



## **Planning Inspectorate Wales**

A Guide to the Examination of Local  
Development Plans



INVESTOR IN PEOPLE

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## Foreword by Carwyn Jones AM, Minister for Environment, Planning and the Countryside



The Welsh Assembly Government is committed to promoting sustainable development in Wales. An effective planning system is key to achieving this. The Planning and Compulsory Purchase Act 2004 introduced the Local Development Plan system, signalling a major step change in how we think about planning.

In May 2005 the Planning Inspectorate sought views on how the soundness of Local Development Plans should be assessed<sup>1</sup>.

Following a positive response, the Inspectorate has clarified its guidance to help everyone understand the tests its Inspectors will use when examining Local Development Plans. It also explains how individuals or groups should frame their comments on the Plan and how those comments will be considered by an impartial Inspector.

I am pleased to commend this Guide to all those who will be using and contributing to the new Local Development Plan system. It completes the set of tools, along with other Assembly documents (LDP Wales 2005 and LDP Manual 2006) that will help implement the new system. These are vital to the step change in the culture and delivery of the planning system necessary to help achieve sustainable development in Wales.

As the Guide stresses, the key to the success of Local Development Plans is early, constructive engagement by communities and stakeholders in the new process. In this way planning can realise its potential to help communities and local planning authorities achieve the development they need, in a sustainable manner, fulfilling local peoples' aspirations.

**Carwyn Jones AM**

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<sup>1</sup> 'A Framework for Assessing the Soundness of Local Development Plans'

# Introduction

## Context: Local Development Plans

1. Part 6 of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) provides a framework for the new system of Local Development Plans in Wales (LDPs) to replace Unitary Development Plans (UDPs).

2. The key principles that apply to Local Development Plans are that they should<sup>2</sup>:

- Be clearly related and central to other levels of plan making;
- Be efficient in the delivery of local aspirations;
- Be straight forward to process, responsive to change and regularly monitored and updated;
- Inspire confidence in stakeholders: ensuring that developers know that planning applications will be dealt with consistently, transparently and efficiently, and that communities know that their views will be properly considered and will influence outcomes;
- Integrate land use planning decisions with the programmes and activities of others, such as infrastructure service providers, and
- Act as an effective tool for the delivery of sustainable development.

3. Each Local Planning Authority must produce a LDP for its administrative area. The LDP is a land use policy framework which must set out the authority's objectives for the development of land in its area and general policies to implement them. This statutory development plan will continue to be the starting point in the consideration of planning applications<sup>3</sup> for the development of or use of land and will provide the essential framework for rational and consistent decision making. In this guide, references to local planning authorities should be taken to include the three National Park Authorities in Wales<sup>4</sup>.

4. The approach to adoption of LDPs under the new system will be different from that by which UDPs were adopted. Under section 64(1) of the Act, each new LDP must be submitted to the National Assembly for Wales for independent examination. The examination will be required regardless of whether any objections are received. The examination will be carried out by an Inspector provided by the Planning Inspectorate, who will be required in undertaking the examination to assess whether the plan overall is sound<sup>5</sup> rather than simply consider individual objections as at a UDP Inquiry. This means the Inspector has a role as part of the plan making function and will also have to exercise the duty to contribute to the achievement of sustainable development<sup>6</sup>.

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<sup>2</sup> See paragraph 1.1 Local Development Plans Wales. View at : [www.wales.gov.uk/subiplanning/content/devplans/ldpw-e.pdf](http://www.wales.gov.uk/subiplanning/content/devplans/ldpw-e.pdf)

<sup>3</sup> See Section 38(6) Planning and Compulsory Purchase Act 2004. View at: <http://www.opsi.gov.uk/acts/acts2004/20040005.htm>

<sup>4</sup> Brecon Beacons National Park, Pembrokeshire Coast National Park and Snowdonia National Park are all Local Planning Authorities.

<sup>5</sup> Section 64(5) of the Planning and Compulsory Purchase Act 2004

<sup>6</sup> Section 39 of the Planning and Compulsory Purchase Act 2004.

## Examination of Local Development Plans

5. Section 64(5) of the Planning and Compulsory Purchase Act 2004 defines the purpose of the independent examination in respect of a Local Development Plan, which is to determine:

- a) whether it satisfies the requirements of sections 62<sup>7</sup> and 63<sup>8</sup> of the Planning and Compulsory Purchase Act 2004 (s64(5)(a)) and the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005<sup>9</sup>; and
- b) whether it is sound (s64(5)(b)).

6. LDPs must be sound in terms of their content and the process by which they are produced and must be founded on a robust and credible evidence base. The term sound is not defined in the 2004 Act. It may be considered in this context within its ordinary meaning of 'showing good judgement' and 'able to be trusted' and within the context of fulfilling the expectations of legislation.

7. Local Development Plans Wales (LDPW) sets out the 10 tests an LDP must meet for it to be sound, falling into three categories - procedural; consistency; coherence and effectiveness. LDPW states that *'The presumption will be that the LDP is sound unless it is shown to be otherwise as a result of evidence considered throughout the examination'* (paragraph 4.35).

### Structure of the Guidance

8. This Guide sets out a framework for the assessment of soundness at the independent examination to help people understand how that process will be carried out by Inspectors, and ensure a clear and workable approach to assessing soundness. It is aimed at all those involved in preparing LDPs and seeking to participate in the examination process. The Planning Inspectorate is producing a separate guidance note aimed more specifically at members of the public wishing to participate in the examination of Local Development Plans, which will provide more general advice.

9. Part 1 of the Guide deals with the examination of LDPs. It sets out:

- the processes by which the assessment will be undertaken;
- the range of possible outcomes from the examination;
- the tests of soundness and the key questions they raise;
- examples of the type of evidence that might be relevant to assess whether the particular test has been met; and
- the roles of the principal bodies involved in the examination.

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<sup>7</sup> Section 62 requires local planning authorities to prepare local development plans (LDPs) setting out their objectives in relation to the use and development of land in their area and their general policies for the implementation of those objectives. More detailed policies for specific areas may also be included. The section sets out matters, including the Wales Spatial Plan, to which authorities are to have regard when preparing LDPs. LDPs must also be subjected to a sustainability appraisal.

<sup>8</sup> Section 63 requires LDPs to be prepared in accordance with a community involvement scheme and a timetable. It defines a community involvement scheme as the local planning authority's policy for involving other persons in the authority's functions under Part 6 of the 2004 Act. It requires the authority and the Assembly to attempt to agree the terms of the scheme and timetable and provides a power of direction for the Assembly where agreement is not possible.

<sup>9</sup> View at: <http://www.opsi.gov.uk/legislation/wales/wsi2005/20052839e.htm>

10. Part 2 deals with the making of representations on deposited LDPs. It provides

- a model form for local planning authorities to make available to those making representations on a deposited LDP; and
- a model note to accompany the form to help focus representations on the tests of soundness.

11. Part 3 gives procedural guidance on the examination and associated arrangements. It covers:

- the underlying principles of the new examination system;
- the structure of the examination; and
- the methods of examination.

12. Part 4 provides supplementary advice covering the practicalities of dealing with the examination process, which will be of particular interest to local planning authorities. It covers:

- advisory visits to Local Planning Authorities, the submission of LDPs, the Service Level Agreement and Inspector teams;
- the appointment and role of programme officers; and
- dealing with representations and statements of evidence.

### **Status of the Guidance**

13. This is non statutory guidance applying in Wales only, and it is not intended as an interpretation the law. It should be read in conjunction with the relevant legislation and guidance. This includes the Planning and Compulsory Purchase Act 2004, the Town and Country (Local Development Plan) (Wales) Regulations 2005, National Assembly policy guidance in Local Development Plans Wales (which sets out the preparation, process and content of LDPs) and the complimentary more detailed guidance in the Local Development Plan Manual.

14. This Guide does not set out every possible course of action that might be taken in all possible circumstances nor does it include worked examples. It is the role of the appointed Inspector to ensure that the assumptions and evidence on which the LPA has based its policies and proposals in an LDP are properly tested.

15. The Planning Inspectorate intends to keep this Guide under review and will update and improve it as best practice emerges.

## List of Abbreviations and Terms

(Note: terms in *italics* are explained elsewhere in the table)

<b>The Act</b>		The Planning and Compulsory Purchase Act 2004.
<b>Annual monitoring report</b>	<b>AMR</b>	This will assess the extent to which policies in the <i>local development plan</i> are being successfully implemented.
<b>Community Involvement Scheme</b>	<b>CIS</b>	Sets out the project plan and policies of the LPA for involving local communities in the preparation of <i>local development plans</i> . The CIS is submitted to the Assembly Government as part of the <i>Delivery Agreement</i> for agreement.
<b>Community Strategy</b>	<b>CS</b>	Local authorities are required by the Local Government Act 2000 to prepare these, with the aim of improving the social, environmental and economic well being of their areas. Through the Community Strategy, authorities are expected to co-ordinate the actions of local public, private, voluntary and community sectors. Responsibility for producing Community Strategies may be passed to <i>Local Strategic Partnerships</i> , which include local authority representatives.  In National Parks the Management Plans prepared by the Park Authorities will reflect the relevant Community Strategy/ies for the Park.
<b>Development control policies</b>		A suite of criteria-based policies which will ensure that all development within the area meets the aims and objectives set out in the Strategy.
<b>Delivery Agreement</b>		A document comprising the LPA's timetable for the preparation of the LDP together with its <i>community involvement scheme</i> , submitted to the Assembly Government for agreement.
<b>Local Development Plan</b>	<b>LDP</b>	A land use plan that is subject to independent examination, which will form the statutory development plan for a local authority area for the purposes of the Act. It should include a vision, strategy, area-wide policies for development types, land allocations, and where necessary policies and proposals for key areas of change and protection. Policies and allocations must be shown geographically on the Proposals

		Map forming part of the plan.
<b>Local Planning Authority</b>	<b>LPA</b>	The unitary authority or national park authority.
<b>Local strategic partnership</b>		Partnerships of stakeholders who bring together service providers, private, community and voluntary sectors to identify and meet local needs more effectively and in a joined up way.
<b>Robust</b>		In this context: strong; straight forward, and able to withstand scrutiny or testing.
<b>Service Level Agreement</b>	<b>SLA</b>	An agreement between the Planning Inspectorate and individual LPAs setting out the steps the parties need to take to facilitate the local development plan process, the standards which the Planning Inspectorate will aim to meet, and providing the LPA with clear guidance on the nature of their own responsibilities and the likely timescales and cost of the Examination.
<b>Site specific allocations</b>		Allocations of sites for specific or mixed uses or development contained in a <i>local development plan</i> . Policies will identify any specific requirements for individual proposals.
<b>Sound</b>		Considered in this context within its ordinary meaning of 'showing good judgement' and 'able to be trusted' and within the context of fulfilling the expectations of legislation.
<b>Strategic environmental assessment</b>	<b>SEA</b>	A generic term used to describe environmental assessment as applied to policies, plans and programmes. The European 'SEA Directive' (2001/42/EC) requires a formal 'environmental assessment of certain plans and programmes, including those in the field of planning and land use'.
<b>Supplementary planning guidance</b>	<b>SPG</b>	Provide supplementary information in respect of the policies in a <i>local development plan</i> . They do not form part of the development plan and are not subject to independent examination but must be consistent with it and with national planning policy.
<b>Sustainability appraisal</b>	<b>SA</b>	Tool for appraising policies to ensure they reflect sustainable development objectives (i.e. social, environmental and economic factors). Each LPA is required by S62(6)

		of the Act to undertake SA of the LDP.
<b>Sustainability appraisal Report</b>	<b>SA Report</b>	S62(6) of the Act requires each LPA to prepare a report of the findings of the SA of the LDP
<b>Wales Spatial Plan</b>	<b>WSP</b>	A plan prepared and approved by the National Assembly for Wales under S60 of the Act, which sets out a strategic framework to guide future development and policy interventions, whether or not these relate to formal land use planning control. Under S62(5)(b) of the Act a local planning authority must have regard to the WSP in preparing a <i>local development plan</i> .

# Part 1: The Examination of Local Development Plans

## 1.1 Overview & Outcomes

1.1.1 The independent examination is intended to be a quick and efficient part of the overall process of delivering an up to date LDP. The period of time from submission of the plan to the Assembly Government (AG) to issue of the report by the Inspector should take no more than 12 months. Figure 8.1 of the LDP manual sets out the processes that will be followed within that period. Whilst the whole of the process comes under the heading of the examination, for the remainder of this guide the 'examination' means the hearing session's<sup>10</sup> part of the process held before the appointed Inspector.

1.1.2 Local Development Plan Wales (LDPW) states *"Authorities should ensure that their LDP is sound when submitted to the Planning Inspectorate for examination"*. The fundamental concept of the new LDP system is that the plan is the product of a thorough and comprehensive process of engagement with the community<sup>11</sup>, where the LPA has refined the options to produce what it considers to be a sound plan. The presumption will therefore be that the LDP is sound unless it is shown to be otherwise as a result of evidence considered at the examination. Consequently those who object should focus on why the plan is not sound.

1.1.3 Nonetheless, it is the responsibility of the appointed Inspector to consider the soundness of the plan as a whole. Whilst Inspectors will still consider individual objections it will be on the basis of how these address the plan's overall soundness. The Inspector's binding report on the LDP will not respond to individual objections but will address the issues of soundness in relation to the plan.

1.1.4 The examination will take the form of a discussion in public where the issues to be discussed will be identified in advance by the Inspector and participants invited to contribute. The Inspector will decide on the appropriate examination procedure with the presumption that it will be informal. Formal hearings will be used only where the Inspector considers this necessary and appropriate. Part 3 of this guide outlines the examination process in more detail

1.1.5 When assessing the soundness of a LDP, Inspectors will exercise their professional judgement based on the evidence available, the representations made, and the particular circumstances of the LDP and the area. The Inspector's overall aim will be, wherever possible, to get the LDP to the stage where it is sound and can safely be adopted. It follows logically from the basic principle of the examination, assessing the soundness of the plan, that any changes made by the Inspector must themselves be demonstrably sound. Any changes must, for example:

- accord generally with national policy and the Wales Spatial Plan;
- not impact on anyone who has not had the opportunity to comment;
- be based on the evidence available at the examination;
- be supported by clear reasons based on the evidence;
- accord with the strategy of the plan; and

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<sup>10</sup> The term 'hearing session' is used in this Guide to cover round table discussions, informal and formal hearing sessions. Further information on these approaches to oral examination is covered in Part 3.3.

<sup>11</sup> Following the Community Involvement Scheme

- be realistic and capable of delivery.

1.1.6 A variety of outcomes could flow from the assessment of soundness undertaken by the Inspector. The most serious would be a finding of unsoundness in relation to a critically important part of the LDP leading to a recommendation by the Inspector that it be withdrawn. This should not occur if the LPA has followed AG policy and guidance on the preparation of LDPs, particularly early engagement with stakeholders and the community. More likely outcomes include a recommendation that

- additional work is needed before the LDP can be adopted/examined further, such as the need for further sustainability appraisal of alternative options; or
- part of the LDP is excluded or changed and the remainder adopted. Where part of the LDP is excluded, the Inspector may recommend it is subsequently brought forward in revised form (in a review of the LDP), providing this does not render the remainder of the LDP unsound.

1.1.7 These are two of the possible options open to Inspectors where they conclude that soundness is in doubt, but this paper does not set out every possible course of action. Responsibility for writing the binding report and deciding on the appropriate course rests with the appointed Inspector. A LDP will be deemed unsound if the Inspector cannot make a necessary change that would make it sound.

## 1.2 The tests of soundness: key questions and evidence<sup>12</sup>

1.2.1 The following sets out the tests of soundness, some of the key questions they raise where these are not self-evident, and suggested evidence requirements relating to each test.

1.2.2 The soundness tests fall into three categories – **Procedural, Consistency, and Coherence and Effectiveness**. They are numbered P1-2, C1-4 and CE1-4 respectively for ease of reference.

### Procedural Tests

1.2.3 These 2 tests relate specifically to the process by which the LDP has been prepared by the LPA. To ensure that time is not spent examining in detail a plan that is very clearly procedurally unsound, the Inspectorate will carry out an early screening of every submitted LDP.

**Test P1: it has been prepared in accordance with the Delivery Agreement including the Community Involvement Scheme (CIS).**

#### Key Question

- Have all the relevant consultation/participation procedures set out in the CIS been carried out?

#### Evidence

- The local planning authority's CIS, as agreed by the AG with any subsequent agreed variations
- The Consultation Report produced for the LDP, which should show how the LPA has carried out its consultation procedures and how these relate to their CIS
- The LDP Regulations.

**Test P2: the plan and its policies have been subjected to sustainability appraisal including strategic environmental assessment.**

#### Key Question

- Has sustainability appraisal (SA), incorporating the requirements of strategic environmental assessment<sup>13</sup> (SEA), been carried out in relation to the LDP?

#### Evidence

LPAs are required to submit a SA report with the LDP, identifying the process by which the SA has been carried out, the baseline information used, and the outcomes of the process. Guidance on the SA process is provided in the LDP Manual. The outcome of the process will be subject to the later tests of coherence and effectiveness, notably test CE2.

<sup>12</sup> A table is provided in Annex 2, summarising the soundness tests, key questions and evidence

<sup>13</sup> Environmental Assessment of Plans and Programmes (Wales) Regulations 2004

## Consistency Tests

1.2.4 The 4 tests in this group relate to both process and overall content. In making judgements about the degree of consistency, the Inspector will consider whether, from the process by which it was prepared, its content, and its strategy/policies/allocations, the LDP can be shown to meet the tests. Inspectors will, based on the relevant evidence, determine the weight that should be given to representations from bodies that are responsible for other relevant strategies that have been taken into account in the LDP.

**Test C1: it is a land use plan which has regard to other relevant plans, policies and strategies relating to the area or to adjoining areas.**

### Key Questions

- Does the plan put forward proposals for the use and development of land that adequately take account of the relationship with the plans/policies/requirements of other organisations, such as those of utility companies and agencies providing services in the area, including their future plans or strategy and any requirement for land and premises, which should be prepared in parallel?
- Is it clear how the plan relates to other plans and strategies such as local transport plans which will influence the delivery of policies and proposals within the plan?

### Evidence

A range of documents may be relevant, particularly the policy documents with land use implications produced by other organisations. It would not be appropriate for the LDP to list all the strategies and documents taken into account in its preparation. These can be part of a separate document used by the LPA to demonstrate that this test of soundness is met. Representations from bodies that consider the LDP either does or does not have sufficient regard to other relevant strategies for which they are responsible will be significant.

**Test C2: it has regard to national policy.**

### Key Questions

- If the plan contains any policies or proposals which are not consistent with national policy, is there local justification?
- Does it avoid wasteful/unnecessary repetition of national policy? LDPs are intended to be shorter, focussed documents that do not unnecessarily repeat national policy.

### Evidence

- Planning Policy Wales and its Companion Guide, Minerals Planning Policy Wales, and Technical Advice Notes.
- Local studies or any other information providing the basis for departing from national policy, such as those deriving from the community strategy or National Park Management Plan, or those forming part of the evidence for the LDP.
- The SA report and SEA, where these provide justification for a departure from national policy.

### **Test C3: it has regard to the Wales Spatial Plan.**

#### **Key Questions**

- Does the plan contain any policies or proposals which are not consistent with the broad strategies in the WSP and, if so, is there a local justification?
- Does the plan take account of relevant area collaborative work undertaken for the WSP?

#### **Evidence**

- The WSP, agreed area programme outputs and any studies or other information providing evidence of a local justification for departure.
- The SA report and SEA, where these provide justification for a departure from national policy.

### **Test C4: it has regard to the relevant community strategy/ies<sup>14</sup>.**

#### **Key Question**

- Does the plan have regard to the community strategy, by setting out policies and proposals which deliver key components of that strategy, which are consistent with higher-level planning policy and relate to the use and development of land?

#### **Evidence**

- The community strategy and the National Park Management Plan.
- The LDP should have regard to the objectives and priorities established by the community strategy that relate to the development and use of land.

## **Coherence and Effectiveness Tests**

1.2.5 The 4 tests in this group relate to the content of the LDP. These are likely to be the key tests on which the examination will concentrate.

**Test CE1: the plan sets out a coherent strategy from which its policies and allocations logically flow and, where cross boundary issues are relevant, it is compatible with the development plans prepared by neighbouring authorities.**

#### **Key questions**

- Do the policies and allocations clearly relate to the aims and objectives in the strategy set out in the submitted plan? It may help if policies are cross-referenced to the key aims and objectives.
- Are the policies within the LDP themselves consistent?
- Are there any obvious gaps in the coverage of the plan having regard to its purpose and the relevant requirements set out in national planning policy?

<sup>14</sup> See paragraph 1.13 of Local Development Plans Wales. In national park areas the National Park Management Plan will reflect the relevant community strategy/ies for the area and should inform the LDP.

- Is it clear how the plan relates to those prepared by neighbouring authorities and how cross-boundary issues have been addressed?
- Where there are overlaps, are these consistent/complementary?

### **Evidence**

The strategy in the LDP will be the principal source of evidence. LDPW states in paragraph 2.10 that the LDP strategy should include a concise statement of the plan's key aims and objectives and strategies for achieving them. The LDP strategy should therefore set the context for its policies and proposals, which must be clearly directed to the achievement of the plan's aims and objectives.

The plan must also show how it relates, where relevant, to the strategies in neighbouring authority's plans (including Regional Spatial Strategies and Local Development Frameworks where English authorities are involved). Any perceived inconsistencies will need to be explained.

LPA's should undertake joint studies where appropriate to ensure consistency between neighbouring authorities, for example on housing land or retail provision. WSP area collaborative work will need to be taken into account where it is relevant.

**Test CE2: the strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust and credible evidence base.**

### **Key questions**

- Is it clear that the LPA considered the relevant options and alternatives in preparing the plan? LPA's will not be expected to deal with every possible alternative or option but they will be expected to consider those put to them during the process of preparation and engagement.
- Are the assumptions in the LDP set out clearly and supported by evidence?
- Does the evidence clearly support the plan's strategy and policies?
- Is the evidence robust and credible and has it been prepared in accordance with national planning policy and good practice guidance?
- Where a balance has been struck in taking decisions between competing alternatives – is it clear how those decisions have been taken?

### **Evidence**

- Sustainability Appraisal Report: the Report should set out the options and the process by which they have been objectively assessed. It will be a fundamental part of the evidence base.

There will be a range of other evidence required to assess this test. The following are suggested examples only and do not constitute an inclusive and definitive list:

- For the strategy - urban capacity studies; urban and rural regeneration strategies; local housing assessments; regional and local housing and economic strategies; retail capacity studies; community development strategies; local transport plans; health and education programmes and strategies; infrastructure providers' investment programmes and strategies; environmental programmes and assessments of waste management needs.
- For a site allocation - urban capacity studies; flood risk assessments; various environmental studies and assessments; transport assessments etc.
- For key areas of change - area assessments, market assessments, socio-

economic assessments, and environmental assessments and assessments of infrastructure.

- For key areas of protection – surveys and assessments of the natural or historic/built environment.

### **Test CE3: there are clear mechanisms for implementation and monitoring.**

#### **Key questions**

- Does the plan contain realistic targets and milestones which relate to the delivery of the policies?
- Is it clear how these are to be measured and how they are linked to the production of the annual monitoring report?
- Are the delivery mechanisms and timescale for implementation of the policies clearly identified?
- Is it clear who is intended to implement each policy? Where the actions required are outside the direct control of the LPA is there evidence that there is the necessary commitment from the relevant organisation?
- Do the processes for measuring the success of the plan accord with national planning policy and best practice guidance?
- Does the plan set out the factors essential to the delivery of key policy objectives of the plan?

#### **Evidence**

The evidence will be broadly similar to that required to assess test CE2. In relation to site-specific allocations, however, this may include reports or representations by main public and private sector delivery bodies on the practical development opportunities on the allocated sites and alternatives put forward by objectors.

### **Test CE4: it is reasonably flexible to enable it to deal with changing circumstances.**

#### **Key Questions**

- Is the plan flexible enough to respond to a variety of , or unexpected changes, in circumstances
- Are development control policies written in a form to enable them to provide a robust and consistent framework for considering planning applications?

#### **Evidence**

The LPA should be testing and monitoring the effectiveness of its policies. Some policies will be more critical to the achievement of the plan's objectives than others and these should be identified. Sensitivity testing<sup>15</sup> of the LDP's policies to potential changes in the assumptions that underpin them (such as economic growth or transport provision) and other sources of evidence (see test CE2) would help to demonstrate the robustness of the plan to change. For example, if the strategy is dependent on the construction of a by-pass, the LPA should carry out an

<sup>15</sup> 'Sensitivity testing', meaning testing the effect of changing local circumstances in various degrees (new roads, new employers or loss of) on , for example, the need for housing provision and other facilities.

assessment of the risk of that piece of infrastructure not being delivered and the consequences of this failure for the plan as a whole. Where the risk is significant, the LPA should identify contingency options that will achieve the objectives of the plan in the event that the policy in question cannot be delivered. The LDP should set out the basis for the contingencies identified. For subsequent revisions of LDPs the Annual Monitoring Report (AMR) will be an important source of evidence.

## 1.3 Role of the key participants in assessing soundness

### Local planning authorities

1.3.1 LPAs are expected to submit plans which they are satisfied are sound, having regard to the tests set out in LDPW. To demonstrate this, each LPA is encouraged to carry out a self assessment process against the tests of soundness as they prepare the plan as outlined in the LDP Manual. The results of this exercise might usefully be submitted alongside the plan to show why the local authority considers it to be a sound plan.

### Welsh Assembly Government

1.3.2 The Assembly Government (AG) has a key role in guiding LPAs in the production of sound plans. Plan making authorities should keep the AG fully informed throughout the process. This will allow it to make an important contribution to speeding up the system by identifying serious procedural errors or inconsistencies with national policy at an early stage.

1.3.3 Prior to submission of the plan the AG will identify any serious omissions, errors or conflicts and will endeavour to resolve these where possible with each LPA prior to the examination. But the AG has the opportunity to make formal representations that will be considered at the examination, either in writing or, where considered necessary by the Inspector, by appearing.

1.3.4 The AG will assess a deposit LDP to ensure it has been prepared having regard to the WSP, which is a statutory requirement<sup>16</sup>. If the LPA has had regard to the WSP but is proposing a material departure, evidence must be provided to show this is fully justified on the basis of local circumstances. If the AG is not satisfied that there is sufficient evidence to justify the departure, it will make representations to the LPA accordingly. If the LPA decides to proceed with the plan, any opinion of the AG that the document has not had proper regard to the WSP will be taken as a representation seeking a change. The AG will provide evidence either in writing or, where necessary, in person at the examination to enable the Inspector to decide whether or not the departure is justified. Representations by the AG in relation to other national policies will be treated similarly.

1.3.5 Section 65 of the 2004 Act provides the Assembly Government's powers of intervention by direction where the recommendations of a binding report are considered to raise issues of national importance or extend beyond the area of the plan making authority. Paragraphs 6.2-6.3 of LDP Wales make clear that the AG will only use such powers in a limited range of circumstances and as a last resort. The Planning Inspectorate will provide the AG with a copy of the draft report on the examination of the LDP when sent to the LPA for fact checking<sup>17</sup>.

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<sup>16</sup> Planning and Compulsory Purchase Act, S62(5)(b)

<sup>17</sup> PINS Wales will send the Inspector's report to the LPA in draft for any final comments on factual matters shortly before formally issuing the report to them. The LPA may use this opportunity to seek clarification on any conclusion which they consider to be unclear but not to challenge the Inspector's arguments or recommendations. This is referred to as the fact checking stage. Also see LDP Wales para 4.38.

## **The Planning Inspectorate and appointed Inspector**

1.3.6 The role of the appointed Inspector is to carry out an independent assessment of the overall soundness of the plan, including that it satisfies the statutory requirements for its preparation. Inspectors will assess the representations on the plan and the evidence submitted to the examination using their wider knowledge and professional judgement to determine what changes are needed. The Inspector may only make changes on the basis of evidence assessed during the examination (whether that assessment is carried out using written representations or by hearing). However, bearing in mind that Inspectors will be assessing the soundness of the plan as a whole and will not be restricted to considering objections, where it would be helpful they will be able to invite participants to give evidence on particular issues, including those who have not made representations. Each examination will be the responsibility of the appointed Inspector who will carry out his/her job in accordance with the underpinning principles of openness, fairness and impartiality<sup>18</sup>.

1.3.7 The Planning Inspectorate (PINS) will appoint the Inspector in accordance with the Service Level Agreement (SLA) it will have with each LPA. PINS will screen a LDP shortly after submission by the LPA to ensure that all necessary documentation has been submitted in accordance with the 2004 Regulations and LDPW. Where documentation is not complete PINS will inform the LPA and set a timetable for the submission of any missing documents to allow the examination to proceed.

### **Local Strategic Partnerships**

1.3.8 Each local authority should involve the local strategic partnership in the preparation of the LDP to help ensure it has regard to the Community Strategy. If the local strategic partnership considers there are conflicts between the LDP and the Community Strategy, the local planning authority should seek to resolve these prior to submitting the LDP for examination. If there is a conflict between the community strategy and the WSP/national planning policy, the latter will prevail unless the LPA can demonstrate sufficient local justification based on relevant evidence.

### **The Community and other Stakeholders**

1.3.9 The key to successful plan preparation and examination will be the process of consultation and engagement with the community and other stakeholders that precedes the deposit stage. It is during this part of the process that options and alternatives will be generated and subjected to sustainability appraisal. Early engagement will strengthen plan production by allowing the LPA to consider alternative sites and options at an early stage before drawing up the deposit version of the LDP. This should help to minimise objections regarding the soundness of the plan later in the process and will certainly help to clarify the issues on which the examination will need to focus. Further advice on early involvement and securing input from the community and other stakeholders is given in the LDP Manual.

1.3.10 Once the LDP has been placed on deposit, it is desirable that alternative sites and proposals are not put forward by objectors, although the process does not prevent this. The LPA will be required to advertise representations seeking to add an alternative site, delete an allocated site, or amend the boundary of a site<sup>19</sup>. But the alternatives put forward at this stage should have come forward earlier in the process and so will have been subject to the normal process of appraisal and strategic environmental assessment.

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<sup>18</sup> These 3 guiding principles are commonly referred to as the 'Franks principles'.

<sup>19</sup> Town and Country Planning (Local Development Plan)(Wales) Regulations 2005 – Reg 20

1.3.11 If completely new policies or proposals (either site or non site specific) are raised for the first time in representations on the deposit LDP, which have not been considered earlier in the plan preparation process, this may cause difficulties. This is because Inspectors need to ensure that any changes they make in their reports are themselves sound and satisfy the procedural tests, including consistency with the sustainability appraisal, so leading to a sound plan. Representations requesting substantial changes to the LDP should therefore be avoided at deposit stage as alternative options and proposals should be raised during the early consultation stages.

1.3.12 It will be particularly important that groups responsible for the delivery of the policy objectives of the plan are involved at the earliest possible stage to ensure proper planning of service provision and widespread commitment to delivery. For example, the relevant health service providers will need to be involved in assessing the impact of new development on health care provision and in the formulation of policies on how to accommodate additional demand.

1.3.13 Part 2 of this guide provides a model form and accompanying note for LPAs to make available to members of the public, to assist those seeking to make representations. The community and other stakeholders are encouraged to ensure that any representations seeking changes to the LDP focus on the tests of soundness and demonstrate clearly why the plan is not considered sound.

## Part 2: Making Representations on LDPs

### 2.1 Model form and guidance note

2.1.1 When the LPA place the LDP on deposit, the authority will make the LDP available on its website and at its main office and other suitable venues. The LPA will also send copies of the LDP to the consultation bodies described in the 2004 Regulations, and will invite representations on the submitted document within six weeks.

2.1.2 A suggested model form is provided on the following pages for use by LPAs when inviting representations on deposited LDPs. **A set of notes that would accompany the form is contained in Annex 3.** The form asks those making representations to identify which test(s) of soundness they think the LDP fails to meet and why. It would be helpful if LPAs set out the criteria for testing soundness when advertising/publicising the LDP at deposit stage to help to focus the representations (which will assist the Inspector to assess the Plan's soundness).

2.1.3 Copies of the model form and accompanying note should be made available by the LPA on request or should be available for download on the local authority website. The LPA should provide a short covering note with the form explaining the procedural matters relating to sending in representations, including where further copies of the form can be obtained from, a specified 6 week period for submitting representations (including the closing date), and the postal address and email address for the submission of the completed form (s) to the local authority.

2.1.4. Those making representations within the specified 6 week period should indicate how they wish those representations to be dealt with i.e. by written representations (suitable where no controversial or complex evidence is involved) or by appearing at a hearing session of the examination. Further advice on making representations on LDPs placed on deposit is set out in LDP Wales para 4.25 – 4.27 (also see Regs 17-21 of the 2004 Regulations).

2.1.5 Raising new issues in representations at deposit stage (which have not been raised previously at the Pre Deposit Plan Preparation stage) may present problems for the Inspector, since he/she may only make changes to the LDP at the examination if they are sound in accordance with all the tests. The Inspector would not be able, for example, to include a new site proposed at deposit stage unless it could be shown that the proposal had been subject to proper procedures of community involvement and sustainability appraisal. Those proposing a new site for the first time would need to provide such information, including additional sustainability appraisal details where necessary. In the absence of clear evidence that proper procedures had been carried out in advance of the examination, the Inspector may decide to give limited consideration to such proposals.

# Model Representation Form for Local Development Plan

Council Logo

## Local Development Plan (LDP) Deposit Stage Representation Form

Ref:  
  
(For official use only)

Name of the LDP to which this representation relates:

### 1. Personal Details

Title

First Name

Last Name

Job Title   
(where relevant)

Organisation   
(where relevant)

Address Line 1

Line 2

Line 3

Line 4

Post Code

Telephone Number

E-mail Address   
(where relevant)

### 2. Agents Details (if applicable)

3. Did you raise the matter that is the subject of your representation with the LPA earlier in the process of the preparation of the LDP, i.e. before it was placed on deposit?

No

Yes (at Pre Deposit Plan Preparation stage)

If 'No', can you briefly explain why you did not do so:

4(a). Do you consider the LDP is :

Sound<sup>1</sup>  
Go to Qu.5  
(i.e. you  
support the  
LDP)

Unsound  
Go to Qu.4.(b)  
(i.e. you  
consider the  
LDP should be  
changed)

4(b). If you consider the LDP is **unsound**, please identify which test of soundness your representation relates to (having regard to test numbers P1- CE4 listed in the Annex).

**Please ensure you complete a separate form for each test you consider the Local Development Plan fails**

Soundness  
Test no.   
(see Annex)

5. To which part of the LDP does your representation relate?

Paragraph  Policy  Proposals Map  Omission (of a policy or supporting text)\*

\* If highlighting an omission, please be as precise as possible in 6. below in identifying where the new policy or supporting text should go in the LDP.

6. Please give details of what change(s) you consider necessary to make the LDP sound, having regard to the test you have identified at 4. above. You will need to say why this change will make the LDP sound. *Please be as precise as possible.*

(Continue on a separate sheet /expand box if necessary)

7. Can your representation seeking a change be considered by written representations or do you consider it necessary to attend the Examination?

Written Representations

Attend Examination

*Please note the Inspector will attach equal weight to written representations as to those representations heard in person.*

8. If you wish to attend the examination, please outline why you consider this to be necessary:

*Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to attend the Examination.*

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<sup>1</sup> Sound may be considered in this context within its ordinary meaning of "showing good judgement" and "able to be trusted" and within the context of fulfilling the expectations of legislation.

Signature:

Date:

<b>Annex : Failure to meet a Soundness Test</b>	
Test P1	It has not been prepared in accordance with the Delivery Agreement including the Community Involvement Scheme.
Test P2	The plan and its policies have not been subjected to Sustainability Appraisal including Strategic Environmental Assessment.
Test C1	It is a land use plan which does not have regard to other relevant plans, policies and strategies relating to the area or to adjoining areas.
Test C2	It does not have regard to national policy.
Test C3	It does not have regard to the Wales Spatial Plan.
Test C4	It does not have regard to the relevant community strategy/ies.
Test CE1	The plan does not set out a coherent strategy from which its policies and allocations logically flow and/or, where cross boundary issues are relevant, it is not compatible with the development plans prepared by neighbouring authorities.
Test CE2	The strategy, policies and allocations are not realistic and appropriate having considered the relevant alternatives and/or are not founded on a robust and credible evidence base.
Test CE3	There are no clear mechanisms for implementation and monitoring.
Test CE4	It is not reasonably flexible to enable it to deal with changing circumstances.

# Part 3: Procedural guidance on the Examination of a Local Development Plan

## 3.1 Underlying Principles

**3.1.1 The examination process must be carried out quickly.** The length will vary but the essential aim must be to ensure that from submission of the local development plan (the Plan) for examination to issue of the report by the Inspector takes no more than 12 months. For this timetable to be met the local planning authority (Planning Authority) will need to provide all the necessary documents at the date of submission, in particular the consultation report<sup>20</sup> setting out essential information for the Inspectorate. This will detail -

- the bodies consulted during the preparation of the Plan;
- a summary of the main issues raised in those consultations and how these have been addressed in the Plan;
- the number of representations received;
- the Planning Authority's recommendations on how the main issues raised in representations on the deposit plan should be addressed in the Plan;
- the Planning Authority's recommendations on how the main issues raised in representations in response to the advertising of new/alternative sites, and changes to allocated sites, put forward in representations on the deposit plan should be addressed in the Plan;
- the Planning Authority's recommendations on how each of the above representations should be addressed in the Plan; and
- any deviation from the community involvement scheme.

**3.1.2** In setting the procedures to be adopted at the examination the Inspector will ensure that the tests of soundness are properly examined. The dates for any hearing sessions of the examination process and any pre-examination meeting/s will be agreed with the LPA. The 12 month timetable can only be met if all statements relating to representations being dealt with by written procedures, rather than at the hearing sessions of the examination, are before the Inspector by the close of the last hearing session of the examination. It will be in everyone's interests to minimise the length of written submissions and to use existing documents. For example it is normal for Planning Authorities to produce a committee report setting out their response to each representation. This can be submitted as part of the consultation report to deal with the penultimate item in the list above and the same principle can be applied to all required documents. Objectors, including those who are to be heard at the examination, should rely on their original representation unless they have additional new information that would help the Inspector. Planning Authorities only need respond to objectors' statements when these raise new issues not addressed in earlier documents. All written statements should be focussed and not contain lengthy extracts from national policy documents.

**3.1.3 The presumption will be that the Plan is sound unless it is shown to be otherwise as a result of evidence considered throughout the Examination<sup>21</sup>.** Underpinning the new system is the principle of continuous community involvement in accordance with the Planning Authority's Community Involvement Scheme (CIS).

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<sup>20</sup> Town and Country Planning (Local Development Plan)(Wales) Regulations 2005 – reg 22

<sup>21</sup> Para 4.35 LDP Wales

Those who wish to make representations on a deposit Plan are encouraged in the accompanying guidance note<sup>22</sup> to the model form to relate those representations to the tests of soundness. Those making representations should seek to identify which test or tests of soundness they think the Plan fails to meet and why.

3.1.4 At certain stages the Welsh Assembly Government (AG) will be able to intervene to discourage the submission of a patently unsound plan for examination. If that has failed the Inspector will be able, should it be necessary, to recommend that the LPA rectify any procedural unsoundness before the detail of the plan is subject to formal examination. In these circumstances, the Inspector should provide full reasons for this course of action. The intention is that the plan which comes to the examination should meet the procedural and conformity tests.

## 3.2 The structure of the Examination

### Pre-examination meetings

3.2.1 The new examination process will require Inspectors to take a proactive approach, setting out the issues to be examined in advance to ensure the soundness of the plan is properly assessed. Normally a pre-examination meeting or meetings will be held by the Inspector to discuss the management of the examination, including establishing the overall programme, how representations will be heard, and the timetable for submission of evidence. Both the authority and those making representations seeking changes to the LDP should be prepared to take an active role in the pre-examination meeting. Everyone seeking a change to the LDP will be invited to attend the pre-examination meeting. Anyone who made representations in support of the LDP may be invited at the Inspector's discretion. Non attendance at the pre-examination meeting by persons seeking changes to the LDP will not prejudice their right to appear at the relevant hearing session of the examination. But it evidently helps if all those who wish to appear at an examination hearing attend such meetings to understand the examination process.

### The Inspector's Approach

3.2.3 The approach to the examination will be to identify in advance the issues for debate and participants will be invited to contribute to that debate, having regard to the representations they have made. The examination will be programmed to balance the time spent on public discussion against the need to properly test the soundness of the plan and the rights of those who have requested to be heard. Inspectors will ensure that those who have exercised their right to be heard<sup>23</sup> have the opportunity to participate in the examination in the most efficient and effective manner. It should be borne in mind that most representations can be dealt with satisfactorily by an exchange of written statements and will be given the same weight by the Inspector as those dealt with at any hearing sessions of the examination. Nonetheless, although this is the preferred method of dealing with representations, some issues will require public discussion.

3.2.4 The examination of different parts of the Plan may focus on different aspects of the tests. For example, in considering the strategy, the consistency tests will be important as all Plans must be consistent with national planning policy and have regard to the Wales Spatial Plan. Examination of site specific allocations will need to

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<sup>22</sup> See Part 2 of this guide

<sup>23</sup> Planning and Compulsory Purchase Act, S64(6) - those seeking changes to the Plan have the right to be heard

consider coherence and whether they flow from the strategy, the alternatives considered and their appropriateness. For key areas of change or new areas of protection the issues may be related to deliverability and implementation.

3.2.5 Although all objections will be considered by the Inspector, this does not necessarily mean they will be heard individually. Inspectors will group objectors together to ensure the most efficient use of examination time. Joint or combined hearings for a group or for groups of sites, or for individual objections relating to the same settlement or policy, should in many cases be the most effective and efficient way to deal with the issues raised.

3.2.6 Whilst the Inspector will have regard to all the tests of soundness, the degree of detail at each examination is likely to be determined by the nature of the representations, particularly in deciding the most appropriate procedure for examining individual parts of the Plan. The strategy may best be examined by a series of round table discussions but specific allocated sites attracting a significant number of representations may require more detailed discussion at hearings.

### **New/Alternative Sites**

3.2.7 Because of the emphasis on early and continuous engagement with the community during the early stages of plan preparation it should be rare for completely new sites to be put forward for consideration at the examination. Proper engagement will allow the community, developers and landowners to put forward sites and policies that the Planning Authority will be able to consider and evaluate as part of the sustainability appraisal (SA) and strategic environmental assessment (SEA) of the Plan<sup>24</sup>.

3.2.8 However, representations may be made seeking to add, delete or alter sites included in the deposit Plan. These representations must be advertised<sup>25</sup> so that there is an opportunity for public comment on these 'site allocation representations'<sup>26</sup>. Where any alternative sites have been considered in the earlier stages of plan preparation all the necessary information should be available, in particular the sites should have been included in the SA and SEA.

3.2.9 Nonetheless there may be situations where completely new sites may be put forward for inclusion in the Plan, which have not been part of the SA and SEA. Those proposing such sites will need to show that the site accords with the Plan strategy, that the Plan would be sound if the site is included, and must provide the necessary SA information to show how the inclusion of the site will affect the objective of achieving sustainable development. The Inspector would not be able to recommend including such a site in the Plan if this would make the Plan unsound.

### **Order of Examination**

3.2.10 There will be benefits in examining the strategy in advance of site allocations especially where this is controversial. But the sequence will be a matter for the Inspector depending on the nature of the issues chosen for debate at the examination.

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<sup>24</sup> Further advice on the application of sustainability appraisal and strategic environmental assessment in relation to LDP preparation is set out in the Local Development Plan Manual and ODPM's publication *Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents* - view at <http://www.odpm.gov.uk/index.asp?id=1161341>

<sup>25</sup> Town and Country Planning (Local Development Plan)(Wales) Regulations 2005 – Reg 20

<sup>26</sup> 2005 Regulations - Reg 20 and Reg 2 (Interpretation).

3.2.11 Where adjoining Planning Authorities have similar issues to address and their Plans have reached similar stages there may be scope for joint examinations or partial joint examinations. This might be particularly useful where issues overlap boundaries, for example following work at an area level to implement the broad strategies of the WSP or where its strategies affect a number of authorities who have a similar approach.

3.2.12 Where issues chosen for debate at the examination are not interrelated there may be scope to run parts of the examination concurrently using 2 or more Inspectors if the Planning Authority is resourced to deal with the demands.

3.2.13 The Inspector may choose to keep the examination open, after hearing all those who wish to be heard and holding all the programmed sessions, whilst the report is being written. This will enable the Inspector to seek further clarification on matters which may have been raised under written representations and to address, if necessary, any new matters which may arise during or after the hearing sessions of the examination process, providing these do not materially affect the substance of the plan. The Inspector will set a timetable for the submission of any additional information and will ensure that all relevant parties are aware of the information which has been sought.

### 3.3 Methods of conducting examinations

3.3.1 The following explains the procedures by which the Inspector can consider representations and highlights important good practice points to ensure that the examination runs smoothly, whichever procedure is adopted.

#### Written Representations

3.3.2 Written representations provide a very efficient method of considering representations for the Inspector and he/she will be experienced in reaching decisions on the basis of an exchange of written statements.

3.3.3 Expeditious treatment of written representations by the LPA and the Inspector is important for maintaining public confidence that they will be considered in the same way as oral representations seeking changes to the LDP. The Inspector may wish to clarify some matters of fact on written representations seeking changes or on the authority responses. If this is necessary, it will be done in writing, through the Programme Officer<sup>27</sup>, with the other party being allowed to comment. Where such questions and responses might prejudice the interests of others seeking changes to the LDP, the Inspector will ensure they are informed. The authority should be aware of this possibility and be ready to advise the Inspector accordingly. All such correspondence should be categorised as examination documents and stored in the examinations library<sup>28</sup>.

#### Round Table discussions

3.3.4 The use of round table discussions (known as RTSs) enables a range of issues to be discussed with a number of participants, representing different viewpoints, in a relatively short time.

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<sup>27</sup> For further information on Programme Officers, see Part 4.2 of this guide

<sup>28</sup> See paragraph 4.3.5 of this guide

3.3.5 Round table discussions need to be well prepared and the number of participants at each RTS managed to make such sessions useful. Careful consideration will be given by the Inspector as to who should be invited to participate at particular RTSs, having regard to the nature of the representations made and to those who have expressed a wish to be heard. Prior to the RTS all participants will be invited to prepare a short paper addressing the issues raised by the Inspector for discussion.

3.3.6 The Inspector will set the agenda based on the representations made and will chair the discussion. If the Inspector considers it helpful, legal representatives may be permitted to be present to assist in questioning but there will be no place for formal presentation of evidence or cross examination

### **Informal Hearings**

3.3.7 Informal hearings allow for a concentrated discussion of the issues involved, which is led by the Inspector. Group or, where appropriate and necessary, individual informal hearings will allow Inspectors to explore issues with participants in a relatively informal setting which may suit the lay participant.

3.3.8 This format will be particularly suitable for dealing with relatively straightforward issues where evidence is not technically complex and participants do not need the assistance of professionally trained advisers or advocates. LPAs should ensure that their representatives are fully versed in the content of the LDP and the process by which it has been prepared so they can assist the Inspector in considering the impact of any proposed changes on the soundness of the plan.

3.3.9 This may be the most appropriate method for considering site specific issues, including any requests for boundary changes to sites identified in a LDP.

### **Formal hearings**

3.3.10 The traditional inquiry is an adversarial process that is unlikely to be necessary in examining LDPs. Where a need arises for the more formal questioning of evidence, such as where evidence involves complex technical issues, the formal hearing approach will be suitable and professional advisers are likely to be present. The emphasis will be on the use of an inquisitorial approach with sessions led by the Inspector. All participants will sit around the same table and will remain seated throughout. The Inspector will structure the discussion around the matters which have been identified in advance from the submitted statements based on the issues identified by the Inspector for examination. Statements of evidence should be limited to about 3000 words.

3.3.11 The Inspector will lead an open discussion of each issue in turn and witnesses will not be formally "called" to give evidence. It should be clear to the Inspector from the statements of evidence which participant is most qualified to contribute to the discussion on the particular matter being considered at any time. The Inspector may look to either the Council or any person making the representation to commence discussions according to the nature of the evidence before the hearing part of the examination. The Inspector may seek comment from, and ask questions of, any party at any point in the discussion and parties are free to challenge points made by other participants.

3.3.12 Should a party be formally represented their representative will be invited to lead their team rather than exercise the traditional advocacy role. At the Inspector's

discretion, such representatives may be given an opportunity to put questions to any participant expressing an opposing view on an issue which has not, otherwise, been covered adequately in the discussion. The guiding principle for the proceedings will be to minimise the time necessary and to avoid repetition. The Inspector may intervene to achieve this.

### **Attendance at hearing sessions of the examination**

3.3.13 Where a hearing session of the examination (as opposed to one conducted exclusively by written representations) is to take place, it will be conducted in a venue to be provided by the LPA to accommodate all those that need to attend. The venue must be suitable for people with all forms of disability and be accessible by public transport.

3.3.14 In order to participate at the examination either by making written representations or, where considered necessary, by requesting an oral hearing, the person making a representation seeking a change to the LDP must make their representation during the specified six week consultation period at deposit stage. Supporting representations will be taken into account by the Inspector but there is no right to appear before the Inspector if no change to the LDP is sought.

3.3.15 Inspectors are careful to ensure that lay participants who are unfamiliar with examination procedure are properly guided through the process. It is not necessarily the case that appearance before the Inspector leads him or her to a better understanding of the issues. These can often be more than adequately considered through the written representations procedure. Attendance at the Pre Examination Meeting will help all participants and the Inspector ensure that the process followed at the hearing sessions of the examination is both thorough and efficient.

3.3.16 Inspectors will consider carefully who should be invited to particular hearing sessions of the examination having regard to the nature of their representations and how these relate to the tests of soundness. Inspectors may invite additional participants to the hearing sessions of the examination, i.e. those who have opted not to be heard or those who have not made any representations at all, if the Inspector considers it would assist him/her to determine the soundness of the plan, for example by the provision of evidence on particular areas of expertise. The Inspector will do this only where he or she perceives clear benefits and in consultation with the LPA and relevant participants.

### **Sitting Times**

3.3.17 Examination sessions will be timetabled and participants will be advised of the timing of the sessions to which they are invited. Some flexibility will be built into the programme to avoid sessions being delayed as a result of over-runs but Inspectors will normally expect participants to observe the agreed timetable. The start date of any oral part of the examination and the number of sitting days will be agreed between the LPA and PINS Wales as part of the Service Level Agreement. Detailed timing of sessions will be determined and finalised at or shortly after the Pre Examination Meeting.

### **Use of Professional resources**

3.3.18 Authorities will need to give careful consideration to their use of personnel at the examination, either from outside or within the authority and experts in particular fields, such as highways. Generally examinations will proceed more

quickly if those representing the authority are sufficiently senior and experienced. Where consultants are used to represent the authority at the examination, clear lines of communication between the authority and the consultant are essential for the smooth running of the examination. The Inspector will expect evidence given on behalf of the authority to be consistent, and will draw attention to any inconsistencies, even if they are not raised by those making representations.

# Part 4: Supplementary advice to Local Planning Authorities

## 4.1 Advisory visits, submission of LDPs, Service Level Agreement

### Advisory Visits

4.1.1 Visits to LPAs by the Planning Inspectorate Wales can be arranged in order to discuss procedural issues. An advisory team can discuss issues relating to the examination, including modes of representation, suitability of venues and the requirements of the Inspector. However, the final detail of the examination procedures will be a matter for the appointed Inspector to consider. The visits are not designed to discuss the content of the LDP, but to advise the LPA on the correct approach to the examination process and the requirements of the Inspector. In order for the LPA to gain the maximum benefit from an advisory visit, it is recommended the visit is arranged well in advance of submission of the LDP. Groups of LPAs may benefit from combined advisory visits especially when they are operating to roughly similar timetables.

### Submission of LDPs for examination and appointment of an Inspector

4.1.2 Local authorities should submit the LDP in the form they wish to see it adopted, since the Inspector's report will be binding<sup>29</sup>. Three paper copies should be provided to Assembly Government and one paper copy to the Planning Inspectorate<sup>30</sup> together with the same number of copies of the SA Report; any supporting technical documents (such as the housing needs survey); a copy of the CIS; the consultation report; and a statement of suggested main issues for consideration at the examination and a suggested procedure for dealing with them. The Planning Inspectorate also requires one copy of all the representations made to the deposit plan<sup>31</sup>. The Planning Inspectorate will appoint an Inspector on submission of the LDP in accordance with the SLA. PINS may appoint teams including lead and other Inspectors and staff such as Planning Officers (employed by PINS) to deliver the most efficient examination system.

### Service Level Agreement (SLA)

4.1.3 The SLA covers the arrangements between the Planning Inspectorate Wales and the LPA for the examination and the Inspector's binding report. The terms of the current SLA can be viewed at [insert link to PINS Wales relevant page please]

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<sup>29</sup> See paragraph 4.36 LDP Wales and combined effect of sections 64(7) and 67(1) - (2) of the 2004 Act

<sup>30</sup> Where practicable, electronic copies of all the prescribed documents should also be sent to Assembly Government and the Planning Inspectorate - Reg 22(3)(b), 2004 Regulations.

<sup>31</sup> For further guidance see para 4.33 LDP Wales and Reg 22, 2004 Regulations

## 4.2 Programme Officers

### Appointment of a Programme Officer

4.2.1 The LPA will appoint a Programme Officer with administrative experience (not a member of the planning team) who should be appointed early in the planning process, and at Deposit Stage at the latest. It is important that the Programme Officer is appointed no later as this could hinder the efficient management of the administrative process. The SLA provides that the Planning Inspectorate will not appoint an Inspector until the LPA has supplied details of the name, address and telephone number of the Programme Officer.

### The qualities of an effective Programme Officer

4.2.2 The Programme Officer is responsible for managing the day to day arrangements of the examination process before and during the period of examination. This includes recording all documents submitted, arranging for the inspection of sites by the Inspector and dealing with correspondence on his/her behalf to those who have made representations, including requests for and exchange of all statements. It is not envisaged the Programme Officer should be needed on a full time basis in the initial days of appointment. For the successful flow of the LDP examination, it is vital that the Programme Officer possesses good administrative skills, tact, patience, firmness and confidence and it is extremely desirable they have previous experience of such work. In order to aid LPAs the Planning Inspectorate keeps a list of experienced, independent Programme Officers. LPAs are encouraged to consider working collaboratively with neighbouring authorities to train staff who can be shared amongst them and to widen the pool of available Programme Officers.

### Maintaining impartiality

4.2.3 It is important that for the duration of their appointment, the Programme Officer must be seen as an impartial officer of the examination process. It is recommended that the Programme Officer uses examination headed paper, not incorporating the Council Logo, to emphasise their independence.

### Programming the examination

4.2.4 The role of the Programme Officer is considered to be very important to the efficient running of an examination. Under the guidance of the appointed Inspector, the Programme Officer will draw up a provisional examination programme and timetable for discussion at the pre-examination meeting, which will be published on the LPA's website. The examination programme will show what procedural methods the Inspector intends to adopt and will indicate who has been invited to each session, having regard to participants' wish to be heard and how the examination is proposed to be structured, having regard to the tests of soundness. The draft programme will indicate how long the hearing part of the examination is anticipated to last and inform participants when they are likely to be required to attend.

### After the examination

4.2.5 Once the examination is concluded, the Programme Officer should ensure that all documentation is complete and properly stored. Whilst preparing the binding report, the Inspector will almost certainly need to contact the Programme Officer to

seek clarification on matters which raised under written representations. It is therefore important that if an external appointment, the Programme Officer be retained, probably on a part time basis, for at least 1 month after the close of the examination. When the local authority proposes to terminate an external Programme Officer's contract, an alternative member of the Council's staff (independent of the planning department and the production of the LDP) as agreed with the Planning Inspectorate must be made available for the Inspector to contact.

## 4.3 Representations, referencing and statements of evidence

### Use of Information Technology in the examination process

4.3.1 The Planning Inspectorate recommends LPAs use an online electronic system to support an efficient and effective examination process. The system should provide a means to publish the LDP online to assist with the process of consultation. It should supply a mechanism for any interested party to make representations on the content of the LDP online. Additionally it should provide a full electronic administration system for local authorities to use for recording all representations made on LDPs. This will allow representations to be made, stored and managed via the internet if the LPA chooses to use the system to manage examinations.

### Analysing, referencing and storing representations

4.3.2 Representations should be analysed carefully by experienced members of the planning team, not the Programme Officer. Any inadequate or inconsistent analysis will lead to misunderstandings and mistakes leading to abortive work later on.

4.3.3 LPAs should structure their database for representations so that the representations are capable of being listed in a variety of ways including soundness test order, paragraph order or policy order. The database of representations should also be structured to assist grouping objections that can be heard together. This will assist the Inspector in determining the most efficient way of carrying out the examination.

4.3.4 It is recommend that representations should be referenced as simply as possible. An example is set out below:

- (i) **Soundness test number P1- CE4** - where the representation is asserting the LDP is unsound, the test number should be used as the prefix. Where the representation is supporting the soundness of the LDP, the prefix should be an **S**. This is essential for all parties, especially the Inspector.
- (ii) **Paragraph and policy** – this prefix is also essential for all parties, particularly Inspectors.
- (iii) **Personal Reference** number. This should be used to identify the person(s) making the representation only, and numbering can start at 0001, giving each person, group, organisation their individual reference number.
- (iv) **Representation Reference** number. This is used to identify each representation and should start at a substantially higher number than the last reference number for the Personal References. It is useful to add up the total number of Personal References initially and number them 0001-0999 (or higher if necessary) and then number Representation References at a

significant higher number, for example 5000.

So where the representation is seeking a change because the LDP is unsound, the reference number will look like this :

**CE2** (test number) /**2.6ENV**(para/policy) /**0001** (Personal Reference number) /**5000** (Representation reference number)

Where a representation is in support of the soundness of the LDP (or part of) the reference will look like this:

**S/2.6ENV/0002/5001**.

## Examination Library

4.3.5 Community Groups, private residents and other unrepresented persons may need help to understand the nature of the examination process if they are to use it efficiently. Therefore a start should be made on setting up the examination library no later than the end of the period for the consultation on Pre Deposit Plan Preparation<sup>32</sup>, so that the information and documents it will contain can be available to those making representations as early as possible. The library should contain a copy of this guidance, existing plans, committee reports, research reports, the Wales Spatial Plan, Planning Policy Wales, Minerals Planning Policy Wales, relevant Technical Advice Notes and Circulars, and any other information likely to be used during the examination. Those making representations should be told of the library's existence and invited to discuss any difficulties they encounter in preparing for the examination with the Programme Officer or the authority.

## Statements of Evidence

4.3.6 Adhering to the principle of early community involvement in the preparation of LDPs should mean that nothing is brought to the examination by those making representations that has not been considered by the LPA during the plan preparation process. To assist in the efficient running of the examination, LPAs should produce evidence in the following form:

- Core proofs/topic papers to deal with the broad basis of the authority's case in respect of all representations on a particular topic. These should draw upon the initial report to committee and incorporate any agreed statements between those making representations and the authority. These papers will assist those making representations with their statements of evidence and should be prepared well before the pre-examination meeting.
- Response statements where these are needed to representations seeking changes to a particular policy or proposal should be concise and clear. They should begin by summarising the gist of the representation made and conclude with a clear statement of, for example, what change the objector considers is needed to make the meaning of the LDP clearer. It is not expected that any major proposal changes should be necessary at this stage, if early community involvement has been carried out correctly. Where appropriate, and possible, the statement should explain how the change affects the sustainability appraisal. All such statements should be produced in accordance with the timetable specified by the appointed Inspector.

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<sup>32</sup> See Regs 15 and 16, 2004 Regulations.



# Annex 1 - List of relevant legislation and guidance

Please note this list is not exhaustive. A number of other relevant guidance documents are proposed to be published by the Assembly Government to provide further guidance and advice on the preparation of LDPs. Please refer to the Assembly Government website: insert NAW web address please

## Legislation

*Planning and Compulsory Purchase Act 2004*

<http://www.opsi.gov.uk/acts/acts2004/20040005.htm>

*The Town and Country Planning (Local Development Plan) (Wales) Regulations 2004*

<http://www.opsi.gov.uk/legislation/wales/wsi2005/20052839e.htm#22>

*European Directive on Strategic Environmental Assessment (2001/42/EC)*

<http://www.planningportal.gov.uk/england/professionals/en/1112201229095.html>

*Environmental Assessment of Plans and Programmes (Wales) Regulations 2004*

<http://www.opsi.gov.uk/si/si2004/20041633.htm>

## Guidance

*Local Development Plans Wales*

[www.wales.gov.uk/subiplanning/content/devplans/ldpw-e.pdf](http://www.wales.gov.uk/subiplanning/content/devplans/ldpw-e.pdf)

*Local Development Plan Manual*

*Not currently available online.*

*Planning Policy Wales Companion Guide*

[www.wales.gov.uk/subiplanning/content/planningpolicy/pdf/ppw-e.pdf](http://www.wales.gov.uk/subiplanning/content/planningpolicy/pdf/ppw-e.pdf)

*Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents*

<http://www.odpm.gov.uk/index.asp?id=1161341>

## Annex 2: Summary of the Tests, Key Questions and Evidence

<b>Procedural Tests</b>		
Test	Key questions	Evidence
P1: it has been prepared in accordance with the Delivery Agreement including the Community Involvement Scheme (CIS).	<ul style="list-style-type: none"> <li>Have all the relevant consultation/participation procedures set out in the CIS been carried out?</li> </ul>	<ul style="list-style-type: none"> <li>The local planning authority's CIS (as agreed by AG, with any subsequent agreed variations)</li> <li>The Consultation Report produced for the LDP (showing how LPA has carried out its consultation procedures and how these relate to their CIS)</li> <li>The LDP Regulations</li> </ul>
P2: the plan and its policies have been subjected to sustainability appraisal including strategic environmental assessment.	<ul style="list-style-type: none"> <li>Has sustainability appraisal (SA), incorporating the requirements of strategic environmental assessment (SEA), been carried out in relation to the LDP?</li> </ul>	<ul style="list-style-type: none"> <li>SA report with the LDP (identifying process by which SA been carried out, baseline information used, and outcomes of the process).</li> </ul>
<b>Consistency Tests</b>		
Test	Key questions	Evidence
C1: it is a land use plan which has regard to other relevant plans, policies and strategies relating to the area or to adjoining areas.	<ul style="list-style-type: none"> <li>Does the plan put forward proposals for use and development of land that adequately take account of the relationship with the plans/policies/requirements of other organisations (e.g. those of utility companies) and agencies providing services in the area?</li> <li>Does this include their future plans or strategy and any requirement for land and premises, which should be prepared in parallel?</li> <li>Clear how the plan relates to other plans and strategies (e.g. local transport plans) which influence delivery of policies and proposals in the plan?</li> </ul>	<ul style="list-style-type: none"> <li>Range of documents may be relevant, particularly policy documents with land use implications produced by other organisations.</li> <li>Not be appropriate for the LDP to list all the strategies and documents taken into account in its preparation. These can be part of a separate document used by the LPA to demonstrate that this test of soundness is met.</li> <li>Representations from bodies that consider the LDP either does or does not have sufficient regard to other relevant strategies for which they are responsible will be particularly important.</li> </ul>

Test C2: it has regard to national policy.	<ul style="list-style-type: none"> <li>• If plan contains any policies or proposals not consistent with national policy, is there local justification?</li> <li>• Does it avoid wasteful/unnecessary repetition of national policy?</li> </ul>	<ul style="list-style-type: none"> <li>• Planning Policy Wales and its Companion Guide, Minerals Planning Policy Wales, Technical Advice Notes.</li> <li>• Local studies or any other information providing the basis for departing from national policy (e.g. those deriving from the community strategy or the National Park Management Plan forming part of the evidence for the LDP).</li> <li>• The SA report and SEA (where these provide justification for a departure from national policy).</li> </ul>
Test C3: it has regard to the Wales Spatial Plan.	<ul style="list-style-type: none"> <li>• Does plan contain any policies or proposals not consistent with the broad strategies in the WSP - if so, is there local justification?</li> <li>• Does plan take account of relevant area collaborative work undertaken for the WSP?</li> </ul>	<ul style="list-style-type: none"> <li>• The WSP, agreed area programme outputs and any studies or other information providing evidence of local justification for departure.</li> <li>• The SA report and SEA (where these provide justification for departure from national policy).</li> </ul>
Test C4: it has regard to the relevant community strategy/strategies.	<ul style="list-style-type: none"> <li>• Does the LDP have regard to the community strategy, setting out policies and proposals which deliver key components of that strategy, which are consistent with higher-level planning policy and relate to the use and development of land?</li> </ul>	<ul style="list-style-type: none"> <li>• Community strategy and the National Park Management Plan.</li> <li>• The LDP should have regard to the objectives and priorities established by the community strategy that relate to the development and use of land.</li> </ul>

### Coherence and Effectiveness Tests

Test	Key questions	Evidence
Test CE1: the plan sets out a coherent strategy from which its policies and allocations logically flow and, where cross boundary issues are relevant, it is compatible	<ul style="list-style-type: none"> <li>• Do policies and allocations clearly relate to the aims and objectives in the strategy set out in the submitted plan? May help if policies are cross-referenced to the key aims and objectives.</li> <li>• Are the policies within LDP themselves consistent?</li> </ul>	<ul style="list-style-type: none"> <li>• The strategy in the LDP will be principal source of evidence.</li> <li>• LDPW para 2.10 states LDP strategy should include a concise statement of the plan's key aims and objectives and strategies for achieving them. LDP strategy should therefore set the</li> </ul>

<p>with the development plans prepared by neighbouring authorities.</p>	<ul style="list-style-type: none"> <li>• Are there any obvious gaps in the coverage of the plan, having regard to its purpose and relevant requirements in national planning policy?</li> <li>• Is it clear how plan relates to those prepared by neighbouring authorities and how cross-boundary issues have been addressed?</li> <li>• Where there are overlaps, are these consistent/complementary?</li> </ul>	<p>context for its policies and proposals, which must be clearly directed to the achievement of the plan's aims and objectives.</p> <ul style="list-style-type: none"> <li>• Plan must also show how it relates, where relevant, to the strategies in neighbouring authority's plans (including Regional Spatial Strategies and Local Development Frameworks where English authorities are involved). Perceived inconsistencies will need to be explained.</li> <li>• LPAs should undertake joint studies where appropriate to ensure consistency between neighbouring authorities (e.g. on housing land or retail provision). WSP area collaborative work will need to be taken into account where it is relevant.</li> </ul>
<p>Test CE2: the strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust and credible evidence base.</p>	<ul style="list-style-type: none"> <li>• Is it clear that LPA considered the relevant options and alternatives in preparing the plan? LPAs will not be expected to deal with every possible alternative or option but will be expected to consider those put to them during the process of preparation and engagement.</li> <li>• Are assumptions in the LDP set out clearly and supported by evidence?</li> <li>• Does the evidence clearly support the plan's strategy and policies?</li> <li>• Is the evidence robust and credible and been prepared in accordance with national planning policy and good practice guidance?</li> <li>• Where a balance has been struck in</li> </ul>	<ul style="list-style-type: none"> <li>• Sustainability Appraisal Report: the Report should set out the options and the process by which they have been objectively assessed. It will be a fundamental part of the evidence base.</li> <li>• Range of other evidence required to assess this test – <u>note: examples only</u> - For the strategy: urban capacity studies; urban and rural regeneration strategies; local housing assessments; regional and local housing and economic strategies; retail capacity studies; community development strategies; local transport plans; health and education programmes and strategies; infrastructure providers' investment programmes and strategies;</li> </ul>

	<p>taking decisions between competing alternatives – is it clear how those decisions have been taken?</p>	<p>environmental programmes and assessments of waste management needs.</p> <ul style="list-style-type: none"> <li>- For a site allocation: urban capacity studies; flood risk assessments; various environmental studies and assessments; transport assessments etc.</li> <li>- For key areas of change: area assessments, market assessments, socio-economic assessments, and environmental assessment and assessment of infrastructure.</li> <li>- For key areas of protection: surveys and assessments of the natural or historic/built environment.</li> </ul>
<p>Test CE3: there are clear mechanisms for implementation and monitoring.</p>	<ul style="list-style-type: none"> <li>• Does plan contain realistic targets and milestones which relate to the delivery of the policies?</li> <li>• Is it clear how these are to be measured and how they are linked to the production of the annual monitoring report?</li> <li>• Are delivery mechanisms and timescale for implementation for the policies clearly identified?</li> <li>• Is it clear who is intended to implement each policy? Where actions required are outside the direct control of the LPA is there evidence that there is necessary commitment from the relevant organisation?</li> <li>• Does the processes for measuring the success of the plan accord with national planning policy and best practice guidance?</li> <li>• Does plan set out the factors essential to the delivery of key policy objectives of the plan?</li> </ul>	<ul style="list-style-type: none"> <li>• Evidence broadly similar to that required to assess test CE2.</li> <li>• In relation to site-specific allocations, however, may include reports/representations by main public and private sector delivery bodies on practical development opportunities on the allocated sites and alternatives put forward by objectors.</li> </ul>

<p>Test CE4: it is reasonably flexible to enable it to deal with changing circumstances.</p>	<ul style="list-style-type: none"> <li>• Is plan flexible enough to respond to a variety of , or unexpected changes, in circumstances</li> <li>• Are development control policies written in a form to enable them to provide a robust and consistent framework for considering planning applications?</li> </ul>	<ul style="list-style-type: none"> <li>• LPA should be testing and monitoring the effectiveness of its policies. Some policies will be more critical to the achievement of the plan's objectives than others - these should be identified.</li> <li>• Sensitivity testing of policies in plan to potential changes in assumptions that underpin them (e.g. economic growth or transport provision), and other sources of evidence for plan (see test CE2) would help to demonstrate the robustness of the plan to change. For example, if the strategy of the plan is dependent on the construction of a bypass, LPA should carry out an assessment of the risk of that piece of infrastructure not being delivered and the consequences of this failure for plan as a whole.</li> <li>• Where risk is significant, the LPA should identify contingency options that will achieve the objectives of the plan in the event that the policy in question cannot be delivered. LDP should set out the basis for the contingencies identified.</li> <li>• For subsequent revisions of LDPs the Annual Monitoring Report (AMR) will be an important source of evidence.</li> </ul>
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# Annex 3 – Notes to accompany Model Representation Form

## 1. Introduction

1.1 The Planning and Compulsory Purchase Act 2004 states that the purpose of the examination of a Local Development Plan (the Plan) is to consider whether it is “sound”. This means that anyone wanting to comment on or object to the Plan should seek to say how it is unsound and what is needed to make it sound. Sound may be considered in this context within its ordinary meaning of “*showing good judgement*” and “*able to be trusted*” and within the context of fulfilling the expectations of legislation. To assess the Plan we use 10 tests. A brief explanation of each of the tests is set out in sections 2, 3 and 4 below.

1.2 It would be helpful to ensure, where your representation seeks to make a change to the deposited version of the LDP, that you make clear which test(s) of soundness you believe the Plan fails. The tests are in 3 groups – ‘procedural’ (2 tests); ‘conformity’ (4 tests); and ‘coherence and effectiveness’ (4 tests). If you are seeking to make representations on the way in which the local planning authority (Planning Authority) has prepared the Plan it is likely that your comments or objections should be set out under one of the ‘procedural’ tests. If it is the actual content on which you wish to comment or object you should look at the ‘consistency’ and the ‘coherence and effectiveness’ tests.

1.3 Whilst you should endeavour to make clear which soundness test you consider the LDP fails, if you fail to identify a test in relation to your objection, this will not lead to your representation not being considered, providing it relates to part of the LDP and it is clear what change you are seeking. **Where you seek more than one change and consider the LDP fails to meet more than one test of soundness, a separate form should be used for each change and each soundness test.** A separate form should also be used for representations supporting the LDP as opposed to objecting to it.

1.4 Where a group shares a common view on how it wishes the LDP to be changed, it would be helpful for that group to send a single representation, rather than for a large number of individuals to send in separate representations repeating the same point. In such cases the group should indicate how many people it is representing and how the representation has been authorised.

## 2. Procedural Tests

2.1 These 2 tests relate to the procedures adopted in preparing the Plan:

- **It has been prepared in accordance with the Delivery Agreement including the Community Involvement Scheme (CIS).** *The CIS is a document setting out the Planning Authority’s strategy for involving the community in preparing and revising a Plan. A copy of the CIS can be obtained from the Planning Authority or found on its web site.*
- **The Plan and its policies have been subjected to Sustainability Appraisal including Strategic Environmental Assessment.** *The Planning and Compulsory Purchase Act 2004 requires Planning Authorities to carry out a sustainability appraisal of the Plan. Planning Authorities must also conduct an environmental assessment in accordance with the European Directive on*

*Strategic Environmental Assessment (the SEA Directive). The Planning Authority is required to produce a sustainability report to accompany the Plan when it is placed on deposit. This should identify the process by which the sustainability appraisal has been carried out, the baseline information used to inform the process and the outcomes of that process. It will include an Environmental Statement as required by the SEA regulations.*

### **3. Consistency Tests**

3.1 These 4 tests relate to the relationship between the Local Development Plan and other plans, including those of other bodies for the same area:

- **It is a land use Plan which has regard to other relevant plans, policies and strategies relating to the area or to adjoining areas.** *Land use planning should not just be concerned with the physical aspects of location but also with economic, social and environmental matters relating to the development and use of land. To do this successfully the Local Development Plan must take account of the plans prepared by other bodies for the area or areas in question.*
- **It has regard to national policy.** *The National Assembly for Wales (NAW) will comment on any inconsistencies with national policy. But note that the Plan is to be focussed and concise, and should not repeat national policies.*
- **It has regard to the Wales Spatial Plan (WSP).** *Section 62(5)(a) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to have regard to the Wales Spatial Plan in preparing their Plans. The NAW will comment on any inconsistencies.*
- **It has regard to the relevant Community Strategy/Strategies (and National Park Management Plan).** *The Community Strategy (CS) is prepared by the local strategic partnership, which represents a range of interests in the local authority's area. In National Park Areas, the National Park Management Plan will reflect the relevant CS/CSs for the National Park area. The CS is subject to consultation but not to independent examination.*

### **4. Coherence and Effectiveness Tests**

4.1 These 4 tests relate to the content of the Plan - what the authority is proposing for your area:

- **The Plan sets out a coherent strategy from which its policies and allocations logically flow and, where cross boundary issues are relevant, it is compatible with the development plans prepared by neighbouring authorities.** *The Plan should set out a strategy that sets the framework for the whole document. The Plan should also show how its policies and proposals relate to the plans prepared for neighbouring areas.*
- **The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and they are founded on a robust and credible evidence base.** *The Plan should show how its policies and proposals help to ensure that the social, environmental and economic objectives of sustainability will be achieved. The Planning Authority should have considered the alternatives put forward by the community as part of the process of developing the version of the Plan placed on deposit.*
- **There are clear mechanisms for implementation and monitoring.** *The Plan should indicate who is to be responsible for making sure that the policies and proposals happen and when they will happen. Any measures which the*

*local authority has included to make sure that targets are met should be clearly linked to the annual monitoring report.*

- **It is reasonably flexible to enable it to deal with changing circumstances.** *This may involve minor changes to respond to the outcome of the monitoring process or more significant changes to respond to problems such as lack of finance for major infrastructure proposals. Although flexibility is important, the Plan should make clear that major changes may require a formal review including public consultation.*

## **5. Additional Considerations**

5.1 If you think the process by which the Plan has been prepared is not sound you should consider the following before making representations:

- Has the process of community involvement for the Plan been in general accordance with the Planning Authority's CIS agreed by the Assembly Government?
- Has a Sustainability Report been produced for the Plan? Any representations on this procedural test should be concerned with whether the appropriate sustainability process has been carried out by the Planning Authority. Whether the resultant policies of the plan are sustainable will be covered by other tests, notably the tests relating to coherence and effectiveness, which deal with the Plan's content.

5.2 If you think the content of a Plan is not sound because it has omitted a policy you think is necessary you should consider the following questions before making representations:

- Is what you are concerned with already covered by any national policy or the Wales Spatial Plan? If so it does not need to be included.
- Is what you are concerned with covered by any other parts of the Plan? There is no need for repetition of policies in different parts of the Plan.
- If the policy is not covered elsewhere, in what way is the Plan unsound without the policy?
- If you consider the Plan to be unsound without the policy, what precisely should the policy say?

If you consider the Planning Authority has not put forward sufficient evidence to justify a significant departure from national policy, your comments or objections should make it clear why you think so. Conversely, you may feel the Planning Authority should include a policy or policies which would depart from national policy in order to meet a justified local need, but it has not done so. In these circumstances it will be important for you to say precisely what local justification there is for including in the plan something different from national policy and support your assertion with evidence.

## **6. General advice**

6.1 If you wish to object to a Plan you should make clear in what way it is not sound having regard to the tests set out above. You should explain clearly how and why the Plan should be changed and provide evidence to support your arguments wherever possible.

6.2 Everyone who makes a representation seeking a change has the right to be heard by the Inspector but most representations can be dealt with perfectly adequately by means of an

exchange of written submissions. Objections dealt with in this way will have no less weight than those dealt with orally at the examination.