



Planning Appeals
Commission

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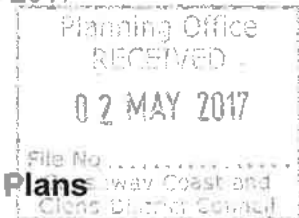
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Date: 28 April 2017

Dear Ms Dickson,

Procedures for Independent Examination of Local Development Plans



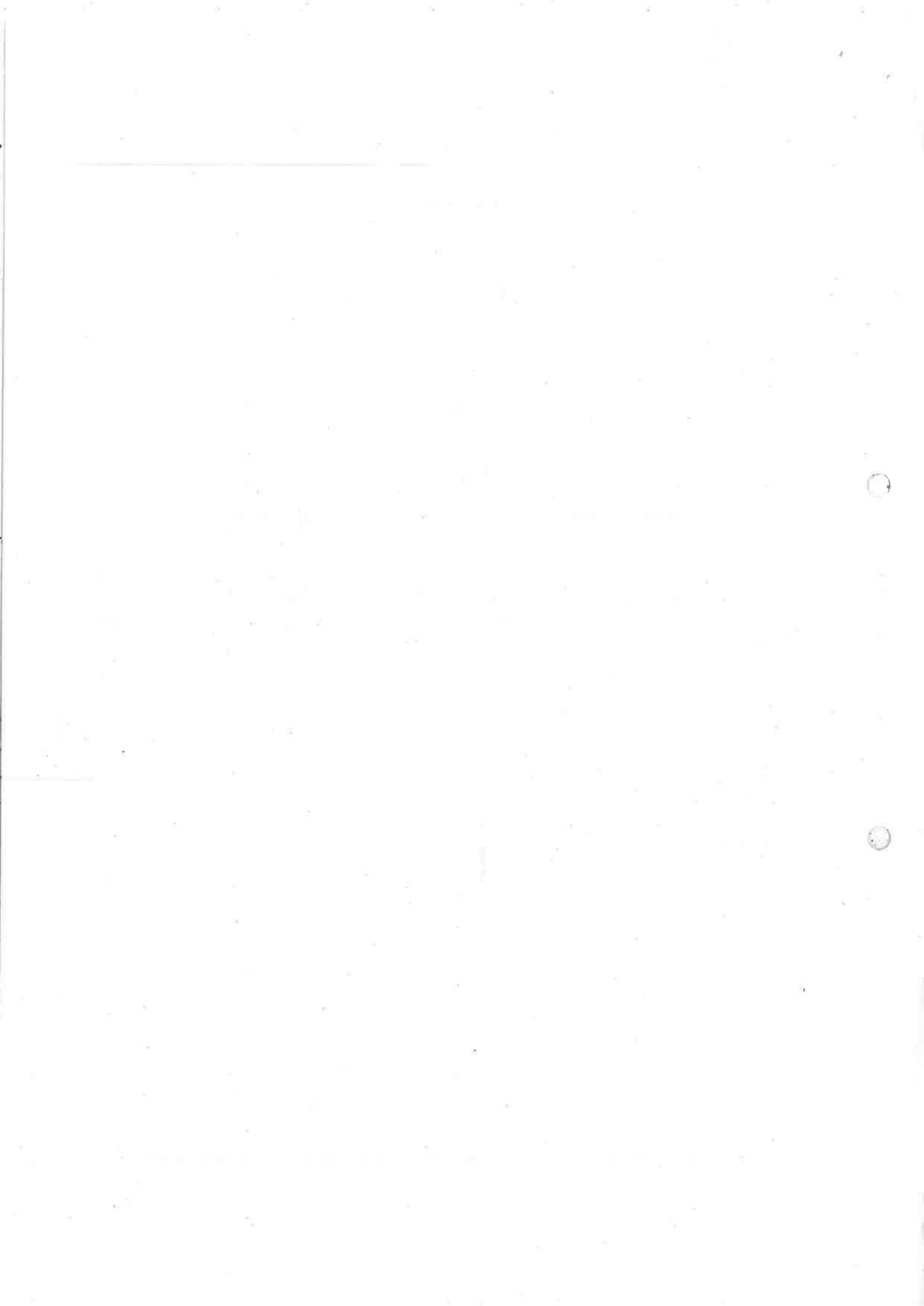
The Commission has finalised its procedures for local development plan examinations. I attach a copy of the document. I also attach a table setting out the Commission's responses to the comments received on the consultation draft. The Commission is grateful to everyone who took the time to put together comments and has carefully considered all the views expressed.

Yours sincerely,

TREVOR A RUE
Chief Commissioner



INVESTORS IN PEOPLE



**Procedures for
Independent Examination
of Local Development Plans**



**Planning Appeals
Commission**

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Introduction

[1] This publication explains how the Planning Appeals Commission proposes to carry out independent examinations into local development plans. Although not an exact statement of the law, it is intended to assist those who will be taking part in the examination process.

[2] The Commission has a default power under Section 204(5) of the Planning Act (Northern Ireland) 2011 to determine its procedures. The procedures set out here are based on the principles of openness, fairness and impartiality which the Commission practises. All participants in examinations will be expected to follow them and to act in a co-operative and reasonable manner.

[3] This document is concerned solely with procedures and does not attempt to give guidance on plan making. The procedures will be applied flexibly and may be adapted to meet particular circumstances. They will be kept under review and updated as necessary in the light of experience.

The Planning Appeals Commission

[4] The Planning Appeals Commission is a statutory tribunal, independent of any government department, government agency or district council. It is committed to ensuring that the examination process is as user friendly as possible and involves the best use of resources. Members of the Commission are public appointees and are called Commissioners. They have varied backgrounds and qualifications including town planning, architecture, environmental science and law. Administrative staff are responsible for the Commission's day-to-day work. While they are available to deal with queries from the public about procedures, they are unable to comment on the merits of local development plans or individual representations.

[5] All information presented to the Commission is processed in accordance with the Data Protection Act 1998 (see Appendix 1).

The Examination Process

[6] The 2011 Planning Act introduced entirely new provisions for the preparation and examination of local development plans. District councils are required to prepare a plan strategy and a local policies plan for their areas. In this publication, the word "plan" is used for development plan documents of both types. Councils must submit their plans to the Department for Infrastructure and the Department may request the Commission to carry out an independent examination. More detailed provisions are contained in the Planning (Local Development Plan) Regulations (Northern Ireland) 2015.

[7] Where a plan is referred to the Commission, a Commissioner (or Commissioners) will be appointed to run the examination. The examination process will involve consideration of written evidence as well as the conduct of hearing sessions. The main events are set out in Appendix 2. The Commission's current expectation is that Commissioner involvement will last on average nine to twelve months per plan.

[8] A Programme Officer will be appointed to administer the examination process. The Programme Officer will be the main point of contact for councils and members of the public throughout the process and will keep all parties apprised as to how the examination will proceed.

[9] Section 10(7) of the 2011 Planning Act provides that any person who makes representations seeking to change a plan must be given the opportunity to be heard by the person carrying out the examination. People can represent themselves at a hearing but if they need help to present their case, they may wish to appoint a professional adviser. People who make counter representations do not have a right of hearing.

[10] It is not anticipated that Departmental planning officials will be involved in the independent examination. Any correspondence between the Commission and the Department about the plan will be made publicly available. When the hearing sessions are concluded, the Commissioner will prepare a report to the Department, making recommendations and giving reasons for the recommendations. On receipt of the report, it will be for the Department to decide whether to direct the council to adopt the plan as submitted, adopt it with modifications, or withdraw it.

Soundness

[11] The purpose of an examination is to determine whether a plan satisfies statutory requirements and is sound. Legal compliance and soundness are overlapping concepts. In carrying out the examination, the Commissioner will apply a series of tests taken from the Department's Development Plan Practice Note (DPPN) 06. These tests are set out in Appendix 3. The soundness tests will be considered in the round, taking into account the supporting text in DPPN 06, and an overall judgment will be formed.

[12] It is very important that all participants appreciate that the focus of the examination and the Commissioner's report will be on the **soundness** of the plan and not on individual representations or sites. This represents a fundamental change from the development plan system that existed before the 2011 Planning Act came into force.

Making Representations

[13] People who make representations seeking to change a plan are strongly advised to state clearly why they consider the plan to be unsound, having regard to the tests in Appendix 3. The Commission recommends councils to provide forms similar to that in Annex A to the Department's DPPN 09 and encourages people making representations to use the council's form. Each suggested change should be the subject of a separate representation. Every representation should say precisely how the plan should be changed in order to achieve soundness. It should be supported, succinctly, by all the evidence thought necessary to justify the proposed change. **There will be no further opportunity to submit information unless the Commissioner requests it.**

[14] The substance of the representations is of more significance than the number of people making representations. Where several people share a common view on how a plan should be changed, they are encouraged to co-operate with each other, pool resources and make a single representation.

[15] People who make representations seeking to change a plan should say whether they wish to be heard orally. Unless people specifically request a hearing, the Commission will proceed on the basis that they are content to have their representations considered in written form only. The Commissioner will give every representation the same careful consideration regardless of whether the person who made it is heard orally or not.

[16] A representation may be withdrawn at any time by notifying the council in writing. Once withdrawn, a representation cannot be reinstated.

Submitting the Plan

[17] The 2011 Planning Act states that a council must not submit a plan to the Department unless it has complied with the requirements of the Local Development Plan Regulations and unless it thinks that the plan is ready for independent examination. This calls for a critical and rigorous self-assessment of the plan by the council's planning team. The starting point for any examination will be that the council has submitted what it believes to be a sound plan.

[18] The council is required to send the Department certain prescribed documents in addition to the plan. These include:-

- a sustainability appraisal;**
- the statement of community involvement;**
- statutory notices published at various stages of plan preparation;**
- the timetable for plan preparation; and**
- a report on the responses to the council's preferred options paper.**

[19] The council is also required to send copies of all representations and counter representations. The Commission will need an electronic copy and two hard copies of these for its own use. It is vitally important that complete, legible and clearly indexed sets of representations and counter representations are provided.

[20] Before the plan is submitted, the council's planning team should carefully categorise and analyse all representations and counter representations. The council should create a spreadsheet to manage the responses. It should be set up so that the representations are capable of being listed in various ways, including by person or organisation, agent, soundness test, policy, paragraph, plan map and site address; and so that counter representations can be linked to representations and vice versa. The spreadsheet should highlight those representations where an oral hearing is required. Appendix 4 indicates how the spreadsheet might be structured.

[21] The council is required to send at submission stage a summary of the main issues raised in the representations and relevant supporting documents. The council should also set out its views on the main issues identified, perhaps in a series of topic papers, as well as its comments on all the representations. Other documents necessary for the examination include any technical supplements, any Habitats Regulations assessment and any self-assessment of soundness.

[22] The Department will make the information provided by the council at submission stage available to the Commission. A Commissioner will not be appointed until all information necessary to enable the examination to proceed has been received – a checklist is provided in Appendix 5. Once the Commissioner is appointed, the Programme Officer will ensure that the plan and associated documents are uploaded to a dedicated area on the Commission's website. The website will be updated regularly as the examination proceeds.

Initial Assessment

[23] The Commissioner's first tasks when starting work on a plan will be to check that all essential regulatory steps have been taken and to identify any fundamental concerns about the soundness of the plan. If the Commissioner forms an early view that the plan may have shortcomings indicative of unsoundness, these will be raised in writing with the council and with anyone who made representations relevant to those possible shortcomings.

[24] Depending on the replies received, the Commissioner may call an **exploratory meeting** with the council and the other relevant parties. That will normally happen in advance of the opening of the examination hearings. The Commissioner will lead the meeting, communicate his or her concerns, and invite the participants to give their views. If all concerns of a fundamental nature are resolved to the Commissioner's satisfaction, the examination process will proceed to the hearing sessions.

[25] Where, as a result of the exploratory meeting, the Commissioner concludes that there remain fundamental concerns which are unlikely to be overcome, he or she may send an interim report to the Department recommending it to direct the council to withdraw the plan. Alternatively, the Commissioner and the parties may agree that the examination process should be suspended to allow the council to undertake further work. A partial suspension affecting only certain elements of the plan is a possibility, provided those elements are distinct and separate and unlikely to undermine the soundness of the remainder of the plan.

Pre Hearing Stage

[26] If any fundamental concerns that have arisen have been overcome, the Commissioner will set a date for the opening of the public hearings and make an estimate of how long they are likely to last. This indicative timetable will be notified to the council and to the other participants about eight weeks before the opening date. It will also be posted on the Commission's website. Those who indicated that they wished to appear will be asked to confirm that this is still the case.

[27] The Commissioner will ask for further written evidence from the council and other relevant parties if he or she identifies gaps in information which are critical to assessing the plan's soundness. The Commissioner may, for example, identify soundness issues that were not raised in the representations. Anyone who receives a request for information from the Commissioner will be told who else has been asked to provide information about the same matters.

[28] No one should send in written material unless the Commissioner requests it. Unsolicited material will be returned or disregarded unless its sole purpose is to draw attention to an important change in circumstances which has occurred since the plan was referred for independent examination.

[29] The Commissioner may invite organisations and people who have not made representations to provide written evidence where it could be important in determining the soundness of the plan. For example, neighbouring councils or other public bodies may have specialist information or expertise that would assist the Commissioner and some counter objectors may have a distinctive perspective on soundness issues.

[30] The date for submission of responses to any particular information request will normally be the same for all parties concerned. An indicative word limit may be set and where this is exceeded a summary will be required. Responses may be submitted electronically provided virtual file size is not excessive. The maximum file size will be 10 megabytes, unless a different limit is specified in the information request. It is likely that at least four copies will be required of any material submitted in paper format only. All responses received within the period specified will be placed on the website. **Late responses will be returned or disregarded.**

[31] In-depth reading of the documentation will enable the Commissioner to identify the topics and issues that will be the focus of the examination, establish the structure and likely duration of the hearings, and pose relevant questions. **Topics** are the broad subjects to be considered – examples include settlement strategy, housing provision, natural and built heritage, and land subject to constraints. **Issues** are the matters on which the Commissioner's assessment of the plan's soundness will depend. The Commissioner's **questions** will be designed to delve further into the issues.

[32] The Commissioner will draw up a detailed programme for the public hearings. The council will be expected to be represented throughout. Persons who have the right to take part will be allocated to hearing sessions, having regard to the topics they raised and the nature of the issues that the Commissioner will be probing. People and organisations who did not make representations but who provided written evidence at the Commissioner's request may also be invited to participate. The programme and the lists of topics, issues and questions will be placed on the Commission's website and sent to all concerned a minimum of three weeks before the opening date.

The Hearing Sessions

[33] On arrival at the hearing venue, people who have been invited to attend will be directed to the seats allocated to them at a table. Nameplates will be provided for each party. If there is not enough room at the table, additional representatives may sit behind the lead speakers and swop seats when necessary.

[34] The hearing sessions are public events and anyone may come along to observe. The press may attend but there will be no live coverage. Proceedings may be recorded only with the prior permission of the Commissioner and copies of the recording must be provided for the Commission and all who request them. If people who will be taking part or observing require disabled access or have hearing difficulties or other special needs, they should let the Programme Officer know well in advance.

[35] The Commissioner will conduct the hearing sessions and direct when people should speak. Written material will be taken as read and should not be repeated. All participants must respect the Commissioner's rulings. Any problems should be raised with him or her in public at an appropriate time during proceedings. The Commissioner will ensure that all topics and issues relating to soundness are properly discussed.

[36] The hearings will follow the pre-prepared programme and consider the topics, issues and questions which the Commissioner has identified. The Commissioner will lead a series of round-table discussions and draw parties into debate in a logical order. Participants may indicate their wish to speak by turning their nameplates on end. Constructive engagement will be encouraged but questioning between parties will not normally be necessary. Undue legalism should be avoided as it can unnerve other participants and undermine the principle that everyone is an equal partner in discussion. When no more is likely to be said to assist the Commissioner's conclusions on soundness, discussion will move on to the next item.

The Commissioner's Report

[37] At the end of the last hearing session, the Commissioner will indicate when he or she expects to deliver a report to the Department. The Commissioner will examine all the evidence relevant to the determination of the soundness of the plan and where necessary visit sites relevant to the soundness tests.

[38] In writing the report, the Commissioner will aim for brevity and concentrate on:-

- reaching clear, reasoned conclusions on the plan's compliance with the statutory requirements and its soundness; and
- setting out any modifications to the plan which are required to overcome any correctable shortcomings in regard to statutory requirements or soundness.

[39] As the examination is not an inquiry into objections, the report will not summarise individual parties' cases. Direct reference to specific representations or the people who made them will generally be avoided, although enough detail will be given to enable the reader to understand how soundness issues emerged from the representations.

[40] The report will culminate in an overall recommendation as to whether the plan should be adopted, with or without modifications, or withdrawn. Modifications will not be recommended unless they are considered necessary to make the plan legally compliant or sound. Modifications which would make the plan unsound will not be recommended.

[41] The Department will be required to consider the Commission's recommendations but will not be obliged to accept them. Release of the report will be a matter for the Department.

Concerns about the Examination

[42] In carrying out its statutory responsibilities for independent examination of local development plans, the Commission will endeavour to provide a high quality public service. However, anyone who was involved in an examination process and is dissatisfied about the way it was conducted can make a formal complaint. Details of the Commission's complaints system are provided on its website www.pacni.gov.uk and a leaflet is available on request. Procedural decisions and rulings made by the Commission or the Commissioner can be challenged on a point of law by applying to the High Court for a judicial review. Anyone considering such a course should seek legal advice.

Appendix 1

DATA PROTECTION AND FREEDOM OF INFORMATION

The Data Protection Act regulates the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information. The Commission is fully committed to complying with the Act.

The Commission receives a range of personal information from a number of sources, which falls within the remit of the Data Protection Act. This includes representations about development proposals. The information received by the Commission varies but may include:-

- details of an individual's name, address and occupation;
- information about the health, personal or family circumstances of an individual; and
- an individual's opinions about a development proposal.

This information is held and considered by the Commission in accordance with the principles set out in the Data Protection Act. It is only used by the Commission for the purpose for which it was provided. It is only retained as long as reasonably necessary, usually no longer than three years from the completion of the Commission's work. However, all Commission reports and decisions must have clear reasons for the conclusions reached and it may be necessary to refer to an individual's personal or family circumstances in a report or decision, which may be retained indefinitely.

The Commission is a tribunal and must operate openly, fairly and impartially. All documents on casework files can be viewed by any member of the public, under the Commission's supervision.

An individual should therefore only provide personal or sensitive information that he/she accepts will be available to the public. No-one should present personal information about other people without their consent. Information provided will not be vetted or redacted by the Commission because of its role to carry out its functions as an independent decision maker in an open, fair and transparent manner.

Under the Data Protection Act, an individual can request access to his/her personal information held by the Commission. Such requests should be in writing and sent to the address below. There is a charge of £10 for requests and the person making the request will also need to send proof of identity.

A request made under the Data Protection Act should include:-

- the specific information which is being sought;
- who you are and how you can be contacted;
- how you would like to receive the information.

Please also identify any accessibility requirements you may have and if you need to receive the information in a particular format, for example, large print, Braille etc.

You are entitled to a response to your request within 40 calendar days. It is in the Commission's and your interests to hold accurate data. If the data is inaccurate, you can ask us to erase, amend or add to the information though you should note that personal or family circumstances referred to in a Commission report or decision cannot be changed. There will be no charge for this.

Any complaints about how the Commission dealt with requests about information will be processed in accordance with the Commission's Complaints System which is published under Publications on the Commission's website. These complaints will not be reviewed by the Complaints Audit Panel, see below.

If you remain dissatisfied with the Commission's response to your information request you may contact the Information Commissioner at

51 Adelaide Street
BELFAST BT2 8FE
Telephone number: (028) 9026-9380
Fax number: (028) 9026-9388
email address: ni@ico.gsi.gov.uk; or
website address: www.ico.gov.uk.

Requests for access to personal information should be sent to

The Chief Administrative Officer
Park House
87-91 Great Victoria Street
BELFAST BT2 7AG
Telephone number: (028) 9024-4710
Fax number: (028) 9031-1338
e-mail address: info@pacni.gov.uk
website address: www.pacni.gov.uk

The Commission reviews its procedures regularly to ensure continued compliance with the Data Protection Act.

Freedom of Information Act - The Commission is not identified as a Public Authority under the Act. The Environmental Information Regulations 2004 apply to any body that has public responsibilities relating to the environment, exercises functions of a public nature relating to the environment or provides public services relating to the environment. This could include the Commission but the Regulations do not apply to the extent that the Commission is acting in a judicial capacity. Nonetheless, as a tribunal which operates openly fairly and impartially, the Commission seeks to comply with the spirit of the Act and Regulations.

Appendix 2

THE EXAMINATION: THE MAIN EVENTS

The council submits the plan for examination to the Department.

The Department refers the plan to the Commission.
A Programme Officer is appointed.

When all necessary information has been provided, including all representations and counter representations, a Commissioner is appointed to conduct the examination.

The Commissioner makes an initial assessment of the soundness of the plan and holds an exploratory meeting if there are concerns of a fundamental nature.

The Commissioner, if content that the examination should proceed, may seek further written evidence from the council and others.

The Commissioner draws up a detailed programme for the hearings with topics, issues and questions, and allocates participants to particular sessions.

The Commissioner conducts the hearings.

The Commissioner prepares a report with recommendations and it is sent to the Department.

The Department considers the recommendations and decides whether to direct that the plan be adopted, modified or withdrawn.

Appendix 3

TESTS FOR SOUNDNESS

Procedural tests

P1. Has the plan been prepared in accordance with the council's timetable and the Statement of Community Involvement?

P2. Has the council prepared its Preferred Options Paper and taken into account any representations made?

P3. Has the plan been subject to sustainability appraisal including Strategic Environmental Assessment?

P4. Did the council comply with the regulations on the form and content of its plan and on the procedure for preparing the plan?

Consistency tests

C1. Did the council take account of the Regional Development Strategy?

C2. Did the council take account of its Community Plan?

C3. Did the council take account of policy and guidance issued by the Department?

C4. Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?

Coherence and effectiveness tests

CE1. The plan sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant is it in conflict with the plans of neighbouring councils.

CE2. The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.

CE3. There are clear mechanisms for implementation and monitoring.

CE4. The plan is reasonably flexible to enable it to deal with changing circumstances.

Appendix 4

INDICATIVE STRUCTURE FOR SPREADSHEET TO MANAGE RESPONSES

It is recommended that the spreadsheet should have the following columns:-

Reference number of the representation *(assigned by the Council)*

Contact details for the person or organisation making the representation

- First name
- Last name
- Job title *(where relevant)*
- Organisation *(where relevant)*
- Address Line 1
- Address Line 2
- Address Line 3
- Address Line 4
- Postcode
- Telephone number
- E-mail address

Contact details for the agent for the representation *(if applicable)*

- First name
- Last name
- Job title *(where relevant)*
- Organisation *(where relevant)*
- Address Line 1
- Address Line 2
- Address Line 3
- Address Line 4
- Postcode
- Telephone number
- E-mail address

Summary of issue raised *(maximum 100 characters – if a representation raises more than one issue, a separate row should be used for each issue)*

Paragraph of the plan to which issue relates

Plan policy to which issue relates

Plan proposals map to which issue relates

Location of site to which issue relates *(local policies plans only)*

Soundness test to which issue relates *(use referencing system in Appendix 3)*

Choice of examination procedure – written representation or oral hearing

Hyperlink to representation *(pdf)*

For counter representations, a column should be added to identify the related representations.

The spreadsheet should not be Read Only and should have no in-built formulas. It should be capable of being copied, filtered and modified.

Appendix 5

INFORMATION CHECKLIST

The Commission will need an electronic copy and two hard copies of each of the following documents before the independent examination can proceed:-

- ✓ The development plan document being submitted for independent examination *
- ✓ An appraisal of the sustainability of the development plan document *
- ✓ Where that development plan document is a local policies plan, the adopted plan strategy *
- ✓ The council's statement of community involvement *
- ✓ A report to demonstrate that the council has complied with its statement of community involvement *
- ✓ The notices referred to in Regulations 10(a)(iv), 15(a)(iv) and 17(1)(a)(iii) of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 *
- ✓ The timetable for plan preparation *
- ✓ The council's community plan
- ✓ The council's preferred options paper
- ✓ A summary of the main issues raised in response to the council's preferred options paper *
- ✓ A statement setting out how those main issues were taken into account in the preparation of the plan *
- ✓ All representations and counter representations which were made on time and sent to the specified address *
- ✓ A spreadsheet for managing those representations and counter representations (see Appendix 4)
- ✓ A statement setting out the number of representations and counter representations and a summary of the main issues raised *
- ✓ A statement of the council's views on those main issues, perhaps in the form of a series of topic papers
- ✓ A table indicating where the council's comments on the main issues raised by each representation are to be found
- ✓ Any technical supplements prepared by the council to inform the plan's contents
- ✓ Any assessment of the plan carried out under the Habitats Regulations
- ✓ Any self-assessment of legal compliance and soundness carried out by the council
- ✓ Such other supporting documents as in the opinion of the council are relevant to the preparation of the plan *

Items marked with an asterisk (*) are prescribed in the Regulations.

Published by the Planning Appeals Commission

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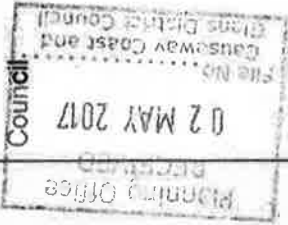
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April 2017



**Planning Appeals
Commission**

DRAFT PROCEDURES FOR LDP EXAMINATIONS: COMMENTS AND RESPONSES

<u>Organisation</u>	<u>Paragraph(s) in Draft Procedures</u>	<u>Comments Received</u>	<u>Commission's Response</u>
<p>Antrim and Newtownabbey Borough Council.</p> 	<p>8</p> <p>13-18</p> <p>19-21</p> <p>23</p> <p>Appendix 3, Test P1</p>	<p>Will the supporting text in Development Plan Practice Note 06 (DPPN 06) be a consideration?</p> <p>The information to be submitted to demonstrate soundness and the development of a database should be clarified.</p> <p>More information should be provided on the issues likely to result in a plan being considered to be fundamentally unsound.</p> <p>More information should be provided on the arrangements and time periods for parties to narrow down the areas in dispute.</p> <p>Under what circumstances would a plan timetable fail the procedural test?</p>	<p>Yes. See Paragraph 11 of the final procedures document.</p> <p>The submitted information should address the soundness tests in Appendix 3. A new Appendix 4 indicates how a spreadsheet for responses might be structured.</p> <p>The Commissioner will assess soundness against the tests in Appendix 3. Failure to take all necessary regulatory steps could result in a finding of unsoundness.</p> <p>That will be for the parties concerned to organise amongst themselves within the parameters of the examination timetable.</p> <p>The soundness tests will be considered in the round and an overall judgment formed (see Paragraph 11).</p>
<p>Ards and North Down Borough Council</p>	<p>8</p> <p>8-10 and Appendix 3</p>	<p>Are the tests based on the wording of the Practice Note or on an interpretation of it? Is any variance anticipated?</p> <p>Guidance on the interpretation of "take account" and "have regard to" should be provided.</p>	<p>The tests are taken from DPPN 06. Their interpretation and application to a particular plan will be matters for debate.</p> <p>The precise meaning of these phrases will be a matter for debate.</p>

<p>Ards and North Down Borough Council <i>(continued)</i></p>	<p>10</p>	<p>If representations do not state how the plan can be changed to make it sound, will they be considered? Should Councils exclude such representations? Will the Commission seek clarification from those making the representations?</p>	<p>All representations relevant to soundness will be considered. Councils must provide copies of all representations. The Commissioner will seek clarification where necessary.</p>
	<p>16</p>	<p>Councils that do not record information in the format required by the Commission should not be disadvantaged.</p>	<p>Various formats may be acceptable but a Commissioner will not be appointed until the responses have been adequately organised and categorised (see Paragraph 22).</p>
	<p>17</p>	<p>Guidance in the form of a checklist on the evidence base and how up to date it needs to be would be helpful.</p>	<p>The evidence should address the soundness tests in Appendix 3. How up to date the information needs to be will vary depending on subject matter.</p>
	<p>17</p>	<p>More information should be provided on the preparation of topic papers.</p>	<p>Topic papers should set out the Council's views on the main issues arising from the representations, grouped by subject matter (see Paragraph 21).</p>
	<p>19-21</p>	<p>More information should be provided on the issues likely to result in a plan being considered to be fundamentally unsound.</p>	<p>The Commissioner will assess soundness against the tests in Appendix 3. Failure to take all necessary regulatory steps could result in a finding of unsoundness.</p>
	<p>23</p>	<p>More information should be provided on the arrangements and time periods for parties to narrow down the areas in dispute.</p>	<p>The reference to narrowing down areas in dispute has been omitted from the final procedures document.</p>
	<p>24</p>	<p>Where responses to information requests are overly lengthy, an executive summary should be required.</p>	<p>That is now provided for at Paragraph 30 of the final document.</p>

<p>Ards and North Down Borough Council (continued)</p>	<p>25</p>	<p>It is assumed that the Commission will agree the topics and issues with the parties taking part and in particular with the Council.</p>	<p>That will be a matter for the Commissioner but it is not envisaged that there will be consultation with any of the parties.</p>
	<p>27</p>	<p>How will the Commission decide whom to invite if no representation has been received? Will there be agreement among parties as to who should be invited?</p>	<p>That will be a matter for the Commissioner but it is not envisaged that there will be consultation with any of the parties.</p>
	<p>32-34</p>	<p>An outline of the structure of the report to the Department would be helpful.</p> <p>The procedures should give cognisance to unanticipated circumstances and allow for an element of flexibility.</p>	<p>The structure will vary from report to report depending on which soundness issues arise.</p> <p>A reference to flexibility has been added – see Paragraph 3.</p>
<p>Armagh, Banbridge and Craigavon District Council</p>	<p>17</p>	<p>The procedures should include soundness self-assessment checklist and self-assessment legal compliance checklists similar to those provided in England.</p> <p>Clarification on the form and content of topic papers would be useful.</p>	<p>In the Northern Ireland planning system, that is the Department's responsibility. This document deals only with examination procedures (see Paragraph 3).</p> <p>Topic papers may vary in form but they should set out the Council's views on the main issues arising from the representations.</p>
	<p>17</p>	<p>In regard to electronic transmission of information, it should be clarified what file size would be viewed as excessive.</p>	<p>Paragraph 30 now clarifies that the maximum virtual file size will normally be 10 megabytes.</p>
<p>Belfast City Council</p>	<p>6</p>	<p>The legislation governing the right of hearing should be explained and all relevant extracts added as an appendix.</p>	<p>A reference to Section 10(7) of the 2011 Planning Act has been added at Paragraph 9.</p>

<p>Belfast City Council (continued)</p>	<p>10</p>	<p>Forms for making representations should be written in plain English and include guidance notes.</p> <p>10 Methods of making representations other than using forms, such as Citizen Space and e-mail, may be more accessible.</p> <p>10 Parties should be reminded that representations will be published.</p> <p>11 Guidance and examples would be useful on how co-operation between objectors sharing a common cause might be achieved.</p> <p>12 Clarity or examples should be provided on when written submission will suffice or oral evidence might be beneficial.</p> <p>14-17 A checklist should be provided of the documents required by statute and other documents that would be desirable.</p> <p>16 All the data headings required in the database should be specified.</p> <p>19-21 It would be useful to clarify the role of the Department at the initial assessment stage.</p>	<p>The Commission recommends using forms similar to those in Annex A to DPPN 09 (see Paragraph 13) but the precise wording is a matter for the Councils.</p> <p>Use of forms such as those in DPPN 09 is more likely to capture the information needed to constitute an effective representation.</p> <p>As explained in Appendix 1, all information presented to the Commission is processed in accordance with the Data Protection Act.</p> <p>It is appreciated that such co-operation can happen only where the persons concerned are already aware of each others' views.</p> <p>People will have to decide for themselves whether they wish to be heard. It is not for the Commission to offer advice.</p> <p>A checklist has been added to the document (see Appendix 5).</p> <p>Appendix 4 recommends how a spreadsheet for responses might be structured.</p> <p>The Commissioner will carry out the initial assessment. The Department will not be involved at that stage (see Paragraph 10).</p> <p>Release of the report will be a matter for the Department (see Paragraph 41).</p>
	<p>34</p>	<p>The report should be circulated to the relevant planning authority.</p>	

Belfast City Council (continued)	-	Indicative timeframes should be given for each stage of the process, including the pre-hearing, hearing and reporting stages.	The current expectation is that Commissioner involvement will last on average nine to twelve months per plan (see Paragraph 7). The duration of individual stages is likely to vary from plan to plan.
Causeway Coast and Glens Borough Council	-	Generally content with the draft procedures.	-
Community Places	Appendix 3 Appendix 3, Test C2 Appendix 3, Test CE1 Appendix 3, Test CE 4 31	<p>A checklist with key questions and guidance on evidence should be provided.</p> <p>The Commission should work with the Department to produce guidance on soundness and the soundness tests.</p> <p>Guidance on how "take account of" will be determined would be useful.</p> <p>Where there are cross-boundary conflicts, how will these be managed?</p> <p>How will the Commission assess whether a plan is reasonably flexible?</p> <p>Parties should be invited to notify the Commission if they intend to have legal representation and all other interested parties should be made aware of this.</p>	<p>Evidence should address the soundness tests are set out in Appendix 3.</p> <p>It is not the Commission's role to provide guidance. Account will be taken of DPPN 06 when conducting examinations.</p> <p>The precise meaning of "take account of" will be a matter for debate.</p> <p>Depending on the circumstances, a plan might be found to be unsound if it seriously conflicts with a plan for an adjoining district.</p> <p>The Commission will assess this in light of the evidence and arguments presented to it.</p> <p>The Commission cannot require parties to say in advance who will be representing them.</p>
Derry City and Strabane District Council	-	There should be a commitment to review these procedures.	A statement has been added at Paragraph 3 stating that the procedures will be kept under review and updated as necessary.

<p>Derry City and Strabane District Council (continued)</p>	<p>6</p>	<p>Do people making counter representations have a right to be heard and will flexibility be applied?</p>	<p>Counter objectors do not have a statutory right to be heard but the Commissioner may invite people to attend where their evidence could assist in determining the soundness of the plan (see Paragraphs 29 and 32).</p>
	<p>7</p>	<p>What is the likely timescale for the Commission to report to the Department?</p>	<p>This will differ from plan to plan depending on the complexity of issues. The Commissioner will announce an indicative date at the end of the last hearing session (see Paragraph 37).</p>
	<p>8 and Appendix 3</p>	<p>How will "soundness" and "take account of" be interpreted?</p>	<p>Soundness will be investigated using the tests set out in Appendix 3. The precise meaning of "take account of" will be a matter for debate.</p>
	<p>15</p>	<p>How many copies of the representations does the council need to send? Should they be hard copies? Should all counter representations be sent and not just the site-specific ones?</p>	<p>The Commission will need one electronic copy and two hard copies of every representation (see Paragraph 19). The Local Development Plan Regulations envisage that counter representations will be concerned only with site-specific matters.</p>
	<p>15</p>	<p>What is meant by the statement that no one need correspond directly with the Commission in order to register an interest?</p>	<p>That statement has been omitted from the final procedures document.</p>
	<p>19-21</p>	<p>The relationship, roles and correspondence protocols between the Council, the Department and the Commissioner's Programme Officer need to be clarified.</p>	<p>The Programme Officer will be the main point of contact for councils and members of the public (see Paragraph 8).</p>

<p>Derry City and Strabane District Council (continued)</p>	<p>24</p>	<p>Can paper copies of responses to information requests follow after the specified date?</p>	<p>The responses, whether submitted electronically or in hard copy, must reach the Commission on time unless there are compelling circumstances.</p>
	<p>31</p>	<p>How will the Commission discourage undue legalism?</p>	<p>The Commissioner will conduct the hearings in an inclusive manner and treat all participants equally (see Paragraph 36).</p>
	<p>Appendix 3, Test P3</p>	<p>How will sustainability appraisal, including strategic environmental assessment, and any other relevant assessments be examined?</p>	<p>The Commissioner will investigate whether the plan has been subject to sustainability appraisal and strategic environmental assessment in accordance with the relevant statutory provisions.</p>
<p>Fermanagh and Omagh District Council</p>	<p>-</p>	<p>The procedures should be flexible enough to adapt to unanticipated circumstances.</p>	<p>A sentence has been added at Paragraph 3 stating that the procedures will be applied flexibly and may be adapted.</p>
	<p>10</p>	<p>If representations do not state how the plan can be changed to make it sound, will they be considered? Should Councils exclude such representations? Will the Commission seek clarification from those making the representations?</p>	<p>All representations relevant to soundness will be considered. Councils must provide copies of all representations. The Commissioner will seek clarification where necessary.</p>
	<p>16</p>	<p>It would be helpful if the representations database was the same across all plan teams.</p>	<p>Appendix 4 recommends how a spreadsheet for responses might be structured.</p>
	<p>17</p>	<p>Guidance, in the form of a checklist, on how the evidence base is considered and how up to date it needs to be would be helpful.</p>	<p>The evidence should address the soundness tests in Appendix 3. How up to date the information needs to be will vary depending on subject matter.</p>

Fermanagh and Omagh District Council (continued)	24	Where representations are overly lengthy, an executive summary should be required.	That is now provided for at Paragraph 30 of the final document.
	27	How will the Commission decide whom to invite if no representation has been received? Will there be agreement among parties as to who should be invited?	That will be a matter for the Commissioner but it is not envisaged that there will be consultation with any of the parties.
	31	It is assumed that the Commission will agree the topics and issues with the parties taking part and in particular with the council.	That will be a matter for the Commissioner but it is not envisaged that there will be consultation with any of the parties.
	32-33	An outline of the structure of the report to the Department would be helpful.	The structure will vary from report to report depending on what soundness issues arise.
Housing Executive	Appendix 3	Clarification on how the Commission interprets terms such as "take account" and "have regard to" would also be helpful.	The precise meaning of these phrases will be a matter for debate.
	Appendix 3, Test C4	It is assumed little weight will be given to the plans of neighbouring councils, unless adopted.	That will also be a matter for debate through the examination process.
Newry, Mourne and Down District Council	22	Consideration should be given to timetabling examinations for statutory consultees who may have to attend a number of hearings.	A multitude of factors have to be considered when timetabling hearings, but pressures on consultees will be borne in mind.
Matrix Planning Consultants	-	The Council welcomes the guidance and has no further comment to make.	-
Matrix Planning Consultants	6	A minimum of two Commissioners should undertake each examination.	The number of Commissioners will be decided on as case-by-case basis.

<p>Matrix Planning Consultants (continued)</p>	<p>6</p>	<p>As the legislation does not rule out their participation, it should be taken as permissive for all who make representations.</p> <p>If any representations state that the plan is irredeemably flawed, it would be appropriate to call an exploratory meeting.</p> <p>Whilst this section is advisory, the word "should" should be replaced by "must" as that would make the approach appear mandatory.</p> <p>More detail is needed on how new evidence can be introduced without allegations of prejudice if no representations were previously received.</p>	<p>In addition to those who have a statutory right to be heard, the Commissioner may invite people to attend where their evidence could assist in determining the soundness of the plan (see Paragraphs 29 and 32).</p> <p>An exploratory meeting will be called if the Commissioner judges that the plan may be fundamentally flawed.</p> <p>The wording in the document is, and must be, aligned with the legislation governing local development plan examinations.</p> <p>The Commissioner's task is to investigate soundness. All parties with an interest in a topic will be given an opportunity to comment on all the evidence relating to that topic.</p>
<p>Mid and East Antrim Borough Council</p>	<p>15</p>	<p>Further detail should be given as to how representations will be dealt with if they fail to address the soundness of the plan.</p> <p>The Department for Infrastructure should have a key role in facilitating the use by all Councils of the same database.</p> <p>Firmer language should be used about questioning between parties and undue legalism.</p>	<p>Persons who make representations seeking to change the plan have a statutory right to be heard, but the Commissioner's report will concentrate on soundness (see Paragraphs 12 and 39).</p> <p>Appendix 4 indicates how a spreadsheet for responses might be structured.</p> <p>The language is deliberately flexible. Commissioners will seek to keep proceedings moving while gathering necessary information and ensuring fairness to all participants.</p>
<p>10-12</p>	<p>13-18</p>	<p>27</p>	<p>15</p>
<p>16</p>	<p>31</p>		

<p>Mid and East Antrim Borough Council (continued)</p>	<p>Appendix 3, Test P1</p>	<p>It should be clarified that plans will not be found unsound if they fail to adhere to the original or revised timetable.</p>	<p>A statement has been added at Paragraph 11 to explain that the tests will be considered in the round to form an overall judgment on soundness.</p>
<p>Mid Ulster District Council</p>	<p>10</p>	<p>What will occur if a representation does not deal with soundness?</p>	<p>Persons who make representations seeking to change the plan have a statutory right to be heard, but the Commissioner's report will concentrate on soundness (see Paragraphs 12 and 39).</p>
<p>Royal Town Planning Institute Northern Ireland</p>	<p>10</p>	<p>How will the Commission address representation and counter representations submitted in a disingenuous manner?</p>	<p>The Commissioner will take account of all representations which are relevant to determining the soundness of the plan.</p>
<p>Royal Town Planning Institute Northern Ireland</p>	<p>16</p>	<p>Representations should not have to be categorised by soundness test.</p>	<p>The model form in DPPN 09 allows people to specify the soundness test to which their representations relate. Where that information is provided, it will assist councils to categorise the representations.</p>
<p>Royal Town Planning Institute Northern Ireland</p>	<p>8-9</p>	<p>Will a plan be judged unsound if all but one of the tests are met? What will happen where there is a partial failure of a test?</p>	<p>A statement has been added to Paragraph 11 to explain that the tests will be considered in the round to form an overall judgment on soundness.</p>
<p>Royal Town Planning Institute Northern Ireland</p>	<p>18-22</p>	<p>There is inconsistency in wording between "fundamental concerns", "concerns" and "serious concerns".</p>	<p>Paragraphs 23 to 25 now make clear that the initial assessment is to identify and explore <u>fundamental</u> concerns.</p>

<p>Royal Town Planning Institute Northern Ireland (continued)</p>	<p>26</p>	<p>Consultees and neighbouring councils should be given more than three weeks' notice of the timetabling of the hearings and the topics and issues to be discussed.</p>	<p>An indicative timetable will be notified to participants about eight weeks before the opening date (see Paragraph 26). They will already be aware of the topics and issues raised. It is considered that three weeks' notice of the programme will be adequate but Paragraph 32 has been amended to make this a minimum period.</p>
<p>27</p>	<p>Persons and organisations who will be invited to give evidence should be identified at the earliest possible stage.</p>	<p>The procedures have been amended to allow for the possibility of written evidence being sought from people who did not make representations. Should this happen, the relevant parties will be told at that stage (see Paragraphs 27 and 29).</p>	
<p>32</p>	<p>The context in which site visits would be relevant should be clarified.</p>	<p>Paragraph 36 has been amended to clarify that sites relevant to the soundness tests will where necessary be visited.</p>	
<p>Appendix 3</p>	<p>It should be noted that the tests are derived from DPPN 06 and supporting information from that Note should be included.</p>	<p>Paragraph 11 explains the derivation of the tests and has been amended to make clear that the supporting text of DPPN 06 will be taken into account in assessing soundness.</p>	



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