

Comment Receipt

Event Name	County Durham Plan Pre-Submission Draft
Comment by	The City of Durham Trust (Mr John Lowe - 440609)
Comment ID	714
Response Date	06/03/19 16:33
Consultation Point	Policy 25 Provision of Transport Infrastructure (View)
Status	Submitted
Submission Type	Web
Version	0.1

Q1

Do you consider that this policy/proposal of the Pre-Submission Draft Local Plan to be Legally & Procedurally Compliant and Sound?

(Please note the considerations in relation to the Local Plan being 'Legally and Procedurally Compliant' (Please see guidance notes).

(Please select one answer for each question)

Legally and Procedurally Compliant No (Go to Q3)

Sound No (Go to Q3)

Q3

Why do you consider that this Policy/Proposal of the Pre-Submission Draft Local Plan is not Legally & Procedurally Compliant or sound? (Please select all that apply)

- . Positively Prepared
- . Justified
- . Effective
- . Consistent with national policy

Q4

If you do not consider this policy/proposal of the Pre-Submission Draft Local Plan to be Legally & Procedurally Compliant or Sound please use this box to explain why. Please note your representation should cover all the information, evidence and supporting information necessary to support/justify the representation as there is no opportunity to submit further representations unless requested to do so by the Inspector, based on the matters he/she identifies for examination.

The subclause (a) ("is necessary to improve the existing highway network and/or rail network") is redundant, since no plan will set out not to improve the transport network, and what are currently points b to f are clearly specifying what is actually meant by improving the transport network.

The preamble should be strengthened by the inclusion of a prior condition, as follows:

New highway schemes and new transport infrastructure will be permitted where they have been justified through the appropriate option-selection processes and value-for-money tests of their costs and benefits; their feasibility, deliverability and fundability have been demonstrated; and their provision will satisfy one or more of the following objectives:

Points a-f make up one long sentence divided by semi-colons. Since an earlier draft an unnecessary “or” has been added at the end of 25 (c), such that renewed and improved transport infrastructure will be permitted where it “c. makes safe and proper provision for all users [and] which prioritises the movement of pedestrians, cyclists and public transport; or” Points d, e, and f then follow. Grammatically, “or” as a conjunction can be inclusive (“and/or”) but also exclusive (“or/instead”), and some languages have separate words for these different functions. As currently worded, it would be logical for someone in court to argue that, because of the “or” at the end of point c, the next point d (“supports economic growth”) could trump all the earlier listed considerations for transport improvements. The “or” at the end of point “f” is similarly problematic.

Accordingly, the policy as currently worded is ambiguous and **not positively prepared**.

A fuller preamble, as indicated above, is needed since the objectives listed may clash in specific instances, and processes for adjudication need to be indicated, otherwise the policy cannot be **justified** and risks not being **effective**.

Finally, Policy 25 remains **not legally or procedurally compliant** in relation to the conduct of consultations. Consultation responses to Policies 21-25 (formerly Policies 22-26 in the Preferred Options draft of the CDP), were absent from the version of “Preferred Options Statement of Consultation” document considered by the DCC cabinet prior to its meeting on 16th January which approved this Pre-submission draft. (See Minutes of that meeting Item 4, Appendix 10, <https://democracy.durham.gov.uk/ieListDocuments.aspx?CId=154&MIId=10662&Ver=4>).

Q5

What change(s) do you consider necessary to make this policy/proposal of the Pre-Submission Draft Plan Legally & Procedurally Compliant and Sound?

The preamble should be strengthened by the inclusion of a prior condition, as follows:

New highway schemes and new transport infrastructure will be permitted where they have been justified through the appropriate option-selection processes and value-for-money tests of their costs and benefits; their feasibility, deliverability and fundability have been demonstrated; and their provision will satisfy one or more of the following objectives:

Subclause “a” should be omitted and the possible confusion in the relationship between items b-f should be removed.

Q6

Do you wish to participate in the Examination in Public? (Please note that the Planning Inspector will make the final decision on who will be invited to attend individual sessions at the Examination). Yes

Q7

Do you want to be informed of the following:

The submission of the Local Plan to the Secretary of State? Yes

The publication the Inspector report? Yes

Consultation on any Main Modifications? Yes

The adoption of the County Durham Plan?

Yes