secretary of State
Communities and Local Government

Introduction

1. In June 2007 we produced our first Lessons Learnt document. This Learning from Experience – 2009 document seeks to update the 2007 material in the light of the experience we have gained from examining approaching 100 Development Plan Documents (DPDs) submitted between June 2007 and August 2009, discussions with a wide variety of interested parties and over 90 visits we have carried out to local authorities as part of an Early Engagement project. The document does not aim to be comprehensive or concentrate on procedural matters – which are covered in the Inspectorate’s Examining Development Plan Documents: Procedure Guidance (August 2009 2nd Edition)¹ and the CLG Manual² hosted by the Planning Advisory Service (PAS) – it concentrates on matters that commonly arise and which seem to us to be of general interest.

Procedural and Administrative Matters

2. The Procedure Guidance issued by the Inspectorate has been well received and evidently provides adequate guidance as few procedural problems have been encountered.

Authorities are required to supply a statement of the issues raised in the representations; but there is no need to summarise all the representations unless the Inspector requests this.

3. Under Regulation 30(1)(e) of The Town and Country Planning (Local Development)(England) Regulations 2004 (as amended)³ authorities are required to supply a statement of the issues raised in the representations. Most authorities have done

this in a succinct way but a few have produced very extensive statements that go into far more detail than is necessary. This approach is likely to have unnecessarily extended the time between publication and submission. The important point is that the critical issues are identified and briefly articulated. There is no need to summarise the representations (unless the Inspector requests this), which will always be supplied to the Inspector.

Authorities must be diligent about keeping the Government Offices fully informed of changes to their programmes on a regular and timely basis.

4. Local Development Schemes (LDSs) have not to date proved to be useful to the Inspectorate for planning the use of our resources. LDSs were seen in the 2004 reform of the development plan system as a key project planning tool. The fact that they have proved to be unreliable is a problem not only for the Inspectorate and the Government but also for authorities’ own stakeholders and communities who are entitled to regard the LDS as an accurate record of what and when DPDs are to be produced. It follows that the database kept by Communities and Local Government (CLG), which is based on the LDS dates and updated by the Government Offices, has not proved to be adequate for our inspector resource planning purposes. It would help considerably if local authorities were diligent about keeping the Government Offices fully informed of changes in their programmes on a regular and timely basis. There is in addition the clear expectation that local authorities provide “real time” information on their web sites in relation to the progress of core strategies⁴.

Footnotes

¹ View the Planning Inspectorate’s Procedure Guidance:
http://www.planning-inspectorate.gov.uk/pins/appeals/local_dev/dpd_procedure_guide_aug09.pdf
Also note the Planning Inspectorate’s Examining Development Plan Documents: Soundness Guidance (August 2009 2nd Edition):
http://www.planning-inspectorate.gov.uk/pins/appeals/local_dev/ldf_testing_soundnessaug09.pdf

² View the CLG Plan Making Manual:
<http://www.pas.gov.uk/pas/core/page.do?pageId=109798>

³ View the 2004 Regulations:
http://www.opsi.gov.uk/si/si2004/uksi_20042204_en.pdf
View the amending 2008 Regulations:
http://www.opsi.gov.uk/si/si2008/pdf/uksi_20081371_en.pdf
View the amending 2009 Regulations:
http://www.opsi.gov.uk/si/si2009/pdf/uksi_20090401_en.pdf

⁴ See Planning Policy Statement 12: Local Spatial Planning (PPS12) paragraph 4.54:
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/pps12lsp.pdf>

5. Every DPD must include a list of the existing saved policies that will be superseded by policies in the DPD when adopted⁵. Some local authorities are not always clear which policies are to be replaced and this could lead to an overlap or contradictions between policies.

Content

Authorities should be clear about what each DPD is intended to deliver. All DPDs should be concise and focussed and convey the essential messages in a clear and engaging way. All DPDs should be subject to rigorous, purposeful editing and proof reading.

6. A council's suite of DPD documents has to make clear: what, how much, where, when and how development will be delivered⁶. Each DPD within the Local Development Framework (LDF) has a role to play and each document should be coherent, consistent and not repeat material set out in another DPD. It seems that on occasions authorities are not clear enough about what each DPD is intended to deliver. In particular the core strategy must make the tough decisions and not leave them for subsequent DPDs. (Note section on Critical Issues below.)

7. Many of the DPDs submitted are very descriptive and contain a great deal of repetition of some material, including, but not only, of the "how we got to where we are" variety. All DPDs should be subject to rigorous, purposeful editing and proof reading. The document should be concise and focussed and convey the essential messages in a clear and engaging way. Material commenting on the outcomes of previous consultation should form part of the evidence base not part of the submitted DPD. In many core strategies the essential strategy is obscured, or even lost, in a mass of unnecessary descriptive material much of which seems to have been included either for public relations purposes or at the request of third parties without critical assessment as to whether it is really necessary.

8. The core strategy should be a brief document conveying the main elements of the spatial vision and strategy. It should give a clear message about the ways in which the area will change by its end date providing a clear spatial expression of the

relevant aspects of the Sustainable Community Strategy (SCS). The plan should draw together policy strands at a district, town or neighbourhood level. Generic statements and vague aspirations that could apply anywhere will not lead to a deliverable and worthwhile plan.

Critical Issues

The core strategy should focus relentlessly on the critical issues that relate to the way the area is intended to develop and the strategies to address the critical issues identified. Leaving critical questions to be answered in subsequent DPDs or Supplementary Planning Documents (SPDs) is likely to lead to a finding of unsoundness.

9. The starting point for core strategies should be the identification of the critical issues that the council and its delivery partners are seeking to address. In identifying these critical issues regard should be had to the council's SCS and any Local Area Agreement (LAA). However some SCSs are very general with little indication of priorities or means of implementation and care needs to be taken to avoid the core strategy falling into the same trap. The core strategy should focus relentlessly on the critical issues and the strategies to address them. Too many core strategies resemble local plans or Unitary Development Plans (UDP) in that they seek to address a full range of topics irrespective of whether these topic areas contain critical issues that relate to the way the area is intended to develop. So, for example, there is little need for any detail on matters such as tourism if the area is not one where tourism is an important consideration.

10. Part of the difficulty is probably that the critical issues often raise difficult and possibly uncomfortable questions. However the whole point about a locally distinctive core strategy is that it seeks to address this sort of question as far as possible. In some instances there is a tendency to leave the critical questions to be answered in subsequent DPDs or SPDs. Such an approach is likely to lead to a finding of unsoundness as the core strategy is the place for these difficult issues to be addressed. Authorities should take note of the decision of Mr Justice Keith in the High Court case of *Associated British Ports v Hampshire County Council and others*⁷.

Footnotes

⁵ Regulation 13(5)

⁶ See PPS12 paragraph 4.1(3)

⁷ View the judgement:

<http://www.bailii.org/ew/cases/EWHC/Admin/2008/1540.html>

"The difficulty with the approach adopted in the Core Strategy is that it did not take account of the need for the Core Strategy itself to set out the strategy for ensuring that the anticipated demand for crushed rock would be met. Since that was the place for tough strategic decisions to be made, it was not right for the critical question- whether the existing facilities were sufficient to cope with the anticipated demand – to be left to a subsequent review of these facilities."

Planning for Uncertainty

A plan will not be found unsound just because uncertainty exists. The important things are that this is explicitly acknowledged, that the implications of the uncertainty are taken into account and the "what if" situations are considered.

11. Some planning authorities give the impression of wanting the "perfect" plan. This is not possible, particularly in the present difficult economic climate. A plan will not be found unsound just because uncertainty exists and is explicitly acknowledged in the DPD. The important things are for the implications of the uncertainty to be taken into account and the "what if" situation considered. Some authorities have addressed the situation by making reference to a range of possible outcomes. This is acceptable if it is not possible to be more precise. Spurious precision is not helpful and is potentially misleading. Where uncertainties exist that may affect the delivery of strategic development requirements, planned contingencies with appropriate monitoring and trigger mechanisms need to be included.

12. The degree of uncertainty may be reduced with time and this is a matter that should be expressly considered in the monitoring section⁸. Some authorities appear to see the monitoring section as merely a checklist without recognising the positive aspects of it as a means of adapting the plan as circumstances change or become clearer. Regrettably many plans contain monitoring sections that give the impression of having been drafted as an afterthought. Furthermore, surprisingly few plans make reference to related monitoring arrangements such as Core Output Indicators and National Indicators in LAAs.

13. Clearly a wide variety of factors can cause uncertainty. These may include a review of the regional strategy or national issues that are at

this stage unresolved such as policies relating to airport expansion, energy generation and transport that the plan making authority may feel they have relatively little influence over. Uncertainty of this nature should not be used as an excuse for not putting a core strategy in place. Where there is a realistic possibility that such a matter may be a relevant consideration the implications should be dealt with, at least as an option, even if the authority is opposed to such an option. There is little point in putting in place a strategy that ignores a matter that would (if it came about) have a major impact on the area.

DPDs, particularly core strategies, are intended to guide development over the long term. Exceptional economic conditions should not be used as an excuse for delay and plans should be based on what may be regarded as normal conditions.

14. The economic climate is also clearly a factor that can cause great uncertainty. However DPDs, particularly core strategies, are intended to guide development over the long term. Accordingly exceptional economic conditions should not be used as an excuse for delay and plans should be based on what may be regarded as normal conditions. If exceptional economic conditions persist the monitoring arrangements should identify the implications of this and point to what changes may need to be made to the plan. The LDF system is deliberately designed to allow effective review of all or parts of a DPD as circumstances dictate. This flexibility does not appear to always be appreciated.

Housing Land Supply Including the Use of Windfalls

Any consideration of a Strategic Housing Land Availability Assessment (SHLAA)⁹ at a DPD examination will be aimed at establishing whether it is sufficiently robust to justify and support the delivery of the plan.

15. An authority should have identified the potential housing land supply in a SHLAA. This should be prepared in consultation with the development industry and should aim to identify as many of the potential housing sites in the area as possible. The DPD will then seek to decide which of these identified sites should be allocated for housing. The SHLAA thus forms part of the evidence base and is not examined in its own right. Any consideration

Footnotes

⁸ See PPS12 paragraph 4.47

⁹ View the Strategic Housing Land Availability Assessment Practice Guidance:
<http://www.communities.gov.uk/publications/planningandbuilding/landavailabilityassessment>

of a SHLAA at a DPD examination will be aimed at establishing whether it is sufficiently robust to justify and support the delivery of the plan.

16. A number of authorities have sought advice on how to proceed in the absence of a SHLAA. Where an authority does not have a SHLAA in place any available evidence of housing land supply should be updated as far as possible taking into account the basic principles underlying SHLAAs. The Inspector will not find a plan unsound because there is no SHLAA in place provided the housing supply evidence is up to date, convincing and in accordance with the guidance in Planning Policy Statement 3: Housing (PPS3)¹⁰.

A site identified in a SHLAA cannot be regarded as a windfall site even if it has not been chosen as one of the allocated sites.

17. Windfalls are sites that have not been identified in the plan preparation process and hence unexpectedly become available. They are unforeseen and unplanned-for sites. Hence a site identified in a SHLAA cannot be regarded as a windfall site even if it has not been chosen as one of the allocated sites.

18. In assessing whether or not an adequate supply of housing land exists some authorities have sought to start the process by reducing the required amount by an anticipated windfall allowance on the basis that this is the amount of housing land that has historically come forward from windfalls. This approach is not acceptable. The starting point has to be the allocation of deliverable land for housing. PPS3 paragraph 59 makes it very clear that windfalls cannot be included in the first 10 years of land supply unless the authority can provide robust evidence of genuine local circumstances that prevent specific sites being identified. The fact that land has in the past come forward from windfalls and is expected to continue to come forward, is not a justification for including windfalls.

19. Many authorities are clearly finding the need to identify land for the longer term (11 to 15 years ahead) very challenging. Even in years 11 to 15 if it is not possible to identify sites, PPS3 requires the identification of broad locations for future growth. In some instances local authorities are relying on an element of windfalls in the 11

plus years period. Inspectors have accepted this approach where the authorities have been able to convincingly show that it is the only practical approach in their circumstances. However the expectation is that as time elapses SHLAAs will be updated and social and economic change will lead to the emergence of potential new housing land.

Delivery

20. One of the key elements of the LDF system is the delivery of the vision of the council and its partners for the area. The effectiveness test in Planning Policy Statement 12: Local Spatial Planning (PPS12)¹¹ is essentially about delivery. Despite its critical importance this is an area where many plans are notably weak.

Land identification

21. In some instances the weakness derives from a failure to identify sufficient and/or appropriate land for development. Sometimes this appears to derive from a reluctance to accept that unpopular decisions about allocating land, possibly green field land, for development have to be made. Simply claiming that development needs will be met within the urban areas and that the position will be reviewed if necessary in the future is not likely to be acceptable unless there is evidence that the "urban areas only" approach is likely to be realistic. Where the scale of land needed for development is such that green field allocations are likely to be required the strategy should make this clear. In this example if the DPD is a core strategy it should either make strategic allocations or give adequate guidance for a subsequent site allocations DPD to readily identify the land needed without having to re-visit strategic considerations.

Infrastructure planning

The amount of detail that it is possible to supply with regard to infrastructure planning is likely to be less certain and comprehensive for the later stages of the plan period. Critical dependencies need to be identified; the council may consider breaking these infrastructure requirements down into essential and desirable categories. Inspectors will take a realistic view about what can be provided so long as the council has made reasonable attempts to engage with the infrastructure providers.

Footnotes

¹⁰ View PPS3:

<http://www.communities.gov.uk/publications/planningandbuilding/pps3housing>

¹¹ View PPS12:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/pps12lsp.pdf>

22. Many authorities are finding the infrastructure element of delivery very challenging. It has to be accepted that the amount of detail that it is possible to supply is likely to be less certain and comprehensive for the later stages of the plan period. Inspectors are not seeking an impossible level of detail far into the future. However for at least the first 5 years of the plan it should be clear what infrastructure is required, who is going to fund and provide it and how it is to relate to the rate of development. In a number of instances submitted plans did not make it clear whether key partners were signed up for such infrastructure provision. Before the plan can be found sound such a deficiency would need to be adequately addressed.

23. Critical dependencies need to be identified and it may be that the council needs to consider breaking down infrastructure requirements into essential and desirable categories. In a number of instances the infrastructure content of plans amounts to little more than a generalised and highly ambitious “wish list” with no indication of how viable the schemes are, how critical they are to the delivery of the plan or whether there is a reasonable prospect of implementation within any required timetable¹². Where an element of infrastructure is critical but it is uncertain whether it can be delivered, the plan should deal with the question of what the consequences are and what contingency arrangements may be possible – in other words the “what if” question.

24. Clearly many planning authorities are finding it difficult to effectively engage with some of the infrastructure providers. In some instances there appears to be very little that a planning authority can do about this – for example where an infrastructure provider refuses to supply information on the grounds of commercial confidentiality. In instances such as this, the Inspector will take a realistic view about what the council can provide so long as the council has made all reasonable attempts to engage with the infrastructure provider in question. Councils who face these sorts of difficulties should provide, in the evidence base, details of what steps they have taken and what assumptions have been made in response to the difficulties. In instances where an infrastructure provider is not co-operating with the plan making authority the Inspector may seek to have the provider attend the examination to explain its position.

25. One approach to infrastructure planning is set out in the PAS document, A steps approach to infrastructure planning and delivery¹³. This emphasises how important it is for plan preparation to be a corpo-rate activity and for the plan makers to actively engage with bodies and organisations such as the Local Strategic Partnership. Planning authorities are sometimes not as alert as they should be about bodies that can be of assistance. However whatever approach is adopted should be proportionate and realistic to the level of infrastructure that is needed to deliver a plan.

26. It is clear that on occasions there is a conflict between the level of detail expected by an infrastructure provider and the content of core strategies. This is another area where a balance has to be struck and the Inspector will seek to take a pragmatic view. Planning authorities and infrastructure providers should as a minimum come to the examination with a statement of common ground that includes consideration of the key infrastructure elements. Some plans contain proposals that depend on major infrastructure projects without any support from the infrastructure provider. These do sometimes appear to be included as a tactical means of adding weight to the case for the provision of the infrastructure. This tactic is not helpful as it suggests that the strategy may well not be deliverable and an authority using this tactic will be faced with challenging questions about how effective the strategy is.

27. The detail regarding planned infrastructure can be set out in supporting evidence such as an Infrastructure Delivery Programme which can be updated regularly. However it is essential that the key infrastructure elements on which delivery of the strategy is dependent are embedded in the core strategy itself. A useful question to ask is “how does this DPD advance the delivery of needed infrastructure?”. Some plans simply summarise existing infrastructure plans. Such an approach leads to difficulties at the examination because it fails to adequately relate infrastructure to the effectiveness of the DPD. PPS12 says that the infrastructure planning process should identify and have evidence for, amongst other matters, cost and funding sources. Therefore if the intention is that the development itself will fund the infrastructure, viability evidence will be needed to show that such an approach is realistic and capable of delivering the infrastructure at an appropriate time.

Footnotes

¹² Refer to PPS12 paragraph 4.10

¹³ View the PAS approach:

<http://www.pas.gov.uk/pas/aio/109121>

Cross boundary dependencies

28. There are a number of instances where an authority is relying on an adjoining authority to take some of its growth allocation – often some of its housing allocation. The basis for this inter-dependency usually lies in the Regional Spatial Strategy (RSS). If this is the case the overall validity of the approach will not be open to question at the core strategy stage as the respective core strategies have to conform in general terms to the RSS.

A conflict between authorities about cross boundary dependencies is likely to lead to a finding of unsoundness for all the strategies involved.

29. The ideal in this situation is for formal joint working arrangements to be put in place. Where a joint core strategy is not being done the respective documents need to be examined at broadly the same time as clearly the cross boundary issues need to be resolved in a complementary way. In instances such as this the Inspectorate will do all that it can to facilitate effective working by for example appointing the same Inspector to undertake the examinations consecutively or a team of Inspectors who will ensure that the respective strategies are co-ordinated. A conflict between authorities about the cross boundary dependencies is likely to lead to a finding of unsoundness for all the strategies involved.

Strategic Sites

The level of detail required for a strategic site will in practice depend on when the site is expected to come forward. The core strategy should make clear how the development will be advanced. Any strategic site allocations will need to be clearly defined including all the land needed to deliver that development.

30. A site is strategic if the delivery of the core strategy is dependent on it¹⁴. There is a tendency for some to interpret this as meaning a large housing, retail, employment or mixed use site. Clearly this will often be the case but not always. For example if a core strategy has as one of its main elements an improved public transport service, a strategic site could be for a new bus station or road/rail interchange facility. Hence there is a need to keep an open mind about what constitutes a strategic site. The implication of making a strategic site an allocation in a core strategy is that the development will not usually need to be

addressed in a subsequent DPD. The core strategy should make clear how the development will be advanced – for example through a master plan or SPD.

31. Many authorities have raised questions about the level of detail required should they wish to include strategic allocations in their core strategies in accordance with the encouragement given in PPS12. Obviously the inclusion of strategic allocations in core strategies will add to the range and detail of work needed to justify the core strategy. As with infrastructure the level of detail will in practice depend on when the site is expected to come forward. For a site anticipated in the early years of the plan there is an expectation that the detailed delivery matters such as availability and infrastructure requirements will have been resolved. Matters that impact on the rest of the plan area (such as the scale and nature of development) will also need to have been resolved. On the other hand those that only impact on the site itself, such as the internal road layout for example, do not need to be detailed.

32. Any strategic sites that are allocated will need to be clearly defined including all the land needed to deliver that development. Therefore a core strategy that contains a strategic site or sites will, in addition to the key diagram, have to show how the proposals map will be updated if the DPD is adopted. (See Proposals Maps below.)

Evidence

Evidence should be proportionate and should inform what is in the plan rather than being collected retrospectively in an attempt to justify the plan. The Inspector will only delve deeply if the plan cannot be justified because the evidence seems to be absent, flawed or out-dated.

33. A recurring query is the level of detail required in the evidence base. A high proportion of plans are submitted with large amounts of evidence that does not appear to inform the content of the plan. Presumably this is because authorities are fearful that plans will be found unsound on the basis of inadequate justification. This is entirely understandable but groundless. The guiding principles are that the evidence should be proportionate and it should inform what is in the plan rather than being collected retrospectively in an attempt to justify the plan. The examining Inspector will only delve deeply if the plan cannot be justified because the evidence seems to be absent, flawed or out-dated.

Footnotes

¹⁴ For more information see PPS12 paragraph 4.6

The evidence required will depend on what issues the DPD seeks to address and on local circumstances. Conflicts in the evidence base must be clearly explained.

34. We are frequently asked for a list of what evidence is required. It is not possible or sensible to supply a list as the evidence must depend on what issues the DPD seeks to address and on local circumstances. Where a plan involves, for example, an area which is prone to flooding the expectation is that the flooding evidence will be far more extensive than for an area where there is little risk of flooding. The most helpful approach is for the evidence base to be clearly signposted throughout the DPD text by, for example, the use of footnotes. On occasions some of the recommendations of a study forming part of the evidence base are not accepted by a council. In such cases care needs to be taken to ensure that an explanation is provided of why the recommendation was rejected. Also conflicts within the evidence base must be explained. Where lengthy explanations are needed it is best if a separate supporting document, cross referenced to the DPD, is used.

35. Our experience is that affordable housing is an area where large amounts of evidence of need is provided but often there is very little, if any, evidence about how deliverable the affordable housing targets are. Possibly this is because many authorities have extensive experience of housing needs surveys but little experience of viability testing. Frequently much of the detail in the needs surveys is not used to inform the content of the plan. The only element that is used is the relatively straightforward and easily obtained conclusion that there is a need for a large amount of affordable housing in the area. Costly detailed information that goes beyond simply demonstrating housing need may be required for some other purpose but if it is not used for formulating the strategy or policy in the plan there is no need for it as part of the evidence base. On the other hand, as the Blyth Valley judgement¹⁵ shows, there is a crucial need for viability evidence.

36. The important point is that authorities should have a very clear idea about what they need evidence for, how they are going to use it and how much detail they need to go into. Some parties appear to believe that the evidence base is tested in its own right. This is not the case. The

evidence base will be subject to scrutiny only to the extent of how adequate it is to justify what is in the plan.

37. In a typical core strategy the background spatial and planning context should be in the evidence base. The reasonable major alternatives should be dealt with in the Sustainability Appraisal (SA). Evidence of the engagement process with the local community and the main issues raised should be in the Regulation 30 documents, not in the DPD¹⁶. A Strategic Housing Market Assessment and SHLAA are important for showing how the plan will enable the right amount of housing, at the right time, in the right place to be delivered. The need for and amount of detail in any other studies needs to be judged on the basis of issues that the plan seeks to address.

Options and an Audit Trail

If options are limited there is no point in trying to artificially create options. Options are more than simply the location of development.

38. In some instances it appears that options are identified for the sake of having options rather than because they are realistic. Authorities should clearly be open-minded and receptive to new ideas but it is not helpful to include options that cannot be delivered. If the options are limited there is no point in trying to artificially create options. This is a waste of resources and confusing. Where there are no or few options the reason for this should be clearly explained. In some instances this may be obvious - for example, a minerals plan may have few if any options given that minerals can only be worked where they exist. In other instances a detailed explanation of why there are limited options may need to be provided.

39. Some authorities appear to focus their thinking about options simply on the location of development forgetting that the notion of options includes matters such as density, the rate of development, delivery mechanisms etc.

Far more rigorous thought should be given at the outset to what sort of sustainability evidence is needed. Sustainability Appraisal is where the consideration and assessment of the main alternatives should be found.

Footnotes

¹⁵ View Blyth Valley Borough Council v Persimmon Homes (North East) Limited, Barratt Homes Limited & Millhouse Developments Limited:
<http://www.bailii.org/ew/cases/EWCA/Civ/2008/861.html>

¹⁶ See Regulation 30(1)(d) and 30(1)(e)

40. In examining some plans it has not been as clear as it might be how and why the final strategy has been selected from the options originally presented. The role of the SA¹⁷ in the choice is sometimes not clearly articulated despite the presentation of vast amounts of sustainability data. The SA is part of the evidence base and hence the basic principle is that the SA should inform the content of the plan¹⁸. Thus the SA is where the consideration and assessment of the main alternatives should be found. Many authorities have submitted SAs containing a mass of material that does not obviously contribute to the content of the plan. Our impression is that often far more rigorous thought needs to be given at the outset to what sort of sustainability evidence is needed.

41. In some instances a hybrid of the initial options is selected. This is not necessarily a problem but authorities need to be certain that the choice of a hybrid option does not undermine the frontloading process or the sustainability work that has been done. Where a hybrid strategy is selected Inspectors will need evidence that SA work has been updated and the approach has not led to confusion nor circumvented the sustainability appraisal process.

Green Belts

In the absence of a requirement in the RSS to review the Green Belt boundary, any change must be justified by exceptional circumstances. If this is essential in order to accommodate needed development, it is likely to be a strategic consideration for an authority and should be dealt with as a tough decision in a core strategy. Minor adjustments to remove boundary anomalies should be undertaken in a lower level DPD. Any changes proposed to a Green Belt boundary must be shown in map form.

42. There is evidently some concern about how a local authority deals with possible changes to the extent of the Green Belt. The basic principle about the permanence of the Green Belt is clearly well understood. In some instances the adopted RSS includes provision for a strategic review of the Green Belt and in others some local adjustments to the Green Belt are justified. There are examples of these local adjustments both adding to and taking away land from the Green Belt.

43. A judgement needs to be made about whether a change is strategic or local and this is a source of some concern for authorities given the confusion that a local adjustment could, indeed should, be undertaken in the council's strategic document - the core strategy. A local adjustment is one that is not based on a RSS policy - rather it is based on local needs and an assessment of how well the existing Green Belt boundary serves the purposes of national Green Belt policy.

44. In the absence of a requirement in the RSS to review the Green Belt boundary, authorities are, quite rightly, alert to the need for any change to be justified by exceptional circumstances. If this is essential in order to accommodate needed development it is likely to be a strategic consideration for the authority although it may not be strategic in the regional sense. Hence it should be dealt with as one of the tough decisions that need to be taken and justified in the council's core strategy.

45. Minor adjustments to remove boundary anomalies that may, for example, have arisen because of changed patterns of development should be undertaken in a lower level DPD if possible. This is to avoid introducing minor non-strategic matters into a core strategy.

46. Any changes proposed, large or small, need to be shown in map form (preferably inset maps) so that anyone wanting to make representations knows precisely where the proposed boundary is. This applies to any proposed boundary changes not just those relating to the Green Belt.

Waste Plans

A waste strategy should indicate what waste management developments and facilities are required; where they are to be located; when they are to be provided; and how they will be delivered. A number of the waste plans that have been withdrawn failed to give sufficient geographical direction for subsequent site allocation DPDs and to enable planning applications to be determined on a plan led basis. The criteria used to identify sites in an allocation DPD that follows on from a core strategy must be explicit.

Footnotes

¹⁷ Further reading on SA:

<http://www.communities.gov.uk/planningandbuilding/planning/sustainabilityenvironmental/sustainabilityappraisalsa/>

¹⁸ The integral role of the SA is explained in paragraphs 4.36 to 4.47, 4.51 and 4.52 of PPS12

47. A high proportion of the submitted waste plans have been withdrawn which indicates that there are problems in this area. Essentially, the waste strategy should indicate what waste management developments and facilities are required; where they are to be located; when they are to be provided; and how they will be delivered. One issue appears to be the extent to which waste plans should take account of procurement matters and the availability of sites already owned by the waste operators. PPS12 at paragraph 3.1 makes it clear that planning for waste should be treated in the same way as planning for any other type of development and CLG has consistently pointed out that waste disposal must be plan led. A number of the waste plans that have been withdrawn failed to give sufficient geographical direction for subsequent site allocation DPDs and to enable planning applications to be determined on a plan led basis.

48. Some authorities have had difficulty following submission because the essential baseline information has not been provided – what waste is currently generated by the various waste streams; how is it managed; and what factors are likely to influence the quantities and types of waste and facilities over the plan period. In some instances authorities have not heeded the guidance in Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10)¹⁹ that waste core strategies should both inform and in turn be informed by any relevant municipal waste management strategy. In many instances waste planning involves cross boundary issues. In such circumstances it is important to get a co-ordinated approach from the authorities involved.

49. The next steps of predicting demand from the various waste sources over the plan period and devising a strategy to meet the demand has also proved to be difficult. The uncertainties involved need to be acknowledged and dealt with by way of reasoned assumptions based on what is known. These assumptions can then be monitored and the plan adjusted if necessary. This plan, monitor and manage approach is often not evident. Rather than use this pragmatic approach some authorities appear unwilling to use assumptions or, where they do, to explain the extent of the assumptions used, preferring to produce generalised and vague plans. While this may avoid the need to

justify the assumptions on the basis of evidence specific to the area, it leads to bland documents that do not reflect the plan led approach. It also means that some of the core strategies have been so general that it has proved difficult to identify a clear strategy.

50. In some instances the criteria for site allocations that would be used to identify sites in an allocations DPD that follows on from a core strategy have not been explicit. This is a serious shortcoming as the intention is that the core strategy should provide the framework that would enable lower level DPDs to be produced and examined expeditiously. In the same vein there have been examples of very weak justifications for sites that have been allocated or areas of search. In relation to the latter some authorities have sought to have very extensive areas. As with the criteria, this approach does not provide adequate guidance for subsequent site allocation DPDs, nor does it help any private sector organisation seeking to develop a site through the planning application route. It is important to note that the European Union Waste Framework Directive requires waste plans to “include a geographical map specifying the exact location of waste disposal sites or facilities, or locational criteria which are sufficiently precise to enable the permitting authority to determine whether or not the site or facility falls within the management framework provided by the plan.”

51. Further guidance on waste plans is in preparation and will be placed on the CLG Plan Making Manual shortly²⁰.

Proposals Maps

The proposals map does not have DPD status in its own right because anything it conveys must be identified in a DPD or saved development plan. Generally Inspectors have found that the approach of using inset plans within submitted DPDs has not created any problems.

52. The proposals map is a cartographic representation of the geographic application of all policies with specific spatial extent set out in any DPD or saved development plan. The proposals map does not have DPD status in its own right because anything it conveys must be identified in a DPD or saved development plan policies.

Footnotes

¹⁹ View PPS10:

<http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/mineralsandwaste/wastemanagement/pps10/>

²⁰ View the Guidance on the waste content of core strategies:

<http://www.pas.gov.uk/pas/core/page.do?pageId=110004>

53. The implication of this is that Inspectors cannot make recommendations that require changes that refer only to the proposals map. Any recommendation has to relate to the relevant policy in the DPD. Hence if the Inspector considers that a feature on the proposals map is unacceptable and should be changed (for example a settlement boundary) the only way of dealing with it is to say that the relevant settlement boundary policy is unsound unless the boundary is changed in a way specified by the Inspector.

54. The submitted DPD must be accompanied by a map to show how the existing adopted proposals map (i.e. in most instances the adopted local plan or UDP proposals map) will be changed as a consequence of the adoption of a DPD where changes are proposed. It should be noted that changes will include anything that is being removed (for example a protective designation) and not only what is being added. There is no requirement for the submission proposals map to show existing policy areas that are unchanged. Many authorities are showing proposed changes through the use of inset plans within the submitted DPD. Generally Inspectors have found that this pragmatic approach does not create any problems. The detail of changes being suggested clearly needs to be available at the publication stage so that informed representations can be made.

55. An alternative but more expensive option is to produce a complete "submission version" proposals map. Our experience shows that this approach creates confusion between what is carried over and what is new. It can complicate core strategy examinations by side-tracking people from the main strategic issues. Hence this is not an approach which we recommend unless there are wholesale changes proposed to a majority of designations. Whichever route is followed the existing adopted proposals map must be revised when the DPD is adopted and this revised map then replaces the previous proposal map. This process is repeated as each DPD is adopted and hence there is only ever one adopted proposals map that records the spatial incidence of all extant development plan policies.

56. Authorities are finding the advice in PPS12 that proposals maps should show areas at risk of flooding hard to apply in practice. This is because flood risk areas can be subject to frequent change as for example mitigation measures or revised drainage arrangements are put in place. This problem is acknowledged by CLG and DPDs are unlikely to be found unsound on the basis that the

proposals map does not show areas of flooding unless the relationship between flooding and the location of development is a significant issue in a particular area. However the extent of any flooding issue should be referred to in the text of the DPD.

57. Where a suite of DPDs are programmed councils need to think clearly about the appropriate opportunity interested parties will have to make representations on the boundaries of policy designations. On some occasions changes have been made to designations on draft proposals maps without a clear policy reference in the DPD. Any proposed boundary changes must be referred to in the text of the DPD thus allowing representations to be made about the suggested change.

Development Management Policies

Development management policies should be aimed at promoting the strategy that the authority is seeking to implement and not result in numerous negative development control policies.

58. The idea that planning authorities should have a limited suite of development management policies has not usually been followed. Almost all authorities are persisting with a large number of "development control" policies. These tend to be negative "thou shalt not" type policies rather than positive policies aimed at promoting the strategy that the authority is seeking to implement. Clearly many local planning authorities do not feel comfortable about making decisions about planning applications without an extensive range of development control policies. The old approach also reinforces the reactive development control mindset rather than the positive development management approach suitable for a genuinely plan-led spatial planning system.

59. Despite the guidance in paragraph 4.30 of PPS12 many policies simply repeat national or regional planning policy guidance. While this does not make the document unsound it does make it far longer than it needs to be. The argument that having the relevant policies all in one document is convenient for the public is often negated by the production of a long, unfocussed and confusing document in which the essential issues and the strategies are lost in a mass of unnecessary material. It follows that the examination is likely to be more lengthy, which will have resource implications for the local planning authority and will add to the overall cost of the process.

60. In relation to climate change and sustainable construction policies a number of authorities are not taking adequate account of the advice in the supplement to PPS1²¹, particularly paragraphs 31-33. Any local requirements need to be justified on the basis of specific local evidence and viability considerations. These requirements are frequently not met.

The Examination and Report

Late changes

Extensive public participation should ensure that it is less likely that matters raised at publication stage have not been the subject of previous representations.

61. The publication of the draft DPD should be informed by earlier extensive public participation to ensure that what is published is what the council believes is sound. This makes it less likely that matters will be raised at this stage that have not been the subject of previous representations. However, revised pre-submission procedures give local authorities the opportunity to make necessary changes to the published version of the plan before it is submitted for examination²². There is currently limited experience of whether this revision has largely eliminated the problem of authorities wishing to make changes to the submitted plan.

The evidence base should be comprehensive and complete on publication.

62. A problem that sometimes still arises is a request for the hearing part of the examination to be delayed while additional evidence is gathered. This arises when authorities fail to heed the advice that the evidence base should be comprehensive and complete on publication. The Inspector attempts to be as helpful as possible when these requests arise but a delay of more than about 6 months is unlikely to be acceptable as it suggests that the justification for the plan is so defective that the document should be withdrawn.

Assumption of soundness

63. Under the PPS12 (2004) guidance there was a presumption that the DPD as submitted was sound. This presumption led to some confusion and was shown to be unlawful in the Blyth Valley and Surrey Waste judgements²³. It has now been replaced in the latest PPS12 with the assumption that the local authority has submitted what it considers to be a sound plan. This change has usefully reinforced the importance of the frontloading process and also clarified the point that the examining Inspector starts from a strictly neutral point of view and does not apply any presumption in favour of the local planning authority.

The report

The fact check stage is intended to deal only with matters of fact and clarification; it is not appropriate for an authority to challenge any recommendations that it may not like.

64. The format of DPD reports, in which representations are no longer dealt with individually, has not created problems that we are aware of and has had the benefit of significantly shorter reports that focus on the critical issues. A minor concern is that a few authorities have sought to use the fact check stage to challenge the basis of some of the recommendations made in the report. This is not appropriate as this stage is intended to deal only with matters of fact or clarification. Clarification of an unclear recommendation should be sought but not the fact that an authority does not like, or may have difficulty with, the recommendation.

Conclusions

65. As at August 2009 136 DPD examinations had been completed (since 2004). Some 70% of the DPDs examined have been found sound. This should provide reassurance to those authorities who have yet to submit DPDs and it is hoped that this document, detailing what we have learned from our experience, will assist to boost the confidence of authorities yet to submit.

Footnotes

²¹ View Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1: <http://www.communities.gov.uk/publications/planningandbuilding/ppsclimatechange>

²² View the CLG Plan Making Manual section 'Changing your plan after publication': <http://www.pas.gov.uk/pas/core/page.do?pageId=109882>

²³ View Blyth Valley Borough Council v Persimmon Homes (North East) Limited, Barratt Homes Limited & Millhouse Developments Limited: <http://www.bailii.org/ew/cases/EWCA/Civ/2008/861.html>
View Capel Parish Council v Surrey County Council: <http://www.bailii.org/ew/cases/EWHC/Admin/2009/350.html>