



**FENLAND LOCAL PLAN CORE STRATEGY  
DEVELOPMENT PLAN DOCUMENT**

**EXAMINATION**

**FENLAND DISTRICT COUNCIL**

**SUPPLEMENTARY PLANNING DOCUMENTS:  
INSPECTOR'S QUESTION AND COUNCIL'S RESPONSE**

**3 DECEMBER 2013**

**Fenland District Council**  
Fenland Hall  
County Road  
March  
PE15 8NQ

[www.fenland.gov.uk](http://www.fenland.gov.uk)

**Inspector's Question relating to Supplementary Planning documents.**

The Submission Core Strategy and Council's Hearing Statement indicate the Council's intention to devolve a number of matters to Supplementary Planning Documents.

As you will be aware, Parts 4 and 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012 [SI 2012/767], which came into effect on 6 April 2012, prescribe the form and content of local plans (LPs) and supplementary planning documents (SPDs), and which documents are to be local plans.

The 2012 Local Planning Regulations are more restrictive about the content and function of SPDs than was the case previously. Regulation 2 states that a SPD is a document as set out in Regulation 5 which is not a Local Plan as defined by Regulation 6. The effect of this is that with effect from 6 April 2012 SPDs can only contain environmental, social, design and economic objectives which are relevant to the attainment of the development and use of land which the LPA wish to encourage during any specified period. SPDs thus cannot make statements on the development and use of land, allocate sites for a particular type of development or use, contain development management and site allocation policies to guide the determination of applications for planning permission, or contain policies for an area defined as being one of significant change or special conservation. It therefore remains the case that the allocation of sites and the policies for their development cannot be devolved down to SPDs.

Is the Council content that all of the SPDs that it intends to produce to provide further detail to the Core Strategy Local Plan will be within the parameters permitted under the 2012 Regulations?

The Inspector would like a response by Friday 6 December please.

Claire Sherratt

Inspector

2 December 2013

## **Council's Response relating to Supplementary Planning documents.**

The Council can confirm that it is aware of the said Regulations and the limitations they put on the production of supplementary planning documents (SPDs).

However, the Council is content, in principle, that its production of local development documents, including SPDs, is consistent with such Regulations.

Section 7.1 of the Core Strategy (as suggested to be updated by proposed modification MPC/7/006) sets out documents which, alongside the Core Strategy, will form the framework for assisting developers and the determination of applications.

This Section 7.1 includes listing a number of 'old style' adopted Supplementary Planning Guidance (SPG) documents, which are material considerations (though clearly do not have the status as formal SPDs). The Council does not currently have any adopted SPDs.

Section 7.1 also includes listing (as amended by the proposed modification in its Schedule of Proposed Changes) documents the Council intends to prepare and adopt as SPDs. In preparing such new SPDs, the Council must, of course, prepare and adopt them in accordance with the latest local planning regulations.

There are, therefore, two issues:

- Is it appropriate in principle for those matters as intended to be included in the proposed SPDs, to be included in an SPD (rather than in the Core Strategy or other Local Plan document)?
- Do the emerging draft Fenland SPDs appear to be appropriately prepared, or will have appropriate content, in terms of meeting the Regulations?

In relation to the 'in principle' question, the Council is confident that its proposed SPDs are appropriate matters for preparation as SPDs, for the following reasons:

- First, the NPPF (para 17) seeks "succinct local and neighbourhood plans", whilst at para 156 it seeks local plans to "set out the strategic priorities for the area in the Local Plan". Government clearly intended Local Plans to be succinct documents and set out the high level framework for decision making. 'Old style' Local Plans running to hundreds of pages and hundreds of policies are clearly not being sought by government. The Fenland Core Strategy is entirely in line with this principle, it being a very focussed, strategic plan, leaving detailed assistance to SPDs.
- Second, none of the proposed SPDs will allocate sites, either for protection or for new development or for a type of use. The only 'site based' SPDs proposed to be prepared are an update to the Nene Waterfront SPG (a site which is allocated in the Core Strategy) and, if developers choose (see Policy CS7), for the urban extensions (which are also allocated in the Core Strategy, though it may be the case that areas indicated as broad locations of growth in the Core Strategy, rather than strategic allocations, may not be permitted to have its masterplan adopted as an SPD as that may be construed as 'allocating' a site. We will seek advice at the time, should a developer of a broad location seek an SPD for those sites).
- Third, all SPDs proposed to be prepared are clearly linked, in principle, to a policy in the Core Strategy. In this respect, and provided they are carefully worded, such SPDs would meet the test as set by Regulation 5(1)(a)(iii) as to what an SPD can contain. This particular part of the Regulations is interpreted by Fenland District Council to mean that an SPD can only contain "objectives" that, to paraphrase the wording of the regulation, 'help things happen in the right way', or, to explain that in more detail, 'help development happen, or protect land or uses, in a way which a Local Plan dictates should happen'. Thus, Fenland District Council interpret this

to mean that whilst the Local Plan (Core Strategy) is the determining document for decision makers in that the Local Plan sets out matters as referred to in Regulation 5(1)(a)(i), (ii) and (iv) and 5(2), the SPDs will assist developers in interpreting the strategic and succinct policies of the Local Plan and thus support developers in preparing proposals which would enable development to take place in the 'right way'. Paragraph 153 of the NPPF supports this interpretation, in that it says SPDs 'should be used where they can help applicants make successful applications or aid infrastructure delivery'.

Turning, to the emerging and proposed SPDs (as set out in the proposed modification to Section 7.1), a description of each is below together with an assurance that they will be prepared in accordance with the said Regulations.

- **Design Quality SPD:** This SPD in its draft form was agreed by Cabinet for public consultation purposes on 21 November 2013, and is now listed as CD044 in the Examination library. As set out on page 5 of that SPD, its contents are entirely dictated by Policy CS16 of the Core Strategy. Thus, Policy CS16 is the decision making policy; the SPD assists developers in a positive way as to how to meet the requirements of CS16. Nevertheless, following consultation and prior to adoption, the Council will ensure the phraseology within the SPD is absolutely compatible with the Regulations, and this may require a few tweaks to the current draft wording.
- **Developer Contributions SPD.** This has not yet been drafted. However, it is common practice for a Council to prepare an up to date SPD covering these matters alongside a CIL or, if a CIL is not prepared, an SPD to explain how the Council is responding to the considerable legislative changes on this matter, especially the lack of ability from April 2015 to pool more than five financial contributions. Thus, Fenland District Council is entirely confident such an SPD will meet the Regulations.
- **Resource Use SPD.** This SPD in its draft form was agreed by Cabinet for public consultation purposes on 21 November 2013, and is now listed as CD045 in the Examination library. This SPD is to support the implementation of Part (A) of Policy CS14 in the Core Strategy, and contains two significant sections; first, a section to assist developers meet the 'reasonable contribution' test as set out in the Resource Use part of Policy CS14(A); and second, a section setting out detailed matters to assist developers meet the policy requirements for renewable energy as set out in Policy CS14(A). The intention of the SPD is clearly intended to assist developers in submitting proposals which are more likely to 'attain the development and use of land' (to paraphrase Reg 5(1)(a)(iii)) as set by the Local Plan (Core Strategy). Nevertheless, following consultation and prior to adoption, the Council will ensure the phraseology within the SPD is absolutely compatible with the Regulations, and this may require a few tweaks to the current draft wording.
- **Flood and Water SPD.** This has not yet been drafted. However, it is becoming common practice for a Council to prepare an up to date SPD covering these matters, especially since the demise of the national guidance as was set out in PPS25. Peterborough City Council recently adopted one, which has subsequently been advertised nationally by the Environment Agency as 'best practice', and similar ones are being sought by the Agency in other local planning authority areas. In Fenland, it will support the policy framework as set by Part (B) of Policy CS14 (as amended by several proposed modifications). Thus, Fenland District Council is entirely confident such an SPD will meet the Regulations.

In conclusion, therefore, Fenland District Council is confident that both in principle and in emerging content, it is entirely appropriate for the Council to prepare the collection of SPDs as intended, though, prior to adoption of them, it will ensure the content of such are compatible with the regulatory requirements.