

Guidance Note to accompany the Representation Form

(This note is based in part on the advice of the Government's Planning Inspectorate in "Procedural Practice in the Examination of Local Plans" June 2016 – available at <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice> – with updates and locally specific information inserted as necessary)

1. Introduction

1.1 The St Helens Borough Local Plan 2020-2035: Submission Draft ('the **Local Plan**') is published in order for representations to be made. All representations must be received by the Council before 5.00pm on 13 March 2019.

1.2 Later in 2019, the Council intends to submit the Local Plan to the Government. The Plan will then be examined by a Government Planning Inspector. All representations will be considered by the Planning Inspector. The Planning and Compulsory Purchase Act 2004 (as amended)¹ (**PCPA**) states that the purpose of the examination is to consider whether the Plan complies with the legal requirements, the duty to cooperate and is sound.

2. Legal Compliance and Duty to Cooperate

2.1 The Inspector will first check that the Plan meets the **legal requirements** under section 20(5)(a) of the PCPA and the **duty to cooperate** under section 20(5)(c) of the PCPA before moving to the test of soundness.

2.2 You should consider the following before making a representation on **legal compliance**:

- The Local Plan should be included in the current Local Development Scheme (LDS) and the key stages should have been followed. The LDS is effectively a programme of work prepared by the Council, setting out the Local Plans and other documents it proposes to produce. It will set out the key stages in the production of any Plans

¹ view at <http://www.legislation.gov.uk/ukpga/2004/5/contents>

which the Council proposes to bring forward for independent examination. If the Plan is not in the current LDS it should not have been published for representations. The LDS for St Helens is available on the Council website at www.sthelens.gov.uk/localplan and at its main offices.

- The process of community involvement for the Plan in question should be in general accordance with the Council's Statement of Community Involvement (SCI). The SCI sets out the Council's strategy for involving the community in the preparation and revision of Local Plans, other planning documents and the consideration of planning applications.
- The Plan should comply with the Town and Country Planning (Local Planning) (England) Regulations 2012 (the Regulations)². On publication, the Council must publish the documents prescribed in the Regulations, and make them available at its principal offices and on its website. The Council must also notify the various persons and organisations set out in the Regulations and any persons who have requested to be notified.
- The Council is required to provide a Sustainability Appraisal Report when it publishes a Plan. This should identify the process by which the Sustainability Appraisal has been carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure they reflect social, environmental and economic factors.

2.3 The **duty to cooperate** requires the Council to (in summary) '*...engage constructively, actively and on an ongoing basis...*' with neighbouring local authorities and other specified public bodies when preparing a local plan. The duty relates to strategic matters. You should consider the following before making a representation on compliance with the duty to cooperate:

- The Council will be expected to provide evidence of how they have complied with any requirements arising from the duty.
- The PCPA establishes that non-compliance with the duty to cooperate cannot be rectified after the submission of the Plan. Therefore the Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the Plan.

² View at <http://www.legislation.gov.uk/uksi/2012/767/contents/made>

3. Soundness

3.1 Soundness is explained in paragraph 35 of the National Planning Policy Framework (NPPF) (July 2018). The Inspector has to be satisfied that the Plan is positively prepared, justified, effective and consistent with national policy.

- ***Positively prepared***

This means that the Plan should be prepared based on a strategy which, as a minimum, seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.

- ***Justified***

The Plan should be an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence.

- ***Effective***

The Plan should be deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, as evidenced by a statement of common ground.

- ***Consistent with national policy***

The Plan should enable the delivery of sustainable development in accordance with the policies in the NPPF.

3.2 If you think the content of the Plan is not sound because it does not include a policy where it should do, you should go through the following steps before making representations:

- Is the issue with which you are concerned already covered specifically by national planning policy? If so it does not need to be included.
- Is what you are concerned with covered by any other policies in the Plan on which you are seeking to make representations or in any other Plan?
- If the policy is not covered elsewhere, in what way is the Plan unsound without the policy?

- If the Plan is unsound without the policy, what should the policy say?

4. General Advice

4.1 If you wish to make a representation seeking a modification to the Plan or part of the Plan you should make it clear in what way the Plan or part of the Plan is not sound having regards to the legal compliance, duty to cooperate and the four requirements of soundness set out above. You should try to support your representation by evidence showing why the Plan should be modified.

4.2 Representations should cover succinctly all the information, evidence and supporting information necessary to support / justify the representation and suggested modification, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. After this stage, further submissions will be only at the request of the Inspector, based on matters and issues he/she identifies for examination.

4.3 Where there are groups who share a common view on how they wish to see a Plan modified, it would be helpful for that group to send a single representation which represents the view, rather than a large number of individuals to send in separate representations which repeat the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorised.



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