



## **Local Plan**

### **Focused Review Legal Compliance Checklist**

**October 2013**



## **Local Plan Legal Compliance Checklist (April 2013) for Colchester Borough Council Local Plan Focused Review**

This checklist has been updated for PAS by SNR Denton. It supersedes the previous checklist and is based on **Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012**. It should be used with the Soundness Self Assessment Checklist (also updated January 2013).

Remember that the evidence you provide to support your plan should be relevant and proportionate. Please don't use this checklist as a reason to assemble more than is needed.

### **Glossary:**

"Act" means the **Planning and Compulsory Purchase Act 2004 (as amended)**

"NPPF" means the **National Planning Policy Framework** published March 2012

"Regulations" means the **Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012**

LDS means **Local Development Scheme**

SCI means **Statement of Community Involvement**

DPD means **Development Plan Document**

### **Stage one: The early stages**

Where the 'possible evidence' column refers to a document that will not be complete until a later stage (for example, the sustainability appraisal report), documents that will contribute to that report are relevant at the earlier stages. This way, the submitted report provides the evidence at submission, with an audit trail back to its source.

In terms of legal compliance, the main issues for the early stage are in relation to:

- planning for community engagement
- planning the sustainability appraisal (including consultation with the statutory environment consultation bodies)



- identifying significant cross boundary and inter-authority issues
- ensuring that the plan rests on a credible evidence base, including meeting the Act's requirement for keeping matters affecting the development of the area under review.

Regulation 17 notes that a statement setting out which bodies and people the council invited to make representations under Regulation 18 is one of the proposed submission documents. In this tool, the term 'consultation statement' is used to describe this statement.

Section 33A of the Act (introduced by the Localism Act 2011) introduces a duty to cooperate as a mechanism to ensure that local planning authorities and other bodies engage with each other on issues which are likely to have a significant effect on more than one planning area. This pervades every stage of the plan preparation. A plan may be found unsound if a council cannot show that it has taken reasonable steps to comply with the duty.

## Stage one: The beginning

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
1. Is the DPD identified in the adopted LDS? Have you recorded the timetable for its production?	The Act section 15(2) and section 19(1)	NPPF para 153		The Colchester Borough Council Local Development Scheme published in March 2013 shows the Local Plan Focused Review for production in 2013 with examination in spring 2014. The LDS was subsequently updated in September 2013 and the programmed examination date was moved forward slightly to January 2014. The purpose of the Focused Review is to ensure conformity with the NPPF as well as reconsidering policies that are deemed out of date.
2. How will community engagement be programmed into the preparation of the DPD?	The Act section 19(3)  Regulation 18	NPPF paras 150, 155 and 157	If the SCI is up-to-date, use that. If not set out any changes to community engagement as a result of changes in legislation.	Colchester Borough Council first adopted an SCI in 2006 which detailed how the Council will consult and engage with all stakeholders across the Borough. The SCI has been subject to various

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				revisions with the most recent being adopted in March 2013. Community engagement has been carried out in accordance with the SCI and the relevant Regulations. Details of the consultation are set out in the Council's Focused Review Consultation Statement.
3. Have you considered the appropriate bodies you should consult?	Regulation 18	NPPF paras 4.25 - 4.26	<p>Regulation 2 defines the general and specific consultation bodies.</p> <p>The possible evidence may duplicate each other. Only use what you need to.</p>	The Colchester Borough Council SCI sets out the range of bodies, stakeholders and interested parties that will be consulted at each stage of the plan preparation process. Full details of the consultation undertaken can be found within the Consultation Statement published alongside the Local Plan Focused Review DPD which includes details of the general and specific consultation bodies that the Council engaged with.

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
4. How you will co-operate with other local planning authorities, including counties, and prescribed bodies, to identify and address any issues or strategic priorities that will have a significant impact on at least two planning areas?	<p>The Act section 33A(1)(a) and (b), section 33A(3)(d) (e) &amp; (4)</p> <p>The Act Section 20(5)(c)</p> <p>Regulation 4</p>	<p>NPPF paras 178 to 181 (which comprise the guidance referred to in the Act section 33A(7))</p> <p>Under NPPF Para 182, to be 'Effective' a plan should be based on effective joint working on cross-boundary strategic priorities.</p> <p>Strategic priorities are listed at NPPF Para 156</p>	<p>Section 33A(4) defines a "strategic matter".</p> <p>Under section 33A(6) the required engagement includes considering joint approaches to the plan making activities (including the preparatory activities) and considering whether to agree joint local development documents under section 28.</p> <p>The bodies prescribed by section 33A(1)(c) are set out at Regulation 4(1).</p>	Colchester Borough Council has been proactive in engaging with other local planning authorities and prescribed bodies to ensure that duty to co-operate requirements are met and any cross boundary issues are agreed prior to consultation. Evidence to demonstrate this cross boundary strategic working can be found within the Council's Duty to Cooperate Statement.
5. How you will co-operate with any local enterprise partnerships (LEP) or local nature partnerships (LNP) to identify and address any issues or strategic priorities that will have a significant impact	<p>The Act section 33A(1)(c) and section 33A(9), section 33A(3)(d) and (e)</p> <p>The Act section 20(5)(c).</p>	<p>NPPF paras 178 to 181</p>	<p>Section 33A(4) defines a "strategic matter".</p> <p>Strategic priorities are listed at NPPF Para 156.</p> <p>Regulation 4(2) prescribes LEPs and LNPs for the purposes of section</p>	Colchester Borough Council is a part of the South East Local Enterprise Partnership which includes authorities and stakeholders from East Sussex, Kent and Essex. The Local Plan Focused Review does not have any

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
on at least two planning areas?	Regulation 4		33A(9).  Under section 33A(6) the required engagement includes consulting on joint approaches to relevant activities.	significant implications for the LEP but appropriate consultation has been undertaken to provide other relevant members of the LEP with the opportunity to engage with the Focused Review.
6. Is baseline information being collected and evidence being gathered to keep the matters which affect the development of the area under review?	The Act section13	NPPF paras 158 - 177		Alongside the preparation of the Local Plan Focused Review consultation documents, the Council has been continually collecting information and adding to the comprehensive evidence base which supports the Local Plan. The Council is undertaking a two-phase review of its Local Plan, involving a limited Focused Review and a comprehensive Full Review that entails a thorough up-dating of the Council's evidence base.  The Council's Annual

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				Monitoring Report, published each December, reviews the progress of each development plan document and will highlight any areas which need to be addressed through further evidence base work.
7. Is baseline information being collected and evidence being gathered to set the framework for the sustainability appraisal?	The Act section 19(5)	NPPF paras 165 and 167  Strategic Environmental Assessment Guide, chapter 5		Baseline information was collected, and evidence gathered to inform the development of the framework, as part of the scoping stage of the Sustainability Appraisal process.
8. Have you consulted the statutory environment consultation bodies for five weeks on the scope and level of detail of the environmental information to be included in the sustainability appraisal report?	Regulations 9 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633.	NPPF paras 165 and 167  SEA Guide chapter 3	The Strategic Environmental Assessment consultation bodies are also amongst the 'specific consultation bodies' which are defined in Regulation 2.	Yes – a scoping exercise was carried out as part of the Issues and Options consultation between 18 March and 29 April 2013, in line with the regulations and examples of best practice. This ensured that key stakeholders were given the



Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				<p>opportunity to identify key environmental requirements at an early stage.</p> <p>Representations relating to the Sustainability Appraisal Scoping Report are included within the Council's Consultation Statement.</p>



## **Stage two: Plan preparation - frontloading phase**

Information assembled during this phase contributes to:

- showing that the procedures have been complied with
- demonstrating cooperation with statutory cooperation bodies
- developing alternatives and options and appraising them through sustainability appraisal and against evidence.

The council should record actions taken during this phase as they will be needed to show that the plan meets the legal requirements. They will also show that a realistic and reasonable approach has been taken to plan preparation.

## Stage two: Plan preparation

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
1. Have you notified: <ul style="list-style-type: none"> <li>the specific consultation bodies?</li> <li>the general consultation bodies that have an interest in the subject of the DPD and invited them to make representations about its contents?</li> </ul>	Regulation 18(1) and (2)(a) (b)	NPPF paras 159 – 173	Specific and general consultation bodies are defined in Regulation 2.	The Local Plan Focused Review Issues and Options document was subject to a 6 week period of public consultation from 18 March until 29 April 2013. The Council notified all those bodies, stakeholders and interested parties as found on the Council's list of specific and general consultation bodies. Each of these bodies was notified by email or letter with full details being available on the Council's website and for viewing at the Customer Service Centre and Colchester Library. Full details of the consultation can be found in the Council's consultation statement.
2. Are you inviting representations from people resident or carrying out business in your area about the content of the DPD?	Regulation 18(1) and (2)(c)	NPPF paras 159 – 173		The Council's consultation database includes details of both residents and businesses, in addition to details of specific and general consultation bodies.

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				Each of these was notified at the start of the Issues and Options public consultation period which began on 18 March for a period of 6 weeks. Full details of the consultation can be found in the Council's Consultation Statement.
3. Are you engaging with stakeholders responsible for delivery of the strategy?	Regulation 18	NPPF para 155	NPPF paras 160-171 4.29 give examples of relevant bodies which should be consulted.	Colchester Borough Council has an adopted strategy. The strategy for the Borough is not being amended as a result of the Focused Review. However all stakeholders on the Council's consultation database have been consulted as part of the focused Review process. Full details of the consultation can be found in the Council's Consultation statement.
4. Are you taking into account representations made?	Regulation 18(3)	NPPF para 155	Evidence from participation is part of the justification. Show how you have taken representations into account.	Each of the representations received as part of the Issues and Options Consultation period were reported to Local Plan Committee on 3 June 2013 The representations directly

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				influenced the production of the Proposed Submission Focused Review document. A summary of the representations along with the Council's initial comment can be found within the consultation statement which demonstrates how representations were taken into account during the preparation stage(s).
5. Does the consultation contribute to the development and sustainability appraisal of alternatives?	The Act section 19(5)  Regulations 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633	NPPF paras 165 – 168  SEA Guide, chapter 3		The Focused Review Issues and Option consultation provided the opportunity for consultees to contribute to the development of alternatives. Reasonable alternatives put forward at the Issues and Options stage consultation were subject to sustainability appraisal. The Sustainability Appraisal Report was, itself, then subject to consultation at the pre-submission stage.
6. Is the participation: • following the principles	The Act section 19(3)	NPPF para 155		Consultation and public engagement for the Local Plan

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>set out in your SCI?</p> <ul style="list-style-type: none"> <li>integrating involvement with the sustainable community strategy?</li> <li>proportionate to the scale of issues involved in the DPD?</li> </ul>				<p>Focused Review Issues and Options document was conducted in accordance with the Council's SCI and examples of best practice. Details of the consultation and the consultation documents were made available on the Council's website as well as the Customer Service Centre and Colchester Library. Stakeholders from across the Borough were invited to make representations on the document and officers were available to deal with enquiries as required. The scale of consultation undertaken is considered to be proportionate to the scale of the issues involved and details are set out in the Council's Consultation Statement.</p>
<p>7. Are you keeping a record of:</p> <ul style="list-style-type: none"> <li>the individuals or bodies invited to make</li> </ul>	<p>The Act section20(3)</p> <p>Regulation 17</p>	NPPF paras 158 - 171	You will need to submit a statement of representations under Regulation 22 (1) (c): see	The representations received at the Issues and Options Stage were summarised and reported to Local Plan Committee on 3

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>representations?</p> <ul style="list-style-type: none"> <li>• how this was done?</li> <li>• the main issues raised?</li> </ul>			<p>Submission stage below.</p> <p>Regulation 35 deals with the availability of documents and the time of their removal.</p>	<p>June 2013. The summary of representations was made available on the Council's website and is also included within the Consultation Statement. The issues raised in each representation were taken into consideration as the Local Plan Focused Review was further developed in conjunction with relevant stakeholders, agencies and neighbouring authorities.</p>
<p>8. Are you inviting representations on issues that would have significant impacts on both your areas from another local planning authority? Or county issues from an affected county council that is not a planning authority? Or significant cross-boundary issues and strategic priorities of a body prescribed under Section</p>	<p>The Act section 33A(1)(a) (b) and (c), section 33A(3)(d) &amp; (e) section 33A(4) section 33A(9)</p> <p>The Act section 20 (5)(c)</p>	<p>NPPF paras 178 to 181</p>	<p>Section 33A(3)(d) and (e) requires cooperation on significant cross-boundary issues before and during plan preparation.</p> <p>Section 33A(2) requires you to engage constructively, actively and on an ongoing basis.</p>	<p>The Local Plan Focused Review is intended to ensure conformity with the NPPF and bring a limited number of policies up to date to reflect the current position in Colchester. As a result, the numbers of significant impacts expected across the Borough are minimal as issues relating to site allocations, housing numbers and employment targets will come forward as part of the second</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
33A(1)(c)?				<p>stage of the process – the Local Plan Full Review, expected 2015-2017.</p> <p>Although issues within the Focused Review are minimal, the Council has sought to actively engage with neighbouring authorities to ensure that any cross boundary issues and strategic priorities are taken into account at this stage. Details of the actions undertaken to engage actively and constructively with neighbouring authorities and relevant authorities can be found within the Council's Duty to Co-operate Statement.</p>
9. Are you inviting representations on cross-boundary issues and strategic priorities from a local enterprise partnership (LEP) or a local nature partnership (LNP)?	<p>The Act section 33A(1)(c) and Section 33A(9).</p> <p>The Act section 20(5) (c).</p>	NPPF paras 178 to 181	Section 33A(3)(d) and (e) requires cooperation on significant cross-boundary issues before and during plan preparation.	The Council has actively engaged with the South East Local Economic Partnership of which Colchester Borough Council is a member, details of this engagement and consultation are included within



Activity	Legal requirement	Guidance reference	Additional notes	Evidence
	Regulation 4		Section 33A(2) requires you to engage constructively, actively and on an ongoing basis.	the Council's Consultation Statement.  The scope of the Local Plan Focused review is limited and is unlikely to have any significant cross boundary issues at this stage but engagement with the LEP will continue throughout the plan preparation process.
10. Are you developing a framework for monitoring the effects of the DPD?	The Act section 35  Regulation 34  Regulation 17 of The Environmental Assessment of Plans and Programmes Regulations 2004 No1363	NPPF paras 165 - 1687  SEA Guide, Chapter 5	It is a matter for each council to decide what to include in their monitoring reports while ensuring they are prepared in accordance with relevant UK and EU legislation" Chief Planning Officer letter 30 March 2011 withdrawing ODPM guidance.	The Council has a strong monitoring record with a comprehensive Annual Monitoring Report produced each year since 2005. Each document which makes up the Colchester Local Plan includes monitoring framework and indicators which align with the AMR production. Each Development Plan Document produced by the Council is also subject to Sustainability Appraisal work which further supports and promotes the monitoring of a documents

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				<p>progress and effectiveness. The Local Plan Focused Review will be supported by this monitoring framework that has evolved. Monitoring at Colchester Borough Council is done in-house by officers working across the Spatial Policy and Development Management Teams which promotes a high degree of confidence in the monitoring results.</p>



### **Stage three: Plan preparation - formulation phase**

This stage has many legal matters, for process and content, to address. The council should be beginning to formulate the preferred strategy for the local plan or supplementary planning document with which the council chooses to address Regulation 18 requirements, using the information gathered and previous collaborative work with stakeholders.

Para 182 of the NPPF makes it clear that explicit consideration of alternatives is a key part of the plan making process.

You should evaluate the reasonable alternatives identified in 'stage two: frontloading phase – plan preparation' phase against the:

- completed body of information from evidence gathering
- results of sustainability appraisal
- findings from community participation
- findings from engagement with statutory cooperation bodies.

This may be written up as a preferred strategy report. The results of participation on the preferred strategy and an accompanying sustainability report will enable the council to gauge the community's response and receive additional evidence about the options. The council can then decide whether, and how, the preferred strategy and policies should be changed for publishing the finished DPD.

Alternatives developed from the evidence and engagement during the frontloading stage need to be appraised to decide on the preferred strategy. Participation will also need to be carried out on it.

These matters need to be considered, and dealt with, in good time, and not left until publication. Supporting documents will assist in providing evidence that decisions on alternatives and strategy are soundly based. These documents will, in due course, become part of the proposed submission documents in stage four.

**The council should tell all parties that this is the main participation opportunity on the emerging plan. The publication stage will not be a participation or consultation process.** The publication stage is a formal opportunity for anyone to comment on an aspect of the DPD's soundness. The more effectively this message is put across, the lower the chance of late changes being brought forward following publication.

### Stage three: Plan preparation – writing the plan

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
1. Are you preparing reasonable alternatives for evaluation during the preparation of the DPD?	Regulation 12 (2) of The Environmental Assessment of Plans and Programmes Regulations 2004 No. 1633	NPPF paras 152 - 182  SEA Guide, Chapter 5	The sustainability appraisal report and supporting documents relevant to the preparation of the DPD are part of the proposed submission documents (see Regulation 17).	The Issues and Options document provided alternative options which the Council had considered during the formulation of the document. Each of these options was considered through the Sustainability Appraisal process which provided opportunity to evaluate all reasonable policy alternatives.
2. Have you assessed alternatives against: <ul style="list-style-type: none"> <li>consistency with national policy?</li> <li>general conformity with the regional spatial strategy where still in force?</li> </ul>	The Act section 19 (2), section 24	NPPF para 151	For London boroughs and local authorities where regional strategies are still in force general conformity is tested formally later but you need to consider it during preparation of the DPD.	The East of England Plan has been formally revoked by the Government and therefore each reasonable alternative has been considered against the NPPF. The Local Plan Focused Review is being developed to be consistent with the principles set out in the NPPF including the presumption in favour of

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
				sustainable development.
3. Are you having regard to (where relevant): <ul style="list-style-type: none"> <li>• adjoining regional spatial strategies?</li> <li>• the spatial development strategy for London?</li> <li>• Planning Policy for Wales?</li> <li>• the National Planning Framework for Scotland?</li> </ul>	The Act sections 19 (2) and 24 (1) and (4)  Regulation 10 and 21		Where the regional strategy has been revoked you should record that fact.	The East of England Plan has been formally revoked by the Government and replaced by the NPPF. As Colchester Borough Council does not have any regional or national boundaries, it is only appropriate to have regard to the NPPF.
4. Are you co-operating with other local planning authorities including counties, to address significant cross boundary issues?  Have you discussed doing joint local development documents?	The Act section 33A(2)(a)  Section 33A(6)(a)(b)  Section 20(5) (c)	NPPF paras 181 and 185	.	The Local Plan Focused Review is not considered to raise any significant cross boundary issues but officers have actively engaged with colleagues at neighbouring authorities (including Essex County Council) to ensure that any issues are raised at an early stage in the spirit of the duty to cooperate. Details of these meetings can be found within the Duty to Co-operate

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
				Statement submitted in support of the Focused Review document.
5. Are you cooperating with a person prescribed for the purposes of Regulation 33A(1)(c) to address significant cross boundary issues including preparing joint approaches?	The Act section 33A(2)(a), section 33A(6)(a)  The Act section 20 (5) (c)  Regulation 4	NPPF paras 181 and 182	The bodies prescribed by The Act section 33A(1)(c) are set out at Regulation 4 (1).	The Local Plan Focused Review is not considered to raise any significant cross boundary issues. However officers have actively engaged with prescribed bodies to ensure that any issues are raised at an early stage in the spirit of the duty to cooperate. Details can be found within the Duty to Co-operate Statement submitted in support of the Focused Review document.
6. Are you cooperating with having regard to the activities of the LEP and LNP?	The Act section 33A(2)(b) and section 33A(9). Regulation 4 (2)	NPPF para 181 and 182		Colchester Borough Council is a member of the South East Local Enterprise Partnership and the Local Plan Focused Review has been prepared with regard to the activities of the LEP.
7. Are you having regard to: • your sustainable	The Act section 19(2)			The body in charge of developing a Sustainable

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
<p>community strategy or of other authorities whose area comprises part of the area of the council?</p> <ul style="list-style-type: none"> <li>any other local development documents adopted by the council?</li> </ul>				<p>Community Strategy, Colchester 2020, has now been disbanded, but the aims and objectives of the Colchester 2020 Strategy have now been incorporated within the Council's Strategic Plan. The Focused Review document seeks to revise and replace numerous policies within the 2008 Core Strategy and the 2010 Development Policies documents, each of these are considered to be in conformity with one another. Measures are taken to ensure that the revisions within the Focused Review document are in accordance with the suite of Development Plan Documents the Council has published and adopted to date.</p>
<p>8. Do you have regard to other matters and relevant strategies relating to:</p> <ul style="list-style-type: none"> <li>resources</li> </ul>	<p>The Act section19(2)</p> <p>Regulation 10</p>		<p>As well as the matters and strategies listed in the Act and Regulations there are likely to be other matters</p>	<p>The Council maintains regular communication and partnership working with various stakeholders such as</p>

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
<ul style="list-style-type: none"> <li>the local/regional economy</li> <li>the local transport plan and transport facilities and services</li> <li>waste strategies</li> <li>hazardous substances</li> </ul>			identified in planning policy statements, regional and local strategies that you will need to have regard to in preparing the DPD.	Essex County Council on issues such as minerals, waste and transport, Anglian Water and the Highways Agency to ensure that we have regard to a wide range of other matters and strategies which have an impact on the Borough. Each of these stakeholders are notified of the consultation periods and have responded as considered appropriate. Details of the consultation responses received can be found within the Consultation Statement submitted.
9. Are you having regard to the need to include policies on mitigating and adapting to climate change?	The Act section19(1A)	NPPF paras 93 -108		Having regard to climate change is central to the objectives of the Colchester Local Plan. Policies relating to climate change can be found within the Core Strategy and Development Policies DPDs. It has been considered appropriate to revise Core Strategy Policy ER1 to ensure



Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
				conformity with the NPPF and recent revisions to building regulations. The Local Plan Focused Review proposes a change to Policy ER1 which is considered appropriate as it has regard to mitigating and adapting to climate change as required in the NPPF.
10. Have you undertaken the sustainability appraisal of alternatives, including consultation on the sustainability appraisal report?	The Act section 19(5)  Regulation 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633	NPPF para 182  SEA Guide, Chapter 5	Regulation 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633 sets out the consultation procedures.	The Local Plan Focused Review has been developed in parallel with the Sustainability Appraisal report. The Sustainability Appraisal work has been subject to public consultation at the appropriate stages, which has also fed into the formulation of alternatives.
11. Are you setting out reasons for any preferences between alternatives?	Regulation 8(2)	NPPF para 182	This will include Information from the sustainability appraisal.	The Issues and Options document included alternative options that were considered appropriate. The Sustainability Appraisal has considered all

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
				reasonable options and provides reasoning for the preferred options, included within the submission Sustainability Appraisal Report.
12. Have you taken into account any representations made on the content of the DPD and the sustainability appraisal? Are you keeping a record?	Regulations 17, 18(3) and 22 (1) (c) (iv)  Regulation 13(4) of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633	NPPF paras 150, 155, 157 and 159-171	Records on the sustainability appraisal should also include recording any assessment made under the Habitats Directive.	The Council takes account of every representation received in response to consultation reports on the DPD and the Sustainability Appraisal. Each of these representations is summarised and recorded. A summary of the consultation responses can be found within the Consultation Statement or alternatively in full, on request to the Spatial Policy Team.
13. Where sites are to be identified or areas for the application of policy in the DPD, are you preparing sufficient illustrative material to: <ul style="list-style-type: none"><li>• enable you to amend</li></ul>	Regulations 5 (1)(b) and 9	NPPF para 157	Regulation 2 defines the terms 'submission' and 'adopted' proposals map.  A map showing changes to the adopted policies map is part of the proposed	The revisions proposed as part of the Local Plan Focused Review have no impact on the adopted Policies Maps which cover the Borough. Issues affecting Site Allocations and requiring changes to the

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
<p>the currently adopted policies map?</p> <ul style="list-style-type: none"> <li>inform the community about the location of proposals?</li> </ul>			submission documents defined in Regulation 17.	Policies Maps will be considered as part of the Local Plan Full Review scheduled for 2015-2017.
14. Are the participation arrangements compliant with the SCI?	<p>The Act, section 19(3)</p> <p>Regulation 18</p>	NPPF paras 150 and 155		Public consultation is central to all aspects of the Colchester Local Plan. Public consultation and engagement has been actively encouraged and is considered to be in accordance with the SCI and examples of best practice. Full details of the scale and scope of public consultation conducted can be found within the Consultation Statement.



## Stage four: Publication

Under Regulation 20, the period for formal representations takes place **before** the DPD is submitted for examination in accordance with a timetable set out in the statement of the representations procedure which is made available at the council's office and published on its website.

When moving towards publication stage, the council should consider the results of participation on the preferred strategy and sustainability appraisal report and decide whether to make any change to the preferred strategy. In the event that changes are required, the council will need to choose either to:

- do so and progress directly to publication

OR

- produce and consult on a revised preferred strategy.

The latter may be appropriate where the changes to the DPD bring in changed policy or proposals not previously covered in community participation and the sustainability appraisal. It avoids having to treat publication as if it were a consultation, which it is not. It also provides insurance in relation to compliance with the Strategic Environmental Assessment Regulations. Legally, during any participation on a revised preferred strategy, you should:

- comply with the requirements of the SCI
- update the sustainability appraisal report.

The council should then produce the DPD in the form in which it will be published. This includes removing material dealing with the evaluation of alternatives and the finalisation of the text. The council should be happy to adopt the DPD in this form, and satisfied that it is sound and fit for examination.

**You should make it clear that publication of a DPD is not public participation, nor a consultation.** The six weeks publication period is the opportunity for those dissatisfied (or satisfied) with the DPD to make formal representations to the inspector about its soundness.

The possibility of change under certain circumstances (which should be exceptional) is allowed for in the new procedures, and is described in 'stage five: submission'.

## Stage four: Publication

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
1. Have you prepared the sustainability appraisal report?	<p>The Act section 19(5)</p> <p>Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 No 1633</p>	<p>NPPF paras 165 - 168</p> <p>SEA Guide Chapter 5</p>		The Local Plan Focused Review has been prepared in parallel with Sustainability Appraisal work at every stage of the plan production process.
2. Have you made clear where and within what period representations must be made?	Regulation 17, 19, 20 and 35		The period must not be less than 6 weeks from when you publish under Regulations 19 and 35 (see below).	The submission consultation period ran from 5 August until 16 September 2013. Details of the consultation period, places to find the document(s) and how to return representations were made clear and published on the Council's website in accordance with the relevant regulatory requirements. Details of the consultation were also published in a local

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
				newspaper on 12 and 16 August.
3. Have you made copies of the following available for inspection: <ul style="list-style-type: none"> <li>the proposed submission documents?</li> <li>the statement of the representations procedure?</li> </ul>	Regulation 19(a)		Regulation 17 gives definitions.	Copies of the proposed submission document, along with the sustainability appraisal and a representation form were all published on the Council's website on 5 August 2013. Emails/letters were sent out to all those stakeholders on the general and specific consultation bodies list. Hard copies of these were placed in Colchester Central Library and the Colchester Borough Council Customer Service Centre at the start of the consultation period also.
4. Have you published on your website: <ul style="list-style-type: none"> <li>the proposed submission documents?</li> </ul>	Regulations 19 and 35		Regulations 2 and 17 give definitions.	All consultation material was published on the Council's website on 5 August 2013 and remained available and accessible throughout the

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
<ul style="list-style-type: none"> <li>the statement of the representations procedure?</li> <li>statement and details of where and when documents can be inspected?</li> </ul>				consultation period. People viewing the website had the opportunity to download the relevant documents and/or complete an on-line representation form.
5. Have you sent to each of the specific consultation bodies invited to make representations under Regulation 18(1): <ul style="list-style-type: none"> <li>A copy of each of the proposed submission documents</li> <li>The statement of the representations procedure?</li> </ul>	Regulation 19(b)		Regulations 2 and 17 give definitions.	Bodies and organisations that are found on the Council's list of specific consultation bodies were notified by email and/or letter at the start of the consultation period in line with the relevant regulations.
6. Have you sent to each of the general consultation bodies invited to make representations under Regulation 18(1): <ul style="list-style-type: none"> <li>the statement of the representations</li> </ul>	Regulation 19(b)		Regulations 2 and 17 give definitions.	Bodies and organisations that are found on the Council's list of general consultation bodies were notified by email and/or letter at the start of the consultation period in line

Activity	Statutory requirement	Guidance reference	Additional notes	Evidence
procedure? <ul style="list-style-type: none"> <li>where and when the documents can be inspected?</li> </ul>				with the relevant regulations.
7. Have you requested the opinion of the Mayor of London (if a London Borough or Mayoral DC) on the general conformity of the DPD spatial development strategy?	The Act section 24 Regulation 21		The request must be made on the day you publish the documents under Regulation 19(a) and a response must be made within six weeks from the request (Regulation 21).	The requirement to request the opinion of the Mayor of London is not relevant for Colchester Borough Council.





## Stage five: Submission

At the submission stage, the council should receive and collate any representations made at publication stage. You don't have to report these representations to councillors but there may be requirements deriving from other legislation, Standing Orders or council procedures that must be considered. Or you might just think it is a good idea to report on it anyway.

If they are reported it should be on the facts of the representations made, not the results of a consultation process by the council. They should not be treated as a consultation or an opportunity to make changes or answer representations. NB: under the 2012 Regulations there is no longer any requirement to give notice by local advertisement.

You should ensure you are in legal compliance with the SCI, the Habitats Directive and the Strategic Environmental Assessment Directive in any additional work. Any formal publication of additional or changed matters would need to allow at least a six-week period for representations to be made.

There are different approaches that could be taken to changes. You should be satisfied that you remain fully compliant with the legal requirements if any changes are made (and any consequential effects on the DPD as a whole).

Apart from notification of the examination, this tool does not deal with the legal requirements that need to be followed after submission.

## Stage five: Submission

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
1. Has the DPD been prepared in accordance with the LDS? Does the DPD's listing and description in the LDS	The Act section 19(1)		The Act section 15(2) sets out the matters specified in the LDS. As at January 2013, no further matters are	The March 2013 revision of the LDS (covering the period 2013-16) detailed the early stages of consultation on the Local Plan Focused Review.

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>match the document? Have the timescales set out in the LDS been met?</p>			<p>prescribed in the Regulations.</p>	<p>As the document progressed the Council was ahead of schedule for the preparation of the Focused Review and therefore a further revision to the LDS was published in September 2013 (covering the period 2013-16). The Local Plan Focused Review has been prepared in accordance with description and the timescales found in the September 2013 revision.</p> <p>The revision to LDS was agreed by the Local Plan Committee on 25 September 2013.</p> <p>The Council's Annual Monitoring Report details the progress of each DPD against the LDS and in the most recent version (December 2012), the Local Plan Focused Review was being produced on time.</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
2. Has the DPD had regard to any sustainable community strategy for its area (like a county and district)?	The Act section 19(2)	NPPF para 182		The body in charge of developing a Sustainable Community Strategy, Colchester 202, has now been disbanded, but the aims and objectives of the Colchester 2020 Strategy have now been incorporated within the Council's Strategic Plan.
3. Is the DPD in compliance with the SCI (where one exists)? Has the council carried out consultation as described in the SCI?	The Act section 19(3)  Regulation 22(1)(c)		Before the SCI is formally amended to take into account the changes in the regulations, you may need to set out how the community engagement that you carried out met the regulations (as amended).	The Local Plan Focused Review has been prepared in compliance with the SCI as adopted in March 2013. Each of the stages of consultation and aspects of community engagement detailed within the SCI and appropriate regulations have been met and consultation has been done as described within the SCI.
4. Have you identified and addressed any issues which are likely to have a significant impact on at	The Act section 33A(1) and section 20(5)	NPPF paras 181 and 182	Under NPPF para 182, the plan should be based on effective joint working on cross-boundary strategic	As the scope of the Local Plan Focused Review is limited to ensure conformity with the NPPF and update various non

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>least two planning areas. In doing so, have you co-operated with other local planning authorities, county councils where they are not a planning authority, LEPs, LNPs and the prescribed bodies in identifying and addressing any strategic cross-boundary issues</p> <p>If you have not agreed on the approach is there a justification?</p>			<p>priorities to be found 'Effective'.</p>	<p>strategic policies the key issues are unlikely to have any significant cross boundary impacts. However to ensure that neighbouring authorities are satisfied with the details of the Focused Review, duty to cooperate meetings were held to address any strategic cross boundary issues as encouraged by the NPPF. Details of these duty to cooperate meetings can be found within the Duty to Co-operate Statement</p>
<p>5. Has the DPD been subject to sustainability appraisal? Has the council provided a final report of the findings of the appraisal?</p>	<p>The Act section 19(5)</p> <p>Regulation 22(1)(a)</p>	<p>NPPF para 165</p> <p>SEA Practical Guide, chapter 5</p>		<p>The Local Plan Focused Review has been produced in parallel with Sustainability Appraisal work at every stage. The Council has produced and published a Sustainability Appraisal Report.</p>
<p>6. Is the DPD to be submitted consistent with national policy?</p>	<p>The Act section 19(2) and Schedule 8</p>	<p>NPPF para 151</p>		<p>The Local Plan Focused Review is considered to be consistent with national policy. Further justification is provided</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				within the Council's Soundness Self Assessment checklist that has also been prepared to support the documents submission.
<p>7. Does the DPD contain any policies or proposals that are not in general conformity with the regional strategy where it still exists?</p> <p>If yes, is there local justification?</p> <p>If the LPA is a London borough or a mayoral development corporation has it requested an opinion from the Mayor of London on the general conformity of the plan with the spatial development strategy?</p>	<p>The Act section 24(1)(a) and 24(4)</p> <p>Regulation 21</p>	NPPF para 218 footnote 41	In London the requirement is for general conformity with the spatial development strategy (The London Plan).	<p>The East of England Plan has been formally revoked and replaced in whole by the NPPF. The main purpose of the Local Plan Focused Review is to ensure conformity with the NPPF and as a result it is considered that the document being submitted to PINS is in general conformity with the NPPF.</p> <p>As Colchester Borough Council is outside of London, it is not considered appropriate to request an opinion from the Mayor of London.</p>
8. Has the council published the prescribed documents,	The Act section 20(2), 20(3) and	NPPF para 182	Requirements relating to publication of the	Yes – this is detailed in the Regulation 22 Statements of

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>and made them available at their principal offices and their website?</p> <p>Has the council notified the relevant statutory and non-statutory bodies, and all persons invited to make representations on the plan?</p> <p>Does the DPD contain a list of superseded saved policies?</p>	<p>20(5)(b)</p> <p>Regulations 8 and 19</p>		<p>prescribed documents are listed later in this table.</p>	<p>Consultation</p> <p>Yes this is detailed in the Regulation 22 Statements of Consultation</p> <p>The Focused Review document clearly identifies policies proposed for modification</p>
<p>9. Are there any policies applying to sites or areas by reference to an Ordnance Survey map or to amend an adopted policies map?</p> <p>If yes, have you prepared</p>	<p>Regulations 5(1)(b), 9 (1), 17 &amp; 22(1)</p>			<p>The Local Plan Focused Review does not have any impact on the Policies Map as previously adopted by Colchester Borough Council. Decisions relating to Site Allocations and changes to the Policies Map will be</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
a submission policies map?				considered as part of the Local Plan Full Review expected to come forward during 2015-2017.
10. Is the DPD consistent with any other adopted DPDs for the area? If the DPD is intended to supersede any adopted development plan policies, does it state that fact and identify the superseded policies?	Regulation 8(3) and (4)  Regulation 8(5)		Development Plan is defined in Section 38 of the Act.	Each of the DPDs produced and adopted to date by Colchester Borough Council is considered to be in accordance and consistent with each other. As the Local Plan Focused Review looks to revise parts of the Core Strategy and the Development Policies DPD (as listed in the Focused Review table of contents), it is essential that the revisions are consistent with other documents also.
11. Have you prepared a statement setting out: <ul style="list-style-type: none"> <li>Which bodies and persons were invited to make representations under Regulation 18?</li> <li>How they were invited?</li> <li>A summary of the main</li> </ul>	The Act section 20 (3)  Regulation 22(1)(c)		This will bring forward material from the Consultation statement (see Stage 2 above).	The Council has a Consultation Statement relating to the pre-submission consultation. The Statement deals specifically with the representations received in response to the pre-submission consultation. The

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>issues raised?</p> <ul style="list-style-type: none"> <li>How the representations have been taken into account?</li> </ul>				statement covers all aspects of the pre-submission consultation and provides the Council's initial response to the representations received.
<p>12. Have you prepared a statement giving:</p> <ul style="list-style-type: none"> <li>the number of representations made under Regulation 22?</li> <li>a summary of the main issues raised?</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>that no representations were made?</li> </ul>	<p>The Act section 20(3)</p> <p>Regulation 22(1)(c)</p>			The second of the two Consultation Statements provides details and a summary of all the representations received before the consultation period closed on 16 <sup>th</sup> September.
<p>13. Have you collected together all the representations made under Regulation 28?</p>	<p>The Act section 20(3)</p> <p>Regulation 22(1)(e)</p>			The second of the two Consultation Statements includes a summary of each representation received as well as a hyperlink to each of the representations in full. The document is available on the Council's website and copies are also available on request from the Spatial Policy Team



Activity	Legal requirement	Guidance reference	Additional notes	Evidence
				at Colchester Borough Council.
14. Have you assembled the relevant supporting documents?	The Act section 20(3)  Regulation 22(1)(g)			A wide range of documents have been submitted to the Planning Inspectorate. Each of these documents is also available on the Council's website, found under the web pages dedicated to the Local Plan Focused Review.
15. Has your council approved the DPD for submission?	The Act section 20		Check the LPA's constitution/standing orders for the authorisation process appropriate for the type of DPD.	The Local Plan Committee on 29 <sup>th</sup> July 2013 resolved to publish the draft submission document for public consultation and then proceed to submission to the Secretary of State. Local Plan Committee also resolved to delegate authority to the Spatial Policy Manager to approve minor additions/alterations as required. The Local Plan Committee report is included as one of the Submission documents.

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>16. Have you sent the Secretary of State (the Planning Inspectorate) both a paper copy and an email of the following:</p> <ul style="list-style-type: none"> <li>the DPD?</li> <li>the submission policies map (unless there are no site allocation policies)?</li> <li>the documents prescribed in Regulation 22(1)?</li> </ul>	<p>The Act section 20(1) and 20(3)</p> <p>Regulations 22(1) and 22(2)</p>		<p>Regulation 35 deals with the availability of documents and the time of their removal.</p> <p>Electronic copies of some of the representations and supporting documents may not be practicable.</p> <p>Regulation 35 deals with the availability of documents and the time of their removal.</p>	<p>Copies of all the documents outlined in Regulation 22(1) have been sent to the Planning Inspectorate on 31 October 2013. Hard and electronic copies of the documents have been provided. They are also published on the Council's website. The Local Plan Focused Review does not have any implications for the policies map – revisions to the policies map are likely to come forward as part of the Local Plan Full Review scheduled for 2015-17.</p>
<p>17. Have you made the following available at the same places where the proposed submission documents were to be seen:</p> <ul style="list-style-type: none"> <li>The DPD?</li> <li>The documents prescribed in</li> </ul>	<p>Regulation 22(3)</p>		<p>You should do this as soon as reasonably practicable after submission.</p>	<p>Copies of all the documents submitted to the Planning Inspectorate have been made available on the Council's website as well as in hard copies placed in the Colchester Borough Council Customer Service Centre and the Colchester Central Library. Bodies and organisations</p>

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
Regulation 22(1)?				found on the Council's general and specific consultation lists have also been notified via email that the documents have been submitted to the Planning Inspectorate.
18. On your website, have you published the: <ul style="list-style-type: none"> <li>• DPD?</li> <li>• submission policies map?</li> <li>• sustainability appraisal report?</li> <li>• Regulation 22(1)(c) statement?</li> <li>• supporting documents (where practicable) ?</li> <li>• representations made under Regulation 20 (where practicable) ?</li> <li>• statement as to where and when the DPD</li> </ul>	Regulation 22(3) and 35(1)(b)		You should do this as soon as reasonably practicable after submission.	Each of the submission documents have been published on the Colchester Borough Council website on the day of submission to the Planning Inspectorate. Colchester Borough Council has prepared web pages dedicated to the Local Plan Focused Review and the forthcoming Examination in Public which will be kept up to date throughout the process.

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
and the documents are available?				
<p>19. For each general consultation body invited to make representations under Regulation 18(1), have you sent:</p> <ul style="list-style-type: none"> <li>notification that the documents prescribed in Regulation 22(3)(a)(i)-(iii) are available for inspection</li> <li>where and when they can be inspected?</li> </ul>	Regulation 22(3)(b)		You should do this as soon as reasonably practicable after submitting to the Secretary of State.	All those bodies and organisations on the Council's general and specific consultation lists have been notified by email of the Council's decision to submit documents to the Planning Inspectorate. Notification included links to the Council's website which included all the relevant documents and information detailing where and when these documents can be inspected.
20. Have you given notice to persons who have requested to be notified that submission has taken place?	Regulation 22(3)(c)		You should do this as soon as reasonably practicable after submitting to the Secretary of State.	Those persons who requested to be notified that submission to the Planning Inspectorate has taken place have been notified along with those bodies and organisations found on the Council's list of general and specific consultation bodies.

Activity	Legal requirement	Guidance reference	Additional notes	Evidence
<p>21. If an examination is being held, at least six weeks before its opening has the Programme Officer:</p> <ul style="list-style-type: none"> <li>published the time and place of the examination and the name of the person appointed to carry out the examination on your website?</li> <li>notified those who have made representations on the published DPD which have not been withdrawn of these details?</li> </ul>	<p>The Act section 20</p> <p>Regulations 24 and 35</p>			<p>CBC will ensure that the necessary publications and notifications are issued prior to the examination hearing sessions.</p>

ENDS