

Spatial Development Strategies

Briefing Note

21/02/2020

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Introduction

Spatial Development Strategies (SDS) represent the Plan Making responsibilities of those Combined Authorities or Elected Mayors who can produce strategic policies for their area. When the SDS is published it forms part of the development plan for that area – with planning applications needing to confirm to it (unless material considerations indicate otherwise) and relevant local and neighbourhood plans also needing to be in general conformity with it.

The SDS must deal only with matters which are of strategic importance to the relevant area, but it may make different provision for different cases or for different parts of that area. Regard must also be had to the effect that SDS would have on health, health inequalities, the achievement of sustainable development, climate change and the consequences of climate change. The Mayor is required to have regard to the need to ensure that the SDS is consistent with national policies and the EU obligations of the UK.

The legislation and process for preparing, examining and adopting a SDS is different from that relating to Local Plan. In February 2020, the Planning Inspectorate released the 1st Edition of its **Procedural guidance for the examination in public of Spatial Development Strategies**, which reflects the requirements of the legislation and legal framework set out in the Regulations. A key difference between the Local Plan examination process and the SDS examination process is that the Panel Report for the SDS is not binding upon a Mayor, whereas the Inspector's Main Modifications to a Local Plan must be accepted by the Local Planning Authority to enable its adoption.

DLP Planning was involved with the Examination of the new London Plan and we are therefore able to support clients engaging with the SDS process. As a SDS can address matters such as an area's housing requirement, the spatial strategy and the identification of broad locations for development, it is important for clients to engage early in their preparation and examination. **We anticipate that work on a SDS in the West of England could be announced soon. For those with land interests who would like assistance with their engagement with the SDS plan-making processes, please get in touch with DLP Planning for advice.**

The Examination of the SDS

The SDS is examined to assess whether it has been prepared in accordance with legal and procedural requirements, and whether it is sound i.e. whether it is positively prepared, justified, effective and consistent with national policy, as is the case for Local Plans. Once a Mayor has prepared the plan that they wish to submit for examination, the PINS Procedural Guidance sets out the following summarised information and stages regarding the examination of the SDS:

SDS published for public consultation

The Mayor will carry out a public consultation exercise on the draft SDS and provide all representations received to the Examination Panel (see below). The Mayor may propose modifications to the SDS following consideration of the representations received, and any modifications will also be presented to the Panel. It is expected that the Mayor will prepare and submit what he considers to be a sound SDS.

Appointment of Examination Secretary

The Mayor will appoint an independent Examination Secretary to provide administrative and programming support to the Panel and the Examination.

¹The 'London Plan' is a Spatial Development Strategy. Whilst there are currently 10 Combined Authorities in England, only London, Greater Manchester, Liverpool City Region and West of England have been given the powers to prepare a SDS.

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Appointment of the Panel

The Mayor will contact the Planning Inspectorate who will arrange the appointment of the examination panel. The Panel may comprise of more than one Planning Inspector. The role of the Panel is to conduct the examination into the draft SDS. They will determine the matters that affect the consideration of the SDS (“matters”) and the persons who may take part in the examination (“participants”) and make a report in writing to the Mayor.

Considering Representations

All representations will be sent to the panel. The Mayor may send a summary of the main issues raised in the representations. All representations will be published on the examination website.

Mayor’s Suggested Modifications to the SDS

Having considered all of the representations made about the draft SDS, the Mayor may wish to address issues raised by suggesting modifications to the SDS. The suggested modifications will be treated as part of the draft SDS to be examined.

Preliminary Questions

The Panel may ask the Mayor to respond to a number of Preliminary Questions if they consider this is necessary to clarify anything about the content of the draft SDS or supporting evidence. If so, the questions and Mayor’s response should be published on the examination website

Draft List of Matters and Participants

The Panel will prepare draft lists of matters and participants. They will consult with the Mayor before publishing the draft lists for consultation not later than **12 weeks** before the start of the examination hearing sessions.

- **Comments about draft list of Matters** - Comments about the draft matters should only be about their scope and broad content. Any comments made in response to the draft list that attempt to address the matters and associated questions will not be taken into consideration by the Panel.
- **Comments about draft list of Participants** - Anyone not included on the draft list that wishes to participate should specify for which matter and give a brief explanation why this would assist the examination.

Final List of Matters and Participants

The Panel will consider any representations about the draft lists of matters and participants made within 28 days, and consult the Mayor, before finalising the lists of matters and participants. The final lists will be published and advertised at least 6 weeks before the start of the examination hearing sessions.

Technical Seminars

The Panel may hold seminars relating to a limited number of technical matters prior to the first examination hearing sessions to clarify the supporting evidence and establish matters of fact in order to reduce the scope of the matters that need to be considered at the examination itself. Any such seminars would normally be held before the deadline for submission of written statements.

Written Statements

Written statements may be made on the matters to be examined both by those invited to participate in the examination and others. Statements should directly address the questions relating to each matter, and do so in the context of the tests of soundness set out in the NPPF. All written statements to be received by the Examination Secretary within the stated deadlines.

Hearing Sessions

The hearings will take the form of structured discussions relating to the defined matters and all participants will have the opportunity to speak, and all contributions should be focussed on responding to the questions that the Panel ask at the session.

Further Suggested Modifications to the SDS

In addition to publishing suggested modifications to the SDS in response to the representations made about the draft SDS, the Mayor may wish to suggest further modifications during the examination.

The Panel will consider all of the Mayor’s suggested modifications, along with all of the evidence, in reaching their findings and setting recommendations in their report.



The Panel Report

The Panel's written report will set out its findings in relation to the examination matters and will include recommendations relating to the content of the draft SDS and associated matters. It will identify any aspects of the SDS that mean that it is not sound and recommend how any such deficiencies should be addressed by the Mayor.

Quality assurance

The Panel's report will be checked for QA carried out internally by the Planning Inspectorate.

Fact-check procedure

Following the quality assurance process, the Panel's report will be sent to the Mayor in electronic format for fact-checking. The primary purpose of the fact-check process is for the Mayor to draw attention to any factual errors or inconsistencies in the report. The Mayor may not question the conclusions and recommendations in the report, although they may seek clarification on anything that they consider to be unclear. The Mayor should complete the fact-check within two weeks of receiving the fact-check report. They should not publish the report at this stage. There is no mechanism for the final report to be amended by the Panel or anyone else after it has been sent to the Mayor. It is therefore important that the Mayor checks the accuracy of the report very carefully at the fact-check stage.

Delivery of the final report

Once the fact-check has been completed and the Panel has dealt with any points raised, the final report will be sent to Mayor with a copy to the Secretary of State for Housing, Communities and Local Government. Submission of the final report to the Mayor marks the end of the examination. The Mayor will make the report available for inspection and send a copy to each borough, district and unitary Council in the area covered by the SDS within 8 weeks of receipt.

Publishing the Spatial Development Strategy

The Mayor may not publish the SDS until after the Panel report has been received. Whilst the Panel's recommendations are not binding, if the Mayor proposes not to accept any recommendation contained in the Panel report he must publish and send to the Secretary of State a statement of his reasons. The Mayor must send to the Secretary of State a copy of the SDS which he intends to publish. The SDS cannot then be published until a period of six weeks, or longer if notified by the Secretary of State, has elapsed. The SDS to be published by the Mayor may be in the form of the draft published for public participation, or as modified to take account of the representations made about it, any direction by the Secretary of State, the Panel report, or any other material considerations. There is no legal requirement for public consultation to be undertaken on modifications to the draft SDS before it is finalised. It is likely that the sustainability appraisal will need to be updated in accordance with relevant legislation before the SDS is finalised.

Secretary of State Direction

The Secretary of State may, at any time before the Mayor publishes the SDS, give direction that it may not be published except in a form which includes modifications in order to remove inconsistency with national policy or any detriment to an area outside the area covered by the SDS.

For the full published guidance from the Planning Inspectorate, please visit:



www.gov.uk/government/publications/examining-spatial-development-strategies