



## **Notes to Accompany Representation Form for Development Management Plan Publication Stage**

### **1. Introduction**

The Development Management Plan is being published in order for representations to be made prior to submission. The representations will be considered alongside the published Development Management Plan when it is submitted. All representations will be examined alongside the Development Plan and its supporting documentation by a Planning Inspector. The Planning and Compulsory Purchase Act 2004<sup>1</sup> (the 2004 Act) states that the purpose of the examination is to consider whether the Development Management Plan complies with the legal requirements and is 'sound'.

- If you are seeking to make representations on the way in which Elmbridge Borough Council has prepared the published Development Management Plan it is likely that your comments or objections will relate to a matter of **legal compliance**. See section 2.
- If you wish to comment or object on the actual content of the document, it is likely that your comments or objections relate to issues of **soundness** and whether or not the Development Management Plan meets the tests of positively prepared, justified, effective or consistency with national policy. See section 3.

### **2. Legal Compliance**

The Inspector will first check that the Development Management Plan meets the legal requirements under s20(5)(a) of the 2004 Act before moving on to test for soundness.

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

- The document in question should be within the Council's current Local Development Scheme (LDS) and the key stages should have been followed. The LDS is effectively a programme of work prepared by the Council, setting out the plans it proposes to produce over a 3 year period. It will set out the key stages in the production of any plans which the Council propose to bring forward for independent examination. If the plan is not in the current LDS it should not have been published for representations. The LDS should be on the Council's website and available for inspection at their main offices.
- The process of community involvement for the plan in question should be in general accordance with the Council's Statement of Community Involvement (SCI). The SCI is a document which sets out a local planning authority's strategy for involving the

---

<sup>1</sup> See: [www.opsi.gov.uk/ACTS/acts2004/ukpga\\_20040005\\_en\\_1](http://www.opsi.gov.uk/ACTS/acts2004/ukpga_20040005_en_1)

community in the preparation and revision of Local Plans and the consideration of planning applications.

- The Development Management Plan should comply with the Town and County Planning (Local Planning) (England) Regulations 2012<sup>2</sup>. On publication, the Council must publish the documents prescribed in the Regulations, and make them available at their principal offices, additional locations throughout the Borough and available via their website. The Council must also place local advertisements and notify statutory consultees and other bodies prescribed in the Regulations), together with any persons who have requested to be notified.
- The Council must provide a Sustainability Appraisal Report when they publish a DPD. This should identify the process by which the Sustainability Appraisal has been carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure they reflect social, environmental, and economic factors.
- The Development Management Plan itself should have regard to national policy, which is set out through the National Planning Policy Framework.

### 3. Soundness

Paragraph 182 of The National Planning Policy Framework<sup>3</sup> provides a clear definition of “Soundness” for the purpose of examination. Before making a representation on soundness, please consider whether the Development Management Plan is:

**a) Positively Prepared** - This means that the Development Management Plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so, and consistent with achieving sustainable development.

**b) Justified** - This means that the Development Management Plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence.

**c) Effective** - This means the Development Management Plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities. The Plan should indicate who is to be responsible for making sure that the policies and proposals happen, and when they will happen.

**d) Consistent with national policy** - This means that the Development Management Plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

---

<sup>2</sup> See: <http://www.legislation.gov.uk/ukxi/2012/767/contents/made>

<sup>3</sup> See: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

The Plan should be flexible to deal with changing circumstances, which 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 funding for major infrastructure proposals. Although it is important that policies are flexible, the Plan should make clear that major changes may require a formal review including public consultation.

Any measures which the Council has included to make sure that targets are met should be clearly linked to an Authority Monitoring Report (AMR). The AMR must be produced at least once a year by all local authorities and reporting will show whether or not a Plan needs amendment.

Where there is a departure, the local planning authority must provide clear and convincing reasoning to justify their approach. Conversely, you may feel that a policy or policies which would depart from national or regional policy to some degree in order to meet a clearly identified and fully justified local need, but they have not done so. In this instance it will be important for you to say in your representations what the local circumstances are that would justify a different policy approach to that in national policy and support your assertion with evidence.

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

- **Is the issue with which you are concerned entirely within the control of the Planning system?** For example, there is great concern about a shortage of affordable housing, but planning policy cannot be used to set rental caps.
- **Is the issue with which you are concerned already covered specifically by any national planning policy?** If so it does not need to be included within the document.
- **Is the issue with which you are concerned covered by any other policies in the DPD on which you are seeking to make representations?**
- **Is the matter, or matters, with which you are concerned addressed by any other document within the Local Plan?** There is no need for repetition between documents.
- **If the policy is not covered elsewhere, in what way is the Plan unsound without the policy?**
- **If the Plan is unsound without the policy, what should the policy say?**

#### **4. General advice**

If you wish to make a representation seeking a change to a document or part of a document you should make it clear the ways in which either the whole Plan, or relevant part of the Plan is not sound having regard to the legal compliance check and tests set out in these notes.

You should try to support your representation by evidence showing why the Plan should be changed. It will be helpful if you also say precisely how you think the Plan should be changed. Representations should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested

change, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. Following this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

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

Further detailed guidance on the preparation, publication and examination of Plans is available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk)