

The County Durham Plan

Legal Compliance

PAS Checklist

June 2019

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Local Plan Legal Compliance Checklist

This checklist has been prepared using the Planning Advisory Service 2013 template but updated to reflect the requirements of the **2019 National Planning Policy Framework**. It is also based on ***Town and Country Planning (Local Planning)*** (England) ***(Amendment) Regulations 2012***. It should be read in conjunction with the County Durham Plan Soundness Self Assessment.

Glossary:

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

"NPPF" means the **National Planning Policy Framework published 2019**

"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

2.1 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.

2.2 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.

2.3 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.

2.4 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.

Table 1

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
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)			Yes, the Local Plan is identified in the latest Local Development Scheme (LDS) which was adopted In October 2017 . This LDS is the first review of the LDS adopted in April 2016 and sets out a timetable for producing the County Durham Plan (CDP).
How will community engagement be programmed into the preparation of the DPD?	The Act section 19(3) Regulation 18	NPPF paras 2, 16, 25, and 137		The Statement of Community Involvement (SCI) sets out how community engagement will be programmed into the preparation of the CDP Plan. Consultation was undertaken in accordance with both the June 2016 SCI and its update in January 2019 . They are available to view on the council's website.
Have you considered the appropriate bodies you should consult?	Regulation 18		Regulation 2 defines the general and specific consultation bodies.	Yes, the council holds and maintains a consultee Database. Consultees have been notified at each stage of the consultation. This database includes the specific consultees and general consultees as defined by the Regulations, including key stakeholders as well as individuals, and others who have asked to be kept involved in the process. The Regulation 22 Consultation Statement outlines which bodies were consulted and responded to each formal stage of consultation (Regulation 18 and 19).

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
<p>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>	<p>The Act section 33A(1)(a) and (b), section 33A(3)(d) (e) & (4)</p> <p>The Act Section 20(5)(c)</p> <p>Regulation 4</p>	<p>NPPF paras 24 to 27</p> <p>Under NPPF para 26, to be 'Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy.'</p> <p>Strategic priorities are listed at NPPF para 20.</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>	<p>The council's Duty to Cooperate Statement sets out all issues, actions and outcomes by neighbouring authority and prescribed body.</p> <p>The County Durham Statement of Common Ground Outline Statement was published in January 2019 and outlined the council's commitment to implementing the Duty to Co-operate in the preparation of the CDP. The relevant Duty to Cooperate Primary Authorities and the applicable statutory bodies are set out in paragraphs 12 to 14.</p> <p>There have been no proposals by other adjoining authorities to establish joint local plans. Further details of this and the Memorandum of Understanding agreed between the authorities can be found in the Duty to Co-operate Statement</p>
<p>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 on at least two planning areas?</p>	<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>Regulation 4</p>	<p>NPPF paras 24 to 27</p>	<p>Section 33A(4) defines a "strategic matter".</p> <p>Strategic priorities are listed at NPPF Para 20.</p> <p>Regulation 4(2) prescribes LEPs and LNPs for the purposes of section 33A(9).</p> <p>Under section 33A(6) the required engagement includes consulting on joint approaches to relevant activities.</p>	<p>The council has engaged with the North East Local Enterprise Partnership (NELEP) and North East England Nature Partnership (NEENP) throughout the preparation of the CDP. A record of this cooperation which sets out issues, actions and outcomes and how these were taken forward is set out in the council's Duty to Cooperate Statement.</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
Is baseline information being collected and evidence being gathered to keep the matters which affect the development of the area under review?	The Act section 13	NPPF paras 31 to 33, 59 to 66 and 187		<p>Yes. A wide-ranging and robust set of baseline documents and technical studies on different policy issues such as housing, employment and open space have been gathered to inform the Issues and Options Consultation Document and subsequently throughout the plan making process and updated as appropriate. Findings of which have informed and shaped the Local Plan. A full current list of evidence base is available to view on the Council's website.</p> <p>Annual Monitoring Reports (AMR) assess the Council's performance against key indicators. The latest was published in December 2018 and is available to view on the Council's website.</p>
Is baseline information being collected and evidence being gathered to set the framework for the sustainability appraisal?	The Act section19(5)	<p>NPPF para 32</p> <p>Strategic Environmental Assessment Guide, chapter 5</p>		<p>Yes, a Scoping Report was published in March 2016. It set out the proposed Sustainability Appraisal (SA) Framework, which includes a Strategic Environmental Assessment (SEA), to be used to appraise the effects of the Plan (and any reasonable alternatives). Appendix A of the Preferred Options SA/SEA contains a schedule of the consultation responses received to the Scoping Report, a response and the subsequent action taken which is reflected in the Issues and Options SA/SEA Report.</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
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 para 32 SEA Guide chapter 3	The Strategic Environmental Assessment consultation bodies are also amongst the 'specific consultation bodies' which are defined in Regulation 2).	Yes. In line with SA/SEA Regulations, the council consulted the statutory consultees for five weeks from 4 March to 15 April 2016 on the scope and level of detail contained in the SA/SEA. Appendix A of the Preferred Options SA/SEA (EB 003) contains a schedule of the consultation responses received to the Scoping Report, a response and the subsequent action taken which is reflected in the Issues and Options SA/SEA Report.

Stage two: Plan preparation - frontloading phase

4.1 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.

4.2 The council have recorded actions taken during this phase to show that the Plan meets the legal requirements. A realistic and reasonable approach has been taken to plan preparation.

Table 2

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
<p>Have you notified:</p> <ul style="list-style-type: none"> ● the specific consultation bodies? ● the general consultation bodies that have an interest in the subject of the DPD and invited them to make representations about its contents? 	<p>Regulation 18(1) and (2)(a) (b)</p>	<p>NPPF paras 31 to 33, 59 to 66 and 187</p>	<p>Specific and general consultation bodies are defined in Regulation 2.</p>	<p>Yes, general and specific bodies were consulted during the first formal Regulation 18 consultation on the Issues and Options which ran for seven weeks from 24 June 2016 to 8 August 2016. More detail is set out in the Regulation 22 Consultation Statement which sets out all the consultations undertaken under Regulations 18 and 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.</p> <p>In developing the Plan a summary of main issues from the Issues and Options consultation, including from specific and general bodies, and how the council have taken them into account was reported in a Statement of Consultation published in February 2017. This information is now contained in the Regulation 22 Consultation Statement required for submission of the Plan.</p>
<p>Are you inviting representations from people resident or carrying out business in your area about the content of the DPD?</p>	<p>Regulation 18(1) and (2)(c)</p>	<p>NPPF paras 31 to 33, 59 to 66 and 187</p>		<p>Yes, representations were invited from residents and businesses in the council's administrative area. The Council holds and maintains a local plan consultee database which includes details of all those who have expressed an interest in the County Durham Plan. At each stage of consultation, all those on this database were notified and invited to make representations on the Plan.</p> <p>In developing the Plan a summary of main issues from the Issues and Options consultation, including from specific and</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
				<p>general bodies, and how the council have taken them into account was reported in a Statement of Consultation published in February 2017. This information is now contained in the Regulation 22 Consultation Statement required for submission of the Plan.</p>
<p>Are you engaging with stakeholders responsible for delivery of the strategy?</p>	<p>Regulation 18</p>	<p>NPPF para 16</p>	<p>NPPF paras 16, 25-27 give examples of relevant bodies which should be consulted.</p>	<p>Yes, the council has engaged with all relevant stakeholders responsible for delivery of the County Durham Plan including utility providers, developers, housebuilders and other statutory consultees including through the SHLAA Partnership, SHMA and viability workshops.</p> <p>Further details were published in a Statement of Consultation published in February 2017. This information is now contained in the Regulation 22 Consultation Statement required for submission of the Plan.</p>
<p>Are you taking into account representations made?</p>	<p>Regulation 18(3)</p>	<p>NPPF para 16</p>	<p>Evidence from participation is part of the justification. Show how you have taken representations into account.</p>	<p>Yes, representations from each stage of consultation have been carefully considered and have been used to help inform the next iteration of the Plan, including the commissioning of new evidence base work to respond to issues raised. A summary of main issues from the Issues and Options consultation and how the Council have taken them into account was published in a Statement of Consultation published in February 2017. This information is now contained in the</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
				Regulation 22 Consultation Statement required for submission of the Plan.
Does the consultation contribute to the development and sustainability appraisal of alternatives?	The Act section19(5) Regulations 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633	NPPF para 32 SEA Guide, chapter 3		Yes. The Issues and Options consultation specifically invited representations on the key issues for future growth and development in County Durham including spatial options for addressing the projected growth requirements up to 2035. These informed the sustainability appraisal of reasonable alternatives as set out in the subsequent Preferred Options SA/SEA report.
Is the participation: <ul style="list-style-type: none"> ● following the principles set out in your SCI? ● integrating involvement with the sustainable community strategy? ● proportionate to the scale of issues involved in the DPD? 	The Act section19(3)	NPPF para 16		<p>Yes. Each stage of consultation has been carried out in line with the council's existing and previous adopted Statements of Community Involvement (last updated in January 2019). The consultation has been extensive, exceeded statutory requirements and proportionate to the scale of the issues involved i.e. county-wide engagement has been undertaken to reflect that the Plan covers the whole of the council's administrative area.</p> <p>The Plan has also had regard to the existing Sustainable Community Strategy 2014-30 (it should be noted that it is likely that the SCS will be updated in 2019/20).</p> <p>The County Durham Plan includes a Vision and Objectives that address the local challenges facing County Durham. These include meeting housing need and delivering all forms of housing including affordable housing, facilitating economic growth, providing the necessary supporting</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
				social and community infrastructure, protecting open space, preserving the countryside, promoting sustainable transport and creating healthy communities.
<p>Are you keeping a record of:</p> <ul style="list-style-type: none"> ● the individuals or bodies invited to make representations? ● how this was done? ● the main issues raised? 	<p>The Act section 20(3) Regulation 17</p>	<p>NPPF paras 31 to 33, 59 to 66 and 187</p>	<p>You will need to submit a statement of representations under Regulation 22 (1) (c): see Submission stage below.</p> <p>Regulation 35 deals with the availability of documents and the time of their removal.</p>	<p>The Council holds and maintains a local plan consultee database which includes details of all those who have expressed an interest in the County Durham Plan. At each stage of consultation, all those on this database were notified (usually by email) and invited to make representations on the Plan.</p> <p>In developing the Plan a summary of main issues from the Issues and Options consultation, including from specific and general bodies, and how the council have taken them into account was reported in a Statement of Consultation published in February 2017. This information is now contained in the Regulation 22 Consultation Statement required for submission of the Plan.</p>
<p>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 33A(1)(c)?</p>	<p>The Act section 33A(1)(a) (b) and (c), section 33A(3)(d) & (e) section 33A(4) section 33A(9) The Act section 20 (5)(c)</p>	<p>NPPF paras 21, 24 and 27</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 council's Duty to Cooperate statement sets out all issues, actions and outcomes by neighbouring authority and prescribed body. The council has also undertaken ongoing Duty to Co-operate activities to inform the County Durham Plan prior to and during formal consultation including with adjoining authorities. More details are included in the Duty to Cooperate Statement which makes the distinction between cross boundary, strategic and local issues.</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
				<p>In developing the Plan a summary of main issues from the Issues and Options consultation, including cross-boundary issues and strategic priorities of prescribed bodies, and how the council have taken them into account was reported in a Statement of Consultation published in February 2017. This information is now contained in the Regulation 22 Consultation Statement required for submission of the Plan.</p>
<p>Are you inviting representations on cross-boundary issues and strategic priorities from a local enterprise partnership (LEP) or a local nature partnership (LNP)?</p>	<p>The Act section 33A(1)(c) and Section 33A(9). The Act section 20(5) (c). Regulation 4</p>	<p>NPPF paras 24 to 27</p>	<p>Section 33A(3)(d) and (e) requires cooperation on significant cross-boundary issues before and during plan preparation. Section 33A(2) requires you to engage constructively, actively and on an ongoing basis.</p>	<p>The council has engaged with the North East Local Enterprise Partnership (NELEP) and North East England Nature Partnership (NEENP) throughout the preparation of the CDP. A record of this cooperation which sets out issues, actions and outcomes and how these were taken forward is set out in the council's Duty to Cooperate Statement.</p>
<p>Are you developing a framework for monitoring the effects of the DPD?</p>	<p>The Act section 35 Regulation 34 Regulation 17 of The Environmental Assessment of Plans and Programmes Regulations 2004 No1363</p>	<p>NPPF para 32 SEA Guide, Chapter 5</p>	<p>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.</p>	<p>Yes, each policy includes a monitoring section including indicators and targets. This was first subject to consultation at Regulation 18 Preferred Options stage. A principal tool in the monitoring process will be the Annual Monitoring Report. The Sustainability Appraisal also includes monitoring proposals for the significant environmental effects. The HRA also includes monitoring proposals of the effectiveness of policies on Natura 2000 sites.</p>

Stage three: Plan preparation - formulation phase

6.1 This stage has many legal matters, for process and content, to address. At this stage the council should be began to formulate the preferred strategy for the Plan to address Regulation 18 requirements, using the information gathered and previous collaborative work with stakeholders.

6.2 Para 35 of the NPPF makes it clear that explicit consideration of alternatives is a key part of the plan making process.

6.3 We have evaluated 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; and
- findings from engagement with statutory cooperation bodies.

6.4 The results of participation on the preferred strategy and the accompanying sustainability report enable the council to gauge the community's response and receive additional evidence about the options. The council then decide whether, and how, the preferred strategy and policies should be changed for publishing the finished Plan.

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

6.6 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.

6.7 The council should tell all parties that this is the main participation opportunity on the emerging plan. The publication stage is a formal opportunity for anyone to comment on an aspect of the Plan's soundness, and to propose a change to the plan accordingly. The more effectively this message is put across, the lower the chance of late changes being brought forward following publication.

Table 3

Activity	S t a t u t o r y requirement	Guidance reference	Additional notes	Possible evidence
<p>Are you preparing reasonable alternatives for evaluation during the preparation of the DPD?</p>	<p>Regulation 12 (2) of The Environmental Assessment of Plans and Programmes Regulations 2004 No. 1633</p>	<p>NPPF paras 32 and 35 SEA Guide, Chapter 5</p>	<p>The sustainability appraisal report and supporting documents relevant to the preparation of the DPD are part of the proposed submission documents (see Regulation 17).</p>	<p>Yes, at each stage of the Local Plan process a Sustainability Appraisal Report was prepared which includes an appraisal of reasonable alternatives considered. The Issues and Options Sustainability Appraisal Report June 2016 appraises options for quantity and spatial distribution of housing, employment, minerals and waste against the sustainability objectives. The Preferred Options Consultation Document Sustainability Appraisal Report June 2018 appraises the preferred spatial strategy and any alternative strategies which were identified in the Issues and Options or were submitted during the consultation. The Preferred Options SA/SEA also includes an assessment of the quantity of development (e.g. local housing need) and site allocations (including transport infrastructure) as well as any reasonable alternatives. Both the Issues and Options and Preferred Options SA/SEAs are available to view on the council's website.</p>
<p>Have you assessed alternatives against:</p> <ul style="list-style-type: none"> ● consistency with national policy? ● general conformity with the regional spatial strategy where still in force? 	<p>The Act section19 (2), section 24</p>	<p>NPPF para 16</p>	<p>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.</p>	<p>Yes. These matters are addressed in the Preferred options Sustainability Appraisal June 2018. The SA objectives, against which the alternative options, quantities of development and allocations were assessed against, are derived from the evidence base which informed the Sustainability Appraisal Scoping Report and consider the likely social, economic and environmental effects of the Plan. The Plan is considered to be consistent with national policy in the National Planning Policy Framework (NPPF).</p> <p>The Soundness Self Assessment Checklist accompanying the Plan demonstrates that the council is satisfied the Plan is sound for submission.</p>
<p>Are you having regard to (where relevant):</p> <ul style="list-style-type: none"> ● adjoining regional spatial strategies? ● the spatial development strategy for London? 	<p>The Act sections19 (2) and 24 (1) and (4) Regulation 10 and 21</p>		<p>Where the regional strategy has been revoked you should record that fact.</p>	<p>No. The North East Regional Spatial Strategic was revoked in April 2013. The remaining documents pertaining to London, Wales and Scotland are not relevant to the County Durham Plan.</p>

Activity	S t a t u t o r y requirement	Guidance reference	Additional notes	Possible evidence
<ul style="list-style-type: none"> ● Planning Policy for Wales? ● the National Planning Framework for Scotland? 				
<p>Are you co-operating with other local planning authorities including counties, to address significant cross boundary issues?</p> <p>Have you discussed doing joint local development documents?</p>	<p>The Act section 33A(2)(a)</p> <p>Section 33A(6)(a)(b)</p> <p>Section 20(5) (c)</p>	<p>NPPF paras 21, 24 and 27</p>		<p>Yes. The council's Duty to Cooperate statement sets out all issues, actions and outcomes by neighbouring authority and prescribed body. The council has also undertaken ongoing Duty to Co-operate activities to inform the County Durham Plan prior to and during all formal consultation stages, including with adjoining authorities. More details are included in the Duty to Cooperate Statement which makes the distinction between cross boundary, strategic and local issues.</p> <p>In developing the Plan a summary of main issues from the Issues and Options consultation, including cross-boundary issues and strategic priorities of prescribed bodies, and how the council have taken them into account was reported in a Statement of Consultation published in February 2017. This information is now contained in the Regulation 22 Consultation Statement required for submission of the Plan.</p> <p>Due to different timings it has not been possible to prepare joint local development documents. There was some consideration of joint Supplementary Planning Documents (in particular a Hot Food Takeaway SPD) but in the end this was limited to the sharing of best practice.</p>
<p>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?</p>	<p>The Act section 33A(2)(a), section 33A(6)(a)</p> <p>The Act section 20 (5) (c)</p> <p>Regulation 4</p>	<p>NPPF paras 21, 24 and 27</p>	<p>The bodies prescribed by The Act section 33A(1)(c) are set out at Regulation 4 (1).</p>	<p>Yes. The council's Duty to Cooperate statement sets out all issues, actions and outcomes by neighbouring authority and prescribed body. The council has also undertaken ongoing Duty to Co-operate activities to inform the County Durham Plan prior to and during all formal consultation stages, including with adjoining authorities. More details are included in the Duty to Cooperate Statement which makes the distinction between cross boundary, strategic and local issues.</p>

Activity	S t a t u t o r y requirement	Guidance reference	Additional notes	Possible evidence
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 paras 21, 24 and 27		Yes. The council has engaged with the North East Local Enterprise Partnership (NELEP) and North East England Nature Partnership (NEENP) throughout the preparation of the CDP. A record of this cooperation which sets out issues, actions and outcomes and how these were taken forward is set out in the council's Duty to Cooperate Statement.
Are you having regard to: <ul style="list-style-type: none"> ● your sustainable community strategy or of other authorities whose area comprises part of the area of the council? ● any other local development documents adopted by the council? 	The Act section19(2)			Yes. The Plan has had regard to the existing Sustainable Community Strategy 2014-30 (it should be noted that it is likely that the SCS will be updated in 2019/20). There are no other local development documents adopted by the council.
Do you have regard to other matters and relevant strategies relating to: <ul style="list-style-type: none"> ● resources ● the local/regional economy ● the local transport plan and transport facilities and services ● waste strategies ● hazardous substances 	The Act section19(2) Regulation 10		As well as the matters and strategies listed in the Act and Regulations there are likely to be other matters identified in planning policy statements, regional and local strategies that you will need to have regard to in preparing the DPD.	The council has consulted all the relevant bodies at each stage of the preparation of the Plan including NELEP, Highways England, the council's highways team, the Environment Agency and health providers. As part of this, the council has had regard to the relevant plans prepared by these bodies including the Strategic Economic Plan (which is currently being updated) and the Local Transport Plan. Further details can be found in the Regulation 22 Consultation Statement and Duty to Co-operate Statement. These matters are also addressed in the Plan's evidence base (which is split into primary and secondary evidence) which has helped inform the spatial strategy and relevant policies in the Plan.
Are you having regard to the need to include policies on mitigating and adapting to climate change?	The Act section19(1A)	NPPF paras 148 to 169		The Vision, Objectives (in particular 2, 8, 16, 17, 18 and 19) and Sustainable Development Statement include reference to the need to reduce the county's contribution to Climate Change, including minimising the use of resources including land, and adapt to its impact where possible. The Plan also includes policies which seek to promote renewable energy, minimise the use of resources, require sustainable design, minimise the need to travel by the private car and adapt to the impacts of climate change including flooding. The Sustainability Appraisal report also highlights the need for policies and sites to mitigate and adapt to climate change impacts.

Activity	S t a t u t o r y requirement	Guidance reference	Additional notes	Possible evidence
<p>Have you undertaken the sustainability appraisal of alternatives, including consultation on the sustainability appraisal report?</p>	<p>The Act section19(5) Regulation 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633</p>	<p>NPPF para 32 SEA Guide, Chapter 5</p>	<p>Regulation13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633 sets out the consultation procedures.</p>	<p>Yes, at each stage of the Local Plan process a Sustainability Appraisal Report was prepared which includes an appraisal of reasonable alternatives considered. The Issues and Options Sustainability Appraisal Report June 2016 appraises options for quantity and spatial distribution of housing, employment, minerals and waste against the sustainability objectives. The Preferred Options Consultation Document Sustainability Appraisal Report June 2018 appraises the preferred spatial strategy and any alternative strategies which were identified in the Issues and Options or were submitted during the consultation. The Preferred Options SA/SEA also includes an assessment of the quantity of development (e.g. local housing need) and site allocations (including transport infrastructure) as well as any reasonable alternatives. Both the Issues and Options and Preferred Options SA/SEAs are available to view on the council's website. Both the Issues and Options and Preferred Options SA/SEAs are available to view on the council's website and were consulted on alongside the relevant stage of the Plan. The representations received and the council's responses are available in Appendix A of each document.</p>
<p>Are you setting out reasons for any preferences between alternatives?</p>	<p>Regulation 8(2)</p>	<p>NPPF para 32</p>	<p>This will include Information from the sustainability appraisal.</p>	<p>The approach to assessing alternatives is set out within each iteration of the Sustainability Appraisal and in a number of evidence documents:</p> <ul style="list-style-type: none"> ● The approach to alternative housing sites is set out within the Rationale for Housing Allocations (June 2019). ● The approach to considering alternative Green Belt releases are set out in the Exceptional Circumstances (June 2019). ● The approach to alternative Employment Sites is considered within the Employment Land Review (June 2018) and the Office Development in Durham City - Sequential Search (June 2018). ● The approach to Purpose Built Student Accommodation site selection is set out in Assessment of Purpose Built Student Accommodation (June 2018). ● The approach to Minerals and Waste site selection is set out in the Potential new Minerals and Waste sites in County Durham (June 2018).
<p>Have you taken into account any representations made on the content of the DPD and the sustainability appraisal?</p>	<p>Regulations 17, 18(3) and 22 (1) (c) (iv)</p>	<p>NPPF paras 15, 16, 59 to 66</p>	<p>Records on the sustainability appraisal should also include</p>	<p>Yes, representations received throughout the consultation on Plan preparation have been retained and considered. Representations on the SA/SEA have also been assessed and have been used to shape and inform the Plan. A summary of the main issues and any changes made in light of those issues is set out in</p>

Activity	S t a t u t o r y requirement	Guidance reference	Additional notes	Possible evidence
Are you keeping a record?	Regulation 13(4) of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633		recording any assessment made under the Habitats Directive.	<p>the Regulations 22 Consultation Statement. Both the Issues and Options and Preferred Options SA/SEAs are available to view on the council's website and were consulted on alongside the relevant stage of the Plan. The representations received and the council's responses, including to the Habitat Regulations Assessment, are available in Appendix A of each document.</p> <p>A Pre-Submission SA/SEA has been prepared which supersedes the Preferred Options SA/SAE. This includes a summary of the representations at Preferred Options stage together with an updated action/response. It also includes details on how the council used the SA/SEA findings to amend/enhance policies and proposals.</p>
<p>Where sites are to be identified or areas for the application of policy in the DPD, are you preparing sufficient illustrative material to:</p> <ul style="list-style-type: none"> ● enable you to amend the currently adopted policies map? ● inform the community about the location of proposals? 	Regulations 5 (1)(b) and 9	NPPF para 16	<p>Regulation 2 defines the terms 'submission' and 'adopted' proposals map.</p> <p>A map showing changes to the adopted policies map is part of the proposed submission documents defined in Regulation 17.</p>	<p>A Policies Map has been prepared to accompany the Plan both at Preferred Options and Pre-Submission Stage. Both were subject to public consultation:</p> <ul style="list-style-type: none"> ● Preferred Options consultation - 22 June 2018 to 3 August 2017 ● Pre-Submission consultation 25 January 2019 to 8 March 2019 <p>An interactive proposals map is also available online.</p> <p>Display material showing larger scale maps with allocations marked were used to aid consultation and local community involvement.</p>
Are the participation arrangements compliant with the SCI?	The Act, section 19(3) Regulation 18	NPPF paras 15 and 16		Yes, consultation has been carried out in accordance with the council's existing and previous adopted Statements of Community Involvement (last updated in January 2019).

Stage four: Publication

8.1 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 was made available at the council's office and published on its website.

8.2 When moving towards publication stage, the council considered the results of participation on the preferred strategy and sustainability appraisal report and decided whether to make any change to the preferred strategy. In the event that changes are required, the council had to choose either to:

- do so and progress directly to publication

OR

- produce and consult on a revised preferred strategy.

8.3 The latter would 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, we would have to:

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

8.4 The council would then need to 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.

8.5 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. Only people proposing a change to the plan can expect to be heard at examination.

8.6 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'.

Table 4

Activity	Statutory requirement	Guidance reference	Additional notes	Possible evidence
Have you prepared the sustainability appraisal report?	The Act section 19(5) Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 No 1633	NPPF para 32 SEA Guide Chapter 5		Yes, the Sustainability Appraisal/SEA Report January 2019 has been prepared and consulted alongside the Pre-Submission Plan. This includes a summary of the representations at Preferred Options stage together with an updated action/response. It also includes details on how the council used the SA/SEA findings to amend/enhance policies and proposals.
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).	Yes, consultees were given six weeks from 25 January 2019 to 8 March 2019 to respond. Full details are contained within the Statement of Consultation but consultees were given the opportunity to respond through a range of methods including email, a Freepost address and an interactive website. Documents were also available on the council's website and in deposit locations across the county including local libraries and Customer Access Points. Public exhibitions and other stakeholder events were also held including attending the county's 14 Area Action Partnerships. Copies of notifications emails/letters and supporting consultation materials including the Statement of Consultation are given in the Regulation Consultation 22 Statement.
Have you made copies of the following available for inspection: <ul style="list-style-type: none"> ● the proposed submission documents? ● the statement of the representations procedure? 	Regulation 19(a)		Regulation 17 gives definitions.	Yes. The Submission documents including the Pre-Submission County Durham Plan and Policies Map have been available for inspection at deposit locations including libraries and Customer Access Points. These documents and the Sustainability Appraisal/SEA Report, Habitats Regulations Assessment and a copy of all representations and the council's responses (Statement of the Representations Procedure) were available to view at Durham County Hall and on the council's website. This is in accordance with Regulation 17 and the council's adopted SCI.

Activity	S t a t u t o r y requirement	G u i d a n c e reference	Additional notes	Possible evidence
Have you published on your website: <ul style="list-style-type: none"> ● the proposed submission documents? ● the statement of the representations procedure? ● statement and details of where and when documents can be inspected? 	Regulations 19 and 35		Regulations 2 and 17 give definitions.	Yes. The Submission documents including the Pre-Submission County Durham Plan and Policies Map, Sustainability Appraisal/SEA Report, Habitats Regulations Assessment, a copy of all representations and the council's responses (Statement of the Representations Procedure) and the details of where and when documents could be inspected were all available to view on the council's website.
Have you sent to each of the specific consultation bodies invited to make representations under Regulation 18(1): <ul style="list-style-type: none"> ● A copy of each of the proposed submission documents ● The statement of the representations procedure? 	Regulation 19(b)		Regulations 2 and 17 give definitions.	Yes. Notification letters/emails included details of what was available for consultation, where to view documents, how to make comments and the timescale have been sent. This includes website links to submission documents.
Have you sent to each of the general consultation bodies invited to make representations under Regulation 18(1): <ul style="list-style-type: none"> ● the statement of the representations procedure? ● where and when the documents can be inspected? 	Regulation 19(b)		Regulations 2 and 17 give definitions.	Yes. Notification letters/emails included details of what was available for consultation, where to view documents, how to make comments and the timescale have been sent. This includes website links to submission documents.

Stage five: Submission

- 10.1** 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.
- 10.2** 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.
- 10.3** 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.
- 10.4** 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).
- 10.5** Apart from notification of the examination, this tool does not deal with the legal requirements that need to be followed after submission.

Table 5

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
Has the DPD been prepared in accordance with the LDS? Does the DPD's listing and description in the LDS match the document? Have the timescales set out in the LDS been met?	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 prescribed in the Regulations.	Yes, the Local Plan is identified in the latest Local Development Scheme (LDS) which was adopted In October 2017. This LDS is the first review of the LDS adopted in April 2016 and sets out a timetable for producing the County Durham Plan (CDP).
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 35		Yes. The Plan has had regard to the existing Sustainable Community Strategy 2014-30 (it should be noted that it is likely that the SCS will be updated in 2019/20).
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).	Yes. The Statement of Community Involvement (SCI) sets out how community engagement will be programmed into the preparation of the CDP Plan. Consultation was undertaken in accordance with both the June 2016 SCI and its update in January 2019. They are available to view on the Council's website.
Have you identified and addressed any issues which are likely to have a significant impact on at 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, LEAs, LNEAs and the prescribed bodies in identifying and addressing any strategic cross-boundary issues If you have not agreed on the approach is there a justification?	The Act section 33A(1) and section 20(5)	NPPF paras 21, 24 and 27	Under NPPF para 182, the plan should be based on effective joint working on cross-boundary strategic priorities to be found 'Effective'.	Yes. The council's Duty to Cooperate statement sets out all issues, actions and outcomes by neighbouring authority and prescribed body including the NELEP and the NEENP. The council has also undertaken ongoing Duty to Co-operate activities to inform the County Durham Plan prior to and during all formal consultation stages, including with adjoining authorities. More details are included in the Duty to Cooperate Statement which makes the distinction between cross boundary, strategic and local issues.
Has the DPD been subject to sustainability appraisal?	The Act section 19(5) Regulation 22(1)(a)	NPPF para 32		Yes, both the Issues and Options and Preferred Options SA/SEAs are available to view on the council's website and were consulted on alongside the relevant stage of the Plan. A

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
Has the council provided a final report of the findings of the appraisal?		SEA Practical Guide, chapter 5		Pre-Submission SA/SEA has also been prepared which supersedes the Preferred Options SA/SEA. This includes a summary of the representations at Preferred Options stage together with an updated action/response. It also includes details on how the council used the SA/SEA findings to amend/enhance policies and proposals.
Is the DPD to be submitted consistent with national policy?	The Act section 19(2) and Schedule 8	NPPF para 16		The Soundness Self Assessment Checklist accompanying the Plan demonstrates that the council is satisfied the Plan is sound for submission and complies with the 2019 National Planning Policy Framework, National Planning Practice Guidance and other relevant national policy.
Does the DPD contain any policies or proposals that are not in general conformity with the regional strategy where it still exists? If yes, is there local justification? 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?	The Act section 24(1)(a) and 24(4) Regulation 21		In London the requirement is for general conformity with the spatial development strategy (The London Plan).	The North East Regional Spatial Strategic was revoked in April 2013.
Has the council published the prescribed documents, and made them available at their principal offices and their website? Has the council notified the relevant statutory and non-statutory bodies, and all persons invited to make representations on the plan? Does the DPD contain a list of superseded saved policies?	The Act section 20(2), 20(3) and 20(5)(b) Regulations 8 and 19	NPPF para 27	Requirements relating to publication of the prescribed documents are listed later in this table.	Yes. The Submission documents including the Pre-Submission County Durham Plan and Policies Map have been available for inspection at deposit locations including libraries and Customer Access Points. These documents and the Sustainability Appraisal/SEA Report, Habitats Regulations Assessment and a copy of all representations and the council's responses (Statement of the Representations Procedure) were available to view at Durham County Hall and on the council's website. This is accordance with Regulation 17 and the council's adopted SCI. Notification letters/emails included details of what was available for consultation, where to view documents, how to make

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
				<p>comments and the timescale were sent to relevant statutory and non-statutory bodies and all persons invited to make representations on the Plan.</p> <p>Appendix B of the Plan contains a list of superseded policies.</p>
<p>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 a submission policies map?</p>	<p>Regulations 5(1) (b), 9 (1), 17 & 22(1)</p>			<p>Yes, the Pre-Submission Plan allocates sites for development across the whole county. There are written policies on each of these sites. The Plan is accompanied by the Policies Map which annotates the sites and other designations relative to the plan policies.</p>
<p>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?</p>	<p>Regulation 8(3) and (4)</p> <p>Regulation 8(5)</p>		<p>Development Plan is defined in Section 38 of the Act.</p>	<p>There are no adopted DPDs in County Durham. The Plan is consistent with the two adopted Neighbourhood Plans in Whorlton and Newton Aycliffe.</p> <p>Yes the Plan is intended to supersede all policies in the current adopted District local plans and some from the County Durham Minerals and Waste Local Plan. These are set out in Appendix B of the Plan.</p>
<p>Have you prepared a statement setting out:</p> <ul style="list-style-type: none"> ● Which bodies and persons were invited to make representations under Regulation 18? ● How they were invited? ● A summary of the main issues raised? ● How the representations have been taken into account? 	<p>The Act section 20 (3)</p> <p>Regulation 22(1)(c)</p>		<p>This will bring forward material from the Consultation statement (see Stage 2 above).</p>	<p>Yes, all specific and general bodies and any other stakeholder with an interest in the Plan were invited to make representations under Regulation 18 (Issues and Options and Preferred Options). More detail is set out in the Regulation 22 Consultation Statement which sets out all the consultations undertaken under Regulations 18 and 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.</p> <p>In developing the Plan a summary of the main issues from each stage of consultation, including from specific and general bodies, and how the council have taken them into account was reported in the relevant Statement of Consultation. This information is now contained in the Regulation 22 Consultation Statement required for submission of the Plan.</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
<p>Have you prepared a statement giving:</p> <ul style="list-style-type: none"> ● the number of representations made under Regulation 22? ● a summary of the main issues raised? <p>OR</p> <ul style="list-style-type: none"> ● that no representations were made? 	<p>The Act section 20(3) Regulation 22(1)(c)</p>			<p>Yes. In developing the Plan the numbers of representations made and a summary of the main issues from each stage of consultation is contained in the Regulation 22 Consultation Statement.</p>
<p>Have you collected together all the representations made under Regulation 20?</p>	<p>The Act section 20(3) Regulation 22(1)(e)</p>			<p>Yes, the Regulation 22 Consultation Statement sets out the number of representations made and the main issues raised during the Pre-Submission consultation.</p>
<p>Have you assembled the relevant supporting documents?</p>	<p>The Act section 20(3) Regulation 22(1)(g)</p>			<p>Yes, there is a robust and comprehensive suite of published evidence base to support the Plan which can be found on the council's website.</p>
<p>Has your council approved the DPD for submission?</p>	<p>The Act section 20</p>		<p>Check the LPA's constitution/standing orders for the authorisation process appropriate for the type of DPD.</p>	<p>To be completed following Full Council if the Plan is agreed for Submission.</p>
<p>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"> ● the DPD? ● the submission policies map (unless there are no site allocation policies)? ● the documents prescribed in Regulation 22(1)? 	<p>The Act section 20(1) and 20(3) 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>To be completed following Full Council if the Plan is agreed for Submission.</p>

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
<p>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"> ● The DPD? ● The documents prescribed in Regulation 22(1)? 	Regulation 22(3)		You should do this as soon as reasonably practicable after submission.	To be completed following Full Council if the Plan is agreed for Submission.
<p>On your website, have you published the:</p> <ul style="list-style-type: none"> ● DPD? ● submission policies map? ● sustainability appraisal report? ● Regulation 22(1)(c) statement? ● supporting documents (where practicable) ? ● representations made under Regulation 20 (where practicable) ? ● statement as to where and when the DPD and the documents are available? 	Regulation 22(3) and 35(1)(b)		You should do this as soon as reasonably practicable after submission.	To be completed following Full Council if the Plan is agreed for Submission.
<p>For each general consultation body invited to make representations under Regulation 18(1), have you sent:</p> <ul style="list-style-type: none"> ● notification that the documents prescribed in Regulation 22(3)(a)(i)-(iii) are available for inspection ● where and when they can be inspected? 	Regulation 22(3)(b)		You should do this as soon as reasonably practicable after submitting to the Secretary of State.	To be completed following Full Council if the Plan is agreed for Submission.
<p>Have you given notice to persons who have requested to be notified that submission has taken place?</p>	Regulation 22(3)(c)		You should do this as soon as reasonably practicable after submitting to the Secretary of State.	To be completed following Full Council if the Plan is agreed for Submission.
<p>If an examination is being held, at least six weeks before its opening has the Programme Officer:</p>	The Act section 20			To be completed following Full Council if the Plan is agreed for Submission.

Activity	Legal requirement	Guidance reference	Additional notes	Possible evidence
<ul style="list-style-type: none"> • published the time and place of the examination and the name of the person appointed to carry out the examination on your website? • notified those who have made representations on the published DPD which have not been withdrawn of these details? 	Regulations 24 and 35			