

**A framework for assessing soundness and focusing representations on
Development Plan Documents and Statements of Community Involvement**

Wildlife & Countryside Link's response - May 2005

1. Wildlife and Countryside Link (Link) brings together 35 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management and food production practices and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Taken together, our members have the support of almost 7 million people in the UK.
2. Link welcomes the opportunity to respond to this consultation paper. Link believes that planning is fundamental to protecting and enhancing wildlife and the natural and historic environment. This response is supported by the following organisations:
 - British Mountaineering Council
 - Campaign to Protect Rural England (CPRE)
 - Council for British Archaeology
 - Council for National Parks
 - Friends of the Earth
 - National Federation of Badger Groups
 - Ramblers' Association
 - Royal Society for the Protection of Birds (RSPB)
 - The Wildlife Trusts
 - Woodland Trust

Key concerns

3. There is considerable uncertainty as to how Independent Examinations and the handling of representations on submitted Development Plan Documents will work under the new system. Link welcomes the Planning Inspectorate's decision to draw up guidance to provide the clarification that is urgently needed.
4. Key concerns this consultation raises for Link are how to secure effective and meaningful community participation in planning, while maintaining robust, transparent procedures. We have serious reservations about proposed arrangements for submitting representations. We believe it is unfair to expect members of the public to be able explain how their objections relate to particular tests or why a DPD is not sound. Link agrees that where they are able to, people should describe changes they seek and why, but in our view it is unrealistic to expect lay people to use the language of planning, follow complex procedures set out in this document and follow other documents necessary to make sense of these, such as PPSs, SCIs and SEA regulations and guidance. We recommend that particular care be taken to ensure sections of the population are not excluded because they do not understand or use technical procedures and jargon. Above all, it is vital that substantive objections are fully considered and addressed as part of the new, more accessible approach and not dismissed or overlooked.
5. We do not believe the draft guidance in papers 1 and 2 is consistent with national policy on sustainable development and community involvement. We fear that if taken forward, the arrangements for receiving representations would undermine Government objectives and aspirations. PPS1 states that '*Community involvement in planning should not be a reactive, tick-box, process. It should enable the local community to say*

what sort of place they want to live in at a stage when this can make a difference'. We recommend that the final version be drafted to better reflect PPS1, the UK Sustainable Development Strategy and the report *Community Involvement in Planning: The Government's objectives*.

Tests of soundness and examination procedures

6. The introduction of soundness tests should, in principle, add rigour and objectivity to the forward planning process, but also increases the risk that procedure will dominate over more substantive concerns. Legitimate objections may be wrongly categorised or dismissed because they do not easily fit tests set out in PPS12 or have not been linked by an objector to a particular test.
7. The requirement introduced by the Act for Inspectors to consider plan documents as a whole may mean they need to spend longer drafting their reports or their quality may suffer. The unfortunate consequences of the above will be amplified by the binding nature of Inspectors' recommendations, formerly a matter for negotiation and consideration in the light of local knowledge and circumstances. We strongly recommend that the Planning Inspectorate be given sufficient resources to ensure Inspectors allocate the time they need to produce well-considered reports within a reasonable time.
8. While having clear tests matters, it is important not to lose sight of the idea that, above all, a sound plan should 'show good judgment', as PPS12 and this consultation paper acknowledge. Following rules will not necessarily make for a good plan: something more than this is needed. We recommend this point be reiterated in guidance.

Sustainability Appraisal

9. Sustainability Appraisal (SA), incorporating the requirements of the EU SEA Directive (2001/42/EC) is an essential process for integrating environmental considerations into plan preparation. The UK has a responsibility to 'ensure' the quality of SA under the SEA Directive (Article 12(2)). Local planning authorities also have a duty to contribute to the achievement of sustainable development under the Planning and Compulsory Purchase Act 2004, and SA is a key tool for doing this. 'Soundness' checks are one of the few mechanisms that can contribute to ensuring that the quality of SA is maintained under the current planning system. Whether SA actually achieves environmental improvements in the plan or becomes a burdensome paper-chasing exercise will depend to a large extent on the quality of the SA and how SA recommendations are taken into account in finalising the plan. It is therefore vital that this guidance communicates the key role of inspectors in checking that SA has been carried out to an acceptable standard.
10. We are concerned that this guidance does not properly guide inspectors to assess the quality of the SA or to question the absence of any SA recommendations that are not incorporated into the plan. Test iii '*the plan and its policies have been subjected to sustainability appraisal*' is inadequate; the supporting text should require inspectors to check, as a minimum, that the procedural requirements of the SEA Directive have been met. The supporting text for Test vii '*the strategies / policies / allocations represent the most appropriate in all the circumstances, having considered the relevant alternatives, and they are founded on a robust and credible evidence base*' gives little guidance to inspectors on checking SA quality. As well as ensuring that a rigorous assessment of environmental and sustainability impacts has been undertaken, inspectors need to check that the SA has proposed environmental and sustainability improvements to the

plan, and that these improvements have been incorporated or rejected on reasonable grounds.

Community involvement

11. Under the new system, those objecting to DPDs will have to say why a DPD is not sound and indicate which test(s) of soundness have not been met. This seems reasonable for a professional planner, but is likely to present problems for a lay person or someone unfamiliar with the planning system. Link believes it is unfair to expect concerned individuals and community organisations to demonstrate how their objections relate to specific tests or necessarily even to be able to explain why a DPD is sound or otherwise. While people might be encouraged to explain how their objections relate to particular tests it should be made clear that this is not obligatory. It should be the job of the planning officer and Inspector to consider to which tests a particular objection relates, clarifying this with objectors where it is unclear. We suggest that guidance should clearly state that allowance should be made for objections that do not clearly fit the tests but which common sense suggests should be taken into account.
12. Link believes that procedures should further, rather than undermine, Government objectives to secure meaningful and continuous community involvement. The proposed form for making representations is much more complicated than forms used under the old system (which nonetheless represented a cumbersome process for some) and is probably incomprehensible to a lay person. Provided it is clear what people are objecting to or commenting on and why, we recommend that Guidance indicate that common sense should prevail regardless of whether a form has been filled out. We recommend strongly that a simpler form be used.

Statements of Community Involvement

13. Tests set out in PPS12 for assessing whether a SCI is sound are very general. These would not by themselves guarantee the level and quality of community involvement the Government professes to seek. The consultation paper refers to the '*principle of continuous community involvement*', a principle which we strongly endorse. There does not seem to be any suggestion of how this is to be achieved. It would be helpful if guidance could indicate how this will be assessed. To achieve the step-change in involvement that is needed, i.e. if planning is to become more inclusive and serve the wider public rather than narrow interests, we recommend that assessments of soundness be made in the light of principles set out in the Government document *Community Involvement in Planning: The Government's objectives* (ODPM 2004).
14. We recommend that community involvement in the preparation of a Local Development Scheme (an important stage in LDF preparation) should be stipulated as a prerequisite for securing early and continuing community involvement in line with Government (PPS12) aspirations.

Annexes A, B & C and DPD and SCI submission stage representation forms

15. The complexity of these forms will deter many people from becoming involved. Lay people and others unfamiliar with the new planning system may make mistakes, though have perfectly valid comments. We urge the Inspectorate to indicate that common sense and discretion will need to be applied in categorising representations to ensure valid comments are not misinterpreted or discarded. We suggest that guidance state that local planning authorities should always contact those making representations where there is uncertainty.