

PSM1

**South Gloucestershire
Core Strategy
Examination**

**Position Statement
for
Matter 1: Legal Compliance /
Procedural Matters**

May 2012

Matter 1 – Legal Compliance / Procedural Matters

Q1 Is there any evidence to show the Council has not consulted at all relevant stages of the plan preparation process and has failed to comply with the statutory requirements?

Council response – No, there is no evidence to show that the Council has not consulted at all relevant stages or that the Council has failed to comply with statutory requirements.

- 1.1 This matter was previously raised by the Inspector in his questions during the Exploratory Meeting held on 29 June 2011. The Council's response to the Inspector's questions (Examination Library reference SG5, question 2, paragraphs 2.16 to 2.28) describes the consultation and engagement techniques undertaken by the Council in producing the Core Strategy and the ways that these had met statutory requirements. The Council's response outlined that the production of the Core Strategy has essentially proceeded on the basis of a three stage process:
- Stage 1 Issues and Options – (Regulation 25), May 2008 to February 2010
 - Stage 2 Pre submission Stage – (Regulation 27), June to August 2010
 - Stage 3 Submission Stage – (Regulation 30), 31st March 2011
- 1.2 In his letter following the Exploratory Meeting dated 15 August 2011 (Examination Library reference PA6) the Inspector confirmed that in his view the Council had complied with the spirit of regulatory requirements and that he was not aware of anybody having been prejudiced by the way the Council had undertaken its consultation. He went on to suggest that the Council re-publish and re-consult on the Core Strategy in order to ensure that all procedural requirements were complied with.
- 1.3 In light of this and the Inspector's requests that further technical work and public engagement be undertaken with respect to (*inter alia*) Filton Airfield, Green Belt and housing distribution, the Council re-published the Core Strategy in December 2011, together with an updated Sustainability Appraisal and other evidence base documents. The December 2011 Core Strategy contained Post-Submission Changes that had arisen from the further technical work that had been undertaken.
- 1.4 Representations were invited on the December 2011 Core Strategy and its supporting documents in accordance with the objectives of Regulation 27 of the Town & Country Planning (Local Development) (England) Regulations 2004 (as amended 2008 and 2009) and Regulation 13 of the Environmental Assessment of Plans & Programmes 2004. The methods used to advertise the December 2011 Core Strategy and the ways to make representations also fully accorded with the Council's Statement of Community Involvement.
- 1.5 The details of the processes the Council undertook to invite representations are fully set out in Appendix 3 of the Addendum to the Regulation 30(1)(e) Statement (Examination Library reference SD12/4). In summary the Council undertook the following actions to accord with Regulation 27:
- All those present on the Council's planning policy consultation database were written to or emailed on 22 December 2011 to give notification of the formal period for making representations and to provide all other necessary statutory

information. It included details of how to view the December 2011 Core Strategy and supporting documents and the ways to make representations. Recipients included all statutory consultees and Town and Parish Councils. The letter confirmed the dates of the formal period within which representations were being invited as 29 December 2011 until 17 February 2012 inclusive (seven weeks). The letter also contained the Statement of Representations Procedure and gave details of where representation forms and guidance notes could be obtained.

- On 22 December the Council's website was updated with the following information:
 - the Statement of Representations Procedure including the dates of the formal period within which representations could be made;
 - links to all relevant documents including the December 2011 Core Strategy and Supporting Sustainability Appraisal Report and Changes to the Proposals Map;
 - addresses to which representations should be sent;
 - where copies of the Core Strategy and supporting documents could be viewed.
 - An advertisement notice was placed in the Gloucestershire Gazette series and the Bristol Evening Post on 29 December 2011, which marked the start of the formal period for making representations. This notice contained all necessary statutory information on how to view the relevant documents and how to make representations.
 - As well as all relevant documents being available on the Council's website, hard copies of the following documents were made available at all South Gloucestershire Council libraries and One-Stop Shops from 22 December:
 - Statement of representations procedure
 - December 2011 Core Strategy incorporating Post-Submission Changes
 - Schedule of Post-Submission Changes
 - Sustainability Appraisal Report, December 2011 to support the December 2011 Core Strategy incorporating Post-Submission Changes
 - December 2011 Core Strategy Incorporating Post Submission Changes - Changes to the Proposals Map December 2011
- 1.6 Following closure of the period for making representations, all duly made representations were acknowledged by the Council and made available to view in a schedule on the Council's website (Examination Library reference SD14/2).
- 1.7 The Inspector then indicated that he wished to hold a Pre-Hearing Meeting on 17 April. The Council placed an advertisement notice in the Bristol Evening Post and South Gloucestershire Gazette Series on Thursday 22 March to advertise the Pre-Hearing Meeting and the start of the Examination to comply with Regulation 34 of the Town and Country Planning (Local Development) (England) Regulations 2004.

Q2 Is the Core Strategy (CS) in general conformity with the National Planning Policy Framework (the Planning Framework) or, if not, is it possible to introduce modifications without detracting from the Council's overall strategy for South Gloucestershire?

Council response – Yes, the Core Strategy is in general conformity with the NPPF. In accordance with the provisions of S.112 of the Localism Act, it is possible to put arrangements in place through the process of EIP to introduce modifications where necessary and relevant. The Council confirmed, on the 13th April 2012, that it does want the Inspector to be able to recommend changes (main modifications) to the Plan in order to make the document sound.

2.1 The preparation of the Core Strategy and all subsequent work up to 27th March 2012 was undertaken in accordance with the previous national guidance set out in Planning Policy Guidance notes (PPGs) and Planning Policy Statements (PPSs) and any relevant supporting guides etc. Notwithstanding this, South Gloucestershire fully recognises the role and purpose of the NPPF and its relationship to the Council's Core Strategy, as set out at paragraphs 1 and 2 of the Framework. Indeed, we would illustrate the degree of conformity to fulfilling the requirements of the NFFP as follows:

- The Core Strategy meets the requirements of NPPF at paragraph 151 in that it has been prepared with the objective of contributing to the achievement of sustainable development. To this end, it is consistent with the principles and policies set out in the Framework, including the presumption in favour of sustainable development paragraphs 11 to 16, the core planning principles set out at paragraphs 17 and the Frameworks requirements of delivering sustainable development as set out at paragraphs 18 – 149.
- Secondly, the Core Strategy in performing its role as the Local Plan for the District meets and achieves the 8 requirements listed at paragraph 157 of the NPPF.
- Thirdly, the Core Strategy is based on an adequate, up to date and relevant evidence base about the economic, social and environmental characteristics and prospects of the area. Furthermore, the Plan is deliverable as the sites and quantum of development are subject to an appropriate scale of obligations to enable development to be delivered. It thereby conforms with paragraphs 158 to 177 of the NPPF.
- Fourthly, The Core Strategy is underpinned by a Sustainability Appraisal (SA) which meets the requirements of the European Directive on Strategic Environmental Assessment.
- Furthermore, amendments made particularly with regard to the matters raised by the Inspector following the Exploratory Meeting of 29th June 2011 and his letter of 30th September cf. policies CS5 (location of development) and CS15 (distribution of development), as well as to Policies CS16, (housing density), CS17 (housing diversity), CS18 (affordable housing) and CS19 (rural exemption sites) better ensure the Core Strategy is in conformity with the Government's objective and role for the planning system to support Government policy with regard to planning for growth and housing.

- Finally, appropriate and necessary steps have been taken to reflect the Government's Planning Reforms. Chapter 1 of the December 2011 Core Strategy has been amended to reflect the changes to the planning system following the Localism Act and supporting Regulations. Moreover, throughout the December 2011 Core Strategy reference to PPGS and PPSs has been replaced with the term 'national guidance'

2.2 To support and illustrate in more detail the matter raised above, the Council intends to complete the PAS NPPF checklist and make this available to the Examination. This is intended to provide a helpful guide for the Inspector to demonstrate how the Core Strategy is compliant with the NPPF and will support his own line of questioning on this matter.

2.3 In conclusion, through the actions set out above the Council is confident that any changes can be made to the Core Strategy without going to the heart of the Plan. To this effect, the Council has requested the Inspector recommends main modifications to the Core Strategy in accordance with S112 of the Localism Act. This has been set out by letter to the Inspector dated 13th April 2012.

Q3 Plans submitted prior to the introduction of the Localism Act on 15 November 2011 are not subject to the 'duty to cooperate'. Is there any basis for suggesting the Council has not complied with this principle irrespective of whether the test should apply to the South Gloucestershire CS?

Council response – No, please see Topic Paper (Examination Library Ref: TP1), the conclusion, in respect of the duty to cooperate, is set out below for information.

3.1 The Council recognises that the 'Duty to Co-operate' (DTC) is now enacted. The Inspector has noted that as the Core Strategy was prepared and submitted prior to the enactment of the DTC, therefore the DTC cannot apply to it. (The Inspector confirmed this in his letter of 1st February 2012 (Examination Library Ref: SG15) and reconfirmed this view at the Pre-Hearing Meeting of the 17th April 2012 (Examination Library Ref: PA16)). However, and in any event, the topic paper (Examination Library Ref: TBC) demonstrates that had the DTC been in effect the Council has acted consistently with the DTC by the actions set out in the topic paper, for the following three "strategic matters". These main modifications to the plan, following submission in March 2011, have arisen as a result of requests made by the Inspector, the need for South Gloucestershire Council to respond to changing circumstances and the Government's planning reforms.

- Filton Airfield – inclusion within the Cribbs/Patchway New Neighbourhood policy area
- Cribbs Causeway Retail Area
- Oldbury on Severn – Nuclear Power Station

3.2 In taking the Core Strategy forward South Gloucestershire Council has acted consistently with the Duty to Co-operate and continues to do so.

- 3.3 The Council requests that the Inspector take these matters into consideration with regards to the representations made challenging compliance with the Duty to Co-operate and is respectfully requested to conclude that whilst it does not apply to the Council, it has acted consistently with the Duty to Co-operate.

Q4 The intention in the Planning Framework is to move largely towards a single Local Plan rather than many development plan documents. How will this affect the Council's approach to plan making?

Council response

- 4.1 In line with the Planning and Compulsory Purchase Act 2004 and PPS12 (2004), the Council's early local development schemes (LDS) anticipated the production of a suite of development plan documents (DPDs). In 2008, the previous Government amended its approach to local development frameworks, to reflect lessons learnt and to speed up the production of DPDs, and published a revised PPS12. This change in approach, inter alia, introduced the ability for core strategies to allocate strategic sites, and encouraged the production of fewer DPDs.
- 4.2 At this time the Core Strategy was completing consultation on Issues and Options and the West of England Joint Waste Core Strategy (JWCS) was progressing towards Preferred Options. The decision was taken to include strategic sites in the Core Strategy, and for non-strategic sites and development management policies to be rolled up into one DPD (to be titled – Policies, Sites and Places DPD). A Gypsy and Traveller DPD was also under preparation, but this has since been taken forward in the Core Strategy. The LDS 2009-2011 and subsequent updates, as well as any Neighbourhood Development Plans that may be produced, reflect the Council's commitment since early 2009 to a slimmed down list of DPDs.
- 4.3 The intention, therefore, is that in effect the Local Plan for South Gloucestershire will comprise of just 3 DPDs – the JWCS, the Core Strategy and the Policies, Sites and Places DPD, as set out in the recent LDS Update 2012 (Examination Library Ref: EB1/1) . This is considered to be a reasonable approach to plan-making, as it fully respects the provisions of the 2004 Planning and Compulsory Purchase Act with regard to the Local Development Framework system of plans, while not inconsistent with the Planning Framework, so no change of approach is required. Further, given that the JWCS is adopted and the Core Strategy is at an advanced stage, it is clearly inappropriate to withdraw these documents and move to a single Local Plan at this time.