

Planning Policy Explanatory Note 2 – guide to planning policy documents

The note covers the following issues:

- Comparison between Development Plan Documents (DPD) and Supplementary Planning Documents (SPD)
- The weight to be given to Neighbourhood Plans
- The status of policies contained within the 2003 Guildford Local Plan

Comparison between the production process relating to a Development Plan Document (DPD) and a Supplementary Planning Guidance Document (SPD)

This note sets out to compare DPDs and SPDs. The documents are designed to perform different functions and have a very different route through creation, consultation and to adoption.

Broad Definitions

Development Plan Document: Plans set out a vision and a framework for the future development of the area, addressing needs and opportunities in relation to housing, the economy, community facilities and infrastructure – as well as a basis for conserving and enhancing the natural and historic environment, mitigating and adapting to climate change, and achieving well designed places. It is essential that plans are in place and kept up to date. Any planning document that seeks to allocate sites for development must go through the DPD process including an Examination by a government inspector.

Legislation sets out that each local planning authority must identify their strategic priorities and have policies to address these in their development plan documents (taken as a whole). The development plan for an area is made up of the combination of strategic policies (which address the priorities for an area) and non-strategic policies (which deal with more detailed matters). In Guildford this is currently represented by the adopted Local Plan strategy and sites and the saved Local Plan 2003 policies that have not yet been superseded. The extant Local Plan 2003 policies will be fully superseded by the emerging Development Management DPD. The Surrey County Council Waste and Minerals plans together with any adopted neighbourhood plans also form part of the development plan.

Supplementary planning documents: Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are a material consideration in planning decisions but are not part of the development plan.

The starting point is to understand an SPD can only supplement adopted policies. It is not itself policy and cannot contain new policies; it can only supplement existing policies.

Activity	DPDs	SPDs	Comment
Purpose	<p>There can be more than one document. In Guildford we have a Local Plan strategy and sites (LPSS). This provides the strategic policy context (i.e. seeks to meet all needs through the allocation of development sites and the protection of specific designations or uses in specific locations). We are also producing a Development Management DPD that will provide detailed policies to be used in determining planning applications along with the LPSS.</p>	<p>Supplementary planning documents (SPDs) should build upon and provide more detailed advice or guidance on policies in an adopted local plan. There can be many SPDs. They can vary greatly in length from a page to well over 60-70 pages. They must state which policies they are supplementing. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making.</p> <p>They must be consistent with the policies they support. They cannot make policy themselves but help to explain what the policies mean and how the Council will operate the policies. They are designed to be helpful and to smooth the planning application process. They should not add unnecessarily to the financial burdens on development.</p>	<p>It is common for a DPD to make reference to the intention of producing SPDs to support specific policies.</p> <p>Planning DPDs should be concise and the provision of too much detail relating to the policies would slow the process down even further. SPDs can provide further detailed guidance in support of the policies.</p>
Evidence base	<p>There is a very considerable evidence base underpinning the LPSS. This includes 'needs' assessments such as Housing (SHMA) Employment (ELNA) and Retail. They also include constraints documents such as the Green Belt and Countryside study, the Strategic Flood Risk Assessment, Transport Assessment, Guildford Town Centre Views etc.</p> <p>The evidence base may need to evolve and be refreshed depending on how long the plan-making process takes.</p> <p>The LPDMP is likely to have a much smaller evidence base. The viability assessment will need to be updated.</p> <p>The preparation of DPDs must be supported by the Sustainability Appraisal</p>	<p>The SPDs tend not to have evidence base documents. They make use of specialist information but as they are only supplementing the policy the evidence has usually been provided to justify the policy itself.</p>	<p>The evidence base is not subject to consultation. It is a technical set of documents that informs the production of the LP.</p> <p>The consultant engaged in producing the documents are also required to support the Council at the Examination hearings if necessary.</p>

	<p>(SA). This is an assessment of the emerging plan and the policies' impact on social, economic and environmental objectives. It is an iterative process that help mitigate harm and enhance benefits.</p>		
<p>Stages of production</p>	<p>All DPDs must go through 3 stages of production. The first 2 stages follow a similar process of production followed by a formal public consultation, they are however very different documents. The Regulation 18 document is the 'issues and options' stage. It seeks to understand the key issues affecting the location and what the options are for dealing with those issues. In terms of the LPDMP we are bringing this work to a conclusion by also consulting on what is considered to be the 'preferred option'. It is not uncommon for two regulation 18 consultations to take place especially in relation to the strategy and sites document. The Regulation 19 consultation is on the document that the Council intends to submit to the Inspector (SoS). It contains the specific wording of the policies with accompanying supporting text. Following consultation, if it is not necessary to make any significant modifications then the document will be formally submitted to the Inspector. If main modifications are required, then a further Regulation 19 consultation will be required. The final phase is the Examination of the plan. The plan and all other accompanying document eg. SA, Equalities Impact Assessment, Consultation Statement, all evidence base documents are submitted to the Inspector who is charged with assessing the legal compliance and 'soundness' of the plan (i.e. they are positively prepared, justified, effective, consistent with national policy). The</p>	<p>The document is produced by officers. For consultation purposes the document does not need to go through the committee process. Delegated authority is provided by the Portfolio holder. The document would then progress through the committee process together with a schedule detailing how the representations received have been dealt with. The document would finally be adopted by the Executive. It does not need to go to full Council as it is not policy.</p>	

	<p>examination is primarily based on written evidence but does also involve hearing sessions to help the Inspector to clarify any outstanding issues. If the Inspector considers main modifications are necessary to make the plan sound, then a further consultation is undertaken on these changes. The Inspector will then produce a report determining if the plan is sound, outlining what main modifications are necessary. It can then be adopted by the Council (at full Council).</p>		
Consultation	<p>Formal consultation at each stage is for a minimum of 6 weeks. The consultation needs to meet the minimum standards set by the Council's Statement of Community Involvement. This has previously involved events across the borough explaining the consultation and content of the documents. Events have been organised on weekends and evenings to encourage a wide and varied response. Special events have also been arranged to engage with hard to reach groups. The number of representations received as part of the LPSS was close to 90 thousand - a very high response rate. It is anticipated that the response rate to the more technical LPDMP will be significantly less.</p>	<p>The consultation period is for a minimum period of 4 weeks. The consultation itself is more technical in nature. As previously stated, it is normally less controversial than DPDs because it does not create a policy, it supplements it. In general, consultation generates far fewer responses.</p>	
Timeframe	<p>The timeframe for producing DPDs has varied depending on the document itself, the level of responses received and the length of the Examination process. In Guildford a minimum of 3 years is considered realistic. The LPSS took in excess of 6 years and included 4 formal consultations and two sets of hearings (14 sitting days). Plans must be reviewed every 5 years.</p>	<p>Preparation can be much quicker than a DPD. However, this will depend on the type of SPD and the level of responses received. Most SPDs can be produced within 9 months. The guidance attaches to policy for as long as it remains extant. It is also far easier to amend or add to should the need arise.</p>	

Member/committee process	Policies are worked up by officers and shared with the portfolio holder. Emerging policies are shared with the Local Plan Panel, a cross-party member engagement group that are used as a sounding board. It is likely that the policy documents will be considered by the EAB. DPDs are required to go to CMT, Executive Liaison, Executive and Full Council prior to consultation. This member engagement is repeated at each stage of the production process.	The portfolio holder has delegated powers to allow the SPD to go out for formal consultation.	
Adoption	In light of the inspector's report, which will indicate what modifications are necessary to ensure it is 'sound', the LP can be adopted by full Council.	Following formal consultation and any necessary amendments the document would move through to Executive for adoption.	Post adoption may result in a Judicial Review challenge.

The weight to be given to Neighbourhood Plans

Neighbourhood Plans, when brought into force, become part of the statutory development plan for the area that they cover. They can be developed before, after or in parallel with a local plan, but the law requires that they must be in general conformity with the strategic policies in the adopted local plan for the area. Neighbourhood plans are not tested against the policies in an emerging local plan although the reasoning and evidence informing the local plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.

Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body. This could include sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination.

Where a neighbourhood plan has been brought into force, the local planning authority should take its policies and proposals into account when preparing the local plan. Local plan policies should not duplicate those in the neighbourhood plan, and do not need to supersede them unless changed circumstances justify this. It is important for local plans to make appropriate reference to neighbourhood plan policies and proposals, and similarly for neighbourhood plans to acknowledge local plan policies that they relate to.

Legislative framework

Neighbourhood Plans form part of the Development Plan (as per s38(3) of PCPA 2004). Section 38(6) PCPA 2004 provides that: "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

It's important to note that, in the event of a conflict between policies in the Local Plan and a Neighbourhood Plan, s38(5) PCPA 2004 provides that the more recently adopted plan takes precedence.

The policies in the Neighbourhood Plan are not merely 'guidance'. They are policies in the same way as are the policies in the Local Plan and as such planning applications must be determined in accordance with those policies unless material considerations indicate otherwise.

Planning and Compulsory Purchase Act 2004 – extracts from section 38

(3) For the purposes of any other area in England the development plan is–

- (a) the regional strategy for the region in which the area is situated (if there is a regional strategy for that region)
- (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area and
- (c) the neighbourhood development plans which have been made in relation to that area.

...

(5) If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.

(6) If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Local Plan 2003 policies that have been superseded by the LPSS and those that remain extant until superseded by the LPDMP

New Local Plan policy	LP2003 Superseded policy
S1	
S2	H1
S3	G5(6)
H1	H5, H7 (part about HMOs only), H13, H14
H2	H11
H3	H12
P1	RE5, RE6
P2	H6, H9, RE1, RE2, RE3, RE9, RE10, RE15
P3	RE4, R11
P4	G1(6), G1(7)
P5	NE1
D1	G1(5), G5(1), G5(6)
D2	G1(9), G1(10)
D3	HE1, HE3, HE6
E1	E1, E2, E3, GT5
E2	E1, E4
E3	E2, E3
E4	
E5	RE8
E6	T1, T2, T3, T4, T5, T6, T7, T8, R1
E7	S2, S3, S4, S5, S6, S7
E8	S8
E9	S9, S10
ID1	G1(7), G2, G6, M3, M5, M6
ID2	
ID3	M1, M2, M4, G1(1), G1(2), G12, G13
ID4	G5(10), R1, R5, NE1, NE2, NE3
SITE ALLOCATIONS	H2, H3, H15, M7, GT3, GT6, GT7, GT8, CF6
None	M8

LP2003 Retained policy	
G1(3)	RE13
G1(4)	RE14
G1(8)	HE2
G1(11)	HE4
G1(12)	HE5
G1(13)	HE7
G3	HE8
G4	HE9
G5(2)	HE10
G5(3)	HE12
G5(4)	NE4
G5(5)	NE5
G5(7)	NE6
G5(8)	R2
G5(9)	R3
G6	R4
G7	R6
G8	R7
G9	R8
G10	R9
G11	R10
H4	R12
H7 (except part about HMOs)	R13
H8	CF1
E5	CF2
GT1	CF3
GT2	CF4
RE11	CF5
RE12	

