

## Guidance Note 2 - Legal Compliance and Soundness

### Legal Compliance

The Planning Inspectors as part of the local plan examination are required to check that the Plan meets the legal requirements of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) and the Town and Country Planning (Local Planning) (England) Regulations 2012, before moving on to consider the tests of soundness.

If you are making a representation on the way in which the Council has prepared the Plan in relation to a main modification, it is likely that your comments or objections will they relate to a matter of legal compliance.

The Planning and Compulsory Purchase Act 2004 can be viewed:

[www.legislation.gov.uk/ukpga/2004/5/contents](http://www.legislation.gov.uk/ukpga/2004/5/contents)

The Town and Country Planning (Local Planning) (England) Regulations 2012 can be viewed at [www.legislation.gov.uk/uksi/2012/767/introduction/made](http://www.legislation.gov.uk/uksi/2012/767/introduction/made)

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

### Local Development Scheme

Preparation of the Local Plan should be in accordance with the current Local Development Scheme (LDS). This is available at: [www.ashford.gov.uk/timetables-and-monitoring](http://www.ashford.gov.uk/timetables-and-monitoring)

### Statement of Community Involvement

The process for public engagement for the Local Plan should be in general accordance with the Statement of Community Involvement (SCI) which is available at: [www.ashford.gov.uk/public-consultation](http://www.ashford.gov.uk/public-consultation)

### Town and Country Planning (Local Planning) (England) Regulations 2012

The Local Plan should comply with the Town and Country Planning (Local Planning) (England) Regulations 2012. This includes public participation in the preparation of the Local Plan.

### Sustainability Appraisal

The Council is required to publish a Sustainability Appraisal report when publishing the Local Plan. 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. The Sustainability Appraisal is available at: [www.ashford.gov.uk/local-plan-2030-evidence-base](http://www.ashford.gov.uk/local-plan-2030-evidence-base)

## National Planning Policy

The Plan is being examined against the 2012 version of the National Planning Policy Framework (NPPF) available at the following link:

<http://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2>

## Duty to Co-operate

The Council is expected to have followed the 'Duty to Co-operate' requirements set out in Section 110 of the Localism Act 2011 (available at

[www.legislation.gov.uk/ukpga/2011/20/contents](http://www.legislation.gov.uk/ukpga/2011/20/contents))

## Soundness

If it is the actual content of the Plan on which you wish to comment on or object to, it is likely that your comments or objections will relate to the Plan's soundness.

To be sound, the Plan should be:

- **Positively prepared** - This means the Plan should be based on a strategy which seeks to meet objectively assessed needs
- **Justified** - This means that the Plan should be based on a robust and credible evidence base. The evidence to support the Local Plan is available online at: [www.ashford.gov.uk/local-plan-2030-evidence-base](http://www.ashford.gov.uk/local-plan-2030-evidence-base)  
The Local Plan should also provide the most appropriate strategy when considered against reasonable alternatives, based on proportionate evidence.
- **Effective** - This means the Plan should be deliverable over the plan period with no regulatory or national barriers to delivery. The Plan should be flexible to deal with changing circumstances, which may involve minor changes in response to monitoring outcomes or more significant changes in response to problems such as sites not coming forward as planned.
- **Consistent with national policy** - As well as being a matter of legal compliance, the Plan's consistency with national policy is also a matter of soundness. Where there is a departure from national policy, the Council must justify this approach.  
For further information see paragraph 178 of the National Planning Policy Framework.